

Appendix C

Regulatory Barriers

Consolidated Plan 2011-2016

Regulatory Barriers

America's Affordable Communities Initiative	U.S. Department of Housing and Urban Development	OMB approval no. 2535-0120 (exp. 6/30/2010)
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Public reporting burden for this collection of information is estimated to average 3 hours. This includes the time for collecting, reviewing, and reporting the data. The information will be used to encourage applicants to pursue and promote efforts to remove regulatory barriers to affordable housing. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

Questionnaire for HUD's Initiative on Removal of Regulatory Barriers

Part A. Local Jurisdictions. Counties Exercising Land Use and Building Regulatory Authority and Other Applicants Applying for Projects Located in such Jurisdictions or Counties [Collectively, Jurisdiction]

	1	2
1. Does your jurisdiction's comprehensive plan (or in the case of a tribe or TDHE, a local Indian Housing Plan) include a "housing element? A local comprehensive plan means the adopted official statement of a legislative body of a local government that sets forth (in words, maps, illustrations, and/or tables) goals, policies, and guidelines intended to direct the present and future physical, social, and economic development that occurs within its planning jurisdiction and that includes a unified physical plan for the public development of land and water. If your jurisdiction does not have a local comprehensive plan with a "housing element," please enter no. If no, skip to question # 4.	☐ No	☒ Yes
2. If your jurisdiction has a comprehensive plan with a housing element, does the plan provide estimates of current and anticipated housing needs, taking into account the anticipated growth of the region, for existing and future residents, including low, moderate and middle income families, for at least the next five years?	☐ No	☒ Yes
3. Does your zoning ordinance and map, development and subdivision regulations or other land use controls conform to the jurisdiction's comprehensive plan regarding housing needs by providing: a) sufficient land use and density categories (multifamily housing, duplexes, small lot homes and other similar elements); and, b) sufficient land zoned or mapped "as of right" in these categories, that can permit the building of affordable housing addressing the needs identified in the plan? (For purposes of this notice, "as-of-right," as applied to zoning, means uses and development standards that are determined in advance and specifically authorized by the zoning ordinance. The ordinance is largely self-enforcing because little or no discretion occurs in its administration.). If the jurisdiction has chosen not to have either zoning, or other development controls that have varying standards based upon districts or zones, the applicant may also enter yes.	☐ No	☒ Yes
4. Does your jurisdiction's zoning ordinance set minimum building size requirements that exceed the local housing or health code or is otherwise not based upon explicit health standards?	☐ Yes	☒ No

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5. If your jurisdiction has development impact fees, are the fees specified and calculated under local or state statutory criteria? If no, skip to question #7. Alternatively, if your jurisdiction does not have impact fees, you may enter yes.	☐ No	☒ Yes
6. If yes to question #5, does the statute provide criteria that sets standards for the allowable type of capital investments that have a direct relationship between the fee and the development (nexus), and a method for fee calculation?	☐ No	☒ Yes
7. If your jurisdiction has impact or other significant fees, does the jurisdiction provide waivers of these fees for affordable housing?	☐ No	☒ Yes
8. Has your jurisdiction adopted specific building code language regarding housing rehabilitation that encourages such rehabilitation through gradated regulatory requirements applicable as different levels of work are performed in existing buildings? Such code language increases regulatory requirements (the additional improvements required as a matter of regulatory policy) in proportion to the extent of rehabilitation that an owner/developer chooses to do on a voluntary basis. For further information see HUD publication: “<i>Smart Codes in Your Community: A Guide to Building Rehabilitation Codes</i>” (www.huduser.org/publications/destech/smartcodes.html)	☐ No	☒ Yes
9. Does your jurisdiction use a recent version (i.e. published within the last 5 years or, if no recent version has been published, the last version published) of one of the nationally recognized model building codes (i.e. the International Code Council (ICC), the Building Officials and Code Administrators International (BOCA), the Southern Building Code Congress International (SBCI), the International Conference of Building Officials (ICBO), the National Fire Protection Association (NFPA)) without significant technical amendment or modification. In the case of a tribe or TDHE, has a recent version of one of the model building codes as described above been adopted or, alternatively, has the tribe or TDHE adopted a building code that is substantially equivalent to one or more of the recognized model building codes? Alternatively, if a significant technical amendment has been made to the above model codes, can the jurisdiction supply supporting data that the amendments do not negatively impact affordability.	☐ No	☒ Yes
10. Does your jurisdiction’s zoning ordinance or land use regulations permit manufactured (HUD-Code) housing “as of right” in all residential districts and zoning classifications in which similar site-built housing is permitted, subject to design, density, building size, foundation requirements, and other similar requirements applicable to other housing that will be deemed realty, irrespective of the method of production?	☐ No	☒ Yes

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11. Within the past five years, has a jurisdiction official (i.e., chief executive, mayor, county chairman, city manager, administrator, or a tribally recognized official, etc.), the local legislative body, or planning commission, directly, or in partnership with major private or public stakeholders, convened or funded comprehensive studies, commissions, or hearings, or has the jurisdiction established a formal ongoing process, to review the rules, regulations, development standards, and processes of the jurisdiction to assess their impact on the supply of affordable housing?	☐ No	☒ Yes
12. Within the past five years, has the jurisdiction initiated major regulatory reforms either as a result of the above study or as a result of information identified in the barrier component of the jurisdiction's "HUD Consolidated Plan?" If yes, attach a brief list of these major regulatory reforms.	☐ No	☒ Yes
13. Within the past five years has your jurisdiction modified infrastructure standards and/or authorized the use of new infrastructure technologies (e.g. water, sewer, street width) to significantly reduce the cost of housing?	☐ No	☒ Yes
14. Does your jurisdiction give "as-of-right" density bonuses sufficient to offset the cost of building below market units as an incentive for any market rate residential development that includes a portion of affordable housing? (As applied to density bonuses, "as of right" means a density bonus granted for a fixed percentage or number of additional market rate dwelling units in exchange for the provision of a fixed number or percentage of affordable dwelling units and without the use of discretion in determining the number of additional market rate units.)	☐ No	☒ Yes
15. Has your jurisdiction established a single, consolidated permit application process for housing development that includes building, zoning, engineering, environmental, and related permits? Alternatively, does your jurisdiction conduct concurrent, not sequential, reviews for all required permits and approvals?	☐ No	☒ Yes
16. Does your jurisdiction provide for expedited or "fast track" permitting and approvals for all affordable housing projects in your community?	☐ No	☒ Yes
17. Has your jurisdiction established time limits for government review and approval or disapproval of development permits in which failure to act, after the application is deemed complete, by the government within the designated time period, results in automatic approval?	☐ No	☒ Yes
18. Does your jurisdiction allow "accessory apartments" either as: a) a special exception or conditional use in all single-family residential zones or, b) "as of right" in a majority of residential districts otherwise zoned for single-family housing?	☐ No	☒ Yes
19. Does your jurisdiction have an explicit policy that adjusts or waives existing parking requirements for all affordable housing developments?	☐ No	☒ Yes
20. Does your jurisdiction require affordable housing projects to undergo public review or special hearings when the project is otherwise in full compliance with the zoning ordinance and other development regulations?	☐ Yes	☒ No
Total Points:		

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City of Portland, City of Gresham, and Multnomah County Consortium

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Supplemental answer

12. Within the past five years, has the jurisdiction initiated major regulatory reforms either as a result of the above study or as a result of information identified in the barrier component of the jurisdiction's "HUD Consolidated Plan?" If yes, attach a brief list of these major regulatory reforms.

Regulatory Reforms

In the *Consolidated Plan 2005-2011*, the Consortium identified the need to coordinate housing initiatives within a regional planning framework. It also identified the cumulative impact of local regulations, systems development charges, and revitalization that had the unintended consequence of promoting involuntary displacement.

In the Consolidated Plan 2011-2016, the Consortium affirmed the need for coordinated regional planning. Metro is the regional planning agency. Over the last two years, Metro has coordinated the work of many local governments and community partners, including the Consortium members, around achieving sustainable communities: energy-efficient, equitable communities that both reduce the carbon footprint and offer all residents access to opportunities for good jobs, public transit, quality education, health care and a range of community amenities and services.

While Metro's application to HUD for a Sustainable Communities Initiative Planning Grant was not successful, HUD designated the Metro area a Preferred Sustainability Status Community. Moreover, Metro, its member jurisdictions and community partners have continued to work on a number of projects and proposals to advance the sustainability of this region, including a plan to create regional "opportunity maps" that would illuminate where barriers exist to the creation of communities of opportunity, and what strategies might be effective to address them.

The Portland City Council has continued to lead regional affordable housing efforts, and acted aggressively to keep the cost of housing down and to remove barriers to the development, maintenance, and improvement of affordable housing.

It has also provided incentives to develop, maintain and improve affordable housing in our jurisdiction. Specifically, the Portland City Council has acted on the policies detailed below:

1. Policy for Supporting Regional Affordable Housing Strategy Implementation

Metro, the regional land-use planning agency, has developed the Regional Affordable Housing Strategy (RAHS). The strategy sets aspirational goals for affordable housing production, and requires each jurisdiction to consider the adoption of various tools to promote development of affordable housing.

Multnomah County, Portland, and Gresham have all adopted the RAHS. In December 2003, Portland reported that it had considered and taken action on most tools. Examples include: density bonuses, reduced parking requirements, private lender participation and loan guarantees, systematic inspections, siting policies, regional revenue option for housing, mobility strategies, partnerships with public schools, weatherization and energy efficiency, and various

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financial tools. In June 2004, the City of Portland reported on the outcomes of its amendments to its Comprehensive Plan and implementing ordinances pending at the time of the December 2003 report and the public response to the adoption of these amendments.

As a result of this policy, Portland is fully implementing the regional affordable housing strategy. Units are counted under specific programs.

2. Policy of Exempting Affordable Housing from Property Taxes

The Portland City Council has adopted six tax exemption programs allowed under State law. The Bureau of Planning and Sustainability and the Portland Housing Bureau administer these programs which include ones for:

- Low-income housing held by nonprofit organizations;
- Renter rehabilitation;
- Owner rehabilitation in homebuyer opportunity areas;
- New construction of single unit owner occupied housing in homebuyer opportunity areas;
- New transit supportive residential or mixed use development; and
- New multi-unit housing in the Central City and urban renewal areas (URAs).

As of 2010, the City of Portland has assisted over 14,000 housing units through its residential tax exemption programs. The largest program in terms of units and foregone revenue is the nonprofit program for low income housing.

Starting in 2010, the City of Portland, Multnomah County, and other taxing jurisdictions have been engaged in a “Big Look” at the residential tax exemption programs. This policy review is intended to ensure that the exemptions are aligned with the current set of priorities for housing development, including the development of affordable housing.

3. Policy to Assess and Eliminate Unnecessary Regulatory Barriers

The City of Portland Bureau of Planning and Sustainability was directed to perform periodic and ongoing assessments of the cumulative impact of regulations (zoning and building codes) and infrastructure requirements on the ability of the market to meet housing demand at different price levels. As a result of this assessment, the City of Portland has allowed accessory dwelling units in single family zones since at least the early 1980s and has continued to liberalize the regulations governing them and approved the development of small, detached units on 2,500 sq. ft. lots in R2 and R2.5 zones in the 1990’s. The Portland Bureau of Development Services established a moratorium on collecting fees for accessory dwelling units throughout 2010.

No outcomes are available at this time.

4. Policy to Expedite Housing Development

The City of Portland Bureau of Development Services was directed in 2003 to adopt a policy to guarantee a ten-day turn around for complete residential building permit applications. *This removed a barrier to development of affordable housing.*

5. Policy to Provide Incentives for Mixed-Use, Mixed-Income Development

The City of Portland Planning Bureau was directed to offer density bonuses, large-unit bonuses, and underground parking bonuses for mixed-use, mixed-income projects in the West End of the Central City beginning in 2002.

6. Policy to Exempt Affordable Housing from System Development Charges

In 1998, the Portland City Council directed the City Parks, Water and Transportation Bureaus to provide complete or partial exemptions to system development charges (SDCs) for affordable housing projects serving households below 60% MFI. For FY 2009-2010, SDC exemptions totaled \$4,067,493.89 in foregone revenue. This reduced the cost of developing a total of 570 units of affordable housing, 356 affordable rental units and 214 homeownership units.

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7. Policy to Mitigate Effects of New Development on Existing Affordable Housing

In 2001, the Portland City Council adopted a Central City No Net Loss policy, in response to concerns that the economic development of the Central City was squeezing out affordable housing. In FY2009-2010, the city completed two affordable housing preservation projects: Walnut Park and Upshur House. 68 total units were preserved; 67 units were preserved to be affordable to households below 30% MFI, one unit was preserved at above 80% MFI for a property manager unit.

Seven downtown properties have Project-based Section 8 contracts that are due to expire within the term of this 2011-2016 Consolidated Plan. Under Portland's Preservation Ordinance, the City may purchase the properties to preserve affordability of the 581 units:

Project name	Project Street Address	Expiration Date	Total Units	Contract Units
Chaucer Court	1019 Southwest 10th Avenue	10/21/11	83	83
Hawthorn East	1420 Southeast 16th Avenue	12/20/11	71	71
Lexington	1125 SW 12th Avenue	11/22/12	54	54
Park Tower	731 SW Salmon Street	12/15/12	162	162
Bronaugh Building	1434 SW Morrison Street	02/09/13	51	51
1200 Building	1220 Southwest 12th Avenue	05/26/13	89	89
Uptown Tower	712 Southwest Saint Clair Avenue	07/18/13	71	71
Total			581	581

8. **Portland Plan policies.** Portland is nearing completion of a new 25-Year Portland Plan. The Plan will include policies and both long and short-term implementation activities. Current drafts of the plan would boost affordable housing preservation and new production efforts. For details, please see www.portlandonline.com/portlandplan.

The Gresham City Council has acted on the policies described below:

1. Removal of Limitations on Rental Property Development

The City of Gresham undertook land use changes that resulted in rescinding previous legislative action that prevented apartment development within an area of about 1200 acres. Much of this area is within West Gresham that has the highest need for affordable housing. The Gresham City Council adopted this change in December 2002. Gresham's current focus is on preserving affordable single-family housing in the West Gresham Area while permitting the development of new apartments on parcels zoned for that purpose.

2. Facilitated In-fill Development

In November 2002 the Gresham City Council adopted new In-fill Development Standards to facilitate in-fill development while promoting neighborhood compatibility. These new standards simplify the in-fill development process, and consequently reduce the overall cost of housing, while meeting community design objectives.

3. Leverage of CDBG and HOME Funding

In December 2000, the Gresham City Council adopted changes to its list of approved uses of Community Development Block Grant and HOME funds to help implement voluntary inclusionary housing. Instead of offering zoning incentives, the City of Gresham offers a financial

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incentive for the development of “affordable mixed-income housing in areas of the city, which do not currently have a high concentration of affordable housing.” Developers may apply for HOME funds to assist with the development of mixed income housing that meets specific requirements.

The City of Gresham has adopted many policies and standards since 1996 that have lowered the cost of housing development in general. This has included decreasing lot size, combining residential zones, eliminating confusing and duplicate land use requirements; promoting high-density residential development within Transit Corridors, Town Centers and Regional Centers. In addition, Gresham allows Community Services Uses (special use housing) in all districts except industrial districts. This action has substantially broadened the range of siting opportunities for this type of needed housing.

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