

Implementation Guidance

OAR 660-012-0135(3)

Major Equity Analysis



Department of
Land Conservation
& Development

The Oregon Department of Land Conservation and Development (DLCD) developed the Climate-Friendly and Equitable Communities program to boost housing production and affordability, increase transportation options, improve equitable outcomes from land use and transportation planning, and support communities taking action to meet Oregon's goals to reduce greenhouse gas pollution.

DLCD is providing this resource as part of our technical assistance program. Please see our [Climate-Friendly and Equitable Communities website](#) for more information or to sign up for notices.

DLCD has also published an [Equitable Engagement Toolkit](#), which discusses this rule. Those implementing this rule should find toolkit pages 78-79 and 107-110 directly helpful, and the rest helpful for context and ideas. Please see also the Oregon Community Explorer mapping tool found on DLCD's [Maps, Data, and Tools pages](#). The Oregon Community Explorer is a tool intended for use by planners across the state of Oregon in surveying patterns of demographic, economic, and social characteristics of residents in a user-friendly fashion. Investigating these patterns can support community engagement planning.

Applicability and Timing

Cities and counties in metropolitan areas must conduct a major equity analysis when making a major update to a transportation system plan for an urban area of 5,000 in population or larger, as provided in Oregon Administrative Rule (OAR) 660-012-0100(2).

Elements of a Major Equity Analysis

Section (3) of the rule lists the required elements of a major equity analysis:

Engagement focused equity analysis – Section (4)

Policy assessment – Subsection (3)(a)

Racism assessment – Subsection (3)(b)

Geographic concentrations – Subsection (3)(c)

Performance measures – Subsection (3)(d)

Subsection (3)(a) - Current and Past Land Use, Transportation, Housing Policies

“(a) Assess, document, acknowledge, and address where current and past land use, transportation, and housing policies and effects of climate change have harmed or are likely to harm underserved populations;”

This subsection requires both careful review of current and past plans, and work to engage community members, particularly from underserved populations, to draw upon their knowledge. Underserved populations are defined in [OAR 660-012-0125](#) as:

- a) Black and African American people;
- b) Indigenous people (including Tribes, American Indian/Alaska Native and Hawaii Native);
- c) People of color (including but not limited to Hispanic, Latina/o/x, Asian, Arabic or North African, Middle Eastern, Pacific Islander, and mixed-race or mixed-ethnicity populations);
- d) Immigrants, including undocumented immigrants and refugees;
- e) People with limited English proficiency;
- f) People with disabilities;
- g) People experiencing homelessness;
- h) Low-income and low-wealth community members;
- i) Low- and moderate-income renters and homeowners;
- j) Single parents;
- k) Lesbian, gay, bisexual, transgender, queer, intersex, asexual, or two-spirit community members;
- l) Youth and seniors.

Such an assessment should include general information on national and state actions. Examples of these actions are described later in this document.

This subsection requires communities to review past and present local comprehensive plans and transportation system plans to capture high-level decisions made on land use, transportation and housing. The intent of the major equity analysis is to review past investment and decisions, particularly in capital investments and zoning, and to connect those to current outcomes including property and wealth accumulation across communities.

Location-specific review of past harm

One way to comply with these rules is to review at least one comprehensive plan and transportation system plan from each decade of history, as well as the current comprehensive plan and transportation system plan. Communities should also review past transportation investments, such as capital improvement plans, transportation system plans, annual budgets, housing policies such tenant protections or lack thereof, and development codes. DLCD has copies of all acknowledged plans and can provide historical plans.

Consider:

- 1) What decisions were made when first adopting city limits and zoning in the community? What zones and neighborhoods were defined, and what were the reasons for defining those zones and neighborhoods? What major changes have happened since adopting that first zoning map?

- 2) Who were the first inhabitants of your community's geographic area? Were Native American tribes in recognized status in your region when a comprehensive plan was first adopted and zoning first adopted? In your comprehensive plan, is there a record of your community consulting with these communities as your comprehensive plan and resource inventories were first created? Please contact the [Legislative Commission on Indian Services](#) if in doubt about which federally recognized tribes in Oregon consider your region ancestral land.
- 3) When decisions were made to locate or expand the community's largest roads, what led to those location decisions? What were the socio-economic demographics of the communities most impacted? What are the socio-economic demographics of the communities that live closest to those roads today?
- 4) Are there particularly high or low concentrations of underserved populations in certain neighborhoods? How does that overlap with zoning of the past and today?
- 5) Are there high concentrations of relatively affluent populations in certain neighborhoods? How does that overlap with zoning of the past and today – what sorts of developments are allowed in or prohibited from those neighborhoods (for example, industry, high-density multi-family housing, etc.)?
- 6) In response to recent requirements to allow more housing in certain areas, how did the community choose those areas? What are the socio-economic demographics in those areas? In which neighborhoods did zoning not change?

With each question, communities should reflect on how those decisions may have harmed, or could harm, historically underserved communities. *Benefit* to relatively affluent communities can be seen as potential harm to underserved communities.

Effects of Climate Change

Communities are required to summarize how the effects of climate change have harmed or are likely to harm underserved populations in their community. These known effects are increasing. Consider:

- 1) Heat island effects, concentrated in low-income, low-wealth areas with disproportionately higher concentrations of people of color and relatively less tree canopy (e.g., [City of Portland work to address heat islands](#); [Metro's Cooling Corridor's work](#))
- 2) Dangers from extreme heat events, that disproportionately harm older residents, people with disabilities, people experiencing homelessness, and low-income people without access to adequate cooling. (see example: [Multnomah County's Heat Vulnerability Index](#))
- 3) Dangers from flooding, concentrated among homes and businesses in flood plains that may, depending on the community, have disproportionate concentrations of low-income, low-wealth residents. One example is from February 2020, where communities in Eastern Oregon experienced extensive floods and landslides. The flooding damaged nearly 500 buildings, cost one person their life, stranded 54 people, and shut down I-84, cutting off the main connection for travel and commerce between Eastern Oregon, Western Oregon,

and Idaho. Mobile homes in trailer parks were hardest hit by these floods. [Oregon Climate and Health Report](#)

- 4) Impacts on tourism, economies, and food security. For example, in 2015 a harmful algal bloom affected communities dependent on shellfish and tourism in Long Beach, Wash. The local food bank recorded an almost 25% increase in the number of families requesting assistance in the six months that followed.
- 5) Dangerous air quality, including the impacts of wildfires and poor air quality on children and elderly residents. One example of this is described by a series of [Confederated Tribes of Warm Springs videos](#).

Some general projections of future harms provided by Oregon State University's Climate Change Research Institute, organized by region, are included in [DLCD's climate change vulnerability assessment](#).

Subsection (3)(b) - Current and Past Racism

“(b) Assess, document, acknowledge, and address where current and past racism in land use, transportation, and housing has harmed or is likely to harm underserved populations;”

While reviewing historical plans for subsection (3)(a), also look for examples of racism. Consider different types of racism, as defined in the [State of Oregon Diversity, Equity, and Inclusion Action Plan](#) (page 8):

- 1) Individual Racism
- 2) Interpersonal Racism
- 3) Institutional Racism
- 4) Structural Racism

Look for trends in your comprehensive and transportation system plans over time, e.g., from each decade of its history, if available. What do you notice?

Review past local comprehensive plans and transportation system plans to capture high-level **local** decisions made on land use, transportation and housing, particularly capital investments and zoning, and analyze which populations were served by those decisions. Which were harmed or did not receive investments? Communities shall review how current and past racism impacted those decisions, reflecting on the questions asked above about land use, housing, transportation, and eminent domain decisions.

Quality-Checking Subsection (3)(a) and (b) Drafts

Engage with community members, elected and appointed officials, and advisory groups to gather, collect, and value lived experience, qualitative, and quantitative information from underserved populations about the issues raised under subsections (3)(a) and (3)(b).

Interview community members, including historically marginalized or underserved populations, to understand their lived experiences. Summarize work completed under subsections (3)(a) and (3)(b) and examples of key past and current land use, transportation and other decisions that allowed differences in benefits and omission, including burdens.

Solicit specific examples of localized land use and transportation problems or deficiencies impacting underserved communities, and how a proposed change might benefit, or burden, underserved populations.

Provide financial and other meeting supports such as refreshments or family-friendly meeting formats as needed to help ensure participation from a broad socio-economic cross-section of your community. Another way to engage with people who may not normally participate in community planning projects is to partner with community-based or community-serving aid organizations in your community. See also the [Equitable Engagement Toolkit](#) for additional strategies.

Subsection (3)(c) - Disproportionate Geographic Concentrations

“(c) Identify geographic areas with significantly disproportionate concentrations of underserved populations;”

The objective here is to identify areas with “significantly disproportionate” concentrations of underserved populations and those with low concentrations of underserved populations. Assess whether those patterns are related to the community’s historic planning decisions or associated private investments and decisions. [The Color of Law](#) by Richard Rothstein and associated trainings are an excellent resource on this topic.

There may not be good geographic data for all the underserved populations defined in rule 0125 – the LGBTQIA2S+ community, for example. In these cases, focus groups or interviews with service providers or community-based/community-servicing organizations are good options.

Please review the resources provided on [the Equitable Engagement Toolkit webpage](#) and the guidance included in the [Equity Mapping Guidebook](#) on how to address this requirement.

Subsection (3)(d) - Performance Measures

“(d) Develop key performance measures as required in OAR 660-012-0905, or review existing performance measures, for key community outcomes as provided in subsection (4)(a) over time”

See the guidance for performance measure creation on the [ODOT TSP guidelines web page](#).

Subsection (3)(e) - Best Data

“(e) Use the best available data in conducting sections (a) through (d).”

DLCD acknowledges there is not good geographic data for locations of all the underserved populations listed in OAR 660-012-0125 – for example, the LGBTQIA2S+ community.

While meeting the requirements of subsections (a) through (d), cities and counties should make significant efforts to research historic and current inequities using state and other local resources. While DLCD has provided some resources and examples, planners and communities should not feel limited by these sources.

Broader Context of Past Harms

The model language below describes the broader context of past harms and could help meet the requirements in subsections (a) and (b). We encourage cities and counties to supplement it with

local information. This could include zoning, capital investments, lack of affordable housing, covenants codes and restrictions, and other local history.

Model Language

The United States is built on a history of slavery, forced relocation of indigenous populations, and land appropriation to make land available for white settlers. Prior to the arrival of Europeans, indigenous peoples inhabited the land from coast to coast, with hundreds of clans, bands, and tribes having unique cultures that developed and thrived for thousands of years. Since European exploration and settlement between 1492 and 1700, 90 percent of indigenous people catastrophically died due to disease, forced relocation, and violence.

Many of America's European foundational leaders enslaved people. Our foundational documents characterized people of color as three-fifths human and denied women the right to vote, own property, and operate businesses. For hundreds of years, America's laws have treated women and people of color as property. Laws barred lesbian, gay, bisexual, transgender, intersex, and two-spirit people from being married, and did not protect them from discrimination in employment and purchasing or renting homes. Mixed-race marriages were not legal. Our physical and legal infrastructure has and continues to fail to consider or accommodate people with disabilities. People who don't speak English as a first language have faced significant hurdles in employment, schooling, and interfacing with the government and obtaining associated services. Those without homes face verbal abuse, forced movement of their sleeping locations, loss of their property, and physical threats.

When we consider historic benefits and burdens, the patterns are clear.

Oregon's history is similarly disturbing. Congress passed the Northwest Ordinance in 1787, asserting the United States had providence over the lands occupied by indigenous people. Oregon's founders passed a [Black exclusion](#) law in 1844, requiring Black people to leave Oregon or to be whipped up to 39 times. In 1849, the Territorial Legislature passed a law prohibiting "negros and mulattos" from entering Oregon. When Oregon was granted statehood, its exclusion clause remained in the constitution. This law was finally repealed by voters in 1926. In 1862, Oregon passed a law requiring all "Blacks, Chinese, Hawaiians, and Mulattos" to pay an annual tax of five dollars or be forced to do roadwork for 50 cents per day. These efforts had long-term effects. Today, only 2 percent of Oregonians are Black, making it very challenging to gather in community, or support economic and social wealth building structures.

Meanwhile, indigenous peoples were forced off their lands and onto reservations – mostly onto unclaimed, less desirable lands. Tribal languages were prohibited throughout Oregon. Indigenous people lacked the right to vote.

The Ku Klux Klan flourished in the 1920s and Oregon was a stronghold nationwide. See *A Fever in the Heartland* by Tim Egan. Governor Walter Pierce (1922-26) was overtly supportive. With the KKK's support, Oregon's legislature passed a law outlawing first-generation Japanese Americans from owning or leasing land in Oregon.

Chinese and Mexican immigrants who helped build the state's infrastructure and railroads and make agriculture a leading industry were continuously discriminated against and harmed. During

World War II, the government imprisoned more than 4,500 Japanese Americans from Oregon in camps.

Other populations – disabled people, queer people, poor and homeless people, among others – have been systemically excluded from public places and public rights, with violence against them generally ignored or directly accepted. Until 1972, same-sex intercourse was a crime in Oregon. In 1988 Oregon voters passed a measure overruling an executive order preventing discrimination against people based on sexual orientation, thereby making discrimination legal again.

Homeless people, who disproportionately have disabilities, are often excluded from public spaces despite there being no place for them to sleep. *Martin v. Boise* (2018) prohibited jurisdictions from having criminal penalties for sleeping outdoors when there was not a viable alternative, and *Grants Pass v. Johnson* (2022) prohibited civil penalties. The U.S. Supreme Court overturned those rulings in 2024 making it legal to outlaw camping in most places in public.

The US and our local history of discrimination is long and pervasive. Accordingly, state requirements direct transportation system plans to acknowledge harms particularly related to land use, housing, and transportation decisions, with particular focus on racism and climate harms. This is the first step towards improving on past investment decisions.

Housing Policy

Land use and housing policy and decisions generally have followed the patterns described above.

In 1919, the Portland Board of Realty approved a code of ethics prohibiting realtors and bankers from selling or financing property in white neighborhoods to people of color.

During the 1930s, using race and ethnicity as factors, the federal government's Home Owners Loan Corporation designated some neighborhoods as "red" or high-risk, and set restrictions on both federal and private lending. This practice, known as redlining, kept certain populations from building home equity and wealth.

In 1948, Oregon realtors followed the "National Realtors Code" (based on an earlier state law) that proclaimed, "a realtor shall never introduce into a neighborhood members of any race or nationality whose presence will be detrimental to property values."

When the Government Issue or "GI Bill" gave World War II veterans assistance with buying homes, Black veterans were often denied homes in white neighborhoods, were denied loans more frequently, and were given more dishonorable discharges. Black veterans were also excluded from some job training programs.

In 1968 Congress passed the Fair Housing Act, which outlawed redlining; however, cities across Oregon continued to use zoning to limit who could live in what neighborhood. Cities prevented low-income and middle-income residents from moving to many neighborhoods by requiring large lot sizes, limiting density, and prohibiting housing types other than expensive single-unit dwellings. Because of earlier redlining, many Black people and people of color were unable to accumulate generational wealth through homeownership. The combination of city land use

regulations and lack of generational wealth prevented many Black people and people of color from owning property.

On the other hand, as cities have located public and subsidized housing, or shelters for those experiencing homelessness, they have usually done so in neighborhoods less likely to protest or vote out elected officials. These are often poorer areas with more renters and people less likely to vote. This concentrated poverty limits the ability of many to integrate into richer areas of society, limiting resources, and adding to health challenges. Average health can be estimated by where people live, with average life expectancies varying by up to [23 years depending on zip code](#).

Recent updates to Oregon's housing laws and rules have required additional steps to allow more diverse types of development in more neighborhoods. As communities implement those requirements, many are choosing to allow more flexibility, density, and affordable housing types along corridors and existing multifamily zones, while retaining more constraints on building in richer neighborhoods. While this may make transit service and multi-use development easier, it can continue a pattern of concentrating low-income Oregonians near pollution and noise, while retaining large lot sizes, setback requirements, and other barriers to limit new development in more affluent, racially homogenous neighborhoods.

While many public buildings are now accessible to people with disabilities due to the Americans with Disabilities Act, most private buildings are not required to be accessible. Most public buildings also lack all-gender or any-gender restrooms, making meeting one's basic needs a stressful challenge for some transgender Oregonians. Signage and directions in many of our public institutions, and most publications and public meetings, are not welcoming to people who do not speak English as their primary language.

Transportation Planning and Policy

Transportation planning in Oregon has focused on locating highways through neighborhoods of poorer people and communities of color – causing two kinds of harm. First, displacement and breaking up neighborhoods with associated community and cultural benefit systems. Second, concentrating pollution near the remaining homes and businesses. Air pollution means high rates of asthma and other respiratory harms. Noise pollution means higher stress levels. When the federal government funded interstate highways, it worked with state and local governments to choose the locations. It is no surprise that Interstate 5 went through places like the redlined, predominately African American North Portland and the Chemawa Indian School property, rather than more affluent whiter neighborhoods.

State highways and local arterials are hostile barriers to those who cannot afford to or choose not to own a car. They speed traffic through neighborhoods, often neighborhoods that are disproportionately poorer and non-white, leading to [higher risks of death for Black and Hispanic residents](#). They also make it hard for people, particularly children and seniors, to walk, bike, or use mobility devices. These actions prioritize those travelling through a neighborhood instead of those living within a neighborhood. People who have inherited or built more wealth tend to live in more economically exclusive enclaves, sometimes gated physically or designed with cul-de-sacs that discourage others from entering or traveling through the neighborhood.

Through decades of investment decisions, inequities are built into our environment. Those inequities have been guided by our land use, transportation, housing, and other policy and investment decisions. Without examination, we cannot produce more equitable communities that benefit all.

Investments

Public investments have often spurred gentrification of neighborhoods and displacement of existing residents. As cities have worked to targeted certain neighborhoods for “urban renewal” or removing the weighted term “blight,” the residents living in the neighborhood have often moved out, and their descendants have been priced out of purchasing homes in those neighborhoods – for example, the historic Albina neighborhood in Portland. See ["Bleeding Albina: A History of Community Disinvestment, 1940-2000" by Karen J. Gibson](#). Though the tie between gentrification and displacement is [complex](#), city staff and leaders have not always centered the needs of existing residents in making these decisions.

Best Practices

As an example of a local review covering many of these topics, see Beaverton’s 2021 memo, [History of racist land use and housing practices in Beaverton](#) and Milwaukie’s [Historical and Cultural Profile, and Community Demographics, provided to its Technical Advisory Committee](#) as part of its Transportation System Plan update. See also the [History of Racist Planning in Portland](#).

This examination also should assist your community in meeting requirements in Title VI of the Civil Rights Act of 1964.

Disclaimer

While this guidance document aims to provide more details about the rules, and how the department intends to administer the rules, please review the adopted rules on the [Oregon Secretary of State](#) website to fulfill planning requirements.

Contact Information

For more questions on major equity analysis, please contact DLCD staff: Bill Holmstrom, bill.holmstrom@dlcd.oregon.gov, 971-375-5975.

Rule Language

660-012-0135: Equity Analysis

(1) Cities and counties shall determine whether the land use and transportation plans required in this division improve outcomes for underserved populations by using an equity analysis. An equity analysis is intended to determine benefits and burdens on underserved populations, as identified in OAR 660-012-0125.

(2) A city or county must engage in either a major equity analysis or an engagement-focused equity analysis as provided in this division, including in the following circumstances:

- (a) A major equity analysis must be conducted when making a major update to a transportation system plan for an urban area of 5,000 in population or larger, as provided in OAR 660-012-0100(2).
- (b) An engagement-focused equity analysis must be conducted:
 - (A) When making a major update to a transportation system plan for an urban area under 5,000 in population, as provided in OAR 660-012-0100(2);
 - (B) When making a minor update to a transportation system plan, as provided in OAR 660-012-0105(1);
 - (C) When designating a climate-friendly area, as provided in OAR 660-012-0315(4)(c); and
 - (D) When choosing to authorize a proposed facility, as provided in OAR 660-012-0830(2)(f).
- (3) A city or county engaging in a major equity analysis shall conduct all the actions in the engagement-focused equity analysis in section (4). In addition, a city or county shall:
 - (a) Assess, document, acknowledge, and address where current and past land use, transportation, and housing policies and effects of climate change have harmed or are likely to harm underserved populations;
 - (b) Assess, document, acknowledge, and address where current and past racism in land use, transportation, and housing has harmed or is likely to harm underserved populations;
 - (c) Identify geographic areas with significantly disproportionate concentrations of underserved populations;
 - (d) Develop key performance measures as required in OAR 660-012-0905, or review existing performance measures, for key community outcomes as provided in subsection (4)(a) over time; and
 - (e) Use the best available data in conducting sections (a) through (d).