



**PUBLIC MEETING NOTICE**  
**FOR THE**  
**WASHINGTON COUNTY PLANNING COMMISSION**  
**ZOOM VIRTUAL MEETING**

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**WEDNESDAY, SEPT. 15, 2021**

**PUBLIC MEETING 6:30 PM**

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NOTE: Planning Commission meetings are being held virtually, until further notice, via Zoom.

**Join online:** <https://us02web.zoom.us/j/84682842345>

*Online participants will be able to see and hear the proceedings. Online participants' microphones will be muted, unless they are called upon to speak/testify. Participants' cameras will not be activated at any time.*

**Join by phone:** +1-346-248-7799 or +1-669-900-6833; Webinar ID: 846 8284 2345

*Participants on phones will be able to hear the proceedings. Phone participants' microphones will be muted, unless they are called upon to speak/testify.*

Prior to scheduled public hearing items, the Planning Commission conducts a Work Session to receive briefings from County staff. No public testimony is taken on Work Session items.

Following the Work Session, the Planning Commission considers agenda items, including scheduled public hearing items and consideration of minutes. The public is welcome to speak during the public hearings and time is limited to 3 minutes. The public may also speak on any item **not** on the agenda during Oral Communications. Time is generally limited to 5 minutes for individuals and 10 minutes for an authorized representative of a Citizen Participation Organization (CPO). The Chair may adjust time limits.

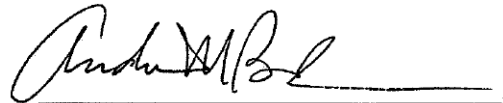
To provide testimony on agenda items or provide oral communication, please complete and submit the sign up form at [www.co.washington.or.us/PlanningCommissionTestimony](http://www.co.washington.or.us/PlanningCommissionTestimony) at least 24 hours before the start of a meeting.

To testify, either phone in or log in to Zoom (see instructions above): When your name is called, your microphone or phone will be unmuted. You will have five seconds to begin speaking.

If you do not speak, the next topic/speaker may be called. Please follow these guidelines:

- When your name is called, state your name and home/business address for the record.
- Groups or organizations making a presentation must designate one spokesperson in the interest of time and to avoid repetition.
- When there is more than one speaker on any topic, please avoid repetition.

If you need a sign or spoken language interpreter, please call 503-846-3519 (or 7-1-1 for Telecommunications Relay Service) at least 48 hours prior to this event.



**Andy Back**

Planning and Development Services Division Manager

PUBLIC MEETING DATES	
<b>BOARD OF COMMISSIONERS WORK SESSIONS</b>	<b>PLANNING COMMISSION MEETINGS</b>
8:30 a.m. 1st and 3rd Tuesdays	1:30 p.m. 1st Wednesday
2 p.m. 4th Tuesday	6:30 p.m. 3rd Wednesday
<b>BOARD OF COMMISSIONERS MEETINGS</b>	<i>Note: Occasionally it may be necessary to cancel or add a meeting date.</i>
10 a.m. 1st and 3rd Tuesdays	
6:30 p.m. 4th Tuesday	



**PUBLIC MEETINGS BEFORE THE PLANNING COMMISSION**

**WEDNESDAY SEPT. 15, 2021 6:30 PM**

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**AGENDA**

**CHAIR:** DEBORAH LOCKWOOD  
**VICE-CHAIR:** BLAKE DYE  
**COMMISSIONERS:** RACHEL MORI BIDOU, MARK HAVENER, STACY MILLIMAN, JEFF PETRILLO, SUSHMITA PODDAR, AND MATT WELLNER

**PUBLIC MEETING**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. DIRECTOR'S REPORT**
- 4. ORAL COMMUNICATIONS** (limited to items not on the Agenda)
- 5. WORK SESSION**
  - a. House Bill (HB) 2001 (middle housing) implementation**
    - Director's comments
    - County land use district background
    - Paths to compliance

*Attachments: HB 2001, Oregon Administrative Rules (OARs) and the Model Code  
Middle Housing Briefing Memo #2  
HB 2001 Analysis Paper 2021-02: Comparison of Minimum Lot Size Approaches*
- 6. CONSIDERATION OF MINUTES**
  - a. Aug. 18, 2021**
- 7. PLANNING COMMISSION COMMUNICATIONS**
- 8. ADJOURN**


**Department of Land Use & Transportation • Planning and Development Services**  
**Long Range Planning**

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Phone: 503-846-3519 • Fax: 503-846-4412  
[www.co.washington.or.us](http://www.co.washington.or.us) • [lutplan@co.washington.or.us](mailto:lutplan@co.washington.or.us)



September 2, 2021

To: Washington County Planning Commission

From: Andy Back, Manager   
Planning and Development Services

Subject: **MIDDLE HOUSING (HB 2001) BACKGROUND MATERIALS**

To assist the Planning Commission as you begin consideration of HB 2001 Middle Housing implementation, and per the PC's request in the Sept. 1 meeting, attached are background documents for HB2001:

Attachment A. Enrolled Bill, 2019

Attachment B. Oregon Administrative Rules (OARs), adopted Dec. 9, 2020

Attachment C. Large Cities Middle Housing Model Code, OAR 660-046

While staff will summarize portions of these materials in briefing materials, it may be useful for you to have the source documents for reference.

**Enrolled**  
**House Bill 2001**

Sponsored by Representative KOTEK; Representatives FAHEY, HERNANDEZ, MARSH, MITCHELL, POWER, STARK, WILLIAMS, ZIKA (Presession filed.)

CHAPTER .....

AN ACT

Relating to housing; creating new provisions; amending ORS 197.296, 197.303, 197.312 and 455.610 and section 1, chapter 47, Oregon Laws 2018; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** Section 2 of this 2019 Act is added to and made a part of ORS chapter 197.

**SECTION 2.** (1) As used in this section:

(a) "Cottage clusters" means groupings of no fewer than four detached housing units per acre with a footprint of less than 900 square feet each and that include a common courtyard.

(b) "Middle housing" means:

(A) Duplexes;

(B) Triplexes;

(C) Quadplexes;

(D) Cottage clusters; and

(E) Townhouses.

(c) "Townhouses" means a dwelling unit constructed in a row of two or more attached units, where each dwelling unit is located on an individual lot or parcel and shares at least one common wall with an adjacent unit.

(2) Except as provided in subsection (4) of this section, each city with a population of 25,000 or more and each county or city within a metropolitan service district shall allow the development of:

(a) All middle housing types in areas zoned for residential use that allow for the development of detached single-family dwellings; and

(b) A duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings.

(3) Except as provided in subsection (4) of this section, each city not within a metropolitan service district with a population of more than 10,000 and less than 25,000 shall allow the development of a duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings. Nothing in this subsection prohibits a local government from allowing middle housing types in addition to duplexes.

(4) This section does not apply to:

(a) Cities with a population of 1,000 or fewer;

(b) Lands not within an urban growth boundary;

(c) Lands that are not incorporated and also lack sufficient urban services, as defined in ORS 195.065;

(d) Lands that are not zoned for residential use, including lands zoned primarily for commercial, industrial, agricultural or public uses; or

(e) Lands that are not incorporated and are zoned under an interim zoning designation that maintains the land's potential for planned urban development.

(5) Local governments may regulate siting and design of middle housing required to be permitted under this section, provided that the regulations do not, individually or cumulatively, discourage the development of all middle housing types permitted in the area through unreasonable costs or delay. Local governments may regulate middle housing to comply with protective measures adopted pursuant to statewide land use planning goals.

(6) This section does not prohibit local governments from permitting:

(a) Single-family dwellings in areas zoned to allow for single-family dwellings; or

(b) Middle housing in areas not required under this section.

**SECTION 3.** (1) Notwithstanding ORS 197.646, a local government shall adopt land use regulations or amend its comprehensive plan to implement section 2 of this 2019 Act no later than:

(a) June 30, 2021, for each city subject to section 2 (3) of this 2019 Act; or

(b) June 30, 2022, for each local government subject to section 2 (2) of this 2019 Act.

(2) The Land Conservation and Development Commission, with the assistance of the Building Codes Division of the Department of Consumer and Business Services, shall develop a model middle housing ordinance no later than December 31, 2020.

(3) A local government that has not acted within the time provided under subsection (1) of this section shall directly apply the model ordinance developed by the commission under subsection (2) of this section under ORS 197.646 (3) until the local government acts as described in subsection (1) of this section.

(4) In adopting regulations or amending a comprehensive plan under this section, a local government shall consider ways to increase the affordability of middle housing by considering ordinances and policies that include but are not limited to:

(a) Waiving or deferring system development charges;

(b) Adopting or amending criteria for property tax exemptions under ORS 307.515 to 307.523, 307.540 to 307.548 or 307.651 to 307.687 or property tax freezes under ORS 308.450 to 308.481; and

(c) Assessing a construction tax under ORS 320.192 and 320.195.

(5) When a local government makes a legislative decision to amend its comprehensive plan or land use regulations to allow middle housing in areas zoned for residential use that allow for detached single-family dwellings, the local government is not required to consider whether the amendments significantly affect an existing or planned transportation facility.

**SECTION 4.** (1) Notwithstanding section 3 (1) or (3) of this 2019 Act, the Department of Land Conservation and Development may grant to a local government that is subject to section 2 of this 2019 Act an extension of the time allowed to adopt land use regulations or amend its comprehensive plan under section 3 of this 2019 Act.

(2) An extension under this section may be applied only to specific areas where the local government has identified water, sewer, storm drainage or transportation services that are either significantly deficient or are expected to be significantly deficient before December 31, 2023, and for which the local government has established a plan of actions that will remedy the deficiency in those services that is approved by the department. The extension may not extend beyond the date that the local government intends to correct the deficiency under the plan.

(3) In areas where the extension under this section does not apply, the local government shall apply its own land use regulations consistent with section 3 (1) of this 2019 Act or the model ordinance developed under section 3 (2) of this 2019 Act.

(4) A request for an extension by a local government must be filed with the department no later than:

- (a) **December 31, 2020, for a city subject to section 2 (3) of this 2019 Act.**
- (b) **June 30, 2021, for a local government subject to section 2 (2) of this 2019 Act.**
- (5) **The department shall grant or deny a request for an extension under this section:**
  - (a) **Within 90 days of receipt of a complete request from a city subject to section 2 (3) of this 2019 Act.**
  - (b) **Within 120 days of receipt of a complete request from a local government subject to section 2 (2) of this 2019 Act.**
- (6) **The department shall adopt rules regarding the form and substance of a local government's application for an extension under this section. The department may include rules regarding:**
  - (a) **Defining the affected areas;**
  - (b) **Calculating deficiencies of water, sewer, storm drainage or transportation services;**
  - (c) **Service deficiency levels required to qualify for the extension;**
  - (d) **The components and timing of a remediation plan necessary to qualify for an extension;**
  - (e) **Standards for evaluating applications; and**
  - (f) **Establishing deadlines and components for the approval of a plan of action.**

**SECTION 5.** ORS 197.296 is amended to read:

197.296. (1)(a) The provisions of subsections (2) to (9) of this section apply to metropolitan service district regional framework plans and local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of 25,000 or more.

(b) The Land Conservation and Development Commission may establish a set of factors under which additional cities are subject to the provisions of this section. In establishing the set of factors required under this paragraph, the commission shall consider the size of the city, the rate of population growth of the city or the proximity of the city to another city with a population of 25,000 or more or to a metropolitan service district.

(2) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan or regional framework plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use, a local government shall demonstrate that its comprehensive plan or regional framework plan provides sufficient buildable lands within the urban growth boundary established pursuant to statewide planning goals to accommodate estimated housing needs for 20 years. The 20-year period shall commence on the date initially scheduled for completion of the periodic or legislative review.

(3) In performing the duties under subsection (2) of this section, a local government shall:

(a) Inventory the supply of buildable lands within the urban growth boundary and determine the housing capacity of the buildable lands; and

(b) Conduct an analysis of **existing and projected** housing need by type and density range, in accordance with **all factors under** ORS 197.303 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years.

(4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, "buildable lands" includes:

(A) Vacant lands planned or zoned for residential use;

(B) Partially vacant lands planned or zoned for residential use;

(C) Lands that may be used for a mix of residential and employment uses under the existing planning or zoning; and

(D) Lands that may be used for residential infill or redevelopment.

(b) For the purpose of the inventory and determination of housing capacity described in subsection (3)(a) of this section, the local government must demonstrate consideration of:

(A) The extent that residential development is prohibited or restricted by local regulation and ordinance, state law and rule or federal statute and regulation;

(B) A written long term contract or easement for radio, telecommunications or electrical facilities, if the written contract or easement is provided to the local government; and

(C) The presence of a single family dwelling or other structure on a lot or parcel.

(c) Except for land that may be used for residential infill or redevelopment, a local government shall create a map or document that may be used to verify and identify specific lots or parcels that have been determined to be buildable lands.

(5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of housing capacity *[and need]* pursuant to subsection [(3)] **(3)(a)** of this section must be based on data relating to land within the urban growth boundary that has been collected since the last *[periodic]* review or *[five]* **six** years, whichever is greater. The data shall include:

(A) The number, density and average mix of housing types of urban residential development that have actually occurred;

(B) Trends in density and average mix of housing types of urban residential development;

(C) **Market factors that may substantially impact future urban residential development;**  
**and**

*[(C) Demographic and population trends;]*

*[(D) Economic trends and cycles; and]*

*[(E)]* **(D)** The number, density and average mix of housing types that have occurred on the buildable lands described in subsection (4)(a) of this section.

(b) A local government shall make the determination described in paragraph (a) of this subsection using a shorter time period than the time period described in paragraph (a) of this subsection if the local government finds that the shorter time period will provide more accurate and reliable data related to housing capacity *[and need]*. The shorter time period may not be less than three years.

(c) A local government shall use data from a wider geographic area or use a time period *[for economic cycles and trends]* longer than the time period described in paragraph (a) of this subsection if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a) of this subsection. The local government must clearly describe the geographic area, time frame and source of data used in a determination performed under this paragraph.

(6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than the housing capacity determined pursuant to subsection (3)(a) of this section, the local government shall take one or *[more]* **both** of the following actions to accommodate the additional housing need:

(a) Amend its urban growth boundary to include sufficient buildable lands to accommodate housing needs for the next 20 years. As part of this process, the local government shall consider the effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include sufficient land reasonably necessary to accommodate the siting of new public school facilities. The need and inclusion of lands for new public school facilities shall be a coordinated process between the affected public school districts and the local government that has the authority to approve the urban growth boundary[;].

(b) Amend its comprehensive plan, regional framework plan, functional plan or land use regulations to include new measures that demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years without expansion of the urban growth boundary. A local government or metropolitan service district that takes this action shall *[monitor and record the level of development activity and development density by housing type following the date of the adoption of the new measures; or]* **adopt findings regarding the density expectations assumed to result from measures adopted under this paragraph based upon the factors listed in ORS 197.303 (2) and data in subsection (5)(a) of this section. The density expectations may not project an increase in residential capacity above achieved density by more than three percent without quantifiable validation of such departures. For a local government located outside of a metropolitan service district, a quantifiable vali-**



**ation must demonstrate that the assumed housing capacity has been achieved in areas that are zoned to allow no greater than the same authorized density level within the local jurisdiction or a jurisdiction in the same region. For a metropolitan service district, a quantifiable validation must demonstrate that the assumed housing capacity has been achieved in areas that are zoned to allow no greater than the same authorized density level within the metropolitan service district.**

*[(c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection.]*

**(c) As used in this subsection, “authorized density level” has the meaning given that term in ORS 227.175.**

(7) Using the **housing need** analysis conducted under subsection (3)(b) of this section, the local government shall determine the overall average density and overall mix of housing types at which residential development of needed housing types must occur in order to meet housing needs over the next 20 years. If that density is greater than the actual density of development determined under subsection (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined under subsection (5)(a)(A) of this section, the local government, as part of its periodic review, shall adopt measures that demonstrably increase the likelihood that residential development will occur at the housing types and density and at the mix of housing types required to meet housing needs over the next 20 years.

(8)(a) A local government outside a metropolitan service district that takes any actions under subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to 197.314.

(b) *[The]* A local government shall determine the density and mix of housing types anticipated as a result of actions taken under subsections (6) and (7) of this section and monitor and record the actual density and mix of housing types achieved **following the adoption of these actions**. The local government shall compare actual and anticipated density and mix. The local government shall submit its comparison to the commission at the next periodic review or at the next legislative review of its urban growth boundary, whichever comes first.

(9) In establishing that actions and measures adopted under subsections (6) and (7) of this section demonstrably increase the likelihood of higher density residential development, the local government shall at a minimum ensure that land zoned for needed housing is in locations appropriate for the housing types identified under subsection (3) of this section, *[and]* is zoned at density ranges that are likely to be achieved by the housing market using the analysis in subsection (3) of this section **and is in areas where sufficient urban services are planned to enable the higher density development to occur over the 20-year period**. Actions or measures, or both, may include but are not limited to:

- (a) Increases in the permitted density on existing residential land;
- (b) Financial incentives for higher density housing;
- (c) Provisions permitting additional density beyond that generally allowed in the zoning district in exchange for amenities and features provided by the developer;
- (d) Removal or easing of approval standards or procedures;
- (e) Minimum density ranges;
- (f) Redevelopment and infill strategies;
- (g) Authorization of housing types not previously allowed by the plan or regulations;
- (h) Adoption of an average residential density standard; and
- (i) Rezoning or redesignation of nonresidential land.

(10)(a) The provisions of this subsection apply to local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of less than 25,000.

(b) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use, a city shall, according to rules of the commission:

- (A) Determine the estimated housing needs within the jurisdiction for the next 20 years;
- (B) Inventory the supply of buildable lands available within the urban growth boundary to accommodate the estimated housing needs determined under this subsection; and
- (C) Adopt measures necessary to accommodate the estimated housing needs determined under this subsection.

(c) For the purpose of the inventory described in this subsection, “buildable lands” includes those lands described in subsection (4)(a) of this section.

**SECTION 6.** ORS 197.303 is amended to read:

197.303. (1) As used in ORS [197.307] **197.295 to 197.314**, “needed housing” means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. “Needed housing” includes the following housing types:

- (a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;
- (b) Government assisted housing;
- (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;
- (d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and
- (e) Housing for farmworkers.

**(2) For the purpose of estimating housing needs, as described in ORS 197.296 (3)(b), a local government shall use the population projections prescribed by ORS 195.033 or 195.036 and shall consider and adopt findings related to changes in each of the following factors since the last periodic or legislative review or six years, whichever is greater, and the projected future changes in these factors over a 20-year planning period:**

- (a) Household sizes;**
- (b) Household demographics in terms of age, gender, race or other established demographic category;**
- (c) Household incomes;**
- (d) Vacancy rates; and**
- (e) Housing costs.**

**(3) A local government shall make the estimate described in subsection (2) of this section using a shorter time period than since the last periodic or legislative review or six years, whichever is greater, if the local government finds that the shorter time period will provide more accurate and reliable data related to housing need. The shorter time period may not be less than three years.**

**(4) A local government shall use data from a wider geographic area or use a time period longer than the time period described in subsection (2) of this section if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to subsection (2) of this section. The local government must clearly describe the geographic area, time frame and source of data used in an estimate performed under this subsection.**

[2] **(5)** Subsection (1)(a) and (d) of this section does not apply to:

- (a) A city with a population of less than 2,500.
- (b) A county with a population of less than 15,000.

[3] **(6)** A local government may take an exception under ORS 197.732 to the definition of “needed housing” in subsection (1) of this section in the same manner that an exception may be taken under the goals.

**SECTION 7.** ORS 197.312, as amended by section 7, chapter 15, Oregon Laws 2018, is amended to read:

197.312. (1) A city or county may not by charter prohibit from all residential zones attached or detached single-family housing, multifamily housing for both owner and renter occupancy or manufactured homes. A city or county may not by charter prohibit government assisted housing or impose additional approval standards on government assisted housing that are not applied to similar but unassisted housing.

(2)(a) A single-family dwelling for a farmworker and the farmworker's immediate family is a permitted use in any residential or commercial zone that allows single-family dwellings as a permitted use.

(b) A city or county may not impose a zoning requirement on the establishment and maintenance of a single-family dwelling for a farmworker and the farmworker's immediate family in a residential or commercial zone described in paragraph (a) of this subsection that is more restrictive than a zoning requirement imposed on other single-family dwellings in the same zone.

(3)(a) Multifamily housing for farmworkers and farmworkers' immediate families is a permitted use in any residential or commercial zone that allows multifamily housing generally as a permitted use.

(b) A city or county may not impose a zoning requirement on the establishment and maintenance of multifamily housing for farmworkers and farmworkers' immediate families in a residential or commercial zone described in paragraph (a) of this subsection that is more restrictive than a zoning requirement imposed on other multifamily housing in the same zone.

(4) A city or county may not prohibit a property owner or developer from maintaining a real estate sales office in a subdivision or planned community containing more than 50 lots or dwelling units for the sale of lots or dwelling units that remain available for sale to the public.

(5)(a) A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas within the urban growth boundary that are zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design.

(b) As used in this subsection[.]:

(A) "Accessory dwelling unit" means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.

(B) "**Reasonable local regulations relating to siting and design**" does not include owner-occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street parking.

(6) **Subsection (5) of this section does not prohibit local governments from regulating vacation occupancies, as defined in ORS 90.100, to require owner-occupancy or off-street parking.**

**SECTION 8.** Section 1, chapter 47, Oregon Laws 2018, is amended to read:

**Sec. 1.** (1) For purposes of this section:

(a) A household is severely rent burdened if the household spends more than 50 percent of the income of the household on gross rent for housing.

(b) A regulated affordable unit is a residential unit subject to a regulatory agreement that runs with the land and that requires affordability for an established income level for a defined period of time.

*[(c) A single-family unit may be rented or owned by a household and includes single-family homes, duplexes, townhomes, row homes and mobile homes.]*

(2)(a) The Housing and Community Services Department shall annually provide to the governing body of each city in this state with a population greater than 10,000 the most current data available from the United States Census Bureau, or any other source the department considers at least as reliable, showing the percentage of renter households in the city that are severely rent burdened.

(b) The Housing and Community Services Department, in collaboration with the Department of Land Conservation and Development, shall develop a survey form on which the governing body of

a city may provide specific information related to the affordability of housing within the city, including, but not limited to:

(A) The actions relating to land use and other related matters that the governing body has taken to increase the affordability of housing and reduce rent burdens for severely rent burdened households; and

(B) The additional actions the governing body intends to take to reduce rent burdens for severely rent burdened households.

(c) If the Housing and Community Services Department determines that at least 25 percent of the renter households in a city are severely rent burdened, the department shall provide the governing body of the city with the survey form developed pursuant to paragraph (b) of this subsection.

(d) The governing body of the city shall return the completed survey form to the Housing and Community Services Department and the Department of Land Conservation and Development within 60 days of receipt.

(3)(a) In any year in which the governing body of a city is informed under this section that at least 25 percent of the renter households in the city are severely rent burdened, the governing body shall hold at least one public meeting to discuss the causes and consequences of severe rent burdens within the city, the barriers to reducing rent burdens and possible solutions.

(b) The Housing and Community Services Department may adopt rules governing the conduct of the public meeting required under this subsection.

(4) No later than February 1 of each year, the governing body of each city in this state with a population greater than 10,000 shall submit to the Department of Land Conservation and Development a report for the immediately preceding calendar year setting forth separately for each of the following categories the total number of units that were permitted and the total number that were produced:

- (a) Residential units.
- (b) Regulated affordable residential units.
- (c) Multifamily residential units.
- (d) Regulated affordable multifamily residential units.
- (e) Single-family *[units]* **homes**.
- (f) Regulated affordable single-family *[units]* **homes**.
- (g) Accessory dwelling units.**
- (h) Regulated affordable accessory dwelling units.**
- (i) Units of middle housing, as defined in section 2 of this 2019 Act.**
- (j) Regulated affordable units of middle housing.**

**SECTION 9.** ORS 455.610 is amended to read:

455.610. (1) The Director of the Department of Consumer and Business Services shall adopt, and amend as necessary, a Low-Rise Residential Dwelling Code that contains all requirements, including structural design provisions, related to the construction of residential dwellings three stories or less above grade. The code provisions for plumbing and electrical requirements must be compatible with other specialty codes adopted by the director. The Electrical and Elevator Board, the Mechanical Board and the State Plumbing Board shall review, respectively, amendments to the electrical, mechanical or plumbing provisions of the code.

(2) Changes or amendments to the code adopted under subsection (1) of this section may be made when:

- (a) Required by geographic or climatic conditions unique to Oregon;
- (b) Necessary to be compatible with other statutory provisions;
- (c) Changes to the national codes are adopted in Oregon; or
- (d) Necessary to authorize the use of building materials and techniques that are consistent with nationally recognized standards and building practices.

(3) Notwithstanding ORS 455.030, 455.035, 455.110 and 455.112, the director may, at any time following appropriate consultation with the Mechanical Board or Building Codes Structures Board,

amend the mechanical specialty code or structural specialty code to ensure compatibility with the Low-Rise Residential Dwelling Code.

(4) The water conservation provisions for toilets, urinals, shower heads and interior faucets adopted in the Low-Rise Residential Dwelling Code shall be the same as those adopted under ORS 447.020 to meet the requirements of ORS 447.145.

(5) The Low-Rise Residential Dwelling Code shall be adopted and amended as provided by ORS 455.030 and 455.110.

(6) The director, by rule, shall establish uniform standards for a municipality to allow an alternate method of construction to the requirements for one and two family dwellings built to the Low-Rise Residential Dwelling Code in areas where the local jurisdiction determines that the fire apparatus means of approach to a property or water supply serving a property does not meet applicable fire code or state building code requirements. The alternate method of construction, which may include but is not limited to the installation of automatic fire sprinkler systems, must be approved in conjunction with the approval of an application under ORS 197.522.

(7) For lots of record existing before July 2, 2001, or property that receives any approval for partition, subdivision or construction under ORS 197.522 before July 2, 2001, a municipality allowing an alternate method of construction to the requirements for one and two family dwellings built to the Low-Rise Residential Dwelling Code may apply the uniform standards established by the director pursuant to subsection (6) of this section. For property that receives all approvals for partition, subdivision or construction under ORS 197.522 on or after July 2, 2001, a municipality allowing an alternate method of construction to the requirements for one and two family dwellings built to the Low-Rise Residential Dwelling Code must apply the uniform standards established by the director pursuant to subsection (6) of this section.

**(8) The director, by rule, shall establish uniform standards for a municipality to allow alternate approval of construction related to conversions of single-family dwellings into no more than four residential dwelling units built to the Low-Rise Residential Dwelling Code that received occupancy approval prior to January 1, 2020. The standards established under this subsection must include standards describing the information that must be submitted before an application for alternate approval will be deemed complete.**

**(9)(a) A building official described in ORS 455.148 or 455.150 must approve or deny an application for alternate approval under subsection (8) of this section no later than 15 business days after receiving a complete application.**

**(b) A building official who denies an application for alternate approval under this subsection shall provide to the applicant:**

**(A) A written explanation of the basis for the denial; and**

**(B) A statement that describes the applicant's appeal rights under subsection (10) of this section.**

**(10)(a) An appeal from a denial under subsection (9) of this section must be made through a municipal administrative process. A municipality shall provide an administrative process that:**

**(A) Is other than a judicial proceeding in a court of law; and**

**(B) Affords the party an opportunity to appeal the denial before an individual, department or body that is other than a plan reviewer, inspector or building official for the municipality.**

**(b) A decision in an administrative process under this subsection must be completed no later than 30 business days after the building official receives notice of the appeal.**

**(c) Notwithstanding ORS 455.690, a municipal administrative process required under this subsection is the exclusive means for appealing a denial under subsection (9) of this section.**

**(11) The costs incurred by a municipality under subsections (9) and (10) of this section are building inspection program administration and enforcement costs for the purpose of fee adoption under ORS 455.210.**

**SECTION 10.** (1) It is the policy of the State of Oregon to reduce to the extent practicable administrative and permitting costs and barriers to the construction of middle housing, as defined in section 2 of this 2019 Act, while maintaining safety, public health and the general welfare with respect to construction and occupancy.

(2) The Department of Consumer and Business Services shall submit a report describing rules and standards relating to low-rise residential dwellings proposed under ORS 455.610, as amended by section 9 of this 2019 Act, in the manner provided in ORS 192.245, to an interim committee of the Legislative Assembly related to housing no later than January 1, 2020.

**SECTION 11.** Section 12 of this 2019 Act is added to and made a part of ORS 94.550 to 94.783.

**SECTION 12.** A provision in a governing document that is adopted or amended on or after the effective date of this 2019 Act, is void and unenforceable to the extent that the provision would prohibit or have the effect of unreasonably restricting the development of housing that is otherwise allowable under the maximum density of the zoning for the land.

**SECTION 13.** A provision in a recorded instrument affecting real property is not enforceable if:

(1) The provision would allow the development of a single-family dwelling on the real property but would prohibit the development of:

- (a) Middle housing, as defined in section 2 of this 2019 Act; or
- (b) An accessory dwelling unit allowed under ORS 197.312 (5); and

(2) The instrument was executed on or after the effective date of this 2019 Act.

**SECTION 14.** (1) Sections 2, 12 and 13 of this 2019 Act and the amendments to ORS 197.296, 197.303, 197.312 and 455.610 and section 1, chapter 47, Oregon Laws 2018, by sections 5 to 9 of this 2019 Act become operative on January 1, 2020.

(2) The Land Conservation and Development Commission, the Department of Consumer and Business Services and the Residential and Manufactured Structures Board may take any actions before the operative date specified in subsection (1) of this section necessary to enable the commission, department or board to exercise, on or after the operative date specified in subsection (1) of this section, the duties required under sections 2, 3 and 10 of this 2019 Act and the amendments to ORS 455.610 by section 9 of this 2019 Act.

**SECTION 15.** In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium beginning July 1, 2019, out of the General Fund, the amount of \$3,500,000 for the purpose of providing technical assistance to local governments in implementing section 3 (1) of this 2019 Act and to develop plans to improve water, sewer, storm drainage and transportation services as described in section 4 (2) of this 2019 Act. The department shall prioritize technical assistance to cities or counties with limited planning staff or that commit to implementation earlier than the date required under section 3 (1) of this 2019 Act.

**SECTION 16.** This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

**Passed by House June 20, 2019**

.....  
Timothy G. Sekerak, Chief Clerk of House

.....  
Tina Kotek, Speaker of House

**Passed by Senate June 30, 2019**

.....  
Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2019

**Approved:**

.....M,....., 2019

.....  
Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2019

.....  
Bev Clarno, Secretary of State

# ATTACHMENT B

## Division 46 Middle Housing in Medium and Large Cities

*Rules as adopted by the Land Conservation and Development Commission December 9, 2020*

### 660-046-0000 Purpose

The purpose of this division is to prescribe standards guiding the development of Middle Housing types as provided in Oregon Laws 2019, chapter 639. OAR 660-046-0010 to OAR 660-046-0235 establish standards related to the siting and design of Middle Housing types in urban growth boundaries. OAR 660-046-0300 to OAR 660-046-0370 establish the form and substance of an application and the review process to delay the enactment of standards related to the siting and design of Middle Housing types in areas with significant infrastructure deficiencies.

### 660-046-0010 Applicability

1. A local government that is a Medium City or Large City must comply with this division.
2. Notwithstanding section (1), a Medium or Large City need not comply with this division for:
  - a. Lots or Parcels that are not zoned for residential use, including but not limited to Lots or Parcels zoned primarily for commercial, industrial, agricultural, or public uses;
  - b. Lots or Parcels that are Zoned For Residential Use but do not allow for the development of a detached single-family dwelling; and
  - c. Lots or Parcels that are not incorporated and that are zoned under an interim zoning designation that maintains the land's potential for planned urban development.
3. A Medium or Large City may regulate Middle Housing to comply with protective measures (including plans, policies, and regulations) adopted and acknowledged pursuant to statewide land use planning goals. Where Medium and Large Cities have adopted, or shall adopt, regulations implementing the following statewide planning goals, the following provisions provide direction as to how those regulations shall be implemented in relation to Middle Housing, as required by this rule.
  - a. Goal 5: Natural Resources, Scenic, and Historic Areas – OAR chapter 660, division 23, prescribes procedures, and in some cases, standards, for complying with Goal 5. OAR chapter 660, division 16 directed implementation of Goal 5 prior to division 23. Local protection measures adopted pursuant to divisions 23 and 16 are applicable to Middle Housing.
    - A. Goal 5 Natural Resources – Pursuant to OAR 660-023-0050 through 660-023-0110, Medium and Large Cities must adopt land use regulations to protect water quality, aquatic habitat, and the habitat of threatened, endangered and sensitive species. This includes regulations applicable to Middle Housing to comply with protective measures adopted pursuant to Goal 5.
      - i. Medium and Large Cities may apply regulations to Duplexes that apply to detached single-family dwellings in the same zone;
      - ii. Medium and Large Cities may limit the development of Middle Housing other than Duplexes in significant resource sites identified and protected pursuant to Goal 5; and
      - iii. If a Medium or Large City has not adopted land use regulations pursuant to OAR 660-023-0090, it must apply a 100-foot setback to Middle Housing developed along a riparian corridor.
    - B. Goal 5: Historic Resources – Pursuant to OAR 660-023-0200(7), Medium and Large Cities must adopt land use regulations to protect locally significant historic resources. This includes regulations applicable to Middle Housing to comply with protective measures as it relates to the integrity of a historic resource or district. Protective measures shall be adopted and applied as provided in OAR 660-023-0200. Medium and Large Cities may apply regulations adopted under OAR 660-023-0200 to Middle Housing that apply to detached single-family dwellings in the same zone, except as provided below. If a Medium or Large City has not adopted land use regulations to protect significant historic resources listed on the National Register of Historic Places, it must apply protective



measures to Middle Housing as provided in OAR 660-023-0200(8)(a) until the Medium or Large City adopts land use regulations in compliance with OAR 660-023-0200. Medium or Large Cities may not apply the following types of regulations specific to Middle Housing:

- i. Use, density, and occupancy restrictions that prohibit the development of Middle Housing on historic properties or districts that otherwise permit the development of detached single-family dwellings; and
  - ii. Standards that prohibit the development of Middle Housing on historic properties or districts that otherwise permit the development of detached single-family dwellings.
- b. Goal 6: Air, Water and Land Resources Quality – Pursuant to OAR 660-015-0000(6), a Medium or Large City may limit development within an urban growth boundary to support attainment of federal and state air, water, and land quality requirements. Medium and Large Cities may apply regulations adopted pursuant to Goal 6 to the development of Middle Housing.
- c. Goal 7: Areas Subject to Natural Hazards – Pursuant to OAR 660-015-0000(7), Medium and Large Cities must adopt comprehensive plans (inventories, policies, and implementing measures) to reduce risk to people and property from natural hazards. Such protective measures adopted pursuant to Goal 7 apply to Middle Housing, including, but not limited to, restrictions on use, density, and occupancy in the following areas:
  - A. Special Flood Hazard Areas as identified on the applicable Federal Emergency Management Agency Flood Insurance Rate Map; and
  - B. Other hazard areas identified in an adopted comprehensive plan or development code; provided the Medium or Large City determines that the development of Middle Housing presents a greater risk to life or property than the development of detached single-family dwellings from the identified hazard. Greater risk includes but is not limited to actions or effects such as:
    - i. Increasing the number of people exposed to a hazard;
    - ii. Increasing risk of damage to property, built, or natural infrastructure; and
    - iii. Exacerbating the risk by altering the natural landscape, hydraulics, or hydrology.
- d. Goal 9: Economic Development - Pursuant to OAR 660-009-0025, Medium and Large Cities must adopt measures adequate to implement industrial and other employment development policies, including comprehensive plan designations. Medium and Large Cities may limit the development of Middle Housing on Lots or Parcels Zoned For Residential Use designated for future industrial or employment uses.
- e. Goal 11: Public Facilities and Services - Pursuant to OAR 660-011-0020(2), a public facility plan must identify significant public facility projects which are to support the land uses designated in the acknowledged comprehensive plan. This includes public facility projects to support the development of Middle Housing in areas zoned for residential use that allow for the development of detached single-family dwellings. Following adoption of Middle Housing allowances by a Large City, the Large City shall work to ensure that infrastructure serving undeveloped or underdeveloped areas, as defined in OAR 660-046-0320(8), where Middle Housing is allowed is appropriately designed and sized to serve Middle Housing.
- f. Goal 15: Willamette Greenway – Pursuant to OAR 660-015-0005, Medium and Large Cities must review intensifications, changes of use or developments to insure their compatibility with the Willamette River Greenway. Medium and Large Cities may allow and regulate the development of Middle Housing in the Willamette Greenway, provided that applicable regulations adopted pursuant to Goal 15 comply with ORS 197.307.
- g. Goal 16: Estuarine Resources – Pursuant to OAR 660-015-0010(1) and OAR chapter 660, division 17, Medium and Large Cities must apply land use regulations that protect the estuarine ecosystem, including its natural biological productivity, habitat, diversity, unique features and water quality. Medium and Large Cities may prohibit Middle Housing in areas regulated to

- protect estuarine resources under Goal 16 in the same manner as the Medium or Large City prohibits detached single-family dwellings to protect estuarine resources under Goal 16.
- h. Goal 17: Coastal Shorelands – Pursuant to OAR 660-015-0010(2) and OAR 660-037-0080, local governments must apply land use regulations that protect shorelands for water-dependent recreational, commercial, and industrial uses. This includes regulations applicable to Middle Housing to comply with protective measures adopted pursuant to Goal 17. Local governments may apply regulations to Middle Housing that apply to detached single-family dwellings in the same zone.
  - i. Goal 18: Beaches and Dunes – Pursuant to OAR 660-015-0010(3), Medium and Large Cities must apply land use regulations to residential developments to mitigate hazards to life, public and private property, and the natural environment in areas identified as Beaches and Dunes under Goal 18. This includes regulations applicable to Middle Housing to comply with protective measures adopted pursuant to Goal 18 including but not limited to restrictions on use, density, and occupancy; provided the development of Middle Housing presents a greater risk to life or property than development of detached single-family dwellings. Greater risk includes but is not limited to actions or effects such as:
    - A. Increasing the number of people exposed to a hazard;
    - B. Increasing risk of damage to property, built or natural infrastructure; and
    - C. Exacerbating the risk by altering the natural landscape, hydraulics, or hydrology.
4. For the purposes of assisting local jurisdictions in adopting reasonable siting and design standards for Middle Housing, the applicable Model Code adopted in this section will be applied to A Local Government That Has Not Acted to comply with the provisions of ORS 197.758 and this division. For such Medium and Large Cities, the applicable Model Code completely replaces and pre-empts any provisions of those Medium and Large Cities’ development codes that conflict with the Model Code. The Land Conservation and Development Commission adopts the following Middle Housing Model Codes:
    - a. The Medium City Model Code as provided in Exhibit A; and
    - b. The Large City Model Code as provided in Exhibit B.
  5. This division does not prohibit Medium or Large Cities from allowing:
    - a. Single-family dwellings in areas zoned to allow for single-family dwellings; or
    - b. Middle Housing in areas not required under this division.

### 660-046-0020 Definitions

As used in this division, the definitions in ORS 197.015 and ORS 197.758 et seq. apply, unless the context requires otherwise. In addition, the following definitions apply:

1. “A Local Government That Has Not Acted” means a Medium or Large City that has not adopted acknowledged land use regulations that are in compliance with ORS 197.758 and this division.
2. “Cottage Cluster” means a grouping of no fewer than four detached dwelling units per acre with a footprint of less than 900 square feet each that includes a common courtyard. A Medium or Large City may allow Cottage Cluster units to be located on a single Lot or Parcel, or on individual Lots or Parcels.
3. “Department” means the Department of Land Conservation and Development.
4. “Design Standard” means a standard related to the arrangement, orientation, materials, appearance, articulation, or aesthetic of features on a dwelling unit or accessory elements on a site. Design standards include, but are not limited to, standards that regulate entry and dwelling orientation, façade materials and appearance, window coverage, driveways, parking configuration, pedestrian access, screening, landscaping, and private, open, shared, community, or courtyard spaces.
5. “Detached single-family dwelling” means a detached structure on a Lot or Parcel that is comprised of a single dwelling unit.
6. “Duplex” means two attached dwelling units on a Lot or Parcel. A Medium or Large City may define a Duplex to include two detached dwelling units on a Lot or Parcel.
7. “Goal Protected Lands” means lands protected or designated pursuant to any one of the following statewide planning goals:
  - a. Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces;

- b. Goal 6 Air, Water and Land Resource Quality;
  - c. Goal 7 Areas Subject to Natural Hazards;
  - d. Goal 9 Economic Development;
  - e. Goal 15 Willamette River Greenway;
  - f. Goal 16 Estuarine Resources;
  - g. Goal 17 Coastal Shorelands; and
  - h. Goal 18 Beaches and Dunes.
8. "Large City" means a city with a certified Portland State University Population Research Center estimated population of 25,000 or more or a city with a population over 1,000 within a metropolitan service district. A Large City includes unincorporated areas of counties within a metropolitan service district that are provided with sufficient urban services as defined in ORS 195.065. Sufficient urban services means areas that are within an urban service district boundary.
  9. "Lot or Parcel" means any legally created unit of land.
  10. "Master Planned Community" means a site that is any one of the following:
    - a. Greater than 20 acres in size within a Large City or adjacent to the Large City within the urban growth boundary that is zoned for or proposed to be Zoned For Residential Use, and which is not currently developed with urban residential uses, for which a Large City proposes to adopt, by resolution or ordinance, a master plan or a plan that functions in the same manner as a master plan;
    - b. Greater than 20 acres in size within a Large City or adjacent to the Large City within the urban growth boundary for which a Large City adopted, by resolution or ordinance, a master plan or a plan that functions in the same manner as a master plan after the site was incorporated into the urban growth boundary; or
    - c. Added to the Large City's urban growth boundary after January 1, 2021 for which the Large City proposes to adopt, by resolution or ordinance, a master plan or a plan that functions in the same manner as a master plan.
  11. "Medium City" means a city with a certified Portland State University Population Research Center estimated population more than 10,000 and less than 25,000 and not within a metropolitan service district.
  12. "Middle Housing" means Duplexes, Triplexes, Quadplexes, Cottage Clusters, and Townhouses.
  13. "Model Code" means the applicable Model Code developed by the Department and contained in the exhibits in OAR 660-046-0010(4).
  14. "Quadplex" means four attached dwelling units on a Lot or Parcel. A Large City may define a Quadplex to include any configuration of four detached or attached dwelling units on one Lot or Parcel.
  15. "Siting Standard" means a standard related to the position, bulk, scale, or form of a structure or a standard that makes land suitable for development. Siting standards include, but are not limited to, standards that regulate perimeter setbacks, dimensions, bulk, scale, coverage, minimum and maximum parking requirements, utilities, and public facilities.
  16. "Sufficient Infrastructure" means the following level of public services to serve new Triplexes, Quadplexes, Townhouses, or Cottage Cluster development:
    - a. Connection to a public sewer system capable of meeting established service levels.
    - b. Connection to a public water system capable of meeting established service levels.
    - c. Access via public or private streets meeting adopted emergency vehicle access standards to a city's public street system.
    - d. Storm drainage facilities capable of meeting established service levels for storm drainage.
  17. "Townhouse" means a dwelling unit that is part of a row of two or more attached dwelling units, where each unit is located on an individual Lot or Parcel and shares at least one common wall with an adjacent dwelling unit.
  18. "Townhouse Project" means one or more townhouse structures constructed, or proposed to be constructed, together with the development site where the land has been divided, or is proposed to be divided, to reflect the Townhouse property lines and the any commonly owned property.
  19. "Triplex" means three attached dwelling units on a Lot or Parcel. A Large City may define a Triplex to include any configuration of three detached or attached dwelling units on one Lot or Parcel.

20. “Zoned for Residential Use” means a zoning district in which residential dwellings are the primary use and which implements a residential comprehensive plan map designation.

#### 660-046-0030 Implementation of Middle Housing Ordinances

1. Before a Medium or Large City amends an acknowledged comprehensive plan or a land use regulation to allow Middle Housing, the Medium or Large City must submit the proposed change to the Department for review and comment pursuant to OAR chapter 660, division 18.
2. In adopting or amending regulations or amending a comprehensive plan to allow Middle Housing, a Medium or Large City must include findings demonstrating consideration, as part of the post-acknowledgement plan amendment process, of methods to increase the affordability of Middle Housing through ordinances or policies that include but are not limited to:
  - a. Waiving or deferring system development charges;
  - b. Adopting or amending criteria for property tax exemptions under ORS 307.515 to ORS 307.523, ORS 307.540 to ORS 307.548 or ORS 307.651 to ORS 307.687 or property tax freezes under ORS 308.450 to ORS 308.481; and
  - c. Assessing a construction tax under ORS 320.192 and ORS 320.195.
3. When a Medium or Large City amends its comprehensive plan or land use regulations to allow Middle Housing, the Medium or Large City is not required to consider whether the amendments significantly affect an existing or planned transportation facility.

#### 660-046-0040 Compliance

1. A Medium or Large City may adopt land use regulations or amend its comprehensive plan to comply with ORS 197.758 et seq. and the provisions of this division.
2. A Medium or Large City may request from the Department an extension of the time allowed to complete the action under subsection (1) pursuant to the applicable sections of OAR 660-046-0300 through OAR 660-046-0370.
3. A Medium City which is A Local Government That Has Not Acted by June 30, 2021 or within one year of qualifying as a Medium City pursuant to OAR 660-046-0050 and has not received an extension under section (2), shall directly apply the applicable Model Code contained in OAR 660-046-0010(4) in its entirety to all proposed Middle Housing development applications until such time as the Medium City has adopted provisions under section (1).
4. A Large City which is A Local Government That Has Not Acted by June 30, 2022 or within two years of qualifying as a Large City pursuant to OAR 660-046-0050 and has not received an extension under section (2), shall directly apply the applicable Model Code contained in OAR 660-046-0010(4) for the specific Middle Housing type that is not in compliance with the relevant rules in this division to all proposed development applications for that specific Middle Housing type until such time as the Large City has adopted provisions under section (1).
5. If a Medium or Large City has adopted land use regulations or amended its comprehensive plan by the date provided under sections (3) and (4) and the Medium or Large City’s land use regulations or comprehensive plan changes are subsequently remanded by the Land Use Board of Appeals or an appellate court solely on procedural grounds, the Medium or Large City is deemed to have acted. Accordingly, the Medium or Large City may continue to apply its own land use regulations and comprehensive plan as they existed prior to the adoption of land use regulations or comprehensive plan amendments that were the subject of procedural remand until the first of the two options:
  - a. The Medium or Large City has adopted land use regulations or amended its comprehensive plan in response to the remand; or
  - b. 120 days after the date of the remand. If the Medium or Large City has not adopted land use regulations or amended its comprehensive plan within 120 days of the date of the remand, the Medium or Large City is deemed not to have acted under sections (3) and (4).
6. If a Medium or Large City has adopted land use regulations or amended its comprehensive plan by the date provided under sections (3) and (4) and the Medium or Large city’s land use regulations or comprehensive plan changes are subsequently remanded by the Land Use Board of Appeals or an

appellate court on any substantive grounds, the Medium or Large City is deemed to have not acted under sections (3) and (4).

7. If a Medium or Large City acknowledged to be in compliance with this division subsequently amends its land use regulations or comprehensive plan, and those amendments are remanded by the Land Use Board of Appeals or an appellate court, the Medium or Large City shall continue to apply its land use regulations and comprehensive plan as they existed prior to the amendments until the amendments are acknowledged.
8. Where a Medium or Large City directly applies the Model Code in accordance with sections (3), (4) and (5), the Model Code completely replaces and pre-empts any provisions of that Medium or Large City's development code that conflict with the applicable sections of the Model Code.

#### 660-046-0050 Eligible Local Governments

1. If a local government was not previously a Medium City and a certified Portland State University Population Research Center population estimate qualifies it as a Medium City, the local government must comply with this division within one year of its qualification as a Medium City.
2. If a local government was not previously a Large City and a certified Portland State University Population Research Center population estimate qualifies it as a Large City, the local government must comply with this division within two years of its qualification as a Large City.

#### 660-046-0100 Purpose of Middle Housing in Medium Cities

OAR 660-046-0105 through OAR 660-046-0130 are intended to measure compliance with ORS 197.758 et seq. and Goal 10 Housing for Medium Cities.

#### 660-046-0105 Applicability of Middle Housing in Medium Cities

1. A Medium City must allow for the development of a Duplex, including those Duplexes created through conversion of an existing detached single-family dwelling, on each Lot or Parcel zoned for residential use that allows for the development of detached single-family dwellings.
2. OAR 660-046-0105 through OAR 660-046-0130 do not require a Medium City to allow more than two dwellings units on a Lot or Parcel, including any accessory dwelling units.

#### 660-046-0110 Provisions Applicable to Duplexes in Medium Cities

1. Medium Cities may regulate Duplexes to comply with protective measures, including plans, policies and regulations, as provided in OAR 660-046-0010(3).
2. Medium Cities may regulate siting and design of Duplexes, provided that the regulations;
  - a. Are clear and objective standards, conditions, or procedures consistent with ORS 197.307; and
  - b. Do not, individually or cumulatively, discourage the development of Duplexes through unreasonable costs or delay.
3. Siting and design standards that create unreasonable cost and delay include any standards applied to Duplex development that are more restrictive than those applicable to detached single-family dwellings in the same zone.
4. Siting and design standards that do not, individually or cumulatively, discourage the development of Duplexes through unreasonable cost and delay include only the following:
  - a. Regulations to comply with protective measures adopted pursuant to statewide land use planning goals provided in OAR 660-046-0010(3);
  - b. Permitted uses and approval process provided in OAR 660-046-0115;
  - c. Siting standards provided in OAR 660-046-0120;
  - d. Design standards in Medium Cities provided in OAR 660-046-0125;
  - e. Duplex Conversions provided in OAR 660-046-0130; and
  - f. Any siting and design standards contained in the Model Code referenced in section OAR 660-046-0010(4).

### 660-046-0115 Permitted Uses and Approval Process

Medium Cities must apply the same approval process to Duplexes as detached single-family dwellings in the same zone. Pursuant to OAR 660-007-0015, OAR 660-008-0015, and ORS 197.307, Medium Cities may adopt and apply only clear and objective standards, conditions, and procedures regulating the development of Duplexes. Nothing in this rule prohibits a Medium City from adopting an alternative approval process for applications and permits for Middle Housing based on approval criteria that are not clear and objective as provided in OAR 660-007-0015(2), OAR 660-008-0015(2), and ORS 197.307(6).

### 660-046-0120 Duplex Siting Standards in Medium Cities

The following standards apply to all Duplexes:

1. Minimum Lot or Parcel Size: A Medium City may not require a minimum Lot or Parcel size that is greater than the minimum Lot or Parcel size required for a detached single-family dwelling in the same zone. Additionally, Medium Cities shall allow the development of a Duplex on any property zoned to allow detached single-family dwellings, which was legally created prior to the Medium City's current lot size minimum for detached single-family dwellings in the same zone.
2. Density: If a Medium City applies density maximums in a zone, it may not apply those maximums to the development of Duplexes.
3. Setbacks: A Medium City may not require setbacks to be greater than those applicable to detached single-family dwellings in the same zone.
4. Height: A Medium City may not apply lower maximum height standards than those applicable to detached single-family dwellings in the same zone.
5. Parking:
  - a. A Medium City may not require more than a total of two off-street parking spaces for a Duplex.
  - b. Nothing in this section precludes a Medium City from allowing on-street parking credits to satisfy off-street parking requirements.
6. Lot Coverage and Floor Area Ratio: Medium Cities are not required to apply lot coverage or floor area ratio standards to new Duplexes. However, if the Medium City chooses to apply lot coverage or floor area ratio standards, it may not establish a cumulative lot coverage or floor area ratio for a Duplex that is less than established for detached single-family dwelling in the same zone.
7. A Medium City or other utility service provider that grants clear and objective exceptions to public works standards to detached single-family dwelling development must allow the granting of the same exceptions to Duplexes.

### 660-046-0125 Duplex Design Standards in Medium Cities

1. Medium Cities are not required to apply design standards to new Duplexes. However, if the Medium City chooses to apply design standards to new Duplexes, it may only apply the same clear and objective design standards that the Medium City applies to detached single-family structures in the same zone.
2. A Medium City may not apply design standards to Duplexes created as provided in OAR 660-046-0130.

### 660-046-0130 Duplex Conversions

Additions to or conversion of an existing detached single-family dwelling to a Duplex is allowed, pursuant to OAR 660-046-0105(2), provided that the conversion does not increase nonconformance with applicable clear and objective standards in the Medium City's development code.

### 660-046-0200 Purpose of Middle Housing in Large Cities

OAR 660-046-0205 through OAR 660-046-0235 are intended to measure compliance with ORS 197.758 et seq. and Goal 10 Housing for Large Cities.

### 660-046-0205 Applicability of Middle Housing in Large Cities

1. A Large City must allow for the development of Duplexes in the same manner as required for Medium Cities in OAR 660-046-0100 through OAR 660-046-0130.

2. A Large City must allow for the development of Triplexes, Quadplexes, Townhouses, and Cottage Clusters, including those created through additions to or conversions of existing detached single-family dwellings, in areas zoned for residential use that allow for the development of detached single-family dwellings. A Large City may regulate or limit development of these types of Middle Housing on the following types of lands:
  - a. Goal-Protected Lands: Large Cities may regulate Middle Housing on Goal-Protected Lands as provided in OAR 660-046-0010(3);
  - b. Master Planned Communities: Large Cities may regulate or limit the development of Middle Housing in Master Planned Communities as follows:
    - A. If a Large City has adopted a master plan or a plan that functions in the same manner as a master plan after January 1, 2021, it must allow the development of all Middle Housing types as provided in OAR 660-046-0205 through OAR 660-046-0235.
      - i. A Large City must plan to provide urban water, sanitary sewer, stormwater, and transportation systems that accommodate at least 20 dwelling units per net acre if located within a metropolitan service district boundary, and 15 dwelling units per net acre if located outside of a metropolitan service district boundary.
      - ii. If a proposed Middle Housing development exceeds the planned public service capacity of a Master Plan, the Large City may require the applicant demonstrate, through an amended public facility plan or similar mechanism, the sufficient provision of public services needed to serve the proposed development.
      - iii. A Large City may require a mix of two or more Middle Housing types within a Master Plan or portions of a Master Plan.
      - iv. A Large City may designate areas within the master plan exclusively for other housing types, such as multi-family residential structures of five dwelling units or more or manufactured home parks.
    - B. If a Large City has adopted a master plan or a plan that functions in the same manner as a master plan before January 1, 2021, it may limit the development of Middle Housing other than Duplexes provided it authorizes in the entire master plan area a net residential density of at least eight dwelling units per acre and allows all dwelling units, at minimum, to be detached single-family dwellings or Duplexes. A Large City may only apply this restriction to portions of the area not developed as of January 1, 2021, and may not apply this restriction after the initial development of any area of the master plan or a plan that functions in the same manner as a master plan, except that a Large City may prohibit redevelopment of other housing types, such as multi-family residential structures and manufactured home parks.
  - c. Impacted by State or Federal Law: A Large City must demonstrate that regulations or limitations of Middle Housing other than Duplexes are necessary to implement or comply with an established state or federal law or regulation on these types of lands.
3. A Large City may:
  - a. Allow for the development of Triplexes, Quadplexes, Townhouses, and Cottage Clusters, including those created through conversion of existing detached single-family dwellings, in areas zoned for residential use that allow for the development of detached single-family dwellings as provided in OAR 660-046-0205 through OAR 660-046-0235; or
  - b. Apply separate minimum lot size and maximum density provisions than what is provided in OAR 660-046-0220, provided that the applicable Middle Housing type other than Duplexes is allowed on the following percentage of Lots and Parcels zoned for residential use that allow for the development of detached single-family dwellings, excluding lands described in subsection (2):
    - A. Triplexes – Must be allowed on 80% of Lots and Parcels;
    - B. Quadplexes - Must be allowed on 70% of Lots and Parcels;
    - C. Townhouses - Must be allowed on 60% of Lots and Parcels; and
    - D. Cottage Clusters – Must be allowed on 70% of Lots and Parcels.

- E. A Middle Housing type is “allowed” on a Lot or Parcel when the following criteria are met:
    - i. The Middle Housing type is a permitted use on that Lot or Parcel under the same administrative process as a detached single-family dwelling in the same zone;
    - ii. The Lot or Parcel has sufficient square footage to allow the Middle Housing type within the applicable minimum lot size requirement;
    - iii. Maximum density requirements do not prohibit the development of the Middle Housing type on the subject Lot or Parcel; and
    - iv. The applicable siting or design standards do not individually or cumulatively cause unreasonable cost or delay to the development of that Middle Housing type as provided in OAR 660-046-0210(3).
  - F. A Large City must ensure the equitable distribution of Middle Housing by allowing, as defined in subsection (3)(b)(E) above, at least one Middle Housing type other than Duplexes and Cottage Clusters on 75 percent or more of all lots and parcels zoned for residential use that allow for the development of detached single-family dwellings within each census block group, with at least four eligible Lots and Parcels as described in subsection (2) of this section, within a Large City.
  - G. Large Cities must demonstrate continuing compliance with subsection (3)(b) at the following intervals:
    - i. At the initial submittal of a Middle Housing comprehensive plan or land use regulation change, in accordance with OAR Chapter 660, Division 18;
    - ii. At any future Housing Capacity Analysis Deadline as provided in OAR 660-008-0045, except that a demonstration of continuing compliance will not be required earlier than six years after initial adoption of acknowledged land use regulations in compliance with this division; and
    - iii. With any future comprehensive plan or land use regulation changes that implements this division, in accordance with OAR Chapter 660, Division 18, for Large Cities that are not subject to the Housing Capacity Analysis Deadline as provided in OAR 660-008-0045, except that a demonstration of continuing compliance will not be required more frequently than once every six years after initial adoption of acknowledged land use regulations in compliance with this division.
4. Pursuant to OAR 660-046-0205 through OAR 660-046-0230, the following numerical standards related to Middle Housing types apply:
- a. Duplexes – Large Cities may allow more than two dwellings units on a Lot or Parcel, including any accessory dwelling units.
  - b. Triplexes and Quadplexes – Large Cities may allow more than four dwelling units on a lot, including any accessory dwelling units.
  - c. Townhouses – Large Cities must require at least two attached Townhouse dwelling units and must allow up to four attached Townhouse units subject to applicable siting or design standards as provided in OAR 660-046-0220 through OAR 660-046-0235. A Large City may allow five or more attached Townhouse dwelling units.
  - d. Cottage Clusters –
    - A. A Large City is not required to set a minimum number of dwelling units in a Cottage Cluster, but if it chooses to, it may require a minimum of three, four, or five dwelling units in a Cottage Cluster. A Large City may allow, but may not require, greater than five units in a Cottage Cluster.
    - B. A Large City must allow up to eight cottages per common courtyard subject to applicable siting or design standards as provided in OAR 660-046-0220 through OAR 660-046-0235. Nothing in this section precludes a Large City from permitting greater than eight dwelling units per common courtyard.



### 660-046-0210 Provisions Applicable to Middle Housing in Large Cities

1. Large Cities may regulate Middle Housing to comply with protective measures, including plans, policies and regulations, as provided in OAR 660-046-0010(3).
2. Large Cities may regulate siting and design of Middle Housing, provided that the regulations;
  - a. Are clear and objective standards, conditions, or procedures consistent with the requirements of ORS 197.307; and
  - b. Do not, individually or cumulatively, discourage the development of Middle Housing through unreasonable costs or delay.
3. Siting and design standards that do not, individually or cumulatively, discourage the development of Middle Housing through unreasonable cost and delay include only the following:
  - a. Regulations to comply with protective measures adopted pursuant to statewide land use planning goals provided in OAR 660-046-0010(3);
  - b. Permitted uses and approval processes provided in OAR 660-046-0215;
  - c. Siting standards provided in OAR 660-046-0220;
  - d. Design standards in Large Cities provided in OAR 660-046-0225;
  - e. Middle Housing Conversions provided in OAR 660-046-0230;
  - f. Alternative siting or design standards provided in OAR 660-046-0235; and
  - g. Any siting and design standards contained in the Model Code referenced in section OAR 660-046-0010(4).

### 660-046-0215 Permitted Uses and Approval Process

Large Cities must apply the same approval process to Middle Housing as detached single-family dwellings in the same zone. Pursuant to OAR 660-008-0015 and ORS 197.307, Large Cities may adopt and apply only clear and objective standards, conditions, and procedures regulating the development of Middle Housing consistent with the requirements of ORS 197.307. Nothing in this rule prohibits a Large City from adopting an alternative approval process for applications and permits for Middle Housing based on approval criteria that are not clear and objective as provided in OAR 660-007-0015(2), OAR 660-008-0015(2), and ORS 197.307(6).

### 660-046-0220 Middle Housing Siting Standards in Large Cities

1. Large Cities must apply siting standards to Duplexes in the same manner as required for Medium Cities in OAR 660-046-0120.
2. The following governs Large Cities' regulation of siting standards related to Triplexes and Quadplexes:
  - a. Minimum Lot or Parcel Size:
    - A. For Triplexes:
      - i. If the minimum Lot or Parcel size in the zone for a detached single-family dwelling is 5,000 square feet or less, the minimum Lot or Parcel size for a Triplex may be no greater than 5,000 square feet.
      - ii. If the minimum Lot or Parcel size in the zone for a detached single-family dwelling is greater than 5,000 square feet, the minimum Lot or Parcel size for a Triplex may be no greater than the minimum Lot or Parcel size for a detached single-family dwelling.
    - B. For Quadplexes:
      - i. If the minimum Lot or Parcel size in the zone for a detached single-family dwelling is 7,000 square feet or less, the minimum Lot or Parcel size for a Quadplex may be no greater than 7,000 square feet.
      - ii. If the minimum Lot or Parcel size in the zone for a detached single-family dwelling is greater than 7,000 square feet, the minimum Lot or Parcel size for a Quadplex may be no greater than the minimum Lot or Parcel size for a detached single-family dwelling.
    - C. A Large City may apply a lesser minimum Lot or Parcel size in any zoning district for a Triplex or Quadplex than provided in paragraphs A. or B.

- b. Density: If a Large City applies density maximums in a zone, it may not apply those maximums to the development of Quadplex and Triplexes.
  - c. Setbacks: A Large City may not require setbacks greater than those applicable to detached single-family dwellings in the same zone.
  - d. Height: A Large City may not apply lower maximum height standards than those applicable to detached single-family dwellings in the same zone, except a maximum height may not be less than 25 feet or two stories.
  - e. Parking:
    - A. For Triplexes, a Large City may require up to the following off-street parking spaces:
      - i. For Lots or Parcels of less than 3,000 square feet: one space in total;
      - ii. For Lots or Parcels greater than or equal to 3,000 square feet and less than 5,000 square feet: two spaces in total; and
      - iii. For Lots or Parcels greater than or equal to 5,000 square feet: three spaces in total.
    - B. For Quadplexes, a Large City may require up to the following off-street parking spaces:
      - i. For Lots or Parcels of less than 3,000 square feet: one space in total;
      - ii. For Lots or Parcels greater than or equal to 3,000 square feet and less than 5,000 square feet: two spaces in total;
      - iii. For Lots or Parcels greater than or equal to 5,000 square feet and less than 7,000 square feet: three spaces in total; and
      - iv. For Lots or Parcels greater than or equal to 7,000 square feet: four spaces in total.
    - C. A Large City may allow on-street parking credits to satisfy off-street parking requirements.
    - D. A Large City may allow, but may not require, off-street parking to be provided as a garage or carport.
    - E. A Large City must apply the same off-street parking surfacing, dimensional, landscaping, access, and circulation standards that apply to single-family detached dwellings in the same zone.
    - F. A Large City may not apply additional minimum parking requirements to Middle Housing created as provided in OAR 660-046-0230.
  - f. Lot or Parcel Coverage and Floor Area Ratio: Large Cities are not required to apply Lot or Parcel coverage or floor area ratio standards to Triplexes or Quadplexes. However, if the Large City applies Lot or Parcel coverage or floor area ratio standards, it may not establish a cumulative Lot or Parcel coverage or floor area ratio for Triplexes or Quadplexes that is less than established for detached single-family dwelling in the same zone.
  - g. A Large City shall work with an applicant for development to determine whether Sufficient Infrastructure will be provided, or can be provided, upon submittal of a Triplex or Quadplex development application.
3. The following governs Large Cities' regulation of siting standards related to Townhouses:
- a. Minimum Lot or Parcel Size: A Large City is not required to apply a minimum Lot or Parcel size to Townhouses, but if it applies those standards, the average minimum Lot or Parcel size for Lot or Parcels in a Townhouse Project may not be greater than 1,500 square feet. A Large City may apply separate minimum Lot or Parcel sizes for internal, external, and corner Townhouse Lots or Parcels provided that they average 1,500 square feet, or less.
  - b. Minimum Street Frontage: A Large City is not required to apply a minimum street frontage standard to Townhouses, but if it applies those standards, the minimum street frontage standard must not exceed 20 feet. A Large City may allow frontage on public and private streets or alleys; and on shared or common drives. If a Large City allows flag Lots or Parcels, it is not required to allow Townhouses on those Lots or Parcels.
  - c. Density: If a Large City applies density maximums in a zone, it must allow four times the maximum density allowed for detached single-family dwellings in the same zone for the development of Townhouses or 25 dwelling units per acre, whichever is less.

- d. Setbacks: A Large City may not require front, side, or rear setbacks to be greater than those applicable to detached single-family structures in the same zone and must allow zero-foot side setbacks for Lot or Parcel lines where Townhouse units are attached.
  - e. Height: A Large City may not apply lower maximum height standards than those applicable to detached single-family dwellings in the same zone. If a Large City requires covered or structured parking for townhouses, the applicable height standards must allow construction of at least three stories. If a Large City does not require covered or structured parking, the applicable height standards must allow construction of at least two stories.
  - f. Parking:
    - A. A Large City may not require more than one off-street parking space per Townhouse dwelling unit.
    - B. Nothing in this section precludes a Large City from allowing on-street parking credits to satisfy off-street parking requirements.
    - C. A Large City must apply the same off-street parking surfacing, dimensional, landscaping, access, and circulation standards that apply to single-family detached dwellings in the same zone.
  - g. Bulk and Scale: A Large City is not required to apply standards to control bulk and scale to new Townhouses. However, if a Large City chooses to regulate scale and bulk, including but not limited to provisions including Lot or Parcel coverage, floor area ratio, and maximum unit size, those standards cannot cumulatively or individually limit the bulk and scale of the cumulative Townhouse Project greater than that of a single-family detached dwelling.
  - h. A Large City shall work with an applicant for development to determine whether Sufficient Infrastructure will be provided, or can be provided, upon submittal of a Townhouse development application.
4. The following governs Large Cities' regulation of siting standards related to Cottage Clusters:
- a. Minimum Lot or Parcel Size: A Large City is not required to apply minimum Lot or Parcel size standards to new Cottage Clusters. However, if a Large City applies standards to regulate minimum Lot or Parcel size for Cottage Clusters on a single Lot or Parcel, the following provisions apply:
    - A. If the minimum Lot or Parcel size in the same zone for a detached single-family dwelling is 7,000 square feet or less, the minimum Lot or Parcel size for a Cottage Cluster may be no greater than 7,000 square feet.
    - B. If the minimum Lot or Parcel size in the same zone for a detached single-family dwelling is greater than 7,000 square feet, the minimum Lot or Parcel size for a Cottage Cluster may not be greater than the minimum Lot or Parcel size for a detached single-family dwelling.
  - b. Minimum Lot or Parcel Width: A Large City is not required to apply minimum Lot or Parcel width standards to Cottage Clusters. However, if a Large City applies standards to regulate minimum Lot or Parcel width for to Cottage Clusters, it may not require a minimum Lot or Parcel width that is greater than the standard for a single-family detached dwelling in the same zone.
  - c. Density: A Large City may not apply density maximums to the development of Cottage Clusters. A Cottage Cluster development must meet a minimum density of at least four units per acre.
  - d. Setbacks: A Large City may not require perimeter setbacks to be greater than those applicable to detached single-family dwellings in the same zone. Additionally, perimeter setbacks applicable to Cottage Cluster dwelling units may not be greater than ten feet. The minimum distance between structures may not be greater than what is required by applicable building code requirements or 10 feet.
  - e. Dwelling Unit Size: A Large City may limit the minimum or maximum size of dwelling units in a Cottage Cluster, but must apply a maximum building footprint of 900 square feet per dwelling unit. A Large City may exempt up to 200 square feet in the calculation of dwelling unit footprint for an attached garage or carport. A Large City may not include detached garages, carports, or accessory structures in the calculation of dwelling unit footprint.
  - f. Parking:

- A. A Large City may not require more than one off-street parking space per dwelling unit in a Cottage Cluster.
  - B. A Large City may allow but may not require off-street parking to be provided as a garage or carport.
  - C. Nothing in this section precludes a Large City from allowing on-street parking credits to satisfy off-street parking requirements.
- g. Lot or Parcel Coverage and Floor Area Ratio: A Large City may not apply Lot or Parcel coverage or floor area ratio standards to Cottage Clusters.
  - h. Nothing in this division precludes a Large City from allowing Cottage Cluster dwelling units on individual Lots or Parcels within the Cottage Cluster development.
  - i. A Large City shall work with an applicant for development to determine whether Sufficient Infrastructure will be provided, or can be provided, upon submittal of a Cottage Cluster development application.

#### 660-046-0225 Middle Housing Design Standards in Large Cities

1. A Large City is not required to apply design standards to Middle Housing. However, if a Large City chooses to apply design standards to Middle Housing, it may only apply the following:
  - a. Design standards in the Model Code for Large Cities in OAR 660-046-0010(4)(b);
  - b. Design standards that are less restrictive than those in the Model Code for Large Cities in OAR 660-046-0010(4)(b);
  - c. The same clear and objective design standards that the Large City applies to detached single-family structures in the same zone. Design standards may not scale by the number of dwelling units or other features that scale with the number of dwelling units, such as primary entrances. Design standards may scale with form-based attributes, including but not limited to floor area, street-facing façade, height, bulk, and scale; or
  - d. Alternative design standards as provided in OAR 660-046-0235.
2. A Large City may not apply design standards to Middle Housing created as provided in OAR 660-046-0230.

#### 660-046-0230 Middle Housing Conversions

1. Additions to, or conversions of, an existing detached single-family dwelling into Middle Housing is allowed in Large Cities pursuant to OAR 660-046-0205(2), provided that the addition or conversion does not increase nonconformance with applicable clear and objective standards, unless increasing nonconformance is otherwise permitted by the Large City's development code.
2. If Middle Housing is created through the addition to, or conversion of, an existing single-family detached dwelling, a Large City or other utility service provider that grants clear and objective exceptions to public works standards to detached single-family dwelling development must allow the granting of the same exceptions to Middle Housing.
3. A preexisting detached single-family dwelling may remain on a Lot or Parcel with a Cottage Cluster as described below:
  - a. The preexisting single-family dwelling may be nonconforming with respect to the requirements of the applicable code;
  - b. The preexisting single-family dwelling may be expanded up to the maximum height, footprint, or unit size required by the applicable code; however, a preexisting single-family dwelling that exceeds the maximum height, footprint, or unit size of the applicable code may not be expanded;
  - c. The preexisting single-family dwelling shall count as a unit in the Cottage Cluster;
  - d. The floor area of the preexisting single-family dwelling shall not count towards any Cottage Cluster average or Cottage Cluster project average or total unit size limits; or
  - e. A Large City may apply a time limit on the conversion of a single-family dwelling to a Cottage Cluster not to exceed five years.

### 660-046-0235 Alternative Siting or Design Standards

A Large City may adopt Siting or Design Standards not authorized by OAR 660-046-0220 or OAR 660-046-0225 as allowed under subsection (1) below if the city can demonstrate that it meets the applicable criteria laid out in either subsection (1) below. Siting or Design standards do not include minimum Lot or Parcel size and maximum density requirements.

1. A Large City must submit to the Department findings and analysis demonstrating that the proposed standard or standards will not, individually or cumulatively, cause unreasonable cost or delay to the development of Middle Housing. To demonstrate that, the Large City must consider how a standard or standards, individually and cumulatively, affect the following factors in comparison to what is would otherwise be required under OAR 660-046-0220 or OAR 660-046-0225:
  - a. The total time and cost of construction, including design, labor, and materials;
  - b. The total cost of land;
  - c. The availability and acquisition of land, including areas with existing development;
  - d. The total time and cost of permitting and fees required to make land suitable for development;
  - e. The cumulative livable floor area that can be produced; and
  - f. The proportionality of cumulative time and cost imposed by the proposed standard(s) in relationship to the public need or interest the standard(s) fulfill.

## Large Cities Middle Housing Model Code

### **User's Guide:**

Oregon House Bill 2001 (2019) (HB 2001) requires that "Large Cities" (defined as cities with a population of 25,000 or more and each county or city within a metropolitan service district) must allow: (1) all middle housing types in areas zoned for residential use that allow for the development of detached single-family dwellings; and (2) a duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings. Middle housing, which HB 2001 defines as duplexes, triplexes, quadplexes, cottage clusters, and townhouses, provides an opportunity to increase housing supply in developed neighborhoods and can blend in well with detached single-family dwellings.

The bill allows local governments to regulate siting and design of middle housing, provided that the regulations do not, individually or cumulatively, discourage middle housing development through unreasonable costs or delay. When regulating siting and design of middle housing, Large Cities should balance concerns about neighborhood compatibility and other factors against the need to address Oregon's housing shortage by removing barriers to development and should ensure that any siting and design regulations do not, individually or cumulatively, discourage the development of middle housing through unreasonable costs or delay.

Large Cities may develop their own standards in compliance with the requirements of HB 2001. This model code may provide guidance toward that end. However, if Large Cities do not wish to prepare their own standards or if Large Cities do not adopt the required code amendments by June 30, 2022, they must directly apply this model code prepared by the Department of Land and Conservation Development (DCLD) to development in their jurisdictions. The model code is intended to be straightforward and implementable by Large Cities throughout the state, and is consistent with the requirements and intent of HB 2001. The model code will be adopted by reference into Oregon Administrative Rules.

To the extent they are applicable, the Administrative Rules contained in Chapter 660, Division 46 apply to and may be used to interpret this model code.

# Chapter 1. Combined Standards for All Middle Housing

## Sections:

- A. Purpose
- B. Definitions
- C. Applicability
- D. Relationship to Other Regulations
- E. Duplex, Triplex, and Quadplex Examples

### A. Purpose

The purpose of this middle housing model code (“code”) is to implement HB 2001, codified in ORS 197.758 et seq, by providing siting and design standards for middle housing developed in areas zoned for residential use that allow for the development of detached single family dwellings.

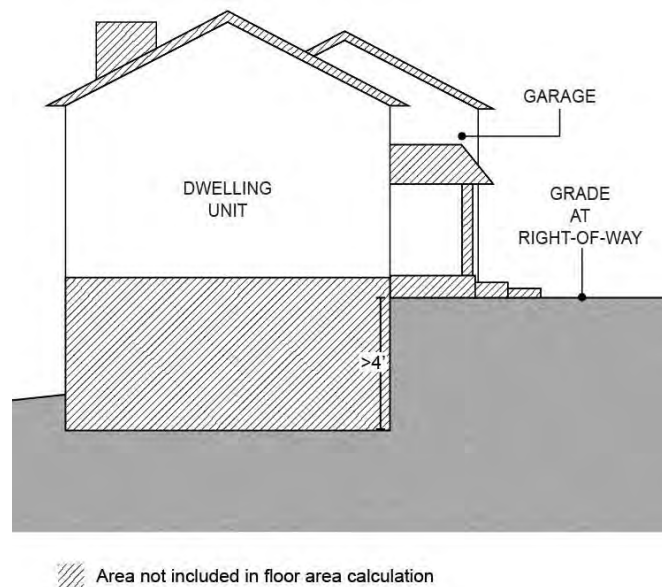
### B. Definitions

The following definitions shall apply for the purposes of this code, notwithstanding other definitions in the development code:

1. “Building footprint” means the horizontal area as seen in plan, measured from outside of all exterior walls and supporting columns. It includes dwellings and any area of attached garage that exceeds 200 square feet. It does not include detached garages or carports; accessory structures; trellises; patios; areas of porch, deck, and balcony less than 30 inches from finished grade; cantilevered covers, porches or projections; or ramps and stairways required for access.
2. “Common courtyard” means a common area for use by residents of a cottage cluster. A common courtyard may function as a community yard. Hard and soft landscape features may be included in a common courtyard, such as pedestrian paths, lawn, groundcover, trees, shrubs, patios, benches, or gazebos.
3. “Common wall” means a wall or set of walls in a single structure shared by two or more dwelling units. The common wall must be shared for at least 25 percent of the length of the side of the building of the dwelling units. The common wall may be any wall of the building, including the walls of attached garages.
4. “Cottage” means an individual dwelling unit that is part of a cottage cluster.
5. “Cottage cluster” means a grouping of no fewer than four detached dwelling units per acre, each with a footprint of less than 900 square feet, located on a single lot or parcel that includes a common courtyard. Cottage cluster may also be known as “cluster housing,” “cottage housing,” “bungalow court,” “cottage court,” or “pocket neighborhood.”
6. “Cottage cluster project” means a development site with one or more cottage clusters. Each cottage cluster as part of a cottage cluster project must have its own common courtyard.

7. “Detached single family dwelling” means a detached structure on a lot or parcel that is comprised of a single dwelling unit. Detached single family dwellings may be constructed off-site, e.g., manufactured dwellings or modular homes.
8. “Door area” is the area of the portion of a door other than a garage door that moves and does not include the frame.
9. “Driveway approach” means the edge of a driveway where it abuts a public right-of-way.
10. “Duplex” means two dwelling units on a lot or parcel in any configuration. In instances where a development can meet the definition of a duplex and also meets the definition of a primary dwelling unit with an accessory dwelling unit (ADU), the applicant shall specify at the time of application review whether the development is considered a duplex or a primary dwelling unit with an ADU. See Figure 3 through Figure 8 in Section E for examples of possible duplex configurations.
11. “Floor area” means the total area of all floors of a building. Floor area is measured for each floor from the exterior faces of a building or structure. Floor area includes stairwells, ramps, shafts, chases, and the area devoted to garages and structured parking. Floor area does not include the following (see Figure 1):
  - Areas where the elevation of the floor is 4 feet or more below the adjacent right-of-way;
  - Roof area, including roof top parking;
  - Roof top mechanical equipment; and
  - Roofed porches, exterior balconies, or other similar areas, unless they are enclosed by walls that are more than 42 inches in height for 75 percent or more of their perimeter.

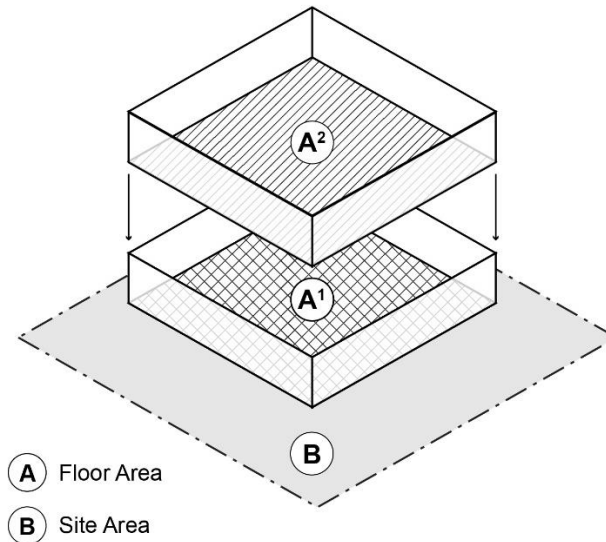
*Figure 1. Areas Excluded from Floor Area Calculation*





12. “Floor area ratio (FAR)” means the amount of floor area of a building or structure in relation to the amount of site area, expressed in square feet. For example, a floor area ratio of 0.7 to 1 means 0.7 square feet of floor area for every one square foot of site area. FAR is calculated by dividing the total floor area of all buildings on a site by the total site area (See Figure 2).

*Figure 2. Floor Area Ratio (FAR) Calculation*



$$\text{FAR} = \frac{A^1 + A^2}{B}$$

13. “Frontage” means the portion of a lot or parcel that abuts a street.
14. “Goal Protected Lands” means lands protected or designated pursuant to any one of the following statewide planning goals:
- Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces;
  - Goal 6 Air, Water, and Land Resource Quality
  - Goal 7 Areas Subject to Natural Hazards;
  - Goal 9 Economic Development;
  - Goal 15 Willamette River Greenway;
  - Goal 16 Estuarine Resources;
  - Goal 17 Coastal Shorelands; or
  - Goal 18 Beaches and Dunes.
15. “Lot or parcel” means any legally created unit of land.
16. “Middle housing” means duplexes, triplexes, quadplexes, cottage clusters, and townhouses.

17. "Quadplex" means four dwelling units on a lot or parcel in any configuration. See Figure 11 and Figure 12 in Section E for examples of possible quadplex configurations.
18. "Site area" means the total area of a development site calculated after subtracting any required or planned dedication of public rights-of-way and/or designation of private rights-of-way.
19. "Story" means a portion of a building between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, the space between such floor and the ceiling next above it, provided that the following shall not be deemed a story:
  - A basement or cellar if the height from finished grade at the exterior perimeter of the building to the finish floor elevation above is six (6) feet or less for at least 50 percent of the perimeter and does not exceed twelve (12) feet above grade at any point;
  - An attic or similar space under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two (2) feet above the floor of such space.
20. "Sufficient Infrastructure" means the following level of public services to serve new Triplexes, Quadplexes, Townhouses, or Cottage Cluster development:
  - Connection to a public sewer system capable of meeting established service levels.
  - Connection to a public water system capable of meeting established service levels.
  - Access via public or private streets meeting adopted emergency vehicle access standards to a city's public street system.
  - Storm drainage facilities capable of meeting established service levels for storm drainage.
21. "Townhouse" means a dwelling unit constructed in a row of two or more attached units, where each dwelling unit is located on an individual lot or parcel and shares at least one common wall with an adjacent unit. A townhouse is also commonly called a "rowhouse," "attached house," or "common-wall house."
22. "Townhouse project" means one or more townhouse structures constructed, or proposed to be constructed, together with the development site where the land has been divided, or is proposed to be divided, to reflect the townhouse property lines and any commonly owned property.
23. "Triplex" means three dwelling units on a lot or parcel in any configuration. See Figure 9 and Figure 10 in Section E for examples of possible triplex configurations.
24. "Window area" means the aggregate area of the glass within each window, including any interior grids, mullions, or transoms.
25. "Zoned for residential use" means a zoning district in which residential dwellings are the primary use and which implements a residential Comprehensive Plan map designation. This excludes

lands zoned primarily for commercial, industrial, agricultural, public, or mixed uses, even if those zones allow for the development of detached single family dwellings.

### **C. Applicability**

#### 1. Applicability of Code Sections.

- a. Code sections applicable to all middle housing types are: Chapter 1, Sections A (Purpose), B (Definitions), C (Applicability), and D (Relationship to Other Regulations).
- b. Code standards applicable to specific housing types are listed below:
  - Duplexes: Chapter 2.
  - Triplexes: Chapter 3.
  - Quadplexes: Chapter 3.
  - Townhouses: Chapter 4.
  - Cottage clusters: Chapter 5.

#### 2. Applicability by Development Type and Location.

- a. Except as specified in subsection (b) of this section (C)(2), the standards in this code allow for the following development on lots or parcels zoned for residential use that allow for the development of detached single family dwellings:
  - New duplexes and those created through conversion of existing detached single family dwellings.
  - New triplexes, quadplexes, cottage clusters, and townhouses, and those created through conversion of existing detached single family dwellings or duplexes, on lots or parcels with Sufficient Infrastructure.
- b. Exceptions. The standards in this code do not allow the following, unless otherwise permitted by the development code through clear and objective standards, criteria, and procedures:
  - On Goal Protected Lands, the creation of triplexes, quadplexes, cottage clusters, or townhouses, or the creation of more than two dwelling units on a single lot or parcel, including accessory dwelling units.
  - On lands that are not zoned for residential use, the creation of middle housing.

### **D. Relationship to Other Regulations**

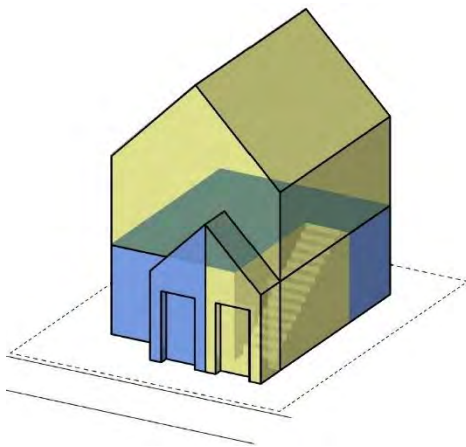
1. Conflicts. In the event of a conflict between this code and other local jurisdictional standards applicable to a middle housing development, the standards of this code control.
2. Public Works Standards. Clear and objective exceptions to public works standards granted to single family dwellings shall also be granted to duplexes.

3. Protective Measures. Middle housing shall comply with protective measures (plans, policies, or regulations) adopted pursuant to statewide land use planning goals (e.g., environmental and natural hazard protections).

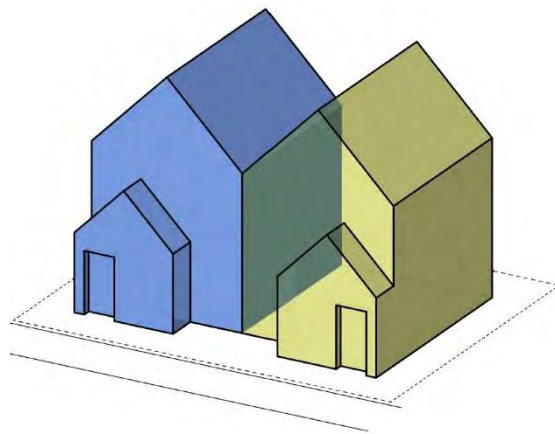
### E. Duplex, Triplex, and Quadplex Examples

The following figures illustrate examples of possible configurations for duplexes, triplexes, and quadplexes. Other configurations may also be acceptable, provided the development meets the definition of duplex, triplex, or quadplex, pursuant to Section B.

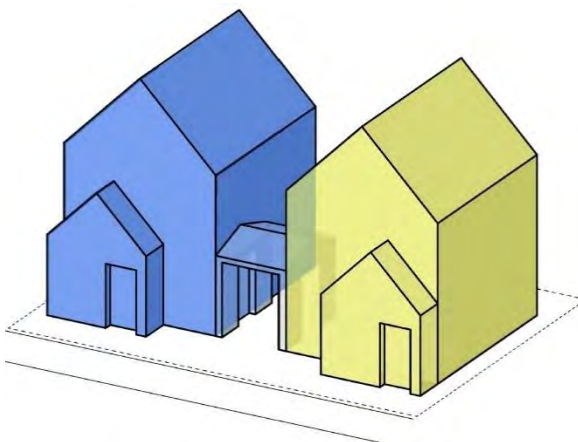
*Figure 3. Stacked Duplex*



*Figure 4. Side-by-Side Duplex*



*Figure 5. Duplex Attached by Breezeway*



*Figure 6. Duplex Attached by Garage Wall*

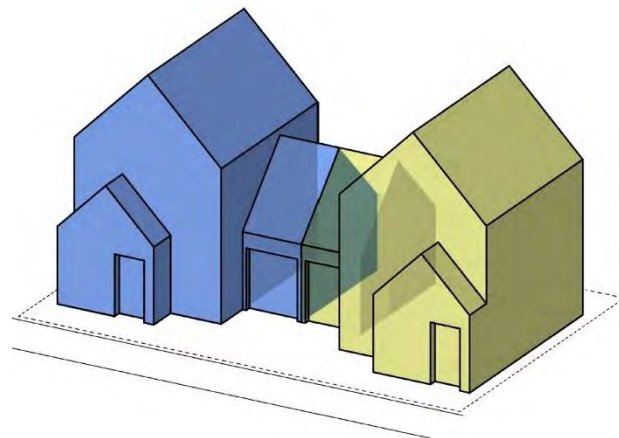


Figure 7. Detached Duplex Units Side-by-Side

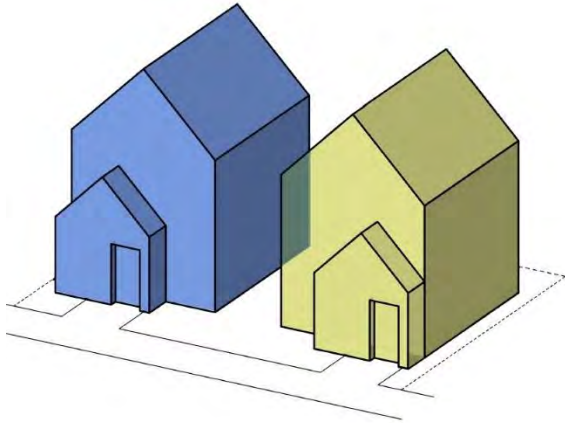


Figure 8. Detached Duplex Units Front and Back

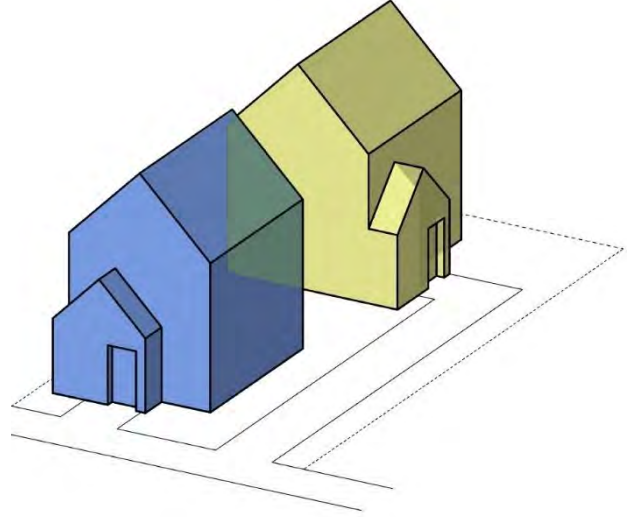


Figure 9. Attached Triplex Front and Back

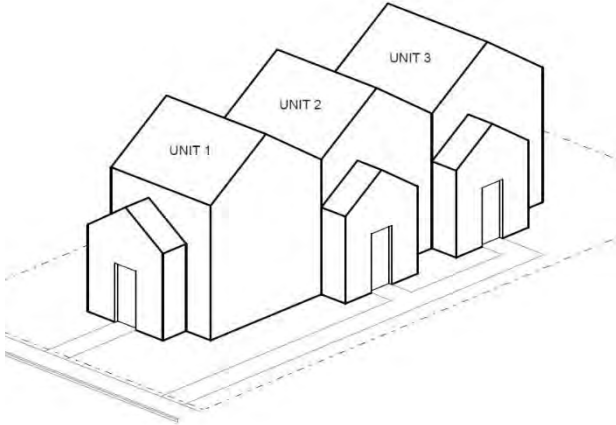


Figure 10. Attached Triplex Side-by-Side

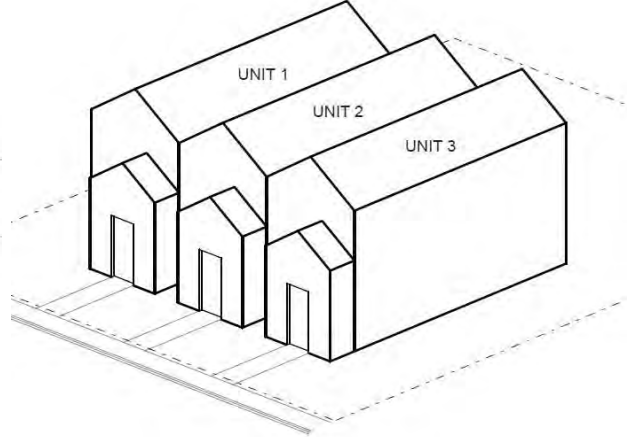


Figure 11. Stacked Quadplex

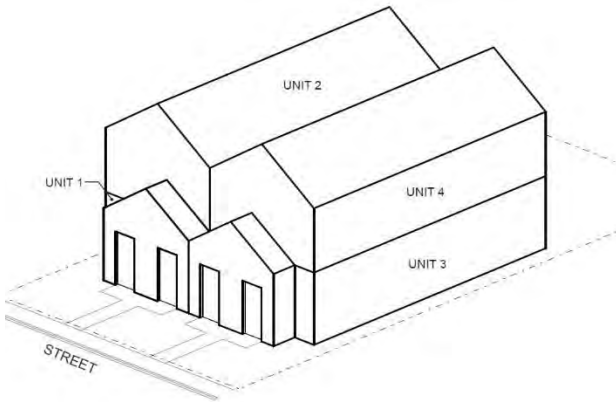
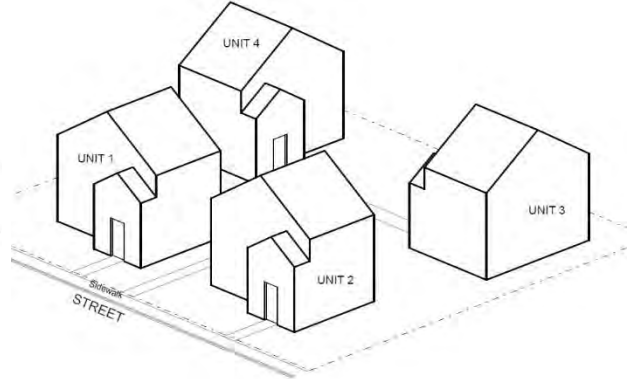


Figure 12. Detached Quadplex



## Chapter 2. Duplexes

### Sections:

- A. Permitted Uses and Approval Process
- B. Development Standards
- C. Design Standards
- D. Duplex Conversions

### A. Permitted Uses and Approval Process

Duplexes are permitted outright on lots or parcels zoned for residential use that allow for the development of detached single family dwellings. Duplexes are subject to the same approval process as that for detached single family dwellings in the same zone and are subject only to clear and objective standards, approval criteria, conditions, and procedures, unless discretionary standards and criteria have been adopted in accordance with ORS 197.307(5). Alternatively, an applicant may choose to submit an application for a duplex subject to discretionary standards and criteria adopted in accordance with ORS 197.307(6), if such a process is available.

### B. Development Standards

Except as specified below, duplexes shall meet all clear and objective development standards that apply to detached single family dwellings in the same zone (including, but not limited to, minimum and maximum lot size, minimum and maximum setbacks, and building height), unless those standards conflict with this code.

The following development standards are invalid and do not apply to duplexes being developed on lots or parcels zoned for residential use that allow the development of a detached single family dwelling:

1. Maximum Density. The jurisdiction's pre-existing density maximums and minimum lot sizes for duplexes do not apply.
2. Setbacks. A minimum front setback of greater than 20 feet or a minimum rear setback of greater than 15 feet except for those minimum setbacks applicable to garages and carports.
3. Off-Street Parking. Any off-street parking requirement.

### C. Design Standards

New duplexes shall meet all clear and objective design standards (e.g., entry orientation, window coverage, articulation, etc.) that apply to detached single family dwellings in the same zone, unless those standards conflict with this code. Facades of dwellings that are separated from the street property line by another dwelling are exempt from meeting building design standards.

Any design standards that apply only to duplexes are invalid.

## D. Duplex Conversions

Conversion of an existing detached single family structure to a duplex is allowed, pursuant to Chapter 1, Section C (Applicability), provided that the conversion does not increase nonconformance with applicable clear and objective standards.

## Chapter 3. Triplexes and Quadplexes

### Sections:

- A. Permitted Uses and Approval Process
- B. Development Standards
- C. Design Standards
- D. Triplex and Quadplex Conversions

### A. Permitted Uses and Approval Process

1. Permitted Use. Triplexes and quadplexes are permitted outright wherever they are allowed as provided in Chapter 1, Section C (Applicability).
2. Approval Process. Triplexes and quadplexes are subject to the same approval process as that for detached single family dwellings in the same zone and are subject only to clear and objective standards, approval criteria, conditions, and procedures, unless discretionary standards and criteria have been adopted in accordance with ORS 197.307(5). Alternatively, an applicant may choose to submit an application for a triplex or quadplex subject to discretionary standards and criteria adopted in accordance with ORS 197.307(6), if such a process is available.
3. Sufficient Infrastructure. Applicants must demonstrate that Sufficient Infrastructure is provided, or will be provided, upon submittal of a triplex or quadplex development application.

### B. Development Standards

1. Applicability.
  - a. Triplexes and quadplexes shall meet:
    - The standards in subsections (2) through (7) of this section (B).
    - All other clear and objective development standards that apply to detached single family dwellings in the same zone (including, but not limited to, lot size and dimensions, minimum and maximum setbacks, and building height), unless those standards conflict with this code and except as specified in subsections (1)(b) and (2) through (7) of this section (B).
  - b. The following standards are invalid and do not apply to triplexes or quadplexes allowed by this code:

- Maximum lot coverage, minimum landscape area, or minimum open space standards.
  - The jurisdiction’s development standards other than those in subsections (2) through (7) of this section (B) that apply only to triplexes, quadplexes, or multifamily development.
2. **Number of Units.** This code does not allow for the creation of more than four (4) dwelling units on a lot, including accessory dwelling units.
  3. **Maximum Density.** The jurisdiction’s pre-existing density maximums do not apply.
  4. **Setbacks.** Minimum front and street side setbacks greater than 10 feet and minimum rear setbacks greater than 10 feet are invalid, except for those minimum setbacks applicable to garages and carports.
  5. **Building Height.** A maximum height of less than 35 feet or three (3) stories is invalid. Building height is measured in accordance with the development code.
  6. **Maximum Floor Area Ratio (FAR).** The maximum floor area ratio for all buildings onsite, cumulatively, is based on the minimum lot size for a detached single family dwelling in the same zone, as provided below:

<b>Minimum Lot Size for Detached Single Family Dwellings</b>	<b>Maximum FAR</b>
3,000 sf or less	1.4 to 1
More than 3,000 sf, up to and including 5,000 sf	1.1 to 1
More than 5,000 sf, up to and including 10,000 sf	0.7 to 1
More than 10,000 sf but less than 20,000 sf	0.6 to 1
20,000 sf or more	0.4 to 1

7. **Off-Street Parking.**
  - a. **Required Off-Street Parking.** The minimum number of required off-street parking spaces is:
    - i. In zones with a minimum lot size of less than 5,000 square feet, one (1) off-street parking space per development.
    - ii. In zones with a minimum lot size of 5,000 square feet or more, two (2) off-street parking spaces per development.

A credit for on-street parking shall be granted for some or all the required off-street parking as provided in subsection (b). No additional parking spaces shall be required for conversion of a detached single family dwelling to a triplex or quadplex, including those created through the addition of detached units.
  - b. **On-Street Credit.** If on-street parking spaces meet all the standards in subsections (i)-(iv) below, they shall be counted toward the minimum off-street parking requirement.



- i. The space must be abutting the subject site;
- ii. The space must be in a location where on-street parking is allowed by the jurisdiction;
- iii. The space must be a minimum of 22 feet long; and
- iv. The space must not obstruct a required sight distance area.

## C. Design Standards

### 1. Applicability.

- a. New triplexes and quadplexes, including those created by adding building square footage on a site occupied by an existing dwelling, shall meet:
  - The design standards in subsections (2) through (5) of this section (C); and
  - All other clear and objective design standards that apply to detached single family dwellings in the same zone, unless those standards conflict with this code and except as specified in subsection (1)(b) of this section (C).
- b. The following standards are invalid and do not apply to triplexes or quadplexes allowed by this code:
  - Mandates for construction of a garage or carport.
  - The jurisdiction's design standards other than those in subsections (2) through (5) of this section (C) that apply only to triplexes, quadplexes, or multifamily development.

### 2. Entry Orientation. At least one main entrance for each triplex or quadplex structure must meet the standards in subsections (a) and (b) below. Any detached structure for which more than 50 percent of its street-facing facade is separated from the street property line by a dwelling is exempt from meeting these standards.

- a. The entrance must be within 8 feet of the longest street-facing wall of the dwelling unit; and
- b. The entrance must either:
  - i. Face the street (see Figure 13);
  - ii. Be at an angle of up to 45 degrees from the street (see Figure 14);
  - iii. Face a common open space that is adjacent to the street and is abutted by dwellings on at least two sides (see Figure 15); or
  - iv. Open onto a porch (see Figure 16). The porch must:
    - (A) Be at least 25 square feet in area; and
    - (B) Have at least one entrance facing the street or have a roof.

Figure 13. Main Entrance Facing the Street

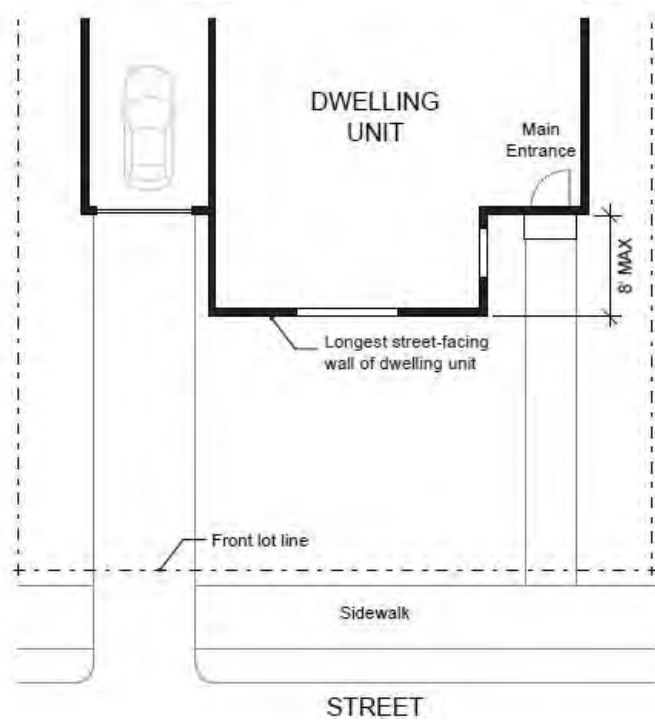


Figure 14. Main Entrance at 45° Angle from the Street

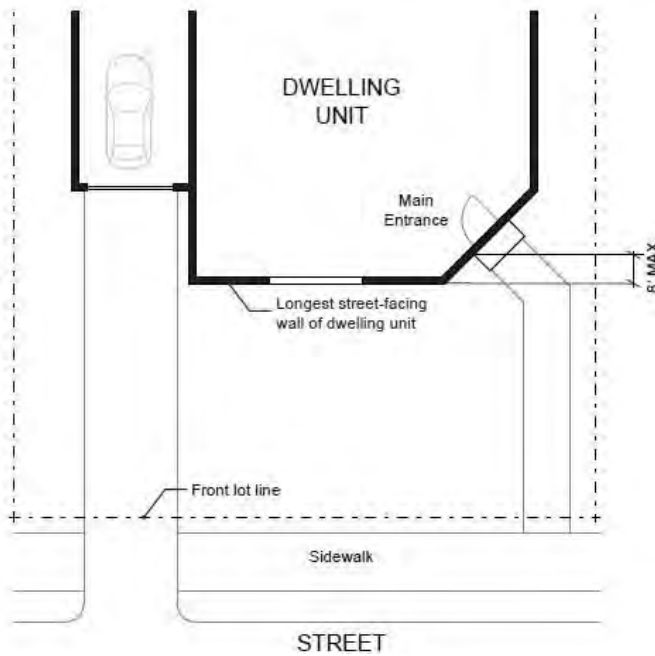


Figure 15. Main Entrance Facing Common Open Space

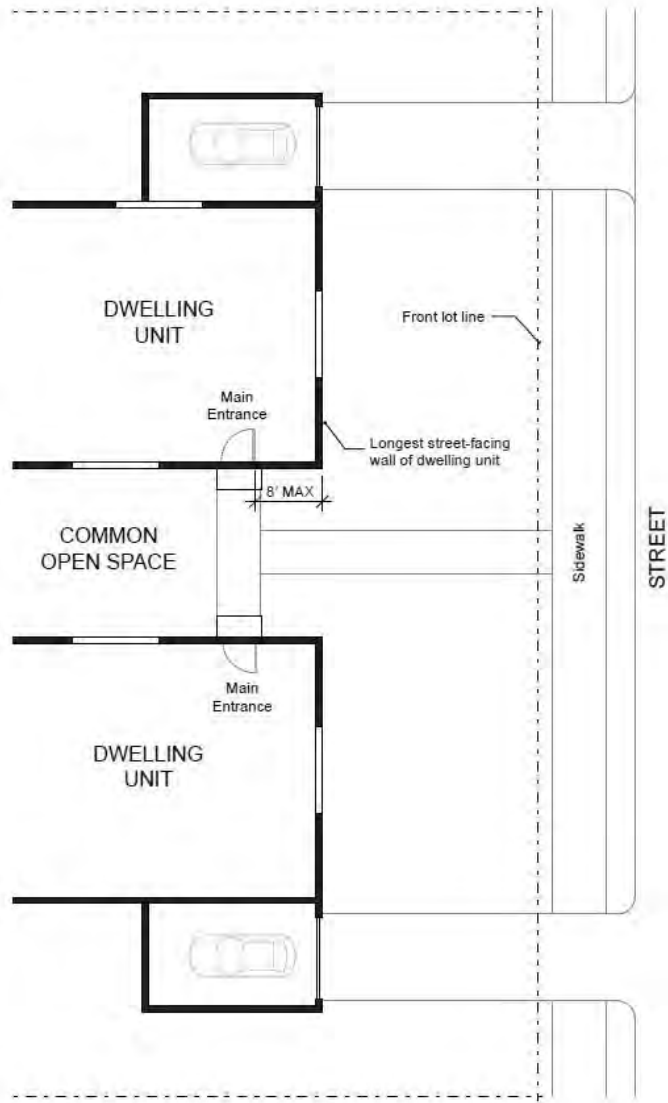
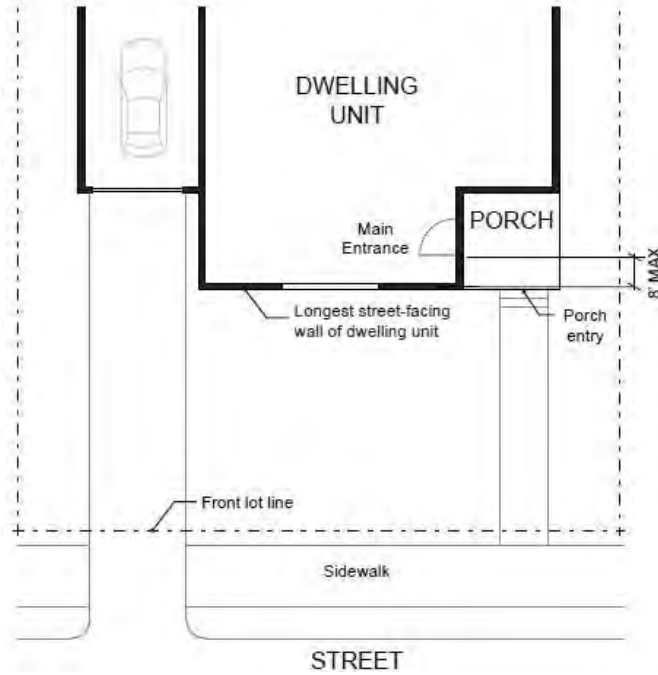


Figure 16. Main Entrance Opening onto a Porch



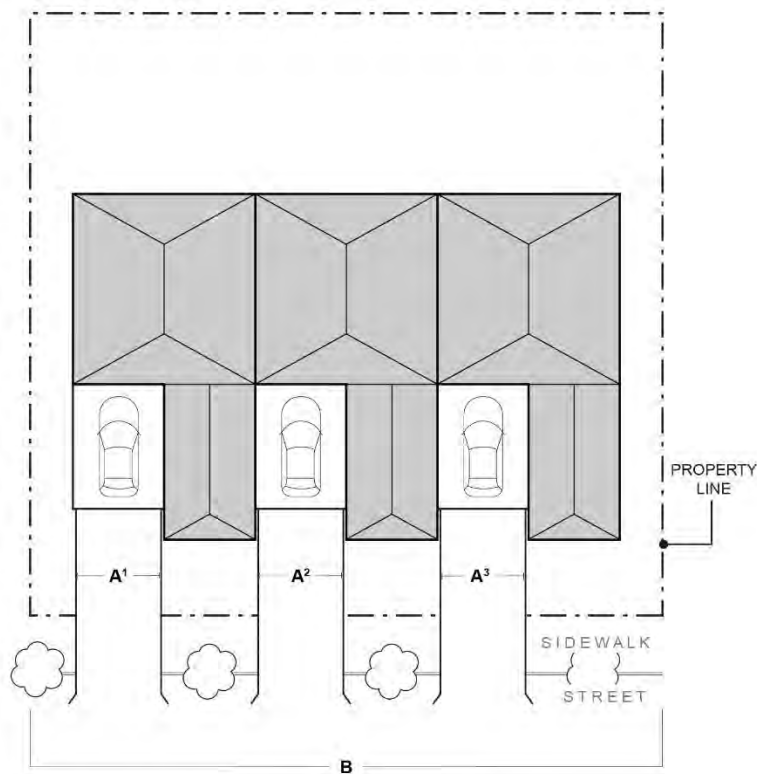
3. Windows. A minimum of 15 percent of the area of all street-facing facades must include windows or entrance doors. Facades separated from the street property line by a dwelling are exempt from meeting this standard. See Figure 17.

Figure 17. Window Coverage



4. Garages and Off-Street Parking Areas. Garages and off-street parking areas shall not be located between a building and a public street (other than an alley), except in compliance with the standards in subsections (a) and (b) of this subsection (C)(4).
  - a. The garage or off-street parking area is separated from the street property line by a dwelling; or
  - b. The combined width of all garages and outdoor on-site parking and maneuvering areas does not exceed a total of 50 percent of the street frontage (see Figure 18).

Figure 18. Width of Garages and Parking Areas



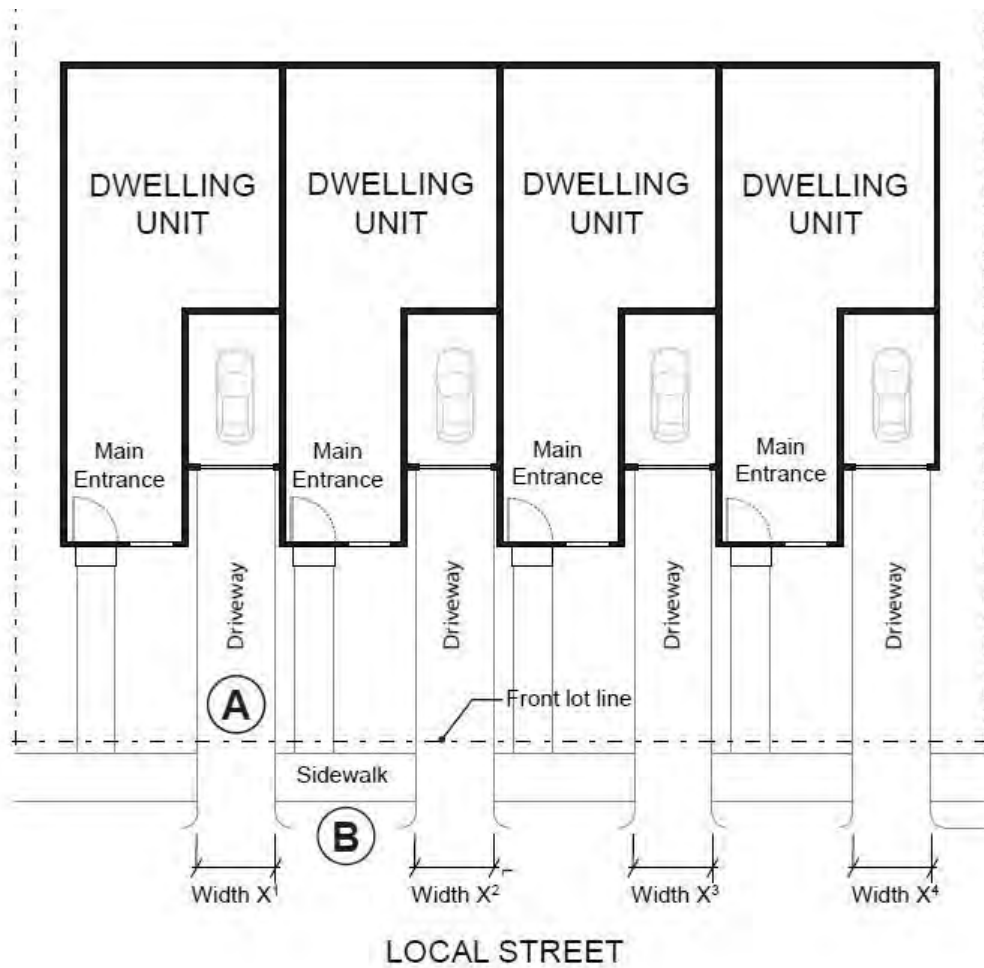
- (A) Garage and on-site parking and maneuvering areas
- (B) Total street frontage

$$\frac{A^1 + A^2 + A^3}{B} \leq 50\%$$

5. Driveway Approach. Driveway approaches must comply with the following:
  - a. The total width of all driveway approaches must not exceed 32 feet per frontage, as measured at the property line (see Figure 19). For lots or parcels with more than one frontage, see subsection (5)(c) of this subsection (C).

- b. Driveway approaches may be separated when located on a local street (see Figure 19). If approaches are separated, they must meet the jurisdiction's driveway spacing standards applicable to local streets.
- c. In addition, lots or parcels with more than one frontage must comply with the following:
  - i. Lots or parcels must access the street with the lowest transportation classification for vehicle traffic. For lots or parcels abutting an improved alley (defined as an alley that meets the jurisdiction's standards for width and pavement), access must be taken from the alley (see Figure 20).
  - ii. Lots or parcels with frontages only on collectors and/or arterial streets must meet the jurisdiction's access standards applicable to collectors and/or arterials.
  - iii. Triplexes and quadplexes on lots or parcels with frontages only on local streets may have either:
    - Two driveway approaches not exceeding 32 feet in total width on one frontage; or
    - One maximum 16-foot-wide driveway approach per frontage (see Figure 21).

Figure 19. Driveway Approach Width and Separation on Local Street



**A**  $X^1 + X^2 + X^3 + X^4$  must not exceed 32 feet per frontage,

**B** Driveway approaches may be separated when located on a local street

Figure 20. Alley Access

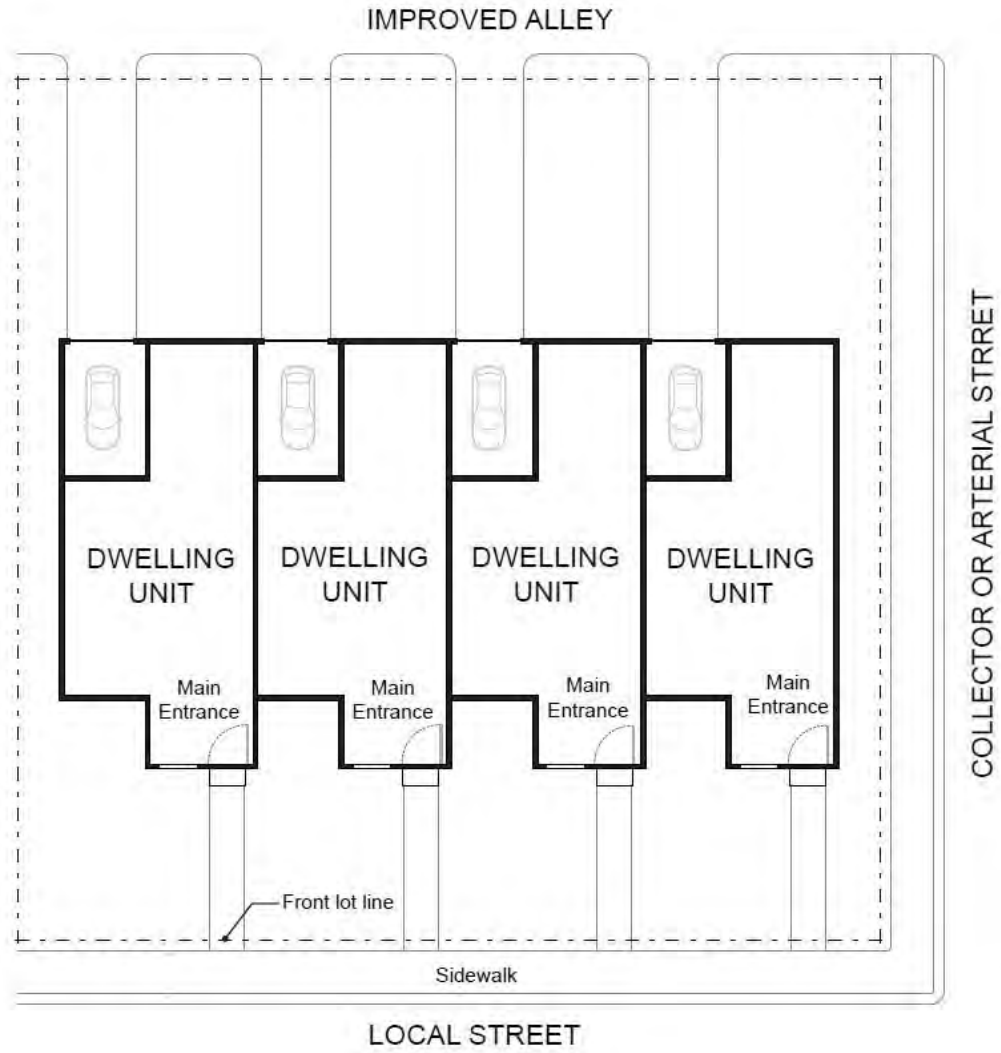
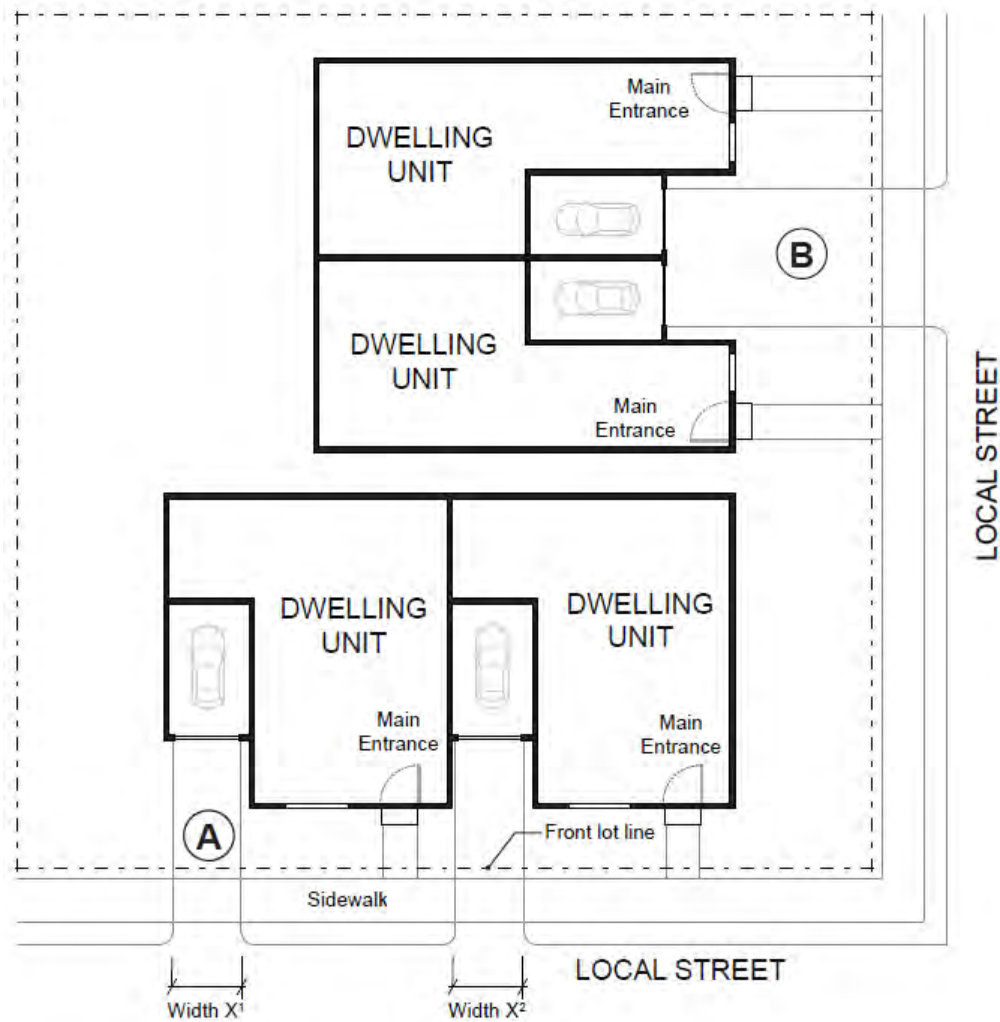




Figure 21. Driveway Approach Options for Multiple Local Street Frontages



Options for site with more than one frontage on local streets:

- (A)** Two driveway approaches not exceeding 32 feet in total width on one frontage (as measured  $X^1 + X^2$ ); or
- (B)** One maximum 16-foot-wide driveway approach per frontage.

*(Note: Both options are depicted here for illustrative purposes only. The standards do not allow both Options A and B on the same site.)*

#### D. Conversions to Triplex and Quadplex

Internal conversion of an existing detached single family structure or duplex to a triplex or quadplex is allowed, pursuant to Chapter 1, Section C (Applicability), provided that the conversion does not increase nonconformance with applicable clear and objective standards, unless increasing nonconformance is otherwise permitted by the development code.

## Chapter 4. Townhouses

### Sections

- A. Permitted Uses and Approval Process
- B. Development Standards
- C. Design Standards

#### A. Permitted Uses and Approval Process

1. Permitted Use. Townhouses are permitted outright wherever they are allowed as provided in Chapter 1, Section C (Applicability).
2. Approval Process. Townhouse structures are subject to the same approval process as that for detached single family dwellings in the same zone. Townhouse projects are subject only to clear and objective standards, approval criteria, conditions, and procedures, unless discretionary standards and criteria have been adopted in accordance with ORS 197.307(5). Alternatively, an applicant may choose to submit an application for a townhouse project subject to discretionary standards and criteria adopted in accordance with ORS 197.307(6), if such a process is available.
3. New Lots or Parcels. Creation of new lots or parcels as part of a townhouse project is subject to the applicable land division approval process.
4. Sufficient Infrastructure. Applicants must demonstrate that Sufficient Infrastructure is provided, or will be provided, upon submittal of a townhouse development application.

#### B. Development Standards

1. Applicability.
  - a. Townhouses shall meet the standards in subsections (3), (4), and (5) of this section (B).
  - b. Townhouse projects shall meet:
    - The standards in subsections (2), (5), and (6) of this section (B).
    - Any applicable clear and objective platting standards, unless those standards conflict with this code.
  - c. The following standards are invalid and do not apply to townhouses or townhouse projects allowed by this code, except as specified in this section (B):
    - Additional development standards of the applicable base zone related to the standards addressed under subsections (2) through (6) of this section (B).
    - Development standards of the applicable base zone related to lot dimensions, lot coverage, landscape or open space area, or the siting or design of dwellings.
    - The jurisdiction's other development standards that apply only to townhouses and that conflict with provisions of this code.

2. Maximum Density. The maximum density for a townhouse project is as follows:
  - In zones in which the minimum lot size for detached single family dwellings is 2,500 square feet or less, townhouse projects are allowed two (2) times the allowed density for detached single family dwellings.
  - In zones in which the minimum lot size for detached single family dwellings is more than 2,500 square feet but less than 5,000 square feet, townhouse projects are allowed three (3) times the allowed density for detached single family dwellings.
  - In zones in which the minimum lot size for detached single family dwellings is 5,000 square feet or more, townhouse projects are allowed four (4) times the allowed density for detached single family dwellings.
3. Setbacks. Townhouses shall meet the minimum and maximum setback standards that apply to detached single family dwellings in the same zone, except as noted below:
  - **Front and Street Side:** Minimum front and street side yard setbacks greater than 10 feet are invalid, except those applicable to garages or carports.
  - **Rear:** Minimum rear setbacks greater than 10 feet and minimum rear setbacks greater than zero (0) feet for lots with rear alley access are invalid.
  - **Non-street Side:**
    - The minimum setback for a common wall lot line where units are attached is zero (0) feet.
    - The minimum side setback for an exterior wall at the end of a townhouse structure is five (5) feet.
4. Building Height. Townhouses shall meet the maximum building height standards that apply to detached single family dwellings in the same zone, except a maximum height of less than 35 feet or three (3) stories is invalid. Building height is measured in accordance with the development code.
5. Off-Street Parking.
  - a. Required Off-Street Parking. The minimum number of required off-street parking spaces for a townhouse project is one (1) space per unit. Spaces may be provided on individual lots or in a shared parking area on a common tract. A credit for on-street parking shall be granted for some or all of the required off-street parking as provided in subsection (b).
  - b. On-Street Credit. If on-street parking spaces meet all the standards in subsections (i)-(iv) below, they shall be counted toward the minimum off-street parking requirement.
    - i. The space must be abutting the subject site;
    - ii. The space must be in a location where on-street parking is allowed by the jurisdiction;

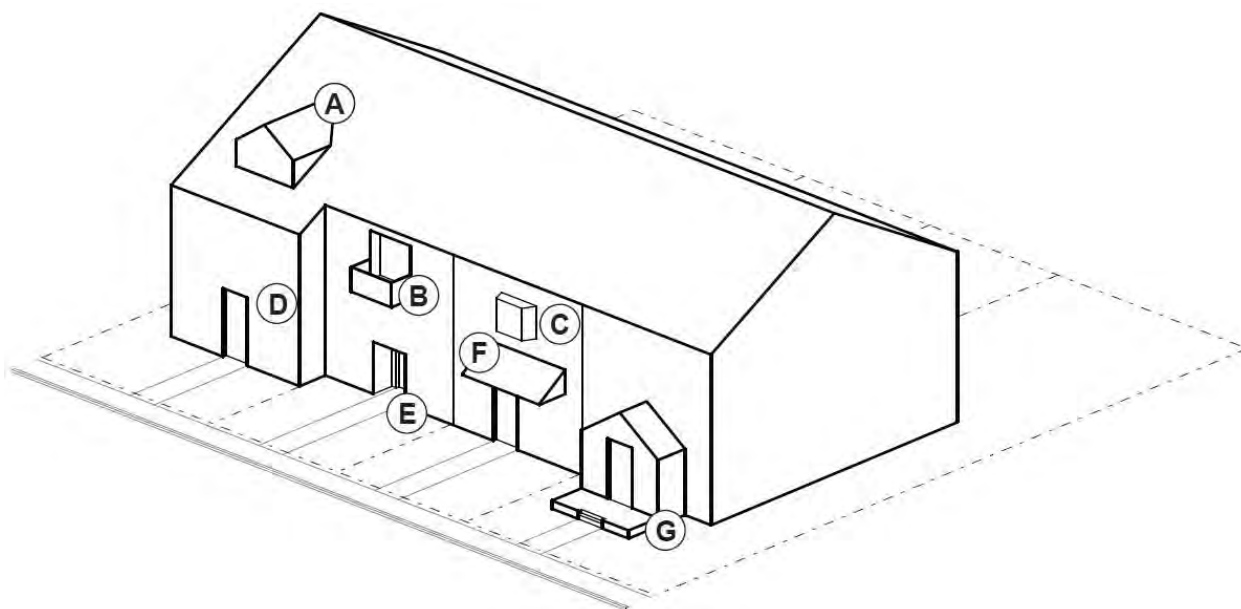
- iii. The space must be a minimum of 22 feet long; and
  - iv. The space must not obstruct a required sight distance area.
6. Areas Owned in Common. Common areas must be maintained by a homeowners association or other legal entity. A homeowners association may also be responsible for exterior building maintenance. A copy of any applicable covenants, restrictions and conditions must be recorded and provided to the jurisdiction prior to issuance of a building permit.

### **C. Design Standards**

New townhouses shall meet the design standards in subsections (1) through (4) of this section (C). Mandates for construction of a garage or carport and any other design standards are invalid.

1. Entry Orientation. The main entrance of each townhouse must:
- a. Be within 8 feet of the longest street-facing wall of the dwelling unit, if the lot has public street frontage; and
  - b. Either:
    - i. Face the street (see Figure 13);
    - ii. Be at an angle of up to 45 degrees from the street (see Figure 14);
    - iii. Face a common open space or private access or driveway that is abutted by dwellings on at least two sides; or
    - iv. Open onto a porch (see Figure 16). The porch must:
      - (A) Be at least 25 square feet in area; and
      - (B) Have at least one entrance facing the street or have a roof.
2. Unit definition. Each townhouse must include at least one of the following on at least one street-facing façade (see Figure 22):
- a. A roof dormer a minimum of 4 feet in width, or
  - b. A balcony a minimum of 2 feet in depth and 4 feet in width and accessible from an interior room, or
  - c. A bay window that extends from the facade a minimum of 2 feet, or
  - d. An offset of the facade of a minimum of 2 feet in depth, either from the neighboring townhouse or within the façade of a single townhouse, or
  - e. An entryway that is recessed a minimum of 3 feet, or
  - f. A covered entryway with a minimum depth of 4 feet, or
  - g. A porch meeting the standards of subsection (1)(b)(iv) of this section (C).
- Balconies and bay windows may encroach into a required setback area.

Figure 22. Townhouse Unit Definition

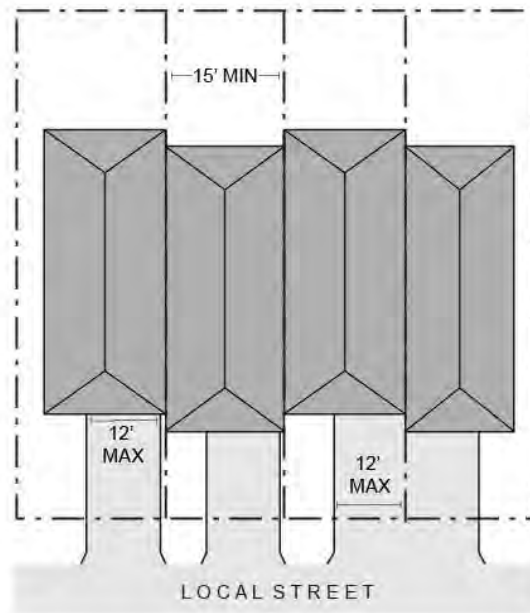


- (A) Roof dormer, minimum of 4 feet wide
- (B) Balcony, minimum 2 feet deep and 4 feet wide. Accessible from interior room.
- (C) Bay window extending minimum of 2 feet from facade
- (D) Facade offset, minimum of 2 feet deep
- (E) Recessed entryway, minimum 3 feet deep
- (F) Covered entryway, minimum of 4 feet deep
- (G) Porch, meets standards of subsection (1)(b)(iv) of section (C)

3. **Windows.** A minimum of 15 percent of the area of all street-facing facades on each individual unit must include windows or entrance doors. Half of the window area in the door of an attached garage may count toward meeting this standard. See Figure 17.
4. **Driveway Access and Parking.** Townhouses with frontage on a public street shall meet the following standards:
  - a. Garages on the front facade of a townhouse, off-street parking areas in the front yard, and driveways in front of a townhouse are allowed if they meet the following standards (see Figure 23).

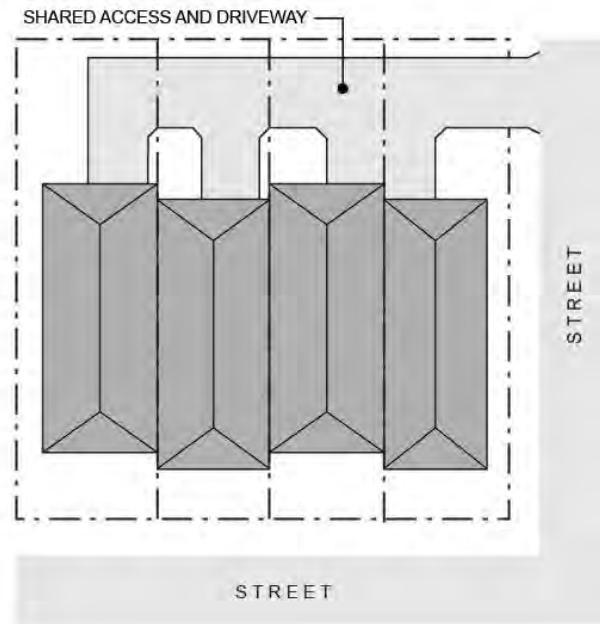
- i. Each townhouse lot has a street frontage of at least 15 feet on a local street.
- ii. A maximum of one (1) driveway approach is allowed for every townhouse. Driveway approaches and/or driveways may be shared.
- iii. Outdoor on-site parking and maneuvering areas do not exceed 12 feet wide on any lot.
- iv. The garage width does not exceed 12 feet, as measured from the inside of the garage door frame.

Figure 23. Townhouses with Parking in Front Yard



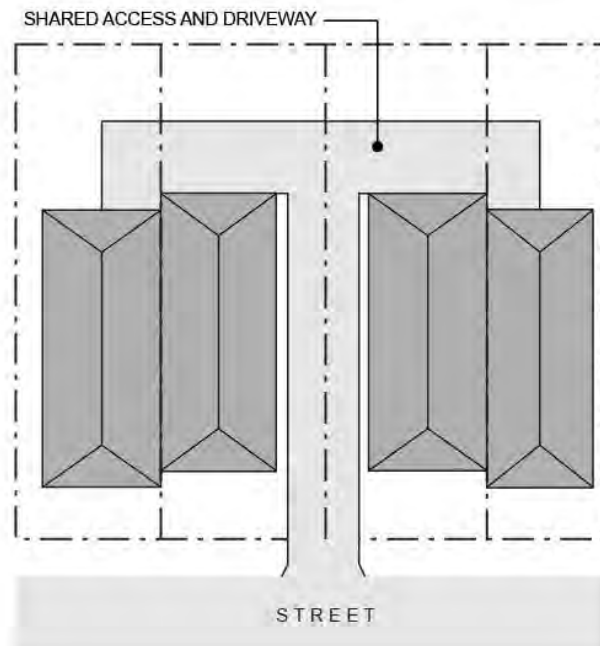
- b. The following standards apply to driveways and parking areas for townhouse projects that do not meet all of the standards in subsection (a).
  - i. Off-street parking areas shall be accessed on the back façade or located in the rear yard. No off-street parking shall be allowed in the front yard or side yard of a townhouse.
  - ii. A townhouse project that includes a corner lot shall take access from a single driveway approach on the side of the corner lot. See Figure 24.

Figure 24. Townhouses on Corner Lot with Shared Access



- iii. Townhouse projects that do not include a corner lot shall consolidate access for all lots into a single driveway. The driveway and approach are not allowed in the area directly between the front façade and front lot line of any of the townhouses. See Figure 25.

Figure 25. Townhouses with Consolidated Access



- iv. A townhouse project that includes consolidated access or shared driveways shall grant access easements to allow normal vehicular access and emergency access.
- c. Townhouse projects in which all units take exclusive access from a rear alley are exempt from compliance with subsection (b).

## Chapter 5. Cottage Clusters

### Sections:

- A. Permitted Uses and Approval Process
- B. Development Standards
- C. Design Standards

### A. Permitted Uses and Approval Process

1. Permitted Use. Cottage cluster projects are permitted outright wherever they are allowed as provided in Chapter 1, Section C (Applicability).
2. Approval Process. Cottage cluster projects are subject to the same approval process as that for detached single family dwellings in the same zone and are subject only to clear and objective standards, approval criteria, conditions, and procedures, unless discretionary standards and criteria have been adopted in accordance with ORS 197.307(5). Alternatively, an applicant may choose to submit an application for a cottage cluster project subject to discretionary standards and criteria adopted in accordance with ORS 197.307(6), if such a process is available.
3. Sufficient Infrastructure. Applicants must demonstrate that Sufficient Infrastructure is provided, or will be provided, upon submittal of a cottage cluster development application.

### B. Development Standards

1. Applicability.
  - a. Cottage clusters shall meet the standards in subsections (2) through (7) of this section (B).
  - b. The following standards are invalid and do not apply to cottage clusters allowed by this code, except as specified in this section (B):
    - Additional development standards of the applicable base zone related to the standards addressed under subsections (2) through (7) of this section (B).
    - Development standards of the applicable base zone related to lot dimensions, lot coverage, floor area ratio, landscape or open space area, or the siting or design of dwellings.
    - The jurisdiction's other development standards that apply only to cottage clusters and that conflict with provisions of this code.



2. Minimum Lot Size and Dimensions. Cottage clusters shall meet the minimum lot size, width, and depth standards that apply to detached single family dwellings in the same zone.
3. Maximum Density. The jurisdiction's pre-existing density maximums do not apply.
4. Setbacks and Building Separation.
  - a. Setbacks. Cottage clusters shall meet the minimum and maximum setback standards that apply to detached single family dwellings in the same zone, except that minimum setbacks for dwellings in excess of the following are invalid:
    - Front setbacks: 10 feet
    - Side setbacks: 5 feet
    - Rear setbacks: 10 feet
  - b. Building Separation. Cottages shall be separated by a minimum distance of six (6) feet. The minimum distance between all other structures, including accessory structures, shall be in accordance with building code requirements.
5. Average Unit Size. The maximum average floor area for a cottage cluster is 1,400 square feet per dwelling unit. Community buildings shall be included in the average floor area calculation for a cottage cluster.
6. Building Height. The maximum building height for all structures is 25 feet or two (2) stories, whichever is greater.
7. Off-Street Parking.
  - a. Required Off-Street Parking. The minimum number of required off-street parking spaces for a cottage cluster project is zero (0) spaces per unit with a floor area less than 1,000 square feet and one (1) space per unit with a floor area of 1,000 square feet or more. Spaces may be provided for individual cottages or in shared parking clusters. A credit for on-street parking shall be granted for some or all of the required off-street parking as provided in subsection (b).
  - b. On-Street Credit. If on-street parking spaces meet all the standards in subsections (i)-(iv) below, they shall be counted toward the minimum off-street parking requirement.
    - i. The space must be abutting the subject site;
    - ii. The space must be in a location where on-street parking is allowed by the jurisdiction;
    - iii. The space must be a minimum of 22 feet long; and
    - iv. The space must not obstruct a required sight distance area.

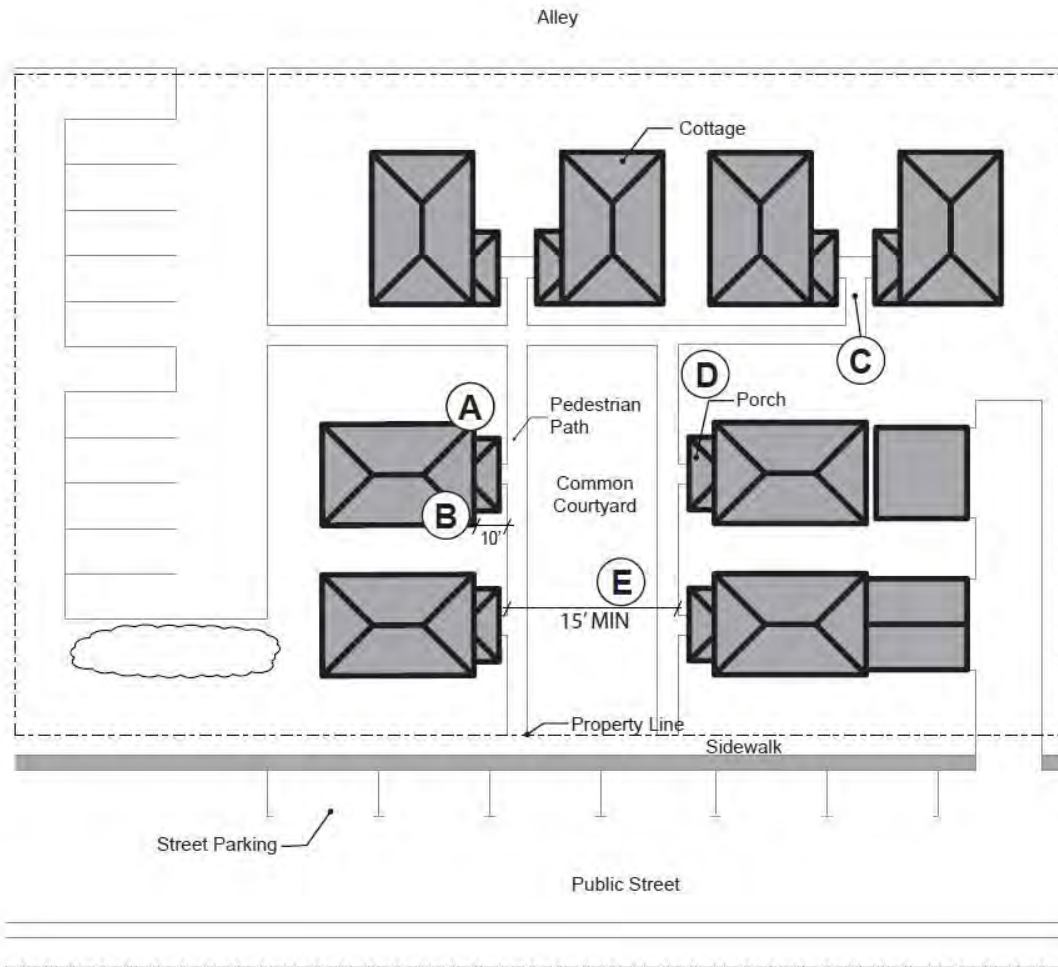
## C. Design Standards

Cottage clusters shall meet the design standards in subsections (1) through (8) of this section (C). No other design standards shall apply to cottage clusters unless noted in this section. Mandates for construction of a garage or carport and any other design standards are invalid, except as specified in this Section (C).

1. Cottage Orientation. Cottages must be clustered around a common courtyard, meaning they abut the associated common courtyard or are directly connected to it by a pedestrian path, and must meet the following standards (see Figure 26):
  - a. Each cottage within a cluster must either abut the common courtyard or must be directly connected to it by a pedestrian path.
  - b. A minimum of 50 percent of cottages within a cluster must be oriented to the common courtyard and must:
    - i. Have a main entrance facing the common courtyard;
    - ii. Be within 10 feet from the common courtyard, measured from the façade of the cottage to the nearest edge of the common courtyard; and
    - iii. Be connected to the common courtyard by a pedestrian path.
  - c. Cottages within 20 feet of a street property line may have their entrances facing the street.
  - d. Cottages not facing the common courtyard or the street must have their main entrances facing a pedestrian path that is directly connected to the common courtyard.
2. Common Courtyard Design Standards. Each cottage cluster must share a common courtyard in order to provide a sense of openness and community of residents. Common courtyards must meet the following standards (see Figure 26):
  - a. The common courtyard must be a single, contiguous piece.
  - b. Cottages must abut the common courtyard on at least two sides of the courtyard.
  - c. The common courtyard must contain a minimum of 150 square feet per cottage within the associated cluster (as defined in subsection (1) of this section (C)).
  - d. The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.
  - e. The common courtyard shall be developed with a mix of landscaping, lawn area, pedestrian paths, and/or paved courtyard area, and may also include recreational amenities. Impervious elements of the common courtyard shall not exceed 75 percent of the total common courtyard area.

- f. Pedestrian paths must be included in a common courtyard. Paths that are contiguous to a courtyard shall count toward the courtyard's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.

Figure 26. Cottage Cluster Orientation and Common Courtyard Standards

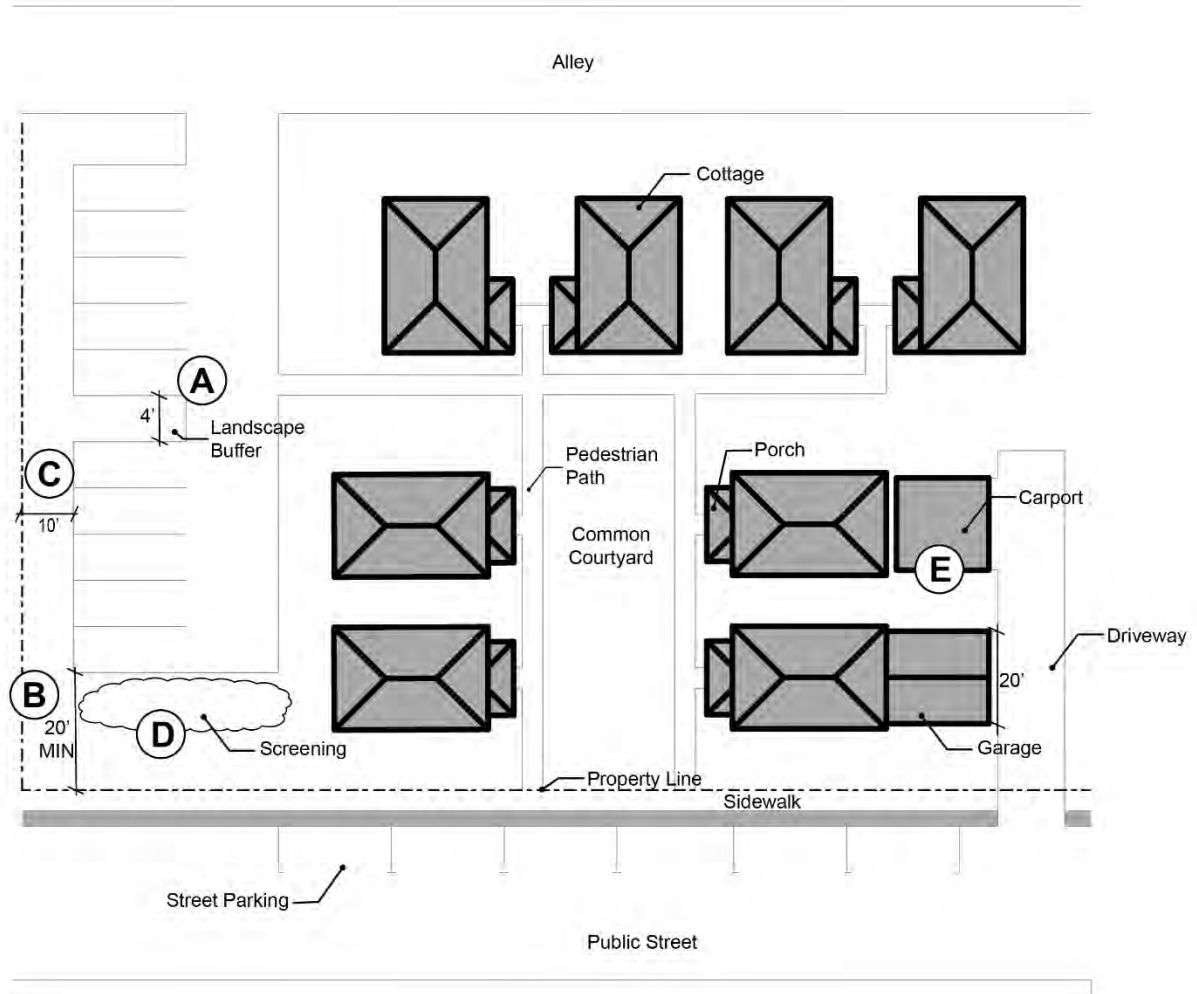


- A** A minimum of 50% of cottages must be oriented to the common courtyard.
- B** Cottages oriented to the common courtyard must be within 10 feet of the courtyard.
- C** Cottages must be connected to the common courtyard by a pedestrian path.
- D** Cottages must abut the courtyard on at least two sides of the courtyard.
- E** The common courtyard must be at least 15 feet wide at its narrowest width.

3. Community Buildings. Cottage cluster projects may include community buildings for the shared use of residents that provide space for accessory uses such as community meeting rooms, guest housing, exercise rooms, day care, or community eating areas. Community buildings must meet the following standards:
  - a. Each cottage cluster is permitted one community building, which shall count towards the maximum average floor area, pursuant to subsection (B)(5).
  - b. A community building that meets the development code's definition of a dwelling unit must meet the maximum 900 square foot footprint limitation that applies to cottages, unless a covenant is recorded against the property stating that the structure is not a legal dwelling unit and will not be used as a primary dwelling.
4. Pedestrian Access.
  - a. An accessible pedestrian path must be provided that connects the main entrance of each cottage to the following:
    - i. The common courtyard;
    - ii. Shared parking areas;
    - iii. Community buildings; and
    - iv. Sidewalks in public rights-of-way abutting the site or rights-of-way if there are no sidewalks.
  - b. The pedestrian path must be hard-surfaced and a minimum of four (4) feet wide.
5. Windows. Cottages within 20 feet of a street property line must meet any window coverage requirement that applies to detached single family dwellings in the same zone.
6. Parking Design (see Figure 27).
  - a. Clustered parking. Off-street parking may be arranged in clusters, subject to the following standards:
    - i. Cottage cluster projects with fewer than 16 cottages are permitted parking clusters of not more than five (5) contiguous spaces.
    - ii. Cottage cluster projects with 16 cottages or more are permitted parking clusters of not more than eight (8) contiguous spaces.
    - iii. Parking clusters must be separated from other spaces by at least four (4) feet of landscaping.
    - iv. Clustered parking areas may be covered.
  - b. Parking location and access.
    - i. Off-street parking spaces and vehicle maneuvering areas shall not be located:

- Within of 20 feet from any street property line, except alley property lines;
  - Between a street property line and the front façade of cottages located closest to the street property line. This standard does not apply to alleys.
- ii. Off-street parking spaces shall not be located within 10 feet of any other property line, except alley property lines. Driveways and drive aisles are permitted within 10 feet of other property lines.
- c. Screening. Landscaping, fencing, or walls at least three feet tall shall separate clustered parking areas and parking structures from common courtyards and public streets.
  - d. Garages and carports.
    - i. Garages and carports (whether shared or individual) must not abut common courtyards.
    - ii. Individual attached garages up to 200 square feet shall be exempted from the calculation of maximum building footprint for cottages.
    - iii. Individual detached garages must not exceed 400 square feet in floor area.
    - iii. Garage doors for attached and detached individual garages must not exceed 20 feet in width.
7. Accessory Structures. Accessory structures must not exceed 400 square feet in floor area.
  8. Existing Structures. On a lot or parcel to be used for a cottage cluster project, an existing detached single family dwelling on the same lot at the time of proposed development of the cottage cluster may remain within the cottage cluster project area under the following conditions:
    - a. The existing dwelling may be nonconforming with respect to the requirements of this code.
    - b. The existing dwelling may be expanded up to the maximum height in subsection (B)(4) or the maximum building footprint in Chapter 1, subsection (B)(1); however, existing dwellings that exceed the maximum height and/or footprint of this code may not be expanded.
    - c. The floor area of the existing dwelling shall not count towards the maximum average floor area of a cottage cluster.
    - d. The existing dwelling shall be excluded from the calculation of orientation toward the common courtyard, per subsection (1)(a) of this section (C).

Figure 27. Cottage Cluster Parking Design Standards



- (A)** Parking allowed in clusters of up to 5 spaces. Clusters separated by minimum 4 feet of landscaping.
- (B)** No parking or vehicle area within 20 feet from street property line (except alley).
- (C)** No parking within 10 feet from other property lines (except alley). Driveways and drive aisles permitted within 10 feet.
- (D)** Screening required between clustered parking areas or parking structures and public streets or common courtyards.
- (E)** Garages and carports must not abut common courtyards. Garage doors for individual garages must not exceed 20 feet in width.



Sept. 8, 2021

To: Washington County Planning Commission

From: Andy Back, Manager  
Planning and Development Services

Subject: **MIDDLE HOUSING (HB 2001) WORK SESSION: SETTING THE STAGE**

**BRIEFING MEMO #2**

**For the Sept. 15, 2021 Planning Commission Meeting**

**I. BRIEFING TOPICS**

This is the second in a series of briefing memos for Planning Commission (PC) Work Sessions on implementation of House Bill (HB) 2001 to provide education and the opportunity to discuss key points in advance of future hearings. The following topics are addressed to set the stage for future discussions:

- Paths to compliance – general.
- County land use district background.
  - HB 2001 applicable districts and where they are located.
  - Permitted uses and review types.
  - Density and dimensional requirements, as compared to HB 2001 Oregon Administrative Rules (OARs or Rules) prescribed housing types and standards.
- Paths to compliance – lot sizes.

**II. PATHS TO COMPLIANCE – GENERAL**

Overall, local jurisdictions have a choice of two paths to compliance with requirements of HB 2001 rules:

- Rules-based Approach – Locally developed regulations to comply with OAR requirements.
- Model Code – state-provided standards for adoption as-is.

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Like most jurisdictions, staff is developing locally drafted code language based on the Rules, while borrowing to an extent from the Model Code. This Rules-based Approach is best suited to conform to the structure of the existing Community Development Code (CDC) and ensure the changes align with internal County practices. Model Code provisions are helpful as the County considers some of the details and nuances of each middle housing type. As noted elsewhere, the Model Code will apply by default to jurisdictions that do not otherwise comply by the adoption deadline. Section IV of this memo further explores these approaches, and an additional allowed approach, relative to lot size.

### III. COUNTY LAND USE DISTRICT BACKGROUND

The CDC establishes a series of land use districts intended to implement the goals and policies of the Comprehensive Plan. They provide a full range of uses to implement the land use needs identified in the Community Plans (urban area) and the Rural/Natural Resource Plan (rural area). Since HB 2001 is limited to the urban area, this discussion focuses on urban land use designations. Generally, these include residential, future development, commercial, mixed use, industrial, institutional and employment/business-related designations (CDC Sections 300 to 330, 375, 390 and 392) – some specific to Transit Oriented Districts and North Bethany.

#### ***HB 2001 Applicable Districts***

HB 2001 requires middle housing be allowed in areas zoned for residential use that allow for the development of single detached dwellings.<sup>1</sup> The County land use districts that meet this definition are as follows:

<b>R-5</b>	Residential, 4-5 units per acre
<b>R-6</b>	Residential, 5-6 units per acre
<b>R-9</b>	Residential, 7-9 units per acre
<b>R-15</b>	Residential, 12-15 units per acre
<b>R-24</b>	Residential, 19-24 units per acre
<b>R-25+</b>	Residential, 25 units or more per acre
<b>R-6 NB</b>	Residential, 5-6 units per acre – North Bethany
<b>R-9 NB</b>	Residential, 7-9 units per acre – North Bethany
<b>R-15 NB</b>	Residential, 12-15 units per acre – North Bethany
<b>NMU</b>	Neighborhood Mixed Use
<b>TO:R9-12</b>	Transit Oriented Residential: 9-12 units per acre
<b>TO:R12-18</b>	Transit Oriented Residential: 12-18 units per acre
<b>TO:R18-24</b>	Transit Oriented Residential: 18-24 units per acre

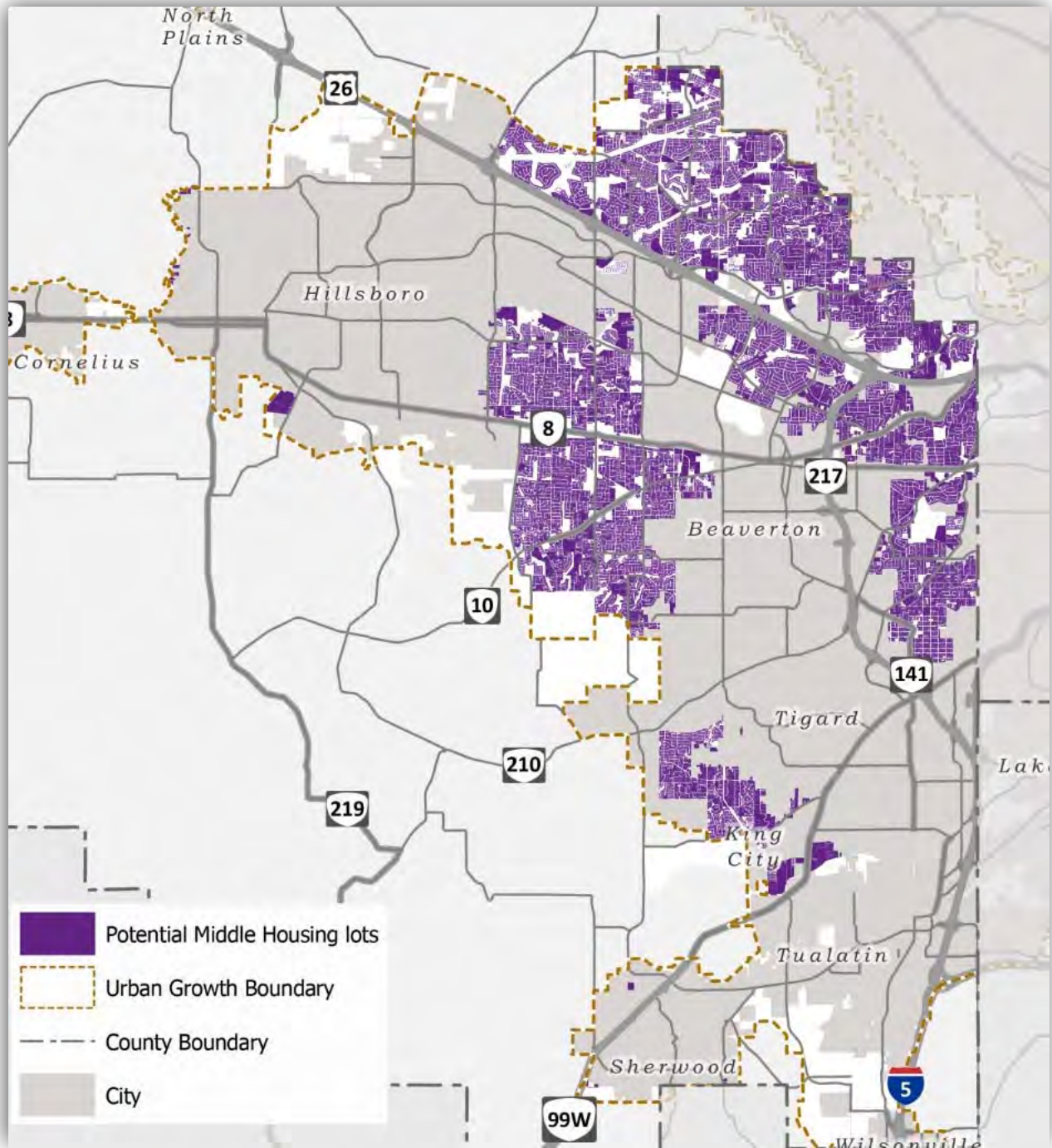
*Note: The range of units currently required per acre will not apply to middle housing.*

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<sup>1</sup> Many jurisdictions are moving away from the term "single-family" to describe a dwelling type or neighborhood. The term does not equitably recognize the range of households beyond those of the nuclear family and there is related case history of exclusionary practices.



The following map shows generally where districts subject to middle housing provisions exist *in the urban unincorporated area*. It excludes land within cities (in gray), outside the Urban Growth Boundary (gold dash), designated as a nonresidential district (white) or otherwise considered nonbuildable (owned by a public agency or Homeowners Association, preserved in a tract, etc.). Metro cities are subject to HB 2001 requirements but are not under the County's purview.



**Permitted Uses and Review Type**

Table 1 below shows primary housing types the County currently allows in each affected district, and the review type currently applied. Review types range from a simple Type I (with no public notice requirement or conditions of approval), to a higher level Type II review with public notice and conditions – both of which assume approval as long as standards are met. A still higher-level Type III review applies in one district. Type IIIs call for notice, a public hearing, conditions and may be subject to denial. Review types are established based on the level of discretion typically involved in the decision-making process for each use.

As shown in the table, the County does not currently have districts that only allow single detached homes. This was not always the case, but currently even the lowest density district (R-5) allows some form of middle housing.

HB 2001/Rules requirement: *The County must use the same review type for middle housing as used for single detached dwellings in the same district.*

**Table 1: Affected County land use districts, primary housing types currently allowed and associated review types**

Land Use District	Current CDC Allowances (I, II or III indicates review type)				HB 2001 Requirements	
	Single Detached Dwelling	Middle Housing				
		Duplex	Triplex/Quadplex	Town-house		Cottage Cluster
R-5	I or II (II if site exceeds specified size which differs by district)	III (More complex review than in other districts – requires recreational open space)	III (More complex review than in other districts – requires recreational open space; if more than two units proposed site must be over two acres)		Must allow: <ul style="list-style-type: none"> <li>• Duplexes</li> <li>• Triplexes</li> <li>• Quadplexes</li> <li>• Townhouses</li> <li>• Cottage Clusters</li> </ul> Subject to specific allowances and requirements <ul style="list-style-type: none"> <li>• More middle housing units per lot/site</li> <li>• Through a review type no more restrictive than for a single detached dwelling in same district</li> </ul>	
R-6		II				n/a
R-9						
R-15						
R-24						
R-25+						
NMU						
R-6 NB		II				II or III (III allows more units)
R-9 NB						
R-15 NB						
TO:R9-12	III	n/a				
TO:R12-18	II					
TO:R18-24						

***Implications:*** As shown above, since the County processes a single detached dwelling in most affected districts as a Type I, middle housing will also typically be allowed under a Type I review. Type I reviews generally assume clear and objective standards intended to remove discretion from the decision-making process.

State statute requires that local jurisdictions apply only clear and objective standards, conditions, and procedures regulating the development of “needed housing” – and defines nearly all housing as needed housing.<sup>2</sup> This is to ensure that communities do not use discretionary or subjective criteria to deny housing projects. As such, the County may want to consider lesser review types for middle housing where district standards currently allow a single detached home only through a higher level review. Staff will continue to analyze potential need for such changes as they relate to single detached homes as well, though some related work may occur through separate ordinance(s).

### ***Density***

County standards currently establish minimum required density and maximum allowable density for each district. Per Metro requirements, the County’s existing minimums are at least 80% of the maximum. For instance, existing R-6 density is a minimum of five units per acre and a maximum of six. Current County standards also prescribe how density is to be calculated and what types of land may be excluded from the calculation (for example, those including flood plains, significant natural resources or steep slopes).

***HB 2001/Rules requirement:*** *The County cannot apply its current density provisions to middle housing.*

***Implications:*** Rules vary for each middle housing type in terms of unit numbers or densities that must be allowed.

For duplex, triplex and quadplex development, rules do not establish a minimum density. The rules allow (but do not require) local jurisdictions to limit total housing units per lot to two, three and four, respectively.

Cottage clusters are subject to a minimum density of four units per acre. The County must allow at least eight cottages per shared courtyard, and additional courtyard(s) are required when the number of units exceeds eight. The County may (but is not required to) set a minimum of three, four or five dwelling units in a Cottage Cluster. Maximum density does not apply.

For townhomes, minimum density does not apply, but we must allow four times the maximum density allowed for single detached dwellings in the same district, or 25 units per acre, whichever is less. This equates to 20 units per acre in R-5 (the lowest density district),

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<sup>2</sup> ORS 197.303 and 197.307.

24 units per acre in R-6 and 25 units per acre in all other districts where middle housing must be allowed.

At least for cottage clusters and townhomes, we could see many more units per lot than are typical in the County's existing neighborhoods. Setbacks, height limitations and minimal site requirements, however, are expected to influence feasible number of units per lot.

### ***Dimensional Requirements***

For each County land use district, minimum requirements for Lot Area, Yards (Setbacks), Height, and Lot Dimensions currently apply. These differ by district.

#### *Lot Area*

The County's largest minimum requirement for a *new* lot that will serve a single detached house is 5,500 square feet – this applies in the County's least dense district (R-5). As minimum densities increase by district, minimum sizes for new lots decrease. A detached single dwelling is also allowed, however, on *existing* lawful lots that do not meet the minimum.

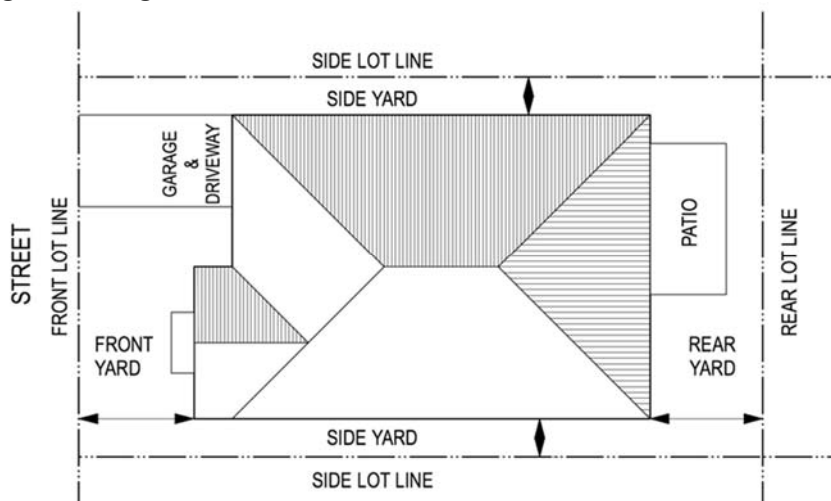
#### *Setbacks*

The County's existing Setbacks (see Figure 1 below) vary by district and sometimes by building type. Those for lowest density residential districts (R-5, R-6, R-9) are currently:

- 12 to 15-foot front yard.
- 5-foot side.
- 10-foot street side.
- 15-foot rear.

Existing setbacks are smaller in higher density districts, Transit Oriented and mixed use (NMU) districts.

**Figure 1: Diagram of setback locations**



### *Height*

The County's current height limit for single detached dwellings is 35 feet in affected districts, except in Transit Oriented and NMU districts, where a 60 to 65-foot height cap applies to buildings in general.

### *Lot Dimensions*

Existing County standards require minimum lot widths (generally and at the street) and minimum lot depths. In the County's least dense district (R-5), minimum lot width and depth for a detached home are 40 and 60 feet, respectively. Minimum width and depth decrease as density minimums increase by district and are currently larger for single detached dwellings than for attached housing.

### *HB 2001/Rules requirements:*

- *Lot Area: The County **may** choose to establish minimum lot square footage for most middle housing types, but only specific minimums authorized within the rule as follows:*
  - *Triplex: 5,500;*
  - *Quadplex or Cottage Cluster: 7,000;*
  - *Townhouses: 3,000 per development site, average of 1,500 per separate townhouse lot.*
- *Setbacks: The OARs prohibit local establishment of larger setbacks for middle housing than would be required for a single detached house in the same district and prohibit setbacks greater than 10 feet along the perimeter of a cottage cluster. Model Code provides ready-made standards for triplexes, quadplexes and townhomes that jurisdictions may adopt – these do not allow minimum front, street side and rear setbacks greater than 10 feet.*
- *Height: The County cannot establish a lower maximum height for middle housing than for a single detached home in the same district – except that per Model Code, cottage cluster height may be capped at 25 feet or two stories, whichever is greater.*
- *Lot Dimensions: Must be no more restrictive than for a single detached dwelling in the same district.*

*Implications:* While middle housing rules allow (but do not require) local jurisdictions to adopt minimum lot sizes for most middle housing types, the minimums are specified by the rule and differ from the County's existing minimums. Those minimums will apply to middle housing regardless of district. (See Section IV below for more detailed discussion of lot sizes).

In low density districts, setbacks for cottage clusters may have to be less than what is required for a single detached dwelling on a new lot now, however in most cases setbacks to middle housing need not differ significantly from those.

The County cannot cap the height of middle housing to anything lower than the height allowed for a single detached dwelling in the district, except in the case of cottage cluster units. For those, local jurisdictions may adopt a 25-foot or two-story limit, whichever is greater, regardless of district. An option being explored is potentially establishing a 35-foot height limit specific to single detached dwellings in Transit Oriented and NMU districts, consistent with the height limit in other affected districts, so that the same could be applied to middle housing (other than cottage clusters) there.

It may be possible to apply the County's current minimum lot dimensions to middle housing, however those currently apply only to new lots. Further consideration is underway. In part, state provisions related to allowable lot size minimums, setbacks and access are likely to determine necessary lot dimensions for particular projects (regardless of whether specific lot width and depth standards for middle housing are applied within County standards).

#### **IV. PATHS TO COMPLIANCE – LOT SIZES**

With regard to determining which lots are subject to nonduplex middle housing requirements, there is a third option in addition to the Rules-based Approach or Model Code. The options and what they provide are as follows:

- Rules-based Approach – allows, but does not require, adoption of state-specified minimum lot size for each middle housing type.
- Model Code – does not require minimum lot size but establishes other requirements.
- Performance Metric – requires middle housing be allowed on a specified share of lots, subject to proof of equitable distribution and ongoing tracking and reporting.

Table 2 below compares the three allowed approaches. Where the Rules-based Approach is addressed, the potential to adopt minimum lot sizes is also addressed in relation to the percentage of existing County lots that meet the minimums.

**Table 2: Comparison of approaches to compliance regarding lot sizes**

Middle Housing type	Paths to Compliance				
	A) Model Code	B) Rules-based Approach (Sometimes called "Minimum Compliance")		C) Performance Metric	
			Existing lots eligible for middle housing if minimum lot sizes adopted		
<b>Duplex</b>	Allow on all residential lots that allow detached dwelling	Allow on all residential lots that allow detached dwelling	100%	Allow on all residential lots that allow detached dwelling	
<b>Other middle housing:</b>	In part, applies maximum Floor Area Ratios (FARs) based on jurisdiction's minimum lot size for a single detached dwelling in the same district	Allows (does not require) adoption of minimum lot square footage as follows:		Must allow on the following percentage of residential lots:	
<b>Triplex</b>		5,000 square feet (sf)	74%	80%	
<b>Quadplex</b>		7,000 sf		56%	70%
<b>Cottage Cluster</b>					
<b>Townhouses</b>	Does not apply minimum lot sizes	<ul style="list-style-type: none"> <li>• Site: 3,000 sf</li> <li>• Separate townhouse lots: 1,500 sf minimum average</li> </ul>	86% (assuming at least two townhouses could be developed on lots 3,000 sf or larger)	60%	
		Allow four times maximum density allowed for single detached dwellings in same district, or 25 units/acre, whichever is less			
<b>Initial requirement</b>	Apply model code	Meet or exceed minimum compliance standards		Show equitable distribution of middle housing by Census Block Group; and	
<b>Continuing compliance</b>	Not required	Not required		Show again with future comprehensive plan/land use regulation changes – not more than every six years	

*Considerations/preliminary recommendation:* Regarding lot sizes, staff's preliminary recommendation is to establish minimum lot sizes, as allowed through the Rules-based Approach.

DLCD staff reviewed a number of sample developments of different middle housing types and their analysis formed the basis for their recommended minimum lot sizes. It is *possible* that allowing middle housing units on lots below 5/7,000 sf could encourage smaller middle housing units. Smaller units *can be* less costly than larger ones and allowing a variety of unit sizes *can* increase housing variety. However, DLCD's analysis, coupled with that done by several other local jurisdictions, indicate it is unlikely the specified types of middle housing would fit on smaller lots. Additionally, establishing minimum lots sizes allows a landowner, potential developer, and neighbors to predictably know whether a lot is eligible for a middle housing type.

Once middle housing development commences and the County is able to analyze trends and potential facilitation needs, the County could consider removing those minimums through a future ordinance. Were the County to adopt an initial HB 2001 program without minimum lot sizes, on the other hand, it could be difficult to apply them through a later ordinance due to potential concerns with reduction of allowances/property rights.

Few, if any, jurisdictions in the state appear to be implementing the Performance Metric Approach. This approach requires additional analyses, monitoring and ongoing reporting – and it does not appear, countywide and cumulatively, to result in the potential for a significantly different allowance in middle housing.

A more detailed analysis on these paths to compliance for lot sizes is included in Attachment A (*Long Range Planning HB 2001 Analysis Paper 2021-02 – Comparison of Minimum Lot Size Approaches*).

#### *List of Attachments*

The following attachments identified in this staff report are provided:

Attachment A: Long Range Planning HB 2001 Analysis Paper 2021-02 – Comparison of Minimum Lot Size Approaches





Sept. 8, 2021

**LONG RANGE PLANNING  
HB 2001 ANALYSIS PAPER 2021-02**

***COMPARISON OF MINIMUM LOT SIZE APPROACHES***

**Problem Statement:** Jurisdictions can opt to apply minimum lot sizes for middle housing types other than duplexes. The County must choose one of three options (or a combination of those) to comply with the requirements of House Bill (HB) 2001 specifically related to minimum lot sizes. How do available options for compliance compare in Washington County?

**OAR Reference(s):** 660-046-0205 through 660-046-0235 and 660-046 Exhibit B (Model Code).

**Recommendation:** Staff recommends using the Rules-based Approach related to minimum lot sizes, with the lot sizes listed in the Oregon Administrative Rules (OARs or Rules).

**Background**

Under the OARs adopted by the Land Conservation and Development Commission (LCDC) in December 2020, there are several approaches to meet the HB 2001 requirements related to lot sizes:

1. **Model Code:** Standards that will apply directly if jurisdictions do not adopt the required local code amendments. These standards are intended to be consistent with the requirements and intent of HB 2001 and straightforward and implementable throughout the state.
2. **Rules-based:** Standards and requirements in the OARs that local codes must meet to comply with HB 2001. Allows locally developed language to fit within existing codes. These are the standards against which the Department of Land Conservation and Development (DLCD) will compare each agency's amended development codes to ensure they comply with state law.
3. **Performance Metric:** An alternative to a portion of the HB 2001 standards requiring that each middle housing type be allowed on a certain percentage of lots in residential districts, subject to ongoing proof of percentages and equitable distribution.

DLCD staff has clarified that jurisdictions may use a combination of approaches to compliance. For example, a jurisdiction could write their own code language addressing the standards in the Rules *and* use the design standards in the Model Code for all or some of the middle housing types *and/or* use a portion of the Performance Metric Approach.

**ANALYSIS**

Staff analyzed current conditions for residentially designated *eligible lots* in the urban unincorporated area (UUA) to compare the Model Code, Rules-based and Performance Metric Approach requirements.

This section includes the following:

- Analysis of land area in different land use districts.
- Analysis of *eligible lots*.
- Potential approaches to lot size (Model Code, Rules-based, Performance Metric).
- Comparison of approaches relative to lot sizes.
- Assessment.

***Land Area in Different Land Use Districts***

To set overall context, the following table shows the amount of urban unincorporated land area in the different land use districts. The majority of land in the UUA is within a low density residential district (R-5 or R-6) and only 13% of the acreage in the UUA has a nonresidential designation. This is consistent with many other jurisdictions.

**Table 1: Land area in different land use districts in the UUA\***

<b>Land Use Districts</b>	<b>Acres</b>	<b>% of UUA</b>
<b>Low Density Residential</b> R-5, R-6, R-6 NB	12,139	62%
<b>Medium Density Residential</b> R-9, R-9 NB, R-15, R-15 NB, TO:R9-12, TO:R12-18, TO:R18-24	4,016	20%
<b>High Density Residential</b> R-24, R-24 NB, R-25+, R-25+ NB, TO:R24-40, TO:R40-80, TO:R80-120	896	5%
<b>Mixed Use</b> CBD (Community Business District) CCMU (Community Core Mixed Use) NMU (Neighborhood Mixed Use) TO:RC (Transit Oriented Retail Commercial)	312	2%
<b>Commercial</b> OC (Office Commercial) NC (Neighborhood Commercial) GC (General Commercial) TO:BUS (Transit Oriented Business)	253	1%
<b>Industrial</b> IND (Industrial) TO:EMP (Transit Oriented Employment)	657	3%
<b>Institutional</b> INST (Institutional)	1,460	7%
<b>Total Acres</b>	19,732	

\* Centers and Corridors Study data, 2019. Neighborhood Mixed Use (NMU) was not yet created as of the date of that study.

**Eligible Lot Analysis**

HB 2001 OARs require that middle housing be allowed on residential lots or within residential areas that allow single detached dwellings. Planning Commission HB 2001 Briefing Memo #2, prepared for the Sept. 15 meeting, lists those County land use districts that allow single detached dwellings and therefore will be subject to HB 2001 provisions. That memo also includes an overall map showing these areas and indicates that parcels publicly owned or otherwise not available for development were removed from the map since they are not available for any residential development. The remaining lots are “potentially eligible lots” and the following analysis uses this subset of lots.

Table 2 below breaks down eligible lots by lot size. The lot size categories match those detailed in the OARs so they can be used in further analysis in the following section. While the table shows the UUA has a number of smaller lots (26% below 5,000 square feet), the majority of *eligible lots* in the UUA are 7,000 square feet or larger.

**Table 2: Eligible lots by size**

Lot size (square feet (sf))	Eligible lots by size	
	Number of lots	% of total
< 5,000 sf	16,398	26%
5,000 – 6,999 sf	11,097	18%
7,000 sf +	34,573	56%
<b>TOTALS</b>	62,068	100%

These percentages vary by Community Plan area, as each area was developed at different times and sometimes under different regulations. Appendix A includes further information by Community Plan area.

**Potential Approaches to Lot Size**

Washington County must allow duplexes on all lots or parcels that allow a single detached home and regulate the remaining middle housing types based on the Model Code (OAR 660-046 Exhibit B), Compliance Standards (OAR 660-046-0220), the Performance Metric Approach (OAR 660-046-0205 3.b.) or a combination of these.

Model Code

The Model Code (OAR 660-046 Exhibit B) does not establish minimum lot sizes<sup>1</sup> for middle housing types. Most types of middle housing are allowed on lots or parcels designated for residential use that allow the development of detached dwellings, subject to the provisions in the Model Code. The Model Code instead includes maximum Floor Area Ratios (FARs) and design standards to address potential issues with not establishing minimum lot sizes. The

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<sup>1</sup> The Model Code states that cottage clusters shall meet the minimum lot size, width and depth standards that apply to single detached dwellings in the same land use district.

County could take this approach, though the County does not currently use FARs for residential development.

### Rules-based Approach

The Rules-based Approach relative to lot sizes (OAR 660-046-0220) allows (but does not require) jurisdictions to establish minimum lot sizes for middle housing other than duplexes. If the County chooses to apply minimum lot sizes for middle housing:

- Triplexes<sup>2</sup> must be allowed on lots 5,000 square feet (sf) or larger.
- Quadplexes and cottage clusters must be allowed on lots 7,000 sf or larger.
- Townhouse average minimum lot size may not be smaller than 1,500 sf.

Under this approach, density maximums may only be applied to townhouse development, not to the other middle housing types. These maximums are four times the allowed density for detached homes or 25 units/acre, whichever is less. “Siting and design” standards, including setback, height, lot coverage and similar requirements (detailed in the OARs), cannot be more restrictive than those applied to detached housing.

### Performance Metric Approach

For middle housing other than duplexes, the Performance Metric Approach (OAR 660-046-0205 3.b.) would allow the County to apply “separate minimum lot size and maximum density provisions” not addressed by the Rules-based Approach. The Performance Metric Approach requires jurisdictions to “ensure the equitable distribution of Middle Housing” in part by allowing middle housing on a minimum percentage of eligible lots as follows:

- Triplexes on 80% of lots or parcels.
- Quadplexes and cottage clusters on 70% of lots or parcels.
- Townhouses on 60% of lots or parcels.

Criteria for “allowing” middle housing include a requirement that the lot has “sufficient square footage to allow the Middle Housing type within the applicable minimum lot size requirement,” and that middle housing is permitted under the same administrative process as a detached dwelling in the same district.

To ensure equitable distribution of middle housing using this approach, at least one middle housing type (other than duplexes and cottage clusters) must *also* be allowed on 75% or more of all lots within each Census Block Group. This requires jurisdictions to demonstrate compliance at adoption and continuing compliance with “any future comprehensive plan or land use regulation changes,” but not more than every six years after initial adoption.

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<sup>2</sup> A higher minimum lot size is allowed where the existing minimum for one detached house is higher. Since the County’s R-5 district standards require a lot of at least 5,500 square feet for a detached dwelling, the County could choose to require the same for a triplex in that district.

**Comparison of Approaches**

The following table compares the three different approaches with each other and with the current percentages of lots of different sizes in the UUA.

**Table 2: Comparison of approaches to compliance regarding lot sizes**

Middle Housing type	Paths to Compliance			C) Performance Metric
	A) Model Code	B) Rules-based Approach (Sometimes called "Minimum Compliance")		
			Existing lots eligible for middle housing if minimum lot sizes adopted	
<b>Duplex</b>	Allow on all residential lots that allow detached dwelling	Allow on all residential lots that allow detached dwelling	100%	Allow on all residential lots that allow detached dwelling
<b>Other middle housing:</b>	In part, applies maximum Floor Area Ratios (FARs) based on jurisdiction's minimum lot size for a single detached dwelling in the same district	Allows (does not require) adoption of minimum lot square footage as follows:		Must allow on the following percentage of residential lots:
<b>Triplex</b>		5,000 square feet (sf)	74%	80%
<b>Quadplex</b>		7,000 sf	56%	70%
<b>Cottage Cluster</b>				
<b>Townhouses</b>	Does not apply minimum lot sizes	<ul style="list-style-type: none"> <li>• Site: 3,000 sf</li> <li>• Separate townhouse lots: 1,500 sf minimum average</li> </ul>	86% (assuming at least two townhouses could be developed on lots 3,000 sf or larger)	60%
		Allow four times maximum density allowed for single detached dwellings in same district, or 25 units/acre, whichever is less		
<b>Initial requirement</b>	Apply model code	Meet or exceed minimum compliance standards		Show equitable distribution of middle housing by Census Block Group; and
<b>Continuing compliance</b>	Not required	Not required		Show again with future comprehensive plan/land use regulation changes – not more than every six years

***Assessment – Rules-based vs Performance Metric Approaches***

Table 2 illustrates that the Rules-based Approach, establishing minimum lot sizes as outlined in the rules, would allow triplexes on 74% of existing lots, quadplexes or cottage cluster housing on 56% of lots. Townhomes could theoretically be allowed on any lot large enough for two townhouse units (3,000 sf). The Performance Metric Approach would require the County to allow *most* middle housing types on *more* lots than would be required through the Rules-based Approach (if lot size minimums are used in the latter), particularly for quadplex and cottage clusters (80% and 70%, respectively). The one housing type where the Performance Metric Approach may require less is townhouses.

*Implications:* If the Performance Metric Approach were to be used for nonduplex middle housing types, it is not clear how the required percentages could be achieved. Lot size could continue to be used as the metric, with middle housing development allowed on smaller lot sizes to the point where the current number of lots at certain sizes would equal the specified percentage. This would, however, also require analysis demonstrating that middle housing could reasonably be built on these smaller lots. While an approach using something other than lot size could be utilized, there is no other obvious metric that is immediately apparent.

Staff also notes the requirement to demonstrate continuing compliance for the Performance Metric Approach would require more ongoing staff resources than other available options. Should the County desire to allow middle housing on more lots than provided by establishing minimum lot sizes under the Rules-based Approach, it could allow this in other ways (e.g., not establishing lot size minimums) rather than using the more onerous Performance Metric Approach. For all of these reasons, staff does not recommend using the Performance Metric Approach.

***Assessment – Rules-based vs Model Code Approaches***

The Model Code does not exclude lots from eligibility based on size. Instead, it establishes a maximum FAR based on minimum lot size for detached dwellings in the same district to regulate middle housing development. The maximum floor area is cumulative, considering floor space of all buildings on-site. The FAR calculation regulates the floor area of the building(s) rather than the number of living units. A maximum FAR can, however, affect either unit sizes or unit numbers.

*Implications:* Using FARs for residential development would be a major change from current Community Development Code (CDC) requirements, which do not apply FARs to housing. Currently, a minimum and maximum density (in units per acre) applies. Density provisions of each district, combined with setbacks and height limits, currently manage massing (size and scale) of buildings. In some districts, the current CDC also precludes development of oversized lots to less than minimum allowed density – or applies conditions to protect

further site development potential. These limitations also control building mass, preventing encroachment of houses into areas needed for other lots, setbacks, streets and more. While application of FARs to middle housing has some promise as a tool that could make some smaller lots eligible for more housing than under the current CDC, while managing the overall scale of buildings, it is not recommended at this time. As noted, this would be a major change from current CDC requirements and would require an overhaul of the code to implement. For context, Portland's switch to the FAR approach in its Residential Infill Project took over five years and intensive staff and hearings processes to develop and adopt. It could be considered for a future overhaul of the CDC.

### **Assessment – Not Establishing Minimum Lot Sizes**

Under the Rules-based Approach, the County is not required to establish minimum lot sizes. If it does, the OARs establish those sizes. DLCD staff reviewed a number of sample developments of different middle housing types and their analysis formed the basis for their recommended minimum lot sizes.

*Implications:* It is *possible* that allowing middle housing units on lots below 5/7,000 sf could encourage smaller middle housing units. Smaller units can be less costly than larger ones and allowing a variety of unit sizes can increase housing variety. However, analysis by other jurisdictions and DLCD has indicated it is unlikely the specified types of middle housing would fit on smaller lots. Additionally, establishing minimum lot sizes allows a landowner, potential developer and neighbors to predictably know whether a lot is eligible for a middle housing type. For these reasons, staff recommends establishing the minimum lot sizes contained in the OARs and used as part of the Rules-based Approach.

## **STAFF RECOMMENDATION**

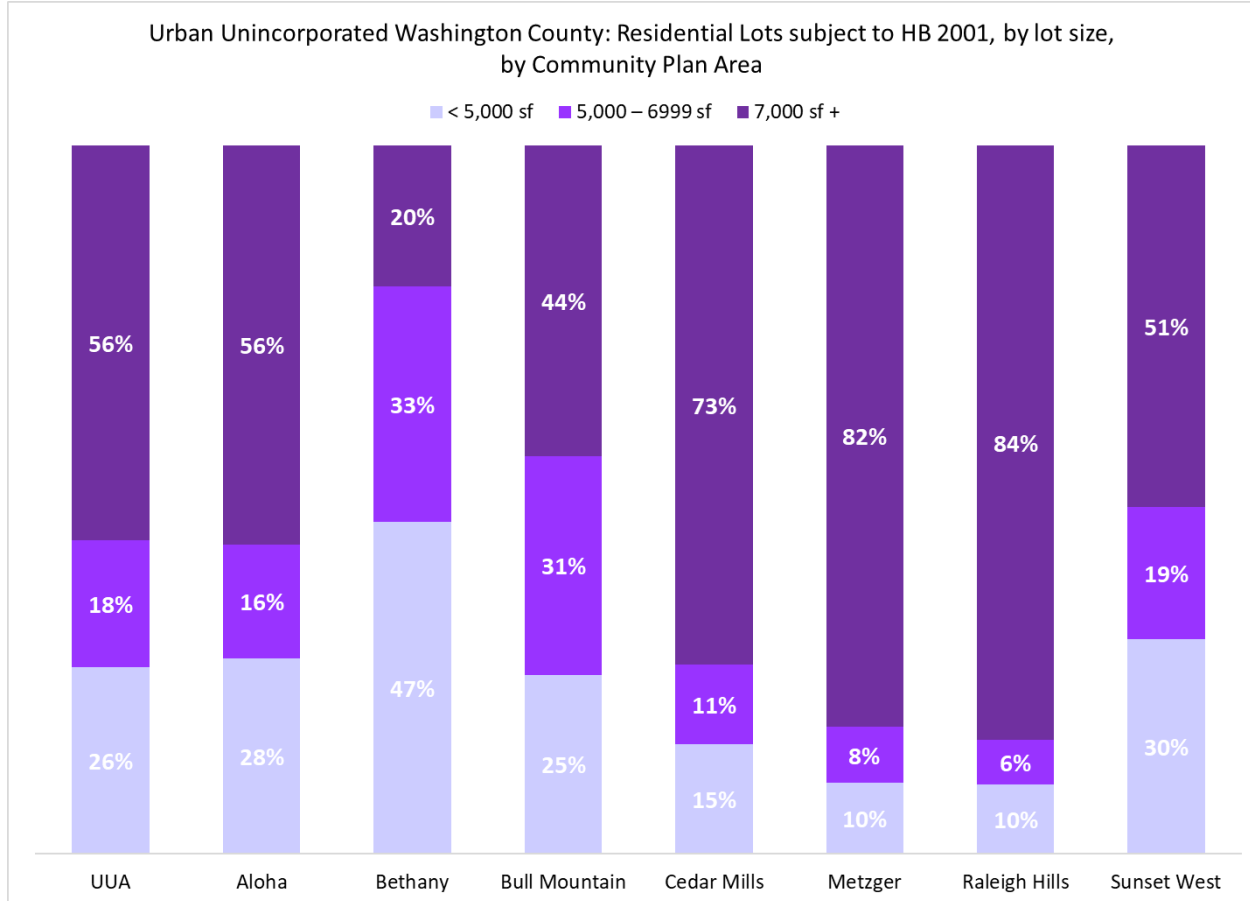
***Use the Rules-based Approach for lot sizes, with the lot sizes listed in the OARs. Borrow as needed from Model Code.***

*Staff makes this recommendation because it:*

- *Would meet the basic requirements of HB 2001 and the related OARs.*
- *Would be more consistent with the current CDC approach and would not require revamping the CDC to address a new approach (Floor Area Ratio) as in Model Code.*
- *Would not require added analysis and reporting requirements to DLCD as would be required for Performance Metric Approach.*
- *Would not require development of a new approach based on an unknown metric as would be required for Performance Metric Approach.*

## Appendix A

**Exhibit 6: Potentially eligible lots by size for the UUA and by Community Plan area**







## WASHINGTON COUNTY PLANNING COMMISSION (PC) MINUTES OF WED., AUG. 18, 2021

### ALL PUBLIC MEETINGS ARE RECORDED

1. **CALL TO ORDER** - 6:30 p.m. Zoom virtual meeting  
The meeting was called to order by Chair Lockwood.

2. **ROLL CALL**

PC Members Present: Rachel Mori Bidou, Blake Dye, Mark Havener, Deborah Lockwood, Stacy Milliman, Jeff Petrillo, Sushmita Poddar, Benjamin Stadelman, and Matt Wellner

Staff Present: Stephen Roberts, Director of Land Use and Transportation (LUT); Andy Back, Planning and Development Services (PDS); Theresa Cherniak, Kim Armstrong, Anne Kelly, Todd Borkowitz, and Susan Aguilar, Long Range Planning (LRP); Jacquilyn Saito-Moore, County Counsel; Erin Doyle, County Administrative Office

The PC welcomed newly appointed District 1 PC members Rachel Mori Bidou and Stacy Milliman.

3. **DIRECTOR'S REPORT** - Andy Back, Manager of PDS

#### Updates

- The LUT office in the Public Services Building is open. However, members of the public and County employees, regardless of vaccination status, are required to wear masks.
- Staff briefly met yesterday with the new PC appointees and will conduct a new PC member orientation with them before the first ordinance hearing September 1.
- This Fall, the Board is considering a requirement that an indigenous land acknowledgement be made at every public meeting, including PC meetings. Depending on Board direction, staff and PC leadership will likely be trained to properly administer the acknowledgement. Staff will keep PC members posted on how this rolls out.
- On September 7, staff will ask the Board to again continue Ordinance No. 865, establishing urban land use designations for the 2018 Metro Urban Growth Boundary expansion areas, pending resolution of the most recent appeal of the Department of Land Conservation and Development approval of the expansion at the Oregon Supreme Court. In 2020, the PC recommended approval of this ordinance pending resolution of all appeals.

#### Upcoming PC Meetings

Sept. 1 (day)

- Hearing on Ordinance No. 877: Rural Omnibus
- Briefing on House Bill (HB) 2001 implementation topics

Sept. 15 (night)

- TBD, but likely briefing on HB 2001 implementation topics

PC Discussion and Comments

- Questions and comments about the results of the 2020 Census and requests for a PC briefing on the topic. Staff agreed this could be done as a Work Session item at a future PC meeting.

**4. ORAL COMMUNICATIONS** - (none)**5. WORK SESSION****a. Legislative update**

Erin Doyle, Government Relations Manager with the County Administrative Office and Theresa Cherniak, Principal Community Planner gave a PowerPoint presentation on Ms. Doyle's role with the County, an overview of land use and transportation bills that were adopted in 2021 by the Oregon Legislature, and how these bills are being addressed in the LUT Work Program.

PC Discussion and Comments

- A question on how affordable housing is defined and a comment that Area Median Income, or AMI, does not accurately reflect the incomes of Washington County residents.

**b. House Bill (HB) 2001 (middle housing) implementation update and plan for future sessions**

Theresa Cherniak, Principal Community Planner and Anne Kelly and Kim Armstrong, Senior Planners with the LRP Community Planning group, gave PowerPoint presentations featuring a refresher on HB 2001 implementation and a proposed plan for briefing the PC on HB 2001 topics at work sessions through 2021. Staff highlighted the Board approved Guiding Principles for middle housing and the June 30, 2022 state-imposed deadline for local code adoption.

PC Discussion and Comments

- Comments that:
  - The County's rules should not be overly prescriptive.
  - Staff should use real income numbers (not percentages) so that numbers are easier to understand.
  - Think about transportation costs relative to housing costs. Transportation costs are important toward making housing affordable.
  - Equity is an important aspect of the Guiding Principles.
  - The June 30, 2022 adoption deadline is not realistic. Can this state-imposed deadline be adjusted?
  - Affordability is a topic of interest.
  - The bill was about diversity of housing and providing more housing.
- Questions on:
  - Whether the \$150,000 DLCD grant awarded to the County for HB 2001 engagement is oriented specifically for outreach to historically neglected populations.
  - What is considered unreasonable cost or delay and who determines it.
  - Whether Homeowner Association restrictions can be enforced and by whom.
  - The PC's 2022 hearings schedule for this ordinance and breaking it up into comprehensible parts.
- A request for feedback and involvement from the local Home Builders Association (HBA).

**6. CONSIDERATION OF MINUTES** - (none)

**7. PC COMMUNICATION**

- Chair Lockwood noted that the PC has been discussing communication norms in recent online trainings and requested that PC members be recognized by the Chair before speaking.
- A comment from one member that she believes two bias incidents occurred in past PC meetings and that these are being recorded as bias incidents at the State of Oregon.

**8. ADJOURN: 9:01 p.m.**

\_\_\_\_\_  
Deborah Lockwood, Chair  
Washington County Planning Commission

\_\_\_\_\_  
Andy Back, Secretary  
Washington County Planning Commission

Minutes approved this \_\_\_\_\_ day of \_\_\_\_\_, 2021  
Submitted by LRP Staff

DRAFT