



# Oregon

Tina Kotek, Governor

## HPAC Work Group Recommendation Template

### Work Group

- Availability of land
- Land development permit applications
- Codes and design
- Workforce shortages
- Financing

### Recommendation

Revise state law/code regarding Middle Housing to:

- Remove state code provision requiring single service for each lot.
  - o Allow for multiple water meters to be served off a single water tap, still allowing for one meter per lot.
  - o Allow for shared sewer lateral
  - o Both can have maintenance agreements or other deed restrictions/escrow accounts for shared maintenance issues.
  - o Allow for utility easements on private property
- On a new subdivision using Middle Housing, jurisdiction shall allow for those to be included in the recording of the final subdivision plat, prior to construction of any homes at the request of the applicant.
- Cities to look at ability to provide maintenance on shared sewer lateral and charge owners.

### Related Work Plan Topics

Increase affordability and housing choice, including middle housing, through the refinement of overly restrictive standards.

### Adoption Date

October 17, 2023

### Method of Adoption

Conditionally adopted in Work Group Meeting on August 8, 2023  
Adopted via email on August 18, 2023. Unanimous consent to move forward.  
Recommendation was sent back to the work group. Work group held recommendation while getting more SME feedback. Approved in Work Group Meeting on October 17, 2023.

## Co-chairs Guidance: Standards for Analysis

1. Clearly describe the housing production issue that the recommended action(s) will address.

HB 2001 was instrumental in permitting the inclusion of Middle Housing within single-family lots, while SB 458 further facilitated the division of these units through a simplified process. These legislative steps aimed to diversify housing options and promote homeownership. However, certain provisions within state law present challenges that impede the streamlined progress of Middle Housing development. This proposal seeks to rectify specific inefficiencies tied to these legal requirements.

2. Provide a quantitative, if possible, and qualitative overview of the housing production issue.

Middle housing aims to simplify the process of offering a broader range of housing options within areas originally designated for single-family homes. The primary objective is to enhance affordability and create opportunities for homeownership. However, certain state regulations have posed obstacles to effectively implementing middle housing, as they are prescriptive about requirements for individual lots.

In some jurisdictions, there is a genuine interest in devising innovative strategies for promoting middle housing development. Unfortunately, current state laws prohibit the pursuit of such endeavors.

In adherence to state law, a residential property must be situated on a legally defined lot, each of which must be equipped with its own set of utilities and services. For middle housing projects, this stipulation entails the following possibilities:

1. In instances where subdivisions are constructed/platted, developers must possess a build out plan outlining the eventual configuration of all middle housing units. They are obligated to install the appropriate water and sewer services for each lot, which would facilitate the division of land for middle housing purposes. However, this approach isn't always feasible, as the subdivision developer may not be the same entity responsible for constructing the homes.
2. Developers are required to install the maximum number of utility services on every individual lot. This approach, while ensuring utility access, could lead to a surplus of services and infrastructure within a subdivision, resulting in subsequent abandonment. This excess installation would inflate construction costs and potentially complicate future maintenance efforts due to the increased infrastructure within the public right-of-way.
3. Another potential method involves disrupting the adjacent street infrastructure to install separate utility services for each lot. However, this practice weakens the road structure, rendering it more susceptible to wear and tear over time. Consequently, this results in escalated maintenance expenses. There also may not be space for this many utilities.

In cases where the developer possesses a clear plan for allocating units for middle housing, local jurisdictions should accommodate the inclusion of middle housing land divisions within the final subdivision blueprint. This streamlined process would alleviate the need for additional plats and associated fees specifically for the middle housing divisions. As a result, financing could be released for individual middle housing units, rather than being tied to the overall parent parcel.

One of the challenges for middle housing is the requirement that each lot have its own services. The work group discussed with several SMEs the idea of having shared water and sewer services. While the work group was able to come to an agreement about shared sewer lateral, there was still concerns regarding charging for water with separate owners without a heavily involved Homeowner's Association (HOA). Having an active HOA felt counterproductive to the work group, so the provision for a shared water service was removed.

Ongoing maintenance responsibilities were a topic of concern for shared sewer laterals. The main issue revolved around getting all property owners to participate in sewer maintenance. In the past, cities mentioned that a lack of working service would result in closing the housing unit and displacing the tenants. However, the work group brainstormed the idea of the cities performing the maintenance work and billing the property owners. This way, the other shared tenants who pay for the work will still get working sewer and the city has other mechanisms for tenants who do not pay.

- To assess the issue and potential action(s), include subject matter experts representing all sides of the issue in work group meetings, including major government, industry, and stakeholder associations.

Kerry Bell from the City of Bend has spoken to the work group regarding middle housing issues on several occasions. She mentioned that this recommendation is in line with the direction Bend is moving toward with Middle Housing.

Matt Rozzell spoke about separate utility lines and that the code requires the separate services.

Matthew Reuttgers from Albany spoke about not being able to provide flexibility with developers because of state code.

DEQ spoke regarding DEQ requirements for sewer systems maintenance.

- Provide a quantitative, if possible, and qualitative overview of the outcome of the recommended action(s).

Potentially increase the number of middle housing units in jurisdictions who are struggling to promote middle housing development.

Allow for greater flexibility and criteria required when providing infrastructure for middle housing.

Allows jurisdictions to partner with builders to find solutions for providing sewer service to units beyond the conventional one service for every lot.

Helps minimize damage to existing streets.

Apply for middle land divisions to happen prior to the construction of homes, which could release financing sooner and allow for the sale of homes faster.

- Provide an estimate of the time frame (*immediate, short, medium, long-term*), feasibility (*low, medium, high*), and cost (*low, medium, high*) for implementation of the recommended action(s).

| <b>Time Frame</b>                              | <b>Feasibility</b>                       | <b>Cost</b>                             |
|--|--|---|
| <input type="checkbox"/> Long-term             | <input checked="" type="checkbox"/> High | <input type="checkbox"/> High           |
| <input type="checkbox"/> Medium-term           | <input type="checkbox"/> Medium          | <input type="checkbox"/> Medium         |
| <input checked="" type="checkbox"/> Short-term | <input type="checkbox"/> Low             | <input checked="" type="checkbox"/> Low |
| <input type="checkbox"/> Immediate             |  |   |

These changes to the state code are small but removing firm stipulations like this help the builder and the local jurisdiction work together to find creative solutions to promote more middle housing development. In addition, more flexibility would be more cost effective for the project. Keeping construction costs as low as possible (when a viable alternative exists) will help prevent these costs from being passed on to the home buyer.

Changes to state code and then the implementation at the local level could take a couple of years.

6. Provide a general overview of implementation, the who and how for the recommended action(s).

Revisions to the state code would be necessary.

7. Outline the data and information needed for reporting to track the impact and implementation of the recommended action(s).

Cities could report the number of middle housing units produced. This number could be compared to past years data. While it would be more work to track, cities could report the number of units who opt for shared utilities versus single utilities.

8. Identify any major unknowns, tradeoffs, or potential unintended consequences.

Without proper maintenance agreements/escrow accounts, shared sewer laterals in particular could result in disputes between neighbors. Safeguards could be put in place for maintenance agreements or escrow accounts.

*Please include any relevant reports, data analyses, presentations, or other documents that would be informative and useful for the full HPAC as the recommendation is discussed and considered.*