



May 6, 2021

TO: Land Conservation and Development Commission

FROM: Jim Rue, Director
Gordon Howard, Community Services Division Manager
Ethan Stuckmayer, Senior Housing Planner
Robert Mansolillo, Housing Planner



SUBJECT: **Agenda Item 6, May 20-21, 2021, LCDC Meeting**

APPENDING THE MEDIUM CITIES MIDDLE HOUSING MODEL CODE IN OREGON ADMINISTRATIVE RULE CHAPTER 660, DIVISION 46

I. AGENDA ITEM SUMMARY

The Land Conservation and Development Commission (commission or LCDC) is holding a public hearing and considering an amendment to Oregon Administrative Rule (OAR) 660-046-0010. The amendment is non-substantive. It is only necessary to correct an overwriting error that occurred after the commission adopted the Large Cities middle housing rules in December 2020.

Purpose. To fix an overwriting error to add the Medium Cities Middle Housing Model Code to Oregon Administrative Rules Chapter 660, Division 46, Rule 0010.

Objective. Commission will hold a public hearing on this rulemaking, receive any public comment, then consider amending OAR 660-046-0010 to append the Medium Cities Middle Housing Model Code.

For further information about this report, please contact Robert Mansolillo, Housing Planner, at 971-375-5978 or robert.mansolillo@state.or.us.

II. BACKGROUND

In July 2020, the Land Conservation and Development Commission (commission or LCDC) adopted the first block of Oregon Administrative Rules (OARs) implementing HB 2001 to increase housing choice and supply in communities across Oregon. This included rules related to middle housing in Medium Cities and development of a Medium Cities Middle Housing Model Code (MCMC). In December 2020, the commission adopted the OARs related to middle housing in Large Cities and the Large Cities Middle Housing Model Code (LCMC).

The rule-writing process through the Oregon Secretary of State is such that it functions in an iterative manner. The commission adopted the Medium Cities rules and then later in 2020 amended the existing rules to add the rules for Large Cities. This “overwriting” of old rules with new rules created an issue in OAR 660-046-0010 where the Medium Cities Middle Housing Model Code was overwritten by the Large Cities Middle Housing Model Code. This is due to the Secretary of State Oregon allowing only one appendix per OAR rule section. This resulted in the MCMC being completely eliminated from OAR 660-046-0010.

The MCMC is important to include in OAR because not only does it serve as guidance for cities in their implementation of middle housing provisions, it also serves as an enforcement mechanism for Medium Cities who do not comply with the intent and provisions of HB 2001. If a Medium City does not act to implement middle housing development code provisions, the MCMC preempts any local regulation of duplexes.

In order to correct this overwriting error, the commission is asked to formally reopen a public hearing and vote to amend the appendix in OAR 660-046-0010 to include both the MCMC and LCMC. The amendment will not change any of the provisions in the model codes or remainder of OAR 660-046. The proposed amendment will combine the MCMC and LCMC into a single document with distinct sections. The proposed amended appendix is included as Attachment A.

III. **RECOMMENDED ACTION/CONCLUSION**

Staff recommends that the commission hold a public hearing to hear comments on the consideration to add the MCMC to the existing appendix in OAR 660-046-0010. After the public hearing, staff recommends the commission vote on the proposed amendment. Staff recommends approval of the proposed amendment.

Commissioners who would like to make a motion to adopt the amendment may use the following sample language:

“I move that the Land Conservation and Development Commission adopt the amended appendix in Oregon Administrative Rule Chapter 660, Division 46, Rule 0010 including the Medium Cities Middle Housing Model Code and the Large Cities Middle Housing Model Code as drafted in Attachment A of Agenda Item 6.”

IV. **ATTACHMENTS**

A. **[PROPOSED AMENDED OAR 660-046-0010 APPENDIX – COMBINED MEDIUM CITIES AND LARGE CITIES MIDDLE HOUSING MODEL CODE](#)**

B. **[660-046-0010 NOTICE FILING TRACKED CHANGES](#)**