

# HOUSING RULEMAKING ADVISORY COMMITTEE

## MEETING PACKET #9



**TO:** Housing Rulemaking Advisory Committee Members  
**FROM:** Ethan Stuckmayer, Senior Housing Planner  
**SUBJECT:** RAC Meeting Packet #9

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Housing Rulemaking Advisory Committee Members,

Thank you in advance for preparing for *the final* Rules Advisory Committee (RAC) meeting. The Housing Rulemaking Advisory Committee (RAC) meeting scheduled for **August 18 from 11am-3pm**. *IMPORTANT NOTE: Due to public health concerns, this meeting will be held entirely over Zoom. Please do not plan to attend this meeting in person at the DLCD offices in Salem.* At the time of the event, please follow the Zoom link in the meeting calendar appointment. Zoom offers both a video conferencing option and a telephone option.

Please review the information provided in this packet thoroughly in advance of the meeting. As usual, we will have a full agenda and look forward to receiving your guidance on these topics.

*Additionally, it may be helpful to keep a copy of this packet close by in the event technology does not cooperate as we intend. We will reference packet page numbers when we are discussing specific items.*

### **Request for Review and Comment on Meeting Packet Materials**

In the spirit of working quickly and efficiently to meet our deadlines, careful review of meeting packet materials is essential. It is expected that RAC members come to each meeting prepared having read the materials and ready to discuss each topic in detail.

The primary objectives for RAC9 are to:

1. Review and comment on draft Oregon Administrative Rules (OARs) related to the Housing Production Strategy (HPS) Program;
2. Review Fiscal and Housing Impact Statements related to HPS OARs;
3. Review and comment on draft Large and Metro Cities Model Code and OARs;
4. Review Fiscal and Housing Impact Statements related to Middle Housing in Large and Metro Cities OARs;
5. Provide final comments, feedback, and reflections on the Housing Rulemaking Advisory Committee process.

### **RAC Meeting Packet #9 Materials List**

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*IMPORTANT NOTE: We have provided a Discussion Worksheet as packet item #5. This worksheet will mirror the discussion anticipated at the meeting. Please use the worksheet to take down notes or formulate your questions for the project team as you review the packet materials.*

If you have any questions on the materials in this packet or about the legislation itself, please feel free to contact me via phone or email, my information is listed below. We are grateful for your participation in this important initiative. The State of Oregon and the Department are better off because of your work to continually refine these rules.

Thank you,



**Ethan Stuckmayer**

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**Rulemaking Advisory Committee Charge:**

*Members of the Rules Advisory Committee (RAC) shall provide guidance to agency staff to implement the legislative intent of House Bills 2001 and 2003. While complying with legislative intent, RAC members are asked to work with agency staff to develop recommended rules that:*

- *Acknowledge the importance of reasonable regulations such as mass, scale, and design in accordance with clear and objective standards.*
- *Provide for affordable living choices including access to employment and transportation choice.*
- *Allow for phased development consistent with infrastructure supply.*
- *Strive to result in equitable outcomes that benefit marginalized communities and/or people.*

**Housing Rulemaking Advisory Committee Virtual Meeting (RAC #9)**  
**August 18, 2020; 11:00 am – 3:00 pm**

By Zoom Web Conference

This meeting will be recorded and posted to the DLCD housing rulemaking webpage: <https://www.oregon.gov/lcd/LAR/Pages/Rulemaking.aspx>

Public comment: Members of the that wish to make a public comment should submit their written comment to [housing.dlcd@state.or.us](mailto:housing.dlcd@state.or.us)



**PROPOSED AGENDA**

Housing Rulemaking Advisory Committee Meeting #9		
Time	Topic	Who
10:45 – 11:00 am	<i>Login to Webinar and Conference Line</i>	<ul style="list-style-type: none"> <li>• RAC members</li> </ul>
11:00 – 11:20 am	<b>Welcome, Introductions, Announcements, and Agenda Review</b>	<ul style="list-style-type: none"> <li>• Jerry Lidz, RAC Co-Chair</li> <li>• Sylvia Ciborowski, Facilitator, Kearns &amp; West</li> <li>• DLCD Staff</li> </ul>
11:20 am – 12:20 pm	<p><b>Housing Production Strategies:</b> Discussion of HPS rules and fiscal and housing impact statements</p> <p><u>Desired Outcome:</u> Final review and discussion on draft HPS rules and fiscal and housing impact statements.</p>	<ul style="list-style-type: none"> <li>• Samuel Garcia, DLCD</li> <li>• RAC members</li> <li>• Sylvia Ciborowski</li> </ul>
12:20 – 12:40 pm	<b>Lunch Break</b>	
12:40 – 2:10 pm <i>(Includes 10-minute break)</i>	<p><b>Large Cities Model Code:</b> Review of Large Cities Model Code, draft rules, and fiscal and housing impact statements</p> <p><u>Desired Outcome:</u> Final review and discussion on Large Cities Model Code, final draft rules, and fiscal and housing impact statements.</p>	<ul style="list-style-type: none"> <li>• Robert Mansolillo, DLCD</li> <li>• RAC Members</li> <li>• Sylvia Ciborowski</li> </ul>

2:10 – 2:50 pm	<b>Overall Reflections and Final Thoughts from RAC Members – Round Robin:</b> Members are invited to provide final reflections on the RAC process, its outcomes, and lessons learned.	<ul style="list-style-type: none"> <li>• Sylvia Ciborowski</li> <li>• RAC Members</li> </ul>
2:50 – 3:00 pm	<b>Next Steps and Wrap Up</b>	<ul style="list-style-type: none"> <li>• Sylvia Ciborowski</li> <li>• Ethan Stuckmayer</li> <li>• Jerry Lidz, RAC Co-Chair</li> </ul>

<b>Upcoming Rulemaking Advisory Committee (RAC) and Technical Advisory Committee (TAC) Meetings</b>	
<b>Date/Time</b>	<b>Meeting</b>
September 1, 2020 – 9am-12pm	Middle Housing Model Code TAC Meeting #9
September 3, 2020 – 9am-12pm	Housing Production Strategy TAC Meeting #8
September 24-25	LCDC Meeting
October 8, 2020 – 9am-12pm	Middle Housing Model Code TAC Meeting #10 <i>(Meeting to be held jointly with RAC members)</i>
October 12, 2020 – 9am-12pm	Housing Production Strategy TAC Meeting #9 <i>(Meeting to be held jointly with RAC members)</i>

**Rulemaking Advisory Committee #8  
Zoom-only Meeting  
July 14, 2020**

**Key Insight Summary**

*Housing Production Strategy Structure* – RAC members offered specific recommendations to the Housing Production Strategy report structure to better analyze and incorporate issues of equity, including homelessness, access to opportunity, and gentrification/displacement. RAC members noted that developing clear definitions and instructions for analysis will be important in achieving meaningful equity outcomes. Additionally, RAC members brainstormed best practices for jurisdictions to consider in tracking and evaluating the effectiveness of strategies over time.

*Housing Production Strategy Review and Enforcement* – There is general agreement among RAC members that one of the key purposes of the Housing Production Strategy is to ensure that local jurisdictions are taking a more active, positive role in the production of needed housing and meeting their Goal 10 obligations, while acknowledging that cities are only one player in the larger environment of housing production. Review and enforcement should be structured to reflect this, with review and enforcement procedures working to ensure good faith efforts of jurisdictions to increase the production and affordability of housing. RAC members suggested DLCD should take a two-track approach to HPS compliance, each with varying tiers of enforcement. One track would focus on the actual completion of an HNA and subsequent HPS according to the 6-8 year schedule required by law, while the other track would focus on enforcement related to adopting and implementing strategies identified in an HPS. Each tier of enforcement would provide an opportunity to remedy issues, with each subsequent tier containing escalating consequences.

*“In Areas”: Flexibility and Equity* – In light of a letter sent from LOC on behalf of local jurisdiction urging the Department to provide additional flexibility to local jurisdiction in determining where middle housing types are permitted, RAC members discussed proposed options for the Department to consider. Members from local jurisdictions feel that the proposed “whittle away” approach in combination with minimum compliance standards bind the ability for local jurisdictions to regulate higher middle housing types, and propose an alternative in which local jurisdictions retain the flexibility in determining where middle housing may be located while ensuring that decisions meet Department expectations and do not reinforce patterns of segregation. Housing advocates note that this flexibility of local jurisdictions has been historically used to reinforce patterns of segregation, and the proposed standards do not provide sufficient specificity to sufficiently prevent inequitable zoning decisions and patterns of segregation by race and income. DLCD staff will need to determine what approach could meaningfully address concerns of both flexibility and ensuring the provision of fair and equitable housing choices.

*Cottage Cluster Model Code Standards* – RAC members provided commentary on the draft Cottage Cluster code for Large and Metro Cities. Members provided general comments and direction to increase the flexibility and likelihood that cottage clusters will be built. Measures to increase flexibility include the ability to provide units on individual lots as well as limiting any additional standards (e.g. design, dimensional, and parking standards) that inhibit the feasibility of a cluster project. Finding the right balance of incentives will be critical for ensuring the successful implementation of cottage cluster code.

**Attendees:****RAC Members:**

- Allan Lazo
- Brian Martin
- Chris Pryor
- Colin Cooper
- Debbie Aiona
- Derrick Tokos
- Drew Farmer
- Ed Sullivan
- Ellen Miller
- Hope Beraka
- Jacen Greene
- Jeannine Rustad
- Jesse Sharpe
- Joel Madsen
- Kelsey Zlevor
- Kimberli Fitzgerald
- Lynne McConnell
- Mark Rust
- Martha Fritzie
- Mary Kyle McCurdy
- Michelle Glass
- Nancy Donovan
- Nancy McDaniel
- Sarah Adams-Schoen
- Shannon Vilhauer
- Stephanie Jennings
- Ted Reid
- Tim Morris

**Public:**

- Alexis Biddle
- Anthony Farmer
- Ariel Nelson, LOC
- Kim Armstrong
- Kyle Macadam
- Laura Kelly
- Lauren Sommers
- Mary Piper
- Robin Smith
- Olivia Cleaveland
- Pauline
- Sophie McGinley
- Terri Harding

**Staff/LCDC:**

- Casaria Taylor
- Sylvia Ciborowski
- Robert Mansolillo
- Ethan Stuckmayer
- Sean Edging
- Kevin Young
- Gordon Howard
- Commissioner Anyeley Hallova
- Emma Land
- Anne Debbaut
- Palmer Mason

**Meeting Notes**

Meeting overview – HPS Structure and Enforcement and HB 2001 Large Cities “In areas” and Cottage Cluster standards

Update on Rulemaking process overview and timeline.

- Hallova HPS Strategies timeline
  - Cutoff of Aug 19<sup>th</sup> to provide RAC members time to submit last minute strategies

**Housing Production Strategy – Review and Enforcement**

- Purpose to discuss Review and Enforcement of HPS
- Overview of previous HPSTAC meeting from Mary Kyle
  - Agreement to better incorporate data by race to advance racial equity

- Discussion of data for those facing homelessness
- Local jurisdictions play a significant role in producing housing in terms of removing barrier and providing incentives
- Fair housing planning and HPS alignment with Consolidated Plans and Analysis of Impediments
- “Access to Opportunity” – Best approach to ensure local jurisdictions are providing access to opportunity, especially for communities who have been historically locked out.
- Reporting requirements – alignment with HB 4006 and need to collect data on tenure and affordability.
- HPS Structure – Up front need to link HNA and RHNA regarding housing types/affordability with gaps locally, and being intentional about who the market is not reaching.

### *Homelessness*

- Jesse: Data on homelessness [Review recording]
  - Drew: It is difficult to know where individuals are residing within a region. I agree with the changes.
  - Allan: Is there a system around COC or community activist organizations for sharing data on homelessness?
  - Jacen: The McKinney-Vento data will be great for rural communities if you apply the right factor based on assumed family size (not complicated).
  - Staff: The intent of the “blended” approach is to allow jurisdictions to use the best available data, with an understanding that it is often a barrier.
- Michelle: When thinking about equity and TAC recommendations on connecting HNAs – I am curious about how historic mix is often used to project future housing need. E.g. Southern Oregon uses existing low density patterns to project future housing, which may conflict with goal of providing more affordable options to people who have been traditionally locked out.
  - Staff: In lieu of revising HNA, we can ask cities specifically how their projected housing need actually serves contextualized need in the HPS.
- Ed: How are you addressing needs of those with disabilities? Did not see in the RHNA.
  - Staff: This would be part of the additional work that a City needs to do in terms of understanding full breadth of housing need. We have not incorporated this specific analysis as a requirement, but it is part of the fair housing analysis that they do in the later portion of the HPS on Fair and Equitable Housing.
- Debbie: We want jurisdictions to have sufficient capacity and resources left to focus on actually work on production. So, giving them flexibility on how they fulfill this requirement should help by not overburdening them with onerous reporting and analysis.
- Mary Kyle: Should we require that if the CCO and/or McKinney-Vento data is available for a jurisdiction, that they use it? And any other data they want?
  - Hallova: It seems that there should be a base requirement and allow the ability to go above and beyond.
  - Jesse: This is a good idea. Every school district in the state is required to collect McKinney-Vento data.



### *Engagement*

Update on making this section more specific and an outline of the structure.

- Debbie: Remind you to consult taxpayers in addition to consumers and producers
- Staff: SB 1051, which passed in 2017, revised the definition of "needed housing" in ORS 197.303 to specifically include the housing needs of low, very low, and extremely low income households. This requires a more detailed discussion and analysis of low income housing needs in HNAs since the bill passed.

### *Strategies and Tools*

Update on the role of a Housing Production Strategy in meeting needs over a 20-year planning period.

- Hallova: Tenure and income – wondering about standardizing these things. Income should be broken down in a specific way.
  - Staff: Tools, policies, and strategies will work to analyze affordability and tenure.
  - Hallova: Publicly-Subsidized (< 30% AMI), Affordable (30-80% AMI), Workforce (80-120% AMI), Market Rate (> 120% AMI)
  - Tim: Seems to be comprehensive
  - Hallova: When people collect building permits, jurisdictions would be able to receive data they don't normally have. I don't know if we can require that, but it would be nice to have that information.
    - Staff: Good to provide in best practices
    - Ellen: Providing that information at building permit would be welcome from builders. Support the idea of incorporating into best practice

### *Achieving Fair and Equitable Housing Outcomes*

Update on the updates to the five major questions.

- Hallova: If we use a defined term with a definition or geography that specifies what we mean to make implementation clear.
  - Stephanie: Part of the discussion was the federal definition doesn't fit the Oregon context, it was designed at a national level to apply to a lot of different areas. This discussion is how to think about opportunity as not one or two census tracts but opportunity throughout an entire city. The intent behind this is to open access to opportunity that people have been locked out of, which is not the same as the federal definition of opportunity areas. This will look different for different communities and populations (e.g. family with children have different priorities than older people)
- Allan: On opportunity, I am not sure if the definition was a federal designation but an OHCS index.
  - Staff: They are federally designated.
  - Allan: We should look into one definition for what "opportunity" means. Leaving this to a community does not always result in the best outcome. Additionally, we have not addressed areas of vulnerability (e.g. displacement) and looking into strategies that mitigate vulnerability (e.g. preserving naturally occurring affordable housing).

- Staff: DLCD is working with Dr. Bates and Zapata on developing a guidebook on anti-displacement and how to incorporate this into the HPS.
- Mary Kyle: As someone who is not fluent in these various definitions/uses of “opportunity,” it is hard to determine how to think about this and its applicability. Will this be clarified, eventually?
- Staff: Makes sense to move from defined terms to have jurisdictions think about what this means
- Mary Kyle: We think through areas as mutually exclusive, many of these are entirely overlapping in some ways. It seems like there are a lot of basic common denominators.
- Derrick: What is DLCD looking for in terms of local jurisdictions to produce? Is this shelter beds? A broader scope of safety net services? How does this fit within the construct of HB 2003 and what we can realistically do. On HB 4006 reporting – On gross units produced, not net. Does not capture units that are demolished/lost as part of the report. Consider including that consideration in the HPS.
  - Staff: Intent of the HPS is to recognize that Cities are one important player in the future production of housing and ensure they are putting a good faith effort towards encouraging production.
- Hallova: We all have similar goals in this section and are struggling with “what do you ask? And what do you get in return?” and how this will move the needle. A lot of these questions haven’t been asked, which result in not getting answers. We need to get answers first to determine how our approach works or doesn’t work.
  - Allan: It's also the point I've made that the current Goal 10 ecosystem hasn't been asking these types of questions.

### *Reporting*

Update on two-pronged reporting approach with annual number data and a mid-term report with reflection of what has taken place. Provide feedback through survey.

### *Review and Enforcement*

What is DLCD/LCDC’s role in reviewing Housing Production Strategies to ensure jurisdictions are making a good-faith effort in meeting identified housing need.

- Michelle: This is looking really great – the percentage of households that are severely rent burdened and linking that to houselessness. There was a 2018 Zillow report solidifying the link between rent burden and growth in houselessness. I see this as supporting houselessness data in this process, because cities can affect rent burden in significant ways.
- Shannon: What happens if there is a community within a city where there is active dissent to these principles like middle housing development. This is the concern in the back of my mind.
- Allan: It should not be a surprise that I'm supportive of the additional attributes item #2 about increased access to housing opportunity. Also, are the criteria listed here for review of the annual report, mid-term report or for the HPS report overall -- or all of them?
  - Staff: This portion would be for the overall report and the mid-point review would help us understand if a city is making advancements. The annual report would help identify progress.

- Tim: Curious as to why “severely rent burden” is called out over just “rent burdened”
  - Staff: This list is pulled from the list identified by the Legislature.
  - Tim: I raise it because we are seeing a lot of additional regular rent burden falling through the cracks of federal support.
- Joel: Curious to hear more from DLCDC on capacity to carry out and the goals/ideals identified in this RAC.
  - Staff: This is the goal of the enforcement conversation that we want to have. If something rises to the level of not meeting this, what is the process for remediation?
- Mark: Sandy Belson is on the HPSTAC, so I haven’t been tracking this. On the City perspective, how this is assessed is important – is there a consideration for a small city not having a lot of an impact. Will there be opportunity for a more regional consideration over isolated approaches.
  - Staff: It makes sense to not look at Springfield independently from Eugene. We have to take this context into consideration. It’s so unique that it’s difficult to write rules around this.
- Debbie: We support the two additional attributes that LCDC will address in its review of HPS sufficiency:
  1. The city's response to address the housing needs of those experiencing homelessness, and
  2. Increased access to housing opportunity including the elimination of barriers to flexible, fair and equitable housing options.
- Ed: Let me again raise my longstanding concern over the lack of standards for HNAs, which is the most significant element of the HPS. There simply aren’t those necessary criteria for evaluation. DLCDC has not sought review of HNAs in LUBA under the PAPA process. Is there any thought about getting HNAs to meet a common standard so that we can compare apples to apples in weighing the adequacy of a city HPS?
  - Allan: Agree with Ed. See my comment above about the Goal 10 ecosystem.
  - Mark: Agree with Ed also. HNA have not been upholding Goal 10 for a long time.
  - Staff: HNAs will need to address needs to low income, very low income, and extremely low income households. At the agency, we view that as heightened need for analysis and data in HNAs that come our way. Though this does not go fully to fix the issues with HNAs. With that said, it’s not clear that HB 2003 opens the ability to reconsider rules around HNAs. Certainly, we are interested in engaging in rulemaking to change divisions 7 and 8, but we are not likely to do that this biennium, but hopefully in the next biennium.
  - Hallova: If there was anything about the needs analysis that is most needed to be changed to address the comments that were made, is there something specific?
  - Staff: There are a few things we have discussed, including homelessness, housing underproduction, specialized housing need (ORS 197.303 provides a short list), etc. I think changes made by SB 1051 give heightened focus to low income. HNAs have gotten better, but the level of specificity will evolve. Local governments will be writing HNAs with HPS requirements in mind.
  - Jesse: there is also no standard or enforcement on engaging impacted folks. Despite 1051, a lot of cities continue to fall very short on this.

### *Enforcement*

How do we respond if the “good faith effort” does not follow through. HB 2003 lists potential tools for enforcement. What is the hard stop at where enforcement ends? Where should enforcement begin? Are there tiers to this enforcement?

- Mary Kyle: How do you know if a city is “failing” and what do you do about it? There’s a statement of objectives – assuming a City’s HPS meets enough of the criteria but some strategies don’t work out, can the Department build in timelines for fulfilling need and if not, fixing issues when they arise with requirements to address failure with guidance from the Department within a timeframe to remedy the issue? E.g. reliance on a funding measure to support housing development that fails.
  - Staff: This reopens the review process. Interested to see the City perspective
  - Mary Kyle: The idea is that remedial actions should be taken into account in the process.
- Shannon: Thinking ahead, how do we reward optimistic and realistic endeavors to do this work. If there’s a community that is resistant – they maybe wouldn’t have access to certain types of programs.
- Kimberli: While my area of expertise is not HPS - I do have a lot of experience with compliance. I support the tiered enforcement approach. Generally I've found 3 steps that work: 1. Notice /opportunity for voluntary compliance- additional tech assistance offered from DLCD; 2. Enhanced Review with Formal correction required (with a clear action and timeline defined); 3. Enforcement (financial or other consequence).
  - Staff: Hearing the need to distinguish between need for resources vs jurisdictions being reluctant to perform the work and each warrants separate responses.
- Joel: Along with Shannon on tiered approaches, there are times where a community has an inability to adopt an HPS versus implementing policy recommendations from a HPS. Maybe this is how we define different tiers of enforcement.
  - Allan: I would agree with Joel and also agree with the tiered approach. It also seems like DLCD is being asked or asking to assess the intent of a jurisdiction's intent, which is not an enviable position to be in, but agree that there is a need to evaluate intent to comply vs. resist the underlying concepts of the legislation. Agree with Ethan that there does need to be a difference in response from DLCD based on evaluating intent.
  - Ed: Supportive of tiered approach.
- Mary Kyle: Because strategies can be more lofty, we should build the assistance/reward/assistance into the process. On the tiers, except that step 1 of a notice/opportunity is that they must comply mandatorily.
  - Staff: Advanced review would likely be at a latter time. The first may need to be more collaborative.
  - Mary Kyle: This is about Goal 10 (and historic failure to meet it) and we are being collaborative. Building timelines with deadlines should be built in. Failure to meet a deadline should require notice.

### **Large and Metro Cities Model Code and Administrative Rules**

- Ellen Miller update from last MCTAC meeting: Greater and stronger focus on getting implementation right. The implementation is really important and we shouldn’t continue trends that have gotten us here today.

- “In areas” discussion – DLCD brought RAC approach to the TAC, it was quickly raised by cities that there were more options than what was in the memos. Resulted into the letter from LOC, which is the basis of conversation today. Proposal in TAC meeting (pg 75) is applicability written to provide local government the ability to determine the areas. There was a difficulty in getting a comprehensive way of defining parameters, so DLCD offered a process allowing the jurisdiction to include findings for areas “whittled away”. On protective measures: Provides degree of deference to cities. No longer considering numerical standards given arbitrary and exclusionary considerations.
- Feasibility research from ECONW (pg 57) – FAR will be considered as a development standard scaled to lot size. Parking – poses impacts on smaller lots.
- Townhouse development and design standards – No maximum limit on number of units and scaling lot size based on SFD lot size, and using lot size to regulate in lieu of minimum density. Discussed lot width and street frontage. Increase in total maximum height, up to three feet. FAR has been removed.

### *“In areas”*

Update on previous MCTAC and subsequent conversations on changing the approach to “in areas” in light of issues raised by cities and LOC to provide jurisdictions greater deference in deciding where to allow middle housing.

- Brian Martin on issues with “whittle away” approach and alternative ideas
  - Outline of perceived issue with the “whittle away” approach taking flexibility from jurisdictions
  - Alternative of providing distributed outcome of lots where housing could be allowed.
    - Define Expectations: Allow middle housing in areas on significant number of lots
    - Development rules: provide opportunities to reduce segregation through distributing middle housing
    - Doesn’t exclude wealthy neighborhoods
- Allan: Brian, could you say more about how adopting the "whittle away" strategy as part of the model code or minimum compliance would prevent cities from implanting other strategies? Wouldn't they be able to implement those strategies as long as those strategies met the minimum compliance? Are you saying some of the strategies currently being used and implemented don't meet the proposed minimum compliance?
  - Brian: Minimum compliance provisions take away the specific tools cities use. Minimum lot size. Maximum density. Etc.
  - Allan: Thanks, yes, sounds like Robert is also addressing some of those examples.
- Colin: I want to characterize this third approach as not further whittling away. E.g. Hillsboro has provided and embraced middle housing, and what we would like is the ability to do master planning to provide variety of housing. We believe in meeting the entire market segment of housing that people need.
- Mark: I didn’t catch the third approach. Agreement with opportunity for flexibility. I want to highlight Section 2 (5) – Regulations that do not individually or cumulatively discourage development of all middle housing types. I am not thinking about wholly excluding an area, but there may be areas where certain types are not permitted but others are.

- Hallova: I understand the issue described and problem that comes with something not being specified everywhere – this allows for wealthy and powerful to have greater control over the outcome. What is the risk that contributes to tools to “whittle away” and the bad outcomes?
  - Ted: I concur with Commissioner Hallova's question. Is there actually a big risk that triplexes and fourplexes would be built on small lots?
  - Allan: I also concur with Comm. Hallova's question. Agree with Comm. Hallova's statement there about considering the extreme example from those cities that may not be well-intentioned.
  - Colin: We do not want to pit neighborhood against neighborhood. We are looking to enable greenfield development, it makes it more difficult to plan for maximum infrastructure. Additionally, historical lot standards may warrant additional restrictions. We want flexibility to create these wonderful neighborhoods.
  - Hallova: It's important to keep in mind the jurisdictions that would seek to undermine, and thinking through the extremes are important.
  - Brian: It is hard to come up with examples, because we haven't done our project yet, but one of the dangers is with the “one size fits all” approach for the state. The other danger is how cities react to minimum compliance – there is one city considering reducing their minimum lot size for SFDs and now there is less incentive to do that.
  - Mark: One example, in Springfield we are looking to reduce minimum SFD lot size. Part of the answer needs to be “exceeding the authority of the legislation”. If we call cities “bad actors”, it provides ability to spear into this solution.
- Jesse: I think it is really important to be clear that there are cities with stakeholder process that are rooted in traditional groups of developers. I am concerned that when we add too much flexibility, we have an increase in segregation in the community. Being aware on this call that we have a lot of people with good intentions, and that may not reflect when we implement these in Southern Oregon. I am always concerned about that excess flexibility.
- Mary Kyle: I have the same question as Hallova. I think there is more than one way to read the legislation. I remember of the lofty things we said in the beginning of this RAC about how we were going to do things differently. I think that is consistent with the intent of HB 2001 to break down segregated patterns. I am not persuaded by notions of ways we've done minimum lot sizes, density, or PUDs. In every city, we have increasing segregation and income/race polarization. This isn't about “good actors” or “bad actors” – we know we have segregated housing practices on the ground. I think we need to be bolder. “One size fits all” doesn't resonate with me because if it doesn't work in a City, it doesn't get built. Deciding to avoid increasing flexibility is not in compliance with Goal 10. Why would we not allow all of these liberally through greenfield development, because this is the opportunity to size things right. Having a % doesn't get at all to location, which is the point of HB 2001. These middle housing types are not dense enough for high frequency transit. I appreciate that the cities in their letter wanting to promote racial equity and decrease exclusivity, but I haven't heard anything specific about that and to know when it's being achieved.
  - I agree with Mary Kyle and Comm Hallova on this point
  - Kim Armstrong (public): I am a little concerned that this group is putting a lot of energy into seeking to avoid some edge case terrible middle housing developments that are extremely unlikely to actually occur in reality and to MKs point, no community has

existing housing that equitably meets the needs of its entire community. Clearly the ways we have done this historically doesn't work.

- Kim Fitzgerald: Are there any thoughts yet from DLCD staff about clear metrics for this third alternative that could be established under minimum compliance?
- Allan: As Hallova talked about earlier, we can recognize that we are of similar mind and intent. I wonder if we need to admit to some degree that what we are talking about is jurisdictions without that good intent. We know that the flexibility and intent built in has created income and racial segregation. I wonder if we need to recognize the flexibility we are talking about could be used either way.
  - Brian: Flexibility has to be accompanied by expectations and accountability.
  - Kim (public): I think Alan's point is excellent— flexibility has historically been disproportionately used to reinforce racial inequities in housing, there doesn't seem to be any reason to allow some areas with additional incentives for middle housing, starting from "assumed to be allowed everywhere"/whittle away
  - Staff: The definition of "in areas" can't be a neighborhood judgement call or a decision about how a neighborhood should look based on how they looked in the past. If there are ways for a city to say that a housing type isn't going to work, they can show that they need those tools back on the table.
- Hallova: If we can hone in on the issues, maybe we can find solutions that provide additional flexibility.
  - Allan: The opposite is not being expressed here. The "whittle away" approach was developed to prevent that. Perhaps there is a way to incorporate flexibility into that approach.
  - Staff: The intent of the third option is to provide that mean to provide findings to put additional tools back on the table. So long as there is no exclusionary portion and does not cause unreasonable cost or delay. The safe harbor outlines the approach that is acceptable, but allowing a local jurisdiction to go beyond that with the burden of proof on them to demonstrate it doesn't result into unreasonable cost or delay.
  - Sarah: I agree with Allan's point too. In the zoning context, flexibility has almost ubiquitously been used to cause and sustain racial and economic segregation in communities everywhere—liberal, conservative, etc. Some flexibility makes sense, but flexibility with clear standards are needed to make the kind of bold change that HB 2001 requires.
  - Allan: Yes, agree with Sarah above. So we'd need to look pretty closely as to whether we might be able to implement minimum compliance standards with clear standards that respect the intent for substantive change that HB 2001 intended.
- Timothy: This particular amendment go against the goal and intent of HB 2001. I don't understand the context in which it is being proposed. I struggle to picture the worst case scenario. Allan made a good point is that additional flexibility creates additional loopholes for exclusive communities. As a neighborhood advocate, this does encourage exploitation. We have to be careful in creating "flexibility" because it creates more opportunity for bad actors to utilize exceptions to block housing. We should try to create a long lasting bill, adding additional exemptions and convoluting what we see will not make it long lasting. My solution: I am not sure that this is the solution that we should go down. I think there is a lot of reason why we are

here. It's possible the word "area" was omitted and not addressed. Here, we have the opportunity to set the precedent for the word "area". Zoning laws have been used to address segregation, but I don't see this proposal addressing that.

- Ed: I see this as the defining moment for the RAC. There is a danger that "flexibility" will be used to undermine House Bill 2001, and the "presumptive" approach is correct. I think the "leaving out" is exceptional and should be justified. The work of this committee is to provide housing opportunity, not flexibility for jurisdictions. It is a state sanctioned device to exclude and discriminate. If we come up with a solution that is puffy and vague, then HB 2001 means nothing and the work of this group is a sham. It seems to me that the people who came up with this alternative need to come up with concrete standards. If you want to get out from under that obligation, show us your standards.
  - Brian: HB2001 includes flexibility, and cities have suggested expectations DLCD should set to prevent jurisdictions from evading the law's intent.
- Martha: At Clackamas county, when we say "City" we mean large, unincorporated areas. It's flexibility with expectations and accountability. We are trying to find a balance of all jurisdictions affected. It is really to write code for bad actors, but you can't penalize actors who are doing good work. I want to thank DLCD for entertaining this conversation. It is going in the right direction, but there is an understanding that we do not want a "one size fits all" or something that creates the potential for abuse. Finding the balance will be important.
  - Allan: Yes, thank you, Martha and others. Agreed that there is a balance we need to figure out how to strike here.
- Colin: It's absolutely about performance. We are just working on this now and we will fly forward to find something that works. Zoning as a tool is a blunt force and blanket, and you can point it to bad outcomes. We are looking to flexibility to create better opportunities, not less housing.
  - Sarah: The third approach has been described today as an approach that will allow cities to produce more middle housing and affordable housing in areas that traditionally excluded it. I have to admit I'm still not understanding how a presumptive approach is problematic given that goal stated today (by Brian and others, I think).
  - Mary Kyle: What are the concrete metrics by which residents and the public can understand, and DLCD can measure, whether "expectations" are met and the intent of HB 2001 is fulfilled? These words are still way too vague - "flexibility," "better communities," etc... are not it.
  - Brian: I'd suggest people start with the LOC letter and the letter on page 126 of the RAC packet. The concepts need additional details and specifics, but cities are willing to help make things more specific. Also, it is not hard to measure whether, as applied, a city's development code allows middle housing in a city and where.
  - Ed: No Brian, those are no standards. A vague opposition to segregation is not enough. Where is your standard in "Every jurisdiction would be expected to allow middle housing in a way that promotes racial equity and reduces historic segregation by race, ethnicity and income by providing the opportunity for a wider range of housing types to be built in areas zoned for residential use that allow detached single family dwellings." Where is your standard when you say that the state should establish standards. What are YOUR standards. You don't have them and should not expect us to consider what is



not before us. When you do have something, we can consider it, but don't leave us to the tender mercies of "flexibility" without a standard that is real, rather than aspirational.

- Jesse: Brian, we sit in meetings with a mayor who believes the city does not need to comply with goal 10. When confronted about segregation, he told us "if people can't afford to live here, there's cheap housing in the mid-west." We know that he will not comply if he is given the flexibility to do so. We can measure the lack of compliance but short of a lawsuit, the metric has no enforcement.
- Jesse: I think we need to be clear that meaningful accountability is extremely weak outside of the NWern corner of the state. If we increase flexibility with accountability, we need to make sure that accountability can be upheld in more rural and more removed metro communities.
  - Allan: Yes, thank you, Jesse. I think we often forget how different things potentially really are outside of the metro/urban areas.

### *Cottage Cluster Standards*

Update on Cottage Cluster standards proposed in the LCMCMC. Context surrounding the intent behind developing code language around cottage clusters – develop a reasonable, off-the-shelf description of cottage cluster development and allow jurisdictions to define cottage clusters.

- Mark: My concern is ownership opportunity. I would push to come up with some kind of safe harbor language that could be integrated that could lead the way for somebody to easily integrate.
  - Staff: i.e. provide a modular option for fee-simple ownership
  - Mark: At the back of the packet is a letter from Spevak advocating for this and notes that it's a major obstacle to not allow fee-simple options because it is preferred and summarizes the consequence is that the product becomes a rental product. One of the biggest parts of our housing strategy is to increase ownership opportunities.
  - Mary Kyle: I like Mark's modular suggestion for cottage clusters.
- Hallova: The only type of cluster I attempted to do this, I needed to attach these (two-story) structures to the townhomes. Because of minimum setbacks, I was not able to pull it off.
- Hope: To expand on Commissioner Hallova's example, creating the cottage cluster inside of a townhouse project, the goal was to create four permanently affordable housing units. There were zoning complications that made it difficult to execute in a market rate project. I would prefer to not see additional limitations at all – there are plenty that already exist. With regard to parking, garages, etc. I would prefer not to see any additional limitations. I would try to make sure local jurisdictions couldn't further encumber projects like the Commissioner mentioned.
- Mary Kyle: I agree with Hope, on the 900 SF – it is defined as the footprint which could allow for two stories. They should be allowed to be attached or detached. We should err on making these more likely to be built.
  - Staff: That's typically what the market bears – two stories makes sense. We wouldn't want to create a situation where these clusters become so large that they don't serve the intended income groups.
- Hallova: Trying to be affordable at \$300,000 - \$350,000

Next steps and LCDDC upcoming meetings.

**Middle Housing Model Code Technical Advisory Committee (MCTAC) Meeting #8**  
**August 4, 2020; 9am – 12pm**  
**Zoom Virtual Meeting**

**Key Insights Summary**

*Large and Metro Cities Model Code* – TAC members offered the following suggestions for the Model Code:

*Cottage Clusters* – TAC members offered several suggestions to ensure that standards do not limit cottage cluster development, including through the application of building footprint, setback, cottage orientation, parking, and common courtyard standards.

*Townhouses* – One core issue that was raised was the relationship between garage, setback, and height standards and whether they enable a jurisdiction to functionally require two parking spaces through a tandem configuration.

*Plexes* – TAC members raised consideration of adjusting several standards to reduce unreasonable cost or delay, including addition of a 0.9 FAR for 5,000 – 10,000 SF minimum lot size and lowering setback upper limits to ten feet.

*Administrative Rules: Minimum Compliance* – TAC members offered the following feedback for minimum compliance provisions:

*Cottage Clusters* – The minimum compliance standards should provide flexibility for cities that develop land division standards. Similarly, it should provide the ability for cities to regulate utility service, as these development types can get complicated with shared utilities. Certain standards, including building footprint, lot size, setbacks, and lot coverage should ensure that standards do not fully restrict cottage cluster development. Similarly, standards such as maximum unit size, attached cluster configurations, and minimum/maximum units per cluster standards should be clarified in rule. Options to develop more flexible standards that allow for quality cottage cluster designs is a core element that should be reflected in rule.

*Townhouses* – Similar to the issue in the Model Code, there are questions regarding the interaction between garage, setback, and height provisions. Additionally, there is question about the interaction between the minimum lot size and maximum density minimum compliance provisions.

*Plexes* – There is disagreement about the appropriate minimum lot size for plexes, with housing advocates expressing concern about the exclusion of smaller lots from plex development and representatives of local jurisdictions preferring a higher required minimum lot size.

*Conversions* – One key point is that the minimum compliance standards should include provisions that better incentivize the retention of existing structures, either through internal conversion of or additions to existing single-family detached dwellings. One core recommendation is not requiring additional parking for sites that retain existing structures.

*Administrative Rules: “In Areas” and Alternative Standards* – TAC members offered the following feedback for minimum compliance provisions:

- How urban, unincorporated counties will apply ORS 195.065 to determine areas with “sufficient urban services”
- How or if areas with high slopes would be precluded from development, given existing issues with the metric
- Clarifying “existing alternative standards” including the “substantial production” of middle housing test
- Increased parameters around how a city can determine “unreasonable cost or delay”
- Clarify expectations of the agency in relation to how cities make the case for “alternative standards”
- Adjusting the equity test language to better connect the analysis to housing choice and opportunity and ensure that the approach shifts from “do no harm” to “undo harm”

## Meeting Notes

### **Participants**

- Alexis Biddle
- Anna Slatinsky (for Brian Martin)
- Ellen Miller
- Heather Richards
- Hope Beraka
- Jeremy Rogers
- Jerry Lidz
- Kaarin Knudson
- Kimberli Fitzgerald
- Kol Peterson
- Mark Rust
- Martha Fritzie
- Mary Kyle McCurdy
- Pauline Hardie
- Peter Keyes
- Sarah Adams-Schoen
- Susan King
- Ted Reid

### **Public**

- Ariel Nelson
- David Martineau
- Erik Olson
- Jason Yaich
- Karlockert
- Laura Kelly
- Mary Piper
- Sophie McGinley

### **Staff/Consultants**

- Ethan Stuckmayer
- Robert Mansolillo
- Sean Edging
- Samuel Garcia
- Kevin Young
- Gordon Howard
- Palmer Mason
- Emma Land
- Anne Debbaut
- Matt Hastie
- Kate Rogers

## **Cottage Cluster Model Code**

### *Definitions*

- Mark – Difficulty building in land division process – leaving this open for local jurisdictions is important. If there's a way to provide guidance for cities that consider land division in the standards. Almost like "modifiers" to the Model Code. A menu of things that should be considered.
- Anna – Around legal structure is really around utility service. One of the more challenging aspects of this development is determining how to provide utility service in a way that is efficient and that ownership patterns can change over time. If a cluster is created on a single lot with shared utilities – untangling this is extremely challenging. If not done properly, there can be significant disputes around utility service when it's not resolved.
- Kol – Two questions – 1) under minimum compliance, it's permissible to allow cottage clusters to have a greater than 900 ft footprint? Would HB 2001 compel them to reduce this footprint and 2) If a city allowed for attached or detached cottages, would that be permissible? If out of compliance, would the whole MC apply?
  - Consultant – Legislature defined as detached and no greater than 900 SF, OAR would need to be consistent with that.
  - Staff – Nothing in the section precludes a local jurisdiction allowing housing in an attached configuration. It just may need to be in a different use category. On MC

application, we did clarify if a city is non-compliant, only the housing type out of compliance would apply the MC.

- Mark – On footprint size, the 900 SF shouldn't include a garage. My thinking is a scenario with detached clustered garages provided. Would you have to associate a dwelling unit with a garage.

### *Development Standards*

- Mark – if we don't have a minimum number of units, we have issues with overlap with plexes. In the draft code for Springfield, we had five units to avoid overlap. I would support there not being a maximum. On density, there shouldn't be a maximum. I have advocated for this on other middle housing types, but this is more based on a form-based code.
- Anna – Lot size, I would advocate on viewing cottage clusters through some type of courtyard component. We treat the type as something that is okay to reserve for lots that don't have the same size. Particularly if the idea is to include a minimum number of cottages. Fitting in all of the components on a small site seems like a stretch. If the point is to not limit the density but including a lot of shared amenities, it will be more space intensive. On orientation, these are a bit too rigid and should be more flexible.
  - Consultant – What would the lot size be? We recognize that the practical lot size will be greater, but we need to be able to tie this to the zone.
  - Anna – It is okay to have lots that are larger than other housing types. I don't have a specific number, because I don't have an analysis of this. Fitting all of these components will require more space.
- Kol – Applaud setback requirements. I recommend applying these same setback requirements for other housing types. On unit size, I prefer option three, which would provide the most affordable form of cluster development.
- Kaarin – I agree with Mark on density. On the possibility of having an average footprint or unit size made me wonder about variations in height allowed. The bungalow court comes to mind as an example – I am wondering about maximum height issues with footprint and lot coverage being adjusted.
  - Consultant – Putting lot coverage would make the administration of these standards difficult.
  - Staff – There's overlap with a lot coverage standard and courtyard standard. We ultimately get to a de facto lot coverage standard.
- Pauline – On setbacks, I'd recommend 20 ft for garages.
- Martha – Mark mentioned building footprint definition. Don't include garages or accessory structures. On OARs with the number of units – under applicability, it says large cities may apply numerical standards to middle housing, then it says it must apply between 5-8. Confused about the numbers.
  - Staff – On the number of units, we struggled writing this. The question is “what is the minimum number of cottages that a city can allow?” What is the right minimum? We've decided that a minimum of 5 would create parity with plexes and that up to 8 prevent cities from imposing additional courtyard requirements for a smaller number of units.
  - Consultant – If parking was clustered, it would not be included in the square footage of the cottages.

- Martha – On maximum unit size, while I am all for flexibility and that it's enticing to have an average. At time of building, it's easy to regulate but more difficult as additions come in, because you have to look back at average unit size. It would be easier to implement a maximum unit size.
- Anna – On courtyards, sites that are irregular or not square or sites that cannot have cottages cluster around a courtyard. I understand not having requirements that are too rigid. One way to address this is to be permissive as to what "clustered" means, allowing access to the shared courtyard (not requiring frontage) and that the courtyard is sized based on number of units. It is rash to assume lots will be rectangular.
  - Consultant – We discuss this further in the design standards.
- Peter – Interaction between courtyard and parking design/requirements. If parking can't be within the front or side setback, it's saying parking has to be in the middle of the site which isn't feasible. It's difficult to regulate building requirements in code and design of outdoor space. I am concerned about the size of the courtyard – we will get designers solving numerical constraints rather than designing good courtyards. When we talk courtyard design, we exclude parking. "Woonerf" a living street with outdoor area where cars can park throughout. Requiring lawns is not contextually appropriate in the PNW, where the area is unusable 7 months out of the year. Rigid requirements may create nice looking courtyards that aren't very usable.

#### *Off-Street Parking and Design Standards*

- Staff – We have left minimum compliance, and design standards, we have left this up to cities to define.
  - Peter – Even though it is in within the Model Code. There are issues with parking being on the edge or rear. Rear access especially can demand a lot of space.
  - Consultant – The intent is to have a set of reasonable, implementable standards that a local jurisdiction can pull from.
- Pauline – Worked with developers to tinker with cottage code in Bend. Developers provided a lot of feedback about what doesn't work. One is the setbacks along perimeter (reduced to 5 ft). There was a cottage development in Sisters providing garages with street access, which wouldn't be allowed under this code.
- Anna – Following up on Peter's comment on courtyard design, I spent a month in LA with my 85 year old father-in-law who has trouble walking. Being able to park close to his house is important. Given that this unit type can serve that demographic, so thinking through how requirements might impact people with limited mobility is important. Allowing for flexibility for having parking and pick-up/drop off space is valuable. Maybe there is a limited number of parking spaces allowed. On site planning, the more components are restricted, the more complicated the math gets and limits the practical size to build these developments.
- Jerry – It would be very helpful to have schematic diagrams. I've commented on other housing types that off-street parking is a bad idea; it is especially bad here because it uses up street frontage.
  - Consultant – On graphic, we are creating some but were hesitant to send out. This will be helpful.

- Kol – For off-street parking, I support 2a, similar to waiving off-street requirements for ADUs. For the few cottage clusters I've seen, the issue has been lot coverage standards. I don't know how to write a code to address that. I strongly support the existing structures provision.
  - Consultant – We are avoiding lot coverage standards in the MC and would conflict with other standards.
  - Kol – Would the cities' underlying standards apply?
  - Consultant – They would not.
- Peter – Maybe we can look at things that have been designed to build back (e.g. Portland cottage design challenge in 2007). The first prize winner violates all of the requirements here. <https://www.portland.gov/sites/default/files/2020-01/courtyard.pdf>
  - Staff – This highlights the challenge of developing a set of unified standards. The hope is that through the OARs, we leave open the possibility for jurisdictions to create different avenues for good design.
- Mark – I would recommend option 2 for off-street parking under cottage spaces. Consider limited on-street to just frontage spaces. I think parking should be provided additional flexibility would be beneficial. On community buildings, does this belong in the Model Code or just minimum compliance. On parking design d), it includes garages as part of the footprint, which it shouldn't be. I am supportive of no lot coverage requirements.
  - Consultant – Community buildings are a typical feature, so we want to ensure that it is allowed and sometimes it is used as a guest house, in which a size limitation is appropriate.
- Peter – I appreciate that this is just the Model Code and jurisdictions have the ability to write their own standards. We are getting into how complicated this is and the likely scenario is that people will just adopt this code.

### Townhouses

- Mark – Question on off-street parking. In terms of allowing a jurisdiction to require a garage, is that allowed here? For minimum compliance, it talks about not requiring more than one off-street parking space. If they require a garage and a setback of 20 ft. Does this prohibit townhouses?
  - Staff – This also ties into building height. We will ensure this is coordinated within the OARs.
- Anna – On garages, if there is a driveway of a certain depth, does this de facto require an additional parking space. We don't want a 5 ft setback because of functional conflicts (parking in right-of-way). If there is a driveway in front of a garage, the minimum is typically driven by this. On prohibition on garages, I am concerned that in areas where the focus is creating pedestrian-friendly environment. One way to do this is to require enclosed off-street parking spaces, I am worried about a prohibition creating an unappealing situation where cities can't discourage surface parking lots.
  - Consultant – On setbacks, Brian had raised this but we should take another look at this. On prohibition of garages, one of the points of the legislation is these code requirements not result in significant added cost or delay for middle housing. We think about it in comparison to other housing units, and it has a significant cost on the construction of the unit.

- Kol – In Model Code, townhouses require one space per unit. Is it possible to reduce this to 0.6 per unit in line with other housing types.
  - Consultant – it’s tougher with townhome developments because each unit is on its own lot. The only way to make that work is either a shared lot or one space on each lot.
- Pauline – Voice support for option 1 on driveway approach, which provides greater flexibility.
- Mark – On driveway/access diagrams, page 120 of the packet for improvable alleys in the guise of plexes. Could this diagram be similar to others related to townhomes? What does “improvable alley” mean?
  - Consultant – The “improvable” provision was in an earlier draft of the code and later eliminated. Beyond that, the references to standards relate to these Model Code provisions but may not have totally caught up.
- Kaarin: This is back with townhouses and the Design Standard addition that Matt said was added because of my feedback: Each townhouse must include at least one of the following on at least one street-facing facade: ... f. A covered entryway with a minimum depth of 4 feet, or ... I would change the above to 3’ depth. That aligns to the other standards and makes more sense structurally.

### Tri- and Quadplexes

- Mary Kyle – On minimum compliance for minimum lot size. I think that the wording is confused. I would prefer to keep minimum compliance the same as the Model Code. The way it’s written will enable cities to say you can “only” have plexes on these large lots, and you won’t see them required to be allowed on 5000 SF lots. On Springfield’s issue, is to say they must be allowed on 5000 SF lots.
  - Staff – What we are saying is that if the SFD lot size is less than 5000, a city could allow plexes on smaller lots, but that is the “breaking point”. It should be required to allow it on 5000. The memo shows that it is a perfectly feasible option.
  - Mary Kyle – The key is requiring the lot size.
- Mark – I agree with Mary Kyle that there’s a need for clarity. The word “may” throws it off. This isn’t only Springfield’s concern. I know Bend has expressed a similar concern with allowing small lots for cottages. My comment is more about the numbers. On the legislation, it effectively requires doubling the density on duplexes. In my mind, the 5000 and 7000 should be 7000 and 9000. It puts it more on a level playing field with other middle housing types.
- Jerry – I generally agree with concern about density, but I like the numbers in the OAR. Making the different middle housing types comparable is nice but not the goal. On FAR, the key term there is “site area”.
  - Consultant – It’s essentially the lot area. We may need it in definitions, but there are things we don’t define in here to avoid conflicting with local jurisdiction code.
- Kol – In FAR standards, there is a cliff event created between 5000 and 5001 SF lots. We would recommend a threshold between 5000 and 10,000 SF lot that is 0.9. For minimum lot size, I agree with MKM’s comment. I would argue it should be the same as SFD in the same zone, but I have the same concerns. On setbacks, ECONW analysis suggested setbacks will be onerous, so we need to reduce rear (20’ to 10’) and side yard setbacks. On parking, I like the minimum compliance, but conversions should make clear that preservation of a unit with added units also



is exempted. Additional off-street parking is typically a poison pill. We want to reward actors who are preserving an existing structure.

- Consultant – We can revise FAR standards. On the last comment, we will adjust conversion standards.
- Peter – I am concerned about whether this ignores unit size. When we look at our housing need, we need a lot of small units. I am concerned this wastes a lot of potential for smaller lots. We have designed one building from SFD to a 16-plex. We should regulate form and FAR, rather than triggering additional standards based on unit count. This would allow people to preclude historic examples. This is a backdoor for people to find a loophole to essentially not allow this type of housing.
- Martha – I would comment about language in minimum lot or parcel size. It needs clarification and answers as to whether the numbers are correct. It's overly complicated. You are saying that the minimum lot size is 5000 or 7000 SF. 1) Not all jurisdictions that comply with this are Portland and 2) I am an advocate for on-site parking. Keeping off-street parking the way they are is reasonable. When talking about minimum lot size, in our county, you have a minimum for the subdivision. When talking through this, I assume you mean plex on a lot. Are you saying that you don't have to allow it in a zoning district that has smaller lot sizes?
- Anna – Martha did a good job articulating on clarity. I want to point out that the use of minimum lot size is setting up a perverse incentive for jurisdictions that are worried about putting a lot of plexes on an individual lot. Because it's tied to the SFD lot, it sets up a scenario who wish to limit middle housing can do so by manipulating the SFD lot size. I want to emphasize that jurisdictions have the ability to use more tools to achieve the objective of getting more middle housing, it may not be the greatest thing to rely on lot size rules. It may be better to look at outcomes and look at ways to allow cities to be more fine grained. I am okay with scaling applicability plexes based on lot size, but I think it is more appropriate to have a smaller lot size that allows all housing types if there is additional flexibility to take a fine grained flexible approach.
- Heather – I want to echo Martha. I appreciate the thoughtfulness on minimum lot size discussions. It's important to remember that these apply to smaller cities. I am concerned about tying plexes to SFD. I am comfortable with 5000 and 7000 parameters. On Mark, he is representing all of our cities.

#### **OAR Chapter 660, Division 046**

##### *"In areas"*

- Martha – On large city applicability, the connection to duplexes, in tying this to the standards for Medium Cities, it never says the large city has to do these. It should change to "local government". On general applicability, lands outside of a UGB should not apply. I notice "large city" lumps incorporated urban counties in ORS 196.095. What does this mean? As a county with these areas, we are not sure what this means.
  - Staff – The language as drafted here really ties this to large cities. We have lumped counties into large cities. ORS 195.065 defines "urban services" portion. The sufficiency of those is undefined by the ORS. We can have a conversation with the counties about what this means.

- Peter – I am wondering about the limitations based on slope and why this is called out separately for middle housing than SFD housing in a similar location.
  - Staff – Part of the reason this is included is administrative rules related to “buildable lands” which exclude lands with slopes above 25%.
  - Peter – We’re discussing two different things. The BLI precludes sites above a certain slope because they are probably not buildable, but this is a rough calculation and is very different than saying you cannot build on high sloped lands. We shouldn’t take this shorthand and use it to justify exclusions. Don’t give exclusionary jurisdictions an easy out.
- Mary Kyle – On “may limit or preclude” for goal-protected lands, which is a very broad category and includes lands that don’t have anything inherent that preclude the development of a plex. Specifically, historic districts. Additionally, there are lands where higher types could be allowed without degrading the resource.
- Martha – I think there is inconsistency with Goal 5 language on this, but it sounds like you will be going back to revisit this.

#### Minimum Compliance

- Curious about 1,500 SF standard for townhouses. It seems like significantly additional density. This essentially requires jurisdictions to allow for 29 units per acre?
  - Staff – there are density standards that would restrict it further.
- Kol – In this OAR, it seems that lot coverage standards for cottage clusters do apply, whereas previous conversation indicates it does not.
  - Staff – Both are technically correct. The MC restricts lot coverage, but minimum compliance allows it up to what applies to an SFD in the same zone.
- Pauline – Want to echo Martha on townhome lots. In our very low density zones, we allow townhomes on 2-4 units per acre. Would we treat townhomes as the same in each zone, or is there a difference between zones.

#### Alternative Standards

- Anna – This is a section that has some good elements and things that need work. Generally speaking, the idea that large cities want to exclude middle housing misstates what cities want to do. We want to find ways to allow it that work best for the particular area we talk about. The term “exclude” makes the assumption that the intent is exclusionary. On existing standards, we do want to look at this. I am concerned about defining “substantial production”. We should be able to apply this to new alternative standards. On unreasonable cost or delay, but not the unit of analysis. If there’s a lot where plexes are not allowed, the delay is permanent. There needs to be more about what unreasonable cost or delay is. Specific language under 2.b.A., I don’t think maintenance is reasonable. The proportionality test is good. The tricky thing from local jurisdictions is these don’t give a clear path for jurisdictions to be confident that their approach meets these criteria. The concerns that a jurisdiction may have is pretty important given the possibility of legal challenge. On equity, A through D are important things but we are using housing type as a proxy for these things. We can’t control who lives in these and how they are used. While we can use data sources to understand how well a city is doing in promoting

development of middle housing in areas that are wealthy or white. Can we explain how these would achieve the goal of housing variety.

- Jerry – League of Women Voters. I don't think that cities would be allowed to maintain a set of single-family dwellings where the cost or rent is low. As Anna commented, new multi-family development than smaller single-family development. I am worried about new development driving out existing affordable housing.
- Martha – I agree with Anna on c. The demonstration on inequitable distribution. Showing that within a jurisdiction that whatever the rules are allow for an even distribution throughout different types of neighborhoods. It's a good analysis if we can pin that down. On 2.a. I am not sure what this means.
  - Staff – This is to ensure that the issue cannot be resolved through form-based measures.
  - Martha – Are you saying you can apply for alternative standards to bulk, size and shape?
- Mary Kyle – First, the proportionality is confusing because the proportionality of cumulative time and cost. The legislation is clear that it wants to increase the provision of housing. Second, on subsection c. on inequitable distribution. This is written as “do no harm”, and the purpose of the statute is to “undo harm”. What we want to see as opposed to what we do not want to see? Third, looking at allowing cities to allow existing standards is incorrect in terms of measuring it against the purpose of the statute. It's not just numbers. It's about allowing it in many more locations. Only looking at the amount already allowed in areas is the wrong measurement for equivalence.
- Mark – I share concerns with Anna and Martha. As a supplemental, there was a letter from Brian. In my mind, the biggest picture issue is it doesn't do what the legislation intended. It is supposed to allow jurisdictions to tailor housing types to different areas. I have concerns with sub 1, because “substantial production” is vague. Also, what does “existing alternative standards” mean? If this is a month before the deadline, can we use those?
- Martha – I agree with Mark. I really want to thank you for being responsive to these concerns.

Next Steps

**Housing Production Strategy Technical Advisory Committee (HPSTAC) Meeting #7**  
**August 6, 2020; 9 am – 12 pm**  
**Zoom Virtual Meeting**

***Key Insights Summary***

*Reporting, Feedback, and Information Sharing* – TAC members provided suggestions on how to improve the draft administrative rule language to ensure that members of the public, especially people who have traditionally not been included in the process, have a meaningful opportunity to provide feedback on submitted Housing Production Strategy reports. Additionally, there is significant interest from TAC members to ensure there will be some mechanism that ensures information sharing between jurisdictions, such as an annual report the agency completes.

*Enforcement* – TAC members recognize the needed balance between ensuring enforcement provisions have sufficient substance to ensure achievement of results without putting too strenuous of a burden on local governments. Mostly, TAC members agree the structure does this, but should provide greater clarity on review criteria, timeframe, and how escalations are triggered to ensure a more clear and expedient enforcement process. Additionally, review and enforcement should occur through a holistic lens that also considers what existing programs or policies local jurisdictions employ to facilitate housing production.

*Transportation and Climate Change* – TAC members have raised a clearer need to connect housing production with climate change and greenhouse gas emission reduction efforts, specifically ensuring access to housing in mixed-use, walkable, and transit served areas.

*Fair and Equitable Housing Outcomes* – TAC members noted that the recent federal repeal of the Affirmatively Furthering Fair Housing rule does not obviate the need to address fair housing in the Housing Production Strategy; in fact, the repeal further solidifies the need to incorporate it into the statewide housing planning framework. Members suggested adding language to better clarify the meaning of “gentrification and displacement” and to specifically address housing needs for people with disabilities.

*Housing Choice* – TAC members suggested language to refine the “Access to Opportunity” question by shifting the focus to providing “Housing Choice” for communities that have historically been locked out of opportunity. Members specified that housing choice is defined by access to new or existing housing that is located in neighborhoods with high-quality, community amenities, schooling, employment and business opportunities, and is a healthy and safe environment.

**Attendees:****TAC Members:**

1. Alison McIntosh
2. Allan Lazo
3. Andree Tremoulet
4. Ariel Nelson
5. Brian Shelton-Kelley
6. Chris Pryor
7. Dan Riordan
8. Deb Meihoff
9. Diane Linn
10. Kim Travis
11. Jes Larson
12. Mary Kyle McCurdy
13. Miranda Bateschell
14. Miranda Mishan
15. Nancy Donovan
16. Sandy Belson
17. Shannon Vilhauer
18. Stephanie Jennings
19. Tom Armstrong

**Public:**

1. Ed Sullivan
2. John Schmidt
3. Karen Perl Fox
4. Kyle Macadam
5. Laura Weigal
6. Terra Wilcoxson

**Staff/LCDC:**

1. Ethan Stuckmayer
2. Casaria Taylor
3. Samuel De Perio Garcia
4. Sean Edging
5. Robert Mansolillo
6. Kevin Young
7. Commissioner Hallova

**HPS Reporting and Review**

- Dr. Tremoulet – With the mid-term report, there doesn't seem to be an opportunity for the public to review and comment before they are reviewed by staff. It seems that there's an opportunity to set up an advisory committee, which I applaud. I would suggest the OARs include some sort of process to allow the public to comment.
  - Staff – These reports will be a public document and notification seems like the key piece to ensure the public can provide comment and be aware. We are trying to work through what this will look like.
  - Dr. Tremoulet – It would be great if the rules had a statement that “staff will operationalize a process for providing copies of the report to parties who indicate interest”
  - Staff – We can reference to the notification requirement provision
  - Allan – I agree with Andree. Is there a mechanical issue about these being part of the PAPAs process? Maybe it's in defining these as plan amendments?
- Diane – The production of housing, rental or ownership, feels like it needs to be pulled to the top. The other pieces are really just strategies, which are part of that. I keep coming back to “what are we trying to do?” which is produce more housing.
- Shannon – I am hoping for an opportunity for best practice sharing and celebration. Maybe this is something that LOC can pick up?
  - Staff – Agreed. How do we put something like this in rule?
  - Shannon – I understand LOC and Oregon mayors convene annually for training. This may be a good opportunity. Some sort of basic communication back to people who

submitted the report would be helpful. I would strongly encourage that kind of training, webinar, or information sharing to get information between practitioners.

- Sandy – In response to those that want to follow the process; each jurisdiction must provide notice to anybody that has asked for that notice. That will go out to anybody that expresses interest.
  - Staff – Yes, the disconnect is including the noticing requirement for the mid-term reporting.
- Stephanie – Earlier, you were developing a table of strategies. Now it seems that the reporting requirement is just a narrative, is this correct?
  - Staff – It will be a requirement to show what strategies are chosen.
  - Stephanie – Are you all providing a table of strategies?
  - Staff – Yes, this will be part of the initial HPS work. The mid-term will be a report on the plan of action and schedule adopted.
  - Stephanie – I haven't seen this table of strategies. It would be nice to have a final review and comment
  - Staff – We will send it after the meeting in the survey link.
- Sandy – In response to the information sharing, I am wondering if it would be appropriate to add a subsection 9 to rule 0055 stating that DLCD (maybe in conjunction with OHCS) that the department provides an annual summary of adopted strategies, including a summary and analysis of how effective that strategy is.
  - Staff – These seems to make a lot of sense.
  - Sandy – If LOC or DLCD wanted to organize a conference, they could use that as a basis. That would go beyond what goes into rule, but the rule just includes a base report.
- Allan – If we maintain a process that allows people to express interest, it leaves out a lot of people who aren't familiar with this process. This is an opportunity to provide that access. Should we link this to the engagement process? We know a lot of folks are burdened by production or lack of access to production. It would be easy to continue business as usual, but we lose the opportunity to reform those systems.
- Andree – I want to encourage staff to think more broadly about how to keep people up to date. It would be helpful if as part of the report, the City did a simple sum of units that have been produced based on House Bill 4006. It would be useful if there was a check on whether the elements in place have been used to produce housing. We don't need to tie it to a number.
- Miranda – I want to second Sandy's recommendation and add that as the state sees aggregated information in terms of what is or isn't working, there is the ability for the state to help in identifying new conversations to be had at the state level. A lot of times we end up with financial incentives or new statutory changes to move the needle. Having this type of information provides an opportunity to identify new state strategies to address common barriers.
- Stephanie – under section 2 on HPS reporting, cities must provide a plan for addressing identified need. I think this is awkward wording – I want to be clear that barriers to implementation are not within the cities' control, ensuring there's an opportunity to identify barriers and clarify that language. It's a bit of a run-on sentence, clarify whether they are related or separate.
  - Staff – Intent to explain circumstances and ensure need is addressed.

## Enforcement

- Mary Kyle – I tried to come up with suggested wording for the OAR and it is challenging. What the OAR is lacking are timeframes for notification, reaching agreement and an overall timeframe for the full process, otherwise, this process could drag on and nothing is accomplished.
  - Staff – Agreed. Incorporating timeframes to the extent practicable will be important.
- Staff – Specific question: There should be both carrots and sticks in this enforcement process. If a city is not able to participate, they should be able to receive some resources to fulfill obligations. Did we achieve this?
  - Stephanie – This will need a year or two of implementation to assess whether it was successful.
  - Staff – The ongoing review and reflection on how to assess the effectiveness of rules/
  - Mary Kyle – Agree with Stephanie to build a short-term look back and continue to look. The Department doesn't have many enforcement tools. The hope is that other agencies that will be able to ensure HB 2003 is implemented. I would hope there are more creative carrots and sticks between agencies that can be brought to ensure HB 2003 implementation.
- Miranda – Inevitably you have situations that arise that can put other priorities on the backburner, but this process seems sufficiently flexible to allow cities to articulate those to the state and amend timelines in the report.
- Diane – The tricky part, “Does it have enough substance and teeth to achieve what we are trying to?” without putting too much pressure on cities. We need a vision to gauge how successful this process is. It will be incumbent on state staff to be clear that there is an expectation that housing will be developed. We cannot allow reports to be submitted that are technically in compliance but don't achieve housing production.
- Sandy – On midterm reporting, my understanding is that cities are reporting on how they've done implementing strategies. My question is what the references in number 4 in review ties into this and how this would be enforced.
  - Staff – The review of the initial HPS is similar to the mid-term review, in that we would try to take the lens 0055(3) and achieving fair and equitable housing production to see where a city is in meeting all of these factors.
  - Sandy – The items in 0055(3) would be updated and they would look at more recent data that the city provided a few years ago? I'm thinking this mid-term is just ensuring that we are making progress.
  - Staff – It's not an explicit review of every line item in (3), but rather a review of whether the city is achieving implementation and outcomes. (3) is really the framework for looking at the initial, mid-cycle review, and HB 4006 reporting all together.
  - Miranda – I am more confused now that I was before. I understood that this section was about the actual HPS. I don't read 0055 to be the mid-term report. Providing more clarification would be helpful. I agree with Sandy's observation that we might be doing a reassessment of all of those things. If the state reviews it when the HPS was first submitted, that wouldn't be reviewed again. I wonder if the review focuses on where to where the progress is being made.
  - Staff – The mid-term reporting includes a reference to the 0055(3) criteria.
  - Sandy – I would want my strategy implementation based on what I said what I do rather than the criteria in 0055(3). I don't think there should be a reference back.
- Stephanie – I want to be clear that an HPS can incorporate things that a jurisdiction is doing as well as new things. I think it's important to make that clear in these rules. The existing strategies

establish a baseline of what they've already implemented. A lot of these strategies require staff time to continue to implement.

- Commissioner Hallova – It's good to know what people are doing now. They could come and say what they plan to do, it could be the status quo. This should be clear.
- Shannon - Here's an idea for this section: Regarding Stephanie's comment regarding the housing production standards matrix, I realized that I've been making an assumption that the city must submit an outcome matrix for each strategy selected. Then, I made the further assumption that an update of the status of each strategy would be provided at each reported period--using this same outcome matrix. Is this not the case? Thanks for your help. I don't need to speak at this time and can include this feedback in the post-meeting survey, too.
- Shannon – For each strategy, there would be an outcome matrix. Description, estimate, timeline, who is in charge, etc. My understanding is that the outcome matrix would be updated at each reporting period, so it would be a reflection on fair and equitable housing and an update of the matrix.
  - Staff – Both of these are captured. Sub (2) is the description of the city's progress on the HPS.
- Deb – On subsection (2), it implies that there is not an “in between” state if they've taken some actions. At the midterm, it's not just why it's not adopted but reporting on progress.
- Miranda – 0055(3) typo. I want to understand what “h.” means. How will this be defined?
  - Staff – This is a provision included in the bill. This is included to allow the commission to add criteria as priorities change.
  - Miranda – Would we understand what these are prior to submittal? Or does this allow other considerations to occur after submittal?
  - Staff – This would likely involve an amendment to rules to outline what the new criterion is.
  - Miranda – Would it be helpful to add that language? It's helpful for us to know this at the onset.
- Kim – I want to comment on Section 6.1 it references consultation with OHCS. I want to ensure that this is built into the rule language, which will provide an opportunity to look at that consultation role over time.
  - Staff – Agreed. That is an unfortunate omission. We will add that provision.
- Mary Kyle – This section asks cities to reflect on things, which is great, but they are not all captured in OAR. For example, page 43, one element for cities to reflect on is transportation made available to all residents. In OAR 0050(3) and 0055(3), I don't see this locational aspect captured in what you want to report on. I recommend including an analysis of percentage of new housing that could be located by type and income in specific areas like near transit or in compact, mixed-use neighborhoods. This is captured in ODOT's plan and DLCDC's climate plan. It's consistent with fair housing law and what we want to achieve as part of this work. This could be broken down by type and percentage, but how those relate to opportunities for low-income, communities of color, etc. for the things we are striving to achieve. I think there need to be metrics in the OAR.
  - Commissioner Hallova – I have provided feedback that the location/transportation question needs to have greater link to what we are asking for. The recommendation is aggregated in a certain document?
  - Mary Kyle – The ODOT document has benchmarks, including land use and transportation, for achieving climate change reduction goals.
  - Hallova – Let's be explicit about the ODOT benchmarks.



- Mary Kyle – At a minimum, we should have locational factors tracked in OARs and put percentages in.
- Staff – We need to workshop the questions that we have talked about. The questions are incorporated into rule language.
- Mary Kyle – The metrics in 3.h. have to reflect this. We go part of the way.
- Tremoulet – We have talked about adding in the mid-term report a chart including the sum of HB 4006 reports. One suggestion is to add to the 4006 reports on an annual basis and mid-term report, the number or percentage of units that meet the two criteria that Mary Kyle stated (in mixed use neighborhoods, within ½ mile of transit). That would help quantify whether production is going in the direction that land use laws might allow.
  - Staff – Follow-up question is whether cities have that information readily available.
  - Sandy – I think it would be easy to report on housing produced based on proximity. What is more challenging is that would involve a lot of assumptions about how many units you can achieve in each zoning designation. It may end up being less useful.
  - Mary Kyle – I am not trying to ask cities to forecast, but clearly there is a need for upzoning in these types of areas. ODOT’s report indicates that we essentially need to double these to meet climate goals. ODOT has assessed this (20%) and it needs to increase to 30%, which is half of new housing.
  - Miranda - If language is added, there will need to be specific definitions to things like "compact development" - if that is done, I would request sending that out to the group for review.
  - Commissioner Hallova – I knew the location and opportunity issue would be the hardest to address. The location and opportunity are a bit disconnected from housing production strategies. HPS is much more than zoning – it includes resources, incentives, barriers, etc. Since this is about HPS, how can this be rephrased to ensure these are allocated geographically to ensure you are reaching targets set by ODOT’s GHG targets.
  - Tom – I am in between Mary Kyle and Sandy. The focus is on that zoning capacity within those areas, which is straightforward. Projecting units over 20 years is very complicated given the assumptions inherent. The more it can focus on zoning capacity is more achievable for cities.
  - Hallova – This goes beyond just zoning.
  - Stephanie – This is a complex question. Mary Kyle said that all communities should be areas of opportunity. I want to ensure that we are not perpetuating disparities through these rules. When we talk about mixed-use areas, it’s a bit of a chicken or egg. If you say you have to put housing into mixed-use areas, these often have lower income communities which impact redevelopment and displacement. Also, communities are creating new mixed-use communities. I want to ensure we are thinking about this both ways. In North Eugene, it used to be farmland and is now a lot of housing, business, transportation, etc. The framing would focus on existing mixed-use, not supporting the development of new mixed-use areas or expanding opportunities into low-density SF housing.
  - Tom – I disagree. In PDX, we have encouraged affordable housing in high opportunity areas and encourage bringing opportunity to low-income areas. These are in different measures. The way I read this is a city could have a production strategy looks at both sides.
  - Mary Kyle – This is “yes and”. There are good things wanting to be achieved in this section and the locational aspects are not reflected in OAR sufficiently. I chose transportation, but Hallova, Tom, and Stephanie have raised others. I think it is perfectly

- okay to think about things on the ground now and anticipated in the future. The key is that we need metrics. If the zoning isn't there, the rest doesn't happen. I know that we don't have adequate densities in mixed-use, walkable, transit served areas. We know we need zoning that better reflects locational aspects. There isn't a "magic number", you definitely need the other tools. It may be in today's or tomorrow's mixed use areas.
- Sandy – On access to opportunity, this is a Housing Production Strategy. I would suggest adding words on housing in this section.
    - Hallova – I agree. This wasn't grounded in housing or strategies.
  - Hallova – I think transportation and opportunity need to be rewritten to grounded in housing. "How is the city selecting Housing Production Strategies to meet the greenhouse gas emission targets set by the Oregon Department of Transportation (ODOT) to ensure that new housing is centered on mixed walkable neighborhoods and a quarter mile of transportation?"
    - "How is the city selecting Housing Production Strategies to meet the greenhouse gas emission targets set by the Oregon Department of Transportation (ODOT) to ensure that new housing is centered on mixed walkable neighborhoods and a quarter mile of transportation and that this housing is made available to all residents, including protected classes identified in Federal and Oregon State Fair Housing Law."
  - Staff – I do want to point out that the intro to sub 4 indicates how selected strategies achieve equitable outcomes in regard to the following factors.
  - Hallova – This will link what we are trying to achieve better.
  - Staff – Linking this with climate is a newer concept. We will continue workshopping this and bringing this back to the RAC. We will provide additional opportunity for review.

## HPS Structure

### *Contextualized Housing Need*

- Stephanie – Changes look good. Access to plans and analyses that have already created or identified needs. Having this in the recommended column, specifically Consolidated Plans, AIs, and other reports available to jurisdictions within the state.
- Dr. Tremoulet – Better integrating and pointing out housing for people with disabilities. I know it's included under fair housing, but because it affects the construction and accessibility of housing.

### *Engagement*

- Kim – Does it make sense to include federally-recognized tribal governments, where applicable?
- Stephanie – I don't think that engagement gives enough guidance to look at Consolidated Plans or AIs. Pointing jurisdictions to raw data is not great, because many don't have capacity. Pointing them to existing analyses would help them align. There may be plans/analyses that you could list there.
- Nancy – On housing providers, what's an "infrastructure bureau"
  - Staff – Those are just "service providers"
  - Nancy – Is this defined elsewhere? It's not clear to me.
  - Staff – Not defined elsewhere in this division. The intent is to engage the organizations that provide services to that housing. If that needs an OAR reference, we can do that.

### *Production Strategies*

- Dr. Tremoulet – I’ve added strategies for fair housing. Since there are questions that deal with access and equity. I wanted a read as to whether that is a good idea or not.
  - Hallova –Struggled but it is important to address, but decided to include them with notes. Some strategies are not available in the state.

### *Fair and Equitable Housing Outcomes*

- Dr. Tremoulet – On the repeal of AFFH, it was done via issuing a rule. The rule issued did not go through the typical comment and publication process. I anticipate that there will be challenges to that change. I don’t think it would behoove us to change course now because 1) it’s not clear the new rule will be binding and 2) depending on the outcome of the upcoming election, things may change back. If AFFH is something that our state believes in, it is even more important now that we keep the language as-is and set a standard at the state level that pushes the federal standard higher. I recommend we hold steady.
  - Allan – The proposal is mechanical related to the analysis of impediments and fair housing. It doesn’t change the underlying AFFH concept – we just haven’t had interpretation/regulation of that until much later. The mechanics are what’s changing. We should keep the concepts intact. We may need to be careful in the references to plans required by jurisdictions right now.
  - Staff – We view this as new information rather than a change to rule.
- Dr Tremoulet – 1) Suggest adding language for people with disabilities just as we’ve pulled out people of color as a protected class. For example, there are three sections in the HPS that we include references to people with disabilities – contextualized housing need, after % of rent burdened households, including mobility, functional, ambulatory, intellectual, and mental disabilities. Under strategies for analysis of benefits and/or burdens, list people with disabilities. Refer to state and federal protected classes (reference ORS). In the mid-term report, add “how is the city facilitating access to opportunity for communities of color, low-income communities, communities with disabilities, etc.
- Hallova – I was having a hard time thinking through disabilities, as new housing is pretty strict with ADA accessibility. But it’s about more than building, it’s about the other tools (financial, incentives, etc.). I propose a rewrite to access to housing opportunity – Housing Choice: How is the city facilitating access to housing choice for communities of color, low-income communities, people with disabilities, and other communities that have historically been locked out of opportunities? Housing choice is defined by access to existing or new housing that is located in neighborhoods with high-quality schooling, community amenities, employment and business opportunities, and is a healthy and safe environment.
  - Tom – I advocate keeping commercial and employment there, I interpret commercial as access to commercial services, additionally there are ways to look at transportation connections to employment. I would encourage keeping this here.
  - Allan Lazo: Again, for the record, I agree with Comm. Hallova on this, and there might be value in looking at the methodology on opportunity mapping by Portland Housing Bureau in the link I included in chat to Ethan.
- Tremoulet – On housing for people with disabilities, it’s valuable to include that reference because sometimes housing is not just the new apartment, sometimes it’s an apartment built for people with special needs. May require being in a mixed-use place.

- Sandy – From previous surveys, a few called out “housing choice” instead of opportunity, this may address some of this – it may give them that option. To me, it’s more about choice and you have an option to access what you need.
  - Hallova – That’s the intent behind the word “access”.
  - Staff – We have run into lots of issues with the word “opportunity”. It may be worth using “housing choice” as a proxy.
- Nancy – Want to ensure we don’t repeat past race-based discriminatory location of housing.
  - Hallova – Commissioner Pearmine raised incorporating “public health outcomes” into fair and equitable housing outcomes. I feel that this could be incorporated within the housing choice portion.
  - Nancy – If they don’t do environmental reviews, how will they get at these issues?
  - Deb – Public health departments do Health Impact Analyses every 5 years for counties. Reference may be Community Health Assessments / Community Health Improvement Plans: <https://www.oregon.gov/oha/HPA/dsi-tc/Pages/chps-chp-progress-reports.aspx>
  - Hallova – Clearly, this creates new work, but we don’t want to create onerous tasks. Linking this to existing metrics would be more valuable than creating ambiguous or new requirements.
  - Stephanie – Any project with federal funding has to conduct an environmental review and OHA has a review process. Any subsidized housing goes through an environmental justice analysis. In market rate, it’s driven by finance as they are driven by risk. I would recommend when jurisdictions add land in a UGB, because it already requires some analysis.
  - Staff – We will incorporate this.
- Dan – On definitions, it would be helpful to include a definition for “gentrification and displacement” including physical and economic displacement.
  - Staff – Good addition. Please send some examples to pull from.

# HOUSING RULEMAKING ADVISORY COMMITTEE

## MEETING PACKET #9



**TO:** Housing Rulemaking Advisory Committee Members  
**FROM:** Ethan Stuckmayer, Senior Housing Planner  
**SUBJECT:** RAC Meeting #9 Discussion Worksheet

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Housing Rulemaking Advisory Committee Members,

In order to meet our ambitious timeline and schedule, meetings of the RAC will need to be a space for robust conversation and discussion about agenda items. In order to facilitate this type of discussion, we have pulled specific topics, questions, and decision points from the meeting packet into this central discussion worksheet document. The intent of this document is to mirror the flow of the discussion and agenda items and should be used to collect your thoughts, comments, questions, and concerns on specific points.

*As you review the meeting packet contents prior to our meeting, please use this worksheet to take down notes or to formulate your questions for the project team. Committee members will also be sent a link to a fillable version of this discussion worksheet as to collect additional questions or comments that may not have been expressed during the meeting.*

Thank you,



**Ethan Stuckmayer**

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**RAC Meeting Packet Item #6: HPS Update Memo**

[#1] People with Disabilities – Including an additional requirement to collect data for those living with disabilities under Contextualized Housing Need section assumes data from ACS is sufficient to understand the housing needs of those living with disabilities across jurisdictions. Are there any other data sources that can be collected across all jurisdictions that you feel would be valuable in better understanding the needs of this protected class?

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[#2] Reviewing the HPS and Mid-Cycle Reports – After reviewing the reporting criteria for HPS implementation is it clear what documentation will be required upon HPS Report submission and implementation, as well as the criteria that cities will be evaluated upon at each junction? If not, would you suggest any improvements to the language?

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[#3] General Comments on HPS OAR Amendments – The Housing Team, RAC, TAC, and LCDC have weighed heavily on the HPS Report structure, Reporting, Review, and Enforcement requirements the past several months. After reviewing the draft OARs, are there any major edits that need to be made prior to finalization of rulewriting?

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[#4] Ongoing Engagement – Interest has been expressed to continue an oversight structure in the form of a quarterly advisory committee, which would further facilitate the implementation of HPS Reports as rules are institutionalized and cities are tasked to adhere to the above

requirements. Are there any other structures that could be put into place going forward to ensure that implementation gaps are addressed in the process of HPS rollout?

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**RAC Meeting Packet Item #9: Crowdsourced List of Tools/Actions/Policies**

[#5] Tools – Do you have any additional Housing Production tools, actions, or policies that you would like to add to the list provided in your packet?

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**RAC Meeting Packet Item #10: Proposed OAR 660-008 Amendments Fiscal And Housing Impact Statements**

[#6] Fiscal and Housing Impact Statements – After review of the Fiscal and Housing Impact Statements for the amendments to OAR 660-008, do you feel it captures the depth and breadth of the impacts on affected stakeholders. If no, please provide specific instances where you feel more analysis is required.

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**RAC Meeting Packet Item #12: DRAFT Large and Metro Cities Model Code**

[#7] Final Model Code Comments – Please review the updated version of the Large and Metro Cities Model Code which includes Part 1 (duplex), Part 2 (triplex/quadplex), Part 3 (townhomes), and Part 4 (cottage clusters). Please provide any final comments you may have on any portion of this document.

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**RAC Meeting Packet Item #13: DRAFT Large and Metro Cities Preliminary Model Code Graphics**

[#8] Final Model Code Graphics Comments – Please review the updated versions of the Large and Metro Cities Model Code Graphics. Please provide any final comments you may have on any of the proposed graphics.

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**RAC Meeting Packet Item #14: DRAFT OAR 660-046 Amendments**

[#9] Minimum Compliance in Administrative Rules – Please review the updated middle housing minimum compliance provisions in the updated draft of Administrative Rules. Staff has developed minimum compliance provisions with an intent to both increase the availability of smaller, more affordable housing types and units while minimizing the need for local jurisdictions to opt for the “Third Lever” approach. Please provide specific comments on minimum compliance provisions to help us achieve this balance, with particular attention to provisions applicable to townhouses and cottage clusters.

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[#10] “In Areas” and “Alternative Standards” – Staff has developed an approach that seeks to balance the legislative intent to increase the availability of smaller, more affordable housing types with the legislative intent to ensure local jurisdictions have some discretion in determining the suitability of middle housing development in different areas. The draft “Third Lever” (660-046-240 Alternative Standards) approach is intended to establish a process in which a jurisdiction quantifies the impacts of regulations applicable to middle housing and



weigh the public interest served against the need for housing affordability and availability. Do you feel the proposed language strikes this balance? If not, please provide specific comments on these provisions to help us develop a fair process.

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**RAC Meeting Packet Item #15: Proposed OAR 660-046 Amendments Fiscal And Housing Impact Statements**

[#11] Fiscal and Housing Impact Statements – After review of the Fiscal and Housing Impact Statements for the amendments to OAR 660-046, do you feel it captures the depth and breadth of the impacts on affected stakeholders. If no, please provide specific instances where you feel more analysis is required.

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[#12] Additional Comments –Please provide any general or additional comments or feedback here.

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# HOUSING RULEMAKING ADVISORY COMMITTEE



## MEETING PACKET #9

**TO:** Housing Rulemaking Advisory Committee Members

**FROM:** Ethan Stuckmayer, Senior Housing Planner; Samuel De Perio Garcia, Housing Planner

**SUBJECT:** Housing Production Strategy OAR Update Memo

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Dear Rulemaking Advisory Committee Members,

Since the Committee last met, DLCD staff has released initial draft rules related to both Housing Production Strategy Report structure, as well as Reporting, Review, and Enforcement measures. These rules were first introduced to the Housing Production Strategy Technical Advisory Committee during their August 6 meeting, and will be inserted as an amendment to existing language in OAR 660-008, also known as the *Interpretation of Goal 10 Housing* division.

Staff have made changes to the draft rules based on comments and feedback received during the August 6 HPSTAC meeting. Following the RAC 9 meeting on August 18, these rules will also receive further refinement. The final proposed rules will be sent to the Secretary of State Office for noticing on or before August 28. These draft rules will be presented at the September 25 LCDC meeting, and, if needed, will undergo further discussion and refinement during a joint October 12<sup>th</sup> RAC/HPSTAC meeting.

As you read through the draft rules, consider that the goal for the OARs is to establish a standardized outline which jurisdictions can follow in drafting a Housing Production Strategy Report. This will ensure consistency of documents across cities for ease of comparison and evaluation. Furthermore, minimum requirements regarding reporting, review, and enforcement of both HPS/HNA adoption and implementation will need to be incorporated into the rulemaking process in order to enforce what is required through HB 2003.

The goal for this memo is to:

- 1) Present revisions to the draft OARs 660-008-0045 through OAR 660-008-0070 since first introduced at the last August 6 HPSTAC meeting.
- 2) Seek RAC approval of OAR 660-008-0045 through OAR 660-008-0070 prior to submittal to the Secretary of State Office on or before August 28

### **Definitions in OAR 660-008**

At the August 6 meeting there was sentiment to add further definitions to OAR 660-008, including the terms “gentrification” and “displacement”. For clarity in rule and stylistic purposes, the department instead revised respective sections where these terms appear to include “in-line” definitions or further

description of each term. Additionally, several terms used throughout the draft amendments to OAR 660-008 have existing common definitions either in elsewhere in Oregon Administrative Rule and Oregon Revised Statute, or as defined in the typical English dictionary.

### **660-008-0050 Housing Production Strategy Report Structure**

#### *Contextualization of Housing Need*

For the Housing Production Strategy Report Structure there were several sections that were updated following discussion at the August 6 HPSTAC meeting. At the HPSTAC meeting there was sentiment that those living with disabilities should also be included in this list, too. Under Contextualization of Housing Need in OAR 660-008-0050, the department added a new section (1)(h) which describes the housing needs for people with disabilities. The American Community Survey as part of the US Census provides the best available data across all cities for this type of demographic population. Section (1)(h) highlights the six categories of disabilities that are identified in the American Community Survey dataset.

**Question #1:** Including an additional requirement to collect data for those living with disabilities under Contextualized Housing Need section assumes data from ACS is sufficient to understand the housing needs of those living with disabilities across jurisdictions. Are there any other data sources that can be collected across all jurisdictions that you feel would be valuable in better understanding the needs of this protected class?

#### *Engagement*

Engagement of consumers of needed housing and housing providers who will build housing infrastructure are vital to choosing which production strategies to employ throughout the process. When it came to Engagement in OAR 660-008-0050, section (2), there was desire for further refinement of this process mentioned by committee members, especially articulation that concurrent engagement processes such as for Consolidated Plans or data gathering for Entitlement Communities, would also suffice for Engagement of the Housing Production Strategy Report process. In addition, requirements were further simplified in this section to reduce administrative burden on participating cities.

#### *Strategies to Meet Future Housing Need*

The department and the HPSTAC recommended minor changes to this section. Some revisions were made to provide further clarity. The department added a portion to subsection (E) which calls out the need for cities to analyze the benefits and burdens of a particular Housing Production Strategy on people with disabilities and other State and Federal protected classes.

#### *Achieving Fair and Equitable Housing Outcomes*

Rules written in OAR 660-008-0050 section (4) describe a set of questions that a city must reflect upon as part of a Housing Production Strategy Report. These questions will be based upon a city's ability to not only produce more housing, but produce more housing in a way that is more equitable with regards to housing location, affirmatively furthering fair housing principles, providing housing choice, providing for residents experiencing homelessness, wealth creation, and mitigating any future displacement.

After discussion with the August 6 HPSTAC there have been several notable revisions to these question. First, changing the title of the “Transportation” question to “Location of Housing” will better reflect placement of housing with regards to not just walkability and transit access, but will also include the idea that residents will be able to partake in compact, mixed neighborhoods that also support statewide greenhouse gas emission reduction targets. There was discussion at the HPSTAC meeting about how cities might incentivize housing to be produced within a quarter mile of transit lines. Ultimately, the department omitted this portion from the “location of housing” question in favor of more broadly applicable language that responds better to the statewide context while still ensuring that cities consider the impacts of housing production strategies on greenhouse gas emissions.

The title of the previously named “Access to Opportunity” question was revised to “Housing Choice” to eliminate confusion over the use of the word “opportunity”. The language in this question was further revised to include those living with disabilities.

Some minor language tweaks were made to the “Affordable Homeownership and Affordable Rental Housing” and “Gentrification, Displacement, and Housing Stability” questions for clarity and to provide “in-line” definitions for some terms.

### **660-008-0055 Review of Housing Production Strategy Reports**

As jurisdiction submit their Housing Production Strategy Reports on a scheduled basis, there was a desire by HPSTAC members that the reports, analysis, and strategies be readily available and open for review by the general public. As a result, many asked for an annual DLCD publication summarizing Housing Production Strategies that have been adopted across the state. They believed that this would help reinforce information-sharing between jurisdictions, as well as allow DLCD the ability to track how jurisdictions and regions are performing as a whole. This sentiment has been reflected in OAR 660-008-0055(9), stating that DLCD will provide an annual summary of housing production strategies adopted in that year.

### **660-008-0060 Reporting on Housing Production Strategy Implementation**

As cities are tasked to write their Housing Production Strategy Reports on a six or eight year cycle, DLCD staff will be tasked with evaluating these reports for accuracy and sufficiency based on several criteria listed in OAR 660-008-0055(3). However, during the August 6 meeting, HPSTAC members asked to clarify the requirements for mid-cycle review, as it was unclear whether the review criteria for mid-cycle reviews would be different from review criteria of HPS Report submission, and what submission requirements would be expected at each junction.

OARs have now been re-written in OAR-660-008-0060(3) through OAR 660-008-0060(6) to further clarify that at the mid-cycle period, cities will be asked to describe the efforts taken since the initial submittal of their Housing Production Strategy Report. This will include a reflection of which strategies the city has implemented to date and their relative efficacy. This will also include a description of the circumstances that the city experienced that has impeded their ability to adopt strategies on the timeline they had initially proposed in the Housing Production Strategy Report. The city must also reflect upon how they continue to advance Fair and Equitable Housing outcomes through implementation of the Housing Production Strategies by responding to the questions listed in OAR 660-008-0050(4). The department will then review this information to get a holistic view of a city’s progress towards meeting the criteria listed in OAR 660-008-0055(3).

**Question #2:** After reviewing the reporting criteria for HPS implementation is it clear what documentation will be required upon HPS Report submission and implementation, as well as the criteria that cities will be evaluated upon at each junction? If not, would you suggest any improvements to the language?

**660-008-0065 Non-Compliance in Adoption of Housing Capacity Analysis or Housing Production Strategy Report**

Enforcement actions will be reserved for instances when jurisdictions are consistently unable to provide submission of required documentation related to HPS Reporting, as well as when implementation of housing production strategies falls short. These enforcement measures are written in a tiered approach, to ensure DLCD staff support is prioritized, prior to any heavy-handed consequences. As this structure was presented to the August 6 HPSTAC meeting, committee members stated that there may be a need to also include timelines for each tier level, as well as an overall timeline for cities to undergo the entire process. Staff have discussed that though the need for timelines are necessary, it could vary widely between each city and there may be circumstances that make timely noticing or mitigation of a delinquency prohibitively difficult. As a result, OAR 660-008-0065(1) has added language to ensure that a city must notify DLCD of its inability to submit their Housing Needs Analysis (HNA) or HPS Report, within 20 days of the missed deadline. This timeline is functional only because cities are required to adopt HNAs or Housing Production Strategy Reports on an already established deadline. Cities are already required to reflect upon missed housing production strategy adoption timelines as part of the mid-cycle reporting. As such, it was impractical to define a timeline for notification of delinquencies as part of the OAR 660-008-0065.

**Question #3:** The Housing Team, RAC, TAC, and LCDC have weighed heavily on the HPS Report structure, Reporting, Review, and Enforcement requirements the past several months. After reviewing the draft OARs, are there any major edits that need to be made prior to finalization of rulewriting?

**Question #4:** Interest has been expressed to continue an oversight structure in the form of a quarterly advisory committee, which would further facilitate the implementation of HPS Reports as rules are institutionalized and cities are tasked to adhere to the above requirements. Are there any other structures that could be put into place going forward to ensure that implementation gaps are addressed in the process of HPS rollout?

# OAR 660-008 Amendments Incorporating Housing Production Strategy Requirements

Updated: August 11, 2020

*Note: Definitions provided here will be incorporated into the Definitions section already provided in OAR 660-008*

1. "Housing Production Strategy" means a single and specific tool, action, policy, or measure a city will be implementing to meet the housing needs described in an adopted Housing Needs Analysis. A housing production strategy is one component of a Housing Production Strategy Report.
2. "Producers of Needed Housing" means developers, builders, and service providers providing materials and funding needed to build housing. Housing Providers may include non-profit organizations or public entities.
3. "Consumers of Needed Housing" means any person who inhabits or is anticipated to inhabit Needed Housing, as defined in ORS 197.303.
4. "Housing Production Strategy Report" means the report cities are required to adopt within one year of their deadline to complete an updated Housing Needs Analysis, pursuant to OAR 660-008-0050. The housing production strategy report must contain, the following five sections, as described in OAR 660-008-0050
  - a. Contextualized Housing Needs
  - b. Engagement
  - c. Strategies to Meet Future Housing Need
  - d. Achieving Fair and Equitable Housing Outcomes
  - e. Conclusion
5. "Needed Housing" means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels, including at least 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.

## 660-008-0045 Housing Capacity Analysis Deadline

Metropolitan service districts and cities described in ORS 197.296 (2)(a)(B) and (10)(c)(B) shall demonstrate sufficient buildable lands as scheduled by the Commission.

1. The Department of Land Conservation and Development publishes the calendar of housing capacity analyses deadlines for cities identified under ORS 197.296 2(a) or 10(b) in Exhibit A.
2. The deadline for adoption of a housing capacity analysis in a given year is December 31st.
3. A city will be considered to have met its obligation to adopt a housing capacity analysis upon adoption by ordinance by the local government. A subsequent appeal of the housing capacity analysis will not be considered a failure to comply with the deadline provided in ORS 197.296 2(a) or 10(b).
4. Upon adoption of a housing capacity analysis, the subsequent deadline for a housing capacity analysis is as follows:
  - a. Eight years for cities that are not within a metropolitan service district; or
  - b. Six years for cities that are within a metropolitan service district.

5. If certified Population Estimate developed under ORS 195.033 and OAR 660-032-0020 and 0030 qualifies a previously exempt city, the city must comply with this section within two years of its qualification or the interval provided in Section 4, whichever is greater.

### 660-008-0050 Housing Production Strategy Report Structure

As provided in ORS 197.290 (2), a Housing Production Strategy Report must include a list of specific actions, including the adoption of measures and policies that the city shall undertake to promote development within the city to address a housing need identified under ORS 197.296 (6) for the most recent 20-year period described in the city's housing capacity analysis. At a minimum, this report must include the following components:

1. A contextualization of housing need – A Housing Production Strategy Report must incorporate and contextualize information from the most recent housing capacity analysis completed under ORS 197.296, to describe current and future housing needs in the context of population and market trends. At a minimum, this analysis must include:
  - a. Socio-economic and demographic trends of households living in existing needed housing;
    - A. The analysis must include a disaggregation of households living in existing needed housing by race and ethnicity
  - b. Measures already adopted by the city to promote the development of needed housing;
  - c. Market conditions affecting the provision of needed housing; and
  - d. Existing and expected barriers to the development of needed housing.
  - e. Other housing needs to respond to Department review under ORS 197.293 (2) including an estimate the number of people or households experiencing homelessness. Estimates must include, as available, the following data sources:
    - A. An estimate of regional housing need for people experiencing homelessness provided by the state or a regional or county entity
    - B. The applicable HUD Point-in-Time (PIT) count conducted by the Continuum of Care that the city is located within.
    - C. The applicable HUD Annual Homelessness Assessment Report (AHAR)
    - D. McKinney-Vento data for all school districts that overlap with the local jurisdiction
  - f. Percentage of Rent Burdened Households, as provided in OAR 813-112-0020.
  - g. Housing tenure, including rental and owner households.
  - h. **Housing needs for people with disabilities, including hearing, vision, cognitive, ambulatory, self-care difficulty, and independent living as provided in the applicable American Community Survey.**
  - i. A city may use the following data sources to further contextualize housing need for the purposes of this section:
    - A. The percentage of housing stock that is market rate or subsidized affordable
    - B. Units that have been permitted but not yet produced
    - C. Population groups that are not typically accounted for in a housing capacity analysis, including but not limited to college/university students or second homeowners
    - D. Redevelopment rates that impact the preservation of existing affordable market-rate units
    - E. Other data sources to refine housing need for those experiencing homelessness, including:
      - i. Data collected by local Coordinated Care Organizations (CCOs)
      - ii. Data collected by Community Action Agencies
      - iii. The capacity of existing emergency shelters
      - iv. Rental and homeowner vacancy rates
      - v. Change in gross or net property values or rent over time
      - vi. Qualitative data that illustrate specific needs of people experiencing homelessness
      - vii. Other local houseless population datasets

2. Engagement – A Housing Production Strategy Report must include a narrative summary of the process by which Consumers of Needed Housing and Producers of Needed Housing were engaged, especially engagement of under-represented communities. Engagement for a Housing Production Strategy may be conducted concurrent with other Housing Planning efforts within the jurisdiction, including but not limited to housing capacity analyses, Consolidated Plans for Community Development Block Grant Entitlement Communities, and public engagement for Severely Rent Burdened Communities **as defined in OAR 813-112-0010**. The narrative summary must include the following elements:
  - a. A list and description of who was engaged and why, including Consumers and Producers of Needed Housing;
  - b. **A summary** of feedback received from each stakeholder group;
  - c. A description of how the information from stakeholders influenced implementation of Housing Production Strategies **adopted by the City as provided in OAR 660-008-0050(3)**; and
  - d. An evaluation of how to improve engagement practices for future housing engagement efforts conducted by the city.
3. Strategies to Meet Future Housing Need – A Housing Production Strategy Report must identify a list of specific actions, measures, and policies to implement towards addressing housing needs for the next 20-year planning period. The strategies proposed by a city must collectively address the next 20-year housing need identified within the most recent housing capacity analysis developed under ORS 197.296 and contextualized within the report **as provided in OAR 660-008-0050(1)**. Strategies may be selected from the following categories:
  - a. Zoning, Planning, and Code Changes
  - b. Reduce Regulatory Impediments
  - c. Financial Incentives
  - d. Local, State, or Federal Financial Resources
  - e. Tax Exemption and Abatement
  - f. Land, Acquisition and Partnerships
  - g. Innovative Options
  - h. For each identified strategy, the Housing Production Strategy Report must include:
    - A. A description of the strategy chosen,
    - B. A timeline for adoption,
    - C. A timeline for implementation, and
    - D. An estimated magnitude of impact, including:
      - i. Housing Need addressed by the identified strategy by tenure and income;
      - ii. An estimate of the number of housing units that may be created through implementation of the identified strategy, if possible;
    - E. An analysis of the income and demographic populations that will receive benefit or burden from the strategy, including:
      - i. Low-income communities;
      - ii. Communities of color;
      - iii. People with disabilities; and**
      - iv. Other **State and Federal** protected classes.
    - F. Time frame over which the strategy is expected to impact Needed Housing.
  - i. A Housing Production Strategy Report may identify strategies including but not limited to strategies listed in the Housing Production Strategy Guidance for Cities published by the Department under Exhibit B.
4. Achieving Fair and Equitable Housing Outcomes – A Housing Production Strategy Report must include a narrative reflection summarizing how the selected Housing Production Strategies, in combination with other city actions, will achieve equitable outcomes with regard to the following factors:
  - ~~a-~~ **–Transportation-Location of Housing** - How the City is selecting Housing Production Strategies that help meet statewide greenhouse gas emission targets while creating mixed-use, walkable neighborhoods for all residents, including those part of State and Federal protected classes. **How the City is integrating**



~~statewide climate goals of carbon reduction with partnerships to ensure access to housing and transportation networks are available for all residents, including protected classes identified in Federal and Oregon State Fair Housing Law.~~

- b. Fair Housing - How the City is affirmatively furthering fair housing for all **State and Federal protected classes**. Affirmatively furthering fair housing means addressing disproportionate housing needs, patterns of integration and segregation, racially or ethnically concentrated areas of poverty, disparities in access to opportunity;
  - c. **Housing Choice** – How the City is facilitating **access to housing choice for communities of color, low-income communities, people with disabilities, and other State and Federal protected classes**. Housing choice includes access to existing or new housing that is located in neighborhoods with high-quality community amenities, schooling, employment and business opportunities, and a healthy and safe environment. ~~How the City is facilitating equal access to opportunity for communities of color, low-income communities, and other communities that have historically been locked out of opportunities? Access to opportunity includes access to high-quality employment and business opportunities, schooling, community amenities and services, and a healthy and safe environment;~~
  - d. Housing options for residents experiencing homelessness – How the City is enabling the provision of housing options for residents experiencing homelessness and how the City is partnering with other organizations to promote services that are needed to create permanent supportive housing (PSH) and other housing options for residents experiencing homelessness;
  - e. **Affordable Homeownership and Affordable Rental Housing** – How the City is creating opportunities, through housing production, to connect residents **with both rental housing that is affordable and homeownership that builds wealth, especially for communities that have been disproportionately impacted by past housing policies**; ~~How the city is creating opportunities, through production and connecting residents to housing, for both affordable rental housing and wealth creation via homeownership, especially for communities that have been historically locked out of these opportunities; and~~
  - f. **Gentrification, Displacement, and Housing stability** – How the City is increasing housing stability for residents and **mitigating the impacts of gentrification and the economic and physical displacement of existing residents resulting from investment or redevelopment**. ~~How the city is increasing housing stability for residents and mitigating gentrification and displacement, including economic and physical displacement, resulting from investment or redevelopment.~~
5. Conclusion: A Housing Production Strategy must include the following additional elements:
- a. Any opportunities, constraints, or negative externalities associated with adoption of the elements of proposed housing production strategies;
  - b. Actions necessary for the local government and other stakeholders to take in order to implement the proposed housing production strategy; and
  - c. Discussion of how the proposed actions, taken collectively, will increase housing options for underserved populations historically subject to disproportionate housing need.
  - g. If the Housing Production Strategy reports is the first produced under this division, it must include a description detailing how strategy implementation and progress will be measured;
  - h. Subsequent Housing Production Strategy reports must include a summary of strategies that have been adopted and implemented and a reflection on the efficacy of each implemented strategy;
  - i. A copy of the city's most recently completed survey to meet the requirements of HB 4006 and a copy of the ORS 197.178 report, which shows all permits applied for and accepted within the year;
  - j. A summary of housing needs that are not addressed by strategies in the report, including a description of other tools, strategies, or policies that were considered or implemented by the city to address that need.

### 660-008-0055 Review of Housing Production Strategy Reports

1. No later than 20 days after a city's adoption or amendment of a Housing Production Strategy Report under this division, a city must submit the adopted report or amended report to the Department of Land Conservation and Development.

2. The submission under subsection (1) of this section must include copies of:
  - a. The signed decision adopting the Housing Production Strategy Report or amended Report;
  - b. The text of the Housing Production Strategy Report **as provided in OAR 660-008-0050 and** any amendments to the most recent report submitted under this section;
  - c. A brief narrative summary of the Housing Production Strategy Report; and
  - d. The information reviewed and considered under subsection (3).
3. The Department of Land Conservation and Development shall review the accuracy and sufficiency of the Housing Production Strategy Report based upon the following criteria:
  - a. Unmet housing need as described in ORS 197.296(6):
  - b. Unmet housing need in proportion to the city's population:
  - c. Percentage of households identified as severely rent burdened;
  - d. Recent housing development;
  - e. Recent adoption of a housing production strategy or implementation of actions therein;
  - f. The city's response to address the housing needs of those experiencing homelessness;
  - g. Increased access to housing opportunity including the elimination of barriers to flexible, fair, and equitable housing options;
  - h. Other attributes that the Land Conservation and Development Commission considers relevant; and
  - i. Recent or frequent failure to address the metrics listed in the criteria in this subsection.
4. The Department of Land Conservation and Development shall, within 120 days after receiving the submission under subsection (1) of this section,
  - a. Approve the Housing Production Strategy Report;
  - b. Approve the Housing Production Strategy Report, subject to further review and actions under subsection (3); or
  - c. Remand the Housing Production Strategy Report for further modification as identified by the Department of Land Conservation and Development.
5. A determination by the Department of Land Conservation and Development under subsection (4) is not a land use decision and is final and not subject to appeal.
6. On the same day the city submits notice of the Housing Production Strategy Report or amended Report to the Department of Land Conservation and Development, the city must provide a notice to persons that participated in the proceedings that led to the adoption of the Housing Production Strategy Report and requested notice in writing.
7. Within 10 days of receipt of the submission under subsection (1), the Department of Land Conservation and Development must provide notice to persons described under ORS 197.615 (3)
8. Notices given under subsections (6) and (7) must state:
  - a. How and where materials described under subsection (2) may be freely obtained;
  - b. That comments on the Housing Production Strategy Report may be submitted to the Department of Land Conservation and Development within 45 days after the department has received the submission; and
  - c. That there is no further right of appeal.
9. **The Department will maintain an annual summary of proposed Housing Production Strategies included in reports submitted under subsection 2 and reports submitted under OAR 660-008-0060.**

### **660-008-0060 Reporting on Housing Production Strategy Implementation**

1. Cities required to adopt a Housing Production Strategy under OAR 660-008-0050, must submit a narrative report to the department for review and comment:
  - a. for cities that are within a metropolitan service district boundary, no later than December 31<sup>st</sup> three years after the Housing Production Strategy Report adoption; or

- b. for cities that are not within a metropolitan service district boundary, no later than December 31<sup>st</sup> four years after the Housing Production Strategy Report adoption.
2. The report a city submits per subsection (1), must include a summary of the actions already taken to implement the Strategies to Meet Future Housing Need adopted in the city's most recent Housing Production Strategy Report. If the city has not implemented Strategies to Meet Future Housing Need on the schedule adopted in their most recent Housing Production Strategy Report, the city must provide an explanation the circumstances or factors that posed a barrier to implementation and a plan for addressing the identified need that the strategy addressed.
3. **The report a city submits per subsection (1) must include a narrative reflection of the relative efficacy of implemented Strategies to Meet Future Housing Need adopted in the city's most recent Housing Production Strategy Report.**
4. The report a city submits per subsection (1), must include a narrative reflection of the actions taken in response to the questions identified in OAR 660-008-0050(4).
5. Upon submittal of the report developed under subsection 1, the Department will review the report for accuracy and sufficiency based upon the criteria in OAR 660-008-0055(3). **The Department may also consider reporting under Section 1(4), chapter 47, Oregon Laws 2018 as part of this review.**
6. Should the Department find the report submitted per subsection (1) does not substantially comply with the criteria in OAR 660-008-0055(3), the Department may take action identified in OAR 660-008-0065.

### **660-008-0065 Non-Compliance in Adoption of Housing Capacity Analysis or Housing Production Strategy Report**

The Department of Land Conservation and Development will review a city's housing capacity analysis and Housing Production Strategy Report for compliance with provisions in ORS 197.296 and this division. If the city does not sufficiently meet the criteria provided in ORS 197.296 or this division, the Department may engage with the city in one or more of the following actions:

1. If circumstances outside of the city's control will impede a city's ability to adopt a housing capacity analysis or Housing Production Strategy Report by the prescribed deadline, the city should notify the Department of the expected delinquency ~~with an identified time line for adoption within 20 days of the applicable deadline for a housing capacity analysis or Housing Production Strategy Report.~~ The department and the city may agree to remediation either through **development of a timeline for adoption**, enhanced review of documents, directed technical assistance to overcome the impediment as available, or other similar agreement.
2. If the city has not notified the department of an expected delinquency and the city does not submit a Housing Production Strategy Report for department review by the deadline provided in OAR 660-008-0050, the department may seek mitigation of the delinquency through an Intergovernmental Agreement outlining specific compliance actions on behalf of the city. The Intergovernmental Agreement may or may not include directed technical assistance or financial resources.
3. If the department and the city have entered into an Intergovernmental Agreement and the city, at the discretion of the department, has not sufficiently mitigated the identified delinquency, the department may remove the city from consideration of technical assistance or other financial resource awards.
4. If the city consistently or routinely does not adopt a housing capacity analysis or Housing Production Strategy Report as provided in this division, the department may petition the Land Conservation and Development Commission to act under ORS 197.319 to 197.335 to require the city to comply with ORS 197.295 to 197.314, this division, or statewide land use planning goals related to housing or urbanization.

### **660-008-0070 Non-Compliance in Adoption and Implementation of Strategies To Meet Future Need Identified in a Housing Production Strategy Report**

The Department of Land Conservation and Development will review a city's Housing Production Strategy Report and narrative reports pursuant to OAR 660-008-0060 based upon criteria provided in OAR 660-008-0055. If the city

does not sufficiently meet the criteria for review and submittal provided in OAR 660-008-0055, the Department may engage with the city in one or more of the following actions:

1. If circumstances outside of the city's control will impede a city's ability to implement one or more Strategies to Meet Future Housing in coherence with the time line adopted in the city's Housing Production Strategy Report, the city must notify the Department of the expected delinquency. The notice must identify specific actions or a combination of actions that the city is currently taking or will take to address the delinquency. This may include, but is not required to include, amendments to the Housing Production Strategy Report such that the city identifies a different action or combination of actions to address the specific housing need left unmet due to an impediment. The department and the city may agree to remediation either through enhanced review of the documents, directed technical assistance to overcome the impediment as available, or other similar agreement.
2. If the city has identified a plan to mitigate a delinquency either through notifying the department as provided in subsection (1) or through the narrative report required in OAR 660-008-0060, and the city, at the discretion of the department, does not take sufficient action to mitigate the identified delinquency, the department may seek mitigation through an Intergovernmental Agreement outlining specific compliance actions on behalf of the city. The Intergovernmental Agreement may or may not include directed technical assistance or financial resources.
3. If the department and the city have entered into an Intergovernmental Agreement and the city, at the discretion of the department, has not sufficiently mitigated the identified delinquency, the department may remove the city from consideration of technical assistance or financial resource awards.
4. If the department finds that the city consistently or routinely does not satisfy the criteria provided in OAR 660-008-0055 or this section, the department may petition the Land Conservation and Development Commission to act under ORS 197.319 to 197.335 to require the city to comply with ORS 197.295 to 197.314, this division, or statewide land use planning goals related to housing or urbanization.

# HOUSING RULEMAKING ADVISORY COMMITTEE

## MEETING PACKET #9



**TO:** Housing Rulemaking Advisory Committee Members  
**FROM:** Ethan Stuckmayer, Senior Housing Planner  
**SUBJECT:** HNA and HPS Timeline Graphic

Housing Rulemaking Advisory Committee Members,

Below is a graphic illustrating the timeline through which the various requirements of HB 2003 will flow. This is for to provide clarity to the process and is informational purposes. No discussion on this timeline is expected as part of the August 18 Rulemaking Advisory Committee meeting.

### Housing Needs Analysis (HNA) and Housing Production Strategy (HPS) Timeline



**Housing Production Strategies**  
**Real Estate Developer and Housing Experts Feedback - OPEN SOURCE DOCUMENT**

*DRAFT - August 11, 2020*

**FEEDBACK FOR THIS DOCUMENT HAS CONCLUDED; FINAL EDITS ARE IN PROGRESS.**  
**THIS IS NOW A VIEW ONLY DOCUMENT. THANK YOU FOR YOUR FEEDBACK.**

**Housing Strategy Guidance Document:**

To assist cities in the creation and drafting of their Housing Production Strategy Report in compliance to HB 2003, the Department of Land Conservation and Development (DLCD) will provide a guidance document of housing production strategies a jurisdiction could employ to facilitate housing production in their community. The document will contain a list of strategies assigned by categories. Each strategy will include a brief overview of its intent and purpose as well as a projection of its expected impact by housing tenure and by income bracket.

As the jurisdiction prepares a housing production strategy report, the jurisdiction would review the guidance document to select specific strategies that work best for their community and that address their identified Housing Needs. The jurisdiction would simply reference the strategy number when describing the adoption, implementation, and expected magnitude of impact of each strategy in their report. If the jurisdiction has a strategy that is not listed they would propose this under Category Z.

**Proposed Categories:**

The proposed categories contain tools, strategies, or policies that are intended to:

1. Reduce financial and regulatory impediments to develop Needed Housing
2. Create financial and regulatory incentives for development of Needed Housing
3. Provide access to local, state, and federal resources
4. Other innovative housing production strategies

Category A	Zoning and Code Changes	These are strategies that a jurisdiction can take to proactively encourage needed housing production through zoning and code modifications. These strategies may also include regulations to ensure housing goals are met.
Category B	Reduce Regulatory Impediments	These strategies address known impediments to providing needed housing. These include but are not limited to zoning, permitting, and infrastructure impediments.
Category C	Financial Incentives	These are a list of financial incentives that jurisdictions can give to developers to encourage them to produce needed housing.
Category D	Financial Resources	These are a list of resources or programs at the local, state and federal level that can provide money for housing projects. The majority of these resources are intended to provide money for affordable housing projects.
Category E	Tax Exemption and Abatement	These are a list of tax exemption and abatement programs that are intended to encourage developers to produce housing.
Category F	Land, Acquisition, Lease, and Partnerships	These are strategies that secure land for needed housing, unlock the value of land for housing, and/or create partnerships that will catalyze housing developments.
Category Z	Custom Options	Any other Housing Production Strategy not listed in Categories A through F that the jurisdiction wishes to implement will be outlined in this section and numbered accordingly.

**Equitable Outcomes Note:** Some of the strategies may not create an overall housing production increase however, they do increase or maintain housing for a specific affordability target or population.

**Caution Note:** Jurisdictions should be careful when picking strategies to ensure that housing strategies together in their aggregate do not work to suppress the overall supply of housing production.



Category A: Zoning and Code Changes					
#	Strategy	Description	Affordability Target	Tenure Target	Source (if available)
A1	Ensure Land Zoned for Higher Density is not Developed at Lower Densities	This strategy will work on establishing minimum density standards, updating development codes to prohibit new single-family detached housing in high density zones, and allow single-family detached homes in medium density zones only if they meet minimum density or maximum lot size requirements.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	Morrow County HNA, 2017
A2	Zoning Changes to Facilitate the Use of Lower-Cost Housing Types	In many cities, towns, and counties, changes to local zoning policies can help to facilitate the development of lower-cost housing types, such as Accessory Dwelling Units (ADU's), manufactured homes, multifamily housing, micro-units, or single-room occupancy developments. Changes to local zoning policies can also help to facilitate the development of safe overnight sheltering options for unhoused residents, such as Safe Park programs, Conestoga Hut Micro-shelters, sleeping pod micro-shelters, and others. To increase the likelihood the market can produce lower-cost housing types, it is important to make them allowable as of right in all locations and neighborhoods. If not, still provide flexibility in zoning code to still issue variance or conditional use permits that allow deviations from existing regulations on a case-by-case basis.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="https://www.localhousingsolutions.org/act/housing-policy-library/zoning-changes-to-facilitate-the-use-of-lower-cost-housing-types-overview/zoning-changes-to-facilitate-the-use-of-lower-cost-housing-types/">https://www.localhousingsolutions.org/act/housing-policy-library/zoning-changes-to-facilitate-the-use-of-lower-cost-housing-types-overview/zoning-changes-to-facilitate-the-use-of-lower-cost-housing-types/</a>  Mikaila Smith, CSWA Providence Better Outcomes thru Bridges Program 971-276-1040
A3	FAR, Density, or Height Bonuses for Affordable Housing	FAR, density, and height bonuses for affordable housing developments. Note: FAR/density bonuses do not work if there is not adequate height to make additional development feasible.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
A4	Housing Rehabilitation Codes	Housing rehabilitation codes (or rehab codes) are building codes designed to reduce the costs of renovating and rehabilitating existing buildings, thereby facilitating the continued availability and habitability of older rental housing and owner-occupied homes. This is especially helpful to facilitate conversion into multiplex housing.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="https://www.localhousingsolutions.org/act/housing-policy-library/housing-rehabilitation-codes-overview/">https://www.localhousingsolutions.org/act/housing-policy-library/housing-rehabilitation-codes-overview/</a>
A5	Code Provisions for ADUs	ADUs are smaller, ancillary dwelling units located on the same lot as a primary residence. They are typically complete dwellings with their own kitchen, bathroom and sleeping area. Given that ADUs are usually built by individual homeowners with limited experience or financial resources, code provisions can have a significant influence on the feasibility of their development and enable more widespread production. For example, easing occupancy requirements, allowing more ADUs on a lot, and expanding maximum size requirements. Certain building and development code regulations can inadvertently drive up ADU construction costs. More flexibility in siting, design, construction and lower fees are also needed to achieve feasibility in many cases.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="http://www.ci.the-dalles.or.us/sites/default/files/imported/public_docs/PDFs/the_dalles_housing_strategies_report_final.pdf">http://www.ci.the-dalles.or.us/sites/default/files/imported/public_docs/PDFs/the_dalles_housing_strategies_report_final.pdf</a>
A6	Broaden the Definition of Housing Type	Broaden the definition of "housing unit" to allow for more flexibility across use types. For example, SROs are not always allowed in certain residential zones. Including them in the definition of housing unit, or broadening the set of uses allowed across all residential districts, would allow for greater flexibility of housing	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	



		type.			
A7	Allow for Single Room Occupancy in Residential Zones	Allow for SRO, Adult Dorms, and Cohousing in all residential zones. Note: SROs may be favored due to their ability to serve more people for less cost; it is not always a better housing type for all populations. Considerations should be given to ADA accessibility when planning SROs.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
A8	Promote Cottage Cluster Housing	Cottage clusters are groups of relatively small homes typically oriented around shared common grounds with 4-14 homes typically between 1,000-1200 square feet in size. By further defining cottage cluster design and development standards, housing code can effectively address a predictable process for developers, and potentially encourage greater production for this housing type. Some examples may include: allowing for a wide range of sizes and attached/detached options for housing; not specifying ownership structure so that both renters/owners can live on the same cluster; ensuring that minimum site size, setbacks and building coverage requirements do not prohibit cottage cluster development on smaller lots; draft design requirements that ensure neighborhood compatibility, and efficient use of land, but are not so specific as to restrict the ability to adapt to varying neighborhood contexts. Other ideas include: uniformed codes, form-based codes, and allowing shared underground infrastructure when practical (e.g. sewer lines from each cottage can connect to one main that runs out to street, rather than 8 parallel lines out to street).	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of the Dalles Housing Strategy Report, April 2017
A9	Short-Term Rentals Regulations	Short-term rentals can be seen as an investment strategy for small investors, but can also remove rental housing supply from the market, in effect driving up rent from the local housing market. To avoid this effect, regulations can include definitions for various forms of short-term rentals, defining use, and occupancy standards, and even adding limits to the number of days that a short term rental can be in operation in order to mitigate their impact on the local housing market. Short Term Rental Regulation should begin with/include registration requirements for all short term rentals.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	Morrow County HNA, 2017
A10	Inclusionary Zoning	Requiring that a portion of the units within a market rate development be set aside as affordable housing. This tool will often be combined with property tax exemptions, fee waivers, or development bonuses to offset the cost of affordable housing units. Careful consideration should be employed when enacting inclusionary zoning. Note: A number of studies, including those analyzing the IZ Ordinance in Portland, have shown that IZ suppresses, rather than increases, the creation of new housing. Given that, if IZ is proposed, the financial components need to be calculated right to ensure that the inclusionary rate is not too high for the offsets provided and that overall housing production increases as a result.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
A11	Add Restrictive Covenants to Ensure Affordability	Adding restrictive covenants to ensure affordability over time at a certain income level for affordable housing developments. Restrictive covenants are usually placed on a property in exchange for a local or state government providing financial contribution to the project. These covenants work best over the short-term (up to 30 years); after that they become unable to accommodate changed circumstances.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	

A12	Align Lot Division Density with Zoning Density	Sometimes there are conflicting regulations between the density that is allowed by the zoning code versus the density that is allowed when lot division (for fee-simple lots) is considered. This can cause unintentional reductions in density, only caused by the fact that the developer would like to create for-sale housing on fee-simple lots. Ideally, the densities would be aligned, so there is not a density reduction between - condominium versus fee-simple developments.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
A13	FAR & Density Transfer Provisions	Enable and encourage Transfer of Development Rights (TDR) to maximize available Floor Area Ratio (FAR) provided public benefit (e.g. historic preservation & affordable housing) are attained and covenants ensure long term benefit. This strategy assumes that there are adequate, realistic, and relatively easy receiving areas for TRDs.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
A14	Re-examine Requirements for Ground-floor Retail/Commercial	Critically re-assess requirements for ground floor retail; lively streetscape is a worthy goal, but not for every street. Jurisdictions can inadvertently impose massive costs on developers by requiring ground floor retail and commercial space even when it's unlikely to be fully occupied or generate nearly enough revenue to pay for itself. Ground floor uses should be driven by market demand; with residential use more beneficial to meet needed housing in some cases (eg. affordable housing).	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Bend
A15	Encourage Diverse Housing Types in High-Opportunity Neighborhoods	Enable developments that support multiple unit sizes, types, and tenure options to promote diverse housing options in high-opportunity neighborhoods. With a goal of reversing historical patterns of racial, ethnic, cultural and socio-economic exclusion. Use an analysis of "Access to Opportunity" to decide which zones or locations (via zoning overlay) to determine where this is appropriate. Goal is to promote access to opportunity (e.g., high performing schools, multiple transportation options, services, etc.) to households with a range of backgrounds and incomes. The jurisdiction could pare this strategy with a robust program of incentives (e.g. deeper financial incentives, greater range of housing types, more regulatory waivers, etc.) to be made available in these areas than in other areas of the city.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
A16	Manufactured Housing Community Preservation Zone	Change the zoning of existing manufactured housing communities to be preserved to a single-use zone that only allows manufactured housing communities. Consider lifting restrictions of stick-built homes in cooperatively-owned and other manufactured homes.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Portland <a href="http://opb-imgserve-production.s3-website-us-west-2.amazonaws.com/original/901_exhibit_b_recommended_draft_1534960268770.pdf">http://opb-imgserve-production.s3-website-us-west-2.amazonaws.com/original/901_exhibit_b_recommended_draft_1534960268770.pdf</a>
A17	Small Dwelling Unit Developments	Allow a land division where small lots or parcels are created below the standard lot/parcel size for dwelling units that are limited in size. Calculate density differently for the dwelling units due to their limited size. Density example: a. Dwelling units 600 square feet or smaller: 0.25 of a dwelling unit. b. Dwelling units 601 to 1,200 square feet: 0.50 of a dwelling unit.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Bend
A18	Increase Density near Transit Stations and Regional Multi-use Trails	Adopt increased density codes by right near transit stations, with higher levels of density near high capacity/high frequency stations, then stepping back into residential areas. Automatically upzone based on transportation corridor classifications; meaning wider ROWs get more flexibility in land use by right. This will add some flexibility for new transit stops, including bus stops. Be careful not to word the language so that people incorrectly assume that the density can only	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	

		come after the transit has been put in place.			
A19	High Density Requirements for to-be-Annexed Land	Requiring a certain portion of to-be-annexed land to include a percentage of high density. Be careful that this strategy is not used as a way for low density areas in high-infrastructure locations to shirk responsibility to upzone.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Newberg
A20	Pre-Approved Plan Sets for Middle Housing Typologies	Providing a pre-approved set of plans for middle housing typologies (ex. Cottage clusters, townhomes, and SROs). The plans would be highly-efficient, designed for constrained lots and low cost solutions, and would allow for streamlined permitting. This would help attract developers that typically develop only single-family housing to get into the missing middle housing production. Consider partnering with a university, design institution, or developing a competition to produce plans.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
A21	Pre-Approved Plan Sets for ADUs	Provide a pre-approved set of plans for ADU designs (6-10 sizes/configurations) that, if chosen by a developer/owner, would lead to automatic approvals and reduced permitting schedule. Plans would reduce the need for architectural costs and reduce barriers to entry.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
A22	Mixed Housing Types in Planned Unit Developments	Require or incentive a mix of housing types within Residential Planned Unit Developments (PUD).	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Forest Grove
A23	Accessible Design	Provide incentives in the development code to increase the number of units designed to meet Universal Design, Lifelong Housing Certification, and other similar standards. Examples of incentives include: expedited review and permitting processing, planning and building fee reductions, system development charge deferrals, density or building height bonuses.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	

**Category B: Reduce Regulatory Impediments**

#	Strategy	Description	Affordability Target	Tenure Target	Source (if available)
B1	Remove or Reduce Minimum Parking Requirements	Removing parking requirements for residential uses provides the opportunity to reduce the amount of lot area used for pavement and provides more space for housing and open space. This strategy offers greater flexibility to site housing and reduces costs associated with providing parking. Allow developers to respond to market demands and transit access without having the burden of parking minimums. Consider removing parking requirements near transit or for affordable housing.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Tigard
B2	Remove Development Code Impediments for Conversions	Streamlining the conversion of larger single-family homes into multi-unit dwellings (e.g. duplex or triplex). This should be aligned with reduced off-street parking requirements, so that conversion doesn't trigger the need to add additional driveways (or isn't halted by inability to add additional driveways).	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Tigard

B3	Expedite Permitting for Needed Housing Types	Expedited permitting will help to reduce costs of development of Needed Housing as identified by the City. Consider projects with direct or indirect funding from local government as essential and projects with long term affordability covenants through tax abatement or inclusionary requirements as high priority and/or only expedite housing according to the jurisdictions identified needed housing types. Local governments might also consider assigning a designating staff to shepherd projects through the construction process in order to expedite that part of the process.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Portland (direct funding only)
B4	Expedite Lot Division for Affordable Housing	Expedite lot divisions and subdivisions for affordable housing projects	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
B5	Reduce Regulatory Barriers to Lot Division	Remove barriers such as minimum street frontage, driveway requirements, etc., that impact minimum lot size/density during lot division. Preferably allow by-right lot division up to max number of units allowed.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
B6	Streamline Permitting Process	In some cities, towns, and counties, the process associated with obtaining approval for new construction is so time-consuming or costly that it dampens the amount of new development and adds significantly to its costs. To help streamline the process, cities, towns and counties can initiate a comprehensive review of all steps in the development approval process to identify the factors that most significantly suppress new residential construction and redevelopment. With a clearer picture of the obstacles, local leaders can then begin to assess whether they can be reduced or eliminated to stimulate development activity. In doing the comprehensive review, it is critical that actual timeline performance be evaluated not just the planned timeline.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="https://www.localhousingsolutions.org/act/housing-policy-library/streamlined-permitting-processes-overview/streamlined-permitting-processes/">https://www.localhousingsolutions.org/act/housing-policy-library/streamlined-permitting-processes-overview/streamlined-permitting-processes/</a>
B7	Flexible Regulatory Concessions for Affordable Housing	Often, nonprofit housing developers and housing agencies face regulatory impediments to building affordable housing, which can often derail projects. This strategy provides a flexible framework for delivery of affordable housing including but not limited to reduced minimum setbacks, height bonuses, and/or allowing for flexibility in how units are delivered. This strategy is not intended to allow for a lower quality for affordable housing buildings.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	Morrow County HNA, 2017
B8	Waive Off-Site Infrastructure Requirements for Needed or Affordable Housing	Waive infrastructure build-out requirements for infill affordable or needed housing projects constructed in neighborhoods without a network of those amenities currently. Example: Waive requirements for curb, gutter and sidewalk build-out on the lot if it is located in an area without either connecting curb, gutter, and sidewalk currently or viable plans for funding infrastructure construction within the next decade. This is especially relevant in smaller, more rural locations.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	Clackamas County Housing Report
B9	Capital Improvements Programming (CIP)	Programming work in a Capital Improvements Programming (CIP) so that projects are constructed sooner to support development of middle housing or to open up more land in an Urban Growth Boundary (UGB) for development of middle housing. Coordinate housing planning with CIP work to prioritize those projects that would support development (e.g. new water line, sewer pumping station). If the UGB is amended or the premises on which the CIP were based changed substantially, the CIP should be revised.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	

B10	Public Facility Planning	Completing water, sewer, and transportation PFPs and getting capital improvement projects (CIP) built so that costs to develop on land zoned for needed housing can be further anticipated and supported. In addition, public utilities planning also allows for more unit capacity, especially in areas that are upzoned for denser housing.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Tigard City of Bend
B11	Pro-Housing Agenda	Change the culture of Planning / Development Services departments to have a pro-housing agenda for both rental and homeownership. Supplement with fair housing education and education on the supply and demand impact on housing prices. The State could support jurisdictions in this effort by providing an incentive (e.g. funding set-aside) for jurisdictions that adopt aggressive pro-housing policies. In the State of California housing funds are prioritized for cities that adopt pro-housing policies. Though it may be counterintuitive, since this allows anti-housing cities to avoid housing altogether. Alternatively, the State of Oregon could consider a stick rather than carrot approach (e.g. withholding highway funds).	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
B12	Pro Affordable Housing Agenda	Change the culture of Planning / Development Services departments to have a pro Affordable Housing agenda for both rental and homeownership. Supplement with fair housing education and education on the supply and demand impact on housing prices. The State could support jurisdictions in this effort by providing an incentive (e.g. funding set-aside) for jurisdictions that adopt aggressive pro Affordable Housing policies. This agenda should include a plan to ensure that affordable housing is not suppressed in single-family zones or in wealthier communities. As part of this, encourage departments to look closely at how existing approaches may inadvertently favor one type of tenure over another.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
B13	Align Bike Parking Requirements with Actual Use	Require bicycle parking requirements more in line with actual use. Example: No more than 1-1.5 bike parking stalls per unit.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
B14	Adopt Affirmatively Furthering Fair Housing as a Housing Policy in Comprehensive Plan	<p>Amend the comprehensive plan to explicitly make Affirmatively Furthering Fair Housing a Housing Policy. Example below, based on federal guidance on affirmatively furthering fair housing and current state protected classes. Jurisdictions may add additional protected classes, such as ancestry, ethnicity, or occupation.</p> <p>Housing Policy x: Affirmatively Furthering Fair Housing</p> <p>[Jurisdiction] affirmatively furthers access to decent, affordable housing with convenient access to the services and destinations Oregonians need to thrive without regard to their race, color, religion, national origin, sex, familial status, mental or physical disability, source of legally-derived income, marital status, sexual orientation or gender identity.</p> <p>x.1 Address patterns of integration and segregation x.2 Address patterns of racially or ethnically concentrated areas of poverty x.3 Address disparities in access to opportunity x.4 Address disproportionate housing needs of residents based on race, ethnicity and disability status</p>	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	

		<p>x.5 Adopt an equity lens inclusive of the classes identified in Housing Policy x above in making land use, planning and housing policy decisions</p> <p>Additionally, a jurisdiction will create an Analysis of Impediments to Fair Housing (AI), even when not required, and conduct fair housing training for Council, Planning Commission, and other relevant policymakers. Jurisdictions would work to make known evidence and best practices in planning, to reverse discrimination and exclusion as well as concentrations of wealth, a required aspect of the comprehensive plan process.</p>			
B15	Reduce the Power of NIMBYism to stop, slow, change, or reduce affordable housing	Many jurisdictions give communities/neighborhoods too much veto power on both zoning policy, and particular project proposals to keep others who they don't approve of from moving in. Dedicate funds to educate citizens on poverty, exclusion, and racial dynamics. Remove policies that allow neighborhood opposition to evidence based zoning proposals and individual projects. Decisions about what kind and how much housing goes where it needs to be data-driven and focused on equitable outcomes instead of the best outcomes for those with the most money and/or privilege.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
B16	Holistic Planning to Distribute New Density More Equitably	Geography is often at odds with social equity; natural beauty is often in wealthy neighborhoods, as are historic buildings, allowing them to exclude new development and affordable housing. Develop a targeted plan to distribute density within the jurisdiction more equitably to areas with quality schools, access to natural resources etc. Additionally, work to distribute transit equitably to ensure that exclusionary neighborhoods don't remain that way because they don't offer transit for higher density housing.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
B17	Reduce on-site Common/Active Open Space Requirements	Remove or reduce requirements for on-site common/active open space. Instead, ensure that adopted Parks plans fully consider the needs of every neighborhood, and that the jurisdiction is actively working toward satisfying those needs.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
B18	Prioritize Home Ownership	<p>Jurisdictions would develop a comprehensive review of the impediments to the development of homeownership opportunities and actionable steps to remove those impediments.</p> <p>Note: An important impediment to condominium development is the risk associated with the current condominium law in Oregon. A revamp of this law is needed to increase homeownership opportunities that are smaller size. This would require action at the state level.</p>	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
<b>Category C: Financial Incentives</b>					
<b>#</b>	<b>Strategy</b>	<b>Description</b>	<b>Affordability Target</b>	<b>Tenure Target</b>	<b>Source (if available)</b>
C1	Reduce or Exempt SDCs for Needed Housing	Reducing, deferring, and/or financing System Development Charges (SDCs) at a low interest rate for needed housing types. This strategy reduces development costs.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Tigard



C2	Modify SDC fee schedules	Updating SDC fee schedule so that is tied to dwelling size. This strategy ensures that smaller dwelling sizes in single and multi-family housing are not disproportionately burdened by fees and therefore encouraged. Consider per square foot fees rather than per dwelling.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Florence <a href="https://www.ci.florence.or.us/sites/default/files/fileattachments/building/page/916/sdc_fy_19-20_rework_v2.pdf">https://www.ci.florence.or.us/sites/default/files/fileattachments/building/page/916/sdc_fy_19-20_rework_v2.pdf</a>
C3	Reduce or Exempt SDCs for ADUs	Waivers/reductions of SDCs for ADU production in order to improve the feasibility of the development. Create a model ordinance for the waiver, or deferment, of SDCs. Scale SDCs based on size, resource efficiency, and access to alternative transportation.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Portland
C4	Incentivize Manufactured and Modular Housing	Give Bonus Density Incentives for manufactured and factory built housing. Consider tying bonus to modular housing that demonstrates if housing meets affordability targets of below 120% AMI.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	Metro King County RMHP
C5	Waive or Finance Park Impact Fees for Affordable Housing	A policy providing for the exemption (preferred) or financing park impact fees (helpful) for affordable housing ensures a mix of affordable housing. Financing the fee while still collecting can mitigate the cost of the fee to coincide with the available cash flow of the affordable housing.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	Tualatin Hills Park & Recreation District
C6	Publicly Funded Infrastructure Improvements	Fund off-site improvements for workforce or affordable housing; e.g. street intersection improvements triggered by development.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
C7	Reconsider Applying Park SDCs	If there are appropriate levels of parks and open space near the project, these impact fees should not be charged or should be assessed at a much lower rate. They are not general funds to be allocated without a nexus to the development.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
C8	Transportation SDCs Tied to Parking	Tie transportation SDCs to the number of parking spaces, as the number of parking spaces is a more accurate predictor of the number of trips that will start or end at every development. By tying transportation costs directly to vehicle storage, the system will both be assessing transportation impacts fairly and encouraging alternate modes of transportation.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	

#### Category D: Financial Resources

#	Strategy	Description	Affordability Target	Tenure Target	Source (if available)
D1	Community Development Block Grant (CDBG)	CDBG Grants are federal funds set aside in the form of grants to be used to meet national objectives: direct benefit for low and moderate income households; benefit to predominantly low income areas; elimination of slums and blight. Eligible activities include public works infrastructure, community facilities, new housing development, housing rehabilitation, and public services (counseling, social services & microenterprise training, including short-term emergency rent assistance). Eligibility is based upon the levels of low- and moderate-income families that may benefit from services provided by the eligible projects. While Cities can choose not to apply for CDBG, control of whether or not they receive CDBG is ultimately at the Federal level and like the State of Oregon, these funds	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Tigard City of Eugene City of Beaverton City of Hillsboro City of Gresham City of Portland City of Bend City of Redmond State of Oregon

		can be used for things that have little to do with housing, so may have limited impact. A better gauge may be HOW cities use their CDBG; for housing benefit or other.			
D2	Low Income Housing Tax Credit (LIHTC)	Federal tax provision that encourages private investment in affordable rental housing by providing qualified investors with a dollar-for-dollar reduction in federal income tax liability in exchange for investment in qualifying new construction and rehabilitation projects. LIHTCs may also be paired with Tax Exempt Revenue Bonds.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="https://www.localhousingsolutions.org/act/housing-policy-library/low-income-housing-tax-credit-overview/">https://www.localhousingsolutions.org/act/housing-policy-library/low-income-housing-tax-credit-overview/</a>
D3	Housing Trust Funds	Housing Trust Funds are a flexible source of funding that can be used to support a variety of affordable housing activities. Because they are created and administered at the city, county, region, or state level, housing trust funds are not subject to the restrictions of federal subsidy programs and therefore can be designed specifically to address local priorities and needs. The entity administering the fund determines eligible activities, which can include anything from emergency rent assistance for families facing the threat of eviction or homelessness to gap financing for new construction of affordable housing to repairs for older homeowners.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="https://www.localhousingsolutions.org/act/housing-policy-library/housing-trust-funds-overview/">https://www.localhousingsolutions.org/act/housing-policy-library/housing-trust-funds-overview/</a>
D4	Operating Subsidies for Affordable Housing Developments	Operating subsidies are payments made annually (or more frequently) to owners of affordable housing developments that make the housing more affordable by covering a portion of the ongoing costs of operating the development.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="https://www.localhousingsolutions.org/act/housing-policy-library/operating-subsidies-for-affordable-housing-developments-overview/">https://www.localhousingsolutions.org/act/housing-policy-library/operating-subsidies-for-affordable-housing-developments-overview/</a>
D5	Employer - Assisted Housing Programs	Employer-assisted housing programs provide a channel through which employers can help their employees with the cost of owning or renting a home, typically in neighborhoods close to the workplace. Assistance may be provided in a variety of ways, including through down payment grants or loans that are forgiven over a period of employment, homeownership counseling and education, rental subsidies and, less commonly, direct investment in the construction of rental housing.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="https://www.localhousingsolutions.org/act/housing-policy-library/employer-assisted-housing-programs-overview/">https://www.localhousingsolutions.org/act/housing-policy-library/employer-assisted-housing-programs-overview/</a>
D6	HOME Program	HOME is a federal program established by Congress in 1990 that is designed to increase affordable housing for low- and very low-income families and individuals. All States and participating jurisdictions receive HOME funds from HUD each year, and may spend HOME on rental assistance, assistance to homebuyers, new construction, rehabilitation, improvements, demolition, relocation, and limited administrative costs.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
D7	Dedicated Revenue Sources for Affordable Housing	A dedicated revenue source for affordable housing provides an ongoing committed stream of revenue for affordable housing, often deposited into a Housing Trust Fund. This can be helpful in increasing the total funding available for affordable housing. The fund can receive its sources from: Transient Lodging Taxes collected from Short Term Rentals, developer fee and real estate transfer taxes ( <i>not constitutional in Oregon</i> ).	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="https://www.localhousingsolutions.org/act/housing-policy-library/dedicated-revenue-sources-overview/">https://www.localhousingsolutions.org/act/housing-policy-library/dedicated-revenue-sources-overview/</a>  City of Portland Housing Investment Fund



D8	Demolition Taxes	Cities, towns, and counties establish demolition taxes and condo conversion fees as a way to generate revenue and replace affordable housing lost to these activities. The proceeds from both demolition taxes and condo conversion fees are typically deposited in a Housing Trust Fund to support affordable housing activities. To ensure that a demolition tax on residential development does not deter needed redevelopment - this strategy should only be applied if the housing replacement is 1:1. If the proposed development is more dense than the original structure, there should not be a demolition tax.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="https://www.localhousingsoptions.org/act/housing-policy-library/demolition-taxes-and-condominium-conversion-fees-overview/">https://www.localhousingsoptions.org/act/housing-policy-library/demolition-taxes-and-condominium-conversion-fees-overview/</a>
D9	Construction Excise Tax (CET)	A Construction Excise Tax (CET) is a tax on construction projects that can be used to fund affordable housing. According to state statutes, the tax may be imposed on improvements to real property that result in a new structure or additional square footage in an existing structure.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Portland City of Eugene City of Sisters
D10	Tax Increment Financing (TIF) Set-Aside	Create a TIF set-aside for affordable housing development programs within designated Urban Renewal Areas (URAs). Target could be to begin setting aside funds for affordable housing projects as a medium-term action, over the next 5 years or so. For example: Portland City Council designates 45% of the gross amount of TIF for designated housing purposes (rental housing for households under 60% of Area Median Income (AMI) and homeownership for households under 80% of AMI).	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Portland
D11	Flexible Use of Housing Choice Vouchers	Public Housing Authorities have the ability to attach up to 20% of their voucher assistance to specific housing units for each low income housing project, up to 25% of any single project. Project-Based Rental Assistance (PBRA) vouchers provide rental assistance for eligible individuals and families who occupy specific housing units managed by private owners who have entered into agreements with a housing agency. The household pays an established amount to the owner each month (typically approximately 30% of monthly income) and the housing agency pays the balance of the rent due. If public housing authorities include homeownership in their administrative plan, housing vouchers may also be used to facilitate low income homeownership.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="https://www.localhousingsoptions.org/act/housing-policy-library/project-basing-of-housing-choice-vouchers-overview/">https://www.localhousingsoptions.org/act/housing-policy-library/project-basing-of-housing-choice-vouchers-overview/</a>
D12	Targeted Vouchers	Vouchers that target renters at the 60-80% AMI who are often left out of the housing funded by bond funds and other public sources that are focused on lower income levels. Housing Authorities use affordable housing dollars and issue vouchers that are good for one year and pay any landlord the difference between what the tenant can afford and market rent. This takes the reporting burden off the landlord and essentially allows any existing unit to be affordable. Each year the tenant would have to prove to the Housing Authority if they were still income qualified and if not.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
D13	Low-Interest Loans / Revolving Loan Fund	Housing Repair and Weatherization Assistance for low and moderate income households may be capitalized by Tax Increment Financing (TIF), Community Development Block Grant (CBDG) Funds, or local Housing Trust Funds.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Portland
D14	Eviction Prevention Programs	Eviction Prevention Programs provide financial assistance to help renters facing eviction stay in their homes. These programs are generally designed for families who are being evicted due to nonpayment of rent during or following an unforeseen crisis, such as job loss or serious illness, rather than those who face more persistent affordability challenges. Jurisdictions may be interested in	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="https://www.localhousingsoptions.org/act/housing-policy-library/eviction-prevention-programs-overview/">https://www.localhousingsoptions.org/act/housing-policy-library/eviction-prevention-programs-overview/</a>

		investing in eviction prevention to address concerns about displacement of low-income renters and also to avoid or reduce use of other more costly local services, like homeless shelters.			
D15	Bond - for Resident Support Services and Permanent Supportive Housing Services	Limited Tax General Obligation Bond that creates a funding source for supportive housing services, such as access to health care, mental health, and other social services that better support and stabilize residents who face complex challenges and will benefit from affordable housing programs.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	Oregon Metro City of Portland
D16	General Obligation Bonds – for Affordable Housing	Following the passage of Measure 102 Oregon local governments, including cities and counties, can now issue voter-approved general obligation bonds to provide direct funding for construction and other capital costs associated with the development and construction of affordable housing. These funds can be loaned or granted to both public and privately owned affordable housing projects. “Affordability” is required to be determined by voters and each jurisdiction, and can be above or below minimum affordability levels established for the federal LIHTC program and other established federal and State affordable housing finance programs, defining affordability by reference to Area Median Income (AMI) as established by HUD. The bonds could be paired with other financing such as Low Income Housing Tax Credits, or could be used for homeownership opportunities.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	Oregon Metro City of Portland  <a href="https://ballotpedia.org/Oregon_Measure_102,_Removes_Restriction_that_Affordable_Housing_Projects_Funded_by_Municipal_Bonds_be_Government_Owned_(2018)">https://ballotpedia.org/Oregon_Measure_102,_Removes_Restriction_that_Affordable_Housing_Projects_Funded_by_Municipal_Bonds_be_Government_Owned_(2018)</a>
D17	Use IHBG funds for Urban Native Americans	Mixing of Indian Housing Block Grants (IHBG), typically used for housing for Native Americans on reservation land, with other traditional affordable housing funding sources allows preference for Native members in urban affordable housing projects.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<u>NAYA and CDP and Confederated Tribes of the Siletz</u>
D18	Weatherization Funds through Community Action Agencies	Use weatherization funds administered by statewide network of Community Action Agencies to preserve aging housing stock occupied by income-qualified residents.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="https://www.oregon.gov/ohcs/Pages/low_income_weatherization_assistance_oregon.aspx">https://www.oregon.gov/ohcs/Pages/low_income_weatherization_assistance_oregon.aspx</a>
D19	Transit-Oriented Development Grants	Provide financial incentives to developers to create transit-oriented communities. Funding can be used for site acquisition, infrastructure projects and residential/mixed-use projects.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="https://www.oregonmetro.gov/tools-partners/grants-ad-resources/transit-oriented-development-program">https://www.oregonmetro.gov/tools-partners/grants-ad-resources/transit-oriented-development-program</a>
D20	Local Innovation and Fast Track (LIFT) Program for Affordable Rental Housing Development	The Local Innovation and Fast Track (LIFT) Housing Program's objective is to build new affordable housing for low income households, especially families. Funds are available for Serving Historically Underserved Communities, Rural and Urban Set-asides, Urban Communities, Service to Communities of Color, and Rural Communities. Available for affordable homeownership units (below 80% AMI). Note: The homeownership part may not be available by the next biennium.OHCS is proposing to eliminate it.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="https://www.oregon.gov/ohcs/Pages/multifamily-lift-housing-development-program.aspx">https://www.oregon.gov/ohcs/Pages/multifamily-lift-housing-development-program.aspx</a>
D21	Mental Health Trust Fund Awards	Administered by the Oregon Health Authority for capital construction costs.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	

D22	Foundations Awards	Local, regional, and national foundations provide both capital funding and program funding for a wide variety of innovative housing models and programs.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	Examples: Meyer Memorial Trust and Oregon Community Foundation (OCF)
D23	State of Oregon Debt	State of Oregon to offer non-recourse low-interest debt that can be used to fund workforce or affordable housing. This could be provided through an existing relationship like Network for Oregon Affordable Housing (NOAH). This would be a valuable tool for providing housing in rural communities, where conventional debt funding may not be readily available.  Note: This strategy has been suggested by the housing development community but are not yet programs in place in the State of Oregon.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
D24	State of Oregon Debt Support	State of Oregon to provide some form of collateralization to support private debt placement for a workforce or affordable housing project. For example, the State could provide Letters of Credit and/or Guarantee on behalf of the developer to the private lender. This would be a valuable tool for providing housing in rural communities, where conventional debt funding may be hesitant to invest without substantial backing that the State could provide.  Note: This strategy has been suggested by the housing development community but are not yet programs in place in the State of Oregon.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
D25	Luxury Tax for Equitable Housing	Oregon State sales tax on luxury items, 2nd homes, etc. dedicated to providing funds for affordable housing funds.  Note: This strategy has been suggested by the housing development community but are not yet programs in place in the State of Oregon.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
D26	Reallocate Health and Public Safety Resources to Housing	Because healthy housing makes a huge difference in health care, public safety, and other costs, identify paths to redirect budgets from those sectors toward housing construction funds and supporting services. Use advanced modeling projections and adjust as needed over time.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
D27	Georgist Land Tax	Generate tax revenue for affordable housing by reducing the gains accrued from public investments that are capitalized into private value.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
<b>Category E: Tax Exemption and Abatement</b>					
<b>#</b>	<b>Strategy</b>	<b>Description</b>	<b>Affordability Target</b>	<b>Tenure Target</b>	<b>Source (if available)</b>
E1	Nonprofit Low-Income Rental Housing Exemption	This tool can provide a simplified way for affordable housing owned and operated by a nonprofit (as well as land held by a nonprofit for future affordable housing development) or Community Land Trusts (at least in land value) to qualify for a property tax exemption. Work should be done to make it easier for projects/land to qualify; minimizing the number of taxing authorities needed to grant an approval.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	See Oregon Revised Statute Chapter 307.540  <a href="https://www.oregonlegislature.gov/bills_laws/ors/ors307.html">https://www.oregonlegislature.gov/bills_laws/ors/ors307.html</a>

E2	Property Tax Exemption for Affordable Housing Tied to Level of Affordability	Create a Property Tax Exemption for affordable housing that is tied to level of affordability instead of the ownership structure. For example, grant a property tax exemption for affordable housing that serves households making less than 60% of AMI at initial lease up. Don't tie the property tax exemption to ownership (LLC, non-profit, housing authority) and only require income verification at the beginning of a residents tenancy. The property should still get the exemption even if the household increases income after their initial lease up so they can build assets in place.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
E3	Vertical Housing Development Zone Tax Abatement	Partial property tax exemption program on improvements for new mixed use development. To qualify, a project must have improved, leasable, non-residential development on the ground floor and residential development on the floors above. A partial abatement on land value is allowed for each equalized floor of affordable housing. This abatement could be made better by an adjustment to the floor equalization formula - right now, there is a 20% abatement per equalized floor, but if the project ends up being 3.8 equalized floors it only gets 3 floors worth of the abatement rather than an apportioned abatement.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	Authorized by Oregon Revised Statute, 307.841. City of Hillsboro City of Beaverton City of Milwaukie Oregon City City of Gresham City of Tigard City of Wood Village City of Forest Grove
E4	Multiple Unit Property Tax Exemption (MUPTE)	This strategy can be used to incentivize production of multifamily housing with particular features or at particular price points by offering qualifying developments a partial property tax exemption over the course of several years.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	See Oregon Revised Statute, Chapter 307.600. <a href="https://www.oregonlegislature.gov/bills_laws/ors/ors307.html">https://www.oregonlegislature.gov/bills_laws/ors/ors307.html</a> City of Eugene
E5	Multiple Unit Limited Tax Exemption (MULTE)	Under the Multiple-Unit Limited Tax Exemption (MULTE) Program, multiple-unit projects receive a ten-year property tax exemption on structural improvements to the property as long as program requirements are met.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	Authorized by Oregon Revised Statute, Chapter 307.600 <a href="https://www.oregonlegislature.gov/bills_laws/ors/ors307.html">https://www.oregonlegislature.gov/bills_laws/ors/ors307.html</a> <a href="https://www.portlandoregon.gov/phb/74691">https://www.portlandoregon.gov/phb/74691</a>
E6	Homebuyer Opportunity Limited Tax Exemption Program (HOLTE)	Under the HOLTE Program, single-unit homes receive a ten-year property tax exemption on structural improvements to the home as long as the property and owner remain eligible per program requirements.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	Authorized by Oregon Revised Statute, 307.651. <a href="https://www.portlandoregon.gov/phb/74639">https://www.portlandoregon.gov/phb/74639</a>
E7	Homestead Tax	Consider allowing Homestead Tax on second homes to support development of affordable housing.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
E8	Property Tax Relief for Income-Qualified Homeowners	Property taxes are based on property values and so can go up regardless of the taxpayers' ability to pay. In the case of homeowners, rising property taxes can be an obstacle to housing affordability and stability. A tool used in a number of jurisdictions for mitigating these effects on those with limited incomes is by capping the amount of property tax that homeowners have to pay as a share of their	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="https://www.localhousingolutions.org/act/housing-policy-library/property-tax-relief-for-income-qualified-homeowners-overview/">https://www.localhousingolutions.org/act/housing-policy-library/property-tax-relief-for-income-qualified-homeowners-overview/</a>

		income. Some jurisdictions also provide relief to lower-income renters by treating some portion of their rent as attributable to property taxes and then providing an income tax credit to offset the increase in taxes. In addition to basing the benefit on income, eligibility for caps can also be restricted to specific populations such as seniors, disabled persons, and/or veterans.			
E9	Investing into Federal Opportunity Zones (OZ)	Qualified Opportunity Zones (QOZ) were created by the 2017 Tax Cuts and Jobs Act. These zones are designed to spur economic development and job creation in distressed communities throughout the country and U.S. possessions by providing tax benefits to investors who invest eligible capital into these communities. Taxpayers may defer tax on eligible capital gains by making an appropriate investment in a Qualified Opportunity Fund and meeting other requirements.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions#qof">https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions#qof</a>
E10	Delayed Tax Exemptions	Allow housing to be built and operated at market rate while allowing developers to choose a path that maintains or reduces rents over time. Once the property falls below 80%AMI (but maintains HUD quality standards), tax exemptions would kick in. This could be an alternative to upfront incentive dollars, SDC reductions, etc for providing affordable housing.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	

### Category F: Land, Acquisition, Lease, and Partnerships

#	Strategy	Description	Affordability Target	Tenure Target	Source (if available)
F1	Land Banking	Public purchasing of vacant/under-utilized sites of land in order to save for future affordable housing development. House Bill 2003, section 15 supports land banking: SECTION 15. (1) As used in this section, "public property" means all real property of the state, counties, cities, incorporated towns or villages, school districts, irrigation districts, drainage districts, ports, water districts, service districts, metropolitan service districts, housing authorities, public universities listed in ORS 352.002 or all other public or municipal corporations in this state.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	Metro TOD Program
F2	Joint Development Agreements	The Federal Transit Administration (FTA) enables local transit agencies to enter into Joint Development Agreements (JDAs) with private or non-profit developers of low income housing, market-rate housing, and/or commercial development. Joint Development is a process by which public transit or other local or state agencies agree to make land available at donated or reduced prices for private development, which may include affordable housing. Projects must demonstrate benefit to transit operations (ridership) and infrastructure and are subject to FTA approval.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
F3	Community Land Trusts	Land acquired by nonprofits or community-based organizations that maintain permanent ownership of land. Prospective homeowners are able to enter long-term (i.e., 99-year), renewable leases at an affordable rate. Upon selling, homeowners only earn a portion of the increased property value, while the trust keeps the remainder, thereby preserving affordability for future low- to moderate-income families	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
F4	Public/Private Partnerships (P3)	Partnerships between government and the private sector and/or nonprofits have the capacity to bring resources to the table that would otherwise not be available if each institution were able to help communities provide housing on its own. This can come in the form of coalitions, affordable housing task forces, and collaboratives.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	

F5	Preserving Low-Cost Rental Housing to Mitigate Displacement	Preventing displacement and preserving "naturally occurring" affordable housing through acquisition, low-interest loans/revolving loan fund for preservation, and/or code enforcement. Example: The Oregon Legislature committed \$15 million in lottery bonds to Oregon Housing and Community Services (OHCS) in 2019 to create a naturally occurring affordable housing loan fund. Modeled after the Greater Minnesota Housing Fund.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="https://gmhf.com/about/programs/noah-impact-fund/">https://gmhf.com/about/programs/noah-impact-fund/</a>
F6	Preserving Safe, Affordable Manufactured Homes	Manufactured home parks often provide a form of affordable housing stock, but are particularly vulnerable to redevelopment pressures since lots are temporarily leased out. In order to preserve safe, affordable options into the future, manufactured home parks may be protected through assistance that allows community purchase of the underlying land, manufactured homes and provide funds used to maintain upkeep of these dwelling units. This strategy is often implemented through use of Land Trusts, Resident-Owned Cooperatives, Public Ownership of Land, or Condominium Conversion of the real estate assets to preserve the community(ies). Oregon Housing and Community Services (OHCS) has regularly received lottery bonds or general funds from the Oregon Legislature to preserve manufactured home parks through either Resident Owned Cooperatives or Non-profit ownership.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Portland  <a href="https://www.oregon.gov/ohcs/Pages/manufactured-dwelling-park-services-oregon.aspx">https://www.oregon.gov/ohcs/Pages/manufactured-dwelling-park-services-oregon.aspx</a>
F7	Providing Information and Education to Small Developers	Providing information to small, local developers that will help them understand land use permitting processes and give them a sense of clarity and certainty about requirements so they can better provide smaller scale housing at an affordable level.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
F8	Conversion of Underperforming or Distressed Commercial Assets	Acquisition of underperforming or distressed commercial assets (commercial, retail, industrial, or hotel) or partnerships with owners of the assets for conversion into needed housing.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
F9	Enhanced Use Lease of Federal Land	The US Department of Veterans Affairs (VA) may lease land for up to 85 years to developers of projects which provide the VA with compensation. Such enhanced use leases have been used to provide land for permanent affordable housing for people experiencing homelessness including veterans in Oregon, Minnesota and Washington States.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	Housing Authority of Douglas County
F10	Prioritize Housing on City/County Owned Land	Surplus property suitable for housing is offered up for affordable development.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Eugene
F11	Combine Community Land Trust with Limited Equity Cooperative Model	Combine a Community Land Trust (CLT) with a Limited Equity Cooperative for a lower barrier entry to homeownership of a share of a permanent small/tiny home community.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	SquareOne Villages
F12	Surplus Land for Affordable Housing	Sell land at the State or City's cost (below market) to developers of affordable housing. Long-term lease at very minimal cost to developers for land the City is not yet ready to surplus. County surplus of foreclosed land to affordable housing developers and/or housing authority.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Bend



F13	McKinney-Vento Federal Surplus	Cities may partner with the Federal Government to surplus Federal land for homeless housing or services under McKinney Vento.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Bend
F14	Right of First Refusal for Land Purchase	Affordable housing providers could be offered a Right of First Refusal for city, county, or state owned land when the land would be used for affordable housing. Examples include a manufactured home program where residents can buy out the manufactured home park when the owner is ready to sell.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	CASA of Oregon <a href="https://casaoforegon.org/for-individual/manufactured-housing-cooperative-development/">https://casaoforegon.org/for-individual/manufactured-housing-cooperative-development/</a>
F15	Ordinances that Address Zombie Housing	More assertive tax foreclosures to enable zombie housing to be rehabbed into occupied housing.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
F16	Regulatory Agreement	Regulatory Agreement, between the jurisdiction and developer, in place with the land sale that keeps the units affordable for 20 years in exchange for SDC waivers. This is straightforward without going through a difficult or costly process.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	City of Beaverton
F17	Designated Affordable Housing Sites	A jurisdiction would establish designated sites with a completely different set of regulations than apply to the balance of the public and private building sites. The sites would be overseen by an Affordable Housing Commission, that is empowered to prioritize, fast track, and approve affordable housing projects (with designated and required affordability objectives) and bypass the majority of the city's fees and regulations. The Commission would have its own set of requirements (structural approval, zoning allowance, etc.), but they would be streamlined, and tailored to facilitate a quicker and much less expensive process.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
F18	Utilize Surplus Land Owned by Faith-Based Organizations for Affordable Housing	Over the past few decades, faith institutions across the country have been declining. This has prompted conversations within different faith communities about how to refocus their mission of social change. The housing affordability crisis in many cities around the country has brought these institutions into the work of creating affordable housing in their communities. This strategy would: 1) Identify faith and community-based organizations that are interested in offering their available land for development of affordable housing, 2) Provide design and finance consultation for three organizations to prepare them for future affordable housing development projects, and 3) Determine barriers to development and how those can be addressed and/or streamlined.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	<a href="#">Expanding Opportunities for Affordable Housing, Metro and City of Portland</a>
F19	Affordable Housing Preservation Inventory	Prepare an inventory of subsidized and naturally occurring affordable housing to support proactive policies intended to preserve the affordable housing stock. This strategy is intended to help offset some of the need for costly new construction.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	The Center for Housing Policy, Washington DC  Opportunity Zone Toolkit, US Department of Housing and Urban Development

F20	Fair Housing Education, Referral, and Other Services	Provide residents, property owners, property managers, realtors, lenders and others involved with real estate transactions with access to Fair Housing information and referrals. Ensure that city staff know how to identify potential Fair Housing violations and make referrals to the Fair Housing Council of Oregon and state and local enforcement agencies. Partner with and fund Fair Housing Council of Oregon to provide periodic Fair Housing Audit Testing, customized outreach and education and other specialized services.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
F21	Public or Mission-Driven REITs and Turn-Key Delivery	Most public subsidies and tax incentive programs are complex due to the need for regulation and corruption prevention, imposing many impediments to developing affordable housing. Jurisdictions would participate in a public REIT that buys turn-key projects for set costs. This would motivate mission-minded developers to drive down cost knowing that risk is minimal by having a buyer at the end. If the developer doesn't deliver the required specs, quality, and competitive construction cost, then they have to sell or rent on the open market or find other incentives in current, standard fashion. The jurisdiction could invest state pension funds in these REITs.  Note: This strategy has been suggested by the housing development community, it is not clear if this program is currently available to jurisdictions in the state.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	
<b>Category Z: Custom Options</b>					
<b>#</b>	<b>Strategy</b>	<b>Description</b>	<b>Affordability Target</b>	<b>Tenure Target</b>	<b>Source (if available)</b>
Z1	TBD	Any other Housing Production Strategy not listed above in Categories A through F that the jurisdiction wishes to implement should be filled in here and numbered accordingly.	Publicly-Subsidized (< 30% AMI) Affordable (30-80% AMI) Workforce (80-120% AMI) Market Rate (> 120% AMI)	For Rent For Sale	



**NOT HOUSING PRODUCTION STRATEGIES**

(These have been removed from the list and will NOT be included in the final housing production strategies unless someone advocates that these are housing production strategies)

	Community Benefits District	<p>Some localities anticipating increases in density or intensity of uses by plan and land use changes or new public works (e.g., transit stations) can consider both concomitant obligations to those changes to require, either directly or through “sweeteners” that the developer fund certain community improvements (beyond sidewalks and flowerpots). Those obligations may include minimum densities, set asides (with sweeteners in this case), and payment of a tax on the increment of profit realized when the land use change or public work is accomplished.</p> <p><i>Note for Discussion: Likely impossible to determine what a tax on profit would be for a developer. Likely need a better way to define this strategy, if it stays. Should this be in the financial resources section? What is the purpose of this strategy when it comes to housing production? Not clear.</i></p>	
	Protection from Condo Conversions	<p>In order to reduce the stress and cost of displacement caused by condo conversions or sales of rental buildings, some jurisdictions provide tenants with protections in the event that their landlord seeks to convert or sell. Protections can include: requiring approval of a majority of residents for a conversion; providing for a long notice period before a conversion or sale; giving tenants a right to purchase units before they can be offered to outside buyers; relocation assistance paid by the landlord for tenants forced to move because of a conversion; and/or giving tenants a right to remain as a renter or renew a tenancy following a sale. Oregon currently provides basic protections for tenants against condo conversions.</p> <p><i>Discussion Note: This strategy is not about housing production but housing type. Condo are a homeownership option that is less expensive than single detached. A conversion will just change the type of housing, not add or reduce housing. This should not be included in the housing production strategies.</i></p>	<a href="https://www.oregonlaws.org/ors/100.310">https://www.oregonlaws.org/ors/100.310</a>
	Create a Bounty on Denial of Needed Housing	<p>Consistent with the changes made to ORS 197.830(15)(c), denial of Needed Housing would be the source of an attorney fee claim at LUBA. One could be even bolder and suggest that “denial” encompasses imposition of conditions that are not “clear and objective.” The “raise it or waive it” requirement would remain applicable where there was an opportunity to do so at the local level.</p> <p><i>Discussion Note: Is this something that jurisdictions can enact or does it need to be at the state level? If jurisdictions can not enact this, then it probably shouldn't be in the housing production strategies.</i></p>	<i>(Ed Sullivan)</i>
	Survey Applicants on Development	<p>[At the HPSTAC Commissioner Hallova mentioned an idea about asking development applicants how they decided on their development program</p>	<i>(Deb Meihoff)</i>

Program Decision-Making	<p>and which public incentives were part of the consideration - this is a worthy idea that could lead to better information about how to tailor strategies toward production. An alternative to requiring cities to collect this info, is to consider this approach as part of a production strategy. To be a strategy it needs additional action like logging and making publicly available the aggregated survey information on the city's housing/ development /planning webpage or something. The information could be collected on a form separate from the development application, so it is clear that the additional information is not part of the permit decision. This obviously needs more work, but I think there is a viable strategy here]</p> <p><a href="#">Discussion Note: Agreed this is important and should be included somewhere in the draft document but not as a strategy.</a></p>	
Prevailing Wage Realignment	<p>It makes no sense that higher fair-wage requirements apply to affordable housing but not to market rate. Find better ways to regulate fair wages across the entire industry and remove these onerous requirements from affordable housing. Otherwise, factory-built housing alternatives will undermine these efforts anyway, negatively affecting minority contractors and small businesses. The goals of labor equity need a holistic re-design as part of other strategies above.</p> <p><a href="#">Discussion Note: This is a good idea and many affordable housing developers struggle with this. Not sure if it's a strategy. Would need to be changed at the state level with BOLI.</a></p>	<i>(nate@inkbuiltdesign.com)</i>
Eliminate value giveaways for developers	<p>Large public investments such as light rail systems and de facto giveaways such as UGB expansion allow private land owners and developers to reap significant and instant rewards while causing more displacement and/or segregation by income status. Make these changes contingent on the provision of affordable housing in specific, higher than usual ratios.</p> <p><a href="#">Discussion Note: From a development perspective this is likely to suppress the overall housing market, which is not a good thing for affordability over time.</a></p>	<i>(nate@inkbuiltdesign.com)</i>
Correct for disproportionate land values (that exist because of historically racist policies and predatory gentrification)	<p>Increases in property values are hugely disproportionate by neighborhood, and the profitability of house flipping, vacation rentals, etc. drive costs up rather than supporting affordability.</p> <ul style="list-style-type: none"> <li>• Increase public investments in neglected neighborhoods, prioritizing them first.</li> <li>• Add a transaction tax to all homes sold when the price exceeds local AMI</li> <li>• Enforce taxes on vacation rentals and direct them to housing</li> <li>• Programs that allow low income owners in high cost neighborhoods to apply for reduced property taxes</li> <li>• More ideas?!</li> </ul> <p><a href="#">Discussion Note: This is a lot of ideas combined into one. We are trying to make sure all of the housing productions strategies are stand alone. If there is anything above that you think should be considered and separated out as a strategy, then we should do that. Some of these ideas</a></p>	<i>(nate@inkbuiltdesign.com)</i>

		are already covered in a strategy and/or the jurisdictions needs to respond to Equitable Housing Outcomes questions.	
	Reform Transportation	Invest in sustainable last-mile transportation systems to eliminate the need for individual car ownership.  Tax private vehicles or provided vehicle parking yearly based on size (only for market rate housing until equitable transit is widely available)  <a href="#">Discussion Note: Out of the jurisdiction of the LCDC.</a>	<i>(nate@inkbuiltdesign.com)</i>
	Pie in the Sky	Reduce the difficulty of regulation based on income by reforming the national tax system. Make the process more direct and automatic, similar to Japan. This reduces/eliminates the need to deal with income reporting specific to affordable housing as a buyer/renter's information is directly available as a score from the IRS.  <a href="#">Discussion Note: Out of the jurisdiction of the LCDC</a>	<i>(nate@inkbuiltdesign.com)</i>
	Regulate Privilege	Limit luxury development using thresholds tied to local population income statistics. (especially needed in coastal communities and tourist towns) Beyond these limits, luxury development must include affordable accessory dwellings or nearby affordable housing.  <a href="#">Discussion Note: What defines "luxury" development. Some consider market rate housing luxury. This will suppress the housing market.</a>	<i>(nate@inkbuiltdesign.com)</i>
	Reduce or Eliminate Tax Exemptions for empty units	Many overpriced market-rate units sit empty because it's more financially advantageous than reduced rents. Enact policy that requires reporting of vacancy rates and when vacancy on some properties differs greatly from local market demand and vacancy rates, that owner loses tax exemptions.  <a href="#">Discussion Note: Assumptions on vacant units are not accurate. Onerous if not possible for jurisdictions.</a>	<i>(nate@inkbuiltdesign.com)</i>
	Transaction Tax	Tax the flipping of properties  <a href="#">Discussion Note: Not enough detail here to turn this into a strategy.</a>	<i>(nate@inkbuiltdesign.com)</i>

DATE: August 11, 2020  
TO: Kevin Young, Department of Land Conservation and Development  
FROM: Becky Hewitt and Sadie DiNatale, ECONorthwest  
SUBJECT: Fiscal and Housing Impact Statements for Housing Production Strategies

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## Introduction

Per the Oregon Administrative Procedures Act, and specifically ORS 183.335(2)(b)(E), the Department of Land Conservation and Development (DLCD), in preparation to adopt Oregon Administrative Rules implementing provisions of House Bill 2003 (2019), must provide a Statement of Fiscal Impact (FIS). The purpose of the FIS is to give notice to anyone who may be fiscally impacted by the rule. The FIS should therefore describe the purpose of the rule, attempt to identify people or entities the rule will affect, and describe, as best as possible, what that effect will be.

This FIS must identify “state agencies, units of local government and the public that may be economically affected by the adoption, amendment or repeal of the rule” and must estimate the economic impact on those entities. ORS 183.335(2)(b)(E) also requires that, in determining economic impact, the agency shall “project any significant economic effect of that action on businesses which shall include a cost of compliance effect on small businesses affected.”

DLCD is not required to conduct original research in creating a FIS. DLCD is required to use available information to project any significant effect of the proposed rule, including a quantitative estimate of how the proposed rule affects these entities or an explanation of why DLCD cannot make the estimate. DLCD is required to identify any persons this proposed rule could affect economically including:

- Small and large businesses, as defined in ORS 183.310(10)
- State agencies (DLCD and any other State agency),
- Local governments, and
- The public.

Additionally, ORS 183.335(2)(b)(E) requires that rules adopted by the Land Conservation and Development Commission also estimate “the effect of a proposed rule or ordinance on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel.” This Housing Impact Statement (HIS) is described in ORS 183.534.

This memorandum describes the fiscal and housing impacts of the Housing Production Strategy (HPS) Draft Administrative Rules, an amendment to existing rules in OAR 660-008(proposed rules).

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# Housing Production Strategy Fiscal Impact Statement

## Overview

Implementing an HPS may result in direct and indirect fiscal and economic impacts. Direct impacts are the direct result of the proposed rules and are likely to occur. They include:

- **Compliance costs for local governments** to prepare an HPS (for those subject to the rules), along with annual and mid-cycle reporting requirements.
- **Review costs for DLCD** to evaluate local government strategies for compliance.

Indirect impacts could occur as a result of changes made by local governments to respond to the new rules. While they are possible, they depend on a variety of other factors related to how local governments choose to respond to the rules. They include:

- **Impacts to local governments, property owners, businesses, new development, and/or the general public due to implementation of Housing Production Strategies.** These are further detailed by the categories of strategies outlined by DLCD and the Advisory Committees for the HPS.
- **Impacts to local governments and the public** resulting from increased housing production and/or production of housing better aligned with local housing needs.

## Direct Impacts

### Local Government Compliance Costs

House Bill 2003 requires that cities over 10,000 population adopt a Housing Needs Analysis on a regular cycle – every six years for cities over 10,000 population within a metropolitan service district boundary, and every eight years for cities over 10,000 population outside of a metropolitan service district. There are 49 cities in Oregon subject to these requirements. In the recent past, cities throughout the State of Oregon did not regularly adopt a Housing Needs Analysis required by ORS 197.296. The proposed rules do not change requirements in ORS 197.296 related to how a city conducts a Housing Needs Analysis. Rather, the proposed rules compel cities to adopt these analyses on a more regular basis. This represents a possible increase in the frequency and effort cities undergo to complete and adopt these Housing Needs Analyses, potentially increasing future and ongoing costs for cities.

Compliance with the proposed HPS rules is required for cities over 10,000 population within one year of the City's Housing Needs Analysis (HNA) update deadline. The proposed rules will require, at a minimum, compiling information from existing plans and documents (not

necessarily limited to the City’s HNA) to craft policies and actions that demonstrate how the City will:<sup>1</sup>

- Reduce financial and regulatory impediments to develop Needed Housing
- Create financial and regulatory incentives for development of Needed Housing
- Provide access to local, state, and federal resources
- Implement other innovative Housing Production Strategies

The proposed rules indicate that, for each action, the City will further identify: the schedule for its adoption and its implementation, its expected magnitude of impact on the development of needed housing, and the time frame over which it is expected to impact needed housing.

In addition to conducting an analysis of the timeline and expected magnitude of impact of proposed actions, the city must respond to a series of Fair and Equitable Housing Outcome narrative prompts. These responses should consider how the actions proposed and previously implemented by the City achieve greenhouse gas reduction, fair housing, housing choice, housing for people experiencing homelessness, affordable rental or homeownership, and anti-displacement outcomes.

The cost of conducting this analysis – preparing the required documentation, conducting required outreach, and adopting the HPS – could range from \$25,000 to more than \$50,000, depending on the level of effort.

Further, HPS rules will require Cities to prepare mid-cycle reporting on the implementation of Housing Production Strategies which will, at a minimum, require additional staff time. The rules direct Metro cities to submit a midpoint HPS narrative reflection at year three of their HNA cycle and Non-Metro cities to submit a midpoint HPS report at year four of the HNA cycle. Cities are expected to document items such as the effects of strategies implemented, the strategies yet to be implemented, the barriers that may hinder the City’s ability to reach its production goals, the actions the City can take to ameliorate further delays in strategy implementation, and actions/inactions that influence fair and equitable housing outcomes. The time expended for Cities to complete mid-cycle reporting can also vary based on the Cities’ level of effort.

In addition, the proposed rules require Cities to implement the strategies they identify to meet the 20-year housing need. Advancing implementation for individual strategies from the HPS will require additional staff time and/or consultant support beyond HPS adoption. Many will require stakeholder outreach and public involvement processes of their own; work sessions and hearings with elected officials; and potentially notice to affected parties.

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<sup>1</sup> Department of Land Conservation and Development. Housing Production Strategy Technical Advisory Committee, Meeting Packet #5, (page 42 of 106 in the packet).

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## State Agency Costs

DLCD staff will be responsible for reviewing the Housing Production Strategies themselves, along with the mid-cycle reporting from Cities, which will increase costs relative to DLCD's usual functions. With 49 cities submitting documents every three to four years, this translates to roughly 12 to 16 HPS or mid-cycle reports per year, which could amount to a substantial amount of review time. The number of Housing Production Strategies that DLCD will receive is on a known schedule, thereby making it less challenging to determine potential costs to the agency on an annual basis.

The proposed rules require that DLCD consider annual housing production data that Cities are required to submit under Section 1, Chapter 47, of Oregon Laws 2018 in evaluating the sufficiency of Cities' HPS Reports. This increased focus on the annual housing production data means that the agency will likely also be asked to consolidate and publish the annual housing production numbers online. This represents a modest increase in DLCD staff's time.

HB2003 also gives the Land Conservation and Development Commission (LCDC) the authority to review Housing Production Strategies and enforce Cities' compliance under ORS 197.319 to 197.334. The rules provide multiple levels of enforcement and support including technical assistance, funding support, staff review and coordination, and stronger enforcement actions if delinquency cannot be corrected through other means. These actions may involve DLCD and/or LCDC, which will increase staff time and monetary resources to the extent that technical assistance monies are provided to support Cities. Further, the fiscal impact would increase if enforcement procedures require DLCD/LCDC to involve lawyers, LUBA, and/or other external mediators.

## Indirect Impacts

### Impact of Strategy Implementation

Below is an assessment of the indirect impacts of implementing the strategies themselves, organized by proposed high-level policy categories identified in rulemaking. The categories (listed and described in Exhibit 1) illustrate the range of strategies that Cities may use in their Housing Production Strategies.

The strategies proposed to be implemented by each city will vary based on identified housing need over the 20-year planning period, resource capacity, and local priorities. Cities are not required to implement a certain number of strategies or a strategy from each category identified below. Cities are only required to implement strategies that address the entirety of the 20-year housing need, as identified in the Housing Needs Analysis.



## Exhibit 1. Proposed HPS Categories of Tools, Strategies, and Policies

Source: DLCD (June 25, 2020). Real Estate Developer and Housing Experts Feedback, Housing Production Strategies.

Category A	Zoning and Code Changes	These are strategies that a jurisdiction can take to proactively encourage needed housing production through zoning and code modifications. These strategies may also include regulations to ensure housing goals are met.
Category B	Reduce Regulatory Impediments	These strategies address known impediments to providing needed housing. These include but are not limited to zoning, permitting, and infrastructure impediments.
Category C	Financial Incentives	These are a list of financial incentives that jurisdictions can give to developers to encourage them to produce needed housing.
Category D	Financial Resources	These are a list of resources or programs at the local, state and federal level that can provide money for housing projects. The majority of these resources are intended to provide money for affordable housing projects.
Category E	Tax Exemption and Abatement	These are a list of tax exemption and abatement programs that are intended to encourage developers to produce housing.
Category F	Land, Acquisition, Lease, and Partnerships	These are strategies that secure land for needed housing, unlock the value of land for housing, and/or create partnerships that will catalyze housing developments.
Category Z	Custom Options	Any other Housing Production Strategy not listed in Categories A through F that the jurisdiction wishes to implement will be outlined in this section and numbered accordingly.

### Category A. Zoning and Code Changes

The resulting zoning and code changes may impact property owners and businesses due to changes in the allowed uses and development potential of their property. Many of the possible zoning and code changes that could be part of an HPS would expand the allowed uses of property (e.g. allowing additional forms of housing, allowing housing in new locations), but some (e.g. Inclusionary Zoning, short-term rental regulations, manufactured housing preservation zoning) would impose new restrictions. Changes that expand the allowed use of property may result in an increase in property value and in the potential for the property to generate revenue, while restrictions may cause a decrease.

It is possible that such changes in property value could result in a change in property taxes. However, due to constitutional limits imposed by Measure 50, a property's maximum assessed value (MAV) can increase by no more than 3% per year except under certain circumstances. These circumstances include:

- New construction



- Major improvement projects (e.g. additions, remodels, or rehabilitation)<sup>2</sup>
- Land division
- Rezoning (where the property is used consistently with the new zoning)<sup>3</sup>

In situations where these circumstances do occur, the Assessor determines how much Real Market Value (RMV) was added by the change(s) to the property. The Assessor then uses the changed property ratio (CPR) for that property type to determine the additional taxable value.

The proposed rules may result in local jurisdictions making changes to their development codes that will constitute rezoning under OAR 150-308-0200.<sup>4</sup> This may lead property owners to build new housing types that are allowed under the modified code or to take on major improvement projects that change the existing use to one that is allowed under the modified code. In these cases, the increase in property value will depend on the RMV after the improvement or development and the CPR in the county where the property is located.

Reductions in property value resulting from additional restrictions on the property are unlikely to result in a corresponding reduction in property taxes because the assessed value is already well below the real market value for most properties as a result of the aforementioned limits imposed by Measure 50.

### Category B. Reduce Regulatory Impediments

Measures to reduce regulatory impediments will generally increase the possible uses of property and/or reduce development costs. This will generally benefit new development and may have a benefit to property owners from expanded use or development potential of their land, similar to Category A, above.

For some Cities, some of the options in this category could require increased staffing (e.g. expedited permitting) and/or carrying more of the costs of infrastructure improvements in order to reduce the burden on certain types of housing. Other measures (e.g. regulatory reforms) will have few or no on-going costs once implemented.

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<sup>2</sup> Valued at more than \$10,000 in one year or \$25,000 over 5 years.

<sup>3</sup> Per OAR 150-308-0200, this includes a change in:

“(i) The number of dwelling units, other than accessory dwelling units, allowed per acre, or other legal limitation on the number of dwelling units, other than accessory dwelling units, in a given area;

“(ii) The allowed floor area ratio; or

“(iii) The allowed site coverage ratio.”

<sup>4</sup> To trigger the zoning exception, property must be rezoned and used consistently with the rezoning. “Property is ‘used consistently with the rezoning’ when it’s put to a newly allowed use. This doesn’t include situations where the use of the property was an allowed use both before and after the rezoning.” From: Oregon Department of Revenue, “Maximum Assessed Value Manual,” Rev. 05-18, Page 7-4.

[https://www.oregon.gov/DOR/forms/FormsPubs/maximum-assessed-value-manual\\_303-438.pdf](https://www.oregon.gov/DOR/forms/FormsPubs/maximum-assessed-value-manual_303-438.pdf)

### Category C. Financial Incentives

Financial incentives generally reduce locally imposed, up-front costs for housing developers, creating a fiscal benefit to the targeted new development. However, a reduction in fee revenue or waived contributions to infrastructure improvements has a fiscal impact on local governments. Less revenue collected or fewer infrastructure needs met means a greater need for revenue from other sources to pay for needed infrastructure improvements. In some cases, the short-falls may be made up (at least in part) by increasing costs for other development.

### Category D. Financial Resources

Some of the listed financial resources come from the state or federal level. These are either channeled directly to development (e.g. Low-Income Housing Tax Credits, Housing Trust Funds, Local Innovation and Fast Track Program funds) or allocated to eligible Cities to prioritize use of funds (e.g., CDBG, HOME). These resources come at little or no cost to Cities (except administrative cost for funding administered locally) and their investment benefits the receiving developments.

However, a local government may need to identify or raise additional revenue to provide financial resources to support housing production programs. Additional revenue could come from a variety of funding tools, such as:

- New or increased System Development Charges (SDCs)
- Construction Excise Tax
- Tax Increment Financing
- General Obligation Bonds
- Other new or existing funding sources that are legally allowed to be used for housing production (or infrastructure development that supports increased capacity on land)

Each potential funding tool would impact different members of the public and businesses. For example, a Construction Excise Tax would increase the cost of new, non-exempt development to support housing programs that benefit priority housing projects. Tax Increment Financing would generate funding to pay for housing programs without imposing new taxes on development/property owners by deferring property tax accumulation to Cities.

### Category E. Tax Exemption and Abatement

Tax abatements reduce operational costs for eligible development. The City would forego some property tax revenue for the exemption/abatement period. Due to limits on increasing property taxes, this would likely mean slight reductions to local budgets rather than increases for other property owners; however, if some or all of the benefitting development would not have occurred but for the exemption, then the actual revenue foregone is much less.

### Category F. Land Acquisition, Lease, and Partnerships

Land acquisition by a City generally requires a funding source; these are addressed above in Category D. The fiscal impacts of using public land or land acquired by the City for housing

depends on whether the housing is taxable or not. If the resulting housing is tax exempt, this reduces potential property tax revenue. In addition, if the City writes down the land cost to support affordable housing development, the City loses the potential proceeds from the land if sold for market-rate development.

Depending on the strategy employed, impacts of acquisition and strategic disposition of land / properties on adjacent property owners can vary. If implemented successfully, however, these strategies typically lead to positive fiscal impacts. For instance:

- If property is acquired for strategic restoration, the action may enable catalytic redevelopment, thereby improving the economic vitality of neighborhoods and increasing property values.
- Conversion of underperforming or distressed assets (including tax delinquent or foreclosed properties) to more productive use can add to the property tax base over time and improve the economic value of the surrounding area.

### Category Z. Custom Options

Other economic and fiscal impacts on parties including, but not limited to, rate payers, property owners, new development, and adjacent property owners/the public is speculative and would depend on the action imposed.

### Impacts of Changes to Housing Production

The proposed rules for Housing Production Strategies aim to promote development of new housing at needed price points with needed characteristics in Cities. However, how they might impact total housing production is less clear. One possibility is that without the HPS, there *would not* be enough housing built in cities to accommodate population growth, resulting in rising housing costs and households locating elsewhere. Alternatively, it could be that without the HPS, cities *would* produce housing at levels that are sufficient to accommodate population growth, but not necessarily at needed price points with needed characteristics. The reality for most communities likely is a mix of both—the housing that can be supported by the market is mostly delivered, but the housing that requires subsidy is delivered at levels well below the need.

The impact of the strategies can also vary in terms of the amount and type of housing each will encourage. Thus, the net result is uncertain, but likely to include some increase in market-rate housing production and some increase in subsidized housing production, with a slight increase in total housing production to more closely align with forecast need. This framework is important to understanding the indirect impacts of the proposed rule.

### Benefits of Increased Production of Needed Housing

The following types of positive fiscal impacts on the public at large may occur as a result of implementation of the strategies required for compliance with the proposed rules:

- Production or preservation of additional affordable housing for rental and/or homeownership, leading to reduced housing cost burden in the community, increased housing stability for low-income households, and expanded housing options in places that offer greater accessibility to employment and other amenities and resources. This particularly benefits households that are eligible for government-supported housing, but also offers broader community and societal benefits over time.
- Reduced costs and/or delay to housing producers developing market-rate housing, enabling somewhat greater total housing production and somewhat lower costs for consumers of new market-rate housing. The reduced cost of new market-rate housing particularly benefits moderate- to higher-income households, but also helps moderate the rate of housing cost escalation within that market overall. When new housing production more closely matches increases in housing demand, prices will more closely reflect the cost of unit production. Moderating housing cost escalation tends to benefit renters and first-time homebuyers, but can also benefit businesses by keeping the amount needed to constitute a living wage lower and making it easier to attract and retain workers.
- Greater homeownership and wealth-building opportunities for historically excluded or disadvantaged populations.

### Gentrification and Displacement Risks

When an increase in housing supply comes in the form of new market-rate construction in an existing neighborhood, it can have localized negative impacts on low-income renter households in that neighborhood. (Even after recent changes to state law providing greater protection for renters, renters are still much more vulnerable to changing market conditions and are subject to the decisions of the property owner about redevelopment, remodels, rent increases, etc.)

Renters can face increased risk of physical displacement (when their housing is redeveloped or substantially remodeled, requiring them to move elsewhere) and/or economic displacement (when rent for existing housing increases faster than the tenants can afford, and they are unable to stay).

Although most housing strategies will create more housing than they remove and, in the process, create benefits for the many households across the market, there could be some loss of existing low-cost housing under some strategies. For example, some strategies may make redevelopment of existing low-cost rental housing (e.g. older single family rental homes) feasible where it had not been before—where redevelopment to a newer, larger single family home (a one-to-one replacement) or to non-residential uses is not financially viable or legally permissible. This can cause displacement of existing renter households.

Pairing strategies that may increase the risk of displacement with measures to increase housing stability for the lowest-income households can help mitigate this risk. The proposed rules require that Cities consider and report how the City is mitigating gentrification and displacement resulting from investment or redevelopment. While this does not mandate a specific set of strategies to address displacement, it ensures Cities must consider and address

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the risks. A localized analysis can help cities understand the risk to the local population in an area where investments or policy changes are under consideration and target strategies to address those at risk.

## Housing Impact Statement

### Direct Impacts

There are no direct impacts to housing development costs anticipated as a result of the proposed rules.

### Indirect Impacts

- In general, if the HPS supports housing production that would not otherwise be built, the increased supply of housing could (to some extent) improve housing affordability in cities, helping to stabilize or even reduce housing costs for consumers. This would not necessarily reduce the costs of housing development.
- If the HPS supports an increase in housing production overall, this could increase demand for construction labor and materials, but these impacts are likely to be modest enough that they would not affect the cost of materials or labor.
- As noted above, in some situations, the proposed rules could prompt a local government to increase fees on market-rate single-family homes to make up for reductions for other housing types or to generate revenue to fund housing programs and development. While this would benefit some housing, it would increase the cost of development for other housing (e.g. the reference single family home).
- If the proposed rules prompt local governments to reduce development impediments or make additional land available for residential development, a wider range of housing types could become more financially achievable in locations that would not be feasible otherwise. Some of the changes could benefit single-family home development. However, changes could also slightly increase the land cost in some areas due to greater development potential for other housing types.
- In instances where zoning and code changes increase land values, new development may experience increased costs to purchase sites. However, these costs may be recouped (at least in part) once projects are sold, through higher sales prices.



## MEMORANDUM

**DATE** August 4, 2020  
**TO** Ethan Stuckmayer and Robert Mansolillo, DLCD  
**FROM** Kate Rogers and Matt Hastie, APG  
**RE** **Model Code TAC Meeting 8 Notes**

### **MCTAC Mtg 8, 8/4/20**

#### **Topics:**

- LMCMC Draft
- Draft OARs
- “In areas” and Alternative Approach discussion

#### **Next Meetings:**

- Aug 18 – final RAC mtg
- Oct 8 – MCTAC mtg if needed following LCDC hearing

## **Cottage Clusters**

### **Definitions**

- Mark: support leaving option for CC subdivision in OAR; suggest providing some guidance/best practices for jurisdictions allowing individual lots in their codes; at least, where modifications to model code standards would be needed
  - Matt: we agree this would be useful; may not have ability to go into a lot of detail on this
  - Ethan: agree this would be a valuable contribution
- Anna: comment about utility service; determining how to provide utility service in a way that’s efficient and recognizing that ownership patterns can change over time; this is one of the complications of cottage clusters; any guidance that could be provided to cities on how to provide for different ownership patterns while maintaining basic utility service
- Kol: for min compliance, could cities allow footprints >900 sf or attached units? If out of compliance on this standard, would entire model code then apply?
  - Matt: I think HB2001 would require units have <900 sf footprint and be detached
  - Ethan: attached housing may need to be under a different standard or use category

- RE: compliance—if out of compliance with the cottage cluster part of HB2001, then just that part of the model code would apply

## Development Standards

- Mark:
  - Definitions—footprint of 900 sf should not include garage—how would detached clustered garages be addressed?
  - Number of units—if there’s no minimum, it creates a gray area with other housing types (quadplex vs. cottage cluster); Springfield defined as 5+ units; support there not being a maximum
  - Density—support no maximum density; it’s like a mini form-based code where all the other standards should control
- Anna: lot size is an important conversation; allow higher minimum lot size; fitting in all requirement for CC would be a challenge—more space-intensive than other housing types; code should allow city to have larger minimum lot size for CC than for other housing types (for minimum compliance)
  - Orientation requirements around courtyards are too rigid
- Kol: support the setback requirements; consider applying the same setback standards to other housing types
  - Unit size—prefer option 3, provides for the most affordable form of development
- Kaarin: agree with Mark about density; support average unit size, also consider variations in height allowed; for definition, consider including “bungalow court” in other terms used for housing type; consider lot coverage
  - Matt: currently not recommending lot coverage standards—would potentially conflict with other standards; effective lot coverage would be difficult to say
  - Ethan: lot coverage standard is de facto; we can achieve the intended outcome without defining that standard
- Pauline: recommend 20’ setback for garage instead of 10’
- Martha: building footprint—consider excluding garages, carports, or accessory structures
  - OAR for number of units—confused about use of “may” and “must” and the numbers used
    - Ethan: we’ll fix language error; numerical stds—cities must allow at least 5 units; trying to safeguard against excessive limits on units per cluster—cities must allow at least 8 units per cluster (i.e., city could not limit to 4 units per cluster so that 5-unit project would need to have two courtyards)
    - Matt: re: clustered garages: would not be included in footprint calculation
- Martha: max average unit size—creates challenges for jurisdiction to regulate if future additions are proposed
  - Ethan: unit size is one of our biggest questions

## Potential Issues to Address



- *Definition of cottage cluster—add “bungalow court” as an alternate term (also “cottage court”)*
- *Footprint—potentially reconsider inclusion of garages in calculation; if included, make sure it’s clear how clustered garages are treated (I assume this means individual garages that are clustered together, rather than shared garages?)*
- *Unit size—most support for average unit size (Option 3), although Martha pointed out potential compliance issues down the line*
- *Setbacks—Pauline suggested 20’ setback for garages—note that off-street parking must be placed a minimum of 20’ from street property lines, per the parking design standards*

### Off-Street Parking & Design Standards

- Anna: thinking about sites that are irregularly shaped... consider being less rigid about what a courtyard is; allow cottages to have access to the space, but not necessarily abutting the courtyard
- Peter: thinking about courtyard design and parking design; on a narrow lot, parking would have to be in the middle of a site; concerned about courtyard design standards being too rigid, in terms of numeric standards; woonerfs may be excluded; courtyards may not end up being very usable for residents if they’re mostly lawn/landscaping
  - If you put parking in the rear without an alley, you end up devoting a lot of space to vehicle maneuvering
- Pauline: Bend tinkered with our cottage cluster code and have some good examples of built projects; recommendations from developers; setbacks along perimeter and parking—reduced to 5’; cottage development recently built in Sisters with garage parking accessed from the street—this wouldn’t be allowed by model code standards
- Anna: consider access from parking to homes; consider allowing limited parking spaces or pickup/dropoff areas within courtyard area; the more restrictions there are, the more challenging a site design will be and the more space will be required for the development
- Jerry: parking and courtyard design are two places where schematic designs would be useful; continue to think on-street credit is a bad idea, especially for CCs, where the cottages aren’t oriented to the street
- Kol: parking—support option 2a (0 / 0.5 spaces per unit); lot coverage standards have been a barrier for CC projects
  - Matt: to clarify, we do not recommend lot coverage or deferring to existing lot coverage
- Peter: Portland had a courtyard design competition; the first-place winner would violate all the standards; can share a link
  - Ethan: there’s a variety of ways that CCs can be designed... this highlights the challenge of developing model code standards that work across the board
- Mark: cottage orientation—support Option 2, 50% of cottages have to orient to courtyard
  - Parking—agree with Peter and support more flexibility for design
    - Sub D—garages shouldn’t be part of the footprint
  - Community buildings—does this belong in the model code?



- Matt: we want to make sure these are allowed by the model code and think size limitations are appropriate, since they can be used as visitor dwellings
- Peter: it's more likely that jurisdictions will adopt the model code for CCs than for other housing types, so it's important that we consider how they'll play out

### **Potential Issues to Address**

- *Off-street parking—support for Option 2 (Kol supports 0 spaces for smaller units and 0.5 spaces for larger units)*
- *Cottage orientation—most support for 50% requirement (Option 2)*
- *Common courtyard standards*
  - *Reduce requirement for amount of space (perhaps to 100 sf per unit?)*
  - *Reduce max impervious area (from 50%)*
- *Parking design—consider allowing direct access to parking spaces from the street (per Pauline's comment); consider relaxing other standards*

## **Townhouses**

### **Development Standards**

- Mark: parking—can jurisdictions require a garage? If a jurisdiction requires a garage and has a 20' setback, is that de facto requiring 2 spaces?
  - Ethan: we'll make sure this is addressed

### **Design Standards**

- Matt: we will add provision that prohibits garage requirement
- Anna: want to make sure a driveway in front of a garage does not encourage parking in the sidewalk; in Beaverton, we're working to reduce surface parking, and require enclosed parking; disagree with prohibition on requiring garages; garages can help promote denser, more walkable development
  - Matt: we may need to reflect the halfway driveway issue in the model code; requiring a garage could add significant cost and delay
- Kol: suggest reducing off-street parking requirement
- Pauline: support Option 2, which allows 1 driveway per townhouse
- Mark: re: graphics—suggest applying similar graphic as the one on p. 120 of packet for tri/quad to townhouses; what does improvable mean?
  - Matt: we removed "improvable" from draft—this will be updated in the graphic

### **Potential Issues to Address**

- *Prohibition on garage requirement—note that the applicability for design standards (Subsection C) states that no other design standards shall apply to townhouses*

- *Halfway driveway setback issue—note that the model code defers to SFD standards for front setbacks, and does not limit minimum setbacks for garages or carports; so if a jurisdiction has this standard for SFD, it'll apply to townhouses as well*
- *Off-street parking—consider reducing the ratio*
- *Parking design—support for allowing individual driveways*

## Triplexes and Quadplexes

- Mary Kyle: min compliance for min lot size—wording is confusing; prefer to keep min compliance same as model code
  - Ethan: what we're really saying is that you're not required to go below 5,000 sf; we'll clarify this language
- Mark: agree with need for clarity—make it clearer that jurisdictions have to allow tri/quad on 5,000 sf lots
  - Real comment is on the numbers themselves—propose 7,000 sf for triplex and 9,000 sf for quadplex; this puts it more on a level playing field with duplexes and other housing types
- Jerry: I like these numbers in the OARs; FAR—how is site area defined?
  - Matt: we'll look at this
- Kol: FAR—too much of a cliff between 5,000 sf and 5,000 sf; suggest 0.9 FAR for 5,000-10,000 sf
  - Min lot size—agree with Mary Kyle
  - Reduce setbacks from 20 ft to 10 ft
  - Off-street parking—don't require additional parking for conversion to tri/quad with addition of detached units to existing dwelling
- Peter: consider the need for smaller units—concerned that allowing cities to require 7,000 sf for quadplexes would effectively preclude this development type in a lot of areas; don't preclude smaller units even if they don't pencil out for developers
- Martha: min compliance for min lot size could be written more simply; does actual lot size need to be 5,000 sf for tri/quad?
- Anna: concerned that cities who wish to limit middle housing will manipulate SF zoning; if jurisdictions have ability to use more tools, it may be better to allow cities to be more fine-grained in where middle housing is allowed, rather than min lot size (this gets to the "in areas" discussion)
- Heather: concerned about tying tri/quad to SFD min lot size; McMinnville is working on smaller lots for SFD

## Potential Issues to Address

- *FAR*
  - *Consider adding definition for "site area"*
  - *Consider adding a tier for zones with 5,000-10,000 sf min lot sizes; Kol recommends 0.9 FAR for this tier*

- *Setbacks—consider lowering the cap on minimum setbacks to 10'*
- *Off-street parking—standard says that no additional parking is required for conversion of SFD to tri/quad; clarify that this also applies when tri/quad is created by adding detached units*




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MEMORANDUM

## Large & Metro Cities Model Code Parts 1 – 3 (REVISED DRAFT); Part 4 (INITIAL DRAFT) DLCD Middle Housing Model Code

DATE July 28, 2020  
 TO MHMC Model Code Technical Advisory Committee (MCTAC)  
 FROM Matt Hastie, Cathy Corliss, and Kate Rogers, Angelo Planning Group  
 CC Ethan Stuckmayer and Robert Mansolillo, DLCD  
 Project Team

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### Commentary:

This memorandum combines all parts (1 – 4) of the draft Large & Metro Cities Model Code (LMCMC):

- **Chapter 1. Combined Standards for All Middle Housing (Part 1).** This chapter includes the Purpose, Applicability, Definitions, and Relationship to Other Regulations sections, which are proposed to be shared by all middle housing types. The draft code provisions have been revised following review at Model Code Technical Advisory Committee (MCTAC) meetings 4, 5, 6, and 7 and Rulemaking Advisory Committee (RAC) meetings 5, 6, 7, and 8.
- **Chapter 2. Duplexes (Part 2).** This chapter includes proposed standards for duplexes and is the same as the draft Medium Cities Model Code. The draft has been revised to reflect the updated definition of duplex.
- **Chapter 3. Triplexes and Quadplexes (Part 2).** This chapter includes proposed standards for triplexes and quadplexes. The draft code provisions have been revised following review at MCTAC 5, 6, and 7 and RAC 6, 7, and 8.
- **Chapter 4. Townhouses (Part 3).** This chapter includes proposed standards for townhouses. The draft code provisions have been revised following review at MCTAC 5, 6, and 7 and RAC 6, 7, and 8.
- **Chapter 5. Cottage Clusters (Part 4).** This chapter includes an initial draft of cottage cluster standards. This initial draft follows a review of the cottage cluster code concepts memo at MCTAC 7 and RAC 8.

The tables in Chapters 1 – 5 of the draft model code include provisions organized into two columns (plus commentary for the MCTAC):

1. **Model Code** – The standards that will apply directly to proposals for middle housing development if jurisdictions do not adopt the required code amendments. These standards are consistent with the requirements and intent of HB 2001 and are intended to be straightforward and implementable by Large Cities (as defined in the house bill) throughout the state.
2. **Minimum Compliance** – The minimum standards that development codes must meet in order to comply with the text and intent of HB 2001. These are the standards against which DLCD will compare amended development codes to ensure they comply with state law.

Ultimately, the LMCMC minimum compliance standards will be adopted **directly** into administrative rules, and the model code will be adopted **by reference** into administrative rules.

***Note:** Revisions to the draft LMCMC that were made since the last MCTAC meeting appear in “track changes” mode. For ease of review, track changes mode is not used where commentary has been added or updated.*

## Chapter 1. Combined Standards for All Middle Housing

### Sections:

- A. Purpose
- B. Definitions
- C. Applicability
- D. Relationship to Other Regulations

*Commentary: New definitions associated with cottage cluster standards are included with Chapter 5, for ease of review.*

Standard	Model Code	Minimum Compliance	Commentary
<b>A. Purpose</b>	The purpose of this model middle housing 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.	Local governments are not required to include a purpose statement specific to provisions needed to implement and comply with HB 2001.	
<b>B. Definitions</b>	The following definitions shall apply for the purposes of this code, notwithstanding other definitions in the development code:	--	--
1. “Common wall”	“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.	No requirement, as long as definitions ensure consistent application of middle housing standards.	<i>HB 2001’s definition of “townhouse” uses the term “common wall,” therefore, it is defined here. The proposed definition is consistent with those used by the Cities of Bend and Portland (and possibly others).</i>
2. “Goal Protected Lands”	“Goal Protected Lands” means lands protected or designated pursuant to the following statewide planning goals: <ul style="list-style-type: none"> <li>• <a href="#">Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces</a>;</li> <li>• <a href="#">Goal 6 Air, Water, and Land Resource Quality</a></li> <li>• Goal 7 Areas Subject to Natural Hazards;</li> <li>• Goal 15 Willamette River Greenway;</li> <li>• Goal 16 Estuarine Resources;</li> <li>• Goal 17 Coastal Shorelands;</li> <li>• Goal 18 Beaches and Dunes.</li> </ul>	For the purposes of determining areas in which triplexes, quadplexes, townhouses, and cottage clusters must be allowed, local governments may exclude “Goal Protected Lands”.	<i>This definition is proposed to establish areas where middle housing (besides duplexes) is <u>not</u> permitted by the model code, and was updated following MCTAC 6.</i>
3. “Cottage cluster”	“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. <a href="#">Cottage cluster may also be known as “cluster housing,” “cottage housing,” or “pocket neighborhood.”</a>	Local governments must have a definition for cottage clusters <a href="#">(or one of the alternative terms, such as cluster housing)</a> that allows groupings of smaller detached units with a shared courtyard or open space. The definition must limit the footprint of each detached dwelling unit to	<i>Update since MCTAC 7: We added to the definition to reference some of the other terms used for cottage clusters. HB 2001 provides the definition of “cottage cluster,” but the draft model code narrows the definition to mean detached units <u>on a single lot</u>.</i>

Standard	Model Code	Minimum Compliance	Commentary
		less than 900 SF. The definition may provide greater flexibility than the model code, including allowing individual units on separate lots.  <i>(See additional information in commentary.)</i>	<i>However, for minimum compliance with HB 2001, jurisdictions may provide greater flexibility as long as the minimum standards are met.</i>
4. “Detached single family dwelling”	“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.	No requirement, as long as definitions ensure consistent application of middle housing standards.	
5. “Duplex”	“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.	“Duplex” means two attached dwelling units on one lot or parcel. A large city may define a duplex to include two detached dwelling units on one lot or parcel.	<i>This definition is consistent with the Medium Cities Model Code.</i>
6. “Floor area”	“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: <ul style="list-style-type: none"> <li>• Areas where the elevation of the floor is 4 feet or more below the adjacent right-of way;</li> <li>• Roof area, including roof top parking;</li> <li>• Roof top mechanical equipment; and</li> <li>• 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.</li> </ul>	If the jurisdiction has a definition of floor area, they may use that definition in regulating middle housing. If a jurisdiction does not already have a definition of floor area, the definition must be the same as or similar to the model code.	<i>The definition of floor area clarifies which parts of a building are included in the FAR calculation. The proposed definition is from the City of Portland; we suggest this definition because it is very specific, thereby avoiding confusion to the extent possible, and includes garages in the floor area definition. Because garages can occupy a significant amount of space, we recommend including them in the FAR calculation in order to control a building’s overall scale. Additionally, a sampling of Large Cities’ development codes revealed that it is more common to include garages in the floor area definition than to exclude them.</i>
7. “Floor area ratio (FAR)”	“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 2 to 1 means two square feet of floor area for every one square foot of site area. FAR is calculated by dividing the total floor area (as defined in Section (B)(6)) of all buildings on a site by the total site area, after dedication of public rights-of-way and/or designation of private rights-of-way.	If the jurisdiction applies FAR standards to middle housing, a definition is required. The definition should be similar to the model code, but the jurisdiction could allow portions of the site to be excluded from the calculation (e.g., public utility easements).	<i>Update since MCTAC 7: Additional detail about how FAR is calculated was added to the definition, per suggestion from the MCTAC.</i>
<a href="#">8. “Frontage”</a>	<a href="#">“Frontage” means the portion of a lot or parcel that abuts a street.</a>	<a href="#">A definition of frontage is required if a local government applies standards related to lot/parcel frontages.</a>	<i>Update since MCTAC 7: “Frontage” is used in a few model code standards, but may be defined differently by different jurisdictions. The term is defined here to ensure the standards are clear and objective.</i>

Standard	Model Code	Minimum Compliance	Commentary
<p><a href="#">89</a>. “Infrastructure-constrained lands”</p>	<p>“Infrastructure-constrained lands” <u>means areas where it is not feasible to provide acceptable water, sewer, storm drainage, or transportation services to serve new triplexes, quadplexes, townhomes, or cottage cluster development as defined by OAR 660-046-0320(1) and the thresholds identified in OAR 660-046-0340; where the local government is not able to correct the infrastructure limitation by utilizing the process outlined in OAR 660-046-0300 through 660-046-0370 due to cost, jurisdictional, or other limitations; and which cannot be remedied by future development of middle housing on the subject lot or parcel.</u><del>means lots or parcels that are not currently served by water, sewer, storm drainage, or transportation services; and where the local government is not able to correct the infrastructure limitation with an Infrastructure Based Time Extension Request (IBTER) due to jurisdictional, cost, or other limitations; and which cannot be remedied by future development of middle housing on the subject lot or parcel.</del></p>	<p>For the purposes of determining areas in which triplexes, quadplexes, townhomes, and cottage clusters must be allowed, local governments may exclude “infrastructure constrained lands”.</p>	<p><i>This definition is proposed to establish another type of area where middle housing (besides duplexes) is <u>not</u> permitted by the model code.</i></p> <p><i>The proposed Applicability statement would exempt these infrastructure-constrained lands from the requirement to allow middle housing (other than duplexes), as stated in Section C.</i></p>
<p><a href="#">910</a>. “Lot or parcel”</p>	<p>“Lot or parcel” means any legally created unit of land.</p>	<p>Local governments must have a definition for lot and/or parcel that is the same as, or similar to, the model code definition.</p>	
<p><a href="#">1011</a>. “Middle housing”</p>	<p>“Middle housing” means duplexes, triplexes, quadplexes, cottage clusters, and townhouses.</p>	<p>The OAR will use the same definition as the model code. Local governments are not required to have a definition for middle housing as long as each of housing types included in the OAR definition is defined.</p>	<p><i>HB 2001 provides the definition of “middle housing.”</i></p>
<p><a href="#">1112</a>. “Quadplex”</p>	<p><b>PREFERRED OPTION (2):</b> “Quadplex” means four dwelling units on a lot or parcel in any configuration.</p>	<p>Jurisdictions must define “quadplex” as four dwelling units on a lot. Jurisdictions must allow quadplexes to be provided in an attached configuration but may allow detached units as well.</p>	<p><i>The MCTAC expressed the most support for the definition option that allows both attached and detached triplexes and quadplexes, because of the additional flexibility it affords.</i></p>
<p><a href="#">1213</a>. “Townhouse”</p>	<p>“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.”</p>	<p>Jurisdictions must have a definition of “townhouse” (or one of the alternative terms, such as rowhouse), that is the same as or similar to the model code definition. At minimum, this housing type must be defined as attached dwelling units on individual lots.</p>	<p><i>HB 2001 provides the definition of “townhouse.”</i></p>
<p><a href="#">1314</a>. “Triplex”</p>	<p><b>PREFERRED OPTION (2):</b> “Triplex” means three dwelling units on a lot or parcel in any configuration.</p>	<p>Jurisdictions must define “triplex” as three dwelling units on a lot. Jurisdictions must allow triplexes to be provided in an attached configuration but may allow detached units as well.</p>	<p><i>See commentary for “quadplex” above.</i></p>
<p><a href="#">1415</a>. “Townhouse project”</p>	<p>“Townhouse project” means one or more townhouse structures constructed, or proposed to be constructed, together with the</p>	<p>Local governments may, but are not required to, have a definition for townhouse project.</p>	<p><i>This definition describes an overall townhouse development, as opposed to individual townhouse units. Some development standards in Chapter 4</i></p>



Standard	Model Code	Minimum Compliance	Commentary
	development site where the land has been divided, or is proposed to be divided, to reflect the townhouse property lines and the commonly owned property, if any.		<i>apply to the townhouse project overall, whereas others apply to individual units or lots.</i>
4516. “Zoned for residential use”	“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.	The OAR will use the same definition as the model code. Local governments are not required to have a definition as long as they comply with OAR requirements to allow middle housing within areas zoned for residential use.	<i>This definition clarifies that the middle housing requirement only applies in residential zones. This is further clarified in the Applicability section.</i>
<b>C. Applicability</b>	--	--	--
1. <u>Applicability of Code Sections.</u>	<p>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. <i>[and potentially others]</i></p> <p>b. Code standards applicable to specific housing types are listed below:</p> <ul style="list-style-type: none"> <li>• Duplexes: <i>Chapter 2.</i></li> <li>• Triplexes: <i>Chapter 3.</i></li> <li>• Quadplexes: <i>Chapter 3.</i></li> <li>• Cottage clusters: <i>[list sections here].</i></li> <li>• Townhouses: <i>Chapter 4.</i></li> </ul>	N/A	<i>This subsection of Applicability states which sections of the model code are applicable to each type of housing.</i>
2. <u>Applicability by Development Type and Location.</u>	<p>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:</p> <ul style="list-style-type: none"> <li>• New duplexes and those created through conversion of existing detached single family dwellings.</li> <li>• New triplexes, quadplexes, cottage clusters, and townhouses, and those created through conversion of existing detached single family dwellings or duplexes.</li> </ul> <p>b. <u>Exceptions.</u> 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:</p> <ul style="list-style-type: none"> <li>• On goal-protected or infrastructure-constrained 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.</li> </ul>	<p><b>Duplex</b> – The standards of the code must allow for the development of new duplexes and those created through conversion of existing detached single-family dwelling on lots and parcels zoned for residential use that allow for the development of detached single family dwellings.</p> <p><b>Other Housing Types</b> – As with the model code, the standards of the code must allow for the development of new triplexes, quadplexes, cottage clusters, and townhouses, and those created through conversion of existing detached single family dwellings or duplexes on lots and parcels zoned for residential use that allow for the development of detached single family dwellings. Local governments may use additional criteria to regulate where middle housing (other than duplexes) is allowed including but not limited to goal-protected and infrastructure-constrained lands.</p>	<p><i>This subsection establishes the following:</i></p> <ul style="list-style-type: none"> <li>• <i>Identifies <u>where</u> within “areas zoned for residential use” middle housing must be allowed.</i> <ul style="list-style-type: none"> <li>○ <i>Clarifies that the provisions only apply in residential zones in which detached single family dwellings are permitted.</i></li> <li>○ <i>Per HB 2001, duplexes must be allowed on all residential lots and parcels that allow SFD.</i></li> <li>○ <i>The proposed language for other middle housing types indicates that they are not required to be allowed within goal protected or infrastructure-constrained lands “<u>unless otherwise permitted by the jurisdiction through clear and objective standards, criteria, and procedures.</u>” This gives local jurisdictions the ability to identify conditions where they would be allowed in these areas, as opposed to a blanket prohibition.</i></li> </ul> </li> <li>• <i>Indicates that the standards apply to new construction as well as conversions of single family detached homes.</i></li> <li>• <i>For lots or parcels within goal protected or infrastructure-constrained lands, which only allow a duplex, the model code does not allow for</i></li> </ul>

Standard	Model Code	Minimum Compliance	Commentary
	<ul style="list-style-type: none"> <li>On lands that are not zoned for residential use, the creation of middle housing. This includes lands zoned primarily for commercial, industrial, agricultural, public, or mixed uses, even if those zones allow for the development of detached single family dwellings.</li> </ul>	<p><u>See draft OARs for further clarification on Applicability of middle housing types.</u></p>	<p><i>creation of more than two units, including ADUs (i.e., an SFD with an ADU cannot be converted into a duplex unless the jurisdiction allows it). This is consistent with the MCMC.</i></p>
<p><b>D. Relationship to Other Regulations</b></p>	<p>--</p>	<p>--</p>	<p>--</p>
<p>1. <u>Conflicts.</u></p>	<p>In the event of a conflict between this code and other standards applicable to a middle housing development, the standards of this code control.</p>	<p>No specific requirement, as long as local governments address conflicts in the development code.</p>	<p><i>Proposed language is the same as the draft Medium Cities Model Code, except it refers to all middle housing.</i></p>
<p>2. <u>Public Works Standards.</u></p>	<p>Clear and objective exceptions <u>(as required by ORS 197.307(4))</u> to public works standards granted to single family dwellings shall also be granted to duplexes.</p>	<p><b>Duplex</b> – If a local government or other utility service provider grants clear and objective exceptions to public works standards <u>(as required by ORS 197.307(4))</u> to single family detached development, those same exceptions must also be granted to duplexes permitted under this section. <i>(draft OAR 660-046-0105.7 for Med Cities)</i></p> <p><b>Other Housing Types</b> – <del>N/A</del><u>if other middle housing types are created as a result of a conversion of an existing single family detached dwelling, the property must be allowed the same clear and objective exceptions to public works standards as applied to single family detached development.</u></p>	<p><i>For public works standards, it is appropriate to grant the same exceptions to duplexes that apply to single family dwellings, because duplexes must be allowed on any lot or parcel that allows a detached single family dwelling. However, it may not be appropriate to grant the same exceptions to other middle housing types, which need not be permitted on any single family lot or parcel, and which represent higher-intensity development.</i></p>
<p>3. <u>Protective Measures.</u></p>	<p>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).</p>	<p>Local governments may regulate Middle Housing to comply with protective measures (including plans, policies, and regulations) adopted and acknowledged pursuant to statewide land use planning goals.</p>	<p><i>This clarifies that requirements of HB 2001 do not override local protections for natural resources, natural hazards, or other regulatory protections adopted pursuant to Statewide Land Use Planning Goals. This could mean, for example, limiting building footprints in wetland areas, ensuring middle housing types are reviewed for historic compatibility in historic districts, or limiting building heights within the Willamette Greenway.</i></p>

## Chapter 2. Duplexes

### Sections:

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

Standard	Model Code	Minimum Compliance
<b>A. Permitted Uses and Approval Process</b>	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. 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, if such a process is available.	Local governments must permit duplexes outright on each lot or parcel zoned for residential use that allows for the development of detached single family structures. Local governments must apply the same approval process to duplexes as detached single family dwellings in the same zone. Local governments may adopt and apply only clear and objective standards, conditions, and procedures regulating the development of duplexes pursuant to OAR 660-008-0015. <i>(draft OAR 660-046-0104 for Med Cities)</i>
<b>B. Development Standards</b>	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. <u>Maximum Density.</u>	The jurisdiction’s pre-existing density maximums and minimum lot sizes for duplexes do not apply.	For the purposes of calculating density, if a local government applies density maximums in a zone, it may not apply those maximums to the development of duplexes. <i>(draft OAR 660-046-0105.2.a for Med Cities)</i>
2. <u>Setbacks.</u>	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.	A local government may not require setbacks to be greater than those applicable to detached single family structures in the same zone. <i>(draft OAR 660-046-0105.3.a for Med Cities)</i>
3. <u>Off-street Parking.</u>	Any off-street parking requirement.	A local government may not require more than a total of two (2) off-street parking spaces. <i>(draft OAR 660-046-0105.5.a for Med Cities)</i>
<b>C. Design Standards</b>	<p><i>Update since MCTAC 7: Because the duplex definition was revised to allow detached units, we added an exemption from design standards for facades separated from the street by another dwelling. This is consistent with the approach for triplexes and quadplexes.</i></p> <p>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. <a href="#">Facades of dwellings that are separated from the street property line by another dwelling are exempt from meeting building design standards.</a></p> <p>Any design standards that apply only to duplexes are invalid.</p>	Local governments are not required to apply design standards to new duplexes. However, if the local government chooses to apply design standards to new duplexes, it may only apply all clear and objective design standards that the local government applies to detached single family structures in the same zone.  A local government may not apply design standards to duplexes created through internal conversion of a single family detached structure. <i>(draft OAR 660-046-0106 for Med Cities)</i>

Standard	Model Code	Minimum Compliance
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.	Identical to model code language.

### Chapter 3. Triplexes and Quadplexes

Sections:

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

Standard	Model Code	Minimum Compliance
A. Permitted Uses and Approval Process	<p><i>Commentary: Proposed language is the same as the draft Medium Cities Model Code, except with references to triplexes and quadplexes.</i></p> <p><i>Note: We heard a concerns from the MCTAC about saying middle housing is “permitted outright” but also “subject to same approval process as that for detached single family dwellings.” We also heard concerns about saying middle housing is “subject <u>only</u> to clear and objective standards,” but also referencing an alternative discretionary process. However, the same wording is used in the draft Medium Cities Model Code, which has been vetted by the Department of Justice. Therefore, we do not recommend any changes.</i></p> <p>Triplexes and quadplexes are permitted outright wherever they are allowed as provided in Chapter 1, Section C (Applicability). 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. 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, if such a process is available.</p>	Local governments must permit triplexes and quadplexes outright in areas zoned for residential use that allow for the development of detached single family structures. Local governments must apply the same approval process to triplexes and quadplexes as detached single family dwellings in the same zone. Local governments may adopt and apply only clear and objective standards, conditions, and procedures regulating the development of triplexes and quadplexes pursuant to <a href="#">ORS 197.307(4)</a> <del>ORAR 660-008-0015</del> .
B. Development Standards 1. <u>Applicability</u> .	<p><i>Commentary: Similar to the Medium Cities Model Code, we propose subjecting triplexes and quadplexes to all clear and objective standards that apply to single family dwellings, unless the model code provides different standards.</i></p> <p>a. Triplexes and quadplexes shall meet:</p> <ul style="list-style-type: none"> <li>• The standards in subsections (2) through (9) of this section (B).</li> </ul>	Local governments are not required to have an applicability statement.

	<ul style="list-style-type: none"> <li>All other clear and objective development 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 (B).</li> </ul> <p>b. The following standards are invalid and do not apply to triplexes or quadplexes allowed by this code:</p> <ul style="list-style-type: none"> <li>Maximum lot coverage or minimum landscape area standards.</li> <li>The jurisdiction’s development standards that apply only to triplexes, quadplexes, or multifamily development.</li> </ul>	
<p>2. <u>Number of Units.</u></p>	<p><i>Commentary: This provision is intended to clarify that the model code does not allow the creation or conversion of a quadplex from a single family house that has an existing ADU (thus creating more than four units on a lot). However, conversion of a house with an ADU into a triplex (thus creating four units on a lot) would be allowed. With detached units allowed, there would be no operational difference between a quadplex and a triplex with an ADU, so the model code should not prohibit that.</i></p> <p>This code does not allow for the creation of more than four (4) dwelling units on a lot, including accessory dwelling units.</p>	<p>Local governments may allow more than four units on a lot, if they so choose.</p>
<p>3. <u>Minimum Lot Size.</u></p>	<p><i>Commentary: Based on comments from the MCTAC and analysis by ECONorthwest (ECONW) and SERA Architects, the project team revised its recommendation so that the minimum lot size for a triplex/quadplex is the same as for a detached single family dwelling in the same zone, regardless of building size. (This was Option 1 in the MCTAC 5 draft.) ECONW’s financial analysis concluded that requiring larger lots increases costs, decreases feasibility, and reduces the supply of lots where triplex and quadplex development is allowed.</i></p> <p><b>RECOMMENDED OPTION (1):</b> The minimum lot size for a triplex or quadplex is the same as the minimum lot size for a detached single family dwelling in the same zone.</p> <p><i>[Options 2 – 4 removed]</i></p>	<p><b>Update since MCTAC 7:</b> The minimum compliance standard has been revised so that cities with smaller minimum lot sizes (<del>&lt; 5,000 sf</del>) can require larger lots for triplexes and quadplexes. However, any zones with larger minimum lot sizes (<del>5,000+ sf</del>) could not require larger lots for triplexes or quadplexes.</p> <p><u>For Triplexes:</u></p> <p>i. <u>If the minimum lot or parcel size for a detached single-family dwelling is less than 5,000 square feet, a Large City may limit triplexes to lots or parcels 5,000 square feet or greater.</u></p> <p>ii. <u>If the minimum lot or parcel size for a detached single-family dwelling is 5,000 square feet or greater, a Large City may apply the same minimum lot or parcel size or a lesser lot or parcel size to triplexes.</u></p> <p><u>For Quadplexes:</u></p> <p>i. <u>If the minimum lot or parcel size for a detached single-family dwelling is less than 7,000 square feet, a Large City may limit quadplexes to lots or parcels 7,000 square feet or greater.</u></p> <p>ii. <u>if the minimum lot size for a detached single-family dwelling is 7,000 square feet or greater, a Large City may apply the same minimum lot or parcel size or a lesser lot or parcel size to quadplexes.</u></p> <p><del>be in zones where the minimum lot size for a detached single family dwelling is:</del></p>



		<p><del>— Less than 5,000 sf: the minimum lot size for a triplex or quadplex must not exceed [150% / 200%] of the minimum lot size for a detached single family dwelling.</del></p> <ul style="list-style-type: none"> <li><del>• 5,000 sf or more: The minimum lot size for a triplex or quadplex must not exceed the minimum lot size for a detached single family dwelling in the same zone.</del></li> </ul>
4. <u>Minimum Lot Width.</u>	<p><b>Commentary:</b> <i>The project team recommends deferring to the jurisdiction’s standards for detached single family dwellings.</i></p> <p><b>RECOMMENDED OPTION (1):</b> The minimum lot width for a triplex or quadplex is the same as the minimum lot width for a detached single family dwelling in the same zone.</p>	A minimum lot width standard is not required. However, if a jurisdiction applies a minimum lot width standard to tri/quad development, it may not be wider than the standard for a single-family detached dwelling in the same zone.
5. <u>Maximum Density.</u>	The maximum density for triplexes and quadplexes shall be determined by the minimum lot size as provided in subsection (3) of this section (B). The jurisdiction’s pre-existing density maximums do not apply.	For the purposes of calculating density, if a local government applies density maximums in a zone, it may not apply those maximums to the development of triplexes or quadplexes. <i>(consistent with draft OAR 660-046-0120.2 for Med Cities)</i>
6. <u>Setbacks.</u>	Triplexes and quadplexes shall be subject to the same minimum and maximum setback standards that are applicable to detached single family dwellings in the same zone. Minimum front setbacks greater than 20 feet and minimum rear setbacks greater than 15 feet are invalid, except for those minimum setbacks applicable to garages and carports.	A local government may not require setbacks to be greater than those applicable to detached single family structures in the same zone. <i>(draft OAR 660-046-0105.3.a for Med Cities)</i>
7. <u>Height.</u>	<p><b>Update since MCTAC 7:</b> <i>For townhouses, we increased the cap on maximum height to 35’ or 3 stories, based on MCTAC feedback and recommendations following ECONW’s feasibility analysis. For the sake of consistency, we propose the same change for triplexes and quadplexes. This is consistent with the height limit in single-family zones in most cities. We also propose deferring to the local jurisdiction’s definition and calculation method for building height, rather than defining how height is measured in the model code. Imposing a different height calculation method for middle housing than that which applies to other development would make the model code more difficult to implement.</i></p> <p>Triplexes and quadplexes are subject to the same maximum height as applicable to detached single family dwellings in the same zone, except a maximum height of less than <del>25-35</del> feet or <del>two-three</del> stories is invalid. <a href="#">Building height is measured in accordance with the development code.</a></p>	Triplexes and quadplexes may not be subject to lower maximum height standards than those applicable to detached single family structures in the same zone, except a maximum height of less than 25 feet or two stories is invalid.
<b>8. OPTIONS FOR REGULATING SCALE / BULK:</b>		
<p><i>Based on input from the MCTAC, the project team recommends using Maximum Floor Area Ratio (FAR) to regulate the scale or bulk of triplexes and quadplexes. FAR is a ratio of the floor area in the structure to the square footage of the site. A maximum FAR standard works by limiting the size of a building (or buildings) in proportion with the size of the lot. A primary advantage of FAR is that it balances compatibility and flexibility. FAR ensures relatively consistent size of buildings but provides flexibility in how floor area is distributed across the site and across multiple units.</i></p> <p><i>Bulk generally refers to the relative size, volume, or massing of a building. Scale generally refers to how people perceive the size of a building compared to other buildings or forms. Bulk and scale are often regulated to avoid stark contrasts between adjacent buildings or all buildings in a neighborhood or district. Regulating building scale or bulk may be appropriate because triplexes and quadplexes are more likely to maximize the buildable envelope on the site, which may not be compatible with single family neighborhoods.</i></p>		<p><b>Commentary:</b> <i>Minimum compliance standards should allow, but not require, local governments to regulate scale or bulk using provisions such as floor area ratio, lot coverage, or unit size. DLCD has draft OAR language that defines the minimum compliance standards for scale and bulk.</i></p>

<p><b>RECOMMENDED OPTION (2):</b> Maximum Floor Area Ratio (FAR)</p>	<p><b>Update since MCTAC 7:</b> We continue to recommend scaling the allowable FAR for triplex/quadplex based on the minimum lot size in the zone. However, we increased the maximum FAR for zones with smaller minimum lot sizes (5,000 sf and below) to match the recommendations from Elizabeth Decker and others. ECONW did some additional analysis to test these alternate FAR figures. The analysis indicates that additional FAR does have the potential to increase feasibility for tri/quad development on smaller lots by allowing larger unit sizes—although the recommended maximum FAR may not always be achievable, based on the minimum setbacks found in this code and those for local jurisdictions.</p> <p>ECONW’s analysis <u>did not</u> indicate that higher FAR allowances on <u>larger lots</u> would improve feasibility. This is because unit sizes larger than about 2,000 sf are uncommon for this type of development and do not improve financial returns. Therefore, we recommend leaving the current FAR limits for zones with minimum lot sizes over 5,000 sf to continue to address potential massing or scale issues in those areas.</p> <p>It should also be noted that minimum lot sizes of 5,000 sf and below will capture <del>the majority</del> <u>a significant percentage</u> of single-family zones for Large and Metro Cities, and we recommend permitting higher FAR in these zones.</p> <p>[Option 2a removed]</p> <ul style="list-style-type: none"> <li><b>RECOMMENDED OPTION (2b):</b> 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:</li> </ul> <table border="1" data-bbox="699 937 1460 1350"> <thead> <tr> <th>Minimum Lot Size in Zone</th> <th>Maximum FAR</th> </tr> </thead> <tbody> <tr> <td>3,000 sf or less</td> <td><del>0.9 to 1</del> — Alt: 1.4 to 1</td> </tr> <tr> <td>More than 3,000 sf, up to and including 5,000 sf</td> <td><del>0.7 to 1</del> — Alt: 1.1 to 1</td> </tr> <tr> <td>More than 5,000 sf but less than 20,000 sf</td> <td>0.6 to 1</td> </tr> <tr> <td><del>Alt: 5,000 — 10,000 sf</del></td> <td>Alt: 0.9 to 1</td> </tr> <tr> <td><del>Alt: 10,000 sf or more</del></td> <td>— Alt: 0.5 to 1</td> </tr> <tr> <td>20,000 sf or more</td> <td>0.4 to 1</td> </tr> </tbody> </table>	Minimum Lot Size in Zone	Maximum FAR	3,000 sf or less	<del>0.9 to 1</del> — Alt: 1.4 to 1	More than 3,000 sf, up to and including 5,000 sf	<del>0.7 to 1</del> — Alt: 1.1 to 1	More than 5,000 sf but less than 20,000 sf	0.6 to 1	<del>Alt: 5,000 — 10,000 sf</del>	Alt: 0.9 to 1	<del>Alt: 10,000 sf or more</del>	— Alt: 0.5 to 1	20,000 sf or more	0.4 to 1	<p>See draft OARs.</p>
Minimum Lot Size in Zone	Maximum FAR															
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20,000 sf or more	0.4 to 1															
<p>9. <u>Off-street Parking.</u></p>	<p><b>Update since MCTAC 7:</b> We continue to recommend Option 4, which is based on the results of the feasibility analysis by ECONW and SERA. The recommendation resulting from that analysis was that more than 1 parking space per development should not be required in zones with a minimum lot size under 5,000 sf., as fitting the parking on site reduces the buildable area for housing and may not allow a reasonable average unit size.</p> <p>In the previous draft, we left a placeholder for the parking ratio in zones with a minimum lot size of 5,000 sf or more. With further input from ECONW, we’ve filled that in as two spaces but also added the on-street parking credit option.</p> <ul style="list-style-type: none"> <li><del>OPTION 1: No off-street parking is required for a triplex or quadplex.</del></li> <li><del>OPTION 2:</del></li> </ul>	<p>A. <u>For Triplexes, a local government may require up to the following off-street parking spaces:</u></p> <ol style="list-style-type: none"> <li><u>For lots of 3,000 square feet or less: one space in total;</u></li> <li><u>For lots greater than 3,000 square feet and less than or equal to 5,000 square feet: two spaces in total;</u></li> <li><u>For lots greater than 5,000 square feet: three spaces in total.</u></li> </ol> <p>B. <u>For Quadplexes, a local government may require up to the following off-street parking spaces:</u></p> <ol style="list-style-type: none"> <li><u>For lots of 3,000 square feet or less: one space in total;</u></li> <li><u>For lots greater than 3,000 square feet and less than or equal to 5,000 square feet: two spaces in total;</u></li> <li><u>For lots greater than 5,000 square feet and less than or equal to 7,000 square feet: three spaces in total;</u></li> <li><u>For lots greater than 7,000 square feet: four spaces in total.</u></li> </ol> <p><del>Triplex — number of</del></p>														

	<p><del>a. <u>Required Off-street Parking.</u> The minimum number of required off-street parking spaces is:</del></p> <p><del>i. <u>For a triplex, one (1) space;</u></del></p> <p><del>ii. <u>For a quadplex, two (2) spaces.</u></del></p> <p><del>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 single family detached home to a triplex or quadplex.</del></p> <p><del>b. <u>On-Street Credit.</u> 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.</del></p> <p><del>i. <u>On-street parking must be allowed on the side of the street where the space is to be provided.</u></del></p> <p><del>ii. <u>The space must be a minimum of 22 feet long;</u></del></p> <p><del>iii. <u>The space must be abutting the subject site; and</u></del></p> <p><del>iv. <u>The space must not obstruct a required sight distance area.</u></del></p> <p><i>[Option 3 removed]</i></p> <p>• <b><u>RECOMMENDED OPTION (4):</u></b></p> <p><u>a. Required Off-Street Parking.</u> The minimum number of required off-street parking spaces is <del>based on the minimum lot size for a detached single family dwelling in the same zone, as provided below:</del></p> <p><u>i. In zZones with a minimum lot size of less than 5,000 sf, one (1) off-street parking space per development.</u></p> <p><u>ii. In zZones with a minimum lot size of 5,000 sf or more, two (2)XX off-street parking spaces per development.</u></p> <p><u>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 home to a triplex or quadplex.</u></p> <p><u>b. On-Street Credit.</u> 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.</p> <p><u>i. On-street parking must be allowed on the side of the street where the space is to be provided.</u></p> <p><u>ii. The space must be a minimum of 22 feet long;</u></p> <p><u>iii. The space must be abutting the subject site; and</u></p> <p><u>iv. The space must not obstruct a required sight distance area.</u></p>	<p><del>Quadplex—number of n</del></p> <p>Nothing in this section precludes a local government from allowing on-street parking credits to satisfy off-street parking requirements. <i>(draft OAR 660-046-0105.5.b for Med Cities)</i></p> <p><u>A local jurisdiction may allow but may not require off-street parking to be provided as a garage or carport.</u></p> <p><u>A local jurisdiction must apply the same off-street parking access and circulation standards that apply to single-family detached dwellings in the same zone</u></p>
<p><b>C. Design Standards</b></p> <p>1. <u>Applicability.</u></p>	<p><i><b>Commentary:</b> Our recommendation is to regulate four basic design elements for triplexes and quadplexes: (1) entry orientation, (2) windows, (3) garages and off-street parking areas, and (4) driveway approaches. For all other design elements, we propose deferring to the jurisdiction’s standards for single family dwellings. We also recommend prohibiting local mandates for garages or carports.</i></p>	<p><i><b>Commentary:</b> Minimum compliance for design standards should allow, but not require, local governments to apply design standards to new triplexes and quadplexes, as long as they do not cause unreasonable cost or delay. The design standards of the model code are a “reasonable” safe harbor for communities.</i></p>



	<p>a. New triplexes and quadplexes, including those created by adding building square footage on a site occupied by an existing dwelling, shall meet:</p> <ul style="list-style-type: none"> <li>• The design standards in subsections (2) through (5) of this section (C); and</li> <li>• 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).</li> </ul> <p>b. The following standards are invalid and do not apply to triplexes or quadplexes allowed by this code:</p> <ul style="list-style-type: none"> <li>• Mandates for construction of a garage or carport.</li> <li>• Any design standards that apply only to triplexes, quadplexes, or multifamily development.</li> </ul>	
<p>2. <u>Entry Orientation.</u></p>	<p><i>Commentary: The project team’s recommended approach to entry orientation offers flexibility by allowing units the option of facing the street, being at a 45 degree angle from the street, facing a common open space, or facing a porch. It also exempts units separated from the street by other units from having to meet the standard.</i></p> <p><i>[Options 1, 2 &amp; 4 removed]</i></p> <ul style="list-style-type: none"> <li>• <b>RECOMMENDED OPTION (3):</b> At least one main entrance for each triplex or quadplex structure that is not separated from the street property line by a dwelling must:             <ol style="list-style-type: none"> <li>a. Be within 8 feet of the longest street-facing wall of the dwelling unit; and</li> <li>b. Either:                 <ol style="list-style-type: none"> <li>i. Face the street;</li> <li>ii. Be at an angle of up to 45 degrees from the street;</li> <li>iii. Face a common open space that is adjacent to the street; or</li> <li>iv. Open onto a porch. The porch must:                     <ol style="list-style-type: none"> <li>(A) Be at least 25 square feet in area; and</li> <li>(B) Have at least one entrance facing the street or have a roof.</li> </ol> </li> </ol> </li> </ol> </li> </ul> <p style="text-align: center;"><i>Figure 1. Options for Entrance Standards, City of Portland</i></p>	<p><u>See draft OARs.--</u></p>

	<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <p><b>Figure 110-5</b> Main Entrance Facing the Street</p> </div> <div style="text-align: center;"> <p><b>Figure 110-6</b> Main Entrance Opening onto a Porch</p> </div> </div>	
<p>3. <u>Windows.</u></p>	<p><b>Commentary:</b> We suggest a modest minimum window coverage standard for triplexes and quadplexes. Windows help create more interesting facades as well as enabling more “eyes on the street,” which can have benefits for public safety in residential areas, and allowing more natural light into the interior of the home. We recommend exempting facades separated from the street by another dwelling.</p> <p>A minimum of 15 percent of the area of all street-facing facades must include windows or entrance doors. Window area is the aggregate area of the glass within each window, including any interior grids, mullions, or transoms. Door area is the area of the portion of a door that moves and does not include the frame. Facades separated from the street property line by a dwelling are exempt from meeting this standard.</p>	<p><a href="#">See draft OARs.</a></p>
<p>4. <u>Garages and Off-street Parking Areas.</u></p>	<p><b>Update since MCTAC 7:</b> The team continues to recommend Option 2, but we’ve modified the standard to be clearer and more flexible. The proposed revisions remove the 40’ maximum width for garages and parking areas, thereby regulating the width of these features by percent of lot frontage only. The revisions also clarify that this limitation applies to any lot frontage, not just the “front yard.” A definition of “frontage” was also added in Chapter 1.</p> <p>The way in which vehicle parking is integrated into a development has a substantial impact on the appearance of the development from the street. We propose standards that limit the width of parking areas and/or garages. The intent is to promote a pedestrian-friendly environment by limiting the dominance of vehicle storage on the site.</p> <ul style="list-style-type: none"> <li>• <del><b>OPTION 1:</b> Off-street vehicle use areas shall not exceed 50 percent of the buildable width along each street. (Adapted from Salem’s standards for three- and four-family uses. Note: We may need to include the method of measurement if this option is selected.)</del></li> <li>• <b>RECOMMENDED OPTION (2) (modified):</b> Garages <del>on the front facade</del> and off-street parking areas <del>in the front yard are permitted</del> shall not be located between a building and a public street (other than an alley), <del>except</del> in compliance with the standards in subsections (a) and (b) of this subsection (C)(4).             <ol style="list-style-type: none"> <li>a. <del>The Ggarages or and</del> off-street parking areas <del>that are is</del> separated from the street property line by a dwelling; <del>or are exempt from meeting these standards.</del></li> </ol> </li> </ul>	<p><a href="#">See draft OARs.</a></p>

	<p><del>a. Outdoor on-site parking and maneuvering areas shall not exceed a total of forty feet wide or fifty percent of the lot frontage, whichever is less; and</del></p> <p><del>b. The combined width of all garages and outdoor on-site parking and maneuvering areas does shall not exceed forty feet or a total of fifty percent of the street/lot frontage, whichever is less.</del></p> <p><del>• <b>OPTION 3: Garage Door Standards.</b> Garages that are separated from the street property line by a dwelling are exempt from meeting these standards.</del></p> <p><del>a. The maximum combined garage door width facing the street is 50 percent of the total building width.</del></p> <p><del>b. In addition to complying with the front setbacks for the respective zoning districts, the front of the garage or carport can be no closer to the front lot line than the longest street-facing wall of the dwelling unit that encloses livable space, except that:</del></p> <p><del>i. If there is a covered front porch, the garage or carport can extend up to five feet in front of the enclosed livable space, but no further than the front of the porch.</del></p> <p><del>ii. A garage or carport may extend up to 10 feet in front of the enclosed livable space if there is enclosed livable space or a covered balcony above at least a portion of the garage or carport.</del></p> <p><del>(Adapted from Bend’s standards for duplexes and triplexes.)</del></p>	
<p>5. <u>Driveway Approach.</u></p>	<p><i>Update since MCTAC 7: The only proposed change to the driveway approach standards is to remove the words “or improvable” in defining when lots must take access from an abutting alley. “Improvable” would be difficult to define in a clear and objective way that works universally.</i></p> <p><i>Similar to proposed garage and parking area standards, we suggest limiting driveways for triplexes and quadplexes. The proposed standards are adapted from Bend’s standards for duplexes and triplexes. When applied to corner lots, these provisions currently are not entirely consistent with the objective of having at least one entrance fronting the adjacent street. To the extent this is a priority, additional changes may be needed. <u>Note:</u> Bend allows detached duplexes and triplexes, so these standards should work for detached units.</i></p> <p>Driveway approaches must comply with the following:</p> <ol style="list-style-type: none"> <li>a. The total width of all driveway approaches must not exceed 32 feet per frontage, as measured at the property line. For lots or parcels with more than one frontage, see subsection (5)(c) of this subsection (C).</li> <li>b. Driveway approaches may be separated when located on a local street. If approaches are separated, they must meet the jurisdiction’s driveway spacing standards applicable to local streets.</li> <li>c. In addition, lots or parcels with more than one frontage must comply with the following:             <ol style="list-style-type: none"> <li>i. Lots or parcels must access the street with the lowest classification. For lots or parcels abutting an improved <del>or improvable</del> alley, access must be taken from the alley. <del>(Note: “improvable” may need to be defined for this standard to be clear and objective.)</del></li> <li>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.</li> </ol> </li> </ol>	<p><u>See draft OARs.</u></p>

	<p>iii. Triplexes and quadplexes on lots or parcels with frontages only on local streets may have two driveway approaches not exceeding 32 feet in total width on one frontage or one maximum 16-foot-wide driveway approach per frontage.</p>	
<p><b>D. Conversions to Triplex and Quadplex</b></p>	<p><i>Update since MCTAC 7: Per a suggestion from an MCTAC member, we added a provision that allows an increase in nonconformance of a tri/quad structure, if the local development has a process for allowing that. This is reflected in the draft cottage cluster standards as well.</i></p> <p>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, <a href="#">unless increasing nonconformance is otherwise permitted by the development code.</a></p> <p><a href="#">If Middle Housing is being created through the 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 granting the same exceptions to Middle Housing.</a></p>	<p>Identical to model code language.</p>

## Chapter 4. Townhouses

### Sections

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

Standard	Model Code	Minimum Compliance
<p><b>A. Permitted Uses and Approval Process</b></p>	<p><i>Commentary: The draft provisions account for the fact that townhouses typically involve land divisions and the provisions reflect the different permitting processes associated with these developments.</i></p> <p>Townhouse projects are permitted outright wherever they are allowed as provided in Chapter 1, Section C (Applicability). Townhouse structures are subject to the same approval process as that for detached single family dwellings in the same zone. Creation of new lots or parcels as part of a townhouse project is subject to the applicable land division approval process. Townhouse projects are subject only to clear and objective standards, approval criteria, conditions, and procedures. 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, if such a process is available.</p>	<p>Local governments must permit townhouses outright in areas zoned for residential use that allow for the development of detached single family structures. Local governments must apply the same approval process to townhouse structures as applied to detached single family dwellings in the same zone. Creation of new lots or parcels as part of a townhouse project is subject to the applicable land division approval process. Local governments may adopt and apply only clear and objective standards, conditions, and procedures regulating the development of townhouse projects pursuant to OAR 660-008-0015.</p>

Standard	Model Code	Minimum Compliance								
<p><b>B. Development Standards</b></p> <p>1. <u>Applicability.</u></p>	<p><i>Commentary: These draft provisions address the relationship between a local jurisdiction’s platting requirements and the model code standards.</i></p> <p>a. Townhouses shall meet the standards in subsections (3), (4), (5), (7), (8), <u>(9) and (10)</u> <del>and (11)</del> of this section (B).</p> <p>b. Townhouse projects shall meet:</p> <ul style="list-style-type: none"> <li>The standards in subsections (2), (6), (9), (10), <u>and (11)</u>, <del>and (12)</del> of this section (B).</li> <li>Any applicable clear and objective platting standards, unless those standards conflict with this code.</li> </ul> <p>c. The following standards are invalid and do not apply to townhouses or townhouse projects allowed by this code, <u>unless otherwise noted in this section (B)</u>:</p> <ul style="list-style-type: none"> <li>Additional development standards of the applicable base zone related to the standards addressed under subsections (2) through (12) of this section (B).</li> <li>Development standards of the applicable base zone related to lot dimensions, lot coverage, or the siting or design of dwellings.</li> <li>The jurisdiction’s development standards that apply only to townhouses and that conflict with provisions of this code.</li> </ul>	<p>Local governments are not required to have an applicability section.</p>								
<p>2. <u>Maximum Number of Units.</u></p>	<p><i>Commentary: Our recommendation is not to limit the maximum number of attached units for townhouses (Option 1). We don’t see an adequate rationale for limiting the number of units, and there are other factors that will limit the scale of development (block length, pedestrian connectivity requirements, possibly density, etc.). In addition, as MCTAC members have noted, limiting the number of units in a structure may limit flexibility and may not be appropriate for L-shaped or other less typical configurations. Rather than including a standard limiting the number of units in a single structure, we recommend using other standards to minimize any potential adverse impacts on the overall size of a row of townhouses.</i></p> <p><b>RECOMMENDED OPTION (1):</b> There is no maximum number of consecutively attached units per townhouse structure.</p> <p><i>[Options 2 &amp; 3 removed]</i></p>	<p><u>Local governments must require at least two attached townhouse units and must allow up to four attached townhouse units. A local government may allow five or more attached townhouse units.</u> <del>Local governments must require at least two attached townhouse units and must allow at least four attached townhouse units.</del></p>								
<p>3. <u>Minimum Lot Size.</u></p>	<p><i>Update since MCTAC 7: We recommend removing minimum lot size standards in favor of regulating maximum density. The initial model code draft attempted to limit density using minimum lot size. However, input from some MCTAC members suggested there should be more flexibility to allow smaller townhouse lots. Rather than applying an arbitrary minimum lot size, we suggest letting other factors (parent parcel size and shape, building size, and setbacks) determine townhouse lot sizes. On larger parent parcels where the townhouse lots do not occupy the full site, any remaining site area could be dedicated as shared open space tracts.</i></p> <p><i>[Option 1 removed]</i></p> <p><del>OPTION 2: The minimum lot size for each townhouse is based on the minimum lot size for a detached single family dwelling in the same zone, as provided below:</del></p> <table border="1" data-bbox="646 1518 1541 1747"> <thead> <tr> <th data-bbox="646 1518 1081 1604"><u>Minimum Lot Size in Zone for a Detached Single Family Dwelling</u></th> <th data-bbox="1081 1518 1541 1604"><u>Minimum Lot Size for each Townhouse</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="646 1604 1081 1659">Less than 3,000 sf</td> <td data-bbox="1081 1604 1541 1659">1,400 sf</td> </tr> <tr> <td data-bbox="646 1659 1081 1713">3,000 sf or more but less than 5,000 sf</td> <td data-bbox="1081 1659 1541 1713">1,800 sf</td> </tr> <tr> <td data-bbox="646 1713 1081 1747">5,000 sf or more</td> <td data-bbox="1081 1713 1541 1747">2,000 sf</td> </tr> </tbody> </table>	<u>Minimum Lot Size in Zone for a Detached Single Family Dwelling</u>	<u>Minimum Lot Size for each Townhouse</u>	Less than 3,000 sf	1,400 sf	3,000 sf or more but less than 5,000 sf	1,800 sf	5,000 sf or more	2,000 sf	<p><u>A local jurisdiction is not required to apply a minimum lot size to townhouses, but if they choose to, the average minimum lot size may not be greater than 1,500 square feet. A local jurisdiction may apply separate minimum lot sizes for internal, external, and corner townhouse lots.</u> <del>See draft OARs.</del></p>
<u>Minimum Lot Size in Zone for a Detached Single Family Dwelling</u>	<u>Minimum Lot Size for each Townhouse</u>									
Less than 3,000 sf	1,400 sf									
3,000 sf or more but less than 5,000 sf	1,800 sf									
5,000 sf or more	2,000 sf									

Standard	Model Code	Minimum Compliance												
	<p><del>OPTION 3:</del> The minimum lot size for each townhouse is based on the GFA of each townhouse and the minimum lot size for a detached single family dwelling in the same zone, as provided below:</p> <table border="1" data-bbox="646 328 1970 606"> <thead> <tr> <th data-bbox="646 389 1090 459">Minimum Lot Size in Zone for a Detached Single Family Dwelling</th> <th data-bbox="1090 338 1535 459">GFA ≤ 800-sf Minimum Lot Size for each Townhouse</th> <th data-bbox="1535 338 1970 459">GFA &gt; 800-sf Minimum Lot Size for each Townhouse</th> </tr> </thead> <tbody> <tr> <td data-bbox="646 479 1090 510">Less than 3,000-sf</td> <td data-bbox="1090 479 1535 510">1,400-sf</td> <td data-bbox="1535 479 1970 510">xx-sf</td> </tr> <tr> <td data-bbox="646 530 1090 560">3,000-sf or more but less than 5,000-sf</td> <td data-bbox="1090 530 1535 560">1,800-sf</td> <td data-bbox="1535 530 1970 560">xx-sf</td> </tr> <tr> <td data-bbox="646 580 1090 610">5,000-sf or more</td> <td data-bbox="1090 580 1535 610">2,000-sf</td> <td data-bbox="1535 580 1970 610">xx-sf</td> </tr> </tbody> </table> <ul style="list-style-type: none"> <li data-bbox="562 641 1765 671">• <b>RECOMMENDED OPTION (4):</b> No requirement. <i>(Instead, limit development intensity by maximum density.)</i></li> </ul>	Minimum Lot Size in Zone for a Detached Single Family Dwelling	GFA ≤ 800-sf Minimum Lot Size for each Townhouse	GFA > 800-sf Minimum Lot Size for each Townhouse	Less than 3,000-sf	1,400-sf	xx-sf	3,000-sf or more but less than 5,000-sf	1,800-sf	xx-sf	5,000-sf or more	2,000-sf	xx-sf	
Minimum Lot Size in Zone for a Detached Single Family Dwelling	GFA ≤ 800-sf Minimum Lot Size for each Townhouse	GFA > 800-sf Minimum Lot Size for each Townhouse												
Less than 3,000-sf	1,400-sf	xx-sf												
3,000-sf or more but less than 5,000-sf	1,800-sf	xx-sf												
5,000-sf or more	2,000-sf	xx-sf												
<p>4. <u>Minimum Lot Width.</u></p>	<p><b>Update since MCTAC 7:</b> For consistency with our recommended approach to minimum lot size, we recommend not requiring a minimum lot width.</p> <p><del>OPTION 1:</del> The minimum lot width for each townhouse is [15 / 20] feet.</p> <ul style="list-style-type: none"> <li data-bbox="562 838 1121 868">• <b>RECOMMENDED OPTION (2):</b> No requirement.</li> </ul>	<p><u>See below.</u></p>												
<p>5. <u>Minimum Street Frontage.</u></p>	<p><b>Update since MCTAC 7:</b> Our recommendation is to remove the street frontage requirement. This issue is covered through local regulations around creating legal, developable lots. Requiring public street frontage would also limit flexibility to allow access via private streets or accessways, which may make townhouse development on infill sites more feasible by allowing double-loaded or side-facing townhouses. Requirements for private streets and accessways would be dictated by the local jurisdictions’ platting standards. It should be noted that this approach may result in cases where a completely clear and objective path for approval of townhomes is not achieved if related platting, public works, or other standards ultimately applied to townhouse developments are not clear and objective. However, the model code standards themselves are clear and objective, and a clear and objective path could likely be achieved if each townhouse lot does have street frontage, even if not required by the model code.</p> <p><del>OPTION 1:</del> Townhouses must have public street frontage of no less than [15 / 20] feet.</p> <ul style="list-style-type: none"> <li data-bbox="562 1272 1106 1302">• <b>RECOMMENDED OPTION 2:</b> No requirement.</li> </ul>	<p><u>A Large City may allow frontage on private streets. Any minimum street frontage standard must not exceed 25% of the single-family detached frontage, or 20 feet, whichever is greater. A Large City is not required to allow townhomes on flag lots. Local governments may allow frontage on private streets. Any minimum street frontage standard must not exceed XX feet.</u></p>												
<p>6. <u>Maximum Density.</u></p>	<p><b>Update since MCTAC 7:</b> As noted under subsection (3) above, we recommend not requiring a minimum lot size for townhouses and limiting development intensity through maximum density. Our current recommended approach is similar to Option 2 from the last draft, which was intended to allow townhouse density commensurate with allowing a quadplex on a single family lot. Our new recommended approach (Option 3) rewords the standard to be more straightforward and also scales the allowable density based on minimum lot size in the zone. The majority of single family zones (with a minimum lot size of 5,000 sf or more) would be allowed four times the density for a townhouse project. This puts townhomes on an even footing with triplexes and quadplexes in these areas in terms of allowed units per the base zone’s minimum lot size for single-family detached homes. Zones with smaller minimum lot sizes would be allowed slightly less density in order to control the intensity of development on these small lots. Note that allowing two times the density in zones with very small minimum lot sizes (2,000 or 2,500 sf – which is very uncommon) is equivalent to allowing a duplex on these lots and is consistent with the typical size of townhomes in these areas.</p>	<p><u>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 units per acre, whichever is less.</u></p>												



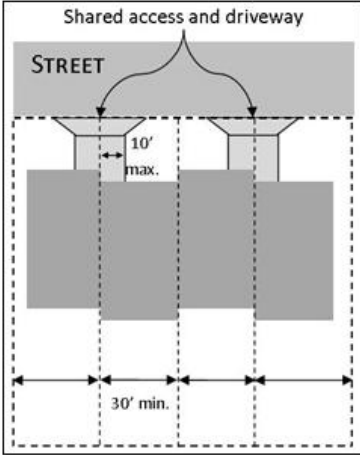
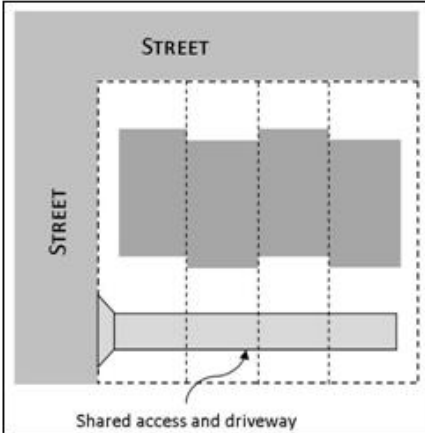
Standard	Model Code	Minimum Compliance
	<ul style="list-style-type: none"> <li>• <del>OPTION 1:</del> The maximum density for townhouse projects shall be determined by the minimum lot size as provided in subsection (3) of this section (B). The jurisdiction's pre-existing density maximums do not apply.</li> <li>• <del>OPTION 2:</del> For the purposes of calculating density, four (4) townhouses shall count as a single unit.</li> <li>• <b>RECOMMENDED OPTION 3:</b> The maximum density for a townhouse project is follows: <ul style="list-style-type: none"> <li>○ In zones with a minimum lot size of [2,000 / 2,500] sf or less, townhouse projects are allowed two (2) times the allowed density for detached single family dwellings.</li> <li>○ In zones with a minimum lot size of more than [2,000 / 2,500] sf but less than 5,000 sf, townhouse projects are allowed three (3) times the allowed density for detached single family dwellings.</li> <li>○ In zones with a minimum lot size of 5,000 sf or more, townhouse projects are allowed four (4) times the allowed density for detached single family dwellings.</li> </ul> </li> </ul>	
<p>7. <u>Setbacks.</u></p>	<p><b>Commentary:</b> Proposed standards for front and rear setbacks are the same as those for duplex and triplex/quadplex (deferring to single family setbacks). Side setback standards allow for attached units and require a small setback at the end of a townhouse structure.</p> <p>Townhouses shall be subject to the following minimum and maximum setbacks:</p> <ul style="list-style-type: none"> <li>• <b>Front:</b> The same minimum setback as applicable to detached single family dwellings in the same zone. Minimum front setbacks greater than 20 feet are invalid, except those applicable to garages or carports.</li> <li>• <b>Rear:</b> The same minimum setback as applicable to detached single family dwellings in the same zone, except minimum rear setbacks greater than 15 feet are invalid. No minimum rear setback shall apply to lots with rear alley access.</li> <li>• <b>Street Side:</b> The same minimum setback as applicable to detached single family dwellings in the same zone, except minimum street side yard setbacks greater than 20 feet are invalid.</li> <li>• <b>Interior Side:</b> <ul style="list-style-type: none"> <li>○ The setback for a common wall lot line where units are attached is zero (0) feet.</li> <li>○ The setback for an exterior wall at the end of a townhouse structure that faces an interior side lot line is five (5) feet.</li> </ul> </li> </ul>	<p>A local government 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 lines where townhouse units are attached.</p>
<p>8. <u>Height.</u></p>	<p><b>Update since MCTAC 7:</b> Based on MCTAC feedback and recommendations following ECONW's feasibility analysis, we increased the cap on maximum height so that a city must allow townhouses up to three stories or 35 feet. This is consistent with the height limit in single-family zones in most cities, where 30-35 feet is the most common maximum height. ECONW's analysis indicated that where garage parking is provided, most townhouses will need three stories for the development to be feasible.</p> <p>Townhouses are subject to the same maximum height as applicable to detached single family dwellings in the same zone, except a maximum height of less than <del>35</del>25 feet or <del>three</del>two stories is invalid. <u>Building height is measured in accordance with the development code.</u></p>	<p><b>Update since MCTAC 7:</b> Updates to the minimum compliance standard reflect ECONW's recommendations, which indicate that both requiring off-street parking and limiting height to less than three stories would be prohibitive to townhouse development.</p> <p>Townhouses may not be subject to lower maximum height standards than those applicable to detached single family structures in the same zone, <del>and</del> <u>if local governments' mandate off-street parking, their</u> height standards must allow construction of at least <del>three</del>two stories. <u>If local governments do not mandate off-street parking, their height standards must allow construction of at least two stories.</u></p>

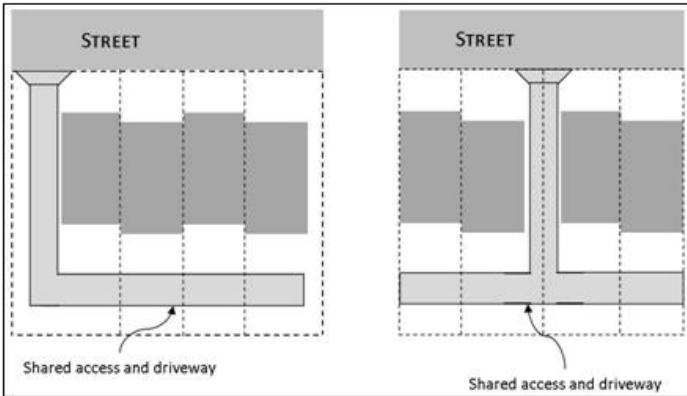
Standard	Model Code	Minimum Compliance
<p><del>109.</del> <u>Off-street Parking.</u></p>	<p><b>Update since MCTAC 7:</b> <i>Our recommended approach is to require one space per unit, with an on-street credit option. Spaces may be provided on individual lots or in shared parking areas. Shared parking opens up more on-street parking by reducing driveway curb cuts. Analysis by ECONW indicated that requiring one space per unit would not inhibit feasibility, especially if parking can be grouped, if on-street parking is an option, and if three stories are allowed, which makes garage parking more feasible.</i></p> <ul style="list-style-type: none"> <li><del>• <b>OPTION 1:</b> No off-street parking is required.</del></li> <li>• <b>RECOMMENDED OPTION (2) (modified):</b> <ul style="list-style-type: none"> <li>a. <u>Required Off-Street Parking.</u> The minimum number of required off-street parking spaces for a townhouse project is one (1) space per unit. <del>(Note: spaces could be</del> Spaces may be provided on individual lots or in a shared parking area on a common tract.) <u>A credit for on-street parking shall be granted for some or all of the required off-street parking as provided in subsection (b).</u></li> <li>b. <u>On-Street Credit.</u> 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.                             <ul style="list-style-type: none"> <li>i. <u>On-street parking must be allowed on the side of the street where the space is to be provided.</u></li> <li>ii. <u>The space must be a minimum of 22 feet long;</u></li> <li>iii. <u>The space must be abutting the townhouse project site; and</u></li> <li>iv. <u>The space must not obstruct a required sight distance area.</u></li> </ul> </li> </ul> </li> <li><del>• <b>OPTION 3:</b> The minimum number of required off-street parking spaces for a townhouse project is 0.5 space per unit. (Same note as for Option 2.)</del></li> </ul>	<p>A local government may not require more than one off-street parking space per townhouse unit.</p> <p><u>Nothing in this section precludes a Large City from allowing on-street parking credits to satisfy off-street parking requirements.</u></p>
<p><del>110.</del> <u>Minimum Open Space and Landscaping.</u></p>	<p><b>Update since MCTAC 7:</b> <i>Based on input from the MCTAC, we recommend Option 3, which requires no minimum open space or landscaping. Open space would instead be managed through setback regulations. This would allow maximum flexibility, especially for small townhouse lots and for development on infill sites.</i></p> <ul style="list-style-type: none"> <li><del>• <b>OPTION 1:</b> The minimum amount of required open space is [400] square feet per townhouse with a minimum smallest dimension of [14] feet. Open space must be landscaped to the planting standards applicable to detached single family dwellings in the same zone, and may be provided on individual townhouse lots or in shared common areas of a townhouse project.</del></li> <li><del>[Option 2 removed]</del></li> <li>• <b>RECOMMENDED OPTION (3):</b> No requirement.</li> </ul>	<p><b>Commentary:</b> <i>Following is an initial draft with arbitrary figures intended to spark discussion.</i></p> <p>A local government is not required to regulate minimum open space area and dimensions, but if they choose to, the minimum open space <u>standard</u> may not exceed <u>125%</u> of the minimum lot size <del>or xx sq ft, whichever is less,</del> and the minimum smallest dimension may not exceed the minimum lot width or 20 ft, whichever is less. A local government may establish provisions allowing the provision of open space through shared common areas.</p>
<p><del>1211.</del> <u>Areas Owned in Common.</u></p>	<p><b>Commentary:</b> <i>It may not be necessary to include legal requirements for common area ownership in the model code; however, we are including them in this draft for MCTAC discussion.</i></p> <p>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.</p>	<p>No requirement.</p>
<p><u>12. Bulk / Scale</u></p>	<p><b>Commentary:</b> <i>No model code requirement. (Moved to the end of the Development Standards since it will be excluded from the final model code.)</i></p>	<p><b>Commentary:</b> <i>Similar to triplex/quadplex, minimum compliance standards for townhouses should allow, but not require, local governments to regulate scale or bulk using provisions such as floor area ratio, lot coverage, or unit size.</i></p>



Standard	Model Code	Minimum Compliance
		<p><i>DLCD is still developing OAR language that will limit the allowable bulk/scale controls so they do not cause unreasonable cost or delay. 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 coverage, floor area ratio, and maximum unit size, those standards cannot cumulatively or individually limit the bulk and scale of a townhouse project greater than that of a single family detached dwelling. See draft OARs.</i></p>
<p><b>C. Design Standards</b></p>	<p><i>Commentary: Our recommendation is to regulate four basic design elements for townhouses: (1) entry orientation, (2) unit definition, (3) windows, and (4) driveway access and parking. Unlike for triplexes and quadplexes, we do not propose deferring to the jurisdiction’s standards for detached single family dwellings, which are unlikely to work for townhouses.</i></p> <p>New townhouses shall meet the design standards in subsections (1) through (4) of this section (C). No other design standards shall apply to townhouses.</p>	<p><i>See draft OARs. <del>Commentary: Minimum compliance for design standards should allow, but not require, local governments to apply design standards to new townhouses, as long as they do not cause unreasonable cost or delay. Similar to triplexes/quadplexes, DLCD is still developing its approach to limiting allowable design standards, but is considering two potential approaches:</del></i></p> <ol style="list-style-type: none"> <li><i>1. Go through each type of design standard and set upper limits and parameters for what can be required/conditioned.</i></li> <li><i>2. Indicate that the design standards of the model code are a “reasonable” safe harbor for communities, and not try to define parameters.</i></li> </ol>
<p>1. <u>Entry Orientation.</u></p>	<p><i>Commentary: The proposed standard is consistent with the entry orientation standards for triplex/quadplex.</i></p> <p><i>[Option 1 removed]</i></p> <p><b>RECOMMENDED OPTION (2):</b> The main entrance of each townhouse must:</p> <ol style="list-style-type: none"> <li>a. Be within 8 feet of the longest street-facing wall of the dwelling unit; and</li> <li>b. Either:             <ol style="list-style-type: none"> <li>i. Face the street;</li> <li>ii. Be at an angle of up to 45 degrees from the street;</li> <li>iii. Face a common open space or private access or driveway; or</li> <li>iv. Open onto a porch. The porch must:                 <ol style="list-style-type: none"> <li>(A) Be at least 25 square feet in area; and</li> <li>(B) Have at least one entrance facing the street or have a roof.</li> </ol> </li> </ol> </li> </ol>	<p><i>See draft OARs.</i></p>
<p>2. <u>Unit definition.</u></p>	<p><i>Update since MCTAC 7: Per MCTAC suggestion, we added an option for a covered entryway.</i></p>	<p><i>See draft OARs.</i></p>

Standard	Model Code	Minimum Compliance
	<p><i>Unit definition standards are proposed to avoid monotonous rows of flat, unarticulated townhouse facades. The standards are intended to be highly flexible, and could be met by a feature as simple as a recessed entry or porch.</i></p> <p>Each townhouse must include at least one of the following on at least one street-facing facade:</p> <ul style="list-style-type: none"> <li>a. A roof dormer a minimum of 4 feet in width, or</li> <li>b. A balcony a minimum of 2 feet in depth and 4 feet in width and accessible from an interior room, or</li> <li>c. A bay window that extends from the facade a minimum of 2 feet, or</li> <li>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</li> <li>e. An entryway that is recessed a minimum of 3 feet, or</li> <li>f. <a href="#">A covered entryway with a minimum depth of 4 feet, or</a></li> <li>gf. A porch meeting the standards of subsection (1)(b)(iv) of this section (C).</li> </ul> <p>Balconies and bay windows may encroach into a required setback area.</p>	
<p>3. <u>Windows.</u></p>	<p><b>Commentary:</b> <i>The recommended window standard is the same as for triplex/quadplex.</i></p> <p>A minimum of 15 percent of the area of all street-facing facades on each individual unit must include windows or entrance doors. Window area is the aggregate area of the glass within each window, including any interior grids, mullions, or transoms. Door area is the area of the portion of a door other than a garage door that moves and does not include the frame. Half of the window area in the door of an attached garage may count toward meeting this standard.</p>	<p><a href="#">See draft OARs.</a></p>
<p>4. <u>Driveway Access and Parking.</u></p>	<p><b>Update since MCTAC 7:</b> <i>We propose several changes to the draft driveway/parking design standards to:</i></p> <ul style="list-style-type: none"> <li>• <i>Exempt townhouses without frontage on a public street. Townhouses fronting a private street or accessway will instead be subject to local standards for platting, fire access, public works, etc.</i></li> <li>• <i>Clarify the definition of “driveway approach.”</i></li> <li>• <i>Revise dimensional standards to be a bit more flexible (allow narrower street frontage; allow wider driveways).</i></li> <li>• <i>Add options that would (1) allow individual driveways for all street-fronting townhouses, and (2) allow individual driveways only for narrower townhouse lots. The latter option would continue to require shared driveways for townhouses with wider lots, with the intent of ensuring there is room for one on-street parking space between shared driveways. (Note: If driveways are allowed to be 12’ wide, each lot would need to be at least 23’ wide to accommodate a 22’ on-street parking space. [(22’ ÷ 2 + 12’ = 23’)] With narrower lots, on-street parking would not be possible unless there is no driveway.</i></li> </ul> <p><i>The intent of the driveway access and parking standards is to promote a pedestrian-friendly environment by limiting the dominance of vehicle storage on the site. (Note: The figures below are from the Milwaukie Municipal Code (MMC). We are working on new graphics that will depict driveways and parking areas that are more to-scale.)</i></p> <p><a href="#">Townhouses with frontage on a public street are subject to the following standards:</a></p> <ul style="list-style-type: none"> <li>a. Garages on the front façade of a townhouse, off-street parking areas in the front yard, and driveways <del>accesses</del> in front of a townhouse are prohibited unless the following standards are met. See Figure 1. <a href="#">For the purposes of this section (C)(4), “driveway approach” means the edge of a driveway where it abuts a public right-of-way.</a> <ul style="list-style-type: none"> <li>i. Each townhouse lot has a street frontage of at least <del>15</del> <a href="#">20</a> ft on a local street.</li> </ul> </li> </ul>	<p><a href="#">See draft OARs.</a></p>

Standard	Model Code	Minimum Compliance
	<p>ii. <b>OPTION 1:</b> A maximum of 1 driveway approach is allowed for every 2 townhouse units and must be shared by the units, except that each townhouse structure with three or more units may include 1 driveway that provides access to a single unit.</p> <p><b>OPTION 2:</b> A maximum of 1 driveway approach is allowed for every townhouse. Driveways may be shared.</p> <p><b>OPTION 3:</b> A maximum of 1 driveway approach is allowed for each townhouse with a street frontage less than [18 – 24] ft. A maximum of 1 driveway approach is allowed for every 2 townhouse units with a street frontage of [18 – 24] ft or more and must be shared by the units, except that each townhouse structure with three or more units may include 1 driveway that provides access to a single unit.</p> <p>iii. Outdoor on-site parking and maneuvering areas do not exceed {10/12} ft wide on any lot.</p> <p>iv. The garage width does not exceed {10/12} ft, as measured from the inside of the garage door frame.</p> <p style="text-align: center;"><i>Figure 1. Townhouse Development with Front Yard Parking (MMC Figure 19.505.5.F.1.)</i></p>  <p>b. The following rules apply to driveways and parking areas for townhouse projects that do not meet all of the standards in subsection (a).</p> <p>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.</p> <p>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 2.</p> <p style="text-align: center;"><i>Figure 2. Townhouse Development with Corner Lot Access (MMC Figure 19.505.5.F.2.b)</i></p> 	

Standard	Model Code	Minimum Compliance
	<p>iii. Townhouse projects development that does not include a corner lot shall consolidate access for all lots into a single driveway. The access and 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 3.</p> <p style="text-align: center;"><i>Figure 3. Townhouse Development with Consolidated Access (MMC Figure 19.505.5.F.2.c)</i></p>  <p>iv. A townhouse development that includes consolidated access or shared driveways shall grant appropriate access easements to allow normal vehicular access and emergency access.</p> <p>c. Townhouse projects served by an alley providing access to the rear yards of all units are exempt from compliance with subsection (b).</p> <p><b>POTENTIAL ADDITIONAL STANDARDS:</b> A garage shall not extend closer to the street than the furthest forward living space on the street-facing facade. (A similar provision is included in Option 3 of the draft triplex/quadplex Garages and Off-Street Parking Areas design standards; however that option is not recommended.)</p>	

## Chapter 5. Cottage Clusters

### Additional Definitions

*Commentary:* We propose adding several new definitions to Chapter 1 and a slight tweak to the “cottage cluster” definition. We included these here so they can be easily reviewed along with the draft cottage cluster standards, but the definitions will be merged with Chapter 1 in the next draft.

Standard	Model Code	Minimum Compliance	Commentary
<b>B. Definitions</b>	The following definitions shall apply for the purposes of this code, notwithstanding other definitions in the development code:	--	--
<i>Existing definition:</i>			
3. “Cottage cluster”	“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. <a href="#">Cottage cluster may also be known as “cluster housing,” “cottage housing,” or “pocket neighborhood.”</a>	Local governments must have a definition for cottage clusters” <a href="#">(or one of the alternative terms, such as cluster housing)</a> that allows groupings of smaller detached units with a shared courtyard or open space. The definition must limit the footprint of each detached dwelling unit to less than 900 SF. The definition may provide greater flexibility than the model code, including allowing individual units on separate lots.  <a href="#">Nothing in the Model Code or Minimum Compliance standards precludes jurisdictions from allowing a similar form of housing in attached configurations.</a>  <i>(See additional information in commentary.)</i>	<b>Update since MCTAC 7:</b> We added to the definition to reference some of the other terms used for cottage clusters.  <i>HB 2001 provides the definition of “cottage cluster,” but the draft model code narrows the definition to mean detached units on a single lot. However, for minimum compliance with HB 2001, jurisdictions may provide greater flexibility as long as the minimum standards are met. Because HB 2001 defines cottage cluster housing as “detached units”, we have not provided an option for attached configurations in the Model Code or Minimum Compliance standards in an effort to avoid a direct conflict with the statutory language. However, that form of housing could be allowed using different terminology.</i>  <i>See additional commentary below.</i>

**Commentary – Single Lot vs. Individual Lots:** There is a desire for more middle housing types that are available for fee simple ownership—i.e., units sold on individual lots. However, we continue to recommend limiting the model code definition of cottage clusters to units on a single lot, but allowing cities amending their own codes to provide for units on individual lots. We have examined this issue closely, and we continue to believe that allowing individual cottage lots would add a potentially untenable level of complexity to the model code provisions. Because of the unique configuration of cottage clusters, which share common open space, access, and parking areas, a cottage cluster development on individual lots would necessitate a relatively complex land division process that includes cross-access agreements and shared tracts. As such, a “fee simple” ownership scheme for cottage clusters would not be especially “simple.” Further, many cities do not currently have land division standards that would adequately address these issues. Therefore, the model code would likely need to include subdivision provisions related to the following:

- Relationship of individual home lots to shared courtyard areas
- Use of private or public accessways with shared ownership or cross-access easements to access individual or shared parking areas
- Relationship of shared parking areas to individual home lots
- Internal and perimeter setbacks
- Relationship to the city’s other platting or subdivision standards

As a result, it would be very difficult to draft a set of model code standards that would work for every jurisdiction, given local variation in existing platting, subdivision, public works, and other standards. We also are concerned that cities ultimately will need to administer other local standards related to platting, access, and design of private accessways that may result in those projects being subject to an approval process that cannot be guaranteed to be clear and objective.

As such, we suggest keeping the model code simpler and easier to implement at the local level by limiting cottage clusters to be on a single lot. Units could still be individually owned as condominiums, which would still contribute to lower-cost homeownership options in single-family neighborhoods although we understand and acknowledge that the condominium ownership process can create challenges and barriers to development.

<b>New definitions:</b>			
“Building footprint”	“Building footprint” means the horizontal area as seen in plan, measured from outside of all exterior walls and supporting columns. It includes dwellings, garages, carports, and accessory structures, but not trellises, patios, and areas of porch, deck, and balcony less than 30 inches from finished grade, or cantilevered covers, porches or projections which do not have a post touching the ground or ramps and stairways required for access.	Local governments must have a definition of “footprint” or “building footprint” that is the same as, or similar to, the model code definition.	<i>HB 2001 specifies that units in a cottage cluster must have footprints of less than 900 sf, but it does not provide a definition of building footprint. This definition is proposed to define what portions of a building or structure are included in the building footprint. We propose including garages and carports in the footprint calculation, to limit the size of parking structures and to encourage clustered parking.</i>
“Common courtyard”	“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 lawn, groundcover, trees, shrubs, patios, benches, or gazebos. Pedestrian paths must be included as part of a common courtyard.	Local governments may, but are not required to, have a definition for common courtyard, as long as the standards for a shared courtyard or open space as part of a cottage cluster are clearly defined.	<i>HB 2001 specifies that cottage clusters must include a common courtyard. The model code definition is proposed to define what a common courtyard is in general terms. More specific standards for common courtyards are provided in Chapter 5.</i>
“Cottage”	“Cottage” means an individual dwelling unit that is part of a cottage cluster.	Local governments may, but are not required to, have a definition for cottage.	<i>Chapter 5 of the model code refers to individual units of a cottage cluster as cottages. This definition is simply meant remove any ambiguity about the meaning of that term.</i>
“Cottage cluster project”	“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.	Local governments may, but are not required to, have a definition for cottage cluster project.	<i>This definition describes an overall cottage cluster development site, which may contain multiple clusters. What defines a cluster is that all the dwellings share a common courtyard. Therefore, a cottage cluster project with multiple clusters must also have multiple common courtyards.</i>

## Cottage Cluster Standards

### Sections:

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

Standard	Model Code	Minimum Compliance
<b>A. Permitted Uses and Approval Process</b>	<p><i>Commentary: Proposed language is the same as for duplexes, triplexes, quadplexes.</i></p> <p>Cottage cluster projects are permitted outright wherever they are allowed as provided in Chapter 1, Section C (Applicability). 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, consistent with the requirements of ORS 197.307(4). 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, if such a process is available.</p>	Local governments must permit cottage clusters outright in areas zoned for residential use that allow for the development of detached single family structures. Local governments must apply the same approval process to cottage clusters as detached single family dwellings in the same zone. Local governments may adopt and apply only clear and objective standards, conditions, and procedures regulating the development of cottage clusters pursuant to ORS 197.307(4).



Standard	Model Code	Minimum Compliance
<p><b>B. Development Standards</b></p> <p>1. <u>Applicability.</u></p>	<p><i>Commentary: This draft language is the same as the draft applicability statement for townhouse development standards, except without reference to platting standards. The intent is that the cottage cluster standards would override the base zone standards (except when the model code defers to the jurisdiction’s standards) and any existing cottage cluster standards that conflict with the model code.</i></p> <p>a. Cottage clusters shall meet the standards in subsections (2) through (9) of this section (B).</p> <p>b. The following standards are invalid and do not apply to cottage clusters allowed by this code, unless otherwise noted in this section (B):</p> <ul style="list-style-type: none"> <li>• Additional development standards of the applicable base zone related to the standards addressed under subsections (2) through (9) of this section (B).</li> <li>• Development standards of the applicable base zone related to lot dimensions, lot coverage, or the siting or design of dwellings.</li> <li>• The jurisdiction’s development standards that apply only to cottage clusters and that conflict with provisions of this code.</li> </ul>	<p>Local governments are not required to have an applicability statement.</p>
<p>2. <u>Number of Units.</u></p>	<p><i>Commentary: We are presenting three options for regulating the number of units. Option 1 is the most flexible and places no limits on the number of dwellings in a cottage cluster project. The scale of development could still be limited, but by other means, such as required frontage on the common courtyard. Option 2 regulates the number dwellings in an entire project. Option 3 regulates the number of dwellings per cluster, but does not regulate the number of dwellings in a project if there is more than one cluster.</i></p> <ul style="list-style-type: none"> <li>• <b>OPTION 1:</b> No minimum or maximum number of dwelling units.</li> <li>• <b>OPTION 2 (NOT RECOMMENDED):</b> A cottage cluster project must contain a minimum of three (3) and a maximum of twelve (12) dwelling units.</li> <li>• <b>OPTION 3:</b> Each cottage cluster sharing a common courtyard must contain a minimum of three (3) and a maximum of twelve (12) dwelling units. A cottage cluster project may contain more than one cottage cluster.</li> </ul>	<p>Local governments must allow at least <del>five</del> units in a cottage cluster. A local government must allow up to <del>eight</del> cottage units clustered around a common courtyard. Nothing in this section precludes a local government from allowing <u>fewer than five or greater than <del>eight</del> units</u> clustered around a common courtyard.</p>
<p>3. <u>Minimum Lot Size.</u></p>	<p><i>Commentary: We propose applying the same minimum lot size standard as applies to duplexes, triplexes, and quadplexes.</i></p> <p>The minimum lot size for a cottage cluster project is the same as the minimum lot size for a detached single family dwelling in the same zone.</p>	<p><i>The combination of minimum lot size and maximum density requirements may not result in an allowed density of less than four cottage cluster units per acre.</i></p> <p><i>A Large City is not required to apply minimum lot or parcel size standards to new Cottage Cluster developments. However, if a Large City chooses to regulate minimum lot size, those standards cannot be more restrictive than that of a single family detached dwelling in the same zone. Additional standards TBD.</i></p> <p><i>Please note: Cottage Cluster minimum compliance standards will need significant refinement by the TAC.</i></p>
<p>4. <u>Minimum Lot Width.</u></p>	<p><i>Commentary: We propose applying the same minimum lot dimension standards as apply to duplexes, triplexes, and quadplexes.</i></p>	<p>A minimum lot width standard is not required. However, if a jurisdiction applies a minimum lot width standard to cottage cluster development it may</p>

Standard	Model Code	Minimum Compliance
	<p>The minimum lot width for a cottage cluster project is the same as the minimum lot width for a detached single family dwelling in the same zone.</p>	<p>not be wider than the standard for a single-family detached dwelling in the same zone.</p>
<p>5. <u>Maximum Density.</u></p>	<p><b>Commentary:</b> <i>Option 1 allows the minimum lot size to determine maximum density. On larger lots that could fit numerous cottages, particularly in lower density base zones, this could result in much higher density than would otherwise be allowed. Option 2 limits density for cottage cluster development in a way that is comparable to allowing a quadplex on a single family lot. Option 3 is a hybrid of Options 1 and 2; it would limit density in zones with smaller minimum lot sizes, but would not limit density in zones with larger minimum lot sizes. This would be a way of incentivizing or “sweetening the deal” for development of cottage clusters in larger-lot zones over triplexes, quadplexes, and townhouses. Cottage clusters have the advantage of being more limited in scale and bulk than these other middle housing types, and may be more compatible with lower-density single family neighborhoods, even at higher densities.</i></p> <p><b>Note:</b> <i>Options 1 and 2, which allow higher densities, may pair well with limits on unit size, as discussed in subsection (7). <a href="#">If it is recommended, Option 3 may need to be refined, depending on which option is selected under subsections (2) and (3).</a></i></p> <ul style="list-style-type: none"> <li>• <b>OPTION 1:</b> The maximum density for a cottage cluster project shall be determined by the minimum lot size as provided in subsection (3) of this section (B). The jurisdiction’s pre-existing density maximums do not apply.</li> <li>• <b>OPTION 2:</b> The maximum density for a cottage cluster project is four times the allowed density for detached single family dwellings in the same zone.</li> <li>• <b>OPTION 3:</b> The maximum density for a cottage cluster project is follows:             <ul style="list-style-type: none"> <li>○ In zones with a minimum lot size of less than 5,000 sf, cottage cluster projects are allowed four (4) times the allowed density for detached single family dwellings.</li> <li>○ In zones with a minimum lot size of 5,000 sf or more, the maximum density for a cottage cluster project shall be determined by the minimum lot size as provided in subsection (3) of this section (B) <a href="#">in combination with the maximum number of units allowed in a cottage cluster project under subsection (2) of this section (B)</a>. The jurisdiction’s pre-existing density maximums do not apply.</li> <li>○ <a href="#">The resulting maximum density shall not be less than four units per acre in any zone.</a></li> </ul> </li> </ul>	<p><a href="#">The combination of maximum density and minimum lot size requirements may not result in an allowed density of less than four cottage cluster units per acre.</a></p> <p><a href="#">For the purposes of calculating density, if a Large City applies density maximums in a zone, it may not apply those maximums to the development of Cottage Clusters. A cottage cluster development must meet a minimum density of at least four units per acre. <del>Additional standards TBD.</del></a></p> <p><a href="#">Please note: Cottage Cluster minimum compliance standards will need significant refinement by the TAC.</a></p>
<p>6. <u>Setbacks.</u></p>	<p><b>Commentary:</b> <i>We propose deferring to the base zone setbacks, except limiting the minimum front and rear setbacks to 10 feet. Larger setbacks than this could be prohibitive to cottage cluster development, particularly on smaller lots.</i></p> <p>Cottage clusters shall be subject to the same minimum and maximum setback standards that are applicable to detached single family dwellings in the same zone, except that minimum setbacks in excess of the following are invalid:</p> <ul style="list-style-type: none"> <li>• Front setbacks: 10 feet</li> <li>• Side setbacks: 5 feet</li> <li>• Rear setbacks: 10 feet</li> </ul> <p>The minimum distance between all structures, including accessory structures, shall be in accordance with building code requirements.</p>	<p>A local government may not require perimeter setbacks to be greater than those applicable to detached single family structures in the same zone. <i>(This will need to be expanded/refined.)</i></p>



Standard	Model Code	Minimum Compliance
<p>7. <u>Unit Size.</u></p>	<p><b>Commentary:</b> Cottages are typically intended as smaller units, and traditionally fall in scale somewhere between ADUs and single family homes. For example, jurisdictions with existing cottage cluster standards typically limit unit size (total floor area) to between 1,000 and 1,400 square feet. HB 2001 limits building footprints to 900 sf—which could result in a two-story cottage of roughly 1,800 sf or an even larger unit if additional height is allowed. As such, it may be desirable to further limit unit size. We’re presenting four options below; Options 2 through 4 could be combined, if desired. <u>Note 1:</u> The proposed definition of floor area in Chapter 1 includes garages in the calculation. The maximum unit size should factor this in, or could potentially exclude garages. <u>Note 2:</u> It may be especially desirable to limit unit size beyond the footprint/height limits if maximum density is not limited.</p> <ul style="list-style-type: none"> <li>• <b>OPTION 1:</b> No limit. (Allow maximum height and building footprint to control unit size. This is the most flexible option, but would not provide much in the way of a trade-off between unit size and density.)</li> <li>• <b>OPTION 2:</b> Maximum floor area: [1,200 – 1,600] sf per dwelling unit. (This is the least flexible option, but would ensure all units are limited in scale.)</li> <li>• <b>OPTION 3:</b> Maximum <u>average</u> floor area: [1,000 – 1,200] sf per dwelling unit. (This would allow flexibility for larger units in combination with smaller units while on average, requiring modestly sized units.)</li> <li>• <b>OPTION 4:</b> Total building footprint area for a cottage cluster: [10,800] sf. (This total footprint is the equivalent of 12 units with footprints of 900 sf each. This option would limit the overall scale of a cluster development while allowing flexibility for a larger number of small units [e.g., 18 units with footprints of 600 sf; 24 units with footprints of 450 sf.] A similar scheme could be done with total floor area, if that’s preferable. This option would offer the most flexibility of the four options. <u>Note:</u> This option would not work if density is limited to 4x the allowed density for the zone.)</li> </ul>	<p><a href="#">A Large City may limit the size of dwellings in a Cottage Cluster, but must apply a maximum building footprint of 900 square feet per unit.</a> <del>Local governments may limit the size of dwellings in a cottage cluster, but must allow at least XX sf per unit.</del></p>
<p>8. <u>Maximum Height.</u></p>	<p><b>Commentary:</b> Height is another way to limit the size of cottage clusters, in addition to—or instead of—limiting unit floor area. Many cottage cluster codes limit height to 25 feet—we recommend that option, but we also included an option to defer to the maximum height for single family detached dwellings.</p> <ul style="list-style-type: none"> <li>• <b>RECOMMENDED OPTION 1:</b> 25 feet</li> <li>• <b>OPTION 2:</b> Cottages are subject to the same maximum height as applicable to detached single family dwellings in the same zone. (Note: If height is not limited to 25 feet, it may be preferable to limit unit floor area in order to control the size of individual units.)</li> </ul>	<p>Cottage clusters must be allowed a height of at least <del>25 feet</del><u>one story</u>.</p>
<p>9. <u>Off-Street Parking</u></p>	<p><b>Commentary:</b> We’ve presented two options below. Both options include an on-street credit and allow parking to be provided in shared parking areas.</p> <ul style="list-style-type: none"> <li>• Option 1 requires either 0.5 or 1 space per unit. Requiring 1 space per unit would align with the recommended approach for townhouses. However, there is a good case to be made for requiring fewer off-street parking spaces for cottage clusters than for townhouses, given that there is no size restriction on townhouses, it is easier to design them with off-street parking for each unit, and cottage clusters are generally intended/marketed for smaller households. Requiring 0.5 spaces per unit would also put cottage clusters more on par with proposed requirements for triplexes and quadplexes, in terms of the relationship to detached single family dwellings.</li> </ul>	<p>A local government may not require more than one off-street parking space per dwelling in a cottage cluster.</p> <p><a href="#">Nothing in this section precludes a Large City from allowing on-street parking credits to satisfy off-street parking requirements.</a></p>

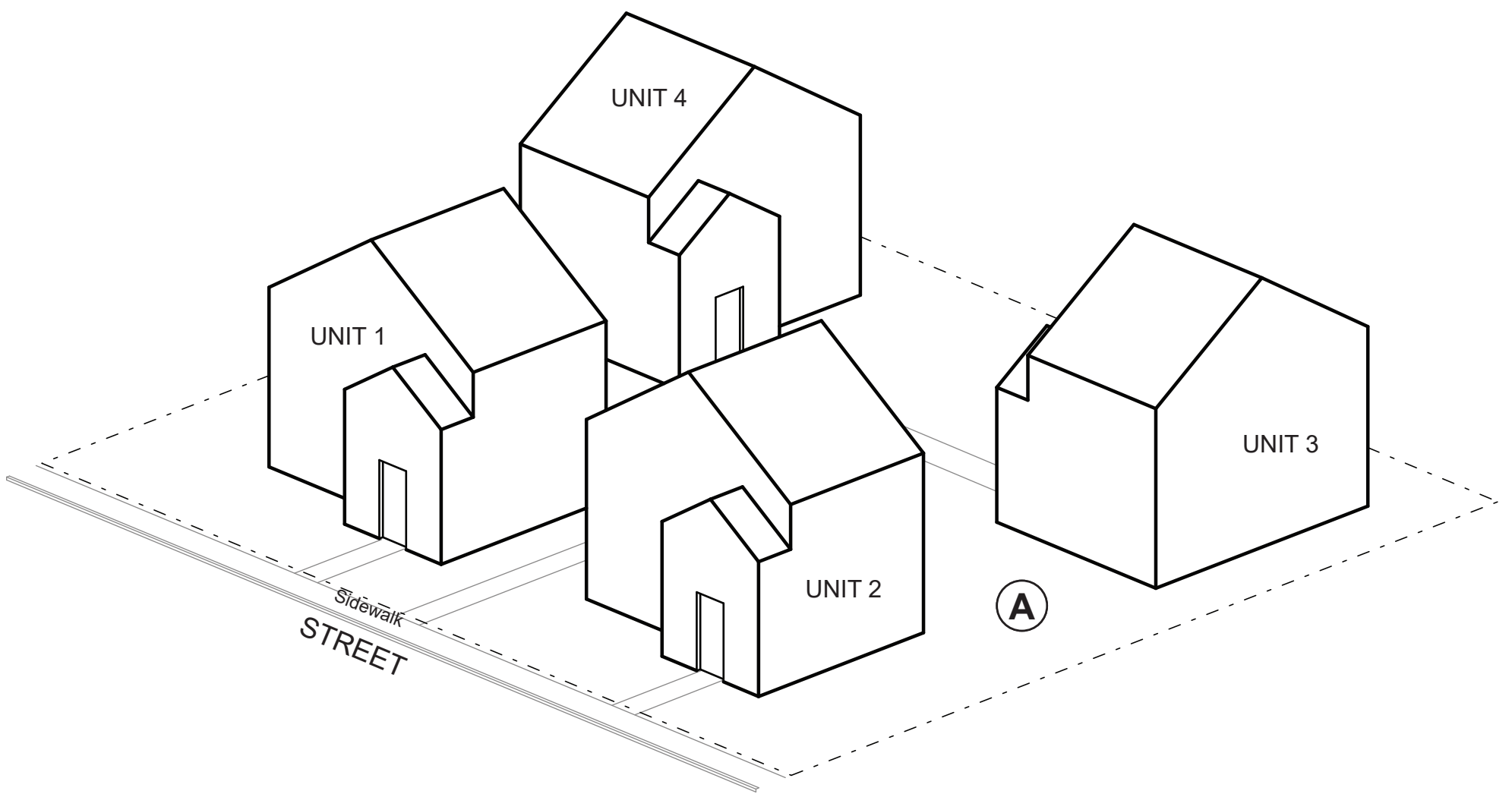
Standard	Model Code	Minimum Compliance
	<ul style="list-style-type: none"> <li>• <i>Option 2 creates an incentive for smaller cottage units by applying a reduced parking ratio for cottages under a certain size.</i></li> <li>• <b>OPTION 1:</b> <ol style="list-style-type: none"> <li>a. <u>Required Off-Street Parking</u>. The minimum number of required off-street parking spaces for a cottage cluster project is [0.5 or 1] space per unit. 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).</li> <li>b. <u>On-Street Credit</u>. 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.                             <ol style="list-style-type: none"> <li>i. On-street parking must be allowed on the side of the street where the space is to be provided.</li> <li>ii. The space must be a minimum of 22 feet long;</li> </ol> </li> </ol> </li> <li>• <b>OPTION 2:</b> <ol style="list-style-type: none"> <li>a. <u>Required Off-Street Parking</u>. The minimum number of required off-street parking spaces for a cottage cluster project is [0 or 0.5] space per unit with a floor area less than [1,200] sf and [0.5 or 1] space per unit with a floor area of [1,200] sf 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).</li> <li>b. <u>On-Street Credit</u>. (same as Option 1)</li> </ol> </li> </ul>	
<p><b>D. Design Standards</b></p>	<p>Cottage clusters shall meet the design standards in subsections (1) through (7) of this section (C). No other design standards shall apply to cottage clusters unless noted in this section.</p>	
<p>1. <u>Cottage Orientation</u>.</p>	<p><i>Commentary: We recommend requiring that some or all cottages face the common courtyard. Requiring that only a percentage of cottages face the courtyard (e.g., 50%) would provide more flexibility for site layout, but the traditional layout is for cottages to be clustered around the same open space.</i></p> <ul style="list-style-type: none"> <li>• <b>OPTION 1:</b> All cottages must be oriented to a common courtyard.</li> <li>• <b>OPTION 2:</b> A minimum of [50%] of cottages must be oriented to a common courtyard. <i>(If this option is selected, the draft language below will be modified accordingly.)</i></li> </ul> <ol style="list-style-type: none"> <li>a. Cottages must be clustered around a common courtyard. Each cottage must have a main entrance facing the common courtyard, except that cottages within 20 feet of a street property line may have their entrances facing the street.</li> <li>b. Each cottage must be within 10 feet from the common courtyard, measured from the façade of the cottage to the nearest delineation of the common courtyard.</li> <li>c. Each cottage must be connected to the common open space by a pedestrian path.</li> </ol>	<p>See draft OARs.</p>
<p>2. <u>Common Courtyard Design Standards</u>.</p>	<p><i>Commentary: These recommended standards are intended to ensure that common courtyards provide useable, accessible space, but that flexibility for a range of courtyard designs and configurations are permitted. Some cottage cluster codes also require private open space in addition to common space, but we do not recommend additional space requirements that may be prohibitive to cottage cluster development.</i></p>	<p>See draft OARs.</p>

Standard	Model Code	Minimum Compliance
	<p>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:</p> <ul style="list-style-type: none"> <li>a. The common courtyard must be a single, contiguous, useable piece.</li> <li>b. Cottages must abut the common courtyard on at least two sides of the courtyard.</li> <li>c. The common courtyard must contain a minimum of [200 - 400] sf per cottage within the associated cluster. <i>(400 sf per unit is a typical common open space requirement for cottage clusters, but may limit feasibility on smaller sites.)</i></li> <li>d. The common courtyard must be at least 15 feet wide at its narrowest dimension.</li> <li>e. The common courtyard shall be developed with a mix of landscaping and lawn area, recreational amenities, hard-surfaced pedestrian paths, and/or paved courtyard area. Impervious elements of the common courtyard shall not exceed [50%] of the total common courtyard area.</li> <li>f. Pedestrian paths qualify as part of a common courtyard. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.</li> </ul> <p><b>ADDITIONAL OPTION:</b> Require at least one common courtyard in a cottage cluster project to be visible and accessible from an adjacent public street.</p>	
<p>3. <u>Community Buildings.</u></p>	<p><b>Commentary:</b> <i>These provisions allow for shared community buildings as part of cottage cluster developments. We recommend limiting the size of community buildings in a way that is relatively consistent with size limits for dwelling units. Item (b) is intended to ensure that if a community building is converted into a dwelling, it will not be nonconforming to the model code standards. Alternatively, a property owner could record a covenant precluding future conversion to a dwelling. Such a covenant would ensure the owner does not have to pay SDCs or impact fees for the structure and that it does not count against maximum allowed density for the site. These costs significantly decrease the likelihood that such shared amenities ever get built.</i></p> <p>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:</p> <ul style="list-style-type: none"> <li>a. Each cottage cluster is permitted one community building that is a maximum of [1,200] sf in area.</li> <li>b. A community building that meets the development code’s definition of a dwelling unit must meet the maximum 900-st 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.</li> </ul>	<p>See draft OARs.</p>
<p>4. <u>Pedestrian Access.</u></p>	<p><b>Commentary:</b> <i>These standards are recommended to ensure that all key areas of the site are connected by accessible pedestrian paths.</i></p> <ul style="list-style-type: none"> <li>a. An accessible pedestrian path must be provided that connects the main entrance of each cottage to the following: <ul style="list-style-type: none"> <li>i. The common courtyard;</li> <li>ii. Shared parking areas;</li> <li>iii. Community buildings; and</li> <li>iv. Sidewalks in public rights-of-way abutting the site or roadways if there are no sidewalks.</li> </ul> </li> <li>b. The pedestrian path must be hard-surfaced and a minimum of five (5) feet wide.</li> </ul>	<p>See draft OARs.</p>

Standard	Model Code	Minimum Compliance
<p>5. <u>Windows.</u></p>	<p><i>Commentary: We recommend applying some form of window coverage standards to cottages. Option 1 is consistent with the standards for triplexes, quadplexes, and townhouses. Option 2 is consistent with the standards for duplexes, as it defers to a jurisdiction’s standards for single family homes. Option 3 could be combined with Options 1 or 2, and would apply the same window coverage standard for facades facing the common courtyard. This would promote visibility for shared open space areas.</i></p> <ul style="list-style-type: none"> <li>• <b>OPTION 1:</b> For cottages within 20 feet of a street property line, a minimum of 15 percent of the area of all street-facing facades must include windows or entrance doors. Window area is the aggregate area of the glass within each window, including any interior grids, mullions, or transoms. Door area is the area of the portion of a door other than a garage door that moves and does not include the frame. Half of the window area in the door of an attached garage may count toward meeting this standard.</li> <li>• <b>OPTION 2:</b> Cottages within 20 feet of a street property line must meet any window coverage requirement applicable to detached single family dwellings in the same zone.</li> <li>• <b>OPTION 3 (to be combined with Options 1 or 2):</b> Require the same window coverage standard for facades facing the common courtyard as applies to street-facing facades.</li> </ul>	<p>See draft OARs.</p>
<p>6. <u>Parking Design.</u></p>	<p><i>Commentary: These recommended provisions are intended to limit the visual impact of parking areas as viewed from the street and from the common courtyard, while also providing flexibility in the design and arrangement of parking. Parking could be provided in shared clusters or with individual units. ECONW has noted that individual garages may be important for the cottages’ marketability, therefore that option remains. However, by including garages in the footprint and floor area calculations, shared parking is encouraged.</i></p> <ol style="list-style-type: none"> <li>a. <u>Clustered parking.</u> Off-street parking may be arranged in clusters of not more than five (5) contiguous spaces separated by at least four (4) feet of landscaping. Clustered parking areas may be covered.</li> <li>b. <u>Parking location and access.</u> <ol style="list-style-type: none"> <li>i. Off-street parking spaces must be accessed only by a private driveway or public alley. No parking space may access a public street directly.</li> <li>ii. Off-street parking spaces and vehicle maneuvering areas must be located a minimum of 20 feet from any street property line, except alley property lines, where parking and vehicle maneuvering areas may be provided within 5 feet of the property line.</li> <li>iii. Off-street parking spaces and vehicle maneuvering areas may not be located between a street property line, except alley property lines, and cottages abutting the street property line.</li> <li>iv. Off-street parking spaces may not be located within 10 feet of any other property line. Driveways and drive aisles are permitted within 10 feet of other property lines.</li> </ol> </li> <li>c. <u>Screening.</u> Landscaping or architectural screening at least three feet tall shall separate clustered parking areas and parking structures from common courtyards and public streets.</li> </ol>	<p>See draft OARs.</p>

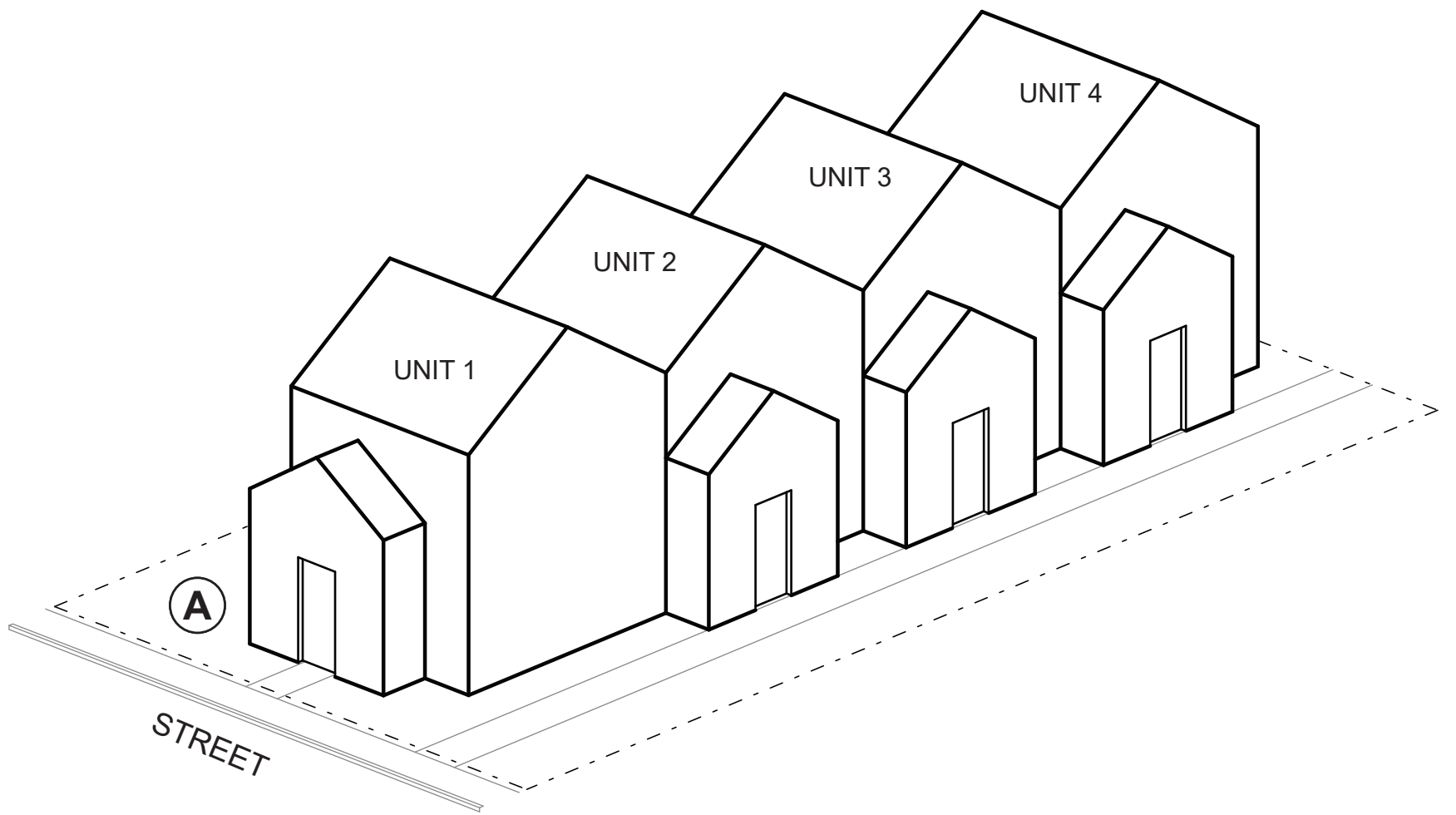
Standard	Model Code	Minimum Compliance
	<p>d. <b>Individual Garages.</b> Garages or carports for individual cottages (both attached and detached) are included as part of the floor area and footprint calculations for each cottage. Such garages or carports must not abut common courtyards, must not gain access off a public street, and must have garage doors of twelve (12) feet or less in width.</p> <p>e. <b>Shared Garages.</b> A garage or carport intended to be shared by multiple cottage units must not exceed [1,200 sf] in size. <i>(Note: It may be preferable not to limit the size of shared garages, in order to encourage shared parking. However, we've included this option for discussion.)</i></p>	
<p>7. <b>Existing Structures.</b></p>	<p><b>Commentary:</b> <i>This recommended provision encourages infill development of cottage clusters on lots with a pre-existing single family home. The existing home would count as part of the cluster, and would not be subject to the other model code standards, but also could not increase nonconformance with the standards.</i></p> <p>On a lot or parcel to be used for a cottage cluster project, a pre-existing detached single family dwelling may remain within the cottage cluster project area under the following conditions:</p> <ul style="list-style-type: none"> <li>a. The existing dwelling may be nonconforming with respect to the requirements of this code.</li> <li>b. Existing dwellings may be expanded up to the maximum height, footprint, and/or unit size required by this code; however, existing dwellings that exceed the maximum height, footprint, and/or unit size of this code may not be expanded.</li> <li>c. The existing dwelling shall count towards the number of cottages allowed in the cottage cluster project.</li> <li>d. The floor area of the existing dwelling shall not count towards any cottage cluster average or cottage cluster project average or total unit size limits.</li> </ul>	<p><i>Identical to Model Code language.</i></p>

# Definition: Quadplex - 1



**A** Four detached dwelling units on a lot

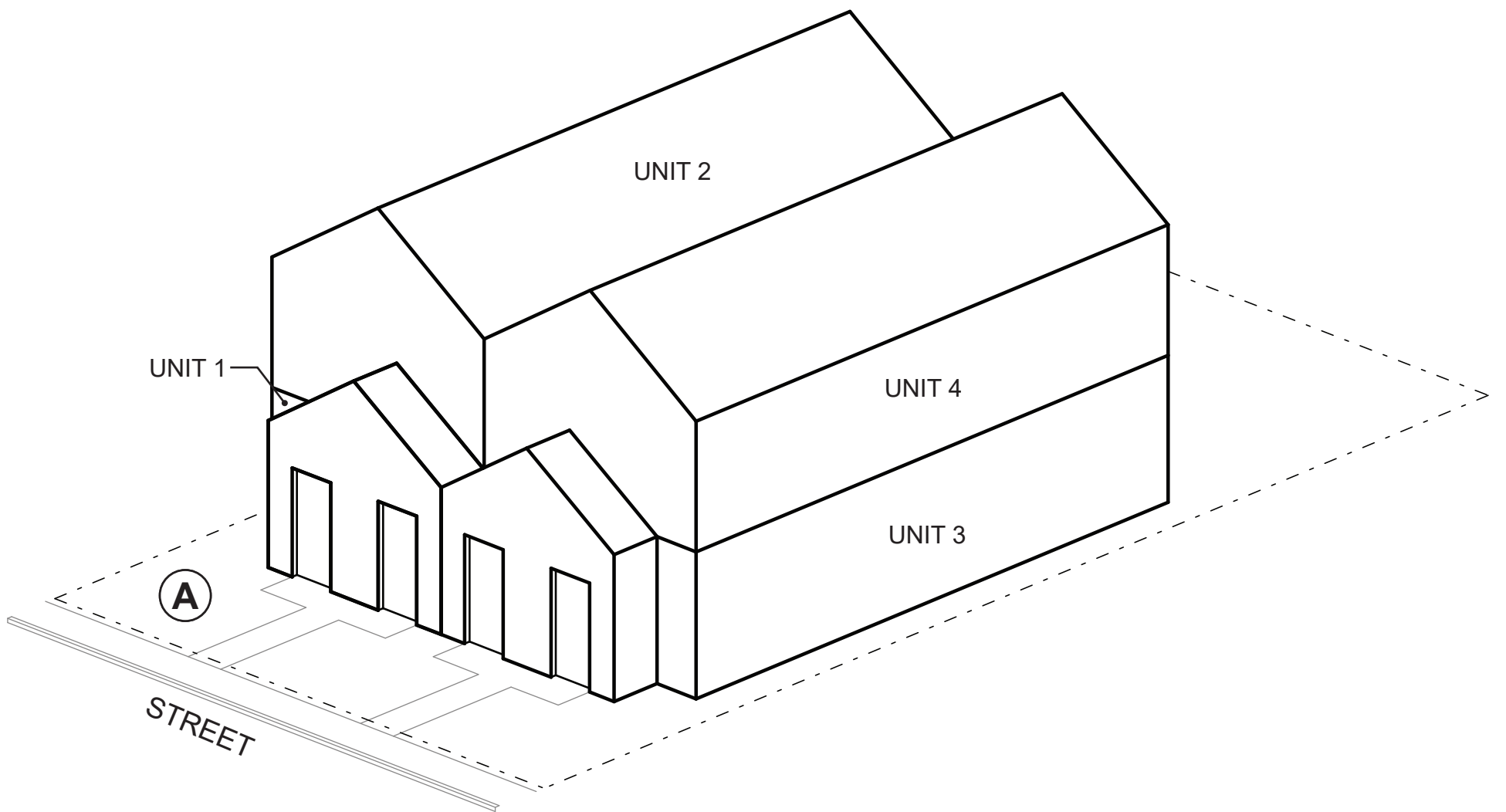
# Definition: Quadplex - 2



**A** Four attached dwelling units on a lot

# Definition: Quadplex - 3

128



**A** Four attached dwelling units on a lot

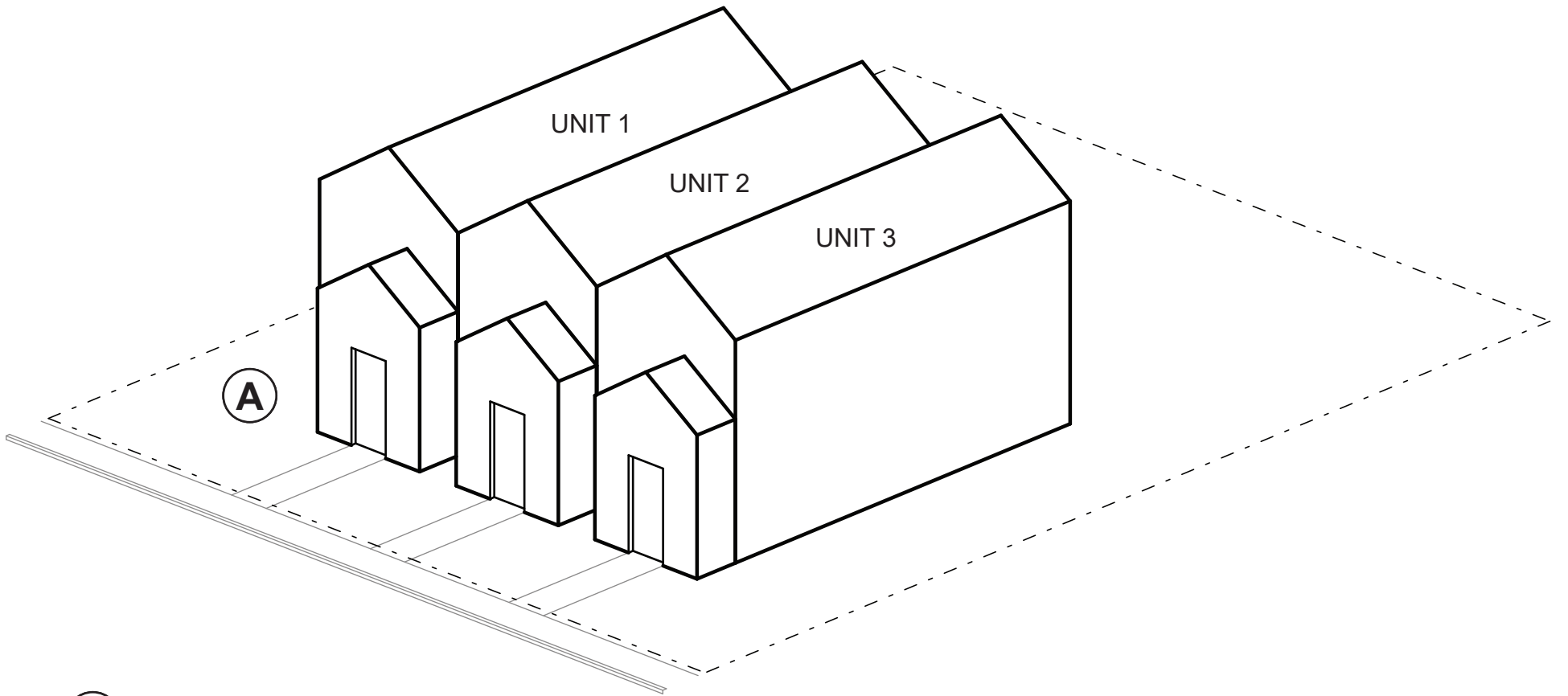


# Definition: Triplex - 1

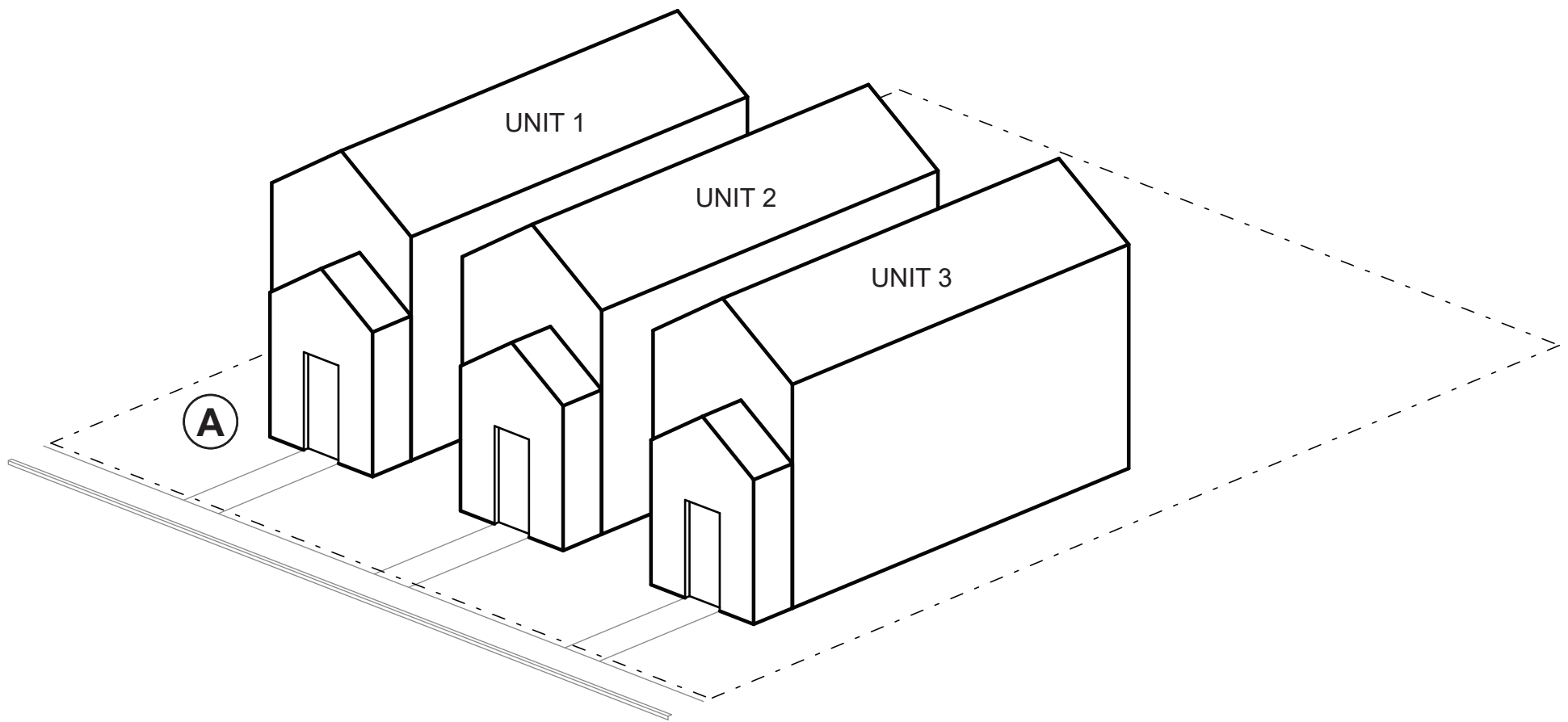


**A** Three attached dwelling units on a lot

# Definition: Triplex - 2 & 3

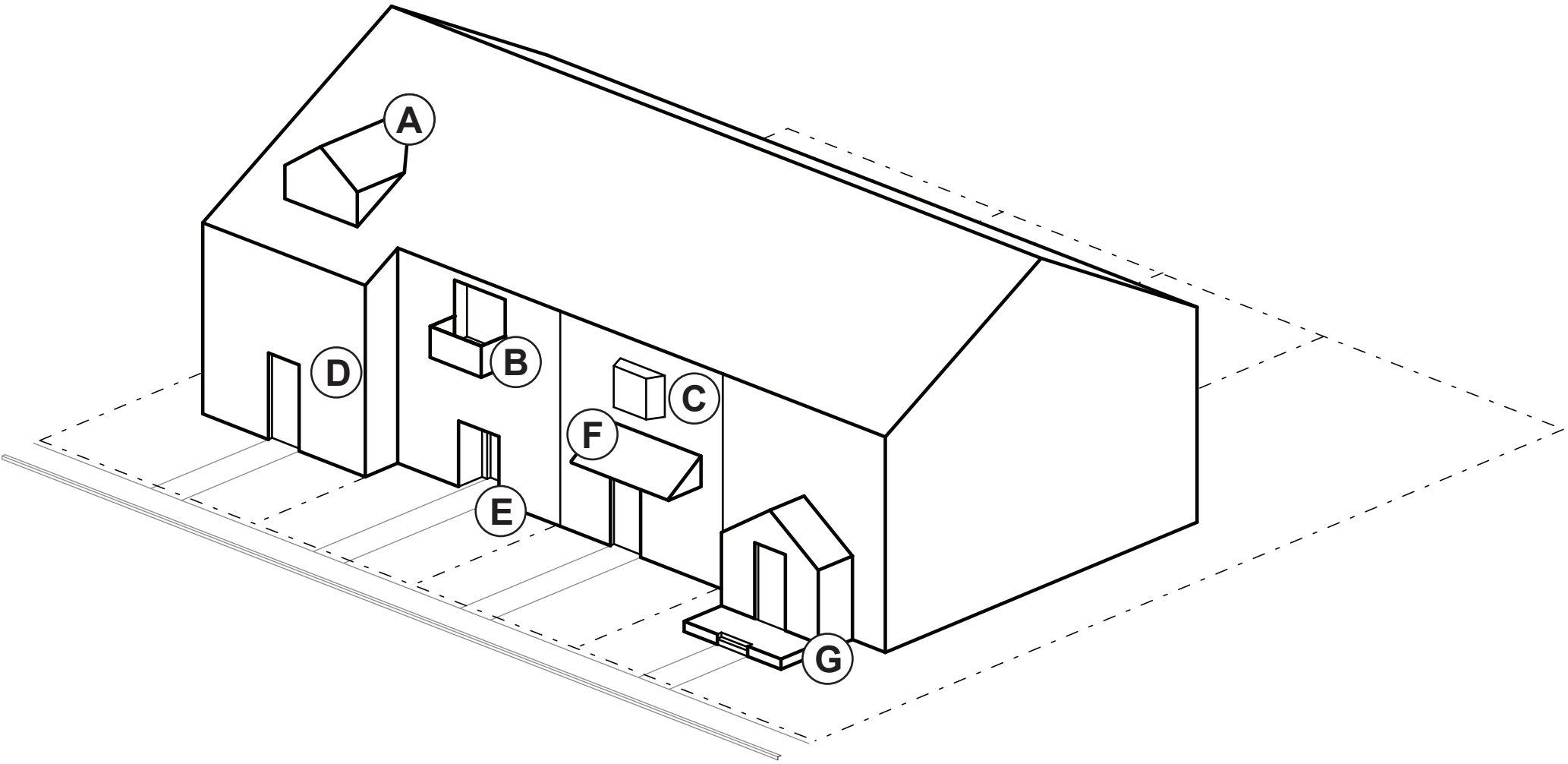


**A** Three attached dwelling units on a lot



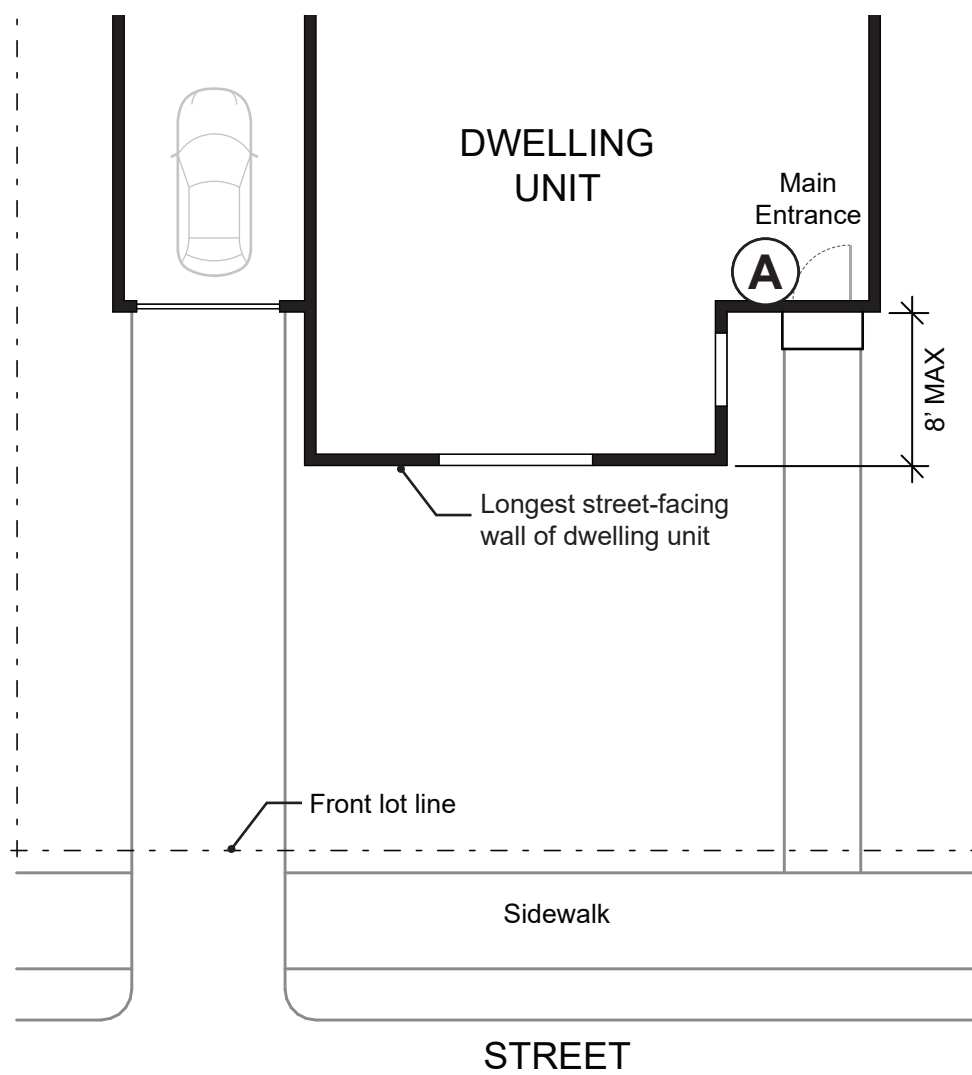
**A** Three detached dwelling units on a lot

# Townhouse Unit Definition



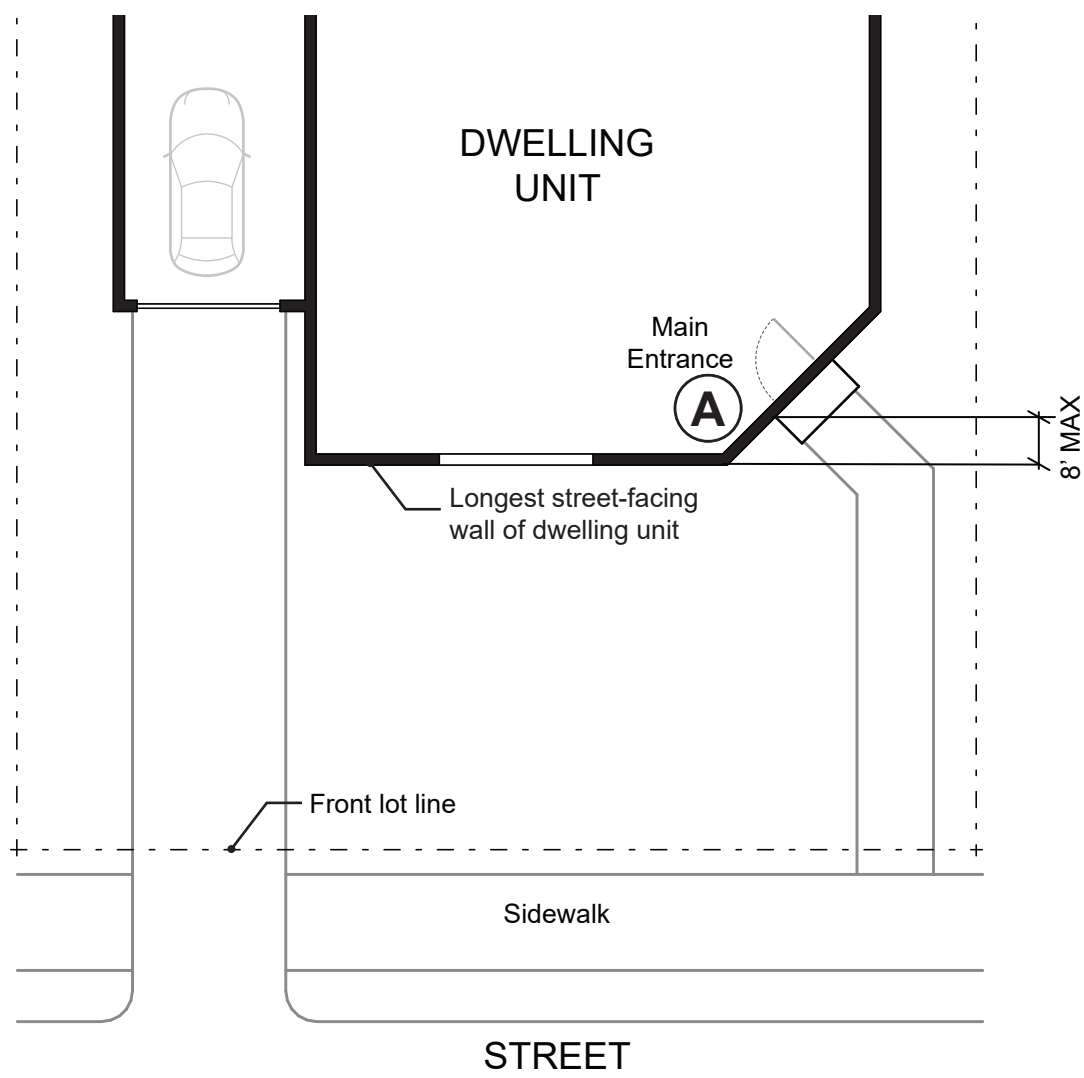
- (A)** Roof dormer, minimum of 4 feet wide (standard a.)
- (B)** Balcony, minimum 2 feet deep and 4 feet wide. Accessible from interior room. (standard b.)
- (C)** Bay window extending minimum of 2 feet from facade (standard c.)
- (D)** Facade offset, minimum of 2 feet deep (standard d.)
- (E)** Recessed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

# Triplexes / Quadplexes and Townhouses: Entry Orientation (b.i.)



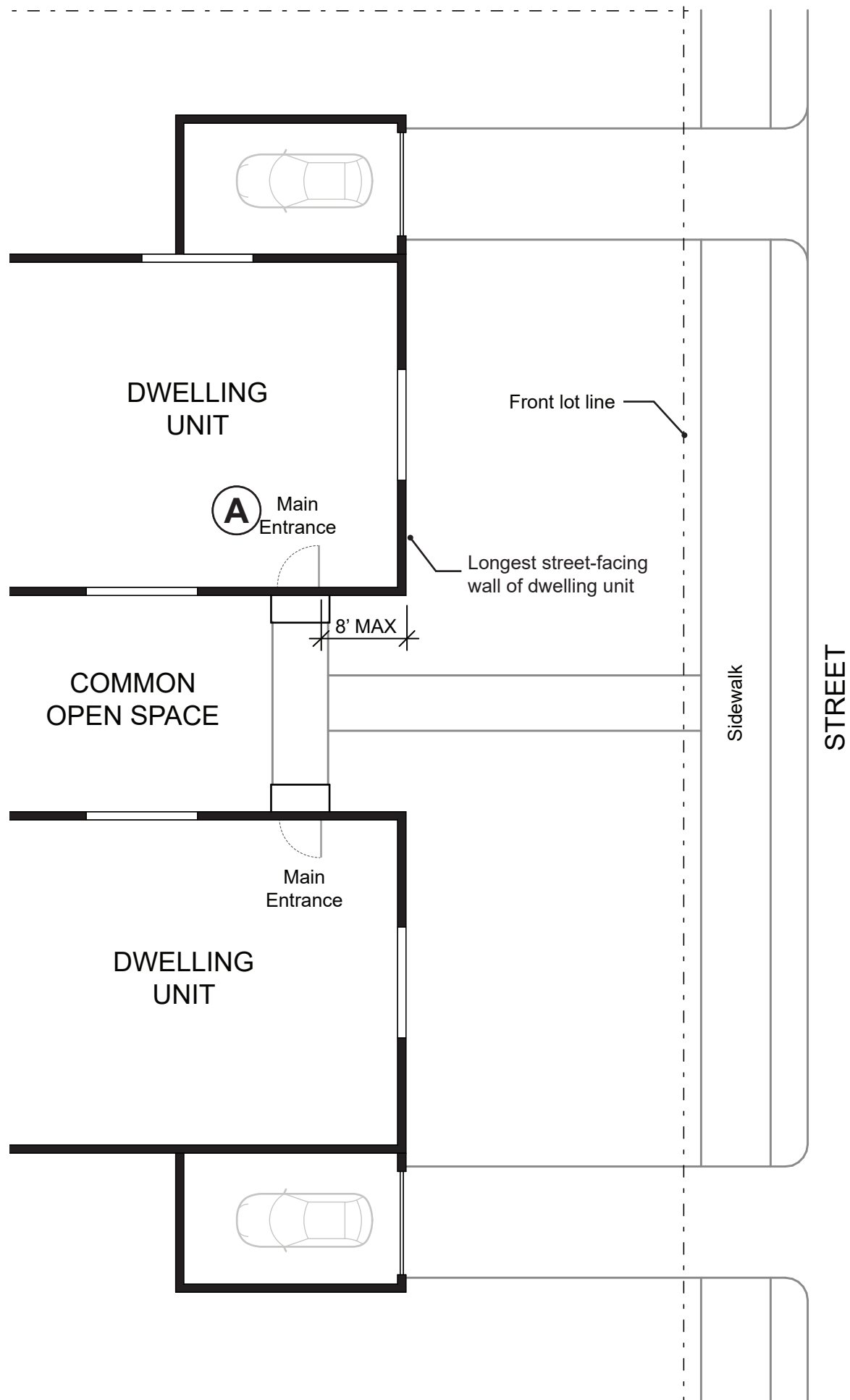
**A** Main Entrance is within 8' of longest street-facing wall of dwelling unit (standard a.), and faces the street (standard b.i.)

# Triplexes / Quadplexes and Townhouses: Entry Orientation (b.ii.)



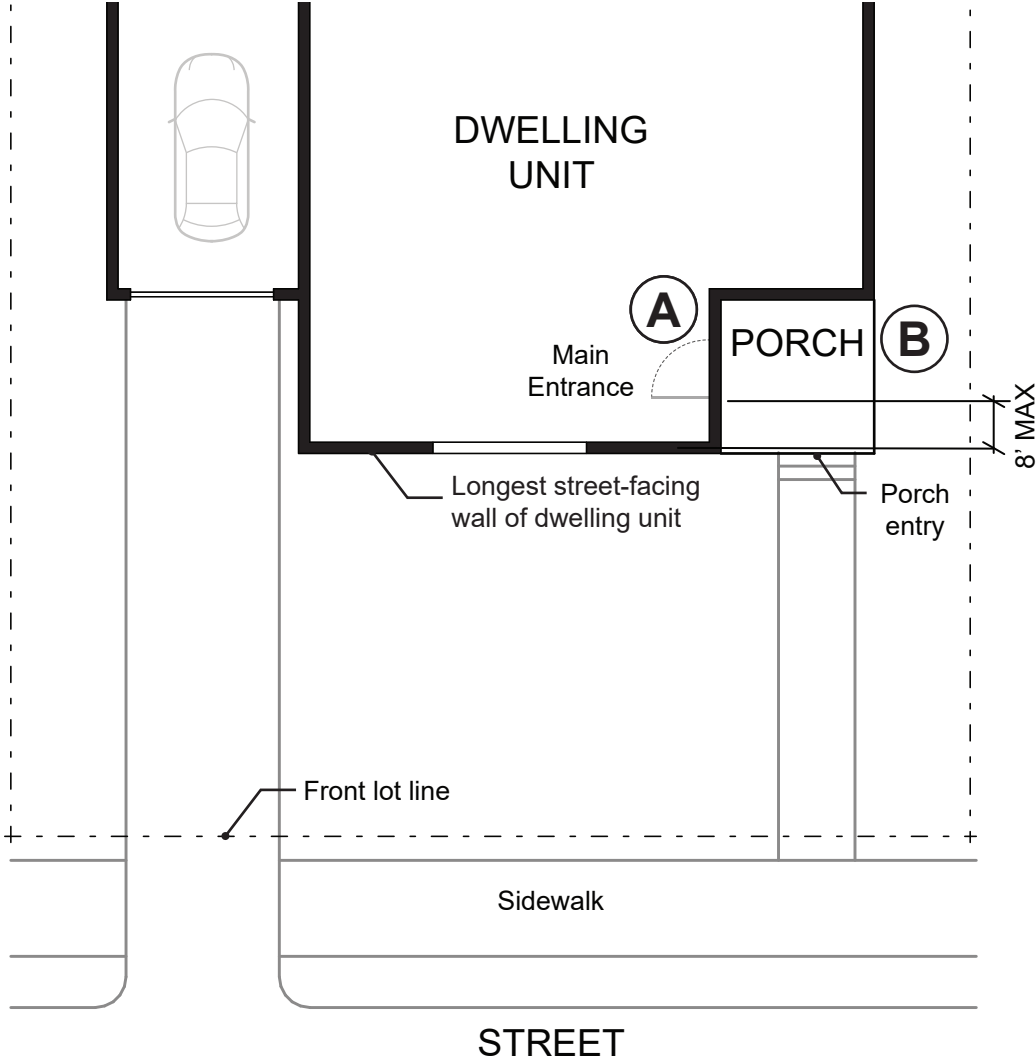
**(A)** Main Entrance is within 8' of longest street-facing wall of dwelling unit (standard a.), and at a maximum 45 degree angle from the street (standard b.ii.)

# Triplexes / Quadplexes and Townhouses: Entry Orientation (b.iii.)



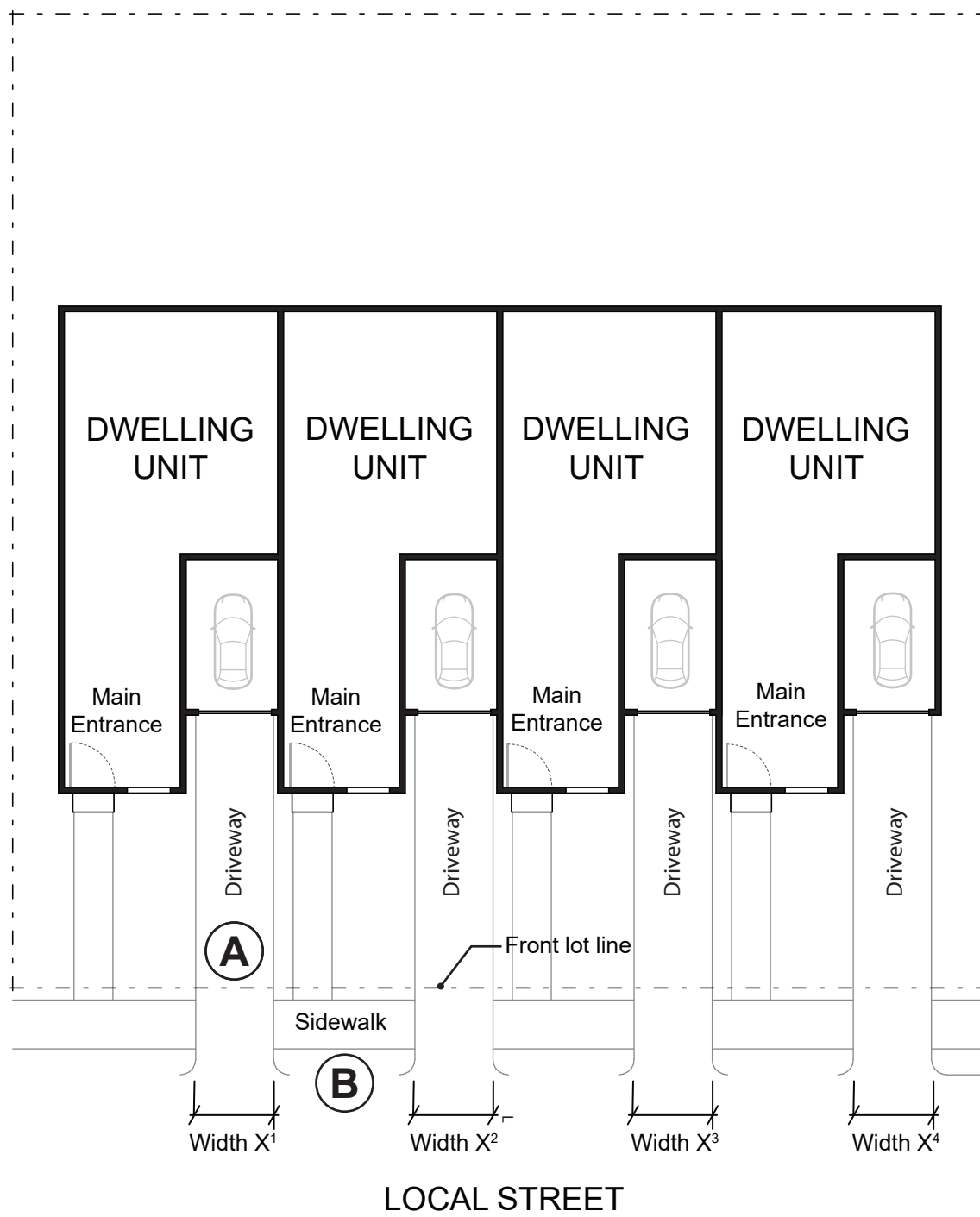
**A** Main Entrance is within 8' of longest street-facing wall of dwelling unit (standard a.), and faces a common open space adjacent to the street (standard b.iii.)

# Triplexes / Quadplexes and Townhouses: Entry Orientation (b.iv.)



- (A)** Main Entrance is within 8' of longest street-facing wall of dwelling unit (standard a.), and open on to a porch (standard b.iv.)
- (B)** Porch at least 25 square feet in area (standard b.iv.A.); and has one entrance facing the street or has a roof (standard b.iv.B)

# Triplexes and Quadplexes: Driveway Approach (a.-b.)

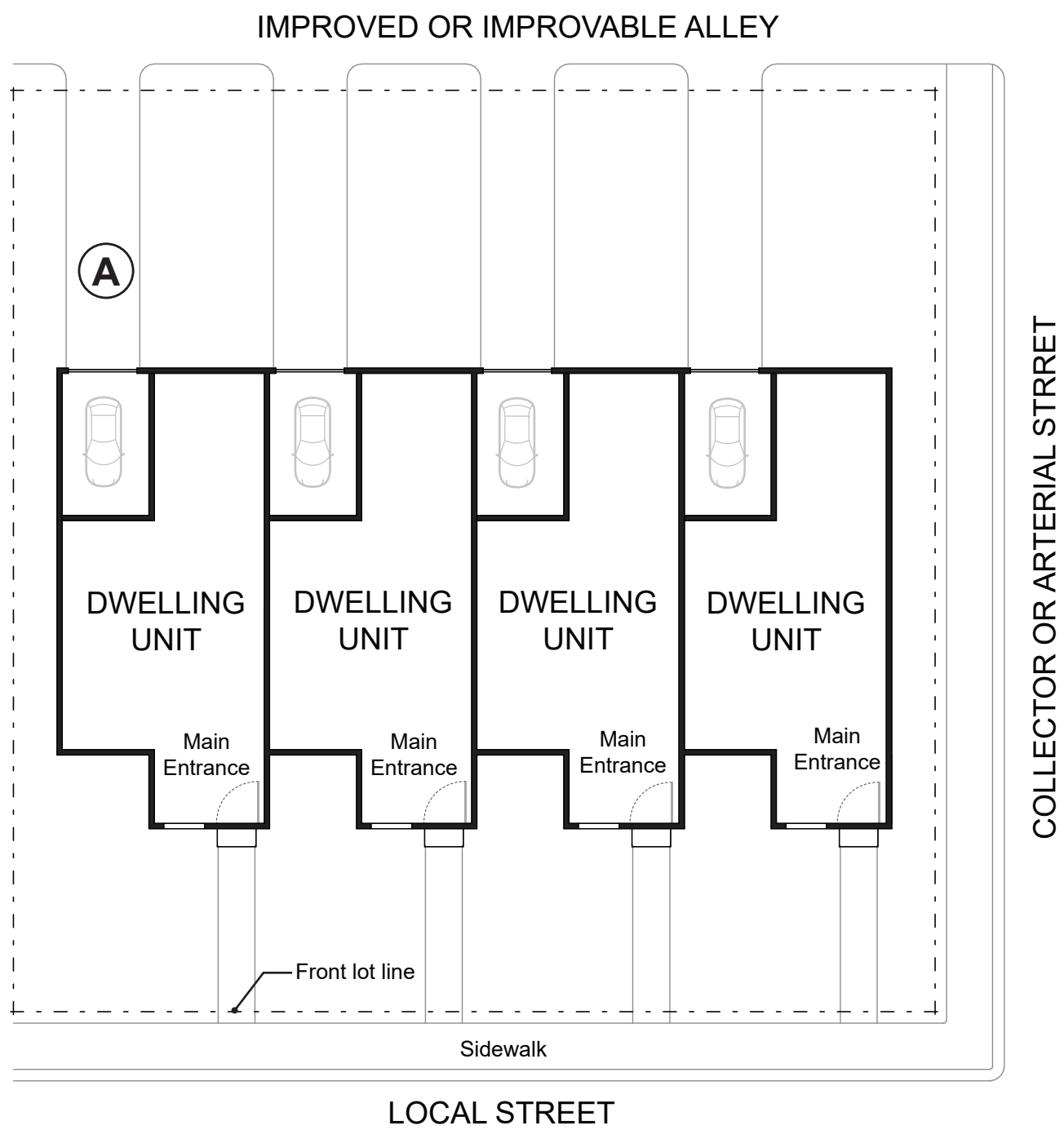


**A** The total width of all driveway approaches (as measured  $X^1 + X^2 + X^3 + X^4$ ) must not exceed 32 feet per frontage, as measured as the property line (standard a.)

**B** Driveway approaches may be separated when located on a local street (standard b.)

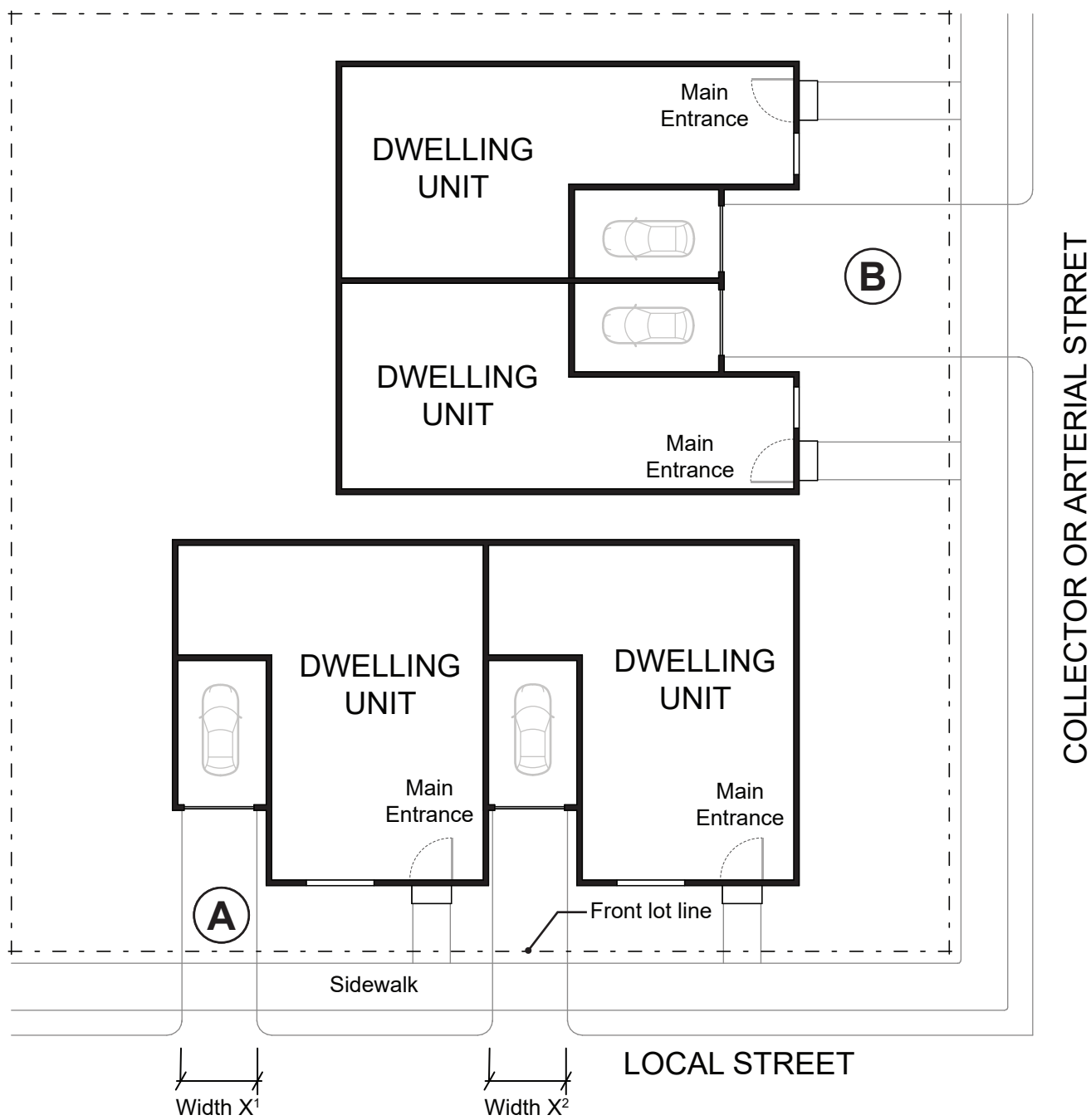


# Triplexes and Quadplexes: Driveway Approach (c.i.)



**A** Lots or parcels must access the street with the lowest classification. For lots or parcels abutting an improved or improvable alley, access must be taken from the alley (standard c.i.)

# Triplexes and Quadplexes: Driveway Approach (c.iii)






- A** Triplexes and quadplexes on lots or parcels with frontages only on local streets may have two driveway approaches not exceeding 32 feet in total width (as measured  $X^1 + X^2$ ) on one frontage (standard c.iii.)
- B** or one maximum 16-foot-wide driveway approach per frontage (standard c.iii.)

## Triplexes and Quadplexes: Window and Door Coverage



STREET-FACING FACADE

-  Area subject to 15% window & entrance door coverage requirement
-  Qualifying window coverage
-  Qualifying entrance door coverage

## Triplexes and Quadplexes: Garages and Off-Street Parking Areas



- (A)** Garage and on-site parking and maneuvering areas
- (B)** Total lot frontage area

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

## Division 46

### Middle Housing

#### 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-~~0130~~0230 establish standards related to the siting and design of Middle Housing types in urban growth boundaries.

#### 660-046-0010 Applicability

1. A local government that is a Medium or Large City must comply with this division.
2. Notwithstanding section (1), a local government need not comply with this division for:
  - a. Lands that are not zoned for residential use, including but not limited to lands zoned primarily for commercial, industrial, agricultural, or public uses;
  - b. Residentially zoned lands that do not allow for the development of a detached single-family home; or
  - c. Lands that are not incorporated and that are zoned under an interim zoning designation that maintains the land's potential for planned urban development.
3. Local governments 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 local governments 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 OAR 660-046-0010.
  - a. Goal 5: Natural Resources, Scenic, and Historic Areas - Pursuant to OAR chapter 660, division 23, local governments must adopt land use regulations to protect identified resources under Goal 5, including regulations to comply with protective measures (including plans, policies, and regulations) applicable to Middle Housing.
    - A. Goal 5 Riparian Areas, Wetlands, and Wildlife Habitat – Pursuant to OAR 660-023-0050 through 660-023-0115, local governments 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. Local governments may apply regulations to ~~Duplexes-Middle Housing~~ that apply to detached single-family dwellings in the same zone.
    - B. Goal 5: Historic Resources – Pursuant to OAR 660-023-0200(7), local governments must adopt land use regulations to protect locally significant historic resources . This includes regulations -of 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. If a local government has not adopted land use regulations to protect locally significant historic resources, they must apply protective measures to Middle Housing as provided in OAR 660-023-0200(8)(a) until the local government adopts land use regulations in compliance with OAR 660-023-0200. Local governments 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 660-015-000(6), all waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules and standards. Local governments may apply regulations to Middle Housing in a manner that complies with federal and state air, water and land quality requirements.
  - c. Goal 7: Areas Subject to Natural Hazards – Pursuant to OAR 660-015-0000(7), local governments 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 FEMA Flood Insurance Rate Map (FIRM)-; or
    - B. Other hazard areas identified in an adopted comprehensive plan or development code; provided the development of Middle Housing presents a greater risk to life or property than the development of detached single-family dwellings. 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;
      - iii. Exacerbating the risk by altering the natural landscape, hydraulics, or hydrology.
  - d. Goal 15: Willamette Greenway – Pursuant to OAR 660-015-0005, cities and counties must review intensifications, changes of use or developments to insure their compatibility with the Willamette River Greenway. Local governments may regulate Middle Housing to comply with Goal 15 protective measures that apply to detached single-family dwellings in the same zone.
  - e. Goal 16: Estuarine Resources – Pursuant to OAR 660-015-0010(1) and OAR chapter 660, division 17, local governments must apply land use regulations that protect the estuarine ecosystem, including its natural biological productivity, habitat, diversity, unique features and water quality. Local governments may prohibit ~~Duplexes and Middle Housing types other than Duplexes~~ in areas regulated to protect estuarine resources under Goal 16.
  - f. 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 ~~Duplexes-Middle Housing~~ that apply to detached single-family dwellings in the same zone.
  - g. Goal 18: Beaches and Dunes – Pursuant to OAR 660-015-0010(3), local governments 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. 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 Commission adopts the following model Middle Housing Model Codes. The Model Code adopted by reference in this section will be applied to Medium and Large Cities who have not acted to comply with the provisions of ORS 197.758 and this division and completely replaces and pre-empts any provisions of that local jurisdictions development code that conflict with the Model Code:
- a. The Medium City Model Code: as provided in Exhibit A

~~h.b.~~ The Large City Model Code: as provided in Exhibit B

- ~~4.5.~~ This division does not prohibit local governments 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 197.758 et seq apply, unless the context requires otherwise. In addition:

- ~~1.~~ "A local government that has not acted" means a local government that has not adopted acknowledged land use regulations that are in compliance with ORS 197.758 and this division.
- ~~1-2.~~ "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. Units may be located on a single lot or parcel, or on individual lots or parcels that include a common courtyard.
- ~~2-3.~~ "Department" means the Department of Land Conservation and Development.
- ~~3-4.~~ "Detached single-family dwelling" means a detached structure on a Lot or Parcel that is comprised of a single dwelling unit, either site built or a manufactured dwelling.
- ~~5.~~ "Duplex" means two attached dwelling units on one Lot or Parcel. A ~~Medium City~~ local government may define a Duplex to include two detached dwelling units on one Lot or Parcel.
- ~~6.~~ "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:
  - ~~a.~~ Areas where the elevation of the floor is 4 feet or more below the adjacent right-of way;
  - ~~b.~~ Roof area, including roof top parking;
  - ~~c.~~ Roof top mechanical equipment; and
  - ~~d.~~ 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
- ~~7.~~ "Floor Area Ratio" 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 2 to 1 means two square feet of floor area for every one square foot of site area.
- ~~8.~~ "Goal Protected Lands" means means lands protected or designated pursuant to 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 15 Willamette River Greenway;
  - ~~e.~~ Goal 16 Estuarine Resources;
  - ~~f.~~ Goal 17 Coastal Shorelands;
  - ~~g.~~ Goal 18 Beaches and Dunes.
- ~~4-9.~~ "Infrastructure Constrained Lands" means areas where it is not feasible to provide acceptable water, sewer, storm drainage, or transportation services to serve new triplexes, quadplexes, townhomes, or cottage cluster development as defined by OAR 660-046-0320(1) and the thresholds identified in OAR 660-046-0340; where the local government is not able to correct the infrastructure limitation by utilizing the process outlined in OAR 660-046-0300 through 660-046-0370 due to cost, jurisdictional, or other limitations; and which cannot be remedied by future development of middle housing on the subject lot or parcel. .
- ~~5-10.~~ "Large City" means each city with a certified Portland State University Population Research Center estimated population more than 25,000 or city with a population over 1,000 within a metropolitan service district. This also includes unincorporated areas of counties within a metropolitan service district that are provided with ~~sufficient~~ urban services as defined in ORS 195.065.
- ~~11.~~ "Lot or Parcel" means any legally created unit of land.

6. “Master Planned Community” means a site within a Large City that is greater than 20 acres in size or meets both of the following criteria added to the Large City’s urban growth boundary after January 1, 2021.

7. 12. “Medium City” means each 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.

13. “Middle Housing” means duplexes, triplexes, quadplexes, cottage clusters, and townhouses, a Duplex as defined in this section (4) division.

14. “Model Code” means the model code developed by the Department contained in OAR 660-046-0010(4).

15. “Quadplex” means four dwelling units on a lot. A local government must allow quadplexes to be provided in an attached configuration but may allow detached units as well.

16. “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.”

17. “Triplex” means three dwelling units on a lot. A local government must allow triplexes to be provided in an attached configuration but may allow detached units as well.

8. —

9. 18. “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 local government amends an acknowledged comprehensive plan or a land use regulation to allow Middle Housing, the local government 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 local government 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 local government amends its comprehensive plan or land use regulations to allow Middle Housing, the local government is not required to consider whether the amendments significantly affect an existing or planned transportation facility.

#### 660-046-0040 Compliance

1. A local government 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 local government may request from the Department an extension of the time allowed to complete the action in section (1).
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 local government 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 local government has adopted provisions under section (1).

~~3.~~

~~4-5.~~ If a local government has adopted land use regulations or amended its comprehensive plan by the date provided under sections (3) and (4) and the 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 local government is deemed to have acted. Accordingly, the local government 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 local government 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 local government has not adopted land use regulations or amended its comprehensive plan within 120 days of the date of the remand, the local government is deemed not to have acted under sections (3) and (4).

~~5-6.~~ If a local government has adopted land use regulations or amended its comprehensive plan by the date provided under sections (3) and (4) and the local government'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 city is deemed to have not acted under sections (3) and (4).

~~6-7.~~ If a local government 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 city shall continue to apply its land use regulations and comprehensive plan as they existed prior to the amendments until the amendments are acknowledged.

~~7-8.~~ Where a local government 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 local government's development code that conflict with 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 a city as a Medium City, the local government must comply with this division within one year of its qualification as a Medium City.

~~1-2.~~ If a local government was not previously a Large City and a certified Portland State University Population Research Center population estimate qualifies a city as a Large City, the city/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(4); 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), (5).

#### 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 ~~and applying~~ 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 grant 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

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 660-046-0230 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 duplexes on each lot or parcel as provided in OAR 660-046-0100 through 660-046-0130.
2. A Large City must allow for the development of Triplex, Quadplex, Townhouse and Cottage Clusters, including those created through conversion of existing detached single-family dwellings, in areas zoned for residential use that allows for the development of detached single-family dwellings. A Large City may regulate or limit development of middle housing (other than duplexes) on the following types of lands:
  - a. Goal-Protected Lands: Large Cities may regulate Middle Housing other than duplexes on Goal-Protected Lands as provided in OAR 660-046-0010(3);  
—Infrastructure-Constrained Lands: Large Cities may limit the development of Middle Housing other than duplexes on Infrastructure-Constrained Lands;
  - a-b.
  - c. Master Planned Communities: Large Cities may regulate or limit the development of Middle Housing other than duplexes in Master Planned Communities as follows:
    - A. If a Large City has adopted a master plan, concept plan, or similar document after January 1, 2021, it may limit the development of Middle Housing other than duplexes provided it authorizes a net residential density of at least 15 dwelling units per acre and does not require greater than 50 percent of all residential units be detached single-family dwellings or duplexes.
    - B. If a Large City has adopted a master plan, concept plan, or similar document before January 1, 2021, it may limit the development of Middle Housing other than duplexes provided it authorizes a net residential density of at least eight dwelling units per acre and allows all residential units, at minimum, to be detached single-family dwellings or duplexes. A local government may only apply this restriction to portions of the area not developed as of January 1, 2021.
  - d. Large Cities may regulate or limit Middle Housing other than duplexes on other types of lands due to a constraint not related to siting or design standards. A Large City must demonstrate that regulations or limitations of Middle Housing other than duplexes on these types of lands are the result of implementing or complying with an established state or federal policy or regulation.
3. Pursuant to OAR 660-046-0205 through OAR 660-046-0230, a Large City may apply the following numerical standards to middle housing types:
  - a. Duplex – Local governments may allow more than two dwellings units on a Lot or Parcel, including any accessory dwelling units.
  - b. Triplex/Quadplex – A local government may allow more than four units on a lot, if they so choose.

- c. Townhouse – Local governments must require at least two attached townhouse units and must allow up to four attached townhouse units. A local government may allow five or more attached townhouse units.
- d. Cottage Cluster –
  - A. Local governments must allow at least five units in a cottage cluster. Nothing in this section precludes a local government from allowing less than five units in a Cottage Cluster.
  - B. A local government must allow up to eight units clustered around a common courtyard. Nothing in this section precludes a local government from allowing greater than eight units clustered around a 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(4); 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 process 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; and
  - f. 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(4). 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 standards to duplexes as provided in OAR 660-046-0120.
- 2. The following standards apply to Triplexes and Quadplexes:
  - a. Minimum Lot or Parcel Size:
    - A. For Triplexes:
      - i. If the minimum lot or parcel size in the zoning district for a detached single-family dwelling is 5,000 square feet or less, the minimum lot size for a triplex may be up to 5,000 square feet.
      - ii. If the minimum lot or parcel size in the zoning district for a detached single-family dwelling is greater than 5,000 square feet, the minimum lot or parcel size for a triplex may not be greater than the minimum lot or parcel size for a detached single-family dwelling.
    - B. For Quadplexes:



exceed 25% of the single-family detached frontage, or 20 feet, whichever is greater. A Large City may allow frontage on private streets. If a Large City allows flag lots, it is not required to allow townhomes on those lots.

- 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 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 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 local governments mandate off-street parking, their height standards must allow construction of at least three stories. If local governments do not mandate off-street parking, their 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 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 coverage, floor area ratio, and maximum unit size, those standards cannot cumulatively or individually limit the bulk and scale of a townhouse project greater than that of a single family detached dwelling.
  - h. Minimum Open Space and Landscaping: A Large City is not required to regulate minimum open space area and dimensions, but if it chooses to, the minimum open space may not exceed 15% of the minimum lot size, and the minimum smallest dimension may not exceed the lot width or 20 ft, whichever is less. A Large City may establish provisions allowing the provision of open space through shared common areas.
4. The following standards apply to all Cottage Clusters:
- a. Minimum Lot or Parcel Size: A Large City is not required to apply minimum lot or parcel size standrds to new Cottage Cluster developments. However, if a Large City chooses to regulate minimum lot size, those standards cannot be more restrictive than that of a single family detached dwelling in the same zone.
  - b. Minimum Lot Width: A Large City is not required to apply minimum lot width standards. However, if a Large City applies a minimum lot width standard to cottage cluster development it may not be wider than the standard for a single-family detached dwelling in the same zone.
  - c. Density: For the purposes of calculating density, if a Large City applies density maximums in a zone, it may not apply those 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 structures in the same zone. Perimeter setbacks applicable to dwellings may not be greater than ten feet.
  - e. Height: Cottage Clusters must be allowed a height of at least one story.
  - f. Unit Size: A Large City may limit the size of dwellings in a Cottage Cluster, but must apply a maximum building footprint of 900 square feet per unit. The maximum permitted building footprint for a dwelling unit cannot include garages, carports, or accessory structures.
  - g. Parking:

- A. A Large City may not require more than one off-street parking space per dwelling 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.
- h. Lot Coverage and Floor Area Ratio: A Large City is not required to apply lot coverage or floor area ratio standards to new Cottage Clusters. However, if a Large 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 Cottage Cluster that is less than established for detached single-family dwelling in the same zone.
- i. 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 grant the same exceptions to Cottage Clusters.
- j. Nothing in this division precludes a Large City from allowing cottage cluster units on individual lots within the cottage cluster development.

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

1. A Large City is not required to apply design standards to new Middle Housing. However, if a Large City chooses to apply design standards to new Middle Housing that are more restrictive than those provided in the model code, it must submit findings and analysis demonstrating that the proposed standards will not cause unreasonable cost or delay as provided in OAR 660-046-0240 (c).
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 conversion of an existing detached single-family dwelling to Middle Housing is allowed, pursuant to OAR 660-046-0205(2), provided that the 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 being created through the 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 granting the same exceptions to Middle Housing.
3. On a lot or parcel to be used for a cottage cluster project, a pre-existing detached single family dwelling 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. Existing dwellings may be expanded up to the maximum height, footprint, and/or unit size required by this code; however, existing dwellings that exceed the maximum height, footprint, and/or unit size of this code may not be expanded;
  - c. The existing dwelling shall count towards the number of cottages allowed in the cottage cluster project;
  - d. The floor area of the existing dwelling shall not count towards any cottage cluster average or cottage cluster project average or total unit size limits.



## 660-046-0240 Alternative Standards

A Large City may adopt alternative development standards which are not consistent with standards pursuant to OAR 660-046-0205, or which apply siting standards not authorized by OAR 660-046-0220. A Large City must satisfy the following criteria when adopting alternative development or siting standards:

1. Existing Alternative Standards – If a Large City can demonstrate that siting or design standard or standards adopted prior to the adoption of these rules for middle housing types not in compliance with the standards in this division have resulted in the substantial production of middle housing in areas where the standard is applied, the city may continue the application of that standard or standards. A Large City must submit findings and analysis demonstrating the following:
  - a. The areas in which the alternative standard or standards have been applied achieve a 3% or greater production rate of the applicable Middle Housing type over the time frame for which it applies. The production rate includes the development of Middle Housing and detached single-family dwellings; and
  - b. The areas in which the alternative standard or standards have been applied have a sufficient quantity of remaining sites where Middle Housing can be accommodated to ensure a minimum 3% production rate over a twenty year horizon.
2. New Alternative Standards
  - a. The alternative development or siting standard is a response to a significant public need or interest that cannot be resolved by the adoption of design standards related to bulk, size, or shape, such as height, setbacks, floor area ratio, lot coverage, or similar types of design standards.
  - b. The proposed standard does not result in unreasonable cost or delay. A Large City must submit findings and analysis demonstrating that the proposed standards will not cause unreasonable cost or delay to the development of middle housing. The analysis must consider how a standard or standards, either individually or cumulatively, affect the following factors in comparison to what is provided in this division:
    - A. The total time and cost of construction, including design, labor, materials, and maintenance;
    - 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.
  - c. The alternative development or siting standard or standards will improve housing choice within existing or new neighborhoods of the Large City, especially for residents who have traditionally been locked out of housing choice. A Large City must submit findings and analysis demonstrating that the alternative standard, either individually or cumulatively, will increase housing choice with regard to the following factors in comparison to what is provided in this division. At a minimum, the analysis must be conducted at the Census block group level or a similar geography. Household income, including concentrated areas of poverty and wealth:
    - A. Housing cost for rental and owner-occupied households
    - B. Housing value and purchase price
    - C. Race and Ethnicity



3. A Large City may not justify alternative development standards or siting standards based upon community character, neighborhood compatibility, or similar subjective criteria.

DATE: August 10, 2020  
TO: Ethan Stuckmayer, Department of Land Conservation and Development  
FROM: Becky Hewitt, James Kim, and Tyler Bump, ECONorthwest  
SUBJECT: Fiscal and Housing Impact Statements for Middle Housing Model Code for Large and Metro Cities (DRAFT)

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## Introduction

Per the Oregon Administrative Procedures Act (APA) and specifically ORS Chapter 183.335(2)(b)(E), the Department of Land Conservation and Development (DLCD), in preparation to adopt Oregon Administrative Rules implementing provisions of House Bill 2001 (2019), must provide a Statement of Fiscal Impact (FIS). The purpose of the FIS is to give notice to anyone who the rule may have a fiscal impact on. The FIS should therefore describe the purpose of the rule, attempt to identify people or entities the rule will affect, and describe, as best as possible, what that effect will be.

This FIS must identify “state agencies, units of local government and the public that may be economically affected by the adoption, amendment or repeal of the rule” and must estimate the economic impact on those entities. ORS Chapter 183.335(2)(b)(E) also requires that, in determining economic impact, the agency shall “project any significant economic effect of that action on businesses which shall include a cost of compliance effect on small businesses affected.”

DLCD is not required to conduct original research in creating a FIS. DLCD is required to use available information to project any significant effect of the proposed rule, including a quantitative estimate of how the proposed rule affects these entities or an explanation of why DLCD cannot make the estimate. DLCD is required to identify any persons this proposed rule could affect economically including:

- Small and large businesses, as defined in ORS 183.310(10)
- State agencies (DLCD and any other State agency),
- Local governments, and
- The public.

Additionally, ORS Chapter 183.335(2)(b)(E) requires that rules adopted by the Land Conservation and Development Commission (LCDC) also include an “estimate of the effect of a proposed rule or ordinance on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel.” This Housing Impact Statement (HIS) is described in ORS 183.534.

This memorandum describes the fiscal and housing impacts of the Large and Metro Cities Middle Housing Draft Administrative Rules (proposed rules).

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## Fiscal Impact Statement

The Large and Metro Cities Middle Housing Draft Administrative rules may result in fiscal and economic impacts including:

- Compliance costs for local governments to amend local development regulations for consistency with the draft rules and for DLCD to review those amendments.
- Impacts to the public, development-related businesses, and local governments in the form of increases to property values, property taxes, and/or business and investment opportunities as a result of increased development potential.
- Impacts to local governments resulting from differences in system development charge revenue, property tax revenue, and/or cost of providing services due to a shift in the type and location of housing developed as a result of changes to local development regulations.

The anticipated fiscal and economic impacts in each of these categories are discussed in more detail below. There are no compliance costs for businesses, as the proposed rule does not apply to businesses directly, and the relevant businesses already must comply with local regulations for development.

### Code Amendments for Compliance

#### Local Government Costs

Large Cities (cities with a population greater than 25,000 outside of a metropolitan services district) and Metro Cities (unincorporated areas with urban services and cities with a population greater than 1,000 within the Metro region) are required to comply with the draft administrative rules. DLCD is developing model code language simultaneously with rule-making, so jurisdictions will have the option to simply adopt the model code language, or to develop their own conforming code amendments. Although not all jurisdictions are expected to adopt the model code in its entirety due to its complexity, they may adopt parts of the model code and/or develop their own conforming code using the model code as a starting point.

The cost of drafting and adopting code amendments could range from \$50,000 for simply adopting the model code to \$150,000 for drafting separate regulations, providing robust opportunities for public input, and the adoption process. The total cost could be higher for jurisdictions that conduct extensive public outreach or additional technical analysis.

The proposed rules create a process by which local governments may identify specific standards that modify or otherwise deviate from the siting and design standards outlined in the rules. Should a local government choose to pursue this alternative process, a narrative analysis of various economic, development feasibility, and equitable outcome factors is required to justify a deviation. The city may conduct this analysis internally or with the assistance of a professional consultant, either of which would incur additional costs to the city.

Cities and counties will not be required to send a Measure 56 notice to property owners when adopting the conforming amendments since the proposed code changes do not limit or prohibit previously allowed uses.

### State Agency Costs

DLCD staff will be responsible for the review of post-acknowledgement plan amendments resulting from changes at the local level. This represents a substantial increase in staff effort relative to the typical level due to the complexity and the variety of middle housing types and standards that need to be analyzed.

Additionally, there is the potential for DLCD to incur Department of Justice legal fees in situations where DLCD files, or is a party to, an appeal of a local government's non-compliant development code to the Land Use Board of Appeals (LUBA) or is brought to intervene in a LUBA case between two other parties regarding an appeal. DLCD also maintains authority to enact an enforcement order, which would incur legal fees and demand a modest increase in staff effort in time to review and compile legal records relative to the typical level.

### Increased Development Potential

The rules require that Large and Metro Cities allow all middle housing types in areas zoned for residential use where single family homes are allowed and to allow duplexes on all lots or parcels in areas zoned for residential use where single family homes are allowed. The types of middle housing developments covered under the rules include duplexes, triplexes, quadplexes, cottage clusters, and townhouses. This allowance may increase the land value in areas where middle housing development is financially feasible and where it offers financial returns that exceed those of single family development. This could affect resale value of existing homes. It also provides property owners with a greater range of options for how to use their property. In locations where middle housing development is not financially feasible or does not offer financial returns that exceed those for single family homes, there will be no change to development potential or resale values.

Increased development potential will also vary by the type of middle housing development, though all middle housing types will be "competing" against single family homes and generally will only be built where the financial returns exceed those from single family home development. The greatest increase in development potential in many of the affected communities is likely to come from townhomes, which face fewer barriers outside the zoning code and have been broadly accepted by homebuilders and the development industry. This is especially true in new development situations and on infill lots with adequate street frontage. Duplexes have the greatest potential for single family conversion because they face fewer building code challenges. New development of duplex, triplex, and quadplex projects may be limited by lack of investors for rental housing and challenges with condominium development for ownership housing. Cottage cluster development may have greater development potential on larger sites with limited street frontage but may be more challenging to develop on smaller, infill lots in comparison to other middle housing types.

## Impacts to the Public: Resale Value of Existing Homes

For existing homes, those that have a lower value and/or are in poor condition may be more likely to be redeveloped. Larger homes that are in need of major remodels may offer potential for conversion to a duplex, triplex, or quadplex (though building code requirements can be an issue). These types of homes are most likely to see an increase in resale value as a result of the proposed rules if there is sufficient demand for middle housing development or conversion and if the conversion results in a sufficient return on investment. This increase will be limited by the fact that in many potential infill situations, retaining and remodeling the existing single family home will still be the easiest and most financially feasible option. Desirable, well-maintained single family homes are unlikely to see a noticeable change in resale value since they would be unlikely targets for a developer or investor to convert to, or redevelop as, middle housing.

## Impacts to the Public: Increased Options for Use of Property

The proposed rules also allow existing and future property owners a wider range of choices for how to use their property. Owners of single family homes intending to create additional units on the property to generate rental income (or, potentially, sell units as condominiums) can add units by converting existing space in a large home or by building additional units on the property. The financial impact will be limited to those who choose to take advantage of the development potential. Given that the affected residential zones must currently allow development of an Accessory Dwelling Unit (ADU) in conjunction with a single family home, the financial impact will be the incremental difference in rent (or, possibly, sales value) between what would have been achieved under ADU rules and what could be achieved for middle housing types under the proposed rules. The financial impact may be larger for properties that can add multiple units, but not every property will be able to take advantage of the maximum development potential allowed by zoning due to site-specific constraints.

## Impacts to the Public: Increased Property Taxes

Due to constitutional limits imposed by Measure 50, a property's maximum assessed value (MAV) can increase by no more than 3% per year except under certain circumstances. These circumstances include:

- New construction
- Major improvement projects (e.g. additions, remodels, or rehabilitation)<sup>1</sup>
- Land division
- Rezoning (where the property is used consistently with the new zoning)<sup>2</sup>

<sup>1</sup> Valued at more than \$10,000 in one year or \$25,000 over 5 years.

<sup>2</sup> Per OAR 150-308-0200, this includes a change in:

“(i) The number of dwelling units, other than accessory dwelling units, allowed per acre, or other legal limitation on the number of dwelling units, other than accessory dwelling units, in a given area;

“(ii) The allowed floor area ratio; or

“(iii) The allowed site coverage ratio.”

In these cases, the Assessor determines how much Real Market Value (RMV) was added by the change(s) to the property and uses the changed property ratio (CPR) for that property type to determine the additional taxable value.

The proposed rules will require Large and Metro Cities to make changes to their development codes that will constitute rezoning under OAR 150-308-0200. However, in order to trigger the exception, property must be rezoned and used consistently with the rezoning. “Property is ‘used consistently with the rezoning’ when it’s put to a newly allowed use. This doesn’t include situations where the use of the property was an allowed use both before and after the rezoning.”<sup>3</sup> In this case, the newly allowed uses are several middle housing types (though in some zones some of the types may already be allowed). Improvements to existing single family homes that do not create a middle housing type that was not previously allowed (including adding an ADU<sup>4</sup>) may trigger an exception that increases the MAV, but only to the same degree that they would have without the change to zoning regulations. Therefore, the only situations in which the proposed rules will increase property taxes are for properties that are actually developed as, or converted to, middle housing that was not previously allowed.

For properties that are developed as, or converted to, middle housing types, the increase in property value will depend on the RMV after the improvement or development and the CPR in the county where the property is located.

### Impacts to Small and Large Businesses: Increased Opportunities for Small-Scale Development

In locations where middle housing development enabled by the proposed rules is financially feasible, this may create additional opportunities for small development companies to engage in development activity at a scale that is appropriate for a small business. Greenfield development tends to be more concentrated among larger development companies that are better capitalized and able to obtain more financing. However, even larger development companies rarely have more than 50 employees, so the impacts (positive and any slight negative impact to demand for larger-scale greenfield construction) are likely to be concentrated among businesses with fewer than 50 employees. The design, engineering, and other businesses that support development are likely to be the same regardless of housing type, or see very minor impacts to their business.

### Shifts in Type and Location of Housing Development

The increase in capacity in areas zoned for single family housing resulting from the proposed rules would impact the location and type of housing development as a result of middle housing development in existing neighborhoods. Although this would result in an increase in zoned capacity, it may or may not change the pace of development. From a planning perspective, it

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<sup>3</sup> Oregon Department of Revenue, “Maximum Assessed Value Manual,” Rev. 05-18, Page 7-4.

[https://www.oregon.gov/DOR/forms/FormsPubs/maximum-assessed-value-manual\\_303-438.pdf](https://www.oregon.gov/DOR/forms/FormsPubs/maximum-assessed-value-manual_303-438.pdf)

<sup>4</sup> Accessory dwelling units are specifically addressed in OAR 150-308-0200 and excluded from the definition of rezoning, along with other changes to accessory uses, for purposes of changing the MAV.



will not change the overall population forecast<sup>5</sup> or total number of housing units that jurisdictions will be planning for as part of a Housing Needs Analysis. As a result, the impact is primarily a shift of a small percentage of the community's housing development from single family detached housing and multifamily housing to middle housing development. The increase in capacity in certain residential zones could also mean a shift of a small percentage of housing growth from greenfield development areas to infill development and/or slightly more efficient greenfield development. The legislation states that a local government's density expectations from measures adopted to implement the legislation may not project an increase in residential capacity of more than three percent over the 20-year planning horizon without quantifiable validation. While this increase in capacity will vary from one community to another, it suggests a modest shift.

In some communities, however, there could be an increase in the pace of development if the lack of available land in desirable places with access to services has been a barrier to housing production. In particular, housing production in certain "land-locked" jurisdictions in the Metro region (whose borders do not touch the urban growth boundary) may be limited by lack of developable land, limiting population growth. In those places, the proposed rules have the potential to increase the capacity for growth. In the long-term, the increased pace of development resulting from the proposed rules can influence the population forecast and the total number of housing units that jurisdictions need to plan for.

It is difficult to say to what degree middle housing development will substitute for single family development vs. multifamily development. This depends on a number of factors, including unit size and tenure. In many Large and Metro Cities where larger multifamily buildings are financially feasible and relatively easy to finance, smaller rental housing (e.g. triplex and quadplex) is unlikely to compete and will substitute for relatively little multifamily housing. For-sale middle housing (e.g. most townhome development and some duplex and cottage cluster development) may substitute for single family development if the financial returns for middle housing types exceed those for single family homes and if builders and developers see this as an attractive opportunity for a segment of the housing market that is otherwise under-supplied.

### Impacts to Local Governments: System Development Charge Revenue

Many cities have different system development charges (SDCs) for single family versus multifamily development, particularly for parks and transportation. Middle housing types are handled differently in different jurisdictions—some treat all middle housing types as multifamily for purposes of calculating SDCs, while others treat some one way and some another. Few have specific fees for each middle housing type. The nature and extent of a change in SDC revenue would depend on several factors, including:

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<sup>5</sup> This is true in the near-term, although population forecasting is influenced by historical rates of growth and also by capacity for future growth. If the increased capacity and opportunities for middle housing development led to a higher rate of growth than in the past, this can affect future population forecasts.

- The extent to which middle housing development is substituting for single family development vs. multifamily development
- Whether middle housing development increases the overall pace of development
- The SDC rates applied to each middle housing type
- The difference in SDCs between multifamily and single family rates

### Impacts to Local Governments: Property Tax Revenue

As noted above, property taxes will only be affected by the proposed rules to the extent that new middle housing development or conversion occurs. This would produce a modest increase in property tax revenue from those properties relative to remaining as single family housing. However, middle housing development is likely substituting (at least in part) for single family and/or multifamily development that would otherwise have occurred and may have been more likely to occur on vacant land rather than infill. As a result, that increase in property value may be counterbalanced by a reduction in new property value from new development on vacant land.

### Impacts to Local Governments: Cost to Provide Services

To the extent that the proposed rules increase infill development rather than greenfield development and lead to higher density new development as a result of middle housing development, this could modestly reduce the cost to local governments of providing urban services, since more compact development is typically more efficient to serve.

## Housing Impact Statement

There are some situations in which the proposed rule could result in a modest impact to the cost of land for single-family residential development, as described below. The proposed rule is not anticipated to affect the cost of materials, labor, administration, or other factors, since any increase in housing development overall is likely to be minor. The proposed rule will not reduce the supply of land for housing, and will either have no effect or a small positive effect on the overall supply of housing.

The conditions in which the proposed rule could increase the cost of land for residential development are as follows:

- Middle housing development is financially feasible; and
- The returns from developing a middle housing type exceed those of developing a single family home on that lot.

If these conditions are met, the developer of middle housing will likely be able to pay more for the lot than the developer of the single family home. This may increase the cost of land for the single family home.



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The reference case for this analysis is a 1,200 square foot single family home on a 6,000 square foot lot. Because 1,200 square feet is small for a new single family home in the current market and it is possible that middle housing types could be as large or even larger on a per-unit basis, (depending on restrictions on lot coverage and floor area ratio), the proposed rules will likely allow more units on the same land area. This makes it more likely that a developer would be able to pay more for the land to build middle housing than to build a 1,200 square foot single family home. However, it is worth noting that most new homes are as much as twice that size, and builders of these larger single family homes are also likely to be able to pay more for the land than someone trying to build a 1,200 square foot home. A large single family home and some forms of middle housing may have a more comparable ability to pay for land. Because the specific increases to land cost will depend on local market conditions, it is not possible to estimate the cost increase based on available data.

## Rulemaking Advisory Committee Meeting #9

August 18, 2020; 11:00 am – 3:00 pm

Department of Land Conservation and Development (DLCD)  
Zoom Virtual Meeting



### Public Comment Summary June 8 – August 11, 2020

Date	Commenter	Commenter Type	Comments Summary	Comment Type
7/10/2020	Ed Sullivan	RAC	<p>An email outlining four legal issues for RAC consideration, including:</p> <p>The issue of a Housing Production Strategy that is based on an older Housing Needs Analysis with poor data/analysis. If the HNA schedule is the mechanism to update these analyses, that could allow for updated HNAs as late as 2028 for some jurisdictions. The issue of Model Code application in the event of a local jurisdiction failing to meet HB 2001 requirements with one or a few elements of their adopted code. Additionally, there is risk in the current enforcement framework of acknowledging codes that are not sufficiently in compliance with HB 2001.</p> <p>The IBTER Remedy should a local jurisdiction decide to not comply with HB 2001 or fails to remedy deficient infrastructure through an IBTER.</p> <p>The importance of having sufficient data on race and ethnicity in population estimates and/or forecasts to develop policy solutions to inequity.</p>	<a href="#">Email</a>
7/10/2020	Ariel Nelson	TAC	<p>A letter urging the Department to revisit the current approach to minimum compliance for triplexes, quadplexes, townhomes, and cottage clusters, as well as the approach to "in areas". Argues that the current approach to rules prevent the ability for local jurisdictions to regulate middle housing. LOC recommends an alternative approach with the following elements:</p> <p>Every jurisdiction would be expected to allow middle housing in a way that promotes racial equity and reduces historic segregation by</p>	<a href="#">Letter</a>

			<p>race, ethnicity and income by providing the opportunity for a wider range of housing types. Each jurisdiction would be able to define geographic areas</p> <p>Local jurisdictions' standards must allow middle housing types within each area designated within a jurisdiction with established state expectations.</p> <p>The administrative rules also could specify that middle housing must be allowed in high-wealth/low-poverty sub-areas</p>	
7/21/2020	Brian Martin	RAC	<p>A message outlining draft language for a potential approach to define "in areas". The approach includes a provision requiring all middle housing in sub-areas of the jurisdiction, a provision requiring allowance of middle housing on 50% of lots, and a requirement to allow middle housing on lots where the median real market property value per lot is greater than 125% of the median.</p>	<a href="#">Email</a>
7/27/2020	Dan Pauly	Staff	<p>A letter from the planning manager at Wilsonville providing suggestions for the Department's approach to defining "in areas". The letter notes that for new communities, such as Wilsonville's Villebois community, providing flexibility for a local jurisdiction to incorporate middle housing types can result in a greater provision of middle housing options than the presumptive approach alone and allows cities to better plan for infrastructure and market conditions.</p>	<a href="#">Letter</a>
8/2/2020	Peggy Lynch	RAC	<p>A letter from the League of Women Voters advocating for several provisions in HB 2001 and 2003 rulemaking. This includes a greater integration of climate change efforts into rulemaking, especially provisions that enable a greater provision of urban canopy in historically disinvested areas. The letter advocates to define "in areas" in a manner that provides some flexibility with specific, measurable criteria. Additionally, it raises the concern of incentivizing the demolition and replacement of existing affordable housing stock with less affordable options. Finally, it expresses support for the work being done on the Housing Production Strategy in ensuring more equitable housing outcomes.</p>	<a href="#">Email</a>

**From:** [Ed Sullivan](#)  
**To:** [Stuckmayer, Ethan](#); [Howard, Gordon](#); [Young, Kevin](#); [Edging, Sean](#)  
**Cc:** [SRINIVASAN, Kate](#) \* HCS; [Taylor Smiley Wolfe](#); [Mary Kyle McCurdy](#); [Andree Tremoulet](#); [Allan Lazo](#)  
**Subject:** RAC Meeting July 14, 2020  
**Date:** Friday, July 10, 2020 6:20:05 PM

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I have been through the packet and suggest there are at least four legal issues for the RAC and staff to consider. Here they are, including my takes on them:

1. The Folly of Construction of an HPS Superstructure on the Sandy Ground of Existing HNAs -- While I join most of the participants in wishing the success of the RHNA, that success is not assured unless and until the legislature acts favorably. The HPS approach will remain, however, and is informed by the information supplied under HB 4006 and existing HNAs. The latter may be adopted years ago and may never have been submitted to DLCD through the PAPA process. For those that have been submitted, there have been few (maybe no) LUBA appeals, so that, by operation of law, they are considered acknowledged. I'm not sure that makes HNAs immune from further challenge on non-goal matters, but the fact remains that they must be good because no one challenged them. For those who read these documents regularly, their quality varies greatly. Some, especially those done by ECONorthwest with good city cooperation, are excellent. Others are pretty poor. DLCD bears much of the blame for the poor quality of HNAs, as it has generally turned a blind eye to inadequate products and, to my recollection, has never taken an HNA to LUBA.

But HNAs are significant building blocks for the HPS, which are then only as good as the information and direction they provide. I have advocated, and still advocate, for standards for HNAs so that the state may devise policy using apples to apples comparisons, rather than give those who don't update their HNAs or provide poor information or policies a means of avoiding their housing obligations, given there is no right of appeal of a local government HPS under HB 2003, sec. 4(5) or from a department determination of its adequacy under sec. 5(5) (c). Arguably, one must wait another 6 or 8 years before housing obligations take root. That is an unacceptable result.

If the HPS rules do not require standards for HNAs now, then it should require the information that should have gone into an HNA to be submitted as part of the HPS documentation and then move quickly into rulemaking to set standards for HNAs. We should not reward inadequate or shoddy work with the benefit of the doubt or the deferral of housing obligations until close to the year 2030.

2. Deficiencies in Meeting the Model Codes -- We all know the model code comes into operation if a city fails to adopt all of the required elements to allow duplexes or other middle housing. But what happens if a city fails with regard to one or a few elements of these requirements? Does the whole code come into place or does it apply just to those elements that have failed to be adopted locally? If the former, that action may change many other housing requirements in a way wholly unanticipated by anyone. If the latter, there is still the risk of conflict of the imposed element being inconsistent with the remainder of the housing regulations.

Moreover, there is the issue of how nonconformity with the housing legislation is determined. There is no acknowledgment process, so the defaults are periodic review (which is virtually absent from the Oregon land use system) or the PAPA process, which requires filing within 21 days. The risk of not filing is that the housing regulations are deemed acknowledged (which

may not mean the provisions are immune from challenges on non-goal grounds). DLCD's challenges to PAPAs are as frequent as a summer snowstorm in Bend and leaving housing obligations to nonprofits only allows for a few additional challenges. And when challenges are made (perhaps by a builder who contends the local code violates HB 2001), the result is likely to be a remand with a waste of time and money all around. And if the local code is invalidated altogether, the applicant is sent back to undertake a review process that may be different than the one she originally undertook.

3. The IBTER Remedy -- What happens if a recalcitrant city does not allow for additional housing required by HB 2001 and either doesn't seek an IBTER or fails in securing that relief and doesn't replan and rezone land as required by that legislation? As I read HB 2001, LCDC could enter an enforcement order (and either require the grant or denial of development permits) or the withholding of state shared revenues. That is a fairly blunt instrument that should be more discussed than used and counsels for further thought on what inducements or penalties ought to apply in such situations. I suggest staff develop an administrative policy that doesn't reward delay on top of delay in providing for housing needs by a failed IBTER.

4. Data on Race and Ethnicity -- I understand that there has been an effort to require such data to be used in the formulation of the HPS and applaud that effort. I also understand that staff is working with the PSU Population Center to provide disaggregated data on a regular basis and hope that the RAC will support inclusion of that data as a regular element of housing reports. While there is a correlation between race and ethnicity on the one hand and income on the other, racial and ethnic segregation is not fully captured by income data. If we are to make headway on segregation in housing, we must have adequate data on which to measure the extent of that segregation and the effectiveness of our policy responses to the same.

I hope staff and the RAC find these suggestions helpful.

Ethan Stuckmayer  
 Oregon Department of Land Conservation and Development  
 635 Capitol St NE # 150  
 Salem, OR 97301



July 10, 2020

RE: HB 2001 Rulemaking and Middle Housing Minimum Compliance Standards

The League of Oregon Cities (LOC) writes to urge DLCD to revisit their current approach to the minimum compliance standards for triplexes and quadplexes, townhomes, and cluster cottages. In passing HB 2001, the Legislature made a clear distinction between requiring duplexes on every lot or parcel zoned for single family residential use and *not* requiring triplexes, quadplexes, townhomes, and cluster cottages on every lot, but instead “in areas zoned for residential use that allow for the development of detached single family dwellings.” The Department’s proposed minimum compliance standards overstep that legislative intent and the proposed “whittle away” approach effectively requires all middle housing types on all lots. When combined with the Department’s proposed restrictions on minimum lot sizes, cities are left with very little flexibility when designing their own codes to comply with HB 2001.

The current “whittle away” approach:

- Does not expressly allow cities to define different areas within their jurisdiction in which middle housing can be regulated in different ways, except for excluding specific geographic areas through the “whittle away” approach.
- Fails to provide a path for cities to retain middle housing strategies that are already working and have already produced middle housing.<sup>1</sup> Instead, the minimum compliance standards specify one approach statewide.
- Prevents cities from responding to context and community goals, particularly when combined with the minimum compliance standards currently proposed. Specifically, the current minimum compliance standards:
  - Remove flexibility and severely limit cities’ ability to use tools such as minimum lot size, maximum density, planned unit developments, and unit maximums per lot. The proposed minimum compliance standards prohibit cities from requiring larger minimum lot sizes for triplexes or quadplexes than for detached single family dwellings. This restriction discourages cities from proposing smaller minimum lot sizes for single family detached dwellings that would make home ownership more affordable.

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<sup>1</sup> Cities and counties in Oregon have used housing mix requirements, master plan requirements, Planned Unit Developments, minimum density requirements, reduced lot size requirements, zoning incentives (including incentives for affordable housing) and other techniques to promote middle housing in ways that produces a significant number of middle housing units.

- Do not allow a jurisdiction to adjust minimum parking requirements to deal with area-specific conditions, such as housing units with greater parking demand or situations where on-street parking is not available.
- Rely on a flawed or incomplete feasibility analysis that:
  - Only analyzes vacant lots (when most middle housing in existing neighborhoods will involve redevelopment or adding units to sites with existing housing).
  - Tests three different FAR scenarios that assume low maximum floor-area-ratios, which have since been revised in the draft, and contemplates a limited range of development scenarios when combined with height and other standards.

Given the need for additional flexibility, the LOC suggests a different approach to defining “areas” and drafting minimum compliance administrative rules for jurisdictions that will be approving their own development codes. The approach can be combined with the “whittle away” approach as proposed by DLCDC in some cases as discussed below, and would set expectations for jurisdictions’ performance while allowing cities a variety of ways to meet those performance measures. The basic components of the approach are:

1. **Promotion of racial equity and desegregation:** Every jurisdiction would be expected to allow middle housing in a way that promotes racial equity and reduces historic segregation by race, ethnicity and income by providing the opportunity for a wider range of housing types to be built in areas zoned for residential use that allow detached single family dwellings. The state’s administrative rules would set expectations. Jurisdictions would make findings, and the state would review to ensure compliance.
2. **Area definitions:** Each jurisdiction would be able to define geographic areas<sup>2</sup> within the jurisdiction within which the jurisdiction could vary its approach to allowing middle housing. The total of all the combined areas would have to include every lot “zoned for residential use that allow detached single-family dwellings” unless areas are removed using the “whittling away” approach.
3. **Standards and expectations:** Local jurisdictions’ standards must allow middle housing types within each area designated within a jurisdiction. Local jurisdictions may allow middle housing types on all lots but are not required to allow them on all lots. Each jurisdiction then would approve development standards for those areas that allow middle housing. The state should establish minimum expectations for middle housing opportunities, such as through guidelines (allow middle housing on a “significant” or “substantial” number of lots, for example) or numerical standards (ensure middle housing is allowed on 30 percent of lots or greater within each area, for example).
4. **Opportunity not exclusivity:** In addition to the segregation and racial equity expectations mentioned above, the administrative rules also could specify that middle housing must be allowed in high-wealth/low-poverty sub-areas or neighborhoods and require jurisdictions to provide analysis that demonstrates middle housing is allowed within those sub-areas.

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<sup>2</sup> Boundaries can be zones, land use districts, Comprehensive Plan designations, development pattern areas or any other geographical solution jurisdictions develop to respond to local context.

The four points above outline a conceptual approach, which is described in more detail in options B and C in the attached letter from Brian Martin. Additional work would be required to develop administrative rules.

The LOC and individual city representatives are eager to work with DLCD staff and the Land Conservation and Development Commission to craft an approach that faithfully implements HB 2001, significantly increases middle housing opportunities and allows cities the flexibility to consider community history, public engagement and local context.

Sincerely,

Ariel Nelson, on behalf of the League of Oregon Cities

City of Albany

City of Beaverton

City of Eugene

City of Hillsboro

City of McMinnville

City of Salem

City of Springfield

City of West Linn

City of Wilsonville





**From:** Ariel Nelson [mailto:anelson@orcities.org]

**Sent:** Tuesday, July 21, 2020 3:48 PM

**To:** Stuckmayer, Ethan <estuckmayer@dlcd.state.or.us>; Howard, Gordon <ghoward@dlcd.state.or.us>; Young, Kevin <kyoung@dlcd.state.or.us>; Mason, Palmer <pmason@dlcd.state.or.us>

**Cc:** Brian Martin <bmartin@beavertonoregon.gov>

**Subject:** FW: HB2001 inclusive and equitable expectations

Hi Ethan and DLCD Team,

I'm emailing to share the concept that Brian Martin and others have been discussing as one alternative approach to the "in areas" portion of the rules. They wanted to provide a specific example to demonstrate cities and counties' intent to support implementation of HB 2001 and are eager to discuss potential options as well as any needed sideboards to ensure jurisdictions meet the intent of HB 2001. Brian is copied here and available to discuss in more detail. Our hope is that DLCD is open to meeting with cities and counties to refine an alternate approach that can be presented and discussed at the next TAC meeting. We know you have a lot on your plate and are happy to help convene additional meetings before the TAC or assist however would be helpful to your process.

Thank you,  
Ariel

**Ariel Nelson, *Lobbyist***

cell: 541-646-4180

1201 Court St. NE, Suite 200, Salem, OR 97301-4194

[www.orcities.org](http://www.orcities.org)

**From:** Brian Martin <bmartin@beavertonoregon.gov>

**Sent:** Friday, July 17, 2020 3:50 PM

**To:** RUST Mark <mrust@springfield-or.gov>; Heather Richards <Heather.Richards@mcminnvilleoregon.gov>; Colin Cooper <Colin.Cooper@hillsboro-oregon.gov>; mfritzie@clackamas.us; Bateschell, Miranda <bateschell@ci.wilsonville.or.us>; Pauly, Daniel <pauly@ci.wilsonville.or.us>; Laura Kelly <Laura.Kelly@hillsboro-oregon.gov>; Anna Slatinsky <aslatinsky@beavertonoregon.gov>; Rob Zoeller <rzoeller@beavertonoregon.gov>; Eunice Kim <EKim@cityofsalem.net>

**Cc:** Ariel Nelson <anelson@orcities.org>; 'Theresa Cherniak' <Theresa\_Cherniak@co.washington.or.us>

**Subject:** RE: HB2001 inclusive and equitable expectations

Ariel:

The League of Oregon Cities letter to the Department of Land Conversation and Development asked for additional flexibility for jurisdictions writing their own development codes to comply with HB2001.

The Rulemaking Advisory Committee and the League have both expressed the importance of promoting racial equity and reversing segregation and exclusivity produced in part by past land use regulations.

The current DLCD approach as described in the July 14 packet provides a one-size-fits-all approach to implementing middle housing, uncertain outcomes as applied in different jurisdictions, and no language that requires cities to meet goals and make findings regarding reducing segregation and ensuring middle housing types are allowed within wealthy neighborhoods that currently only allow single-family detached dwellings. (DLCD has expressed, of course, that they are working on other approaches and things are evolving.)

Given that, it is important for city and county planners to contribute ideas that DLCD could incorporate into administrative rules that would provide expectations and accountability for cities. Ideally, the provisions also would provide enough specificity so jurisdictions would know how to meet the expectations and DLCD review could ensure accountability in an efficient manner.

The “proof of concept” shown below (No. 3 highlighted in gray) provides one way expectations and accountability could be added to the administrative rules. (Note, these revisions are shown as an addition to the Medium Cities administrative rules. The “Applicability” section mentioned would be another part of the administrative rules that basically defines to which lots in the jurisdiction the rules would apply. See the Medium Cities administrative rules for context.)

I would like to thank county and city representatives that reviewed and commented on this proof of concept, but any errors are mine.

### 660-XXX-XXXX Implementation of Middle Housing Ordinances

1. Before a local government amends an acknowledged comprehensive plan or a land use regulation to allow Middle Housing, the local government 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 local government 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. In adopting a comprehensive plan or land use regulations to allow Middle Housing, a local government must include findings demonstrating that on land deemed applicable in 660-XXX-00XX Applicability:
  - a. The regulations will allow all middle housing types within a jurisdiction and within any sub-areas of that jurisdiction used by the local government to implement Middle Housing; and
  - b. The regulations will allow at least one non-duplex middle housing type on at least 50 percent of lots within the jurisdiction and within all sub-areas established by the local government; and
  - c. The regulations will allow at least one non-duplex middle housing type on 50 percent of all lots within each Census block group where the median real market property value per lot (including both land and improvement value from assessor data) on land deemed applicable in 660-046-00XX Applicability is greater than 125 percent of the median real market property value per lot (including both land and improvement value from assessor data) within a jurisdiction for all lots on land deemed applicable in 660-046-00XX Applicability.
4. When a local government amends its comprehensive plan or land use regulations to allow Middle Housing, the local government is not required to consider whether the amendments significantly affect an existing or planned transportation facility.

The explanatory section below is intended for city and county representatives to provide context for why the proof of concept says what it does, but feel free to share any relevant points with DLCD that you think will enhance understanding.

Some clarifications and explanation:

- The language and any numerical standards above are provided to show a proof of concept and could be improved with further analysis.
- The language assumes duplexes are allowed on all applicable lots and that that language will be elsewhere in the administrative rules.
- In 3.a., it mentions the “within a jurisdiction and within any sub-areas of that jurisdiction established by the local government” to indicate that it is OK for jurisdictions to have the

same rules jurisdiction-wide or to divide up the jurisdiction into geographic areas, such as zones, neighborhoods, residential pattern areas, etc. This sets up the idea that if you divide it up, one needs to meet the 50 percent thresholds within every area in compliance with 3.b. (Yes, sub-areas could mean “gerrymandering,” but because one has to meet the 50 percent standard in each area, gerrymandering doesn’t allow evasion.)

- Regarding using property values, it is possible undeveloped and undevelopable land such as parks, schools, farms and natural areas could skew these numbers, but I think using the median value reduces the risk of that.
- In a sense, “In Areas” is already defined once you consider the likely administrative rules regarding applicability, especially if DLCD includes its “whittle away” approach in the Applicability section to allow jurisdictions to identify areas “not suitable.” Basically, the universe is lots zoned for residential use minus exclusions. I assume that jurisdictions can regulate Middle Housing “citywide” or create sub-areas. See the Medium Cities administrative rules, which will be identical or nearly so for Large and Metro jurisdictions.
  - “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.
  - The Medium Cities administrative rules provide exclusions for goal-protected areas, “land not zoned for residential use,” and other things.
- The census block groups will change over time, as will some city boundaries. Does this need to specify how it is handled the second, third and fourth time a jurisdiction changes its regulations? Or should jurisdictions meet it once and then only have to meet it again if their regulations would reduce the number of lots middle housing would be allowed on?

Although additional discussion with city and county representatives would be desirable, I understand providing ideas to assist DLCD is relatively urgent given the rulemaking timelines. I do invite additional comments and questions about the proof of concept.

Best,

Brian

**Brian Martin, AICP, LEED AP**

Pronouns: he/him/his

Long Range Planning Manager | Community Development

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**COVID-19 Update:** Please note: **I am working remotely at this time.** Response times may be longer than normal as we adapt to remote work.



July 27, 2020

Via email

Ethan Stuckmayer  
Senior Planner of Housing Programs  
DLCD

Dear Mr. Stuckmayer:

The City of Wilsonville continues to follow the middle housing rulemaking process closely and desires to share the following specifics regarding the important discussion and considerations pertaining to "areas zoned."

At this point in the process and under our current understanding, the City does not have issue with the presumptive approach when applied to most areas of existing development. However, like several other jurisdictions, we feel situations exist where the presumptive approach is not the most effective approach in bringing about the best outcomes for middle housing, particularly in the case of new urban areas that are key to middle housing production.

In a previous letter, Wilsonville highlighted how the award-winning Villebois community could likely not be built pursuant to the current iteration of the presumptive approach. As further explained in the two next paragraphs, this is primarily due to the need for precise infrastructure planning and a developer preference to build single-family houses. Villebois is a master planned residential area with over 2,600 units that includes 8 different housing types that are not detached single-family, including carriage homes, fourplexes, town houses including many 5-6 unit buildings, apartment and condominium multi-family buildings, and integrated mental health housing (together totaling over 1400 units or just over half of total units). The housing forms a transect of density and height thoughtfully planned around an integrated parks system and village center.

Infrastructure financing and construction is complicated in these new urban areas such as Villebois as costs are significantly higher per unit relative to older development. It is essential the infrastructure strikes a delicate and precise balance between adequately serving development and being cost effective by not being overbuilt. The more certainty of eventual development, the better ability to plan infrastructure and keep the costs down to support affordability. In Villebois, if infrastructure had to be planned based on an unknown number of units in certain areas, it would have increased costs and fees charged to each unit.

Also, in Villebois the City faced consistent pressure to allow single-family homes in place of planned middle housing. In pressing the City to allow more single-family homes, developers often cited the ability to finance as well as profit margins to make it worth the investment. Other decision factors leading developers to favor single-family development included the developers and the contractors they had relationships with being most familiar with single-family development, and single-family development being the business model that they had always had. Having a rigid requirement for middle housing in certain locations in the legislative master plan was key to pressing back on developers preference and seeing it get built.

Under the presumptive approach a jurisdiction could still require only middle housing in certain areas while allowing middle housing and single-family in others. However, local political pressure would tend to push against requiring middle housing in certain locations since it is otherwise allowed everywhere. If middle housing is not required in certain locations and the developer that controls the land has a preference and/or business model for single-family development than there is not much the jurisdiction can do to ensure middle housing is built. The uncertainty for infrastructure and related cost increase would also still exist for the areas where the number of units is uncertain.

The Villebois example shows that a diversity of housing types can be developed at a variety of price points without a uniform lot by lot presumption. Using characteristics defined at a lot level rather than at a neighborhood level removes local flexibility and limits the ability to best plan cost-effective infrastructure and ensure development produces middle housing. There has been criticism of the word flexibility in the rulemaking discourse. Wilsonville is not asking for flexibility in outcomes, but rather flexibility in methodology to better bring the desired production of middle housing. Middle housing production in these new urban areas is key to the state's production of middle housing options, and special care needs to be taken for their unique circumstances.

Another specific example where the same concerns about the presumptive approach exists is the upcoming master planning of the area known as Frog Pond East and South, added to the Metro Urban Growth Boundary in 2018. City staff has real concerns that a lot by lot presumptive approach can prevent good planning related to infrastructure design and assurance of middle housing production. A condition of the UGB expansion reads, *"cities shall allow, at a minimum, single family attached housing, including townhomes, duplexes, triplexes, and fourplexes, in all zones that permit single family housing in the expansion areas."*

The contemplated method to meet or exceed this condition is not a presumptive lot by lot approach but rather a thoughtful approach, similar to Villebois, of considering a number of factors in determining where to place different types of housing. Factors to be weighed include access to commercial services and parks, ease of transportation access, ability to provide utilities at reasonable costs, etc. Wilsonville plans on meeting or exceeding all regional and state requirements for middle housing in Frog Pond East and South, but hopes for rules that focus on the outcomes rather than the method, maintaining maximum flexibility for the methods to produce the best neighborhoods. Wilsonville expects the approach it is

contemplating using to outperform a presumptive approach in both assuring cost-effective infrastructure and production of middle housing. The infrastructure cost challenges are even greater for Frog Pond than Villebois and staff has not seen a significant departure from developer preference to build single-family.

While not applicable to any current or contemplated projects in Wilsonville, the lot by lot presumptive method or approach could also prove difficult for comprehensive planning for redevelopment of existing urban areas for similar infrastructure planning and developer preference reasons.

Wilsonville commends DLCD staff for continuing to explore a performance-based compliance approach allowing flexibility of method. This flexibility of method absolutely needs to be allowed for certain circumstances such as planning new urban areas, even if the presumptive approach is used for minimum compliance in developed residential areas.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Pauly", enclosed within an oval-shaped scribble.

Daniel Pauly, AICP  
Planning Manager  
City of Wilsonville

**From:** [Peggy Lynch](#)  
**To:** [Stuckmayer, Ethan](#); [Taylor, Casaria](#)  
**Cc:** [Peggy Lynch](#); [Debbie Aiona](#); [Nancy Donovan](#)  
**Subject:** Comments for MCTAC on Model Code/Rules  
**Date:** Sunday, August 2, 2020 12:29:13 PM

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August 2, 2020

To: Ethan Stuckmayer, Dept. of Land Conservation and Development Senior Housing Planner  
Members of the Middle Housing Technical Advisory Committee

Emails: [ethan.stuckmayer@state.or.us](mailto:ethan.stuckmayer@state.or.us)  
[Casaria.Taylor@state.or.us](mailto:Casaria.Taylor@state.or.us)

From: Peggy Lynch, Debbie Aiona and Nancy Donovan, League of Women Voters of Oregon RAC & TAC members

Re: Middle Housing Model Code Rulemaking – Comments

As League of Women Voters of Oregon representatives, we have been working with you on the HB 2001 and HB 2003 rulemaking. We have not commented on specific designs on the various middle housing structures but have instead followed the more general locational issues. We are excited that more housing options will be available to Oregonians. We do have one issue we would like to bring up so that we are both providing housing AND recognizing climate change effects.

We do not want to create unlivable communities by magnifying the ill effects of climate change. Portland State University participated in a [study](#) of 108 urban areas nationwide that discovered “neighborhoods with higher temperatures were often the same ones subjected to discriminatory, race-based housing practices nearly a century ago. **The formerly redlined neighborhoods of nearly every city studied were hotter than the non-redlined neighborhoods, some by nearly 13 degrees.**” Portland had the highest temperature difference of the cities that participated in the study. Here’s the [link](#) to an NPR story that clearly explains the linkages. So, as you work with experts on siting issues, we ask that trees and greenery not be forgotten (beyond Goal 5 & 6 exemptions). If we allow or create new neighborhoods where the residents are submitted to extreme heat, are we again treating those who might live in these new units to the same unfair treatment as in the past? Rather, we should be working on strategies and actions to add more tree canopy and reduce the heat island effect in the formerly redlined areas and make every neighborhood more livable for all.

Then on the issue of “areas”: We look forward to hearing from cities to help us find a way to allow for **some flexibility** along with **specific measurable criteria**. We would like to understand how their selection of certain areas for allowing or excluding middle housing could lead to better, more inclusive communities and more units. Also, we have grave concerns that we will be losing older currently more “affordable” homes to new construction, as well as homes that might be renovated and divided into more



units or just provide bedrooms for rent. Those can be the truly affordable housing units. We recommend a review of a recent [Walla Walla Study](#) done by Columbia and Walla Walla Counties and Milton-Freewater on this issue. “As the Community Council Affordable Housing Study learned, **the most affordable housing is the housing that already exists**. With weatherization and repair investments in existing homes, we will increase the number of homes that are affordable in our community.”

Lastly, we want to express our support for the work being done on the Housing Production Strategy (HPS). We believe that the HPS may well be the most important element of this work. While we cannot count on the market embracing middle housing to a great extent, the HPS instructs communities to look inward at how they might ensure that all their residents have safe and affordable housing for all income levels and in places that are equitable in terms of access to good schools, good jobs and other services that make for a complete and livable community.