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NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 660

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

FILED: 06/30/2026 4:30 PM

ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: CORRECTED-Amendments to OAR chapter 600 division 46; creation of division 47, Oregon Homes

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/02/2026 11:55 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:

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HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 07/29/2026

TIME: 8:00 AM

OFFICER: LCDC

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 971-701-1133

CONFERENCE ID: 98293831536

SPECIAL INSTRUCTIONS:

Passcode: 257663. Sign up to testify: <https://www.oregon.gov/lcd/Commission/Pages/Public-Comment.aspx>

NEED FOR THE RULE(S):

The purpose of creating Oregon Administrative Rule (OAR) 660- 047 is to establish the Oregon Homes program and create standards under which local governments shall approve development that meets specified residential development types, Oregon Homes Developments, on lots or parcels under specified conditions.

The purpose of the amendment to Oregon Administrative Rule (OAR) 660-046-0020 is to provide conforming updates to the definitions of middle housing types.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

House Bill 2138 and House Bill 2258. Oregon Laws 2025, chapter 330, sections 8 and 9. Oregon Administrative Rules chapter 660, division 46. These regulations can be found on the State of Oregon Secretary of State website.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

The State of Oregon requires that a rulemaking notice include “a statement identifying how adoption of the rule will affect racial equity in this state” (ORS 183.335(2)(a) (HB 2993). For the purposes of this statement, racial equity has been defined as treating people of all races fairly, justly, and without bias. The agency is required to attempt to determine the racial groups that will be affected by the rule, and how the rule will increase or decrease disparities currently experienced by those groups. In this context, a disparate treatment of racial groups may be supportable if it addresses current disparities. The proposed rules are not expected to have disparate impacts on different racial groups if fair housing rules are followed on the State and Local levels. This rule relates to the production of new housing on qualified lots, and discrimination in housing is prohibited by federal, state, and local law. The rules are designed to provide clear and objective standards to create new housing opportunities in multiple zones across Oregon cities. The provision of model code, building designs, and a completeness check or mandatory ministerial approval process should have the effect of allowing for more timely, efficient, and lower cost housing production. Groups that have historically been discriminated against in housing, including exclusion from some areas, redlining in lending, and facing other structural affordability issues will benefit from new Oregon Homes housing being supplied across all neighborhoods in formats that in theory should be more economical to build and lower cost to rent or buy. The proposed rules support multigenerational and flexible household structures through the explicit inclusion of accessory dwelling units (ADUs) and cottage clusters. Accessory dwelling units allow parents to support their children for longer while still allowing them freedom, as well as allowing children to support their parents and transition into a caregiver role. The proposed rules address some significant obstacles to building accessible dwelling units by pre-approving building plans and implementing objective standards with a measurable 10% variance allowance, relieving regulatory uncertainty for those who may find it difficult to get accurate and updated information on allowable accessible dwelling units. Additionally, permitting ADUs allows for opportunities for family wealth building through a rental unit and mitigates the chance of displacement due to the addition of lower cost housing units. The proposed rule that “local governments must issue a land use decision approving the development of an Oregon Homes Development on an Oregon Homes Lot if the development proposal meets the applicable standards outlined in OAR 660-047-0030 through OAR 660-047-0050 “ (660-047-0020(1)) will help diminish entitlement risk inherent with small urban infill developments as well as make the entitlement process more predictable. This is likely to create a slight increase in the production of affordable homes, which will benefit income-limited households and provide some protection against displacement. The size caps on these will ensure that development benefiting from this comes in the form of smaller homes. The Oregon Homes program intends to expand housing choice by expediting development review of a variety of housing types. The result of increased housing production under this program is likely to have overall positive impacts for minority racial populations as more units leads to more housing choice.

FISCAL AND ECONOMIC IMPACT:

As part of the rulemaking process, a Fiscal Impact Statement is required to assess the expected degree to which “state agencies, units of local government, tribes, 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.”

Proposed new rules include a series of specific characteristics that would be required for certification of the Oregon Homes program. Our assumption is that builders and/or developers evaluate their current plans against these requirements and determine qualified architectural plans they either have or can easily adapt. They may also commission or purchase plans meeting Oregon Homes standards. The department would expect any fiscal impacts to developers to be either neutral or positive from the new program, providing an alternative but not required path to delivering housing. For local jurisdictions, the new rules could reduce the fiscal costs of residential review. Because the program allows for a completeness check or a ministerial review of defined criteria, applications should be straightforward to evaluate. The limited review process should also reduce staff and commission time for affected projects. The rules provide clear and objective expectations and standards for homes developed as part of the program. There are many jurisdictions that may have rules that are significantly in variance with the Oregon Homes program requirements, and some of the jurisdictional requirements would be overridden by utilization of the program. The department would expect there to be no substantive fiscal impact to the tribes or state agencies. There are no additional administrative requirements for these groups under the new rules. Small and Large Businesses Property owners, developers, and home builders will have access to the program if they so choose. As we expect the program to marginally decrease construction costs, the businesses may have an increased ability to profit from qualified home production. The cost of the new rules to local jurisdictions is expected to be negligible and should result in no new revenue requirements that may impact local businesses. To the extent the program has a positive impact on housing affordability, it would be supportive of small and large businesses by providing better housing alternatives for their workforce. If the program induces a higher level of residential construction activity, it will support additional employment and construction trades and related fields.

Local Government Costs The magnitude and character of local government costs incurred will be partially a function of the program’s marginal impact on housing production. To the extent overall home construction activity is accelerated, DLCD would expect higher revenues associated with development fees, system development charges, and ongoing property taxes. This may not reflect as a fiscal positive as residential construction is associated with service requirements and costs. As the program primarily targets smaller units, and we expect the mix of units to shift to smaller, relationship between properties, tax revenues from the residential development maybe offset by service requirements associated with the new residents. Improving the housing mix in the community may benefit many business local businesses, and increase in residential density, which support a greater mix of commercial uses. The fiscal impact of adopting and administering the Oregon Homes Program under the proposed rules is expected to be modest for local jurisdictions. We would not anticipate a need for a jurisdiction to utilize a consultant team or other outside assistance for this effort.

State Agency Costs The proposed rule is expected to have a modest fiscal impact primarily on DLCD among state agencies, although other state agencies that are part of the coordination outreach may be impacted. The rules are straight forward by design. 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 actions that are not consistent with this administrative rule 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. We would expect this risk to be low due to the limited impact of these rules. The fiscal impact associated with additional DLCD staff time is expected to be minimal and no additional staffing is expected to be required.

Public We could expect that the primary shift associated with the program in favor of increased production of lower priced homes in an area. We are unsure of what percentage of developers will take advantage of the program. Marginal gains in affordability provide benefit to the public. The proposed rule amendment of division 46 will likely result in a positive fiscal or economic impact to small and large businesses such as housing developers and home builders. The proposed amendments to middle housing definitions are likely to make the development of middle housing types more feasible. The proposed rule amendments are likely to have minimal to no fiscal or economic impact to state agencies such as the Department of Land Conservation and Development. The amendments to Division 46 largely implement existing programs and does not create or materially alter existing processes.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

The Department of Land Conversation and Development and the Department of Consumer and Business Services will be economically impacted by this rule as it will take dedicated staff time to manage and advertise the Oregon Homes program. The economic impact to local governments is marginal and largely accounted for in regular work planning. Members of the public are anticipated to have a positive economic impact of the program, if the intended result of more housing and more housing choice is actualized. Both large and small home builders and housing developers will be able to utilize the Oregon Homes program. The intent of the program is to produce a cost savings through pre approving and therefore being able to use the same development plans across multiple jurisdictions. Architecture firms and entitlement consultants may also begin to draft plans and utilize the Oregon Homes program. To comply with these rules local governments must review development applications that have the requirements of the Oregon Homes program. They will likely use existing permitting and tracking software, staff, and equipment to conduct this work. Developers and builders will need to prepare building plans or utilize preapproved state building plans, in addition to finding a parcel or lot that meets the criteria for an Oregon Homes development. This is very similar practice to existing development proposals.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

DLCD engaged representatives from the Oregon Realtors Association, Oregon Home Builders Association, and small architecture firms as part of the Rulemaking Advisory Committee. The proposed rules are not expected to have any substantive impact on any businesses not directly involved in housing production.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

HOUSING IMPACT STATEMENT:

ORS Chapter 183.335(2)(b)(E) and ORS 183.530 require that rules adopted by the LCDC 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.” (ORS 183.530). This Housing Impact Statement (HIS) is described in ORS 183.534. The new rules are not expected to impact the supply of available housing land. The rules are expected to have substantive impact on the cost of providing housing and/or the pace of construction. The purpose of this division is to establish standards under which local governments shall approve development that meets specified residential development types, Oregon Homes Developments, on lots or parcels under specified conditions. The rules are likely to result in a net reduction in costs for those who opt to use the Oregon Homes approach to development. The rule cannot directly impact the cost of materials, or the going rate of labor in the construction industries, both of which are set by the market. However, by creating standardization and certainty in the building process for those who use this system, there is the potential over time to create efficiencies among developers/construction firms who become familiar with the system and thus standardize their own processes to produce qualified Oregon Home units. This would be expected to reduce the time and labor needed to construct an Oregon Homes unit over a custom unit that carries more uncertainty and unexpected circumstances during planning, permitting, and construction. To the extent that the Oregon Homes are limited in size (2,200 sq.ft., or 1,400 sq.ft. for MFR) these units might have lower costs in a local housing market where the average unit is larger than these maximums. For instance, in a local market where the average newly built home is 2,750 sq.ft., qualifying Oregon Homes units would be expected to cost less in materials, and potentially labor, than the average unit. The lack of an on-site parking requirement may significantly reduce costs vs. plans that

require a driveway or garage space. A newly laid driveway may add \$15k to \$20k to project cost, while a new garage may range anywhere from \$60k to \$120k depending on standard. The ability to request a 10% variance by right to such standards as setbacks, pedestrian entry orientation, and outdoor characteristics has the potential to impact costs marginally depending on the nature of the variance. In practice, variances that reduce costs are most likely to be requested, but in some cases variance may marginally increase construction cost if deemed necessary to facilitate some other aspect of the project. Similarly, to the extent that any of the clear and objective standards adopted in this Oregon Homes rule are more flexible than the pre-existing standards of a local jurisdiction they have the potential to allow for cost-reducing solutions in site planning and building design that might not otherwise be permitted in a non-Oregon Homes project. The Oregon Homes project has the potential to significantly reduce administrative and development "soft costs" for construction projects by creating more certainty in the application process, providing permit-ready designs, and reducing plans review and permitting timeline. The availability of permit-ready designs following established standards, with required completeness check or ministerial (Type I) approval may reduce costs in the initial phases of the project for builder who want to use the Oregon Homes system. As builders become familiar with qualified plans and construction forms, architecture and engineering costs for future projects could be substantially reduced. The reduction in time and uncertainty in the approval process also has the potential to significantly reduce costs. Many builders carry loans during the planning and permitting phase of a project. Interest on these loans accrue during long and difficult permitting processes. They also typically have significant equity tied up in the projects. The Oregon Homes program can help shorten pre-development phase to a predictable timeframe. Clear and objective standards should reduce the need for multiple design iterations and back-and-forth with staff and officials before approval. Proposed tree standards in the rule do not meaningfully change existing requirements and therefore are unlikely to impact costs. A new fee-in-lieu option is allowed to local governments. Depending on the local fees adopted under this rule, the fee-in-lieu may either increase or decrease costs relative to other options. Though applicants should be expected to opt for the lowest cost option, all else being equal.

RULES PROPOSED:

660-046-0000, 660-046-0010, 660-046-0020, 660-046-0030, 660-046-0040, 660-046-0050, 660-046-0100, 660-046-0105, 660-046-0110, 660-046-0115, 660-046-0120, 660-046-0125, 660-046-0130, 660-046-0200, 660-046-0205, 660-046-0210, 660-046-0215, 660-046-0220, 660-046-0225, 660-046-0226, 660-046-0230, 660-046-0235, 660-046-0300, 660-046-0310, 660-046-0320, 660-046-0330, 660-046-0340, 660-046-0350, 660-046-0360, 660-046-0370, 660-047-0000, 660-047-0010, 660-047-0020, 660-047-0030, 660-047-0040, 660-047-0050

AMEND: 660-046-0000

RULE SUMMARY: This rule states the purpose to establish standards for the development of middle housing types.

CHANGES TO RULE:

660-046-0000

Purpose

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

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758, 420

RULE SUMMARY: This rule describes which local governments are subject to the provisions of the division and in which areas of the city's urban growth boundary. The rule also describes how a city may regulate middle housing in conjunction with protective measures the city may have adopted to be in compliance with the statewide land use planning goals.

CHANGES TO RULE:

660-046-0010

Applicability

(1) A local government that is a Medium City or Large City must comply with this division.¶

(2) Notwithstanding section (1), a Medium or Large City need not comply with this division for:¶

(a) Lots or Parcels that are not zoned for residential use, including but not limited to Lots or Parcels zoned primarily for commercial, industrial, agricultural, or public uses;¶

(b) Lots or Parcels that are Zoned For Residential Use but do not allow for the development of a detached single-family unit dwelling; and¶

(c) Lots or Parcels that are not incorporated and that are zoned under an interim zoning designation that maintains the land's potential for planned urban development.¶

(3) A Medium or Large City may regulate Middle Housing to comply with protective measures (including plans, policies, and regulations) adopted and acknowledged pursuant to statewide land use planning goals. Where Medium and Large Cities have adopted, or shall adopt, regulations implementing the following statewide planning goals, the following provisions provide direction as to how those regulations shall be implemented in relation to Middle Housing, as required by this rule.¶

(a) Goal 5: Natural Resources, Scenic, and Historic Areas - OAR chapter 660, division 23, prescribes procedures, and in some cases, standards, for complying with Goal 5. OAR chapter 660, division 16 directed implementation of Goal 5 prior to division 23. Local protection measures adopted pursuant to divisions 23 and 16 are applicable to Middle Housing.¶

(A) Goal 5 Natural Resources - Pursuant to OAR 660-023-0050 through OAR 660-023-0110, Medium and Large Cities must adopt land use regulations to protect water quality, aquatic habitat, and the habitat of threatened, endangered and sensitive species. This includes regulations applicable to Middle Housing to comply with protective measures adopted pursuant to Goal 5:¶

(i) Medium and Large Cities may apply regulations to Duplexes that apply to detached single-family unit dwellings in the same zone;¶

(ii) Medium and Large Cities may limit the development of Middle Housing other than Duplexes in significant resource sites identified and protected pursuant to Goal 5; and¶

(iii) If a Medium or Large City has not adopted land use regulations pursuant to OAR 660-023-0090, it must apply a 100-foot setback to Middle Housing developed along a riparian corridor.¶

(B) Goal 5: Historic Resources - Pursuant to OAR 660-023-0200(7), Medium and Large Cities must adopt land use regulations to protect locally significant historic resources. This includes regulations applicable to Middle Housing to comply with protective measures as it relates to the integrity of a historic resource or district. Protective measures shall be adopted and applied as provided in OAR 660-023-0200. Medium and Large Cities may apply regulations adopted under OAR 660-023-0200 to Middle Housing that apply to detached single-family unit dwellings in the same zone, except as provided below. If a Medium or Large City has not adopted land use regulations to protect significant historic resources listed on the National Register of Historic Places, it must apply protective measures to Middle Housing as provided in OAR 660-023-0200(8)(a) until the Medium or Large City adopts land use regulations in compliance with OAR 660-023-0200. Medium or Large Cities may not apply the following types of regulations specific to Middle Housing:¶

(i) Use, density, and occupancy restrictions that prohibit the development of Middle Housing on historic properties or districts that otherwise permit the development of detached single-family unit 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 unit dwellings.¶

(b) Goal 6: Air, Water and Land Resources Quality - Pursuant to OAR 660-015-0000(6), a Medium or Large City may limit development within an urban growth boundary to support attainment of federal and state air, water, and land quality requirements. Medium and Large Cities may apply regulations adopted pursuant to Goal 6 to the development of Middle Housing.¶

(c) Goal 7: Areas Subject to Natural Hazards - Pursuant to OAR 660-015-0000(7), Medium and Large Cities must adopt comprehensive plans (inventories, policies, and implementing measures) to reduce risk to people and property from natural hazards. Such protective measures adopted pursuant to Goal 7 apply to Middle Housing, including, but not limited to, restrictions on use, density, and occupancy in the following areas:¶

- (A) Special Flood Hazard Areas as identified on the applicable Federal Emergency Management Agency Flood Insurance Rate Map; and¶¶
- (B) Other hazard areas identified in an adopted comprehensive plan or development code, provided the Medium or Large City determines that the development of Middle Housing presents a greater risk to life or property than the development of detached single-family-unit dwellings from the identified hazard. Greater risk includes but is not limited to actions or effects such as:¶¶
- (i) Increasing the number of people exposed to a hazard;¶¶
- (ii) Increasing risk of damage to property, built, or natural infrastructure; and¶¶
- (iii) Exacerbating the risk by altering the natural landscape, hydraulics, or hydrology.¶¶
- (d) Goal 9: Economic Development - Pursuant to OAR 660-009-0025, Medium and Large Cities must adopt measures adequate to implement industrial and other employment development policies, including comprehensive plan designations. Medium and Large Cities may limit the development of Middle Housing on Lots or Parcels Zoned For Residential Use designated for future industrial or employment uses.¶¶
- (e) Goal 11: Public Facilities and Services - Pursuant to OAR 660-011-0020(2), a public facility plan must identify significant public facility projects which are to support the land uses designated in the acknowledged comprehensive plan. This includes public facility projects to support the development of Middle Housing in areas zoned for residential use that allow for the development of detached single-family-unit dwellings. Following adoption of Middle Housing allowances by a Large City, the Large City shall work to ensure that infrastructure serving undeveloped or underdeveloped areas, as defined in OAR 660-046-0320(8), where Middle Housing is allowed is appropriately designed and sized to serve Middle Housing.¶¶
- (f) Goal 15: Willamette Greenway - Pursuant to OAR 660-015-0005, Medium and Large Cities must review intensifications, changes of use or developments to insure their compatibility with the Willamette River Greenway. Medium and Large Cities may allow and regulate the development of Middle Housing in the Willamette Greenway, provided that applicable regulations adopted pursuant to Goal 15 comply with ORS 197.307400.¶¶
- (g) Goal 16: Estuarine Resources - Pursuant to OAR 660-015-0010(1) and OAR chapter 660, division 17, Medium and Large Cities must apply land use regulations that protect the estuarine ecosystem, including its natural biological productivity, habitat, diversity, unique features, and water quality. Medium and Large Cities may prohibit Middle Housing in areas regulated to protect estuarine resources under Goal 16 in the same manner as the Medium or Large City prohibits detached single-family-unit dwellings to protect estuarine resources under Goal 16.¶¶
- (h) Goal 17: Coastal Shorelands - Pursuant to OAR 660-015-0010(2) and OAR 660-037-0080, local governments must apply land use regulations that protect shorelands for water-dependent recreational, commercial, and industrial uses. This includes regulations applicable to Middle Housing to comply with protective measures adopted pursuant to Goal 17. Local governments may apply regulations to Middle Housing that apply to detached single-family-unit dwellings in the same zone.¶¶
- (i) Goal 18: Beaches and Dunes - Pursuant to OAR 660-015-0010(3), Medium and Large Cities must apply land use regulations to residential developments to mitigate hazards to life, public and private property, and the natural environment in areas identified as Beaches and Dunes under Goal 18. This includes regulations applicable to Middle Housing to comply with protective measures adopted pursuant to Goal 18 including but not limited to restrictions on use, density, and occupancy; provided the development of Middle Housing presents a greater risk to life or property than development of detached single-family-unit dwellings. Greater risk includes but is not limited to actions or effects such as:¶¶
- (A) Increasing the number of people exposed to a hazard;¶¶
- (B) Increasing risk of damage to property, built or natural infrastructure; and¶¶
- (C) Exacerbating the risk by altering the natural landscape, hydraulics, or hydrology.¶¶
- (4) For the purposes of assisting local jurisdictions in adopting reasonable siting and design standards for Middle Housing, the applicable Model Code adopted in this section will be applied to A Local Government That Has Not Acted to comply with the provisions of ORS 197.758A.420 and this division. For such Medium and Large Cities, the applicable Model Code completely replaces and pre-empts any provisions of those Medium and Large Cities' development codes that conflict with the Model Code. The Commission adopts the following Middle Housing Model Codes:¶¶
- (a) The Medium City Model Code as provided in Exhibit A; and¶¶
- (b) The Large City Model Code as provided in Exhibit B.¶¶
- (5) This division does not prohibit Medium or Large Cities from allowing:¶¶
- (a) Single-family-unit dwellings in areas zoned to allow for single-family-unit dwellings; or¶¶
- (b) Middle Housing in areas not required under this division.
- Statutory/Other Authority: ORS 197.040
- Statutes/Other Implemented: ORS 197.758A.420

RULE ATTACHMENTS MAY NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

NOTE: Attachments referenced are attached to this document. You may view the attachment 660-046-0010.pdf from the Attachments panel. Alternately, you may view the attachments at the following link:

<https://secure.sos.state.or.us/oard/viewAttachment.action?ruleVrsnRsn=337365>

RULE SUMMARY: This rule defines terms and phrases that are used throughout the division.

CHANGES TO RULE:

660-046-0020

Definitions

As used in this division, the definitions in ORS 197.015 and ORS 197.758A.420 apply, unless the context requires otherwise. In addition, the following definitions apply:¶

(1) "A Local Government That Has Not Acted" means a Medium or Large City that has not adopted acknowledged land use regulations that are in compliance with ORS 197.758A.420 and this division.¶

(2) "Cottage Cluster" means a grouping of ~~no fewer than four detached dwelling~~ dwelling units that:¶

(a) Are attached in subgroupings of up to four units per acre with a footprint of less than 900 square feet each that includes a common courtyard. A Medium or Large City may allow Cottage Cluster units to be located on a single Lot or Parcel, or on individual Lots or Parcel, or detached in any configuration; with no limitation on the total number of cottage cluster units;¶

(b) Have a common courtyard; and¶

(c) Each have a small footprint or floor area such that units have an average of 1,400 square feet;¶

(A) To be calculated excluding porches and garages; and¶

(B) Nothing in this subsection prohibits a local government from regulating renovations, remodels, additions, or nonconforming uses after development occurs.¶

(3) "Department" means the Department of Land Conservation and Development.¶

(4) "Design Standard" means a standard related to the arrangement, orientation, materials, appearance, articulation, or aesthetic of features on a dwelling unit or accessory elements on a site. Design standards include, but are not limited to, standards that regulate entry and dwelling orientation, facade materials and appearance, window coverage, driveways, parking configuration, pedestrian access, screening, landscaping, and private, open, shared, community, or courtyard spaces.¶

(5) "Detached single-family unit dwelling" means a detached structure on a Lot or Parcel that is comprised of a single dwelling unit.¶

~~(6) "Duplex" means two attached dwelling units on a Lot or Parcel. A Medium or Large City may define a Duplex to include two detached dwelling units on a Lot or Parcel.~~ (6) "Duplex" has the same meaning as a Duplex to include two detached dwelling units on a Lot or Parcel, provided in ORS 197A.420(1)(d).¶

(7) "Goal Protected Lands" means lands protected or designated pursuant to any one of the following statewide planning goals:¶

(a) Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces;¶

(b) Goal 6 Air, Water and Land Resource Quality;¶

(c) Goal 7 Areas Subject to Natural Hazards;¶

(d) Goal 9 Economic Development;¶

(e) Goal 15 Willamette River Greenway;¶

(f) Goal 16 Estuarine Resources;¶

(g) Goal 17 Coastal Shorelands; and¶

(h) Goal 18 Beaches and Dunes.¶

(8) "Large City" means a city with a certified Portland State University Population Research Center estimated population of 25,000 or more, or a city with a population over 1,000 within a Metropolitan service district. ~~A Large City includes unincorporated areas of counties within a metropolitan service district that are provided with sufficient urban services as defined in ORS 195.065. Sufficient urban services me,~~ A Large City includes:¶

(a) Regardless of size, any city within Tillamook County and the communities of Barview/Twin Rocks/Watseco, Cloverdale, Hebo, Neahkahnie, Neskowin, Netarts, Oceanside and Pacific City/Woods; and¶

(b) Unincorporated lands areas that are within an urban service district boundary of counties within Metro.¶

(9) "Lot or Parcel" means any legally created unit of land.¶

(10) "Master Planned Community" means a site that is any one of the following:¶

(a) Greater than 20 acres in size within a Large City or adjacent to the Large City within the urban growth boundary that is zoned for or proposed to be Zoned For Residential Use, and which is not currently developed with urban residential uses, for which a Large City proposes to adopt, by resolution or ordinance, a master plan or a plan that functions in the same manner as a master plan;¶

(b) Greater than 20 acres in size within a Large City or adjacent to the Large City within the urban growth boundary for which a Large City adopted, by resolution or ordinance, a master plan or a plan that functions in the same manner as a master plan after the site was incorporated into the urban growth boundary; or¶

(c) Added to the Large City's urban growth boundary after January 1, 2021 for which the Large City proposes to

adopt, by resolution or ordinance, a master plan or a plan that functions in the same manner as a master plan.¶

(11) "Medium City" means a city with a certified Portland State University Population Research Center estimated population more than ~~10,02,500~~ and less than 25,000 and not within a ~~metropolitan service district.~~¶

~~(12) "Middle Housing" means Duplexes, Triplexes, Quadplexes, Cottage Clusters, and Townhouses.¶~~

(12) "Middle Housing" has the same meaning as provided in ORS 197A.420(1)(e).¶

(13) "Model Code" means the applicable Model Code developed by the Department and contained in the exhibits in OAR 660-046-0010(4).¶

(14) "Quadplex" ~~means four attached dwelling units on a Lot or Parcel. A Large City may def~~has the same meaning a Quadplex to include any configuration of four detached or attached dwelling units on one Lot or Parcels provided in ORS 197A.420(1)(g).¶

(15) "Siting Standard" means a standard related to the position, bulk, scale, or form of a structure or a standard that makes land suitable for development. Siting standards include, but are not limited to, standards that regulate perimeter setbacks, dimensions, bulk, scale, coverage, minimum and maximum parking requirements, utilities, and public facilities.¶

(16) "Sufficient Infrastructure" means the following level of public services to serve new Triplexes, Quadplexes, Townhouses, or Cottage Cluster development:¶

(a) Connection to a public sewer system capable of meeting established service levels;¶

(b) Connection to a public water system capable of meeting established service levels;¶

(c) Access via public or private streets meeting adopted emergency vehicle access standards to a city's public street system; and¶

(d) Storm drainage facilities capable of meeting established service levels for storm drainage.¶

~~(17) "Townhouse" means a dwelling unit that is part of a row of two or more attached dwelling units, where each unit is located on an individual Lot or Parcel and shares at least one common wall with an adjacent dwelling unit~~has the same meaning as provided in ORS 197A.420(1)(h).¶

(18) "Townhouse Project" means one or more townhouse structures constructed, or proposed to be constructed, together with the development site where the land has been divided, or is proposed to be divided, to reflect the Townhouse property lines and the any commonly owned property.¶

~~(19) "Triplex" mean~~has three attached dwelling units on a Lot or Parcel. A Large City may define a Triplex to include any configuration of three detached or attached dwelling units on one Lot or Parcel.¶

~~(20) "Zoned for Residential Use" means a zoning district in which residential dwellings are the primary use and which implements a residential comprehensive plan map designation~~same meaning as provided in ORS 197A.420(1)(i).¶

(20) "Zoned for Residential Use" has the same meaning as provided in ORS 197A.420(1)(j).

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.~~758~~A.420

AMEND: 660-046-0030

RULE SUMMARY: Updated statute implemented.

CHANGES TO RULE:

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 amendment 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.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.~~758~~A.420

AMEND: 660-046-0040

RULE SUMMARY: This rule describes what actions are required of cities in order to comply with the requirements of ORS 197.758. The rule outlines the implications of not acting to comply with the requirements of ORS 197.758 including in circumstances where land use regulations are appealed.

CHANGES TO RULE:

660-046-0040

Compliance

(1) A Medium or Large City may adopt land use regulations or amend its comprehensive plan to comply with ORS ~~197.758~~A.420 and the provisions of this division.¶

(2) A Medium or Large City may request from the Department an extension of the time allowed to complete the action under section (1) pursuant to the applicable sections of OAR 660-046-0300 through OAR 660-046-0370.¶

(3) A Medium City which is A Local Government That Has Not Acted by ~~June 30~~January 1, 2024, or within one year of qualifying as a Medium City pursuant to OAR 660-046-0050 and has not received an extension under section (2), shall directly apply the applicable Model Code contained in OAR 660-046-0010(4) ~~in its entirety to all proposed Middle Housing development applications~~ until such time as the Medium City has adopted provisions under section (1).¶

(4) A Large City which is A Local Government That Has Not Acted by ~~June 30~~January 1, 2022, or within two years of qualifying as a Large City pursuant to OAR 660-046-0050 and has not received an extension under section (2), shall directly apply the applicable Model Code contained in OAR 660-046-0010(4) for the specific Middle Housing type that is not in compliance with the relevant rules in this division to all proposed development applications for that specific Middle Housing type until such time as the Large City has adopted provisions under section (1).¶

(5) If a Medium or Large City has adopted land use regulations or amended its comprehensive plan by the date provided under sections (3) and (4) and the Medium or Large City's land use regulations or comprehensive plan changes are subsequently remanded by the Land Use Board of Appeals or an appellate court solely on procedural grounds, the Medium or Large City is deemed to have acted. Accordingly, the Medium or Large City may continue to apply its own land use regulations and comprehensive plan as they existed prior to the adoption of land use regulations or comprehensive plan amendments that were the subject of procedural remand until the first of the two options:¶

(a) The Medium or Large City has adopted land use regulations or amended its comprehensive plan in response to the remand; or¶

(b) 120 days after the date of the remand. If the Medium or Large City has not adopted land use regulations or amended its comprehensive plan within 120 days of the date of the remand, the Medium or Large City is deemed not to have acted under sections (3) and (4).¶

(6) If a Medium or Large City has adopted land use regulations or amended its comprehensive plan by the date provided under sections (3) and (4) and the Medium or Large city's land use regulations or comprehensive plan changes are subsequently remanded by the Land Use Board of Appeals or an appellate court on any substantive grounds, the Medium or Large City is deemed to have not acted under sections (3) and (4).¶

(7) If a Medium or Large City acknowledged to be in compliance with this division subsequently amends its land use regulations or comprehensive plan, and those amendments are remanded by the Land Use Board of Appeals or an appellate court, the Medium or Large City shall continue to apply its land use regulations and comprehensive plan as they existed prior to the amendments until the amendments are acknowledged.¶

(8) Where a Medium or Large City directly applies the Model Code in accordance with sections (3), (4) and (5), the Model Code completely replaces and pre-empts any provisions of that Medium or Large City's development code that conflict with the applicable sections of the Model Code.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS ~~197.758~~A.420

AMEND: 660-046-0050

RULE SUMMARY: This rule describes which local governments must comply with middle housing requirements for Medium and Large Cities.

CHANGES TO RULE:

660-046-0050

Eligible Local Governments

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

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

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.~~758~~A.420

AMEND: 660-046-0100

RULE SUMMARY: This rule describes the purpose of middle housing rules for Medium Cities.

CHANGES TO RULE:

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~~A.420 et seq and Goal 10 Housing for Medium Cities.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.~~758~~A.420

AMEND: 660-046-0105

RULE SUMMARY: This rule describes the requirements for middle housing in medium cities.

CHANGES TO RULE:

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 unit dwelling, on each Lot or Parcel zoned for residential use that allows for the development of detached single-family unit 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.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758A.420

AMEND: 660-046-0110

RULE SUMMARY: This rule outlines the provisions a city may adopt to regulate the siting and design of middle housing in medium cities. This rule also includes a description of which standards cause unreasonable cost and delay to the development of middle housing in medium cities.

CHANGES TO RULE:

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 197.307A.400; 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 unit 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 in the Model Code contained in section OAR 660-046-0010(4)(a).

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758A.420

AMEND: 660-046-0115

RULE SUMMARY: This rule states the approval process that medium cities must use to review development applications for middle housing.

CHANGES TO RULE:

660-046-0115

Permitted Uses and Approval Process

Medium Cities must apply the same approval process to Duplexes as detached single-family unit dwellings in the same zone. Pursuant to ~~OAR 660-007-0015~~, OAR 660-008-0015, and ORS 197.307A.400, Medium Cities may adopt and apply only clear and objective standards, conditions, and procedures regulating the development of Duplexes. Nothing in this rule prohibits a Medium City from adopting an alternative approval process for applications and permits for Middle Housing based on approval criteria that are not clear and objective as provided in ~~OAR 660-007-0015(2)~~, OAR 660-008-0015(2), and ORS 197.307A.400(6).

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758A.420

AMEND: 660-046-0120

RULE SUMMARY: This rule describes reasonable siting standards that a medium city may adopt to regulate middle housing.

CHANGES TO RULE:

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 unit dwelling in the same zone. Additionally, Medium Cities shall allow the development of a Duplex on any property zoned to allow detached single-family unit dwellings, which was legally created prior to the Medium City's current lot size minimum for detached single-family unit 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 unit dwellings in the same zone.¶

(4) Height: A Medium City may not apply lower maximum height standards than those applicable to detached single-family unit 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 unit 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 unit dwelling development must allow the granting of the same exceptions to Duplexes.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758A.420

AMEND: 660-046-0125

RULE SUMMARY: This rule describes reasonable design standards that a medium city may adopt to regulate middle housing.

CHANGES TO RULE:

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 unit structures in the same zone.¶

(2) A Medium City may not apply design standards to Duplexes created as provided in OAR 660-046-0130.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758, 420

AMEND: 660-046-0130

RULE SUMMARY: This rule describes specific situations in which a property owner may convert an existing single-family detached dwelling into a duplex in a medium city.

CHANGES TO RULE:

660-046-0130

Duplex Conversions

Conversion of an existing detached single-family ~~unit~~ 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, unless increasing nonconformance is otherwise allowed by the Medium City.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.~~758~~A.420

AMEND: 660-046-0200

RULE SUMMARY: This rule describes the purpose of middle housing rules for Large Cities.

CHANGES TO RULE:

660-046-0200

Purpose of Middle Housing in Large Cities

OAR 660-046-0205 through OAR 660-046-0235 are intended to measure compliance with ORS ~~197.758~~197.758A.420 and Goal 10 Housing for Large Cities.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS ~~197.758~~197.758A.420

RULE SUMMARY: This rule describes the requirements for middle housing in large cities.

CHANGES TO RULE:

660-046-0205

Applicability of Middle Housing in Large Cities

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

(2) A Large City must allow for the development of Triplexes, Quadplexes, Townhouses, and Cottage Clusters, including those created through additions to or conversions of existing detached single-family-unit dwellings, in areas zoned for residential use that allow for the development of detached single-family-unit dwellings. A Large City may regulate or limit development of these types of Middle Housing on the following types of lands:¶

(a) Goal-Protected Lands: Large Cities may regulate Middle Housing on Goal-Protected Lands as provided in OAR 660-046-0010(3);¶

(b) Master Planned Communities: Large Cities may regulate the development of Middle Housing in Master Planned Communities as follows:¶

(A) A Large City may regulate Middle Housing in Master Planned Communities created through the adoption, by resolution or ordinance, of a master plan, or plan that functions in the same manner as a master plan, after January 1, 2021, by either allowing the development of all Middle Housing types as provided in OAR 660-046-0205 through OAR 660-046-0235, or through implementation of one or more of the following actions:¶

(i) Plan to provide urban water, sanitary sewer, stormwater, and transportation systems that accommodate at least 20 dwelling units per net acre if located within a metropolitan service district boundary, and 15 dwelling units per net acre if located outside of a metropolitan service district boundary. The Large City may require the applicant demonstrate, through an amended public facility plan or similar mechanism, the sufficient provision of public services needed to serve the proposed development, if a proposed Middle Housing development exceeds the planned public service capacity of a master plan. A Large City may require a mix of two or more Middle Housing types within an adopted master plan or portions of a master plan. A Large City may designate areas within the adopted master plan exclusively for other housing types, such as multi-family-unit residential structures of five dwelling units or more or manufactured home parks; or,¶

(ii) Plan to provide urban water, sanitary sewer, stormwater, and transportation systems based on the implementation of a variable rate infrastructure fee or system development charge or impact fee that more accurately reflects the actual cost of providing urban services to Middle Housing and other housing types in an adopted master plan and which incentivize the development of Middle Housing and smaller and more affordable housing types generally by reducing development cost. Pursuant to ORS 223.304, a Large City, or other service provider, may establish a variable rate system development charge, comprised of reimbursement fees or improvement fees, or a combination, to residential development in a Master Planned Community. The charge or fee may be calculated by total square footage, anticipated occupancy of housing types, by unit type, or other metric as defined by the service provider; or,¶

(iii) Require applications for residential development within a Master Planned Community to develop a mix of residential types, including at least two Middle Housing types other than Duplexes. A Large City may adopt a master plan or a plan that functions in the same manner as a master plan which designates areas within the Master Planned Community exclusively for housing types other than detached single-family-unit dwellings, such as multi-family-unit residential structures of five dwelling units or more or manufactured home parks.¶

(B) If a Large City has adopted a master plan or a plan that functions in the same manner as a master plan before January 1, 2021, it may limit the development of Middle Housing other than Duplexes provided it authorizes in the entire master plan area a net residential density of at least eight dwelling units per acre and allows all dwelling units, at minimum, to be detached single-family-unit dwellings or Duplexes. A Large City may only apply this restriction to portions of the area not developed as of January 1, 2021, and may not apply this restriction after the initial development of any area of the master plan or a plan that functions in the same manner as a master plan, except that a Large City may prohibit redevelopment of other housing types, such as multi-family-unit residential structures and manufactured home parks.¶

(c) Impacted by State or Federal Law: A Large City must demonstrate that regulations or limitations of Middle Housing other than Duplexes are necessary to implement or comply with an established state or federal law or regulation on these types of lands.¶

(3) A Large City may:¶

(a) Allow for the development of Triplexes, Quadplexes, Townhouses, and Cottage Clusters, including those created through conversion of existing detached single-family-unit dwellings, in areas zoned for residential use that

allow for the development of detached single-family-unit dwellings as provided in OAR 660-046-0205 through OAR 660-046-0235; or

(b) Apply separate minimum lot size and maximum density provisions than what is provided in OAR 660-046-0220, provided that the applicable Middle Housing type other than Duplexes is allowed on the following percentage of Lots and Parcels zoned for residential use that allow for the development of detached single-family-unit dwellings, excluding lands described in subsection (2):

(A) Triplexes - Must be allowed on 80 percent of Lots or Parcels;

(B) Quadplexes - Must be allowed on 70 percent of Lots or Parcels;

(C) Townhouses - Must be allowed on 60 percent of Lots or Parcels; and

(D) Cottage Clusters - Must be allowed on 70 percent of Lots or Parcels.

(E) A Middle Housing type is considered "allowed" on a Lot or Parcel when the following criteria are met:

(i) The Middle Housing type is a permitted use on that Lot or Parcel under the same administrative process as a detached single-family-unit dwelling in the same zone;

(ii) The Lot or Parcel has sufficient square footage to allow the Middle Housing type within the applicable minimum lot size requirement;

(iii) Maximum density requirements do not prohibit the development of the Middle Housing type on the subject Lot or Parcel; and

(iv) The applicable siting or design standards do not individually or cumulatively cause unreasonable cost or delay to the development of that Middle Housing type as provided in OAR 660-046-0210(3).

(F) A Large City must ensure the equitable distribution of Middle Housing by allowing, as defined in paragraph (3)(b)(E) above, at least one Middle Housing type other than Duplexes and Cottage Clusters on 75 percent or more of all Lots or Parcels zoned for residential use that allow for the development of detached single-family-unit dwellings within each census block group, with at least four eligible Lots and Parcels as described in section (2), within a Large City.

(G) Large Cities must demonstrate continuing compliance with subsection (3)(b) at the following intervals:

(i) At the initial submittal of a Middle Housing comprehensive plan or land use regulation change, in accordance with OAR chapter 660, division 18;

(ii) At any future Housing Capacity Analysis deadline as provided in OAR 660-008-0045, except that a demonstration of continuing compliance will not be required earlier than six years after initial adoption of acknowledged land use regulations in compliance with this division; and

(iii) With any future comprehensive plan or land use regulation changes that implements this division, in accordance with OAR chapter 660, division 18, for Large Cities that are not subject to the Housing Capacity Analysis deadline as provided in OAR 660-008-0045, except that a demonstration of continuing compliance will not be required more frequently than once every six years after initial adoption of acknowledged land use regulations in compliance with this division.

(4) Pursuant to OAR 660-046-0205 through OAR 660-046-0235, the following numerical standards related to Middle Housing types apply:

(a) Duplexes - Large Cities may allow more than two dwellings units on a Lot or Parcel, including any accessory dwelling units.

(b) Triplexes and Quadplexes - Large Cities may allow more than four dwelling units on a Lot or Parcel, including any accessory dwelling units.

(c) Townhouses - Large Cities must require at least two attached Townhouse dwelling units and must allow up to four attached Townhouse units subject to applicable siting or design standards as provided in OAR 660-046-0220 through OAR 660-046-0235. A Large City may allow five or more attached Townhouse dwelling units.

(d) Cottage Clusters -

(A) A Large City is not required to set a minimum number of dwelling units in a Cottage Cluster, but if it chooses to, it may require a minimum of three, four, or five dwelling units in a Cottage Cluster. A Large City may allow, but may not require, greater than five units in a Cottage Cluster.

(B) A Large City must allow up to eight cottages per common courtyard subject to applicable siting or design standards as provided in OAR 660-046-0220 through OAR 660-046-0235. Nothing in this section precludes a Large City from permitting greater than eight dwelling units per common courtyard.

(5) A Large City may require that applicants for a partition, subdivision, replat, property line adjustment, or planned unit development not meeting the definition of a Master Planned Community specify, for the purpose of public facilities planning, the anticipated development of Middle Housing on Lots or Parcels resulting from the partition, subdivision, replat, property line adjustment, or planned unit development. Should an applicant subsequently submit a proposal for residential development exceeding the planned public facilities as specified in the partition, subdivision, replat, property line adjustment, or planned unit development approval, the city may withhold issuance of building permits until the public facility deficiency is remediated. This subsection does not apply to Middle Housing Land Divisions as provided in ORS 92.031.

(6) A Large City may require applicants of Middle Housing to provide the same right-of-way dedications, frontage improvements, and connectivity standards that would apply to detached single-family unit dwellings on the same Lot or Parcel, including applicable exemptions related to proportionality.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758A.420

AMEND: 660-046-0210

RULE SUMMARY: This rule outlines the provisions that Large Cities must apply to middle housing.

CHANGES TO RULE:

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~~A.400; and¶
 - (b) Do not, individually or cumulatively, discourage the development of Middle Housing through unreasonable costs or delay.¶
 - (3) Siting and design standards that do not, individually or cumulatively, discourage the development of Middle Housing through unreasonable cost and delay include only the following:¶
 - (a) Regulations to comply with protective measures adopted pursuant to statewide land use planning goals provided in OAR 660-046-0010(3);¶
 - (b) Permitted uses and approval processes provided in OAR 660-046-0215;¶
 - (c) Siting standards provided in OAR 660-046-0220;¶
 - (d) Design standards in Large Cities provided in OAR 660-046-0225;¶
 - (e) Middle Housing Conversions provided in OAR 660-046-0230;¶
 - (f) Alternative siting or design standards provided in OAR 660-046-0235; and¶
 - (g) Any siting and design standards in the Model Code contained in OAR 660-046-0010(4)(b).

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.~~758~~A.420

AMEND: 660-046-0215

RULE SUMMARY: This rule states the approval process that large cities must use to review development applications for middle housing.

CHANGES TO RULE:

660-046-0215

Permitted Uses and Approval Process

Large Cities must apply the same approval process to Middle Housing as detached single-family unit dwellings in the same zone. Pursuant to OAR 660-008-0015 and ORS 197.307A.400, 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 197.307A.400. 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 197.307A.400(6).

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758A.420, ORS 197A.400

RULE SUMMARY: This rule describes reasonable siting standards that a large city may adopt to regulate middle housing.

CHANGES TO RULE:

660-046-0220

Middle Housing Siting Standards in Large Cities

(1) Large Cities must apply siting standards to Duplexes in the same manner as required for Medium Cities in OAR 660-046-0120.¶

(2) The following governs Large Cities' regulation of siting standards related to Triplexes and Quadplexes:¶

(a) Minimum Lot or Parcel Size:¶

(A) For Triplexes:¶

(i) If the minimum Lot or Parcel size in the zone for a detached single-family unit dwelling is 5,000 square feet or less, the minimum Lot or Parcel size for a Triplex may be no greater than 5,000 square feet.¶

(ii) If the minimum Lot or Parcel size in the zone for a detached single-family unit dwelling is greater than 5,000 square feet, the minimum Lot or Parcel size for a Triplex may be no greater than the minimum Lot or Parcel size for a detached single-family unit dwelling.¶

(B) For Quadplexes:¶

(i) If the minimum Lot or Parcel size in the zone for a detached single-family unit dwelling is 7,000 square feet or less, the minimum Lot or Parcel size for a Quadplex may be no greater than 7,000 square feet.¶

(ii) If the minimum Lot or Parcel size in the zone for a detached single-family unit dwelling is greater than 7,000 square feet, the minimum Lot or Parcel size for a Quadplex may be no greater than the minimum Lot or Parcel size for a detached single-family unit dwelling.¶

(C) A Large City may apply a lesser minimum Lot or Parcel size in any zoning district for a Triplex or Quadplex than provided in paragraphs (A) or (B).¶

(b) Density: If a Large City applies density maximums in a zone, it may not apply those maximums to the development of Quadplex and Triplexes.¶

(c) Setbacks: A Large City may not require setbacks greater than those applicable to detached single-family unit dwellings in the same zone.¶

(d) Height: A Large City may not apply lower maximum height standards than those applicable to detached single-family unit dwellings in the same zone, except a maximum height may not be less than 25 feet or two stories.¶

(e) Parking:¶

(A) For Triplexes, a Large City may require up to the following off-street parking spaces:¶

(i) For Lots or Parcels of less than 3,000 square feet: one space in total;¶

(ii) For Lots or Parcels greater than or equal to 3,000 square feet and less than 5,000 square feet: two spaces in total; and¶

(iii) For Lots or Parcels greater than or equal to 5,000 square feet: three spaces in total.¶

(B) For Quadplexes, a Large City may require up to the following off-street parking spaces:¶

(i) For Lots or Parcels of less than 3,000 square feet: one space in total;¶

(ii) For Lots or Parcels greater than or equal to 3,000 square feet and less than 5,000 square feet: two spaces in total;¶

(iii) For Lots or Parcels greater than or equal to 5,000 square feet and less than 7,000 square feet: three spaces in total; and¶

(iv) For Lots or Parcels greater than or equal to 7,000 square feet: four spaces in total.¶

(C) A Large City may allow on-street parking credits to satisfy off-street parking requirements.¶

(D) A Large City may allow, but may not require, off-street parking to be provided as a garage or carport.¶

(E) A Large City must apply the same off-street parking surfacing, dimensional, landscaping, access, and circulation standards that apply to single-family unit detached dwellings in the same zone.¶

(F) A Large City may not apply additional minimum parking requirements to Middle Housing created as provided in OAR 660-046-0230.¶

(f) Lot or Parcel Coverage and Floor Area Ratio: Large Cities are not required to apply Lot or Parcel coverage or floor area ratio standards to Triplexes or Quadplexes. However, if the Large City applies Lot or Parcel coverage or floor area ratio standards, it may not establish a cumulative Lot or Parcel coverage or floor area ratio for Triplexes or Quadplexes that is less than established for detached single-family unit dwelling in the same zone.¶

(g) A Large City shall work with an applicant for development to determine whether Sufficient Infrastructure will be provided, or can be provided, upon submittal of a Triplex or Quadplex development application.¶

(3) The following governs Large Cities' regulation of siting standards related to Townhouses:¶

(a) Minimum Lot or Parcel Size: A Large City is not required to apply a minimum Lot or Parcel size to Townhouses,

but if it applies those standards, the average minimum Lot or Parcel size for Lot or Parcels in a Townhouse Project may not be greater than 1,500 square feet. A Large City may apply separate minimum Lot or Parcel sizes for internal, external, and corner Townhouse Lots or Parcels provided that they average 1,500 square feet, or less.¶

(b) Minimum Street Frontage: A Large City is not required to apply a minimum street frontage standard to Townhouses, but if it applies those standards, the minimum street frontage standard must not exceed 20 feet. A Large City may allow frontage on public and private streets or alleys; and on shared or common drives. If a Large City allows flag Lots or Parcels, it is not required to allow Townhouses on those Lots or Parcels.¶

(c) Density: If a Large City applies density maximums in a zone, it must allow four times the maximum density allowed for detached single-family-unit dwellings in the same zone for the development of Townhouses or 25 dwelling units per acre, whichever is less.¶

(d) Setbacks: A Large City may not require front, side, or rear setbacks to be greater than those applicable to detached single-family-unit structures in the same zone and must allow zero-foot side setbacks for Lot or Parcel lines where Townhouse units are attached.¶

(e) Height: A Large City may not apply lower maximum height standards than those applicable to detached single-family-unit dwellings in the same zone. If a Large City requires covered or structured parking for townhouses, the applicable height standards must allow construction of at least three stories. If a Large City does not require covered or structured parking, the applicable height standards must allow construction of at least two stories.¶

(f) Parking:¶

(A) A Large City may not require more than one off-street parking space per Townhouse dwelling unit.¶

(B) Nothing in this section precludes a Large City from allowing on-street parking credits to satisfy off-street parking requirements.¶

(C) A Large City must apply the same off-street parking surfacing, dimensional, landscaping, access, and circulation standards that apply to single-family-unit detached dwellings in the same zone.¶

(g) Bulk and Scale: A Large City is not required to apply standards to control bulk and scale to new Townhouses. However, if a Large City chooses to regulate scale and bulk, including but not limited to provisions including Lot or Parcel coverage, floor area ratio, and maximum unit size, those standards cannot cumulatively or individually limit the bulk and scale of the cumulative Townhouse project greater than that of a single-family-unit detached dwelling.¶

(h) A Large City shall work with an applicant for development to determine whether Sufficient Infrastructure will be provided, or can be provided, upon submittal of a Townhouse development application.¶

(4) The following governs Large Cities' regulation of siting standards related to Cottage Clusters:¶

(a) Minimum Lot or Parcel Size: A Large City is not required to apply minimum Lot or Parcel size standards to new Cottage Clusters. However, if a Large City applies standards to regulate minimum Lot or Parcel size for Cottage Clusters on a single Lot or Parcel, the following provisions apply:¶

(A) If the minimum Lot or Parcel size in the same zone for a detached single-family-unit dwelling is 7,000 square feet or less, the minimum Lot or Parcel size for a Cottage Cluster may be no greater than 7,000 square feet.¶

(B) If the minimum Lot or Parcel size in the same zone for a detached single-family-unit dwelling is greater than 7,000 square feet, the minimum Lot or Parcel size for a Cottage Cluster may not be greater than the minimum Lot or Parcel size for a detached single-family-unit dwelling.¶

(b) Minimum Lot or Parcel Width: A Large City is not required to apply minimum Lot or Parcel width standards to Cottage Clusters. However, if a Large City applies standards to regulate minimum Lot or Parcel width for to Cottage Clusters, it may not require a minimum Lot or Parcel width that is greater than the standard for a single-family-unit detached dwelling in the same zone.¶

(c) Density: A Large City may not apply density maximums to the development of Cottage Clusters. A Cottage Cluster development must meet a minimum density of at least four units per acre.¶

(d) Setbacks: A Large City may not require perimeter setbacks to be greater than those applicable to detached single-family-unit dwellings in the same zone. Additionally, perimeter setbacks applicable to Cottage Cluster dwelling units may not be greater than ten feet. The minimum distance between structures may not be greater than what is required by applicable building code requirements or 10 feet.¶

(e) Dwelling Unit Size: A Large City may limit the minimum or maximum size of dwelling units in a Cottage Cluster, but must apply a maximum building footprint of less than 900 square feet per dwelling unit. A Large City may exempt up to 200 square feet in the calculation of dwelling unit footprint for an attached garage or carport. A Large City may not include detached garages, carports, or accessory structures in the calculation of dwelling unit footprint.¶

(f) Parking:¶

(A) A Large City may not require more than one off-street parking space per dwelling unit in a Cottage Cluster.¶

(B) A Large City may allow but may not require off-street parking to be provided as a garage or carport.¶

(C) Nothing in this section precludes a Large City from allowing on-street parking credits to satisfy off-street parking requirements.¶

- (g) Lot or Parcel Coverage and Floor Area Ratio: A Large City may not apply Lot or Parcel coverage or floor area ratio standards to Cottage Clusters.¶¶
- (h) Nothing in this division precludes a Large City from allowing Cottage Cluster dwelling units on individual Lots or Parcels within the Cottage Cluster development.¶¶
- (i) A Large City shall work with an applicant for development to determine whether Sufficient Infrastructure will be provided, or can be provided, upon submittal of a Cottage Cluster development application.
- Statutory/Other Authority: ORS 197.040
- Statutes/Other Implemented: ORS 197.~~758~~A.420

AMEND: 660-046-0225

RULE SUMMARY: This rule describes reasonable design standards that a large city may adopt to regulate middle housing.

CHANGES TO RULE:

660-046-0225

Middle Housing Design Standards in Large Cities

(1) A Large City is not required to apply design standards to Middle Housing. However, if a Large City chooses to apply design standards to Middle Housing, it may only apply the following:¶¶

(a) Design standards in the Model Code for Large Cities as provided in OAR 660-046-0010(4)(b);¶¶

(b) Design standards that are less restrictive than those in the Model Code for Large Cities as provided in OAR 660-046-0010(4)(b);¶¶

(c) The same clear and objective design standards that the Large City applies to detached single-family unit structures in the same zone. Design standards may not scale by the number of dwelling units or other features that scale with the number of dwelling units, such as primary entrances. Design standards may scale with form-based attributes, including but not limited to floor area, street-facing facade, height, bulk, and scale; or¶¶

(d) Alternative design standards as provided in OAR 660-046-0235.¶¶

(2) A Large City may not apply design standards to Middle Housing created as provided in OAR 660-046-0230.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758A.420

AMEND: 660-046-0226

RULE SUMMARY: This rule outlines that local governments may not apply residential design standards for housing developments within an urban growth boundary. This rule will be repealed in January 2033.

CHANGES TO RULE:

660-046-0226

Residential Design Standards

(1) A local government may not apply residential design standards as defined in ~~Oregon Laws 2025, chapter 330, section 8(3)(a)~~ Section 8(3)(a) compiled as a note after ORS 197A.400 to an application for the development of housing within an urban growth boundary unless the application is for the development of a ~~multifamily unit~~ multifamily unit structure as defined in ORS 197A.465 or fewer than 20 residential units as defined in ~~Oregon Laws 2025, chapter 330, section 8(3)(b)~~ Section 8(3)(b) compiled as a note after ORS 197A.400.¶

(2) This rule is repealed on January 2, 2033.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ~~Or Laws 2025, ch 330, ss 8 and 9, compiled as a note after~~ RS 197A.400, ORS 197A.4020

AMEND: 660-046-0230

RULE SUMMARY: This rule outlines standards a large city must comply with when converting an existing single family detached structure to middle housing.

CHANGES TO RULE:

660-046-0230

Middle Housing Conversions

(1) Additions to, or conversions of, an existing detached single-family unit dwelling into Middle Housing is allowed in a Large City pursuant to OAR 660-046-0205(2), provided that the addition or conversion does not increase nonconformance with applicable clear and objective standards, unless increasing nonconformance is otherwise permitted by the Large City's development code.¶¶

(2) If Middle Housing is created through the addition to, or conversion of, an existing detached single-family unit dwelling, a Large City or other utility service provider that grants clear and objective exceptions to public works standards to detached single-family unit dwelling development must allow the granting of the same exceptions to Middle Housing.¶¶

(3) An existing detached single-family unit dwelling may remain on a Lot or Parcel with a Cottage Cluster as described below:¶¶

(a) The existing single-family unit dwelling may be nonconforming with respect to the requirements of the applicable code;¶¶

(b) The existing single-family unit dwelling may be expanded up to the maximum height, footprint, or unit size required by the applicable code; however, an existing single-family unit dwelling that exceeds the maximum height, footprint, or unit size of the applicable code may not be expanded;¶¶

(c) The existing single-family unit dwelling shall count as a unit in the Cottage Cluster;¶¶

(d) The floor area of the existing single-family unit dwelling shall not count towards any Cottage Cluster average or Cottage Cluster project average or total unit size limits; and¶¶

(e) A Large City may apply a time limit on the conversion of a single-family unit dwelling to a Cottage Cluster not to exceed five years.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758A.420

AMEND: 660-046-0235

RULE SUMMARY: This rule describes the criteria that must be met to utilize alternative siting or design standards.

CHANGES TO RULE:

660-046-0235

Alternative Siting or Design Standards

A Large City may adopt Siting or Design Standards not authorized by OAR 660-046-0220 or OAR 660-046-0225 as allowed if the city can demonstrate that it meets the applicable criteria in this section. Alternative Siting or Design standards do not include minimum Lot or Parcel size and maximum density requirements. If a Large City proposes to adopt alternative Siting or Design Standards, the Large City must submit to the Department findings and analysis demonstrating that the proposed standard or standards will not, individually or cumulatively, cause unreasonable cost or delay to the development of Middle Housing. To demonstrate that, the Large City must consider how a standard or standards, individually and cumulatively, affect the following factors in comparison to what is would otherwise be required under OAR 660-046-0220 or OAR 660-046-0225:¶¶

- (1) The total time and cost of construction, including design, labor, and materials;¶¶
- (2) The total cost of land;¶¶
- (3) The availability and acquisition of land, including in areas with existing development;¶¶
- (4) The total time and cost of permitting and fees required to make land suitable for development;¶¶
- (5) The cumulative livable floor area that can be produced; and¶¶
- (6) The proportionality of cumulative time and cost imposed by the proposed standard or standards in relationship to the public need or interest the standard or standards fulfill.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.~~758~~A.420

AMEND: 660-046-0300

RULE SUMMARY: This rule describes the purpose of creating an infrastructure-based time extension request and defines the need for that process.

CHANGES TO RULE:

660-046-0300

Purpose of Infrastructure-Based Time Extension Request Process

OAR 660-046-0300 to OAR 660-046-0370 establish the form and substance of the IBTER application and review process. The purpose of these rules is to provide submittal requirements, including required data and analyses that a local government must submit with an IBTER, prescribe when a local government is eligible for a time extension in response to an IBTER, and to provide the evaluation process and criteria that the department will use to review IBTERs and issue Time Extensions.

Statutory/Other Authority: ORS 197.040, OR Laws 2019, chapter 639, section 4(6), compiled as a note after ORS 197A.420

Statutes/Other Implemented: ORS 197.~~758~~A.420, OR Laws 2019, chapter 639, sections 3 and ~~4~~4, compiled as a note after ORS 197A.420

AMEND: 660-046-0310

RULE SUMMARY: This rule defines which local governments are eligible to submit an infrastructure-based time extension request for an extension of time to adopt middle housing land use regulations or amend a comprehensive plan to include middle housing.

CHANGES TO RULE:

660-046-0310

Entities Eligible to Apply

Local governments, as defined in OAR 660-046-0320, may submit an IBTER.

Statutory/Other Authority: ORS 197.040, OR Laws 2019, chapter 639, section 4(6), compiled as a note after ORS 197A.420, ORS 197A.420

Statutes/Other Implemented: ORS 197.~~758~~A.420, OR Laws 2019, chapter 639, sections 3 and ~~4~~4, compiled as a note after ORS 197A.420

AMEND: 660-046-0320

RULE SUMMARY: This rule defines terms and phrases that are used in sections 660-046-0310 through 660-046-0370.

CHANGES TO RULE:

660-046-0320

Definitions

In addition to the definitions in OAR 660-046-0020 and in ORS 197.015 and ORS 197.758A.420, the following definitions apply to OAR 660-046-0300 to OAR 660-046-0370. In the event of a conflict, these definitions will take precedence.¶

- (1) "Acceptable service levels" means measures of public facility adequacy defined by common engineering standards of practice, adopted as a policy for a utility, identified by designated authority from the decision-making body of a local government, identified in an adopted utility master plan or special area utility plan, or as necessary to comply with state or federal law.¶
- (2) "IBTER" means an infrastructure-based time extension request submitted by a local government for an extension of time to adopt land use regulations or amend a comprehensive plan as provided for under Oregon Laws 2019, chapter 639, section 4.¶
- (3) "Infill and redevelopment areas" means areas with lot sizes of less than one-half an acre that are zoned to allow detached single ~~family~~family unit dwellings and that are either vacant or developed with detached single ~~family~~family unit dwellings.¶
- (4) "Infrastructure" means urban water, sanitary sewer, stormwater, and transportation systems.¶
- (5) "Local governments" means a city outside a metropolitan service district, with a population of more than 10,000 and less than 25,000; a city inside a metropolitan service district, with a population of more than 1,000 and less than 25,000; any city with a population of 25,000 or more; or any unincorporated portion of a county within a metropolitan service district that is provided with sufficient urban services as defined in ORS 195.065. No other unincorporated areas within urban growth boundaries are included in this definition.¶
- (6) "Significant infrastructure deficiency" means a local government has met the burden of proof to demonstrate a situation or situations where the following exists:¶
 - (a) A local government or service provider is unable to provide acceptable service levels within a developed, or developing, area zoned to allow detached single ~~family~~family unit dwellings; or.¶
 - (b) A local government or service provider anticipates that it will be unable to provide acceptable service levels by December 31, 2023, based either on extrapolated current development rates alone, or based on extrapolated current rates and additional anticipated middle housing development.¶
 - (c) There is no single service level for demonstrating a significant infrastructure deficiency for transportation infrastructure. Supporting information regarding the magnitude and severity of the deficiency must support a determination that the deficiency has a significant impact on transportation function or safety in the affected area. Higher street classifications, traffic volumes, and impacts to the function of transportation corridors, rather than a single intersection, will help to support the significance of the transportation deficiency. The severity of safety issues may be supported with information such as crash data, posted speed limits, sight distance at intersections, or similar information.¶
- (7) "Time extension" is an IBTER as granted by the department.¶
- (8) "Undeveloped or underdeveloped areas" means areas with lot sizes greater than one-half an acre that are zoned to allow single ~~family~~family unit detached dwellings and are currently developed at a density of two dwelling units per acre or less.

Statutory/Other Authority: ORS 197.040, ORS 197A.420, OR Laws 2019, chapter 639, section 4(6), compiled as a note after ORS 197A.420

Statutes/Other Implemented: ORS 197.758A.420, OR Laws 2019, chapter 639, sections 3 and 4-4, compiled as a note after ORS 197A.420

RULE SUMMARY: This rule describes parameters to guide local government preparation of IBTER applications.

CHANGES TO RULE:

660-046-0330

Parameters

(1) Infrastructure, as defined in OAR 660-046-0320(4) and as described in more detail in OAR 660-046-0340, is eligible as a basis for an IBTER application. An infrastructure deficiency is not significant if it would be addressed with infrastructure improvements required in conjunction with the development of a single-family unit dwelling. ¶

(2) If a local government is currently unable to issue any new permits for residential development due to a jurisdiction-wide significant infrastructure deficiency, the local government must address that situation through the moratorium process provided in ORS 197.505 through ORS 197.540. The department will not approve IBTER applications that address this type of situation. ¶

(3) If a local government intends to continue permitting new single-family unit detached dwellings or other development allowed by the current zoning within the area that has a significant infrastructure deficiency while deferring middle housing development within the area, the local government shall demonstrate that the additional infrastructure demand created by middle housing development would cause an unacceptable service level of the infrastructure, or shall provide other valid justification for allowing other development in the subject area while prohibiting middle housing development until the significant infrastructure deficiency is addressed. ¶

(4) For the purpose of estimating the additional impacts of middle housing development on infrastructure, the local government may assume the following increases in residential development that would create additional impacts upon an area that is significantly infrastructure deficient over the period ending December 31, 2023: ¶

(a) The local government shall prepare the baseline estimate for the number of dwelling units per acre produced within a residential zoning district by following the process described in ORS 197.296A.350(5)(a)(A). A local government may add units produced by middle housing allowances, as described in subsections (b) through (f) to estimate residential infrastructure demand within a specified area. A local government may include additional infrastructure demand from other existing uses within the service area, such as higher density housing, schools, businesses, industrial uses, or other uses to estimate a total infrastructure service demand within the area that has a significant infrastructure deficiency. ¶

(b) Infill and redevelopment areas may assume a one percent increase in the number of dwelling units produced due to middle housing allowances within the specified residential zone(s), above the baseline estimate described in subsection (a) prior to adoption of middle housing allowances. If some types of middle housing are currently allowed in a residential zone, the local government must adjust the anticipated increase for that area to an estimated fraction of one percent representing additional housing production from the middle housing types that are not currently allowed. ¶

(c) Undeveloped and underdeveloped areas may assume a three percent increase in the number of dwelling units produced due to middle housing allowances within the specified residential zone(s), above the baseline estimate described in subsection (a) prior to adoption of middle housing allowances. If some types of middle housing are currently allowed in a residential zone, the local government must adjust the anticipated increase to an estimated fraction of three percent representing additional housing production from the middle housing types that are not currently allowed. ¶

(d) The local government may project an increase in anticipated middle housing residential development above the thresholds identified in subsections (b) or (c) if it provides quantifiable validation of such an increase. For local governments located outside a metropolitan service district, the standards for demonstration of a quantifiable validation are provided in subsection (e). For local governments within a metropolitan service district, the standards for demonstration of a quantifiable validation are provided in subsection (f). ¶

(e) A local government located outside a metropolitan service district may provide a quantifiable validation by demonstrating an actual increase in residential dwelling units produced above the rates anticipated in subsections (b) and (c), within a zone that allows densities that are no higher than those that would be allowed with adopted middle housing provisions. The evidence may be derived from an existing zone within the local government's jurisdiction, or from another local government within 25 miles of the subject local government. ¶

(f) A local government located inside a metropolitan service district may provide a quantifiable validation by demonstrating an actual increase in residential dwelling units produced above the rates anticipated in subsections (b) and (c), within a zone that allows densities that are no higher than those that would be allowed with adopted middle housing provisions. The evidence may be derived from an existing zone within the local government's jurisdiction, or from another local government within the metropolitan service district.

Statutory/Other Authority: ORS 197.040, ORS 197A.420, OR Laws 2019, chapter 639, section 4(6), compiled as a

note after ORS 197A.420

Statutes/Other Implemented: ORS ~~197.758A.420~~, OR Laws 2019, chapter 639, sections 3 and 4-4, compiled as a note after ORS 197A.420

AMEND: 660-046-0340

RULE SUMMARY: This rule describes what circumstances would grant a time extension by infrastructure type.

CHANGES TO RULE:

660-046-0340

Infrastructure-Specific Application Thresholds

This rule specifies the circumstances that would justify a time extension for each infrastructure type.¶

(1) Transportation. A local government may use the following circumstances to justify a transportation-based IBTER:¶

(a) Areas where the supporting roadways, intersections, or both are operating or anticipated to operate over capacity, not meet currently acceptable service levels, or have existing geometric/safety limitations. Supporting information regarding the magnitude and severity of the deficiency must support a determination that the deficiency has a significant impact on transportation function or safety in the affected area. This type of transportation IBTER applies only to areas where mitigation is planned and is either within the jurisdiction and financial capacity of the local government, or is planned, financed, and scheduled in partnership with county, state, or other governmental or private partners.¶

(b) Areas that lack adequate emergency vehicle access per current adopted Fire Code standards, and for which mitigation in conjunction with development is not feasible.¶

(2) Stormwater. A local government may use the following circumstances to justify a stormwater-based IBTER:¶

(a) Lack of stormwater infrastructure, or adequately-sized stormwater infrastructure, such as storm drainage pipes, curb and gutters, catch basins and inlets, lateral storm connections, regional stormwater facilities, and discharge outfalls that results in not meeting an acceptable service level. An acceptable service level may include metrics for water quantity discharge, water quality, or both.¶

(b) A downstream stormwater conveyance system deficiency, resulting in localized ponding or flooding and storm pipe back-ups caused by pipes, culverts, or catch basins in disrepair; these problems may be compounded by high groundwater; compacted underlying soils; or backwater from nearby waterways during high flows; any of which that results in not meeting an acceptable service level.¶

(3) Water and Sewer. A local government may use the following circumstances to justify a water or sanitary sewer IBTER:¶

(a) A significant infrastructure deficiency in localized (not citywide) water or sanitary sewer service that results in unacceptable service levels for water or sewer services. For example, maintaining minimum water pressure in a water system or exceeding the capacity of existing infrastructure within a sanitary sewer system.¶

(b) A localized (not citywide) combined sewer/stormwater system that will exceed capacity as a result of new middle housing units. As further justification the local government shall demonstrate how it would mitigate the deficiency with respect to wastewater capacity and stormwater controls, if both aspects would not meet acceptable service levels. In this case, the local government shall include descriptions and justifications for the IBTER consistent with the requirements for each of the infrastructure types.

Statutory/Other Authority: ORS 197.040, OR Laws 2019, chapter 639, section 4(6), compiled as a note after ORS 197A.420, ORS 197A.420

Statutes/Other Implemented: ORS ~~197.758A.420~~, OR Laws 2019, chapter 639, sections 3 and 4, compiled as a note after ORS 197A.420

AMEND: 660-046-0350

RULE SUMMARY: This rule describes the information and analysis required in an IBTER application, as well as the application deadlines as provided in Oregon Laws 2019, chapter 639, section 4.

CHANGES TO RULE:

660-046-0350

Application Submittal Timeline and Requirements

- (1) Local governments requesting a time extension must file IBTER applications with the department as follows:¶
- (a) By December 31, 2020, for local governments subject to ORS 197.758(3) A.420 as in effect on January 1, 2023.¶
 - (b) By June 30, 2021, for local governments subject to ORS 197.758(2).¶
 - (c) By June 30, 2026, only for unincorporated urban lands.¶
- (2) Completeness review. Upon receipt of an IBTER application, the department will conduct a preliminary completeness review within 30 calendar days of receipt and notify the local government of any additional materials from section (3) that are required to make a complete application. Within one week of receiving notification of an incomplete application, the local government shall notify the department if it will provide all, some, or none of the requested additional information. If no additional information will be provided by the local government, the review period specified in OAR 660-046-0360(2) will begin upon receipt of the notification from the local government. If additional information is to be provided, the review period specified in OAR 660-046-0360(2) will begin on the date of receipt of the additional information. The local government must submit all requested materials within 60 calendar days of receipt of a request for additional materials. If the local government does not submit some or all of the requested completeness materials within the 60-day period, the review period specified in OAR 660-046-0360(2) will begin on the 61st day from the notification of incompleteness, and the department will evaluate the application based on the information that the local government has submitted by the end of the 60-day period.¶
- (3) Required materials. A complete IBTER application from a local government shall include the information described in subsections (a) through (g):¶
- (a) A narrative, graphics, tabular data, and other information as necessary to provide a general description of the significant infrastructure deficiency, including:¶
 - (A) A description of the infrastructure and the current system capacity. Relevant information from adopted utility master plans, special area utility plans, capital improvement plans, or similar documents and studies. Also, an identification of the service level that will not be met, including identification of the adopted utility master plan or other authority which establishes the service level.¶
 - (B) A description of the significant infrastructure deficiency. The application shall clarify if capacity is exceeded currently, or is anticipated by December 31, 2023, based on current development trends; or if the infrastructure is only expected to exceed capacity based on additional impacts from middle housing development pursuant to OAR 660-046-0330(4).¶
 - (C) If the local government finds significant infrastructure deficiency would be caused only by additional middle housing development in the area and plans to continue issuing permits for other types of development within the area, a detailed analysis of how and why existing infrastructure can continue to meet the needs of other types of development, but not middle housing.¶
 - (D) A description of assumptions used to calculate or estimate system capacity. This includes analysis of current impacts on the infrastructure system; impacts from additional development anticipated to occur based on current zoning; and impacts anticipated from the allowance for middle housing in the areas where it is not currently allowed, as more fully described in OAR 660-046-0330(4).¶
 - (E) Documentation of the significant infrastructure deficiency sufficient to allow the department to verify that the deficiency exists, including (but not necessarily limited to) items such as; maintenance and complaint records, photographs, modeling results (if available), crash data, a deficiency documented in an adopted utility master plan, or other evidence of deficiency.¶
 - (b) The name of the service provider if the Infrastructure is owned or operated by another provider, along with a description of any agreements between the local government and service provider for infrastructure improvements.¶
 - (c) A vicinity map showing the boundary of the impacted areas for which the IBTER is requested. If the local government identifies more than one significant infrastructure deficiency (sewer and transportation, for example), the map should show the boundary of each deficiency separately and any areas of overlap.¶
 - (d) A regional map, if applicable, showing the significant infrastructure deficiency that otherwise provides service to the area where an IBTER is being requested.¶
 - (e) If the local government is subject to ORS 197.758 A.420(2), a description of the local government's plan for middle housing implementation in the impacted area, including identification of areas intended for duplex-only

provisions, and, as applicable, standards to be applied in goal-protected and constrained areas, and areas intended to accommodate triplexes, quadplexes, townhomes, and cottage cluster developments.¶¶

(f) A remediation plan that describes the proposed infrastructure improvement(s) intended to remedy the significant infrastructure deficiency so that the local government may implement middle housing provisions. For each infrastructure improvement project, the description should include, at a minimum:¶¶

(A) The proposed period of time needed to address the significant infrastructure deficiency, including phasing and contingencies, if applicable.¶¶

(B) A discussion of the options initially considered for addressing the significant infrastructure deficiency, along with an explanation of how the proposed approach is the most expeditiously feasible approach available to address the deficiency.¶¶

(C) Explanation of how the improvement project will provide acceptable service levels to anticipated middle housing.¶¶

(D) Potential funding source(s), including funding commitments from other governmental agencies or private parties, and schedule for project completion.¶¶

(E) Depiction of the area that will be remedied by the project.¶¶

(F) Proposed timeline and associated mapping to demonstrate any phasing of the remediation plan where there are several improvement projects identified.¶¶

(G) A map of all other areas within the local government where middle housing will be implemented during the extension period.¶¶

(H) If a local government proposes a bond measure or similar financial mechanism that requires voter approval as a means to fund an infrastructure improvement project, a local government may also propose a contingency plan for funding the infrastructure improvement.¶¶

(g) A narrative detailing how the application is in compliance with the Review Criteria in OAR 660-046-0360(5). In response to criterion in OAR 660-046-0360(5)(d), the local government shall provide a map of the local government's jurisdictional area, depicting US Census tract scores based on the Oregon Housing and Community Services Department's Notice of Funding Availability Scoring Criteria Map:

(<https://geo.maps.arcgis.com/apps/webappviewer/index.html?id=2cb211dbdd3d4cf497d8190283f1402f>). The map identifies census tracts within communities that score low, medium, or high in relation to access to opportunity. Those tracts identified as high opportunity areas have a relatively low poverty rate, high labor market engagement index, and a low unemployment rate. Low opportunity areas have a relatively high poverty rate, low labor market engagement index, and a high unemployment rate. The narrative addressing criterion in OAR 660-046-0360(5)(d) must refer to the mapped areas in relation to the review criterion.

Statutory/Other Authority: ORS 197.040, ORS 197A.420, OR Laws 2019, chapter 639, section 4(6), compiled as a note after ORS 197A.420

Statutes/Other Implemented: ORS 197.758, ORS 197A.420, OR Laws 2019, chapter 639, sections 3 and 4-4, compiled as a note after ORS 197A.420

AMEND: 660-046-0360

RULE SUMMARY: This rule outlines the process and criteria for review of an infrastructure-based time extension request. This rule also describes how to appeal a review decision.

CHANGES TO RULE:

660-046-0360

Review Process, Review Criteria and Appeal Process

(1) Review and decision-making authority. The department reviews IBTERs for consistency with the review criteria and compliance with the procedural requirements in OAR 660-046-0360. The department will deny an IBTER that does not meet either the review criteria or comply with the procedural requirements. The department has final decision-making authority for IBTERs. The Land Conservation and Development Commission has decision-making authority for appeals of the department's decision.¶

(2) Posting for Public Comment. The department will post a timely and complete IBTER on the department's website along with the review criteria provided in section (5) and a statement that any person may file a comment regarding the IBTER no more than 21 days after the posting of the IBTER.¶

(3) Valid Comments. Any person may file a comment with the Department. In order to be considered valid, a comment must:¶

(a) Be in writing and filed with the Department no more than 21 days after the Department posting of the IBTER on the department's website;¶

(b) Address one or more of the five review criteria in section (5); and¶

(c) Provide the person's mailing address.¶

(4) Department Decision. The Department shall review the IBTER along with any valid comments and shall approve, approve with conditions of approval under section (7), or deny an IBTER. The department will mail the decision to the local government submitting the IBTER and any person that submitted valid comments. The department will issue a decision on an IBTER as follows:¶

(a) Within 90 days of receipt of a complete application for local governments subject to ORS 197.758A.420(3);¶

(b) Within 120 days of receipt of a complete application for local governments subject to ORS 197.758A.420(2).¶

(5) Review criteria. The department shall consider the following criteria in the review of IBTERs:¶

(a) Whether the identified deficiency is a significant infrastructure deficiency, consistent with the parameters and infrastructure-specific thresholds established in OAR 660-046-0330 and OAR 660-046-0340.¶

(b) Whether the IBTER has adequately described and documented the identified significant infrastructure deficiency and has established a boundary for the requested extension area(s), as required by OAR 660-046-0350. The boundary for the requested time extension is a specific area where there is an identified significant infrastructure deficiency.¶

(c) Whether the proposed remediation plan is likely to be effective and presents the most expeditiously feasible course of action to enable implementation of middle housing provisions.¶

(d) Whether, in relation to the opportunity area map provided per OAR 660-046-0350(3)(g) and any other available data sources regarding income, race, or ethnicity within the jurisdiction, the local government has demonstrated that correction of the significant infrastructure deficiency will either help to overcome patterns of segregation by income, race, or ethnicity, and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics, or, at minimum, will not serve to perpetuate these inequities. To assist with this evaluation, local governments may demonstrate that the IBTER is consistent with a plan of actions over time by the local government and community partners that will reduce barriers to opportunity for all community residents, in all areas within the local government's jurisdiction.¶

(e) Whether the time period proposed for the IBTER is the minimum necessary to remedy the significant infrastructure deficiency.¶

(6) Response to Comments. The department's decision under section (4) shall include a response to each valid comment.¶

(7) Conditions of Approval. The department may impose conditions in time extensions that it deems necessary to satisfy the review criteria or to ensure the time extension is consistent with the intent of OAR chapter 660, division 46, ORS 197.758A.420, and Oregon Laws 2019, chapter 639, section 4.¶

(8) Appeals.¶

(a) Within 21 days of the mailing of the department's decision the local government submitting the IBTER or a person that submitted a valid comment may file an appeal, in writing, of the decision to the Land Conservation and Development Commission. The appellant shall simultaneously provide a copy of the appeal to each recipient of the department's decision as indicated by the department's certificate of service.¶

(b) Appeals must identify the specific findings and analysis that are alleged to be made in error in relation to the

applicable criterion or criteria. A challenge to a condition of approval under section (7) must specify how the condition is inconsistent with the intent of OAR chapter 660, division 46, ORS 197.758A.420, and Oregon Laws 2019, chapter 639, section 4. An appellant may submit written materials in support of the appeal.¶

(c) The local jurisdiction or a party that submitted a valid comment may file a written response to the appeal with the Department within 21 days of the filing of the appeal.¶

(d) The Commission shall hold an appeal hearing within 120 days of the filing of the appeal. The appeal hearing shall be a contested case hearing. In making its decision the Commission may consider:¶

(A) All materials in the record that led to the Department decision under section (4);¶

(B) Any written materials submitted in support of the appeal under subsection (8)(b);¶

(C) Any timely written responses filed in response to the appeal under subsection(8)(c);¶

(D) The department staff report and recommendation to the Commission; and¶

(E) Oral arguments and evidence presented at the appeal hearing.¶

(e) The Commission shall issue a final order rejecting or upholding the appeal within 30 days of the appeal hearing. Statutory/Other Authority: ORS 197.040, OR Laws 2019, chapter 639, section 4(6), compiled as a note after ORS 197A.420, ORS 197A.420

Statutes/Other Implemented: ORS 197.758A.420, OR Laws 2019, chapter 639, sections 3 and 4-4, compiled as a note after ORS 197A.420

AMEND: 660-046-0370

RULE SUMMARY: This rule defines how the length of time an infrastructure-based time extension is determined and how a local government must report during that time.

CHANGES TO RULE:

660-046-0370

Duration of Time Extension

(1) As provided in OAR 660-046-0350(3)(f)(A), the IBTER must specify when the local government intends to correct the significant infrastructure deficiency. The IBTER must provide a detailed timeline for a complete plan of action that will remedy the significant infrastructure deficiency, which may include phased infrastructure improvements and contingent actions and timelines based on circumstances outside the control of the local government.¶¶

(2) If, for reasons beyond the control of the local government, the local government cannot complete an approved remediation plan by the deadline specified in the time extension decision, the local government, prior to the expiration date of a time extension, may prepare an amended remediation plan and submit the plan for department consideration. With the exception of application deadlines specified in OAR 660-046-0350(1), the amended remediation plan must be consistent with the provisions of OAR 660-046-0300 through OAR 660-046-0370. The amended remediation plan must explain why the initial approved plan could not be completed on schedule. Department review of the amended remediation plan is not subject to the completeness review period specified in OAR 660-046-0350(2), nor the required decision timelines in OAR 660-046-0360(4). Otherwise, the review process and criteria for the amended remediation plan must be consistent with the requirements of OAR 660-046-0360. Additionally, the department shall evaluate the following considerations in review of any amended remediation plan:¶¶

(a) Whether the local government anticipated or reasonably should have anticipated the contingencies causing delay in the initial remediation plan;¶¶

(b) Whether additional delay in the enactment of middle housing allowances is warranted; and¶¶

(c) Whether the allowance for middle housing in the subject area would provide an opportunity for other parties to construct the necessary infrastructure as needed in association with middle housing development. ¶¶

(3) Upon the expiration date of a time extension, the local government must either enact development code regulations implementing middle housing or apply the model code, as applicable, per OAR 660-046-0100 or OAR 660-046-0200.

Statutory/Other Authority: ORS 197.040, OR Laws 2019, chapter 639, section 4(6), compiled as a note after ORS 197A.420, ORS 197A.420

Statutes/Other Implemented: ORS 197.758A.420, OR Laws 2019, chapter 639, sections 3 and 4.4, compiled as a note after ORS 197A.420

ADOPT: 660-047-0000

RULE SUMMARY: This rule establishes the purpose of chapter 660 division 47, the Oregon Homes program.

CHANGES TO RULE:

660-047-0000

Purpose

The purpose of this division is to establish standards under which local governments shall approve development that meets specified residential development types, Oregon Homes Developments, on lots or parcels under specified conditions.

Statutory/Other Authority: ORS 197A.408

Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

RULE SUMMARY: This rule establishes the definitions for Division 660-047, the Oregon Homes program.

CHANGES TO RULE:

660-047-0010

Definitions

As used in this division, the definitions in ORS 197A.420, apply. In addition, the following definitions apply:

(1) "Building Height" means the vertical distance from grade plane (measured from the lowest ground surface a maximum of five feet from the building wall) to the average height of the highest roof surface (measured to the tallest point of the roof of the building).

(2) "DBH" means the diameter of a standing tree at breast height, which is measured as the width of a standing tree at four and one-half feet above the ground on the uphill side, as defined in ORS 90.100.

(3) "Design standard" means a standard related to the arrangement, orientation, materials, appearance, articulation, or aesthetic of features on a dwelling unit or accessory elements on a site. Design standards include, but are not limited to, standards that regulate entry and dwelling orientation, facade materials and appearance, window coverage, driveways, parking configuration, pedestrian access, screening, landscaping, and private, open, shared, community, or courtyard spaces.

(4) "Developable area" means the space on the lot not including setbacks, public utility easements, right of way, and any required open space.

(5) "Environmentally sensitive area" means lands protected or designated pursuant to any one of the following statewide planning goals:

(a) Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces;

(b) Goal 6 Air, Water and Land Resource Quality;

(c) Goal 15 Willamette River Greenway;

(d) Goal 16 Estuarine Resources;

(e) Goal 17 Coastal Shorelands; and

(f) Goal 18 Beaches and Dunes.

(6) "Final engineering plans" means the detailed engineering plans and reports for the design or construction of public and private infrastructure improvements that require review and approval following tentative plat approval by a local government before issuing site development permits, including plans and reports for the construction of public and private infrastructure improvements such as grading, water, sewer, stormwater, transportation systems, and utilities.

(7) "Oregon Homes Development" means a residential development type that would be approved to be placed on an Oregon Homes Lot including:

(a) Attached or detached housing, including accessory dwelling units or prefabricated or modular housing;

(b) Types with a buildable area of:

(A) A size of not more than 2,200 square feet per dwelling unit for a single-unit dwelling, accessory dwelling unit, or per dwelling unit for duplex, triplex, quadplex and townhouse; and

(B) An average per-unit size of not more than 1,400 square feet for cottage clusters or a multiunit dwelling;

(c) A multiunit dwelling with more than six and fewer than twelve units;

(d) Housing that complies with the minimum density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel; and

(e) Housing types whose building plans have been approved by Department of Consumer and Business Services pursuant to ORS 455.062, ORS 455.685, or housing types that meet the criteria as provided in subsections (a) - (d) and approved through local building code review.

(8) "Oregon Homes Lot" means a lot or parcel that is:

(a) A lawfully established units of land;

(b) Within an urban growth boundary;

(c) Zoned to allow residential use;

(d) At least 1,500 square feet;

(e) Not larger than 20,000 square feet;

(f) Not covered by slopes averaging more than 15 percent; and

(g) Not within an area identified in an inventory or map that is part of the local government's comprehensive plan as:

(A) Environmentally sensitive or containing significant natural resources;

(B) Open space or scenic areas; or

(C) Natural hazard areas, including floodplains, river greenways, landslide zones, or wildfire risk areas;

(D) If a lot or parcel is otherwise eligible for an Oregon Home's Development, but within an area identified in paragraphs (A-C), development of an Oregon Home is still allowed so long as the developable area is wholly outside of the inventoried area, and its subject protections.¶

(h) Vacant, including a lot or parcel:¶

(A) Created by any lawful division of land, regardless of when the division occurred.¶

(B) On which is sited a nonresidential structure that is nonconforming or not suitable for any lawful use.¶

(C) For which residential units were demolished more than five years prior; or¶

(D) For which residential units were demolished within the previous five years, provided that the approved development would create net additional units and would use a building construction plan approved under Department of Consumer and Business Services pursuant to ORS 455.062, ORS 455.685, or housing types that meet the criteria in section (5) and approved through local building code review.¶

(9) "Public facilities plan or engineering master plan" means a support document or documents to a comprehensive plan. The facility plan describes the water, sewer and transportation facilities which are to support the land uses designated in the appropriate acknowledged comprehensive plans within an urban growth boundary containing a population greater than 2,500. ¶

(10) "Site plan" means a site or development plan that is drawn accurately to scale and include but are not limited to the following existing and proposed information:¶

(a) All property lines with dimensions and total lot area:¶

(b) North arrow and scale of drawing:¶

(c) Adjacent streets, access (driveways), curbs, sidewalks, and bicycle routes:¶

(d) Existing goal protected resources, if any are present on the site:¶

(e) Existing and proposed easements and on-site utilities:¶

(f) Existing and proposed development with all dimensions, including floor area and building footprint:¶

(g) Distances of all existing and proposed development to property lines:¶

(h) Types and location of outdoor area(s) and usable open space (if required):¶

(i) Percentage of the site proposed for outdoor area coverage:¶

(j) Motor vehicle and pedestrian access and circulation systems, including connections off-site, and associated dimensions: and¶

(k) Motor vehicle and bicycle parking areas and design, number of spaces, and loading areas.¶

(11) "Siting standards" means standards regulating placement of structures on a lot or parcel including setbacks, height, bulk, scale, and lot coverage. Siting standards include, but are not limited to, standards that regulate perimeter setbacks, dimensions, bulk, scale, coverage, minimum and maximum parking requirements, utilities, and public facilities.¶

(12) "Traffic impact analysis" means a report prepared by a professional engineer that analyzes existing and future roadway conditions.¶

(13) "Usable outdoor space" means one of the following:¶

(a) Outdoor recreation area surfaced with lawn, groundcover, gravel, or hard surface. The area must be a contiguous 10-foot by 10-foot square:¶

(b) Balconies, terraces, and rooftop decks with seating areas that are available for use by all residents:¶

(c) Tree groves of existing mature trees:¶

(d) Turf or grass play fields:¶

(e) Children's play structure or play area: ¶

(f) Sports courts:¶

(g) Swimming or wading pool or hot tub:¶

(h) Walking fitness course:¶

(i) Natural area with benches: or¶

(j) Gardening area with at least 50 square feet of planting area.

Statutory/Other Authority: ORS 197A.408

Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

ADOPT: 660-047-0020

RULE SUMMARY: This rule creates the local government review process for the development of Oregon Homes Lots.

CHANGES TO RULE:

660-047-0020

Local Government Review Process

A local government must follow the review process as outlined below for an Oregon Homes Development proposed on an Oregon Homes Lot.

(1) Local governments must issue a land use decision, notwithstanding any comprehensive plan or land use regulations or statewide land use planning goals, approving the development of an Oregon Homes Development on an Oregon Homes Lot if the development proposal meets the applicable standards provided in OAR 660-047-0030 through OAR 660-047-0050.

(2) Local governments shall review applications for Oregon Homes Development on an Oregon Homes Lot through a completeness check, being no more rigorous than a ministerial review. Administration of this review shall only be to ensure compliance with standards provided in OAR 660-047-0020 through OAR 660-047-0050 and shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment.

(3) A local government shall deem an application for an Oregon Homes Development complete when the applicant provides the following information to the local government:

(a) Site plan and exhibits that address requirements provided in 660-047-0010, 660-047-0030, 660-047-0040, and 660-047-0050;

(b) Building plans that are:

(A) Approved by the Building Codes Division as meeting applicable building code standards; or

(B) Building plans that meet the requirements of an Oregon Homes Development provided in OAR 660-047-0010 (5); and

(c) A tree mitigation plan that meets the standards outlined in OAR 660-047-0050, as applicable.

(4) A local government shall deem an application submission that does not include information required in this division incomplete.

(5) Applicants shall bear the burden of proof to provide information necessary to determine compliance with the applicable provisions of this division.

(6) A local government shall not require a public notice or hearing in reviewing or approving an application for Oregon Homes Development.

(7) Nothing in this section precludes a local government from applying locally administered public facilities plans, including but not limited to public works design standards, final engineering plans, or requirements resulting from a traffic impact analysis during the development review processes for an Oregon Homes Development application. The order in which a local government applies these locally administered standards or plans during the application or review period is determined by the local government at their discretion. A local government shall not establish public facilities plans, final engineering plans, or traffic impact analysis requirements uniquely for an Oregon Homes Development that exceeds the process applied to all other residential development of the same type.

(8) A local government may charge applications a review fee compatible to similar development applications.

(9) A local government shall deny an Oregon Homes Development application if the application does not meet the definitions of an Oregon Homes Lot and Oregon Homes Development provided in OAR 660-047-0010 and does not meet the requirements provided in OAR 660-047-0030 through OAR 660-047-0050.

(10) A local government is not required to grant a request for adjustment under Oregon Laws 2024, chapter 110, sections 38 to 41, compiled as a note after ORS 197A.395 in approving an application for an Oregon Homes Development.

Statutory/Other Authority: ORS 197A.408

Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

ADOPT: 660-047-0030

RULE SUMMARY: This rule establishes a set of design standards for an Oregon Homes Lot including entry orientation, garages and driveways, and waste storage facilities.

CHANGES TO RULE:

660-047-0030

Design Standards

The following design standards required for the placement of an Oregon Homes Development on an Oregon Homes Lot address essential safety and functional aspects for residents and people that interact with the right-of-way. A local government may apply only the following design standards outlined in this section in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot:¶

(1) All units within the development, unless an attached or detached accessory dwelling unit, must have their pedestrian entry orientation meet at least one of the following:¶

(a) Face the street:¶

(b) Be at an angle of up to 45 degrees from the street:¶

(c) Face a common open space that is adjacent to the street; or¶

(d) Open onto a covered porch or covered patio that is at least 25 square feet in area and have at least one entrance facing the street.¶

(2) Garages, carports, or on-site parking or vehicle maneuvering areas are not required. However, if proposed as part of an Oregon Home Development, the combined width of all garages and outdoor on-site parking and vehicle maneuvering areas, as measured at their widest dimension, shall not exceed a total of 50 percent of the street frontage. The following Oregon Homes Development scenarios are excluded from this standard:¶

(a) Accessible and adaptable units:¶

(b) Lots that receive vehicular access from an alley; and¶

(c) Off-street parking areas that are separated from the street lot line by a dwelling.¶

(3) Storage facilities for trash and recycling receptacles that are located within 20 feet of a street lot line or a lot line abutting residential property shall meet the following standards:¶

(a) The storage facility shall be screened from street lot lines and abutting residential properties by a wall, solid fence, or evergreen hedge. The screen must be at least 4 feet in height, except as specified in subsection (c) and located no more than 3 feet from the storage facility.¶

(b) The storage facility must be separated from the street lot line by at least 5 feet.¶

(c) For lot lines abutting residential properties, the storage facility must either be setback from the lot line by at least 5 feet, or the screen facing the lot line must be at least 6 feet in height.¶

(4) A local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10 percent from the design standards described in this section.

Statutory/Other Authority: ORS 197A.408

Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

ADOPT: 660-047-0040

RULE SUMMARY: This rule establishes a set of siting standards for an Oregon Homes Lot including setbacks, density, and required outdoor areas.

CHANGES TO RULE:

660-047-0040

Siting Standards

The purpose of this division is to establish standards under which local governments shall approve development that meets specified residential development types, Oregon Homes Developments, on lots or parcels under specified conditions. A local government may apply only the following siting standards in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot as outlined in this section. An Oregon Homes development must:

(1) Provide a setback of 5 feet on all sides of the building or the distance required for a proposed or existing utility easement. For buildings greater than 35 feet in building height, the setbacks must be 10 feet on all sides. Building height is defined in OAR 660-047-0010.

(2) Meet the minimum density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel.

(3) Provide outdoor area that is beyond lot area counted towards setbacks comprised of at least 15 percent of the gross site area and containing one or more of the following features:

(a) Areas planted with vegetation (including natural areas and existing trees);

(b) Private open space, including balconies attached to individual dwelling units;

(c) Pedestrian hardscape;

(d) Usable open space being one of the following:

(A) Outdoor recreation area surfaced with lawn, groundcover, gravel, or hard surface;

(B) Balconies, terraces, and rooftop decks with seating areas that are available for use by all residents;

(C) Tree groves of existing mature trees;

(D) Turf or grass play fields;

(E) Children's play structure or play area;

(F) Sports courts;

(G) Swimming or wading pool or hot tub;

(H) Walking fitness course;

(I) Natural area with benches; or

(J) Gardening area with at least 50 square feet of planting area.

(4) A local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10 percent from the setbacks or outdoor area characteristics requirements within this section.

Statutory/Other Authority: ORS 197A.408

Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

ADOPT: 660-047-0050

RULE SUMMARY: This rule establishes standards to guide the preservation, replanting, or replacement of trees on Oregon Home Lots.

CHANGES TO RULE:

660-047-0050

Tree Standards

A local government must require the applicant to adhere to the following standards to guide the preservation or replacement of trees on an Oregon Homes Lot.

(1) Approval of an Oregon Homes Development may not result in the removal of trees that are:

(a) Designated by the local government as a heritage tree, or

(b) 20 inches or greater DBH.

(2) An applicant for an Oregon Homes Development on an Oregon Homes Lot may propose to remove eligible tree(s) as part of the development application. The applicant shall take mitigating measures outlined in this section for each tree proposed to be removed that is:

(a) Designated by the local government through an adopted program, regulations, or ordinances as a protected species;

(b) Not deemed unhealthy by a certified arborist; and

(c) 12 inches or more DBH.

(3) If all of the criteria listed in OAR 660-047-0050 (2) are met, the applicant must conduct one of the following mitigation measures for tree removal:

(a) The replanting of the removed tree on or adjacent to the Oregon Homes Lot;

(b) The replacement of the removed tree with a tree of the same protected species; or

(c) A payment of a fee-in-lieu as established by local ordinance.

Statutory/Other Authority: ORS 197A.408

Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420