

Oregon Administrative Rules Chapter 660, Division 046 – Middle Housing in Medium and Large Cities

Proposed August 2026

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Chapter 660, Division 46, Middle Housing in Medium and Large Cities

660-046-0010, 0020, 0040, 0105-0130, 0205, 0215-0230, 0320-0330, 0350

Rules Summary: This Division includes rules for regulating middle housing types. The rule amendments below update the definitions of middle housing types and definitions of large and medium cities to include local governments with jurisdiction over urban unincorporated land. The deadline for local governments to comply is also updated.

Other conforming amendments are proposed to align with changes to statute, including from House Bill 3395 (2023) and Senate Bill 406 (2023). These bills expanded obligations for cities over 2,500 in population and for cities and unincorporated communities in Tillamook County.

Additionally, HB 2138 (2025) and HB 2347 (2025) replaced the term “detached single-family dwelling” with “detached single-unit dwelling” and “multifamily” with “multi-unit” in ORS 197 and ORS 197A, and the proposed amendments make the same change to Division 046.

Commentary: Rulemaking direction in HB 2138 asks LCDC to adopt rules that further clarify and implement the term “small footprint or floor area” as part of the new cottage cluster definition. Rule clarifying “small footprint or floor area” considers outcomes that provide more opportunities for cottage cluster developments.

Section 4 of HB 2138 requires applicable local governments to comply with Section 1 of the bill (related to definitions), except the changes related to cottage clusters, by January 1, 2027. To meet this deadline and ensure consistency with the bill, amendments are proposed in the rules to conform with the bill language. Amendments to the Middle Housing Model Codes will be adopted at a later time in conformance with the rules.

Updates from the previous draft: In response to public comments received by August 7, 2026, changes are proposed below to provide clarity and consistency with statutory language that was amended by HB 2138, including requiring that middle housing be allowed on each lot or parcel zoned for residential use. Per ORS 197A.420(1)(j), “‘Zoned for residential use’ means land that:

- (A) Is within an urban growth boundary;
- (B) Has base zoning for, or is designated to allow, residential uses;
- (C) Allows the development of a detached single-unit dwelling;
- (D) Is not zoned primarily for commercial, industrial, agricultural or public uses; and
- (E) Is incorporated or urban unincorporated land.”

Changes are also proposed to the Middle Housing Siting Standards in 046-0220 to be consistent with the amendments to the definition of “Cottage Cluster.” The language in definition itself is also updated for clarity.

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 197A.420

History:

[LCDD 18-2020, amend filed 12/29/2020, effective 12/31/2020](#)

[LCDD 12-2020, adopt filed 07/31/2020, effective 08/03/2020](#)

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 Lots or Parcels that are not zoned for residential use.
- (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-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-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-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-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-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-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 197A.400.

(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-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-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-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 197A.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

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- (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-unit dwellings in areas zoned to allow for single-unit dwellings; or
 - (b) Middle Housing in areas not required under this division.

[\[ED. NOTE: To view attachments referenced in rule text, click here to view rule.\]](#)

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.420

History:

[LCDD 3-2021, amend filed 06/02/2021, effective 06/05/2021](#)

[LCDD 18-2020, amend filed 12/29/2020, effective 12/31/2020](#)

[LCDD 12-2020, adopt filed 07/31/2020, effective 08/03/2020](#)

660-046-0020 Definitions

As used in this division, the definitions in ORS 197.015 and ORS 197A.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 197A.420 and this division.
- (2) “Cottage Cluster” means a grouping of dwelling units that:
 - (a) Are attached in subgroupings of up to four units or detached in any configuration;
 - (b) Have a common courtyard; and
 - (c) Have an average floor area of up to 1,400 square feet;
 - (A) To be calculated excluding porches, carports, 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, façade materials and appearance, window coverage, driveways, parking configuration, pedestrian access, screening, landscaping, and private, open, shared, community, or courtyard spaces.
- (5) “Detached single-unit dwelling” means a detached structure on a Lot or Parcel that is comprised of a single dwelling unit.
- (6) “Duplex” has the same meaning as 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 Metro. 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) Urban unincorporated lands as defined in ORS 197A.015(12) of a county.
- (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 2,500 and less than 25,000 and not within Metro.
- (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” has the same meaning as 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” 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” has the 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 197A.420

History:

[LCDD 18-2020, amend filed 12/29/2020, effective 12/31/2020](#)

[LCDD 12-2020, adopt filed 07/31/2020, effective 08/03/2020](#)

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 197A.420

History:

LCDD 12-2020, adopt filed 07/31/2020, effective 08/03/2020

660-046-0040 Compliance

- (1) A Medium or Large City may adopt land use regulations or amend its comprehensive plan to comply with ORS 197A.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 January 1, 2027, 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) 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 January 1, 2027, 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 197A.420

History:

[LCDD 18-2020, amend filed 12/29/2020, effective 12/31/2020](#)

[LCDD 12-2020, adopt filed 07/31/2020, effective 08/03/2020](#)

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 197A.420

History:

[LCDD 18-2020, amend filed 12/29/2020, effective 12/31/2020](#)

[LCDD 12-2020, adopt filed 07/31/2020, effective 08/03/2020](#)

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 197A.420 et seq and Goal 10 Housing for Medium Cities.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.420

History:

[LCDD 12-2020, adopt filed 07/31/2020, effective 08/03/2020](#)

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-unit dwelling, on each Lot or Parcel zoned for residential use.

(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 197A.420

History:

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LCDD 12-2020, adopt filed 07/31/2020, effective 08/03/2020

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 197A.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-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 197A.420

History:

LCDD 18-2020, amend filed 12/29/2020, effective 12/31/2020

LCDD 12-2020, adopt filed 07/31/2020, effective 08/03/2020

660-046-0115 Permitted Uses and Approval Process

Medium Cities must apply the same approval process to Duplexes as detached single-unit dwellings in the same zone. Pursuant to OAR 660-008-0015, and ORS 197A.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 660-008-0015(2) and ORS 197A.400(6).

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.420

History:

LCDD 18-2020, amend filed 12/29/2020, effective 12/31/2020

LCDD 12-2020, adopt filed 07/31/2020, effective 08/03/2020

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-unit dwelling in the same zone. Additionally, Medium Cities shall allow the development of a Duplex on any lot or parcel zoned for residential use, which was legally created prior to the Medium City's current lot size minimum for detached single-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-unit dwellings in the same zone.
- (4) Height: A Medium City may not apply lower maximum height standards than those applicable to detached single-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-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-unit dwelling development must allow the granting of the same exceptions to Duplexes.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.420

History:

[LCDD 18-2020, amend filed 12/29/2020, effective 12/31/2020](#)

[LCDD 12-2020, adopt filed 07/31/2020, effective 08/03/2020](#)

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-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 197A.420

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History:

[LCDD 12-2020, adopt filed 07/31/2020, effective 08/03/2020](#)

660-046-0130 Duplex Conversions

Conversion of an existing detached single-unit dwelling to a Duplex is allowed, pursuant to OAR 660-046-0105(1), 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 197A.420

History:

[LCDD 12-2020, adopt filed 07/31/2020, effective 08/03/2020](#)

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 197A.420 and Goal 10 Housing for Large Cities.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.420

History:

[LCDD 18-2020, adopt filed 12/29/2020, effective 12/31/2020](#)

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-unit dwellings, on each lot or parcel zoned for residential use. 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-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-unit dwellings, such as single-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-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-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) 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.

(4) 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.

(5) 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-unit dwellings on the same Lot or Parcel, including applicable exemptions related to proportionality.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.420

History:

[LCDD 5-2022, amend filed 10/21/2022, effective 10/31/2022](#)

[LCDD 18-2020, adopt filed 12/29/2020, effective 12/31/2020](#)

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 197A.400; and

(b) Do not, individually or cumulatively, discourage the development of Middle Housing through

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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 197A.420

History:

[LCDD 18-2020, adopt filed 12/29/2020, effective 12/31/2020](#)

660-046-0215 Permitted Uses and Approval Process

Large Cities must apply the same approval process to Middle Housing as detached single-unit dwellings in the same zone. Pursuant to OAR 660-008-0015 and ORS 197A.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 197A.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 660-008-0015(2), and ORS 197A.400(6).

Statutory/Other Authority: ORS 197.040

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

History:

[LCDD 18-2020, adopt filed 12/29/2020, effective 12/31/2020](#)

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, the minimum Lot or Parcel size for a Triplex may be no greater than the minimum Lot or Parcel size for a detached single-unit dwelling.

(B) For Quadplexes, the minimum Lot or Parcel size for a Quadplex may be no greater than the

minimum Lot or Parcel size for a detached single-unit dwelling.

(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-unit dwellings in the same zone.

(d) Height: A Large City may not apply lower maximum height standards than those applicable to detached single-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-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-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. The minimum Lot or Parcel size for a Townhouse may be no greater than the minimum Lot or Parcel size for a detached single-unit dwelling.

(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-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-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-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-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-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 minimum Lot or Parcel size for a Cottage Cluster may not be greater than the minimum Lot or Parcel size for a detached single-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 Cottage Clusters, it may not require a minimum Lot or Parcel width that is greater than the standard for a single-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-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 must allow Cottage Cluster units to have an average floor area of up to 1,400 square feet per dwelling unit. A Large City may not include accessory structures in the calculation of floor area average. Nothing in this subsection prohibits a Large City from regulating renovations, remodels, additions, or nonconforming uses after development occurs.
- (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 197A.420

History:

[LCDD 18-2020, adopt filed 12/29/2020, effective 12/31/2020](#)

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-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 façade, height, bulk, and scale; or
 - (d) Alternative design standards as provided in OAR 660-046-0235.
- (2) A Large City may not apply design standards to Middle Housing created as provided in OAR 660-046-0230.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.420

History:

[LCDD 18-2020, adopt filed 12/29/2020, effective 12/31/2020](#)

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), *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 multi-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), *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, §§ 8 and 9, *compiled as a note after* ORS 197A.400

History:

[LCDD 5-2026, adopt filed 05/07/2026, effective 05/18/2026](#)

660-046-0230 Middle Housing Conversions

- (1) Additions to, or conversions of, an existing detached single-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-

unit dwelling, a Large City or other utility service provider that grants clear and objective exceptions to public works standards to detached single-unit dwelling development must allow the granting of the same exceptions to Middle Housing.

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

- (a) The existing single-unit dwelling may be nonconforming with respect to the requirements of the applicable code;
- (b) The existing single-unit dwelling may be expanded up to the maximum height, footprint, or unit size required by the applicable code; however, an existing single-unit dwelling that exceeds the maximum height, footprint, or unit size of the applicable code may not be expanded;
- (c) The existing single-unit dwelling shall count as a unit in the Cottage Cluster;
- (d) The floor area of the existing single-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-unit dwelling to a Cottage Cluster not to exceed five years.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.420

History:

[LCDD 18-2020, adopt filed 12/29/2020, effective 12/31/2020](#)

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 197A.420

History:

[LCDD 18-2020, adopt filed 12/29/2020, effective 12/31/2020](#)

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 197A.420 & OR Laws 2019, chapter 639, sections 3 and 4, *compiled as note after* ORS 197A.420

History:

[LCDD 14-2020, adopt filed 08/07/2020, effective 08/07/2020](#)

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 & ORS 197A.420, OR Laws 2019, chapter 639, section 4(6), *compiled as a note after* ORS 197A.420

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

History:

[LCDD 14-2020, adopt filed 08/07/2020, effective 08/07/2020](#)

660-046-0320 Definitions

In addition to the definitions in OAR 660-046-0020 and in ORS 197.015 and ORS 197A.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-unit dwellings and that are either vacant or developed with detached

single-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 2,500 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 urban unincorporated lands of a county.

(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-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-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 197A.420 & OR Laws 2019, chapter 639, sections 3 and 4, *compiled as a note after* ORS 197A.420

History:

[LCDD 14-2020, adopt filed 08/07/2020, effective 08/07/2020](#)

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-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-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 197A.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 197A.420 & OR Laws 2019, chapter 639, sections 3 and 4, *compiled as a note after* ORS 197A.420

History:

[LCDD 14-2020, adopt filed 08/07/2020, effective 08/07/2020](#)

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 & ORS 197A.420, OR Laws 2019, chapter 639, section 4(6), *compiled as a note after* ORS 197A.420

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

History:

[LCDD 14-2020, adopt filed 08/07/2020, effective 08/07/2020](#)

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 197A.420(3) as in effect on January 1, 2023.

(b) By June 30, 2021, for local governments subject to ORS 197A.420(2) as in effect on January 1, 2023.

(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 197A.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 197A.420 & OR Laws 2019, chapter 639, sections 3 and 4, *compiled as a note after* ORS 197A.420

History:

LCDD 1-2021, minor correction filed 01/29/2021, effective 01/29/2021

LCDD 14-2020, adopt filed 08/07/2020, effective 08/07/2020

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 197A.420(3);

(b) Within 120 days of receipt of a complete application for local governments subject to ORS 197A.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 197A.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 197A.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 & ORS 197A.420, OR Laws 2019, chapter 639, section 4(6), *compiled as a note after* ORS 197A.420

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

History:

LCDD 14-2020, adopt filed 08/07/2020, effective 08/07/2020

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
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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 & ORS 197A.420, OR Laws 2019, chapter 639, section 4(6), *compiled as a note after* ORS 197A.420

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

History:

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