



PLANNING COMMISSION WORK SESSION AGENDA
Monday, January 11, 2021 - 6:00 PM
City Hall, Conference Room A, 169 SW Coast Hwy, Newport, OR 97365

This meeting will be held electronically. The public can live-stream this meeting at <https://newportoregon.gov>. To access the livestream, visit the Planning Commission page at <https://www.newportoregon.gov/citygov/comm/pc.asp>. Once there, an "in progress" note will appear if the meeting is underway; click on the "in progress" link to watch the livestream. It is not possible to get into a meeting that will be livestreamed before the meeting starts. The meeting will also be broadcast on Charter Channel 190.

Public comment may be made, via e-mail, by noon on the scheduled date of the meeting at publiccomment@newportoregon.gov. To make a "real time" comment during a meeting, a request to speak must be received by 2:00 P.M. on the scheduled date of the meeting. The request to speak should include the agenda item on which the requestor wishes to speak. If the comments are not related to a particular agenda item, the request to speak should include a notation that the request is for general public comment, and the general topic. The request should be e-mailed to publiccomment@newportoregon.gov. Once a request to speak has been received, staff will send the requestor the Zoom meeting link. This link will allow a requestor to participate via video or telephone.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER

2. UNFINISHED BUSINESS

- 2.A Initial Review of Land Use Code Amendments to Implement HB 2001 Duplex, Townhouse, and Cottage Cluster Standards (Continued from the December 11, 2020 Meeting).
[01-08-2021 Memorandum](#)
[12-11-2020 Memorandum](#)
[Draft Newport Municipal Code Amendments Implementing HB 2001 \(2019\)](#)


Minutes from the September 14, 2020 Commission Work Session
NMC 14.13.020 Table A (existing)
NMC Chapter 14.31, Townhouses (existing)
OAR Chapter 660, Division 46
DLCD Table Setting Out Medium City Minimum Compliance Requirements
DLCD Model Code for Medium Cities
DLCD Model Code for Large Cities

2.B Updated Planning Commission Work Program.
PC Work Program 1-11-21

3. NEW BUSINESS

4. ADJOURNMENT

Memorandum


To: Planning Commission / Commission Advisory Committee
From: Derrick I. Tokos, AICP, Community Development Director 
Date: January 8, 2021
Re: Draft Revisions to Implement HB 2001 (2019) Related to Duplexes, Townhouses, and Cottage Cluster Development (Continued from 12-13-20 Work Session)

For this work session, I am planning to pick up review of the draft amendments where we left off, at NMC Chapter 14.30, Historic Nye Beach Design Review District and then proceed to cover the new, replacement Chapter 14.31 that sets out development and design standards for townhouses and cottage clusters. There are also minor changes proposed for the Planned Destination Resort Overlay.

This shouldn't take the full hour, so there should be time left for the Planning Commission and Advisory Committee to double back and further discuss the interplay between duplexes and ADUs and whether or not it wants to entertain on-street parking credits in residential areas.

Memorandum

To: Planning Commission / Commission Advisory Committee

From: Derrick I. Tokos, AICP, Community Development Director 

Date: December 11, 2020

Re: Draft Revisions to Implement HB 2001 (2019) Related to Duplexes, Townhouses, and Cottage Cluster Development

Enclosed is an initial draft set of amendments to Newport’s Zoning Ordinance, codified in NMC Chapter 14, to allow two-family dwellings (i.e. duplexes) on all lots or parcels in residentially zoned areas that allow single-family detached dwellings. The changes also put in place optional design standards for townhouse and cottage cluster projects, which the Planning Commission expressed an openness to evaluating when it discussed the topic at a September 14, 2020 work session.

The Oregon Administrative Rules (OARs) implementing HB 2001 for medium sized cities, like Newport, are now final. They are listed in OAR Chapter 660, Division 46, and a copy is enclosed. With these changes, cities must now effectively treat two-family dwellings and single-family dwellings as one and the same. This is with respect to where they are allowed and standards that apply to new development. DLCD developed model codes for medium and large cities, and the revisions I have made borrow heavily from those documents. Since Newport has not adopted design standards for single-family dwellings it can’t adopt design standards for duplexes.

Many of the changes included in the draft set of amendments are housekeeping measures, cleaning up terminology and eliminating outdated provisions. Some of the more relevant provisions include the interplay between duplexes, accessory dwelling units, and multifamily uses, and off-street parking. The draft includes an on-street parking credit for residential development that is similar to what the City currently has in place in Nye Beach. You will want to take a hard look at the proposed language and consider whether or not this is a direction you want to go.

Cottage clusters are added as a new housing type and design standards are included in the draft for both townhouses and cottage clusters. The design standards are more robust than what the City presently applies to multi-family development and the Commission may want to look at putting together standards for multi-family, as it seems odd to be developing standards just for medium density dwelling types.

At this work session, Planning Commission and Advisory Committee members will have an opportunity to provide feedback on this initial draft. My plan will be to incorporate any requested revisions and bring the amendments back for a second work session in January. The City is required to adopt the duplex provisions by June 30, 2021.

- Attachments
- Draft Newport Municipal Code Amendments Implementing HB 2001 (2019)
 - Minutes from the September 14, 2020 Commission work session
 - NMC 14.13.020 Table A (existing)
 - NMC Chapter 14.31, Townhouses (existing)
 - OAR Chapter 660, Division 46
 - DLCD Table Setting Out Medium City Minimum Compliance Requirements
 - DLCD Model Code for Medium Cities
 - DLCD Model Code for Large Cities

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The following changes are proposed to NMC 14.01.020, Definitions:

~~**Court Apartments.** Multiple dwellings arranged around two or three sides of a court opening upon a street.~~

Staff: This concept is addressed in Section 14.11 (below). It is being deleted because the related language in Section 14.11 will now apply to all dwellings. As drafted, a duplex or cluster of duplexes meet this definition. That is problematic under Section 14.11 because it invokes setback requirements that do not presently apply to single family detached dwellings. OAR 660-046-120 prohibits cities from applying setbacks to duplex units that do not apply to single-family dwellings.

~~**Dwelling, Duplex; or Dwelling, Two-Family.** A detached building containing two dwelling units. Two attached dwelling units on one lot or parcel. In instances where a development can meet the definition of a duplex and also meets the definition of a primary dwelling unit with an Accessory Dwelling Unit (ADU), the applicant shall specify at the time of application review whether the development is considered a duplex or a primary dwelling unit with an ADU.~~

Staff: This definition has been amended to align with the definition of "Duplex" in Section B of the model code. It also conforms to the definition for "Duplex" now listed in OAR 660-046-0020(4). Note the interplay with the definition of an ADU. ORS 197.312(5) requires cities to allow at least one ADU for every single family detached dwelling in residential zones where single family detached dwellings are allowed. That includes all four of the City's residential zones and some C-2 zoned areas in Nye Beach. The City has gone further and allows one ADU on a lot or parcel developed with single-family attached housing (NMC 14.16.050(B)). This means that all parcels or lots zoned for residential use will be eligible for up to three (3) units, assuming other clear and objective development standards can be met (i.e. a duplex plus one detached ADU). ORS 197.312(5) prohibits off-street parking requirements for new ADUs.

~~**Dwelling, Triplex; or Dwelling, Three-Family.** A detached building containing three dwelling units.~~

~~**Dwelling, Fourplex; or Dwelling, Four-Family.** A detached building containing four dwelling units.~~

~~**Dwelling, Multi-Family.** A building containing five or more dwelling units. Three or more attached dwelling units on one lot or parcel.~~

Staff: Definitions for triplex and fourplex units are being deleted in favor of a single multifamily definition that applies to three or more dwelling units on a single lot or parcel. The list of allowed residential uses in NMC 14.03.050 does not include these terms. Rather

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it jumps from two-family to multi-family. This change also aligns with how building codes are applied, with single family detached and duplex construction being subject to the Oregon Residential Specialty Code and the construction of three or more attached units being subject to the Oregon Structural Specialty Code. The terms “triplexes” and “fourplexes” are used elsewhere in Chapter 14 in a few isolated locations, which I have addressed below.

Lot. ~~A parcel or tract of land which is occupied or may be occupied by a structure or a use, together with yards and other open space.~~ A lawfully established unit of land.

Parcel. Same as definition of “lot.”

Tract. Two or more contiguous lots or parcels under common ownership.

Staff: These changes break up the City’s existing definition that combines the terms. Definitions for the terms “lot” and “parcel” conform to the definition listed in OAR 660-046-0020(5). The new definition for “tract” maintains the allowance in the City’s existing definition of “lot” that allows someone that owns parcels to develop them as if they were a single unit of land (i.e. a home being built over a common lot line).

Dwelling, Cottage. means an individual dwelling unit that is part of a cottage cluster.

Cottage cluster. means a grouping of no fewer than four detached dwelling units per acre, each with a footprint of less than 900 square feet, located on a single lot or parcel that includes a common courtyard. Cottage cluster may also be known as “cluster housing,” “cottage housing,” “bungalow court,” “cottage court,” or “pocket neighborhood.”

Cottage cluster project. means a tract with one or more cottage clusters. Each cottage cluster as part of a cottage cluster project must have its own common courtyard.

Staff: These three definitions are being added because the Commission expressed an openness to allowing cottage clusters as a housing option. There are two examples in the City, one that was constructed in the Wilder Planned Development and the other is under construction under conventional code provisions along the east side of NW Coast Street north of 6th Street. The definitions substantially align with the definitions contained in DLCD’s draft Model Code for Large Cities. The one deviation is in the definition for cottage cluster project where I have replaced the term “development site” with “tract.” The terms appear to be describing the same thing; however, the City code will have a definition for “tract.”

Dwelling, Townhouse. means a dwelling unit constructed in a row of two or more attached units, where each dwelling unit is located on a single lot or parcel and shares at least one common wall with an adjacent unit. A townhouse is also commonly called a “rowhouse,” “attached house,” or “common-wall house.”

Townhouse project. means one or more townhouse structures constructed, or proposed to be constructed, together with the lot, parcel, or tract where the land has been divided, or is proposed to be divided, to reflect the townhouse property lines and the commonly owned property, if any.

Staff: A definition for “townhouse” is presently contained in NMC Chapter 14.31. It will be moved to the chapter that contains all other definitions and has been revised to align with the definition contained in DLCD’s draft Model Code for Large Cities. The definition for “townhouse project” is new and substantially conforms with language in the same model code. It is necessary to make some adjustments to the townhouse provisions in order to distinguish them from duplexes.

The following changes are proposed to NMC 14.03.050, Definitions:

14.03.050 Residential Uses.
The following list sets forth the uses allowed within the residential land use classification. Uses not identified herein are not allowed. Short-term rentals are permitted uses in the City of Newport’s R-1, R-2, R-3 and R-4 zone districts subject to requirements of Chapter 14.25 Section 14.25.

- "P" = Permitted uses.
- "C" = Conditional uses; permitted subject to the approval of a conditional use permit.
- "X" = Not allowed.

		R-1	R-2	R-3	R-4
A.	Residential				
	1. Single-Family	P	P	P	P
	2. Two-Family	X	P	P	P
	<u>3. Townhouse</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>
	<u>4. Cottage Cluster</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>
	<u>35. Multi-Family</u>	X	X	P	P
	<u>4.6. Manufactured Homes *1</u>	P	P	P	P
	<u>57. Mobile Home</u> <u>Manufactured Dwelling Park</u>	X	<u>P</u>	<u>P</u>	<u>P</u>
B.	Accessory Dwelling Units	P	P	P	P
	(B. was added on the adoption of Ordinance No 2055 on June 17, 2013; and subsequent sections relettered accordingly. Effective July 17, 2013.)				

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C.	Accessory Uses	P	P	P	P
D.	Home Occupations	P	P	P	P
E.	Community Services				
	1. Parks	P	P	P	P
	2. Publicly Owned Recreation Facilities	C	C	C	C
	3. Libraries	C	C	C	C
	4. Utility Substations	C	C	C	C
	5. Public or Private Schools	C	C	C	P
	6. Child Care Facilities	P	P	P	P
	7. Day Care Facilities	C	C	C	C
	8. Religious Institutions/Places of Worship	C	C	C	C
F.	Residential Care Homes	P	P	P	P
G.	Nursing Homes	X	X	C	P
H.	Bed and Breakfast Inns	X	X	C	C
I.	Motels and Hotels	X	X	X	C
J.	Professional Offices	X	X	X	C
K.	Rooming and Boarding Houses	X	X	C	P
L.	Beauty and Barber Shops	X	X	X	C
M.	Colleges and Universities	C	C	C	C
N.	Hospitals	X	X	X	P
O.	Membership Organizations	X	X	X	p
P.	Museums	X	X	X	P
Q.	Condominiums	X	P	P	P
R.	Hostels	X	X	X	C
S.	Golf Courses	C	C	C	X
T.	Recreational Vehicle Parks	X	X	X	C
U.	Necessary Public Utilities and Public Service Uses or Structures	C	C	C	C
V.	Residential Facility*	X	X	P	P
W.	Movies Theaters**	X	X	X	C
X.	Assisted Living Facilities***	X	C	P	P
Y.	Bicycle Shop****	X	X	X	C

¹ Manufactured homes may be located on lots, parcels or tracts outside of a manufactured dwelling park subject to the provisions listed in NMC 14.06.020.

(Section 14.03.050 was amended by Ordinance No. 2144, adopted on May 6, 2019: effective May 7, 2019.)

Staff: Townhouse and cottage cluster development options have been added. The Commission may want to consider whether or not “cottage clusters” should be allowed in the R-2 as well. The townhouse allowance in the R-2, R-3, and R-4 zone districts is consistent with what the City presently allows pursuant to NMC 14.31.030. Mobile homes, by definition, are manufactured units constructed between 1962 and 1976. No new parks for these units are being built, so the provision for mobile home parks is being removed and replaced with “Manufactured Dwelling Parks.” as a cleanup item. Existing mobile home parks are non-conforming. Manufactured Dwelling Parks are currently allowed in R-2, R-3, and R-4 zones per NMC 14.06.030.

A duplex can be a manufactured home, in which case it would be subject to the same siting and design standards are manufactured homes that are a single dwelling.

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The following changes are proposed to NMC Chapter 14.11, Required Yard and Setbacks:

14.11.010 Required Yards

A building, or portion thereof, hereafter erected shall not intrude into the required yard listed in Table A of NMC 14.13.020 for the zone indicated.

Staff: This change is being made to clarify where Table A is located in the Municipal Code.

14.11.020 Required Recreation Areas

All ~~multiple-family~~multi-family dwellings, condominiums, hotels, motels, ~~mobile home parks, trailer parks~~manufactured dwelling parks, and recreational vehicle parks shall provide for each unit a minimum of 50 square feet of enclosed outdoor area landscaped or improved for recreation purposes exclusive of required yards such as a patio, deck, or terrace.

Staff: The term multiple-family is used only in two other locations. It should be multi-family. The outdated terms "mobile home park" and "trailer park" have also been deleted and replaced with manufactured dwelling parks.

14.11.030 Garage Setback

The entrance to a garage or carport shall be set back at least 20 feet from the access street for all residential structures.

14.11.040 Yards for Group Buildings

A. In case of group buildings on one lot, parcel, or tract including institutions and dwellings, the yards on the boundary of the lots, parcel, or tract shall not be less than required for one building on one lot or parcel in the district in which the property is located.

Staff: This change is needed to account for the fact that the terms lot, parcel, and tract are no longer comingled in the City's definitions.

B. The distance between group buildings and on one lot property lines interior to a tract shall ~~be twice the width of the required side, front, or rear yards~~satisfy yard requirements that apply to a lot or parcel in the district in which the property is located, except as provided in NMC 14.11.050(D). in the case of yard combinations that no yard be required to exceed 25 feet.

Staff: This section was drafted to ensure that buildings constructed on contiguous properties met internal lot lines unless the yards were combined. It is a bit convoluted. The change clarifies that yards from interior lines must be met except as provided in a new NMC 14.11.050(D).

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C. In the case of ~~court apartments~~ dwelling units rearing on side yards, the required side yards shall be increased two feet in width for each dwelling unit rearing thereon.

Staff: The term court apartments is eliminated in favor of dwellings in a general sense. The definition of court apartments, which is being deleted, could apply to duplex units which is problematic under OAR 660-046-120. Multi-family is the most common project that can orient to a side yard in this manner.

D. No ~~court serving a group of~~ dwelling units ~~court~~ shall be less than 25 feet in width.

Staff: Court is a defined term, which reads "An open, unoccupied space on the same lot with the building or buildings and which is bounded on two or more sides by such building or buildings. An open, unoccupied space bounded by one "L" shaped building, which is not a court but a yard."

E. In the R-3 and R-4 zones where ~~three or more commercial or residential~~ multi-family dwelling units are in a continuous row on ~~an interior lots, parcel, or tract~~ rearing on one side yard and fronting upon another side yard, the side yard on which the multi-family dwelling rears shall not be less than eight feet. The side yard on which the multi-family dwellings fronts shall not be less than 18 feet in width.

Staff: Buildings with three or more dwelling units are multi-family. This change indicates as much.

14.11.050 General Exceptions to Required Yard

A. Front Yards.* In the event a front yard less than the minimum has been legally established on one or both of the adjacent lots, the minimum front yard for an interior lot may be reduced to the average of what has been established for the adjoining front yards.

B. Projections Into Yards. Every part of a required yard shall be open from the ground to the sky, unobstructed except for the following:

1. Accessory building in the rear yard as provided in [Section 14.16.](#)*

*(*Sentence amended by Ordinance No. 2011 (2-18-11).)*

2. Ordinary building projections such as cornices, eaves, belt courses, sills, or similar architectural features may project into side yards not more than 12 inches or into front and rear yards not more than 24 inches.

3. Chimneys may project into any required yard not more than 16 inches.

4. Uncovered balconies or fire escapes may project into any required yard not more than one foot.

5. Uncovered terraces may project or extend into a required front yard not more than five feet or into a required side yard not more than one foot or into a required court not more than six feet. The regulations contained in this paragraph shall not apply to paved parking or driveway areas at ground level.

C. Dwelling Units Above Stores. Yards are not required for dwellings above businesses unless the dwelling area exceeds 50% of the floor area of the business dwelling.

D. Buildings on a Tract. Required yards shall apply to the boundary of the tract. In cases where a single building or group of buildings do not meet the yard requirements that would apply to property lines interior to the tract were they to be developed as single lots or parcels, a deed restriction, in a form approved by the City, shall be recorded stating that the property upon which the building or buildings is located cannot be sold or otherwise transferred. This restriction shall remain in effect until the interior property lines are eliminated or yard requirements that would apply to the property as a single lot or parcel are met.

Staff: These address situations where an individual is developing a tract and desires to build over interior lot lines or does not wish to address setbacks that would typically apply to interior lot lines because they do not intend to sell the lots individually. It is allowable now given the city's definition of lot. The deed restriction component is not currently addressed in the zoning code. We have picked it up as an alternative method under the building code to avoid having to require a firewall at the property boundary.

The following changes are proposed to NMC 14.12.020, General Exceptions to Lot Size Requirements:

14.12.020 General Exceptions to Lot Size Requirements

A residentially zoned lot having less width or less area than required under the terms of this ordinance that was of record prior to December 5, 1966, may be occupied by a ~~one-family dwelling unit~~ single-family dwelling or two-family dwelling, provided all yard requirements (setbacks) are complied with. Substandard lots in R-3 and R-4 zones may be occupied by multi-family dwellings not exceeding the density limitations for that zone provided in Table A, as provided in [Section 14.13](#) herein below, but only upon allowance of a conditional use in accordance with the provisions of [Section 14.33](#), Conditional Uses, and [Section 14.52](#), Procedural Requirements.*

Staff: OAR 660-046-105(1) requires that cities allow a duplex/two-family dwelling on every lot or parcel that allows a single-family detached dwelling. This change is required to comply with the rule.

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The following changes will replace the existing Table A in NMC 14.13.020. A copy of the existing Table A is attached for reference.

Table "A"

Zone District	Min. Lot Area (sf)	Min. Width	Required Setbacks ^{3,7}			Lot Coverage (%)	Max. Building Height	Density (Land Area Required Per Unit (sf))
			Front/2 nd Front ¹	Side	Rear			
R-1	7,500 sf	65-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft & 8-ft	15-ft	54 %	30-ft	SFD - 7,500 sf ² Duplex - 3,750 sf ²
R-2	5,000 sf ³	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	57%	30-ft	SFD – 5,000 sf ² Duplex - 2,500 sf ² Townhouse - 2,500 sf ³
R-3	5,000 sf ³	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	60%	35-ft	1,250 sf ³
R-4 ⁴	5,000 sf ³	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	64%	35-ft	1,250 sf ^{3,5}
C-1	5,000 sf	0	0	0	0	85-90% ⁶	50-ft ⁶	n/a
C-2 ⁴	5,000 sf	0	0	0	0	85-90% ⁶	50-ft ⁶	n/a
C-3	5,000 sf	0	0	0	0	85-90% ⁶	50-ft ⁶	n/a
I-1	5,000 sf	0	50-ft from US 101	0	0	85-90% ⁶	50-ft ⁶	n/a
I-2	20,000 sf	0	50-ft from US 101	0	0	85-90% ⁶	50-ft ⁶	n/a
I-3	5 acres	0	50-ft from US 101	0	0	85-90% ⁶	50-ft ⁶	n/a
W-1	0	0	0	0	0	85-90% ⁶	40-ft ⁶	n/a
W-2	0	0	0	0	0	85-90% ⁶	35-ft ⁶	n/a
MU-1 to MU-10 Mgmt. Units	0	0	0	0	0	100%	40-ft ⁶	n/a
P-1	0	0	0	0	0	100%	50-ft	n/a
P-2	0	0	0	0	0	100%	35-ft	n/a
P-3	0	0	0	0	0	100%	30-ft	n/a

¹ Front and second front yards shall equal a combined total of 30-feet. Garages and carports shall be setback at least 20-feet from the access street for all residential structures.

² Density limitations apply where there is construction of more than one single-family dwelling (SFD) or duplex on a lot or parcel.

³ Density limitations for townhouses and cottage clusters is the minimum area required per townhouse or cottage cluster unit; whereas, minimum lot area, minimum lot width, and setbacks, apply to the perimeter of the lot, parcel, or tract dedicated to the townhouse or cottage cluster project.

⁴ Special Zoning Standards apply to R-4 and C-2 zoned property within the Historic Nye Beach design Review District as outlined in NMC 14.30.100.

⁵ Density of hotels, motels, and non-residential units shall be one unit for every 750 sf of land area.

⁶ Height limitations, setbacks, and lot coverage requirements for property adjacent to residential zones are subject to the height and yard buffer requirements of NMC Section 14.18.

⁷ Front and 2nd front setbacks for a townhouse project or cottage cluster project shall be 10-feet except that garages and carports shall be setback a distance of 20-feet.

Staff: Residential dimensional standards have been revised to allow duplex units in all zones and to account for townhouse and cottage cluster projects.

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The following changes are proposed to NMC 14.14.030, Number of Parking Spaces Required:

14.14.030 Number of Parking Spaces Required

A. Off-street parking shall be provided and maintained as set forth in this section. Such off-street parking spaces shall be provided prior to issuance of a final building inspection, certificate of occupancy for a building, or occupancy, whichever occurs first. For any expansion, reconstruction, or change of use, the entire development shall satisfy the requirements of [Section 14.14.050](#), Accessible Parking. Otherwise, for building expansions the additional required parking and access improvements shall be based on the expansion only and for reconstruction or change of type of use, credit shall be given to the old use so that the required parking shall be based on the increase of the new use. Any use requiring any fraction of a space shall provide the entire space. In the case of mixed uses such as a restaurant or gift shop in a hotel, the total requirement shall be the sum of the requirements for the uses computed separately. Required parking shall be available for the parking of operable automobiles of residents, customers, or employees, and shall not be used for the storage of vehicles or materials or for the sale of merchandise. A site plan, drawn to scale, shall accompany a request for a land use or building permit. Such plan shall demonstrate how the parking requirements required by this section are met.

Parking shall be required at the following rate. All calculations shall be based on gross floor area unless otherwise stated.

1.	General Office	1 space/600 sf
2.	Post Office	1 space/250 sf
3.	General Retail (e.g. shopping centers, apparel stores, discount stores, grocery stores, video arcade, etc.)	1 space/300 sf
4.	Bulk Retail (e.g. hardware, garden center, car sales, tire stores, wholesale market, furniture stores, etc.)	1 space/600 sf
5.	Building Materials and Lumber Store	1 space/1,000 sf
6.	Nursery – Wholesale Building	1 space/2,000 sf 1 space/1,000 sf
7.	Eating and Drinking Establishments	1 space/150 sf
8.	Service Station	1 space/pump
9.	Service Station with Convenience Store	1 space/pump + 1 space/ 200 sf of store space
10.	Car Wash	1 space/washing module + 2 spaces
11.	Bank	1 space/300 sf
12.	Waterport/Marine Terminal	20 spaces/berth
13.	General Aviation Airport	1 space/hangar + 1 space/300 sf of terminal

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14.	Truck Terminal	1 space/berth
15.	Industrial	1.5 spaces
16.	Industrial Park	1.5 spaces/5,000 sf
17.	Warehouse	1 space/2,000 sf
18.	Mini-Warehouse	1 space/10 storage units
19.	Single-Family Detached Residence (one space may be the driveway between garage and front property line)	2 spaces/dwelling
20.	Duplex	1 space/dwelling
21.	Apartment	1 space/unit for first four units + 1.5 spaces/unit for each Additional unit
22.	Condominium (Residential)	1.5 spaces/unit
23.	Townhouse	1.5 spaces/unit
24.	Cottage Cluster	1 space/unit
2325.	Elderly Housing Project	0.8 space/unit if over 16 dwelling units
2426.	Congregate Care/Nursing Home	1 space/1,000 sq. ft.
2527.	Hotel/Motel	1 space/room + 1 space for the manager (if the hotel/motel contains other uses, the other uses Shall be calculated separately
2628.	Park	2 spaces/acre
2729.	Athletic Field	20 spaces/acre
2830.	Recreational Vehicle Park	1 space/RV space + 1 space/10 RV spaces
2931.	Marina	1 space/5 slips or berths
3032.	Golf Course	4 spaces/hole
3133.	Theater	1 space/4 seats
3234.	Bowling alley	4 spaces/alley
3335.	Elementary/Middle School	1.6 spaces/classroom
3436.	High School	4.5 spaces/classroom
3537.	Community College	10 spaces/classroom
3638.	Religious/Fraternal Organization	1 space/4 seats in the main auditorium
3739.	Day Care Facility	1 space/4 persons of license occupancy
3840.	Hospital	1 space/bed
3941.	Assembly Occupancy	1 space/8 occupants (based on 1 occupant/15 sf of exposition/meeting/assembly room conference use not elsewhere specified

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B. On-Street Credit. A dwelling unit on property zoned for residential use, located outside of special parking areas as defined in NMC 14.14.100, shall be allowed an on-street parking credit that reduces the required number of off-street parking spaces by one off-street parking space for every one on-street parking space abutting the property subject to the following limitations:

- 1. The dwelling unit is not a short-term rental; and**
- 2. Each on-street parking space is 22-ft long by 8-ft wide unless an alternate configuration has been approved and marked by the City of Newport; and**
- 3. Each on-street parking space to be credited must be completely abutting the subject property. Only whole spaces qualify for the on-street parking credit; and**
- 4. On-street parking spaces will not obstruct a clear vision area required pursuant to Section 14.17; and**
- 5. On-street parking spaces credited for a specific use may not be used exclusively by that use, but shall be available for general public use at all times. No signs or actions limiting general public use of on-street parking spaces are allowed except as authorized by the City of Newport.**

Staff: Parking ratios for townhouses and cottage clusters have been added. The townhouse ratio is what is presently required in Section 14.31. The cottage cluster ratio is what DLCD's Model Code recommends for units over 1,000 sf in size. It recommends no parking requirements below that size. The ratio for single family dwellings has been amended to allow both off-street spaces to be situated on a driveway. OAR 660-046-0120(5) sets out parking limitations for medium sized cities. It prohibits cities from requiring more than 2 off-street spaces. Newport's current requirement of one off-street space per dwelling unit is compliant. DLCD's Model Code for Medium size cities recommends that off-street parking not be required for duplexes. DLCD encourages cities to provide on-street parking credits and language is included with the cottage cluster provisions in the Model Code for Large Cities. Newport currently offers on-street credits in the Historic Nye Beach Design review District. The above language would extend the concept to residentially zoned areas elsewhere in the city.

The following changes are proposed to NMC 14.16.050(B), Development Standards for Accessory Dwelling Units:

- B. A maximum of one Accessory Dwelling Unit is allowed for each detached single-family dwelling or townhouse on a lot or parcel. In cases where a Staff:**

The following changes are proposed to NMC 14.16.050(B), Development Standards for Accessory Dwelling Units:

property lot or parcel is developed with ~~one or more single family attached~~ a two-family dwellings, a maximum of one, detached Accessory Dwelling Unit is allowed per lot or parcel.

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Staff: This change is needed to clarify the point at which a building becomes a multi-family development (i.e. three or more units).

The following changes are proposed to NMC 14.19, Landscaping:

14.19.030 Applicability

The provisions of this ordinance shall apply to all new commercial, industrial, public/institutional, and multi-family development, including additions to existing development or remodels, ~~other than single family and two-family dwelling units.~~

14.19.040 General Requirements

The objective of this section is to encourage the planting and retention of existing trees and other vegetation to improve the appearance of off-street parking areas, yard areas and other vehicular use areas; to protect and preserve the appearance, character, and value of surrounding properties, and thereby promote the general welfare, safety and aesthetic quality of the City of Newport; to establish buffer strips between properties of different land uses in order to reduce the effects of sight and sound and other incompatibilities between abutting land uses; to insure that noise, glare and other distractions within one area does not adversely affect activity within the other area. Prior to the issuance of a building permit, landscaping plans showing compliance with this section are required.

- A. No landscape plan submitted pursuant to this section shall be approved unless it conforms to the requirements of this ordinance.
- B. Landscape plans shall be submitted for all development ~~other than one and two-family residential.~~ Said plans shall include dimensions and distances and clearly delineate the existing and proposed building, parking space, vehicular access and the location, size and description of all landscape areas and materials.

Staff: With this change townhomes and cottage cluster development will not be subject to the provisions of Section 14.19. Separate design standards are provided for these uses.

The following changes are proposed to NMC 14.28.060, Iron Mountain Impact Area, Uses Permitted in an R-4 Zoning District:

14.28.060 Uses Permitted in an R-4/"High Density Multi-Family Residential" Zoning District****

The following uses are allowed subject to the criteria and standards of the underlying zone and the criteria and standards contained in [Section 14.28.140](#) of this Code:

- A. ~~Dwellings~~Single-Family Dwellings, Including Accessory Buildings Such As Meeting Rooms and Recreational Areas.
- B. Manufactured Homes.
- C. Two-Family Dwellings.
- D. Townhomes.
- E. Cottage Clusters.
- ~~FB.~~ Condominiums~~Multi-Family.~~
- ~~CG.~~ Mobile HomeManufactured Dwelling Parks.
- ~~DH.~~ Child Care Facilities.
- ~~EI.~~ Uses Related to Federal or State Subsidized Low Income Housing Projects, Including, but not limited to, Head Start, Tenants Associations, and the like.
- J. Accessory Uses and Structures pursuant to Section 14.16.

Staff: At a minimum this section must be amended to allow two-family dwellings to comply with OAR 660-046-115, which stipulates that cities must allow two-family dwellings where single-family dwellings are allowed. Other residential uses added are within the range of residential densities presently allowed within the overlay.

The following changes are proposed to NMC 14.30, Design Review Standards :

14.30.070 Application Submittal Requirements

B. For requests that are subject to Planning Commission review for compliance with design guidelines, an application for Design Review shall consist of the following:

1. Submittal requirements for land use actions listed in [Section 14.52.050](#).

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2. Exterior elevations of all buildings on the site as they will appear after development. Such plans shall indicate the material, texture, shape, and other design features of the building(s), including all mechanical devices.
3. A parking and circulation plan illustrating all parking areas, drive isles, stalls, and points of ingress/egress to the site.
4. A landscape plan showing the location, type and variety, size and any other pertinent features of the proposed landscaping and plantings for projects that involve ~~multiple-family (more than 2 units)~~multi-family, commercial, and public/institutional development.

Staff: This is the only other area in the code where the term multiple-family was used. It is being changed to multi-family for consistency. This revision is not substantive as the term multi-family is defined as three or more dwelling units.

14.30.080 Permitted Uses

In addition to uses permitted outright or conditionally in the underlying zoning district, the following uses are permitted within areas subject to design review.

A. Historic Nye Beach Design Review District.

1. Tourist Commercial (C-2) zoned property.
 - a. Up to five (5) multi-family dwelling units per lot or parcel are permitted outright provided they are located on a floor other than a floor at street grade.
 - b. A single-family residence is permitted outright if located on a floor other than a floor at street grade.
 - c. A single-family residence is permitted outright, including the street grade floor, within a dwelling constructed prior to January 1, 2004. Residential use at the street grade is limited to the footprint of the structure as it existed on this date.
 - d. Single family, duplex, townhouses, cottage clusters ~~triplex, fourplex~~ and multi-family dwelling units, including at the street grade, are permitted outright on property located south of NW 2nd Court and north of NW 6th Street, except for properties situated along the west side of NW Cliff Street.

Staff: This is one of two areas in the Municipal Code where the terms "triplex" and "fourplex" are used. The terms are being deleted in favor of multi-family. This is not a substantive change since the definition of multi-family encompasses these forms of development. Adding the terms townhomes and cottage clusters is for clarity as these types of uses were permitted as an individual or group of single-family or duplex units, they just weren't called out.

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The following changes will replace the existing Section 14.31, Townhouses. A copy of the existing Section is attached for reference.

CHAPTER 14.31 TOWNHOUSES AND COTTAGE CLUSTERS

14.31.010 Purpose

The purpose of this section is to establish specific development criteria and design parameters for townhouse and cottage cluster developments to provide middle housing options and provide design guidance, to protect the public health, safety, and welfare.

14.31.020 Development Standards

- A. Perimeter Requirements. Minimum lot area, lot width, setbacks, lot coverage and building height requirements for a townhouse project or cottage cluster project shall be as specified in NMC 14.13.020, Table A. Such standards apply to the perimeter of the lot, parcel, or tract upon which the townhouse project or cottage cluster project is to be constructed. Front and 2nd front setbacks for a townhouse project or cottage cluster project shall be 10-feet, except that garages and carports shall be setback a distance of 20-feet consistent with NMC 14.11.030.
- B. Maximum Density.
1. Townhouse. One dwelling unit for every 3,750 sf of land in the R-1 zone district, one unit for every 2,500 sf of land in the R-2 zone district, and one unit for every 1,250 sf of land in R-3 and R-4 zone districts.
 2. Cottage Clusters. One dwelling unit for every 1,250 sf in R-3 and R-4 zone districts.
- C. Minimum Lot Size. None.
- D. Off-Street parking Requirements. As specified in Section 14.14.
- E. Unit Size. The maximum average floor area for a cottage cluster shall not exceed 1,400 sf per dwelling unit. Community buildings shall be included in the average floor area calculation for a cottage cluster.
- F. Minimum Outdoor Open Space/Patio Area. 150 sf per townhouse unit.
- G. Utilities. Each dwelling unit shall be served by separate utilities.

Staff: These provisions are generally consistent with what the City presently allows. Cottage cluster and townhouse projects are treated similarly with many of the development standards applying to the perimeter of the lot, parcel, or tract that is being developed.

14.31.030 Number of Units in Building

No building in a townhouse project may exceed six townhouse dwelling units.

Staff: This is an existing limitation in Section 14.31 and would prohibit large rowhouse development.

14.31.040 Townhouse Design Standards

A. New townhouses shall meet the following design standards:

1. Entry Orientation. The main entrance of each townhouse must:
 - a. Be within 8 feet of the longest street-facing wall of the dwelling unit; and
 - b. Either:
 - i. Face the street (see Figure 14);
 - ii. Be at an angle of up to 45 degrees from the street (see Figure 15);
 - iii. Face a common open space or private access or driveway; or
 - iv. Open onto a porch (see Figure 17). The porch must:
 - (A) Be at least 25 square feet in area; and (B) Have at least one entrance facing the street or have a roof.
2. Unit Definition. Each townhouse must include at least one of the following on at least one street-facing façade (see Figure 23):
 - a. A roof dormer a minimum of 4 feet in width, or
 - b. A balcony a minimum of 2 feet in depth and 4 feet in width and accessible from an interior room, or
 - c. A bay window that extends from the facade a minimum of 2 feet, or
 - d. An offset of the facade of a minimum of 2 feet in depth, either from the neighboring townhouse or within the façade of a single townhouse, or
 - e. An entryway that is recessed a minimum of 3 feet, or
 - f. A covered entryway with a minimum depth of 4 feet, or
 - g. A porch meeting the standards of subsection (1)(b)(iv) of this section.

3. **Windows.** A minimum of 15 percent of the area of all street-facing facades on each individual unit must include windows or entrance doors. Half of the window area in the door of an attached garage may count toward meeting this standard. See Figure 18.
4. **Driveway Access and Parking.** Townhouses with frontage on a public street shall meet the following standards:
 - a. Garages on the front façade of a townhouse, off-street parking areas in the front yard, and driveways in front of a townhouse are prohibited unless the following standards are met (see Figure 24). For the purposes of this section, “driveway approach” means the edge of a driveway where it abuts a public right-of-way.
 - i. Each townhouse lot has a street frontage of at least 15 feet on a local street.
 - ii. A maximum of one (1) driveway approach is allowed for every townhouse. Driveways may be shared.
 - iii. Outdoor on-site parking and maneuvering areas do not exceed 12 feet wide on any lot.
 - iv. The garage width does not exceed 12 feet, as measured from the inside of the garage door frame.
 - b. The following standards apply to driveways and parking areas for townhouse projects that do not meet all of the standards in subsection (a).
 - i. Off-street parking areas shall be accessed on the back façade or located in the rear yard. No off-street parking shall be allowed in the front yard or side yard of a townhouse.
 - ii. A townhouse project that includes a corner lot shall take access from a single driveway approach on the side of the corner lot. See Figure 25.
 - iii. Townhouse projects that do not include a corner lot shall consolidate access for all lots into a single driveway. The driveway and approach are not allowed in the area directly between the front façade and front lot line of any of the townhouses. See Figure 26.
 - iv. A townhouse project that includes consolidated access or shared driveways shall grant appropriate access easements to allow normal vehicular access and emergency access.
 - c. Townhouse projects served by an alley providing access to the rear yards of all units are exempt from compliance with subsection (b).

Staff: The design standards listed above have been taken from DLCD's draft Model Code for Large Cities. I did not have time to convert the graphics; however, I left the figure numbers so that you can cross-reference to the model code that includes the graphics. A copy of the model code is enclosed. Adopting design standards is optional.

14.31.050 Cottage Cluster Design Standards

A. Cottage clusters shall meet the following design standards:

1. Cottage Orientation. Cottages must be clustered around a common courtyard and must meet the following standards (see Figure 27):
 - a. A minimum of fifty (50) percent of cottages within a cluster must be oriented to the common courtyard and must:
 - i. Have a main entrance facing the common courtyard;
 - ii. Be within 10 feet from the common courtyard, measured from the façade of the cottage to the nearest delineation of the common courtyard; and
 - iii. Be connected to the common courtyard by a pedestrian path.
 - b. Cottages within 20 feet of a street property line may have their entrances facing the street.
 - c. Cottages not facing the common courtyard or the street must have their main entrances facing a pedestrian path that is directly connected to the common courtyard.
2. Common Courtyard Design Standards. Each cottage cluster must share a common courtyard in order to provide a sense of openness and community of residents. Common courtyards must meet the following standards (see Figure 27):
 - a. The common courtyard must be a single, contiguous, useable piece.
 - b. Cottages must abut the common courtyard on at least two sides of the courtyard.
 - c. The common courtyard must contain a minimum of 150 square feet per cottage within the associated cluster.
 - d. The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.
 - e. The common courtyard shall be developed with a mix of landscaping and lawn area, recreational amenities, hard-surfaced pedestrian paths, and/or paved courtyard area. Impervious elements of the common courtyard shall not exceed 75 percent of the total common courtyard area.
 - f. Pedestrian paths qualify as part of a common courtyard. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.

3. Community Buildings. Cottage cluster projects may include community buildings for the shared use of residents that provide space for accessory uses such as community meeting rooms, guest housing, exercise rooms, day care, or community eating areas. Community buildings must meet the following standards:
 - a. Each cottage cluster is permitted one community building, which shall be included in the calculation of average floor area, pursuant to subsection (B)(5).
 - b. A community building that meets the development code's definition of a dwelling unit must meet the maximum 900 square foot footprint limitation that applies to cottages, unless a covenant is recorded against the property stating that the structure is not a legal dwelling unit and will not be used as a primary dwelling.
4. Pedestrian Access.
 - a. An accessible pedestrian path must be provided that connects the main entrance of each cottage to the following:
 - i. The common courtyard;
 - ii. Shared parking areas;
 - iii. Community buildings; and
 - iv. Sidewalks in public rights-of-way abutting the site or roadways if there are no sidewalks.
 - b. The pedestrian path must be hard-surfaced and a minimum of five (5) feet wide.
5. Windows. Cottages within 20 feet of a street property line must meet any window coverage requirement that applies to detached single family dwellings in the same zone.
6. Parking Design (see Figure 28).
 - a. Clustered parking. Off-street parking may be arranged in clusters of not more than five (5) contiguous spaces separated by at least four (4) feet of landscaping. Clustered parking areas may be covered.
 - b. Parking location and access. Off-street parking spaces shall not be located within 10 feet of any other property line. Driveways and drive aisles are permitted within 10 feet of other property lines.
 - c. Screening. Landscaping or architectural screening at least three feet tall shall separate clustered parking areas and parking structures from common courtyards and public streets.

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- d. Garages and carports. Garages and carports (whether shared or individual) must not abut common courtyards. Garage doors for individual garages must not exceed 12 feet in width.
7. **Existing Structures.** On a lot or parcel to be used for a cottage cluster project, a pre-existing single-family dwelling may remain within the cottage cluster project area under the following conditions:
 - a. The existing dwelling may be nonconforming with respect to the requirements of this code.
 - b. Existing dwellings may be expanded up to the maximum height or footprint required by this code; however, existing dwellings that exceed the maximum height, footprint, and/or unit size of this code may not be expanded.
 - c. The floor area of the existing dwelling shall not count towards the maximum average floor area of a cottage cluster.

Staff: The design standards listed above have been taken from DLCD's draft Model Code for Large Cities. I did not have time to convert the graphics; however, I left the figure numbers so that you can cross-reference to the model code that includes the graphics. A copy of the model code is enclosed. There is one parking provision that I did not include, which requires parking be 20-feet from a street. Such a requirement would be difficult to meet given Newport's terrain and smaller lot and parcel sizes. Allowing cottage clusters and adopting design standards for this type of residential use is optional.

14.31.060 Access

The parent lot shall have a minimum of 25 feet of frontage onto a street. For purposes of this section, a street can be either a public or private way dedicated for street purposes. Townhouse or cottage cluster lots are not required to have frontage on a street, but in no case may a townhouse or cottage cluster lot be further than 100 feet from a street. For townhouse and cottage cluster projects where street frontage for individual lots is not provided, an adequate turnaround is required, as determined by the Fire Marshal. In addition, townhouse or cottage cluster lots with no frontage shall have a perpetual easement across any and all lots that have frontage and any intervening lot.

Staff: This is existing language in NMC Section 14.31 that has been expanded to include cottage cluster projects.

14.31.080 Deed Covenant and Maintenance Agreements

The developer of a townhouse or cottage cluster project shall provide the City with copies of any deed restrictions, covenants and conditions, and any maintenance agreements to the Community Development Director prior to final plat approval. Such documents shall be approved by the City Attorney and Community Development Director to assure that adequate provisions are contained in those documents for maintenance of buildings, utilities, landscaping, parking areas, common areas, private streets or drives, and other items held in common.

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Staff: This is existing language in NMC Section 14.31 that has been expanded to include cottage cluster projects.

14.31.090 Subdivision Required

Townhouse and cottage cluster projects will require a segregation of lots, a partition or subdivision, as applicable, will be required with its appurtenant requirements as per the City of Newport Subdivision Ordinance (No. 1285, as amended).

Staff: This is existing language in NMC Section 14.31 that has been expanded to include cottage cluster projects.

The following changes are proposed to NMC 14.40.030(C), Planned Destination Resort, Uses Permitted Outright, Residential Dwellings:

14.40.030 Uses Permitted Outright

The following uses shall be permitted outright provided they are part of, and are intended to serve persons at, a destination resort pursuant to this section, and are approved in a final development plan.

C. Residential dwellings:

1. Single-family dwellings;
2. Duplexes, ~~triplexes, fourplexes~~ cottage clusters, and multi-family dwellings;
3. Condominiums;
4. Town-houses;
5. Time-share projects; and
6. Other residential dwellings compatible with the purposes of this section.

Staff: This is the other location where the terms "triplexes" and "fourplexes" is used. They are being deleted as redundant since the type of use is "multi-family." Cottage cluster is added as a use type, since it is consistent with the range of uses listed.

MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Council Chambers by Video Conference
September 14, 2020
6:00 p.m.

Planning Commissioners Present by Video Conference: Jim Patrick, Lee Hardy, Bob Berman, Jim Hanselman, and Bill Branigan.

Planning Commissioners Absent: Mike Franklin, and Gary East (*all excused*).

PC Citizens Advisory Committee Members Present by Video Conference: Dustin Capri, and Braulio Escobar.

PC Citizens Advisory Committee Members Absent: Greg Sutton.

City Staff Present: Community Development Director (CDD) Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order.** Chair Patrick called the Planning Commission work session to order at 6:03 p.m.
2. **Unfinished Business.**
 - A. **Draft OARs Implementing HB 2001 (Large City Model Code) and HB 2003 (Housing Production Strategies).** Tokos reviewed his staff memo. He noted the city had until the end of June next year to complete this and suggested that they package things together as a single amendment.

Tokos reviewed Chapter 3, Triplexes and Quadplexes section of the model code. Patrick asked how the maximum floor area ratio was determined. Tokos explained that you're allowed 1.4 feet of floor area for every foot of lot there is. This was defined in the document as well.

Tokos reviewed how the minimum lot size for detached single family dwellings and maximum floor area ratio (FAR) worked, and what the building setbacks and maximum building heights were. Berman asked if what they were saying was that they couldn't set the maximum height to 35 feet. Tokos confirmed this was correct. Hanselman asked if someone would only need one off-street parking if they put a duplex on a lot that was less than 4,000 feet. Tokos confirmed this was correct. The model code was looking to minimize any kind of parking requirements because they viewed off-street parking requirements as a deterrent to density needs, and to get people to walk, bike and use alternate modes of travel. Tokos reminded that this was a model code for cities bigger than Newport with more robust transit. Berman asked what the difference was between the requirements for off-street parking for duplexes and triplexes, and asked if they could require off-street parking for duplexes. Tokos explained that this was just a model code, but the city had the ability under administrative rule to have off-street parking requirements. He thought the maximum number of spaces for duplexes was two. Tokos reminded the city was under no obligation to incorporate any provision out of the model code. The Commission could decide what options they wanted to adopt. Hanselman was discourage this was making as much imperviable surfaces on a lot as possible. He thought this was a step backwards for the community environmentally. Hardy agreed.

Tokos reviewed the entry orientation, widows, garage and off-street parking sections next. He noted that at this point the city didn't regulate standards for these areas much. Tokos reviewed the driveway approaches, improved alley access and unit definitions next. Escobar asked if Newport had to adopt rules for duplexes and if the higher density standards were optional. He didn't see a lot of the standards that would work well in Newport and thought it would be wise to focus on duplexes and come back to other issues on higher density after the review.

Berman asked if Newport, as a medium city, was not required to allow these things in R-1 and R-2 zones but some of the standards or the code could be added where they were already allowed in the city to try and clean up eye sores. Tokos agreed this was correct, and noted they currently allowed townhouses in R-2, R-3 and R-4 zones but they weren't subject to design standards. He explained that the question was if they wanted to potentially incorporate some design standards. If so, he could work this into the same package as the duplexes. This was because he would have to do a lot of work on the code, he could pull some of this in as well.

Capri thought keeping design standards a bit lenient was helpful. He liked having a list of standards to choose from such as the Nye Beach Standards instead of having to meet a whole list of standards. Capri thought that encouraging developers to do some of the standards, not all, would be good. Tokos pointed out that the Commission had the option to mix and match with this. Berman asked if it was necessary for the timeframe to mix in the design standards with the duplex standards. Tokos said it wasn't. He just wanted to package them together for time efficiency.

Tokos reviewed the Cottage Clusters section and noted this was an area where they could do work and provide some clarity. He explained there were ways to do this in the existing standards but these updates would provide clarity on when people wanted to do this type of common courtyard housing. Berman thought tiny homes could fit into the same pattern as these. Tokos confirmed they could and noted a project in Nye Beach where they were doing multiple homes with accessory dwelling units that weren't required to have off-street parking.

Tokos asked if the Commission had interest in allowing higher density in R-1 and R-2 zones. If not, he asked if there was interest in potentially pulling some of the design standards to apply in the higher density areas where they allowed the use but didn't have any design standards for the use. Berman thought that having design standards would be good but they needed to be flexible and give an "either/or" choice. Capri didn't want to rush this and make it difficult to design to the standard. He thought there were a lot of examples where this was done well but they could go overboard. Patrick didn't see putting anything in the duplex code except driveway standards. He thought it was interesting to look at the cottage standards. He felt the townhouse and the rest of the standards were for places other than Newport. There were some parts on the setbacks that would work and thought it would allow people to build instead of requiring them to get a nonconforming use approval. Hardy thought the driveway access suggestions were poor. She didn't see any benefit for limiting the length of a driveway. There was nothing that interested her in terms of configurations. She indicated that the State of Oregon over densified populations since it exacerbated the spread of disease. The streets were under parked, and there were substandard streets in Newport that couldn't handle a lot of on-street parking. Branigan didn't see much in the standards that applied to Newport. If you tried to mandate design changes it would take away from the feel of Newport. Branigan didn't see an advantage to them. Exacerbates disease

Hanselman questioned what problems Newport had that this program addressed. He didn't think it would solve problems This felt like they were shoehorning additional density wherever they could. Hardy agreed. Berman noted the issue was if they wanted to adopt design standards and if the city wanted any say in the configuration and how things looked. Capri noted there already were requirements in the Oregon Specialty Code and City requirements that dictated how a structure would end up looking like. Adding designs standards ran the risk of adding things that would start to create one typology in a community. Hanselman asked if Capri saw anything that was onerous if this was adopted. Capri didn't, but thought the hard part was when it became a city requirement. When reading the code it was straight forward but when someone had a certain budget, site, constraints and needs for a particular piece of land, this was when some of the standards became problematic. Berman noted when considering typography of a lot it forced some choices that might or might not be in conflict with the design standard. Capri agreed and noted a duplex project he designed. At first the lot looked flat but when they looked at the typography onsite the duplexes had to be built with offset heights from each other. Patrick noted that what he was hearing was that none of the Commissioners like the townhouse and triplex standards at all, there wasn't a lot of support for driveway standards, there was a little bit of support for cottage standards, and limited support for design standards. The Commission was in general agreement with this.

Tokos would move ahead with the duplex work, and put together some thoughts on what they could do with cottage clusters. He would review if there were some target standards they felt strongly about as staff for design standards for some of the existing uses like townhouses, triplexes, or four-plexes. He would bring it forward with the rationale for review. Capri asked if the design standards could be a separate discussion or if they should

be a part of this discussion. Tokos thought it should be bundled together to handle it as efficiently as possible because they would have to do design standards for duplexes. He explained that this would be a refining exercise for the Commission as they moved forward.

Escobar asked if the standards would override CC&Rs in some neighborhoods. Tokos explained that there were some specific provisions that if the CC&Rs were in effect prior to the adoption of the law, the CC&Rs would still be enforceable. Prospectively, new CC&Rs would be a problem.

Branigan asked if duplexes could span over contiguous lots or would they be restricted to just one lot. Tokos explained that it depended on what they were trying to do, and if it was in an area where a triplex could span multiple lots. These could be done if they were willing to deed restrict the properties and manage them singularly. Tokos gave an example of a currently built apartment complex that straddled lot lines where they had to do a covenant to maintain it as a single large unit of land. If the object of the property was to sell individually, they would have to get their lot lines adjusted. Branigan asked if the Fisherman's Wharf Estates project could build across lots. Tokos explained these lots were R-2 zoned and town houses could be built but it wasn't what they were approved for in their subdivision. They were approved for a 10 lot residential division and noted the developer submitted an extension on their subdivision approval.

Tokos explained that the HB 2003 applied to the City and changed rules relative to planning for housing. Traditionally this was done with a land use assessment and looked at different tools we had to encourage housing. The House Bill increased the frequency the City would have to do that type of assessment. Previously there really wasn't any deadlines and most jurisdictions did this every 10 years. Now it would be every eight years for Newport and we would have to comply with annual requirements and midcycle check ins. This encouraged the city to be aggressive to promote and adopt rules that incentivized housing. This would now require things like providing supportive services to get homeless into stable housing. Tokos explained that this was starting to go beyond the city's traditional role and created a regulatory framework for construction of housing to a more proactive role. This administrative rule along with the one they were looking at for HB 2001 would have an initial public hearing on September 25th, and the hearing for adoption would be in early November. The city would have to comply with HB 2023 by the end of the 2022 calendar year and they would be starting the process at the beginning of the next budget cycle. 2014 was the last time the city updated the housing needs and buildable lands work when they did the OSU housing supplement.

- B. Revised TSP Update Schedule & Summary of Public Outreach Virtual Event No. 1.** Tokos noted the documents for the TSP public outreach and events would be shared online. There would be two virtual online events. One would be where people could work their own way through it and fill out surveys. The other event would be more interactive. The Policy Advisory Committee provided input on the work that needed to be done. The outreach would be online because of the pandemic and it would allow the public to participate and hopefully give input. Berman noted that there needed to be a good way to get ideas from all the public, especially ones who weren't technically inclined.
3. **New Business.** None were heard.
4. **Adjourn.** The meeting adjourned at 6:57 p.m.

Respectfully submitted,



Sherri Marineau,
Executive Assistant

**14.13.020
TABLE "A"**

District	Minimum Lot Area (Sq. Ft.)	Minimum Width	Setback Requirements:			Lot Coverage In Percent	Maximum Building Height	Density In Sq. Ft. Per Unit
			Front/2nd Front ¹	Side	Rear			
R-1/"Low Density Single-Family Residential"	7,500	65'	15' and 20' or 15' and 10'	5' & 8'	15'	54%	30'	7,500
R-2/"Medium Density Single-Family Residential"								
Duplex on interior lot	7,500	50'	15' and 15' or 20' and 10'	5'	10'	57%	30'	3,750
Duplex on corner lot	5,000	50'	15' and 15' or 20' and 10'	5'	10'	57%	30'	2,500
House	5,000	50'	15' and 15' or 20' and 10'	5'	10'	57%	30'	5,000
R-3/"Medium Density Multi-Family Residential"	5,000	50'	15' and 15' or 20' and 10'	5'	10'	60%	35'	1,250 ²
R-4/"High Density Multi-Family Residential" ³	5,000	50'	15' and 15' or 20' and 10'	5'	10'	64%	35'	1,250
C-1/"Retail and Service Commercial"	5,000	0'	0'	0'	0'	85-90%*	50**	n/a
C-2/"Tourist Commercial"	5,000	0'	0'	0'	0'	85-90%*	50**	n/a
C-3/"Heavy Commercial"	5,000	0'	0'	0'	0'	85-90%*	50**	n/a
I-1/"Light Industrial"	5,000	0'	50' from Hwy. 101	0'	0'	85-90%*	50**	n/a
I-2/"Medium Industrial"	20,000	0'	50' from Hwy. 101	0'	0'	85-90%*	50**	n/a
I-3/"Heavy Industrial"	5 acres	0'	50' from Hwy. 101	0'	0'	85-90%*	50**	n/a

* See Section 2-4-4

n/a - not applicable

¹ Front and second front yards shall equal a combined total of 30 feet. All garages shall be set back at least 20 feet from the access street.

² Amended by Ordinance No. 1642 (8-3-92).

³ Density of hotels, motels, and nonresidential units shall be one unit per 750 square feet.

**14.13.020 (con't)
TABLE "A"**

District	Minimum Lot Area (Sq. Ft.)	Minimum Width	Setback Requirements:			Lot Coverage In Percent	Maximum Building Height	Density In Sq. Ft. Per Unit
			Front/2nd Front	Side	Rear			
W-1/"Water Dependent"	0	0'	0'	0'	0'	85-90%*	40**	n/a
W-2/"Water Related"	0	0'	0'	0'	0'	85-90%*	35**	n/a
MU-1 thru MU-10 (Management Units)	0	0'	0'	0'	0'	100%	40**	n/a
P-1/"Public Structures"	0	0'	0'	0'	0'	100%	50'	n/a
P-2/"Public Parks"	0	0'	0'	0'	0'	100%	35'	n/a
P-3/"Public Open Space"	0	0'	0'	0'	0'	100%	30'	n/a
(M-H)/"Mobile Home Overlay"	For mobile homes on individual lots, see underlying zone; for mobile home parks, see ORS 446.100 and OAR 814-28-060.							

* See Section 2-4-4

n/a - not applicable

Front and second yards shall equal a combined total of 30 feet. All garages shall be set back at least 20 feet from the access street.

CHAPTER 14.31 TOWNHOUSES

14.31.010 Purpose

The purpose of this section is to allow for different ownership patterns by allowing townhouses in certain zones subject to specific development standards, to regulate the development of townhouses, and to outline specific development criteria and design parameters to protect public health, safety, and welfare.

14.31.020 Definitions

For the purposes of this section, the following definitions shall apply:

- A. Parent Lot. The legal lot or lots in existence prior to the townhouse development.
- B. Townhouse. A single-family dwelling in a row of at least two units in which each unit has its own front and rear access to the outside, no unit or portion thereof is located over another unit or portion thereof except for parking spaces or garages, each unit is separated from any other unit by one or more common walls, and each unit has its own underlying townhouse lot.
- C. Townhouse Lot. The underlying real estate associated with a townhouse.

14.31.030 Zoning Districts Where Townhouses are Located

Townhouse are an outright permitted use in the R-2, R-3, and R-4 zoning districts subject to the standards contained in this section.

14.31.040 Density

The overall density of a townhouse development shall not exceed the density allowed in the underlying zoning district and shall be computed on the parent lot.

14.31.050 Number of Units in Building

No separate building in a townhouse development may exceed six townhouse units.

14.31.060 Development Standards

All townhouse developments shall meet the following:

- A. Minimum lot size: None.**
- B. Maximum parent lot coverage: Underlying zone.
- C. Maximum height: Underlying zone.
- D. Minimum outdoor open space or patio: 150 square feet per townhouse.
- E. Minimum parking: 1.5 spaces per townhouse.***
- F. Minimum parent lot frontage: 25 feet.
- G. Minimum parent lot setback: Underlying zone.
- H. Utilities: Each dwelling unit shall be served by separate utilities.

*(*Added by Ordinance No. 1783 (1-20-98).*

***Amended by Ordinance No. 1791 (7-6-98).*

****Parking may be on each lot or in a common parking lot, carport, or garage for one or more townhouses.)*

(Not to Scale)

Lot 1 = 2,000 Sq. Ft./Lot 2 = 1,500 Sq. Ft./Lot 3 = 1,500 Sq. Ft.

14.31.070 Access

The parent lot shall have a minimum of 25 feet of frontage onto a street. For purposes of this section, a street can be either a public or private way dedicated for street purposes. Townhouse lots are not required to have frontage on a street, but in no case may a townhouse lot be further than 100 feet from a street. For townhouse developments where frontage for townhouse lots is not provided, an adequate turnaround as determined by the Fire Marshal on the parent lot is required. In addition, townhouse lots with no frontage shall have a perpetual

easement across any and all lots that have frontage and any intervening lot.

14.31.080 Deed Covenant and Maintenance Agreements

The developer of a townhouse development shall provide the city with copies of any deed restrictions, covenants and conditions, and any maintenance agreements to the Community Development Director prior to final plat approval. Such documents shall be approved by the City Attorney and Community Development Director to assure that adequate provisions are contained in those documents for maintenance of buildings, utilities, landscaping, parking areas, common areas, private streets or drives, and other items held in common.

14.31.090 Process

Townhouse developments are permitted in the R-2, R-3, and R-4 zoning districts as an outright permitted use. However, since a townhouse development will require a segregation of lots, a partition or subdivision, as applicable, will be required with its appurtenant requirements as per the City of Newport Subdivision Ordinance (No. 1285, as amended).

14.31.100 Exception for Reconstruction or Repair of Non-Conforming Townhouse Developments

Nothing in this Ordinance shall be construed to prohibit the complete reconstruction or repair of a non-conforming townhouse development that was in existence on or before February 1, 1998, subject to the conditions and requirements in effect when the townhouse development originally occurred.

Chapter 660

Division 46

Middle Housing in Medium and Large Cities

660-046-0000

Purpose

The purpose of this division is to prescribe standards guiding the development of Middle Housing types as provided in Oregon Laws 2019, chapter 639. OAR 660-046-0010 to OAR 660-046-0130 establish standards related to the siting and design of Middle Housing types in urban growth boundaries.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758

History:

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 must comply with this division.
- (2) Notwithstanding section (1), a local government need not comply with this division for:
 - (a) Lands that are not zoned for residential use, including but not limited to lands zoned primarily for commercial, industrial, agricultural, or public uses;
 - (b) Residentially zoned lands that do not allow for the development of a detached single-family home; or
 - (c) Lands that are not incorporated and that are zoned under an interim zoning designation that maintains the land's potential for planned urban development.
- (3) Local governments may regulate Middle Housing to comply with protective measures (including plans, policies, and regulations) adopted and acknowledged pursuant to statewide land use planning goals. Where local governments have adopted, or shall adopt, regulations implementing the following statewide planning goals, the following provisions provide direction as to how those regulations shall be implemented in relation to Middle Housing, as required by OAR 660-046-0010.
 - (a) Goal 5: Natural Resources, Scenic, and Historic Areas - Pursuant to OAR 660-023, local governments must adopt land use regulations to protect identified resources under Goal 5, including regulations to comply with protective measures (including plans, policies, and regulations) applicable to Middle Housing.
 - (A) Goal 5 Riparian Areas, Wetlands, and Wildlife Habitat – Pursuant to OAR 660-023-0050 through 660-023-0115, local governments must adopt land use regulations to protect water quality, aquatic habitat, and the habitat of threatened, endangered and sensitive species. This includes regulations applicable to Middle Housing to comply with protective measures adopted pursuant to Goal 5. Local governments may apply regulations to Duplexes that apply to detached single-family dwellings in the same zone.
 - (B) Goal 5: Historic Resources – Pursuant to OAR 660-023-0200(7), local governments must adopt land use regulations to protect locally significant historic resources . This includes regulations of Middle Housing to comply with protective measures as it relates to the integrity of a historic resource or district. Protective measures shall be adopted and applied as provided in OAR 660-023-0200. Local governments may not apply the following types of regulations specific to Middle Housing:
 - (i) Use, density, and occupancy restrictions that prohibit the development of Middle Housing on historic properties or districts that otherwise permit the development of detached single-family dwellings.
 - (ii) Standards that prohibit the development of Middle Housing on historic properties or districts that otherwise permit the development of detached single-family dwellings
 - (b) Goal 7: Areas Subject to Natural Hazards – Pursuant to OAR 660-015-0000(7), local governments must adopt comprehensive plans (inventories, policies and implementing measures) to reduce risk to people and property from natural hazards. Such protective measures adopted pursuant to Goal 7 apply to Middle Housing, including but not limited to restrictions on use, density, and occupancy in the following areas:

- (A) Special Flood Hazard Areas as identified on the applicable FEMA Flood Insurance Rate Map (FIRM) ; or
- (B) Other hazard areas identified in an adopted comprehensive plan or development code; provided the development of Middle Housing presents a greater risk to life or property than the development of detached single-family dwellings. Greater risk includes but is not limited to actions or effects such as:
- (i) Increasing the number of people exposed to a hazard;
 - (ii) Increasing risk of damage to property, built, or natural infrastructure;
 - (iii) Exacerbating the risk by altering the natural landscape, hydraulics, or hydrology.
- (c) Goal 15: Willamette Greenway – Pursuant to OAR 660-015-0005, cities and counties must review intensifications, changes of use or developments to insure their compatibility with the Willamette River Greenway. Local governments may regulate Middle Housing to comply with Goal 15 protective measures that apply to detached single-family dwellings in the same zone.
- (d) Goal 16: Estuarine Resources – Pursuant to OAR 660-015-0010(1) and OAR 660-017, local governments must apply land use regulations that protect the estuarine ecosystem, including its natural biological productivity, habitat, diversity, unique features and water quality. Local governments may prohibit Middle Housing in areas regulated to protect estuarine resources under Goal 16.
- (e) Goal 17: Coastal Shorelands – Pursuant to OAR 660-015-0010(2) and OAR 660-037-0080, local governments must apply land use regulations that protect shorelands for water-dependent recreational, commercial, and industrial uses. This includes regulations applicable to Middle Housing to comply with protective measures adopted pursuant to Goal 17. Local governments may apply regulations to Duplexes that apply to detached single-family dwellings in the same zone.
- (f) Goal 18: Beaches and Dunes – Pursuant to OAR 660-015-0010(3), local governments must apply land use regulations to residential developments to mitigate hazards to life, public and private property, and the natural environment in areas identified as Beaches and Dunes. This includes regulations applicable to Middle Housing to comply with protective measures adopted pursuant to Goal 18 including but not limited to restrictions on use, density, and occupancy; provided the development of Middle Housing presents a greater risk to life or property than development of detached single-family dwellings. Greater risk includes but is not limited to actions or effects such as:
- (A) Increasing the number of people exposed to a hazard;
 - (B) Increasing risk of damage to property, built or natural infrastructure; and
 - (C) Exacerbating the risk by altering the natural landscape, hydraulics, or hydrology.
- (4) This division does not prohibit local governments from allowing:
- (a) Single-family dwellings in areas zoned to allow for single-family dwellings; or
 - (b) Middle Housing in areas not required under this division.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758

History:

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 197.758 et seq apply, unless the context requires otherwise. In addition:

- (1) "A local government that has not acted" means a local government that has not adopted acknowledged land use regulations that are in compliance with ORS 197.758 and this division.
- (2) "Department" means the Department of Land Conservation and Development.
- (3) "Detached single-family dwelling" means a detached structure on a Lot or Parcel that is comprised of a single dwelling unit, either site built or a manufactured dwelling.
- (4) "Duplex" means two attached dwelling units on one Lot or Parcel. A Medium City may define a Duplex to include two detached dwelling units on one Lot or Parcel.

- (5) "Lot or Parcel" means any legally created unit of land.
- (6) "Medium City" means each city with a certified Portland State University Population Research Center estimated population more than 10,000 and less than 25,000 and not within a metropolitan service district.
- (7) "Middle Housing" means a Duplex as defined in section (4).
- (8) "Model Code" means the model code developed by the Department contained OAR 660-046-0110(5).
- (9) "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.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758

History:

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:
- Waiving or deferring system development charges;
 - 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
 - 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

History:

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

660-046-0040

Compliance

- (1) A local government may adopt land use regulations or amend its comprehensive plan to comply with ORS 197.758 et seq and the provisions of this division.
- (2) A local government may request from the Department an extension of the time allowed to complete the action in section (1) pursuant to ORS 197.758.
- (3) A Medium City that has not acted by June 30, 2021 and has not received an extension under section (2), shall directly apply the applicable Model Code contained in OAR 660-046-0130(5) in its entirety to all proposed Middle Housing development applications until such time as the Medium City has adopted provisions under section (1).
- (4) If a Medium City has adopted land use regulations or amended its comprehensive plan by the date provided under section (3) and the city's land use regulations or comprehensive plan changes are subsequently remanded by the Land Use Board of Appeals or an appellate court solely on procedural grounds, the Medium City is deemed to have acted. Accordingly, the Medium 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:
- The Medium 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 City has not adopted land use regulations or amended its comprehensive plan within 120 days of the date of the remand, the Medium City is deemed not to have acted under section (3).

(5) If a Medium City has adopted land use regulations or amended its comprehensive plan by the date provided under section (3) and the Medium 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 city is deemed to have not acted under section (3).

(6) If a Medium 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 city shall continue to apply its land use regulations and comprehensive plan as they existed prior to the amendments until the amendments are acknowledged.

(7) In the event that a Medium City directly applies the Model Code in accordance with sections (3) and (5), the Model Code completely replaces and pre-empted any provisions of that Medium City's development code that conflict with the Model Code.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758

History:

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

660-046-0050

Eligible Local Governments

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

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758

History:

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 197.758 et seq and Goal 10 Housing for Medium Cities.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758

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

(2) OAR 660-046-0105 through OAR 660-046-0130 do not require a Medium City to allow more than two dwellings units on a Lot or Parcel, including any accessory dwelling units.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758

History:

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; and

(b) Do not, individually or cumulatively, discourage the development of Duplexes through unreasonable costs or delay.

(3) Siting and design standards that create unreasonable cost and delay include any standards applied to Duplex development that are more restrictive than those applicable to detached single-family dwellings in the same zone.

(4) Siting and design standards that do not, individually or cumulatively, discourage the development of Duplexes through unreasonable cost and delay include only the following:

(a) Regulations to comply with protective measures adopted pursuant to statewide land use planning goals provided in OAR 660-046-0010(3);

(b) Permitted uses and approval process provided in OAR 660-046-0115;

(c) Siting standards provided in OAR 660-046-0120;

(d) Design standards in Medium Cities provided in OAR 660-046-0125;

(e) Duplex Conversions provided in OAR 660-046-0130; and

(f) Any siting and design standards contained in the Model Code referenced in section (5).

(5) For the purposes of assisting Medium Cities in adopting reasonable siting and design standards for Duplexes, the Commission adopts the following model Middle Housing code for Medium Cities. The Model Code provided in Exhibit A of this section will be applied to Medium Cities who have not acted to comply with the provisions of ORS 197.758 and this division and completely replaces and pre-empts any provisions of that Medium City's development code that conflict with the Model Code.

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

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758

History:

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-family dwellings in the same zone. Pursuant to OAR 660-008-0015 and ORS 197.307, Medium Cities may adopt and apply only clear and objective standards, conditions, and procedures regulating the development of Duplexes. Nothing in this rule prohibits a Medium City from adopting 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 197.307(6).

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758

History:

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

- (2) Density: If a Medium City applies density maximums in a zone, it may not apply those maximums to the development of Duplexes.
- (3) Setbacks: A Medium City may not require setbacks to be greater than those applicable to detached single-family dwellings in the same zone.
- (4) Height: A Medium City may not apply lower maximum height standards than those applicable to detached single-family dwellings in the same zone.
- (5) Parking:
- (a) A Medium City may not require more than a total of two off-street parking spaces for a Duplex.
- (b) Nothing in this section precludes a Medium City from allowing on-street parking credits to satisfy off-street parking requirements.
- (6) Lot Coverage and Floor Area Ratio: Medium Cities are not required to apply lot coverage or floor area ratio standards to new Duplexes. However, if the Medium City chooses to apply lot coverage or floor area ratio standards, it may not establish a cumulative lot coverage or floor area ratio for a Duplex that is less than established for detached single-family dwelling in the same zone.
- (7) A Medium City or other utility service provider that grants clear and objective exceptions to public works standards to detached single-family dwelling development must allow the same exceptions to Duplexes.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758

History:

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

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758

History:

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

660-046-0130

Duplex Conversions

Conversion of an existing detached single-family dwelling to a Duplex is allowed, pursuant to OAR 660-046-0105(2), provided that the conversion does not increase nonconformance with applicable clear and objective standards in the Medium City's development code, unless increasing nonconformance is otherwise allowed by the Medium City.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758

History:

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

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)

Statutes/Other Implemented: ORS 197.758 & OR Laws 2019, chapter 639, sections 3 and 4

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 & OR Laws 2019, chapter 639, section 4(6)

Statutes/Other Implemented: ORS 197.758 & OR Laws 2019, chapter 639, sections 3 and 4

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 197.758, 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 dwellings and that are either vacant or developed with detached single family 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 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 detached dwellings and are currently developed at a density of two dwelling units per acre or less.

Statutory/Other Authority: ORS 197.040 & OR Laws 2019, chapter 639, section 4(6)

Statutes/Other Implemented: ORS 197.758 & OR Laws 2019, chapter 639, sections 3 and 4

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-family 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 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 197.296(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 & OR Laws 2019, chapter 639, section 4(6)

Statutes/Other Implemented: ORS 197.758 & OR Laws 2019, chapter 639, sections 3 and 4

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 & OR Laws 2019, chapter 639, section 4(6)

Statutes/Other Implemented: ORS 197.758 & OR Laws 2019, chapter 639, sections 3 and 4

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 197.758(3).

(b) By June 30, 2021 for local governments subject to ORS 197.758(2).

(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(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(3). In response to criterion in OAR 660-046-0360(3)(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(3)(d) must refer to the mapped areas in relation to the review criterion.

Statutory/Other Authority: ORS 197.040 & OR Laws 2019, chapter 639, section 4(6)

Statutes/Other Implemented: ORS 197.758 & OR Laws 2019, chapter 639, sections 3 and 4

History:

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 197.758(3);

(b) Within 120 days of receipt of a complete application for local governments subject to ORS 197.758(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 197.758, 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 197.758, 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)

Statutes/Other Implemented: ORS 197.758 & OR Laws 2019, chapter 639, sections 3 and 4

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 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)

Statutes/Other Implemented: ORS 197.758 & OR Laws 2019, chapter 639, sections 3 and 4

History:

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

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
<p>A. Purpose</p>	<p>The purpose of this model code is to implement Oregon House Bill 2001 (2019) and ORS 197.758 by providing standards for duplexes developed on lots which allow detached single-family dwellings.</p>	<p><i>Jurisdictions are encouraged to develop their own purpose statements for duplex regulations. Following are examples of specific objectives that jurisdictions could consider including in a purpose statement if they are consistent with local policies and reasons for adopting new duplex requirements:</i></p> <ol style="list-style-type: none"> 1. Accommodate new housing in neighborhoods to allow for more housing choices with lower transportation and public service costs. 2. Provide for a wider variety of housing types that meet the needs of the jurisdiction's diverse population at all stages of life. 3. Encourage housing that allows residents to remain in their communities and neighborhoods as their needs change. 4. Facilitate more efficient use of land through smaller housing units, thereby providing more affordable housing options to neighborhood residents. 	<p>Local governments are not required to include a purpose statement specific to provisions needed to implement and comply with HB2001.</p>	<p><i>Purpose statements provide guidance for applicants and reviewers to help them understand the intent of development code standards. They help with a code's readability, providing insight into the jurisdiction's rationale for applying specific standards.</i></p> <p><i>[Update: The draft model code purpose statement has been revised to specify the year of HB2001's adoption and to include the ORS reference.</i></p> <p><i>The "Suggested Approaches" (formerly "Best Practices" column has been renamed as "Alternative Approaches," per MCTAC suggestion.)</i></p>
<p>B. Definitions</p>	<p>The following definitions shall apply for the purposes of this model code, notwithstanding other definitions in the local jurisdiction's development code:</p>	<p>--</p>	<p>"Unreasonable cost and delay" means any standard, approval criteria, or process that imposes additional burden upon middle housing development above the burden placed upon single-family detached development in the same zone.</p>	<p><i>[Update: A definition for "unreasonable cost and delay" has been added to the minimum compliance column.</i></p> <p><i>The definitions of "common wall" and "dwelling unit" have been removed in this revised draft. "Common wall" doesn't need to be defined because it was deleted from the revised "duplex" definition. "Dwelling unit" is defined differently by different jurisdictions, but the meaning is generally consistent. In reviewing a duplex application, jurisdictions will use their own definitions for any terms not explicitly defined in the model code; therefore, the model code defers to the local definition of "dwelling unit."]</i></p>
<p>1. "Detached single-family dwelling or structure"</p>	<p>"Detached single-family dwelling or structure" means a detached structure on a lot/parcel that is comprised of a single dwelling unit. Detached single-family dwellings or structures may be constructed off-site, e.g., manufactured dwellings or modular homes.</p>	<p><i>Same as model code.</i></p>	<p>No requirement, as long as definitions ensure consistent application of duplex standards.</p>	<p><i>[Update: The definition of "detached single-family dwelling or structure" has been updated to be consistent with the revised definition of duplex.]</i></p>

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
<p>2. "Duplex"</p>	<p>"Duplex" means a detached structure on a lot or parcel that is comprised of two dwelling units. In instances where a structure can meet this definition of a duplex and also meets the jurisdiction's definition of a primary dwelling unit with an attached or internal accessory dwelling unit (ADU), the property owner has the option of electing whether the entire structure is considered a duplex or a primary dwelling unit with an attached or internal ADU.</p>	<p><i>Jurisdictions are encouraged to allow duplexes to be either attached or detached. Following is an alternative to the model code's definition:</i></p> <p>"Duplex" means two dwelling units on one lot or parcel. The units may be attached (sharing a common wall or common floor/ceiling) or detached. In instances where a development can meet this definition of a duplex and also meets the jurisdiction's definition of a primary dwelling unit with a detached accessory dwelling unit (ADU), the property owner has the option of electing whether the development is considered a duplex or a primary dwelling unit with a detached ADU.</p>	<p>The definition may be the same as or similar to the model code, or may define a duplex as two detached units on one lot. The definition must distinguish a duplex from a combination of a single-family detached unit and an ADU for the purpose of specifying off-street parking mandates.</p>	<p><i>The draft model code defines duplex as a single structure with two units (i.e., two <u>attached</u> units) on a lot. This definition is consistent with the way most jurisdictions currently define duplex, and it reflects what most people think of as a duplex. [Update: the model code definition has been refined for clarity. The word "building" has been replaced by "structure," since the building code considers attached duplex units separated by a firewall to be separate <u>buildings</u>, but a single <u>structure</u>.]</i></p> <p><i>The Alternative Approach is to provide additional flexibility by stating that the duplex units can be either attached or detached.</i></p> <p><i>For minimum compliance with HB2001, local governments would need only to define a duplex as two units on a lot, and may specify whether or not they must be attached.</i></p> <p><i>The model code's definition of duplex is intended to address potential ambiguity with definitions of duplexes and ADUs. This distinction is important because the model code's duplex parking requirements (per Section F.5) may be different than the local jurisdiction's parking requirements for a single-family home with an ADU. The model code defers to the jurisdiction's definition of ADU (including limits on maximum size). If a site meets the jurisdiction's ADU definition, the property owner has the option of permitting it as a duplex or a single-family home with an ADU. There are trade-offs for both permitting paths, and this definition leaves flexibility for the property owner.</i></p>
<p>3. "Zoned for residential use"</p>	<p>"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.</p>	<p><i>Same as model code.</i></p>	<p><i>Same as model code.</i></p>	<p><i>This definition clarifies that the duplex requirement only applies in residential zones. This is further clarified in the Applicability section.</i></p>
<p>C. Applicability</p>	<p>Unless otherwise noted, the standards in this model code apply to duplexes, including those created through conversion of existing detached single-family dwellings, developed on lots or parcels</p>	<p><i>While local jurisdictions are only required to allow duplexes in areas zoned for residential use, they are encouraged to allow duplexes in any zone in which single-family dwellings are permitted.</i></p>	<p><i>(See companion memo from DLCD regarding minimum compliance.)</i></p>	<p><i>The draft applicability statement is intended to clearly state where and when the provisions of the model code apply. This clarifies that the provisions do not apply in any zones except for residential zones in</i></p>

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
	<p>(including lots of record) zoned for residential use that allow for the development of detached single-family dwellings.</p> <p>The standards in this model code do not allow for the following, unless otherwise permitted by the jurisdiction:</p> <ul style="list-style-type: none"> Creation of duplexes on lots or parcels on lands that are not zoned for residential use, including lands zoned primarily for commercial, industrial, agricultural, public, or mixed uses, even if those zones allow for the development of detached single-family dwellings. Creation of more than two dwelling units on a lot. <p>Duplexes developed under this model code shall comply with protective measures (including plans, policies, and regulations) adopted pursuant to statewide land use planning goals (e.g., environmental and natural hazard protections).</p>	<p><i>Jurisdictions should also consider:</i></p> <ul style="list-style-type: none"> Allowing duplexes to have a detached ADU (or ADUs); Allowing detached single-family dwellings with an existing detached ADU to be internally converted into a duplex; and/or Allowing a lot with a duplex to have additional units of limited size. <p><i>These options would permit three (or four) units on a lot.</i></p>		<p><i>which detached single-family dwellings are permitted (although allowing duplexes in other zones is an alternative approach). It also establishes that duplexes are not required to be allowed via conversion of a single-family dwelling when there is already an ADU on-site (which would create three units on a lot). Allowing ADUs with duplexes is also suggested as an optional approach.</i></p> <p><i>The model code applicability statement further clarifies that requirements of HB2001 do not override local protections for natural resources, natural hazards, or other regulatory protections adopted pursuant to Statewide Land Use Planning Goals. This could mean, for example, limiting building footprints in wetland areas, ensuring duplexes are reviewed for historic compatibility in historic districts, or limiting building heights within the Willamette Greenway.</i></p> <p><i>[Update: DLCD is still working with the Department of Justice to clarify how the requirements of SB1051 and HB2001 interact—i.e., whether a single-family home with an existing ADU should be allowed to be converted to a duplex, thereby creating three units. The applicability section may be updated in a future draft if the DOJ advises that this should be allowed.]</i></p>
<p>D. Relationship to Other Regulations</p>	<p>--</p>	<p>--</p>	<p>--</p>	<p><i>[Update: This section was formally titled "Provisions Applicable to Duplexes" but has been retitled to make its purpose clearer.]</i></p>
<p>1. <u>Conflicts.</u></p>	<p>In the event of a conflict between this model code and the jurisdiction's standards applicable to a proposed duplex, the standards of this model code control.</p>	<p><i>Local jurisdictions should review their development regulations to identify potential conflicts and barriers to duplexes and amend their codes to remove those conflicts and barriers.</i></p>	<p>N/A</p>	<p><i>This section of the draft model code is intended to address how these provisions relate to local jurisdictions' existing code sections, especially related to conflicting standards. Subsection D.2 states that except for the model code standards, duplexes must meet all other provisions applicable to detached single-family dwellings. The purpose of stating that "other existing standards applicable only to duplexes shall not apply" is to prevent local governments from applying standards that make duplexes more difficult</i></p>
<p>2. <u>Development and Design Standards.</u></p>	<p>Duplexes developed under this model code are subject to the following standards:</p> <ul style="list-style-type: none"> Section F, Development Standards Section G, Design Standards Development and Design Standards of the local jurisdiction as follows: 	<p><i>See specific provisions under sections F and G below.</i></p>	<p>N/A</p>	<p><i>See specific provisions under sections F and G below.</i></p>

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
	<ul style="list-style-type: none"> All clear and objective development and design standards that apply to detached single-family structures in the same zone, unless those standards conflict with the standards of this model code. Other standards applicable only to duplexes shall not apply to duplexes developed under this model code. 			<p>or costly to develop than detached single-family homes.</p> <p>If local governments adopt their own code amendments, they may apply separate standards to duplexes (to a limited extent), as long as those standards do not discourage duplex development through “unreasonable costs or delay.”</p> <p>[Update: The statement in the Public Works subsection that “individual utility service connections to each duplex unit may be required” has been deleted. While this statement remains true, it is unnecessary to state in the model code.]</p>
<p>3. <u>Public Works Standards.</u></p>	<p>Clear and objective exceptions to public works standards granted to single-family dwellings shall also be granted to duplexes developed under this model code.</p>	<p>Local jurisdictions should review their public works standards to identify potential conflicts and barriers to duplexes and amend their codes to remove those conflicts and barriers.</p>	<p>Same as model code.</p>	
<p>E. <u>Permitted Uses and Approval Process</u></p>	<p>Duplexes shall be permitted outright on lots or parcels zoned for residential use that allow for the development of detached single-family dwellings. Duplexes shall be subject to the same approval process as the local jurisdiction applies to detached single-family dwellings in the same zone, and shall be subject to only clear and objective standards, approval criteria, conditions, and procedures. Alternatively, an applicant may choose to submit an application for a duplex subject to discretionary standards and criteria if such a process is available in the subject jurisdiction.</p>	<p>Same as model code.</p>	<p>(See the companion memo from DLCD regarding updates to minimum compliance rules.)</p>	<p>This section of the draft model code clarifies that duplexes shall be permitted <u>outright</u> on lots where detached single-family dwellings are permitted. It also states that duplexes are subject to the same type of approval process as detached single-family dwellings—but only using clear and objective criteria, as required by state law, unless the applicant chooses discretionary review. [Update: To make sure this section does not preclude a property owner’s ability to request a discretionary review path, a caveat to the statement about clear and objective standards, criteria, etc. has been added.]</p>
<p>F. <u>Development Standards</u></p>		<p>--</p>	<p>--</p>	<p>(See the companion memo from DLCD regarding updates to minimum compliance rules for development standards.)</p>
<p>1. <u>Minimum lot size.</u></p>	<p>The minimum lot size for a duplex is the same as the minimum lot size for a detached single-family dwelling in the same zone.</p>	<p>Same as model code.</p>	<p>(See the companion memo from DLCD regarding updates to minimum compliance rules.)</p>	<p>HB2001 was intended to increase housing supply and housing options, and to provide opportunities for more affordable housing options in all residential neighborhoods. Allowing development of duplexes on the same size lot as a detached single-family home helps meet this intent by reducing the land cost per unit (thus making the development more affordable). Additionally, as duplexes are required to be permitted on any residentially-zoned lot that permits a detached single-family dwelling, subjecting duplexes to a larger minimum lot size would violate HB2001.</p>

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
2. <u>Maximum Density.</u>	The jurisdiction's pre-existing density maximums and minimum lot sizes for duplexes do not apply to duplexes permitted under this code.	<i>Same as model code.</i>	<i>(See the companion memo from DLCD regarding updates to minimum compliance rules.)</i>	<i>See comments under minimum lot size.</i>
3. <u>Setbacks.</u>	The setback standards for a duplex are the same as the setback standards for a detached single-family dwelling in the same zone, except that minimum front setbacks of more than 20 feet and minimum rear setbacks of more than 15 feet shall not apply. Minimum garage setbacks are not subject to these limitations.	<i>Setbacks can represent a barrier to duplex development. In order to encourage duplex development, jurisdictions should consider reducing setbacks and allowing increased lot coverage. If jurisdictions permit two detached units as a duplex, they should consider whether standards for minimum spacing between structures are needed, or whether the Building Code should control minimum spacing.</i>	Duplexes shall not be subject to larger setback standards than those applicable to detached single-family structures in the same zone.	<i>To promote compatibility with single-family neighborhoods, the draft model code requires duplexes to meet the same setback standards applicable to detached single-family dwellings, but also to establish maximum front and rear setbacks. This is intended to ensure that overly large setback standards do not discourage duplex development. Jurisdictions adopting their own standards are encouraged to examine existing setbacks and lot coverage standards for single-family development to identify potential barriers to duplex development. Setbacks should be amended for the whole zone, not only for duplexes. To comply with HB2001, jurisdictions must not apply larger setbacks for duplexes than for detached single-family, so as not to discourage duplex development. [Update: The model code language has been revised for clarity.]</i>
4. <u>Height.</u>	The height standards for a duplex are the same as the height standards for a detached single-family dwelling in the same zone.	<i>Jurisdictions could consider adopting a height bonus to encourage duplex development. Below is example code language for a height bonus: Height bonus. Duplexes shall be allowed a height bonus of 10 feet above the maximum height applicable to detached single-family structures in the same zone.</i>	Duplexes shall not be subject to lower maximum height standards than those applicable to detached single-family structures.	<i>Similar to setbacks, the draft model code's height provision is intended to promote compatibility with single-family neighborhoods. Jurisdictions may consider adopting a height bonus to encourage duplex development and to promote this lower-cost housing option in single-family neighborhoods. [Update: The height bonus example standard ("_%" in previous drafts) was filled in as 10 feet. This is essentially equivalent to one story.] To comply with HB2001, jurisdictions must not apply lower height standards for duplexes, so as not to discourage duplex development.</i>
5. <u>Off-street Parking.</u>	No off-street parking is required for a duplex permitted under this model code.	<i>Jurisdictions adopting their own duplex standards may require anywhere between 0 and 2 off-street parking spaces, and are encouraged to have a public discussion regarding what is appropriate in their communities.</i>	Jurisdictions may not require more than two (2) off-street parking spaces for a duplex.	<i>[Update: the draft model code, alternative approaches, and minimum compliance rules for off-street parking have all been updated. Because the model code does not mandate off-street parking, the on-street credit is no longer applicable; however, it</i>

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
		<p><i>If requiring off-street parking, jurisdictions could consider offering a credit for available on-street parking. Below is example code language that could be considered:</i></p> <p>On-Street Credit. If on-street parking spaces meet all the standards in Subsections a-d below, they shall be counted toward the minimum off-street parking requirement.</p> <ol style="list-style-type: none"> a. On-street parking must be allowed on the side of the street where the space is to be provided. b. The space must be a minimum of 22 feet long; c. The space must be abutting the subject site; and d. The space must not obstruct a required sight distance area. 	<p><i>(See the companion memo from DLCD regarding updates to minimum compliance rules.)</i></p>	<p><i>has been retained as an alternative approach that jurisdictions with off-street parking mandates are encouraged to consider.]</i></p> <p><i>Providing off-street parking adds to the cost of a development and reduces the area of a site that can be developed with dwelling units. As such, parking requirements constitute a potential barrier to housing development and housing affordability.</i></p> <p><i>While the draft model code requires no off-street parking, it does not speak to how much a jurisdiction can allow. Jurisdictions are encouraged to have the conversation about parking at the local level and determine what makes sense for their communities. DLCD also encourages allowing the market to determine how much parking should be developed; evidence shows that most builders aim to build parking to meet demand.</i></p> <p><i>To comply with HB2001, jurisdictions can require anywhere from 0 to 2 spaces, but per the minimum compliance rule, cannot require more than 2 spaces.</i></p>
--	--	--	<p>Lot Coverage and Floor Area Ratio: Local Governments are not required to apply lot coverage or floor area ratio standards to new duplexes. However, if the local government chooses to apply lot coverage or floor area ratio standards, it may not establish a cumulative lot coverage or floor area ratio for duplex that is less than established for single-family detached structures in the same zone.</p>	<p><i>[Update: Minimum compliance rules regarding lot coverage and floor area ratio have been added. There are no model code or alternative provisions for these topics so those columns are left blank.]</i></p>
G. Design Standards	<p>New duplexes shall meet all clear and objective design standards (e.g., entry orientation, window coverage, articulation, etc.) that the jurisdiction applies to detached single-family structures in the same zone, unless they conflict with the model code.</p>	<p><i>Jurisdictions could consider establishing pedestrian-friendly design standards for new duplexes and single-family dwellings, if not already in their development codes. Any design standards should apply to both housing types, so as not to discourage</i></p>	<p>Local governments are not required to apply design standards to new duplex development. However, if the local government chooses to</p>	<p><i>The intent of the draft model code is to apply the same design standards to duplexes that also apply to single-family development. Applying more restrictive design standards would discourage duplex development, and therefore would not comply with</i></p>

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
	<p>Other design standards elsewhere in the jurisdiction's code that the jurisdiction applies only to duplexes shall not apply to duplexes developed under this model code.</p>	<p><i>duplex development through unreasonable cost or delay. (Note: the intent of this suggestion is not to compel jurisdictions to regulate the design of single-family housing—it is simply to suggest equivalent standards for duplexes and single-family dwellings.)</i></p> <p><i>Jurisdictions are discouraged from adopting standards requiring off-street parking to be covered by a garage or carport. This requirement would add significant cost to a project.</i></p> <p><i>Following are alternative design standards to consider:</i></p> <ol style="list-style-type: none"> 1. Entry Orientation. At least one (1) main entrance must meet the following standards. <ol style="list-style-type: none"> a. The entrance must be no further than 8 ft behind the longest street-facing wall of the building. b. The entrance must: <ol style="list-style-type: none"> i. Face the street; or ii. Be at an angle of up to 45 degrees from the street; or iii. Open onto a porch. c. If the entrance opens onto a porch, the porch must: <ol style="list-style-type: none"> i. Be at least 20 sq ft in area with a minimum 4-ft depth. ii. Have at least 1 porch entry facing the street. iii. Be covered by a roof or living space that is a maximum of 12 feet above the floor of the porch. The roof or living space must cover at least 30% of the porch area. c. For properties with more than one frontage, the applicant may choose which frontage to meet the standards in subsections G.1.a and b. 	<p>apply design standards to new duplexes, they may only apply all clear and objective design standards that the local government applies to detached single-family structures in the same zone.</p>	<p><i>HB2001. Meanwhile, local governments that choose to regulate the design of single-family development should be able to apply the same or similar standards to duplexes as well.</i></p> <p><i>In the Alternative Approaches column are examples of design standards intended to promote attention to detail, pedestrian-friendly and human-scale design, and street visibility, and to discourage garages from dominating street-facing facades, while affording flexibility to use a variety of architectural styles. These are intended to help guide jurisdictions that currently lack—or would like to update—design standards for detached single-family dwellings and duplexes. The standards should be applied to both housing types.</i></p> <p><i>[Update: A reference to the jurisdiction's existing duplex design standards was added to the model code for the sake of internal consistency.</i></p> <p><i>The intro and a few of the standards in the Alternative Approaches column have been cleaned up for additional clarity. The statement discouraging requirements for covered parking was also added.]</i></p> <p><i>[Note: The model code provisions in Section G are redundant to Section D, Relationship to Other Regulations, in that both sections of the code state that duplexes are subject to the jurisdiction's design standards applicable to single-family development. This redundancy could be removed by deleting Section G or revising Section D. However, for the sake of simplicity, we retained the language in both sections for this draft and will resolve the redundancy in a subsequent draft.]</i></p>

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
		<p>2. Windows. A minimum of 15% of the area of all street-facing facades, excluding alley-facing facades, must include windows or doors. Window area is the aggregate area of the glass within each window, including any interior grids, mullions, or transoms. Door area is the area of the portion of a door other than a garage door that moves and does not include the frame. Half of the window area in the door of an attached garage may count toward meeting this standard.</p> <p>3. Garages and Carports. An attached garage or carport must meet the following standards, except where vehicle access is taken from an alley.</p> <p>a. A garage door or carport entrance designed for vehicle access must be the same distance or a greater distance from the street property line as the widest street-facing wall along the same street frontage, except as follows:</p> <p>i. A garage door or carport entrance may extend up to 5 feet in front of the widest street-facing wall if there is a covered front porch and the garage door or carport entrance does not extend beyond the front of the porch.</p> <p>ii. A garage door or carport entrance may extend up to 5 feet in front of the widest street-facing wall where the garage or carport is part of a 2-story building and there is a window on the second story above the garage or carport that faces the street with a minimum area of 12 square feet.</p> <p>b. The total maximum width of all garage doors or carport entrances is 12 feet or 50 percent of the total width of the street-facing facade, whichever is greater. The width of a garage door is measured from inside the garage</p>		

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
		<p>door frame. Where more than one garage door is proposed, the width of each garage door is measured separately.</p> <p>4. <u>Driveway Approach</u>. Duplexes may have a maximum of two driveway approaches in compliance with the following:</p> <ul style="list-style-type: none"> a. The total width of all driveway approaches must not exceed 32 feet per frontage. For lots or parcels with more than one frontage, see subsection G.4.c. b. Driveway approaches may be separated when located on a local street. If approaches are separated, they must be separated by a minimum of seven feet. c. In addition, lots or parcels with more than one frontage must comply with the following: <ul style="list-style-type: none"> i. Lots or parcels must access the street with the lowest classification. ii. Lots or parcels with frontages only on collectors and/or arterial streets may have one driveway approach. iii. Duplexes on lots or parcels with frontages only on local streets may have two driveway approaches not exceeding 32 feet in total width on one frontage or one maximum 16-foot-wide driveway approach per frontage. d. Clear vision standards do not apply between driveway approaches for duplexes on local streets. 		
<p>H. Duplex Conversions</p>	<p>Conversion of an existing detached single-family structure to a duplex is allowed, pursuant to Section C, provided that the conversion does not increase nonconformance with applicable clear and objective standards.</p>	<p><i>Local jurisdictions should review their development regulations regarding nonconforming development to identify potential conflicts and barriers to duplex conversions and amend their codes to remove those conflicts and barriers.</i></p>	<p><i>Same as model code.</i></p>	<p><i>This draft model code provision allows duplexes to be created from existing detached single-family structures. Though not explicitly stated, this would apply to nonconforming structures as well. The draft code does not require converted duplexes to become fully conforming to all development standards, instead</i></p>

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
				<p><i>it requires that they not move further out of conformance.</i></p> <p><i>[Update: This section has been revised to apply to all duplex conversions, not just to nonconforming development. This section also replaces the statement that was deleted from Section G, Design Standards, which stated that converted duplexes did not need to meet the jurisdiction’s design standards. The proposed text in this section instead says that converted duplexes must not <u>increase nonconformance</u> with <u>either</u> development or design standards. E.g., if the house currently conforms to standards, the duplex conversion cannot move it out of conformance.]</i></p>



MEMORANDUM

Model Code for Medium Cities
DLCD Middle Housing Model Code

DATE April 10, 2020
 TO Oregon Land Conservation and Development Commission
 FROM Matt Hastie, Cathy Corliss, and Kate Rogers, Angelo Planning Group
 CC Ethan Stuckmayer and Robert Mansolillo, DLCD Project Team

Middle Housing Model Code for Medium Cities

User's Guide:

Oregon House Bill 2001 (2019) (HB 2001) requires that "Medium Cities" (defined as cities with a population of more than 10,000 and less than 25,000 that are not within Metro's jurisdiction) allow a duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings. Duplexes provide an opportunity to increase housing supply in developed neighborhoods and can blend in well with detached single-family dwellings.

The bill allows local governments to regulate siting and design of duplexes, provided that the regulations do not, individually or cumulatively, discourage duplex development through unreasonable costs or delay. When regulating siting and design of duplexes, Medium Cities should balance concerns about neighborhood compatibility and other factors against the need to address Oregon's housing shortage by removing barriers to development and should ensure that any siting and design regulations do not, individually or cumulatively, discourage the development of duplexes through unreasonable costs or delay.

Medium Cities may develop their own standards in compliance with the requirements of HB 2001. This model code may provide guidance toward that end. However, if Medium Cities do not wish to prepare their own standards or if Medium Cities do not adopt the required code amendments by June 30, 2021, they must directly apply this model code prepared by the Department of Land and Conservation Development (DLCD) to development in their jurisdictions. The model code is intended to be straightforward and implementable by Medium Cities

throughout the state. The model rules are consistent with the requirements and intent of HB 2001 and are intended to ensure that a duplex is no more difficult to develop than a detached single-family home. The model code will be adopted by reference into Oregon Administrative Rules.

To the extent they are applicable, the Administrative Rules contained in Chapter 660, Division 46 apply to and may be used to interpret this model code.

Sections:

- A. Purpose**
- B. Definitions**
- C. Applicability**
- D. Relationship to Other Regulations**
- E. Permitted Uses and Approval Process**
- F. Development Standards**
- G. Design Standards**
- H. Duplex Conversions**
- I. Figures**

A. Purpose

The purpose of this model middle housing code ("code") is to implement HB 2001, codified in ORS 197.758 et seq, by providing siting and design standards for duplexes developed on lots or parcels that allow for the development of detached single-family dwellings.

B. Definitions

The following definitions shall apply for the purposes of this code, notwithstanding other definitions in the development code:

1. "Detached single-family dwelling" means a detached structure on a lot or parcel that is comprised of a single dwelling unit. Detached single-family dwellings may be constructed off-site, e.g., manufactured dwellings or modular homes.
2. "Duplex" means a detached structure on a lot or parcel that is comprised of two dwelling units. Figures 1–4 in Section I illustrate examples of possible duplex configurations. In instances where a structure can meet the definition of a duplex and also meets the definition of a primary dwelling unit with an attached or internal accessory dwelling unit (ADU), the applicant shall specify at the time of application review whether the entire structure is considered a duplex or a primary dwelling unit with an attached or internal ADU.
3. "Lot or Parcel" means any legally created unit of land.

4. "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.

C. Applicability

1. Except as specified in subsection (2) of this section (c), the standards in this code allow for the development of duplexes, including those created through conversion of existing detached single-family dwellings, on lots or parcels zoned for residential use that allow for the development of detached single-family dwellings.
2. The standards in this code do not allow the following, unless otherwise permitted by the development code:
 - Creation of duplexes on lots or parcels on lands that are not zoned for residential use. This includes lands zoned primarily for commercial, industrial, agricultural, public, or mixed uses, even if those zones allow for the development of detached single-family dwellings.
 - Creation of more than two dwelling units on a single lot or parcel.

D. Relationship to Other Regulations

1. Conflicts. In the event of a conflict between this code and other standards applicable to a duplex, the standards of this code control.
2. Public Works Standards. Clear and objective exceptions to public works standards granted to single-family dwellings shall also be granted to duplexes.
3. Protective Measures. Duplexes shall comply with protective measures (plans, policies, or regulations) adopted pursuant to statewide land use planning goals (e.g., environmental and natural hazard protections).

E. Permitted Uses and Approval Process

Duplexes are permitted outright on lots or parcels zoned for residential use that allow for the development of detached single-family dwellings. Duplexes are subject to the same approval process as that for detached single-family dwellings in the same zone and are subject only to clear and objective standards, approval criteria, conditions, and procedures. Alternatively, an applicant may choose to submit an application for a duplex subject to discretionary standards and criteria adopted in accordance with ORS 197.307, if such a process is available.

F. Development Standards

Except as specified below, duplexes shall meet all clear and objective development standards that apply to detached single-family dwellings in the same zone (including, but not limited to, minimum and maximum lot size, minimum and maximum setbacks, and building height), unless those standards conflict with this code.

The following development standards are invalid and do not apply to duplexes being developed on lots or parcels zoned for residential use that allow the development of a detached single-family dwelling:

1. Maximum Density. The jurisdiction's pre-existing density maximums and minimum lot sizes for duplexes do not apply.
2. Setbacks. A minimum front setback of greater than 20 feet or a minimum rear setback of greater than 15 feet except for those minimum setbacks applicable to garages and carports.
3. Off-Street Parking. Any off-street parking requirement.

G. Design Standards

New duplexes shall meet all clear and objective design standards (e.g., entry orientation, window coverage, articulation, etc.) that apply to detached single-family dwellings in the same zone, unless those standards conflict with this code.

Any design standards that apply only to duplexes are invalid.

H. Duplex Conversions

Conversion of an existing detached single-family dwelling to a duplex is allowed, pursuant to Section C, provided that the conversion does not increase nonconformance with applicable clear and objective standards.

I. Figures

The following figures illustrate examples of possible duplex configurations. Other configurations may also be acceptable, provided the structure meets the definition of duplex, pursuant to Section B.

Figure 1. Stacked Duplex

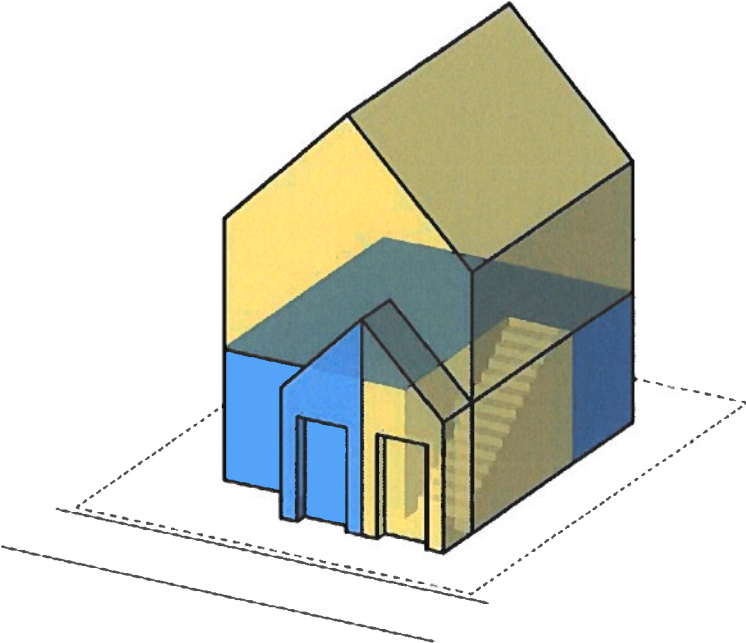


Figure 2. Side-by-Side Duplex

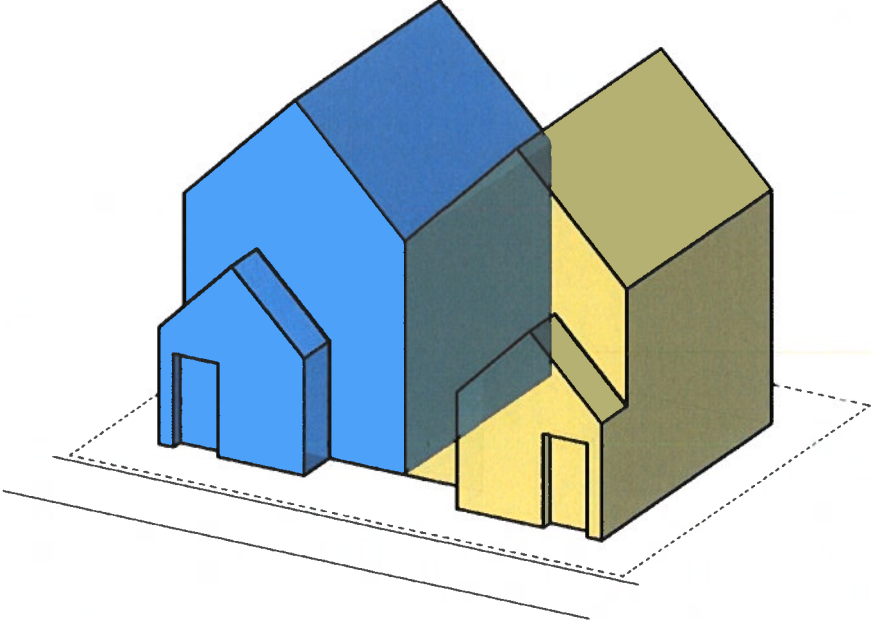


Figure 3. Duplex Attached by Garage Wall

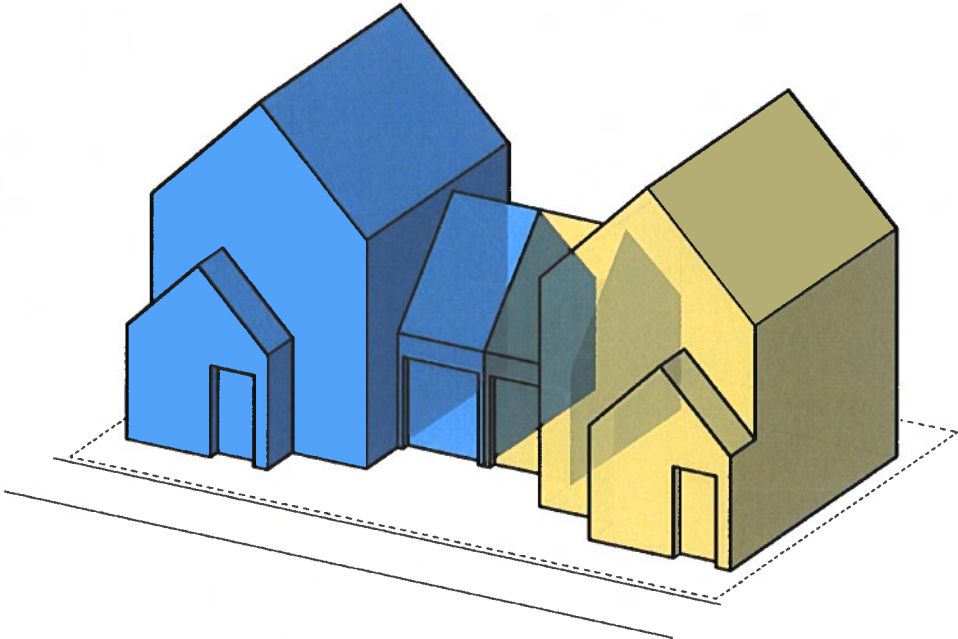
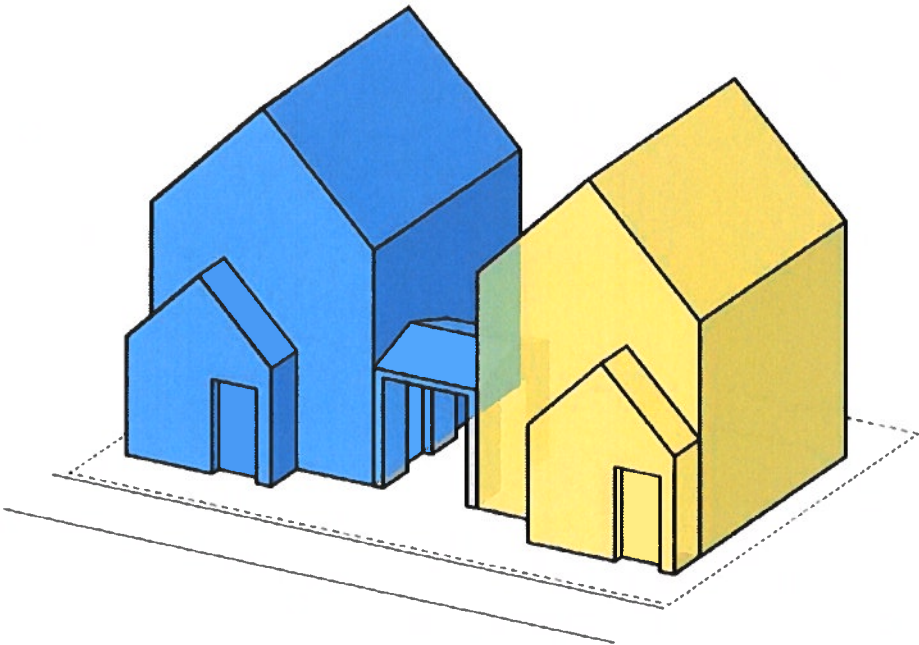


Figure 4. Duplex Attached by Breezeway





MEMORANDUM

Model Code for Large Cities (LCDC DRAFT)
DLCD Middle Housing Model Code

DATE August 24, 2020
 TO Oregon Land Conservation and Development Commission (LCDC)
 FROM Matt Hastie, Cathy Corliss, and Kate Rogers, Angelo Planning Group
 CC Ethan Stuckmayer and Robert Mansolillo, DLCD
 Project Team

Middle Housing Model Code for Large Cities

User's Guide:

Oregon House Bill 2001 (2019) (HB 2001) requires that "Large Cities" (defined as cities with a population of 25,000 or more and each county or city within a metropolitan service district) must allow: (1) all middle housing types in areas zoned for residential use that allow for the development of detached single-family dwellings; and (2) a duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings. Middle housing, which HB 2001 defines as duplexes, triplexes, quadplexes, cottage clusters, and townhouses, provides an opportunity to increase housing supply in developed neighborhoods and can blend in well with detached single-family dwellings.

The bill allows local governments to regulate siting and design of middle housing, provided that the regulations do not, individually or cumulatively, discourage middle housing development through unreasonable costs or delay. When regulating siting and design of middle housing, Large Cities should balance concerns about neighborhood compatibility and other factors against the need to address Oregon's housing shortage by removing barriers to development and should ensure that any siting and design regulations do not, individually or cumulatively, discourage the development of middle housing through unreasonable costs or delay.

Large Cities may develop their own standards in compliance with the requirements of HB 2001. This model code may provide guidance toward that end. However, if Large Cities do not wish to prepare their own standards or if Large Cities do not adopt the required code amendments by June 30, 2022, they must directly apply

this model code prepared by the Department of Land and Conservation Development (DCLD) to development in their jurisdictions. The model code is intended to be straightforward and implementable by Large Cities throughout the state, and is consistent with the requirements and intent of HB 2001. The model code will be adopted by reference into Oregon Administrative Rules.

To the extent they are applicable, the Administrative Rules contained in Chapter 660, Division 46 apply to and may be used to interpret this model code.

Chapter 1. Combined Standards for All Middle Housing

Sections:

- A. Purpose
- B. Definitions
- C. Applicability
- D. Relationship to Other Regulations
- E. Duplex, Triplex and Quadplex Examples

A. Purpose

The purpose of this model middle housing code (“code”) is to implement HB 2001, codified in ORS 197.758 et seq, by providing siting and design standards for middle housing developed in areas zoned for residential use that allow for the development of detached single family dwellings.

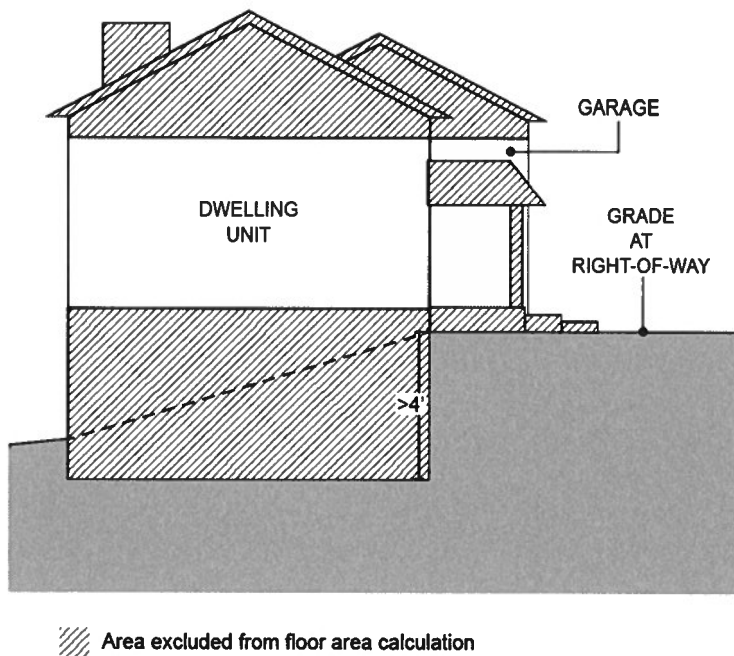
B. Definitions

The following definitions shall apply for the purposes of this code, notwithstanding other definitions in the development code:

1. “Building footprint” means the horizontal area as seen in plan, measured from outside of all exterior walls and supporting columns. It includes dwellings and attached garages and carports. It does not include detached garages or carports, accessory structures, trellises, patios, and areas of porch, deck, and balcony less than 30 inches from finished grade, or cantilevered covers, porches or projections which do not have a post touching the ground or ramps and stairways required for access.
2. “Common courtyard” means a common area for use by residents of a cottage cluster. A common courtyard may function as a community yard. Hard and soft landscape features may be included in a common courtyard, such as lawn, groundcover, trees, shrubs, patios, benches, or gazebos. Pedestrian paths must be included as part of a common courtyard.

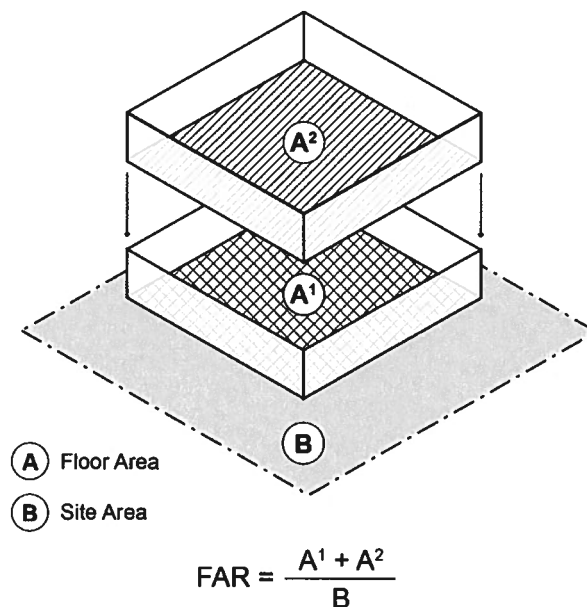
3. "Common wall" means a wall or set of walls in a single structure shared by two or more dwelling units. The common wall must be shared for at least 25 percent of the length of the side of the building of the dwelling units. The common wall may be any wall of the building, including the walls of attached garages.
4. "Cottage" means an individual dwelling unit that is part of a cottage cluster.
5. "Cottage cluster" means a grouping of no fewer than four detached dwelling units per acre, each with a footprint of less than 900 square feet, located on a single lot or parcel that includes a common courtyard. Cottage cluster may also be known as "cluster housing," "cottage housing," "bungalow court," "cottage court," or "pocket neighborhood."
6. "Cottage cluster project" means a development site with one or more cottage clusters. Each cottage cluster as part of a cottage cluster project must have its own common courtyard.
7. "Detached single family dwelling" means a detached structure on a lot or parcel that is comprised of a single dwelling unit. Detached single family dwellings may be constructed off-site, e.g., manufactured dwellings or modular homes.
8. "Door area" is the area of the portion of a door other than a garage door that moves and does not include the frame.
9. "Duplex" means two dwelling units on a lot or parcel in any configuration. In instances where a development can meet the definition of a duplex and also meets the definition of a primary dwelling unit with an accessory dwelling unit (ADU), the applicant shall specify at the time of application review whether the development is considered a duplex or a primary dwelling unit with an ADU. See Figure 3 through Figure 8 in Section E for examples of possible duplex configurations.
10. "Floor area" means the total area of all floors of a building. Floor area is measured for each floor from the exterior faces of a building or structure. Floor area includes stairwells, ramps, shafts, chases, and the area devoted to garages and structured parking. Floor area does not include the following (see Figure 1):
 - Areas where the elevation of the floor is 4 feet or more below the adjacent right-of way;
 - Roof area, including roof top parking;
 - Roof top mechanical equipment; and
 - Roofed porches, exterior balconies, or other similar areas, unless they are enclosed by walls that are more than 42 inches in height for 75 percent or more of their perimeter.

Figure 1. Areas Excluded from Floor Area Calculation



11. "Floor area ratio (FAR)" means the amount of floor area of a building or structure in relation to the amount of site area, expressed in square feet. For example, a floor area ratio of 2 to 1 means two square feet of floor area for every one square foot of site area. FAR is calculated by dividing the total floor area (as defined in Section (B)(6)) of all buildings on a site by the total site area, after subtracting any required or planned dedication of public rights-of-way and/or designation of private rights-of-way (See Figure 2).

Figure 2. Floor Area Ratio (FAR) Calculation



12. "Frontage" means the portion of a lot or parcel that abuts a street.
13. "Goal Protected Lands" means lands protected or designated pursuant to the following statewide planning goals:
- Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces;
 - Goal 6 Air, Water, and Land Resource Quality
 - Goal 7 Areas Subject to Natural Hazards;
 - Goal 15 Willamette River Greenway;
 - Goal 16 Estuarine Resources;
 - Goal 17 Coastal Shorelands;
 - Goal 18 Beaches and Dunes.
14. "Infrastructure-constrained lands" means lots or parcels that are not currently served by water, sewer, storm drainage, or transportation services; and where the local government is not able to correct the infrastructure limitation with an Infrastructure Based Time Extension Request (IBTER) due to jurisdictional, cost, or other limitations; and which cannot be remedied by future development of middle housing on the subject lot or parcel.
15. "Lot or parcel" means any legally created unit of land.
16. "Middle housing" means duplexes, triplexes, quadplexes, cottage clusters, and townhouses.

17. "Quadplex" means four dwelling units on a lot or parcel in any configuration. See Figure 12 and Figure 13 in Section E for examples of possible quadplex configurations.
18. "Site area" means the total area of a development site calculated after subtracting any required or planned dedication of public rights-of-way and/or designation of private rights-of-way.
19. "Townhouse" means a dwelling unit constructed in a row of two or more attached units, where each dwelling unit is located on an individual lot or parcel and shares at least one common wall with an adjacent unit. A townhouse is also commonly called a "rowhouse," "attached house," or "common-wall house."
20. "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 commonly owned property, if any.
21. "Triplex" means three dwelling units on a lot or parcel in any configuration. See Figure 9 through Figure 11 in Section E for examples of possible triplex configurations.
22. "Window area" means the aggregate area of the glass within each window, including any interior grids, mullions, or transoms.
23. "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.

C. Applicability

1. Applicability of Code Sections.

- a. Code sections applicable to all middle housing types are: Chapter 1, Sections A. Purpose, B. Definitions, C. Applicability, and D. Relationship to Other Regulations.
- b. Code standards applicable to specific housing types are listed below:
 - Duplexes: Chapter 2.
 - Triplexes: Chapter 3.
 - Quadplexes: Chapter 3.
 - Townhouses: Chapter 4.
 - Cottage clusters: Chapter 5.

2. Applicability by Development Type and Location.

- a. Except as specified in subsection (b) of this section (C)(2), the standards in this code allow for the following development on lots or parcels zoned for residential use that allow for the development of detached single family dwellings:

- New duplexes and those created through conversion of existing detached single family dwellings.
 - New triplexes, quadplexes, cottage clusters, and townhouses, and those created through conversion of existing detached single family dwellings or duplexes.
- b. **Exceptions.** The standards in this code do not allow the following, unless otherwise permitted by the development code through clear and objective standards, criteria, and procedures:
- On goal-protected or infrastructure-constrained lands, the creation of triplexes, quadplexes, cottage clusters, or townhouses, or the creation of more than two dwelling units on a single lot or parcel, including accessory dwelling units.
 - On lands that are not zoned for residential use, the creation of middle housing. This includes lands zoned primarily for commercial, industrial, agricultural, public, or mixed uses, even if those zones allow for the development of detached single family dwellings.

D. Relationship to Other Regulations

1. **Conflicts.** In the event of a conflict between this code and other standards applicable to a middle housing development, the standards of this code control.
2. **Public Works Standards.** Clear and objective exceptions (as required by ORS 197.307(4)) to public works standards granted to single family dwellings shall also be granted to duplexes.
3. **Protective Measures.** Middle housing shall comply with protective measures (plans, policies, or regulations) adopted pursuant to statewide land use planning goals (e.g., environmental and natural hazard protections).

E. Duplex, Triplex, and Quadplex Examples

The following figures illustrate examples of possible configurations for duplexes, triplexes, and quadplexes. Other configurations may also be acceptable, provided the development meets the definition of duplex, triplex, or quadplex, pursuant to Section B.

Figure 3. Stacked Duplex

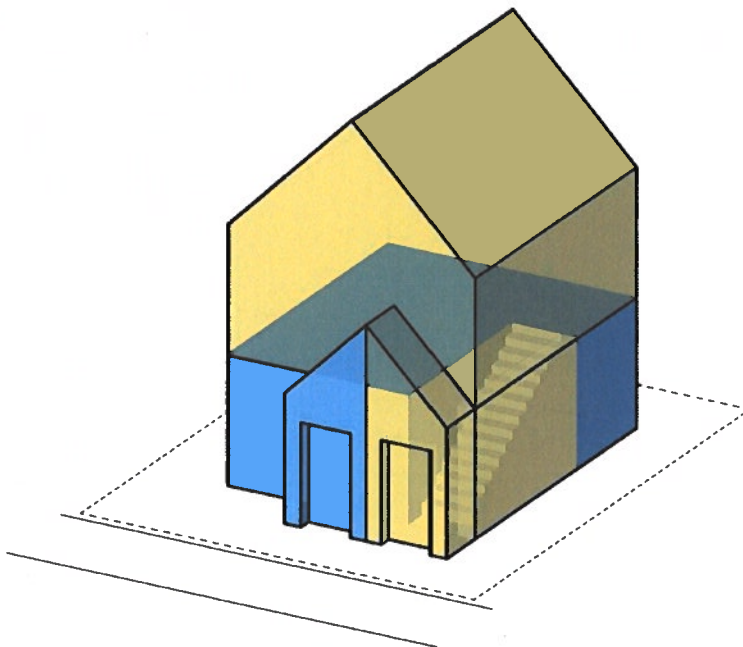


Figure 4. Side-by-Side Duplex

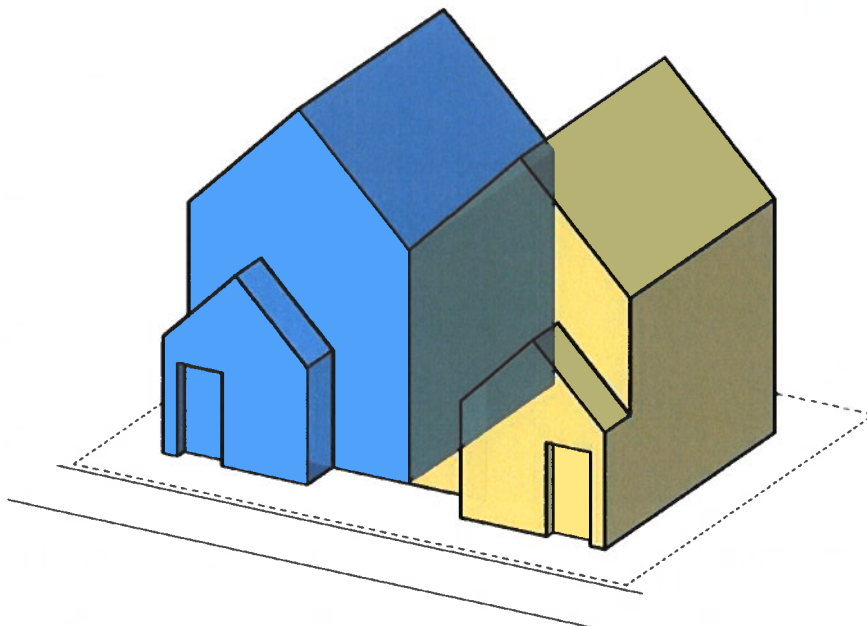


Figure 5. Duplex Attached by Garage Wall

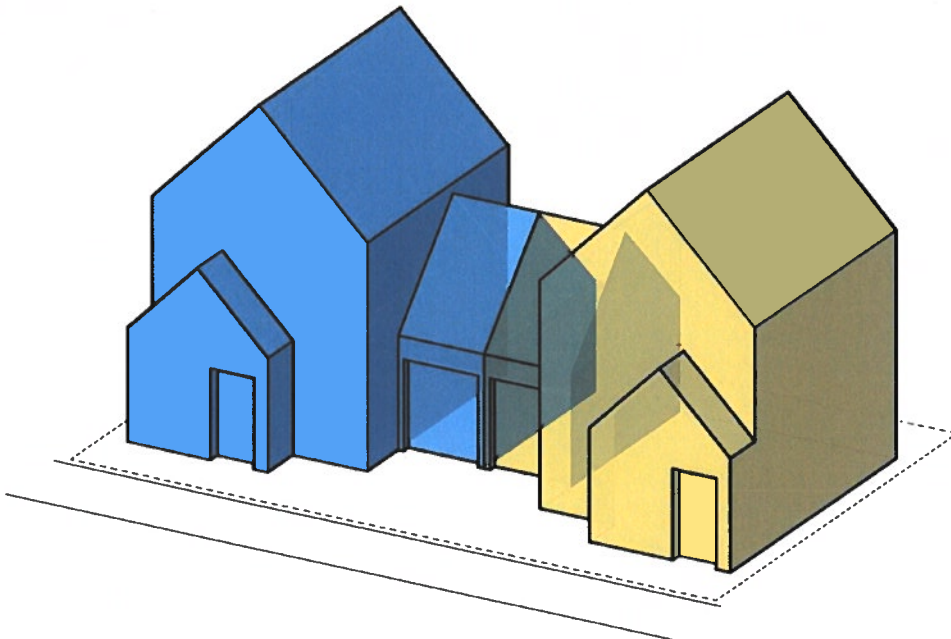


Figure 6. Duplex Attached by Breezeway

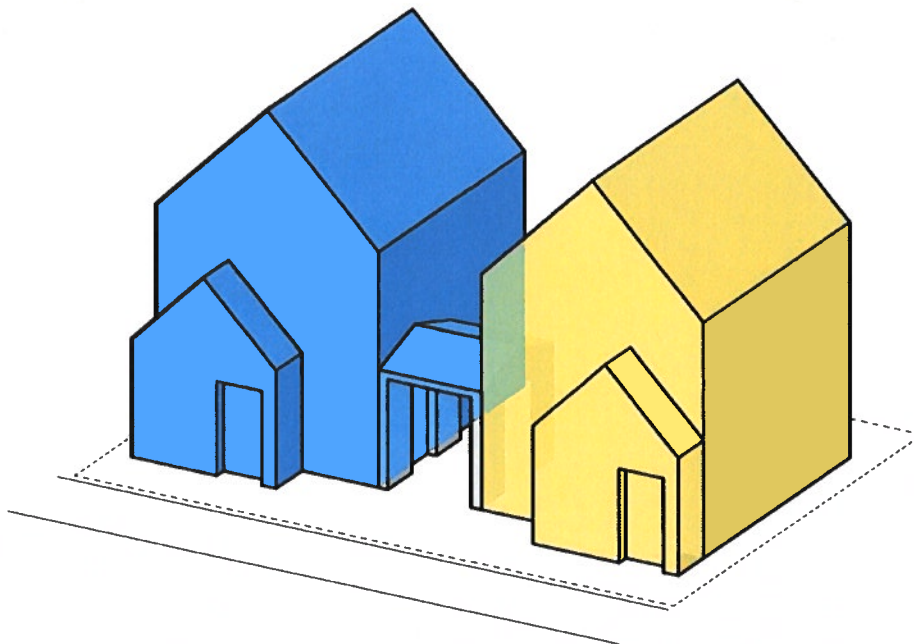


Figure 7. Detached Duplex Units Side-by-Side

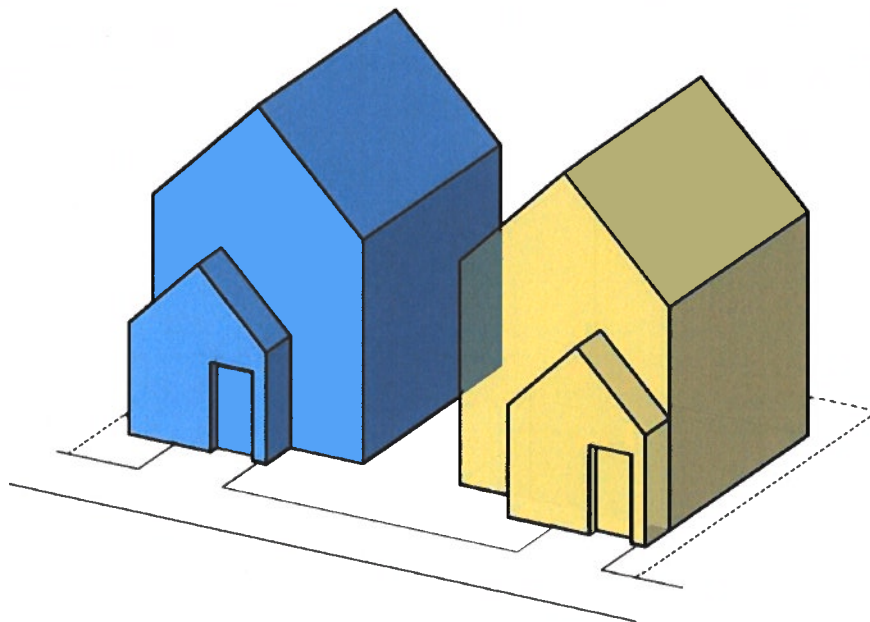


Figure 8. Detached Duplex Units Front and Back

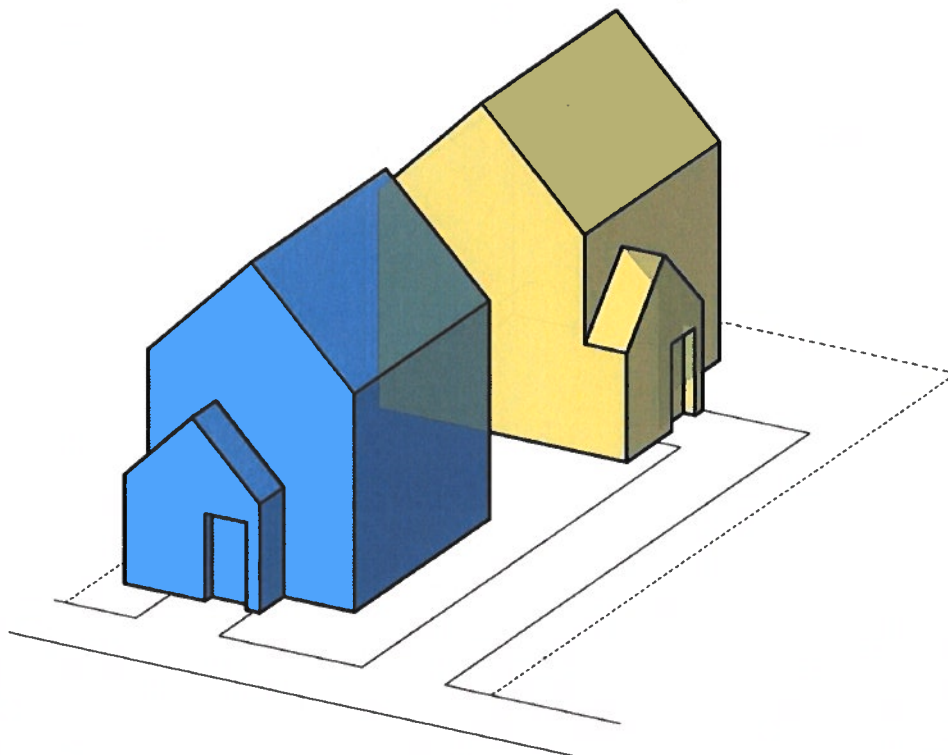


Figure 9. Attached Triplex Front and Back

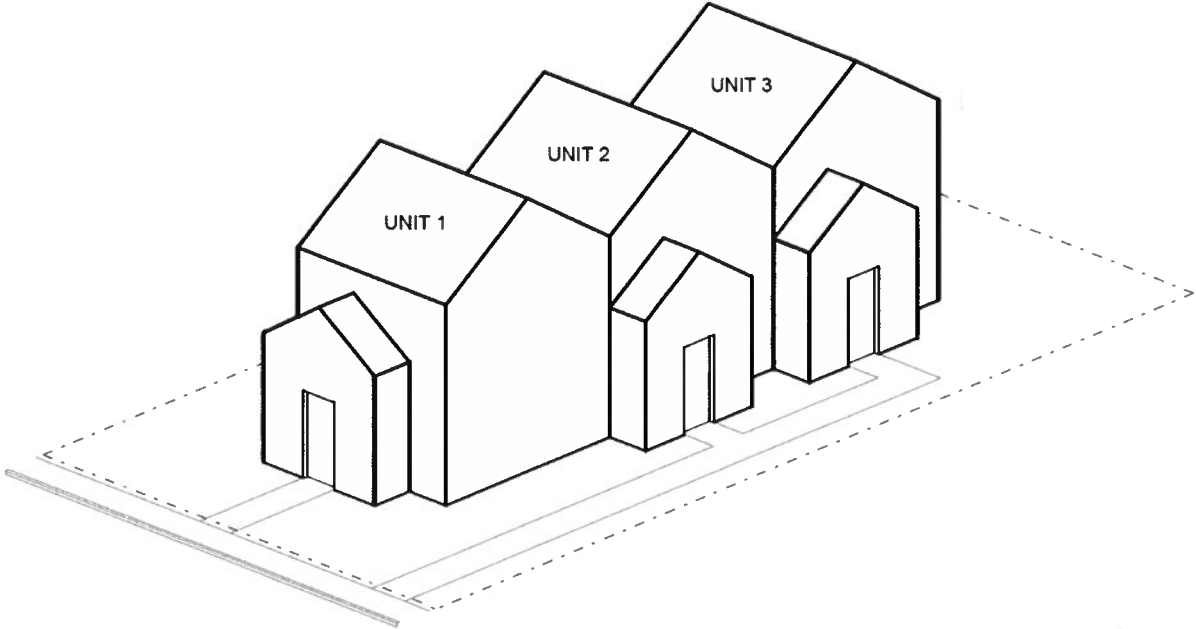


Figure 10. Attached Triplex Side-by-Side

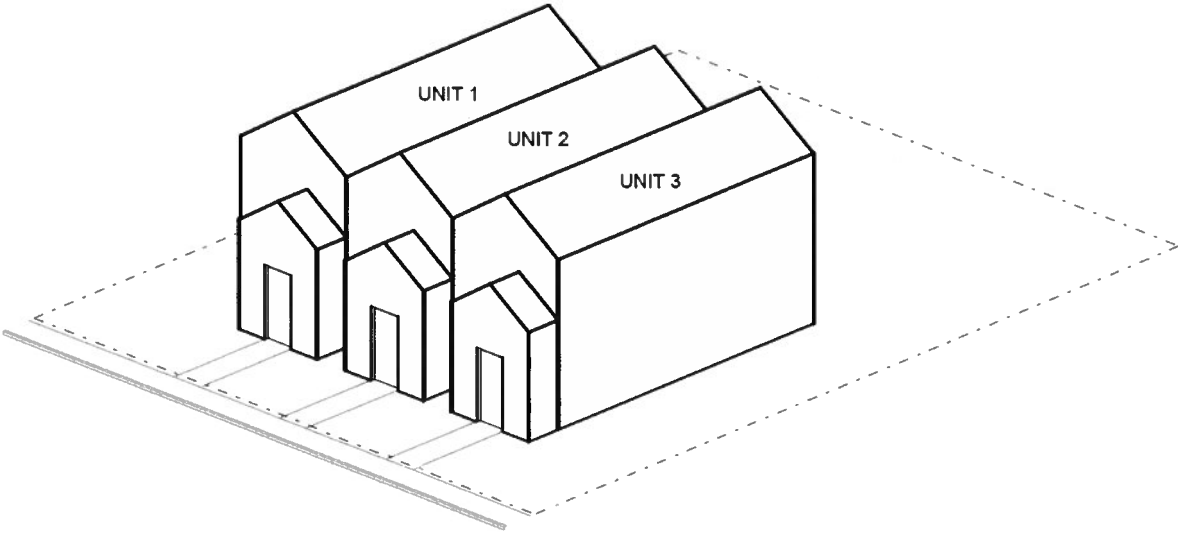


Figure 11. Detached Triplex Side-by-Side

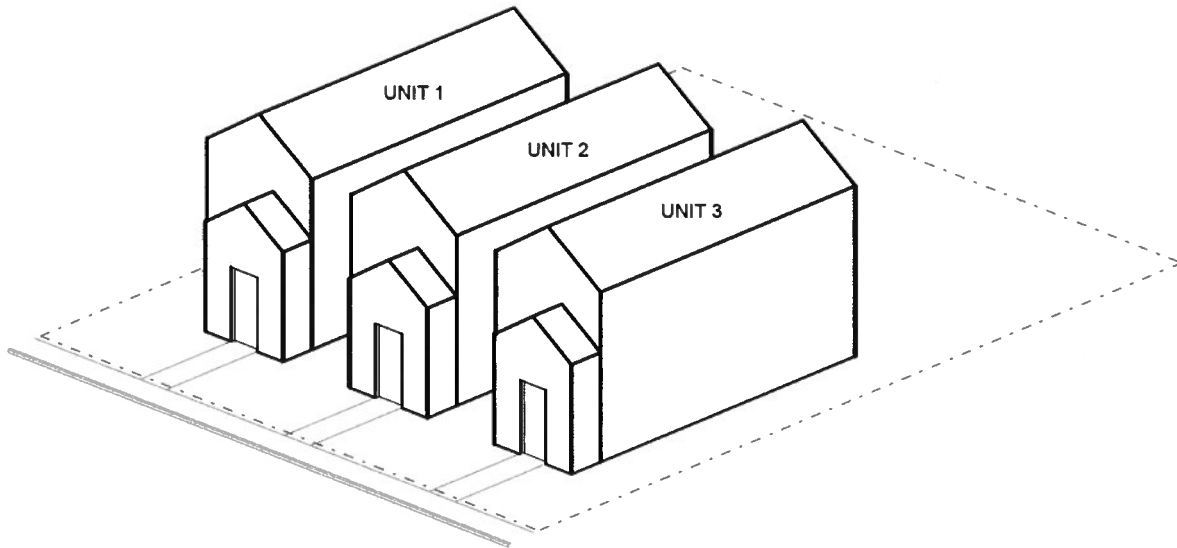


Figure 12. Stacked Quadplex

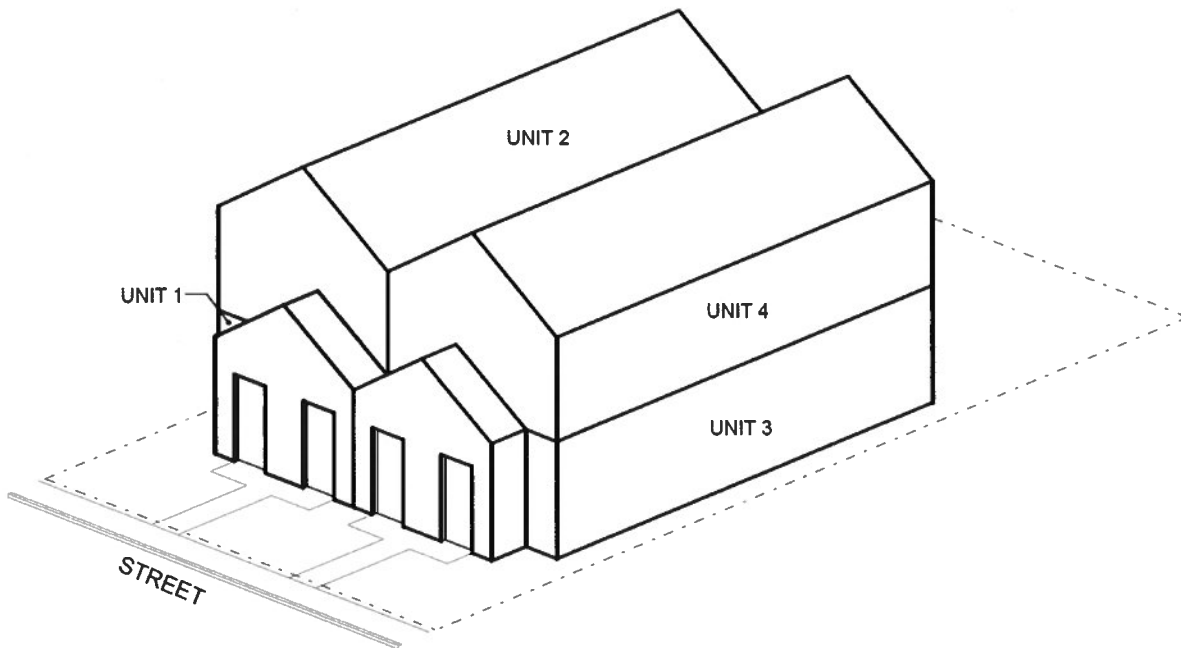
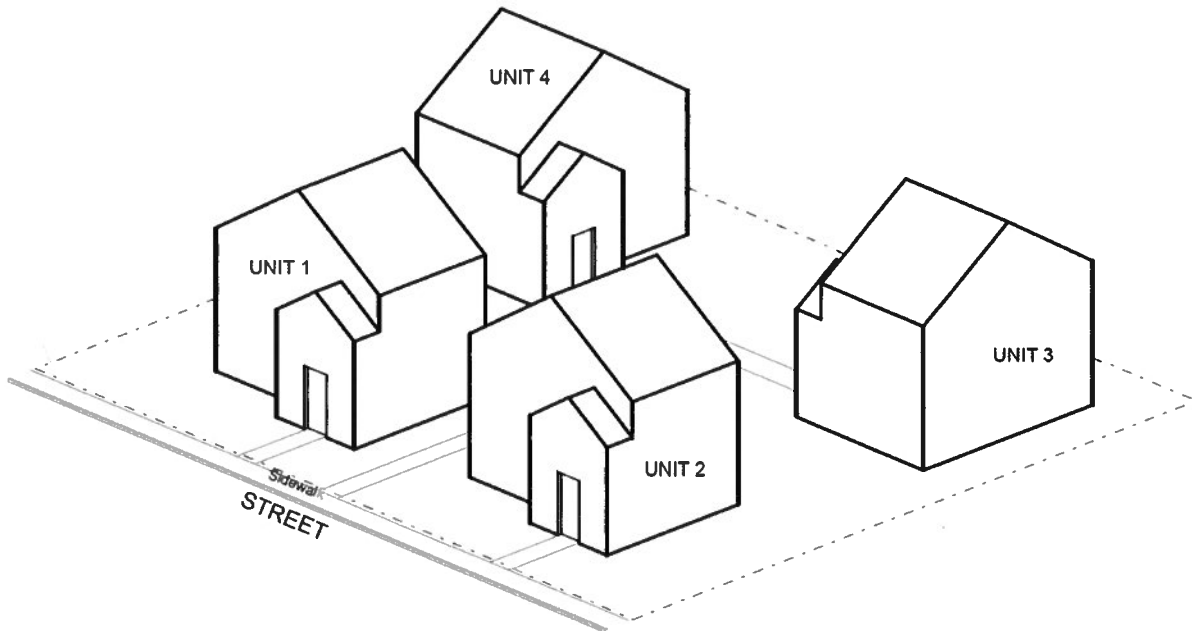


Figure 13. Detached Quadplex



Chapter 2. Duplexes

Sections:

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

A. Permitted Uses and Approval Process

Duplexes are permitted outright on lots or parcels zoned for residential use that allow for the development of detached single family dwellings. Duplexes are subject to the same approval process as that for detached single family dwellings in the same zone and are subject only to clear and objective standards, approval criteria, conditions, and procedures. Alternatively, an applicant may choose to submit an application for a duplex subject to discretionary standards and criteria adopted in accordance with ORS 197.307, if such a process is available.

B. Development Standards

Except as specified below, duplexes shall meet all clear and objective development standards that apply to detached single family dwellings in the same zone (including, but not limited to, minimum and maximum lot size, minimum and maximum setbacks, and building height), unless those standards conflict with this code.

The following development standards are invalid and do not apply to duplexes being developed on lots or parcels zoned for residential use that allow the development of a detached single family dwelling:

1. Maximum Density. The jurisdiction's pre-existing density maximums and minimum lot sizes for duplexes do not apply.
2. Setbacks. A minimum front setback of greater than 20 feet or a minimum rear setback of greater than 15 feet except for those minimum setbacks applicable to garages and carports.
3. Off-Street Parking. Any off-street parking requirement.

C. Design Standards

New duplexes shall meet all clear and objective design standards (e.g., entry orientation, window coverage, articulation, etc.) that apply to detached single family dwellings in the same zone, unless those standards conflict with this code. Facades of dwellings that are separated from the street property line by another dwelling are exempt from meeting building design standards.

Any design standards that apply only to duplexes are invalid.

D. Duplex Conversions

Conversion of an existing detached single family structure to a duplex is allowed, pursuant to Chapter 1, Section C (Applicability), provided that the conversion does not increase nonconformance with applicable clear and objective standards.

Chapter 3. Triplexes and Quadplexes

Sections:

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

A. Permitted Uses and Approval Process

Triplexes and quadplexes are permitted outright wherever they are allowed as provided in Chapter 1, Section C (Applicability). Triplexes and quadplexes are subject to the same approval process as that for detached single family dwellings in the same zone and are subject only to clear and objective standards, approval criteria, conditions, and procedures. Alternatively, an applicant may choose to submit an application for a triplex or quadplex subject to discretionary standards and criteria adopted in accordance with ORS 197.307, if such a process is available.

B. Development Standards

1. Applicability.
 - a. Triplexes and quadplexes shall meet:
 - The standards in subsections (2) through (7) of this section (B).
 - All other clear and objective development standards that apply to detached single family dwellings in the same zone (including, but not limited to, lot size and dimensions, minimum and maximum setbacks, and building height), unless those standards conflict with this code and except as specified in subsections (1)(b) and (2) through (7) of this section (B).
 - b. The following standards are invalid and do not apply to triplexes or quadplexes allowed by this code:
 - Maximum lot coverage, minimum landscape area, or minimum open space standards.
 - The jurisdiction's development standards that apply only to triplexes, quadplexes, or multifamily development.

2. **Number of Units.** This code does not allow for the creation of more than four (4) dwelling units on a lot, including accessory dwelling units.
3. **Maximum Density.** The jurisdiction's pre-existing density maximums do not apply.
4. **Setbacks.** Minimum front setbacks greater than 10 feet and minimum rear setbacks greater than 10 feet are invalid, except for those minimum setbacks applicable to garages and carports.
5. **Building Height.** A maximum height of less than 35 feet or three (3) stories is invalid. Building height is measured in accordance with the development code.
6. **Maximum Floor Area Ratio (FAR).** The maximum floor area ratio for all buildings onsite, cumulatively, is based on the minimum lot size for a detached single family dwelling in the same zone, as provided below:

Minimum Lot Size for Detached Single Family Dwellings	Maximum FAR
3,000 sf or less	1.4 to 1
More than 3,000 sf, up to and including 5,000 sf	1.1 to 1
More than 5,000 sf, up to and including 10,000 sf	0.7 to 1
More than 10,000 sf but less than 20,000 sf	0.6 to 1
20,000 sf or more	0.4 to 1

7. **Off-Street Parking.**
 - a. **Required Off-Street Parking.** The minimum number of required off-street parking spaces is:
 - i. In zones with a minimum lot size of less than 5,000 square feet, one (1) off-street parking space per development.
 - ii. In zones with a minimum lot size of 5,000 square feet or more, two (2) off-street parking spaces per development.

A credit for on-street parking shall be granted for some or all the required off-street parking as provided in subsection (b). No additional parking spaces shall be required for conversion of a detached single family dwelling to a triplex or quadplex, including those created through the addition of detached units.
 - b. **On-Street Credit.** If on-street parking spaces meet all the standards in subsections (i)-(iv) below, they shall be counted toward the minimum off-street parking requirement.
 - i. On-street parking must be allowed on the side of the street where the space is to be provided.

- ii. The space must be a minimum of 22 feet long;
- iii. The space must be abutting the subject site; and
- iv. The space must not obstruct a required sight distance area.

C. Design Standards

1. Applicability.

- a. New triplexes and quadplexes, including those created by adding building square footage on a site occupied by an existing dwelling, shall meet:
 - The design standards in subsections (2) through (5) of this section (C); and
 - All other clear and objective design standards that apply to detached single family dwellings in the same zone, unless those standards conflict with this code and except as specified in subsection (1)(b) of this section (C).
- b. The following standards are invalid and do not apply to triplexes or quadplexes allowed by this code:
 - Mandates for construction of a garage or carport.
 - Any design standards that apply only to triplexes, quadplexes, or multifamily development.

2. Entry Orientation. At least one main entrance for each triplex or quadplex structure that is not separated from the street property line by a dwelling must:

- a. Be within 8 feet of the longest street-facing wall of the dwelling unit; and
- b. Either:
 - i. Face the street (see Figure 14);
 - ii. Be at an angle of up to 45 degrees from the street (see Figure 15);
 - iii. Face a common open space that is adjacent to the street (see Figure 16); or
 - iv. Open onto a porch (see Figure 17). The porch must:
 - (A) Be at least 25 square feet in area; and
 - (B) Have at least one entrance facing the street or have a roof.

Figure 14. Main Entrance Facing the Street

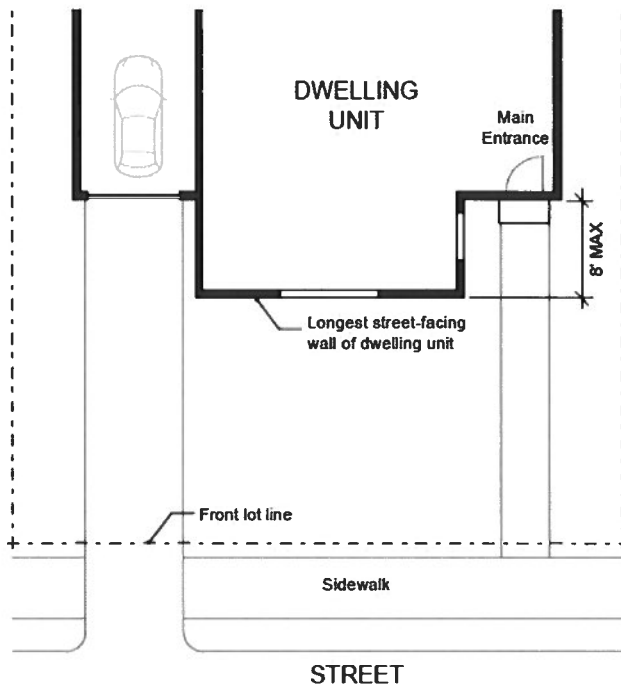


Figure 15. Main Entrance at 45° Angle from the Street

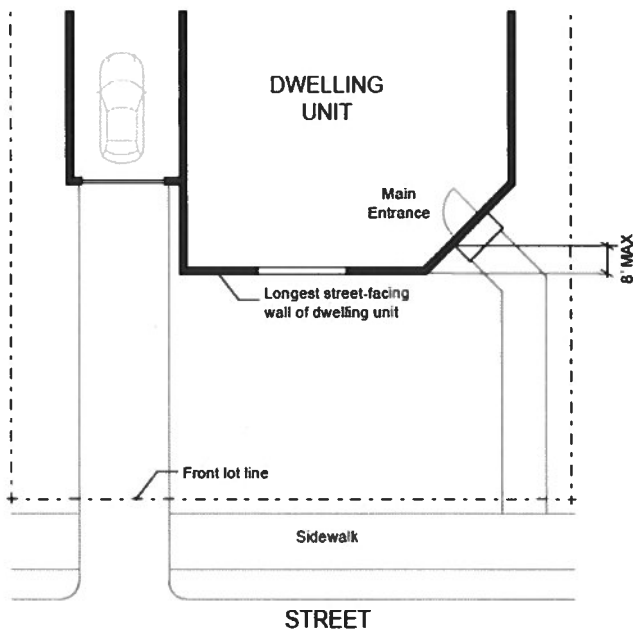


Figure 16. Main Entrance Facing Common Open Space

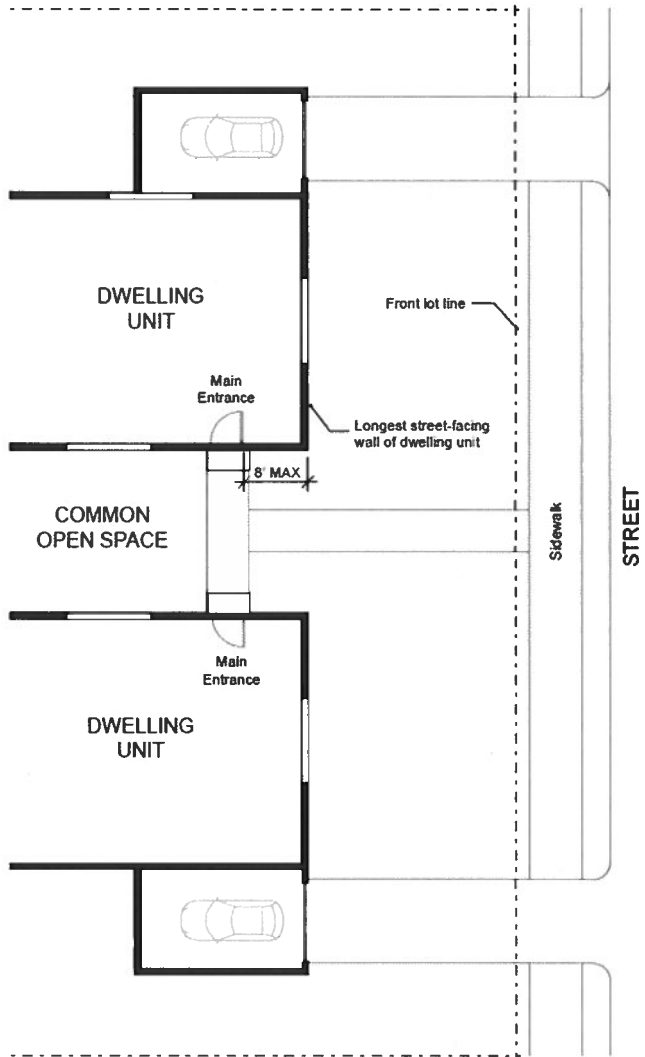
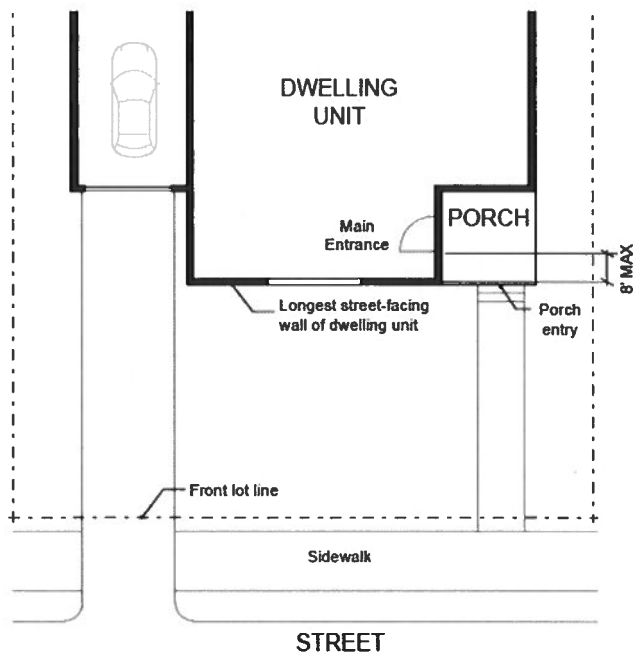


Figure 17. Main Entrance Opening onto a Porch



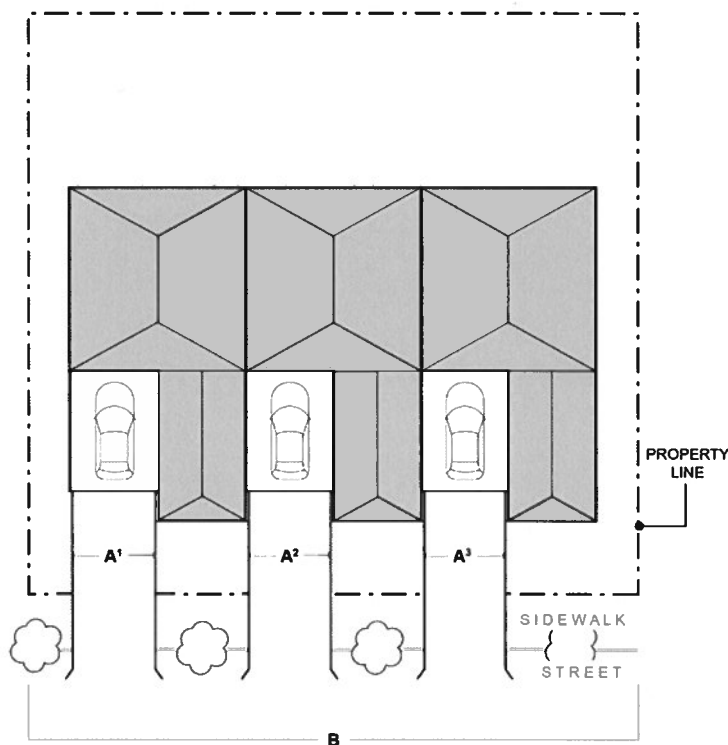
- 3. Windows. A minimum of 15 percent of the area of all street-facing facades must include windows or entrance doors. Facades separated from the street property line by a dwelling are exempt from meeting this standard. See Figure 18.

Figure 18. Window Coverage



4. **Garages and Off-Street Parking Areas.** Garages and off-street parking areas shall not be located between a building and a public street (other than an alley), except in compliance with the standards in subsections (a) and (b) of this subsection (C)(4).
- The garage or off-street parking area is separated from the street property line by a dwelling; or
 - The combined width of all garages and outdoor on-site parking and maneuvering areas does not exceed a total of fifty percent of the street frontage (see Figure 19).

Figure 19. Width of Garages and Parking Areas



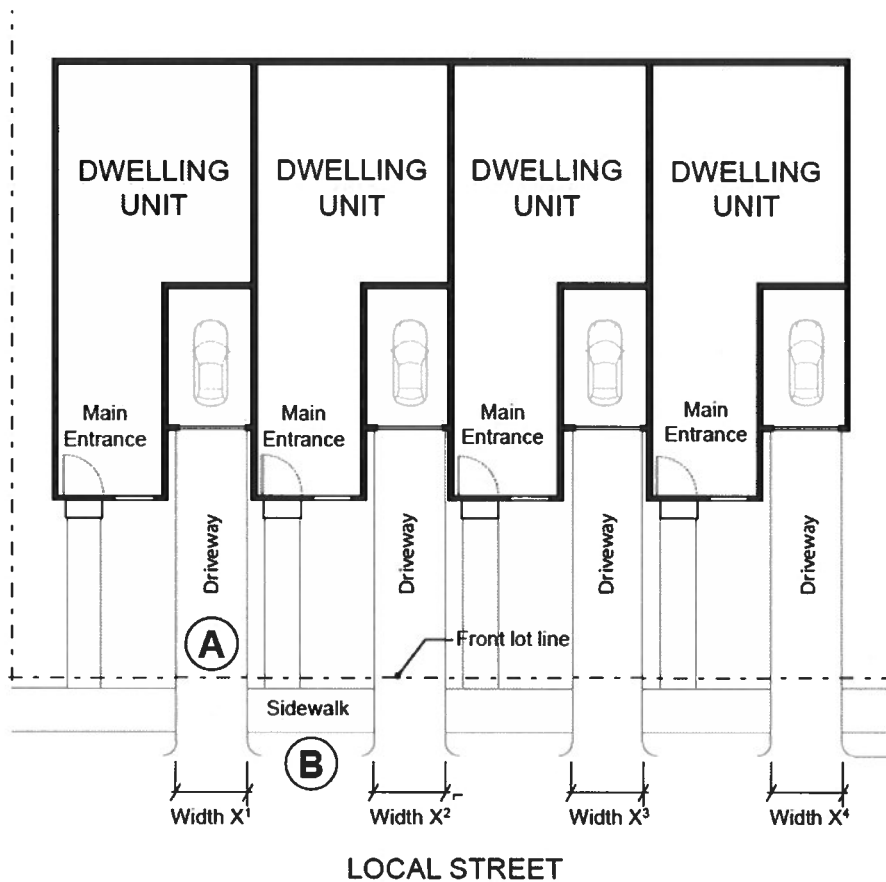
(A) Garage and on-site parking and maneuvering areas

(B) Total street frontage

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

5. Driveway Approach. Driveway approaches must comply with the following:
- a. The total width of all driveway approaches must not exceed 32 feet per frontage, as measured at the property line (see Figure 20). For lots or parcels with more than one frontage, see subsection (5)(c) of this subsection (C).
 - b. Driveway approaches may be separated when located on a local street (see Figure 20). If approaches are separated, they must meet the jurisdiction's driveway spacing standards applicable to local streets.
 - c. In addition, lots or parcels with more than one frontage must comply with the following:
 - i. Lots or parcels must access the street with the lowest classification. For lots or parcels abutting an improved alley, access must be taken from the alley (see Figure 21).
 - ii. Lots or parcels with frontages only on collectors and/or arterial streets must meet the jurisdiction's access standards applicable to collectors and/or arterials.
 - iii. Triplexes and quadplexes on lots or parcels with frontages only on local streets may have either:
 - Two driveway approaches not exceeding 32 feet in total width on one frontage; or
 - One maximum 16-foot-wide driveway approach per frontage (see Figure 22).

Figure 20. Driveway Approach Width and Separation on Local Street



A $X^1 + X^2 + X^3 + X^4$ must not exceed 32 feet per frontage,

B Driveway approaches may be separated when located on a local street

Figure 21. Alley Access

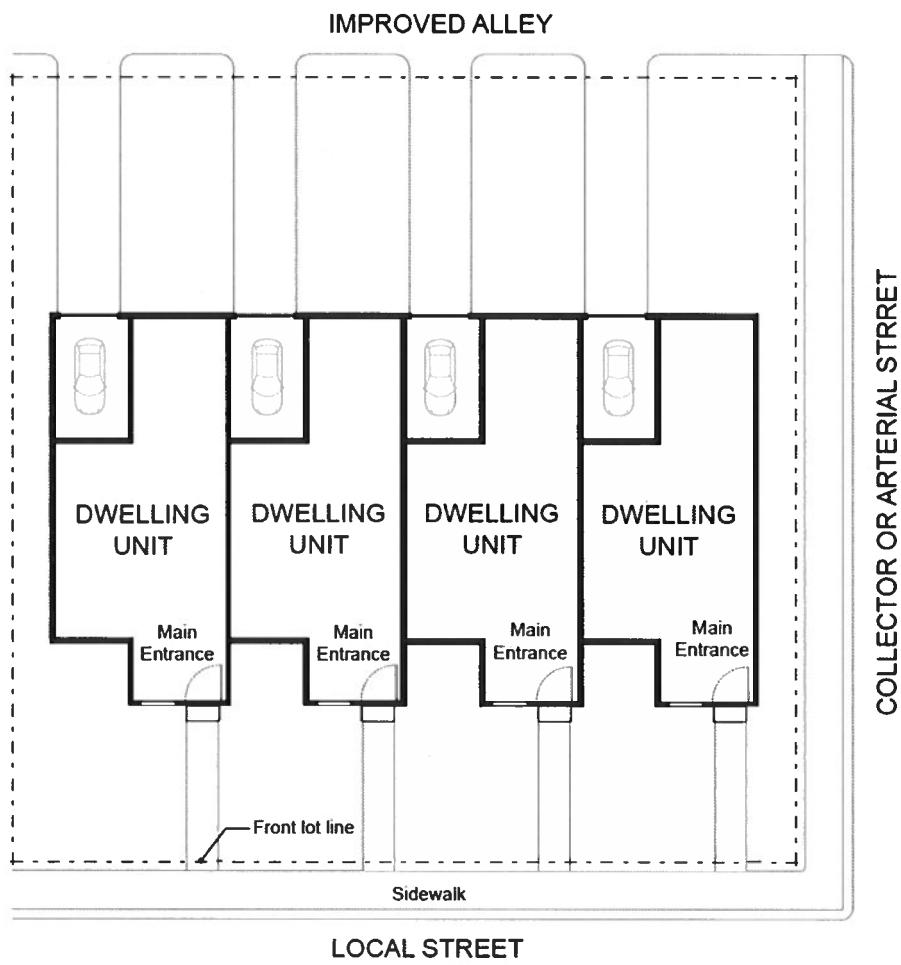
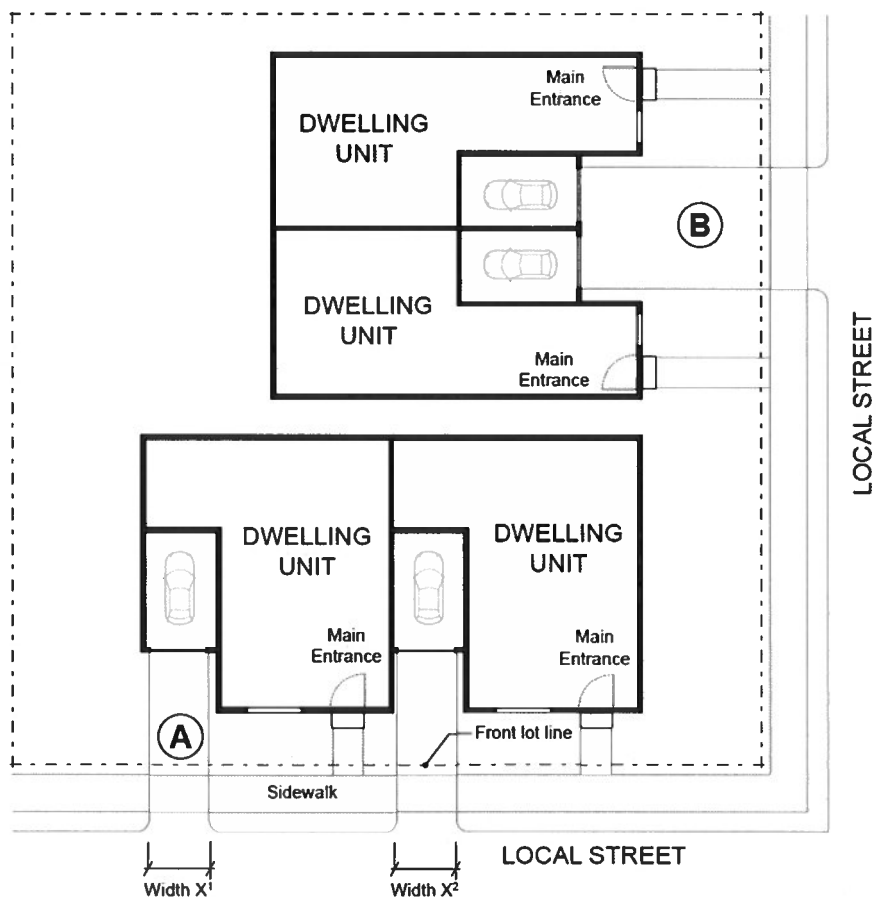


Figure 22. Driveway Approach Options for Multiple Local Street Frontages



Options for site with more than one frontage on local streets:

- (A)** Two driveway approaches not exceeding 32 feet in total width on one frontage (as measured $X_1 + X_2$), or
- (B)** One maximum 16-foot-wide driveway approach per frontage.

D. Conversions to Triplex and Quadplex

Internal conversion of an existing detached single family structure or duplex to a triplex or quadplex is allowed, pursuant to Chapter 1, Section C (Applicability), provided that the conversion does not increase nonconformance with applicable clear and objective standards, unless increasing nonconformance is otherwise permitted by the development code.

Chapter 4. Townhouses

Sections

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

A. Permitted Uses and Approval Process

Townhouse projects are permitted outright wherever they are allowed as provided in Chapter 1, Section C (Applicability). Townhouse structures are subject to the same approval process as that for detached single family dwellings in the same zone. Creation of new lots or parcels as part of a townhouse project is subject to the applicable land division approval process. Townhouse projects are subject only to clear and objective standards, approval criteria, conditions, and procedures. Alternatively, an applicant may choose to submit an application for a townhouse project subject to discretionary standards and criteria adopted in accordance with ORS 197.307, if such a process is available.

B. Development Standards

1. Applicability.

- a. Townhouses shall meet the standards in subsections (3), (4), and (5) of this section (B).
- b. Townhouse projects shall meet:
 - The standards in subsections (2), (5), and (6) of this section (B).
 - Any applicable clear and objective platting standards, unless those standards conflict with this code.
- c. The following standards are invalid and do not apply to townhouses or townhouse projects allowed by this code, except as specified in this section (B):
 - Additional development standards of the applicable base zone related to the standards addressed under subsections (2) through (6) of this section (B).
 - Development standards of the applicable base zone related to lot dimensions, lot coverage, landscape or open space area, or the siting or design of dwellings.
 - The jurisdiction's development standards that apply only to townhouses and that conflict with provisions of this code.

2. Maximum Density. The maximum density for a townhouse project is as follows:

- In zones with a minimum lot size of 2,500 square feet or less, townhouse projects are allowed two (2) times the allowed density for detached single family dwellings.

- In zones with a minimum lot size of more than 2,500 square feet but less than 5,000 square feet, townhouse projects are allowed three (3) times the allowed density for detached single family dwellings.
 - In zones with a minimum lot size of 5,000 square feet or more, townhouse projects are allowed four (4) times the allowed density for detached single family dwellings.
3. **Setbacks.** Townhouses shall meet the minimum and maximum setback standards that apply to detached single family dwellings in the same zone, except as noted below:
- **Front:** Minimum front setbacks greater than 10 feet are invalid, except those applicable to garages or carports.
 - **Rear:** Minimum rear setbacks greater than 10 feet and rear setbacks for lots with rear alley access are invalid.
 - **Street Side:** Minimum street side yard setbacks greater than 10 feet are invalid.
 - **Interior Side:**
 - The minimum setback for a common wall lot line where units are attached is zero (0) feet.
 - The minimum setback for an exterior wall at the end of a townhouse structure that faces an interior side lot line is five (5) feet.
4. **Building Height.** Townhouses shall meet the maximum building height standards that apply to detached single family dwellings in the same zone, except a maximum height of less than 35 feet or three (3) stories is invalid. Building height is measured in accordance with the development code.
5. **Off-Street Parking.**
- a. **Required Off-Street Parking.** The minimum number of required off-street parking spaces for a townhouse project is one (1) space per unit. Spaces may be provided on individual lots or in a shared parking area on a common tract. A credit for on-street parking shall be granted for some or all of the required off-street parking as provided in subsection (b).
 - b. **On-Street Credit.** If on-street parking spaces meet all the standards in subsections (i)-(iv) below, they shall be counted toward the minimum off-street parking requirement.
 - i. On-street parking must be allowed on the side of the street where the space is to be provided.
 - ii. The space must be a minimum of 22 feet long;
 - iii. The space must be abutting the subject site; and

- iv. The space must not obstruct a required sight distance area.
6. **Areas Owned in Common.** Common areas must be maintained by a homeowners association or other legal entity. A homeowners association may also be responsible for exterior building maintenance. A copy of any applicable covenants, restrictions and conditions must be recorded and provided to the jurisdiction prior to issuance of a building permit.

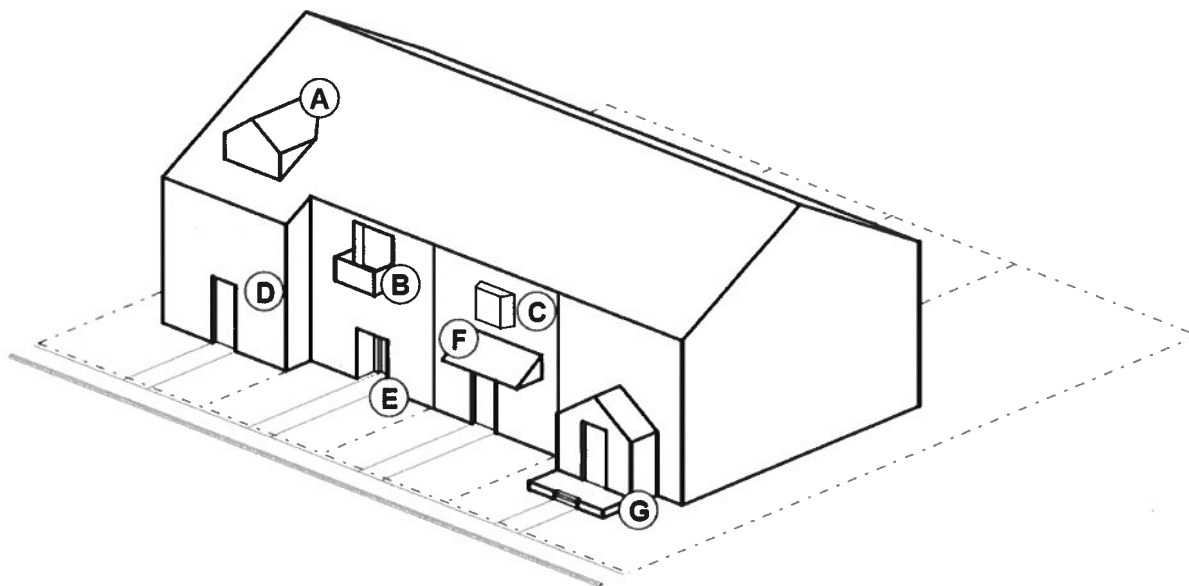
C. Design Standards

New townhouses shall meet the design standards in subsections (1) through (4) of this section (C). Mandates for construction of a garage or carport and any other design standards are invalid.

1. **Entry Orientation.** The main entrance of each townhouse must:
 - a. Be within 8 feet of the longest street-facing wall of the dwelling unit; and
 - b. Either:
 - i. Face the street (see Figure 14);
 - ii. Be at an angle of up to 45 degrees from the street (see Figure 15);
 - iii. Face a common open space or private access or driveway; or
 - iv. Open onto a porch (see Figure 17). The porch must:
 - (A) Be at least 25 square feet in area; and
 - (B) Have at least one entrance facing the street or have a roof.
2. **Unit definition.** Each townhouse must include at least one of the following on at least one street-facing façade (see Figure 23):
 - a. A roof dormer a minimum of 4 feet in width, or
 - b. A balcony a minimum of 2 feet in depth and 4 feet in width and accessible from an interior room, or
 - c. A bay window that extends from the facade a minimum of 2 feet, or
 - d. An offset of the facade of a minimum of 2 feet in depth, either from the neighboring townhouse or within the façade of a single townhouse, or
 - e. An entryway that is recessed a minimum of 3 feet, or
 - f. A covered entryway with a minimum depth of 4 feet, or
 - g. A porch meeting the standards of subsection (1)(b)(iv) of this section (C).

Balconies and bay windows may encroach into a required setback area.

Figure 23. Townhouse Unit Definition



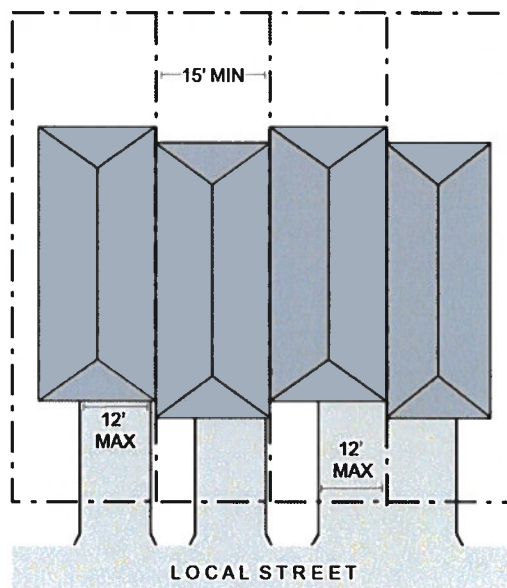
- (A)** Roof dormer, minimum of 4 feet wide
- (B)** Balcony, minimum 2 feet deep and 4 feet wide. Accessible from interior room.
- (C)** Bay window extending minimum of 2 feet from facade
- (D)** Facade offset, minimum of 2 feet deep
- (E)** Recessed entryway, minimum 3 feet deep
- (F)** Covered entryway,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

3. **Windows.** A minimum of 15 percent of the area of all street-facing facades on each individual unit must include windows or entrance doors. Half of the window area in the door of an attached garage may count toward meeting this standard. See Figure 18.
4. **Driveway Access and Parking.** Townhouses with frontage on a public street shall meet the following standards:
 - a. Garages on the front facade of a townhouse, off-street parking areas in the front yard, and driveways in front of a townhouse are prohibited unless the following standards are

met (see Figure 24). For the purposes of this section (C)(4), “driveway approach” means the edge of a driveway where it abuts a public right-of-way.

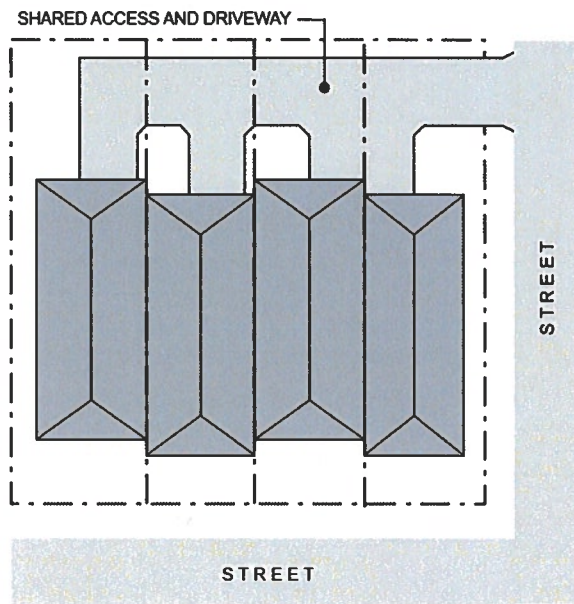
- i. Each townhouse lot has a street frontage of at least 15 feet on a local street.
- ii. A maximum of one (1) driveway approach is allowed for every townhouse. Driveways may be shared.
- iii. Outdoor on-site parking and maneuvering areas do not exceed 12 feet wide on any lot.
- iv. The garage width does not exceed 12 feet, as measured from the inside of the garage door frame.

Figure 24. Townhouses with Parking in Front Yard



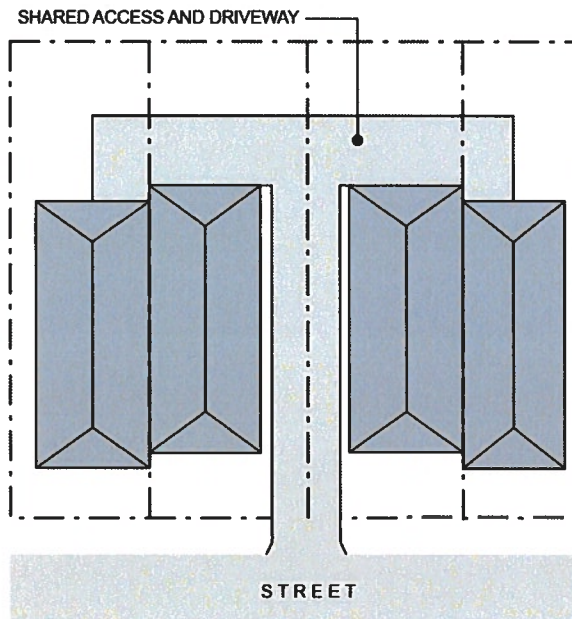
- b. The following standards apply to driveways and parking areas for townhouse projects that do not meet all of the standards in subsection (a).
 - i. Off-street parking areas shall be accessed on the back façade or located in the rear yard. No off-street parking shall be allowed in the front yard or side yard of a townhouse.
 - ii. A townhouse project that includes a corner lot shall take access from a single driveway approach on the side of the corner lot. See Figure 25.

Figure 25. Townhouses on Corner Lot with Shared Access



- iii. Townhouse projects that do not include a corner lot shall consolidate access for all lots into a single driveway. The driveway and approach are not allowed in the area directly between the front façade and front lot line of any of the townhouses. See Figure 26.

Figure 26. Townhouses with Consolidated Access



- iv. A townhouse project that includes consolidated access or shared driveways shall grant appropriate access easements to allow normal vehicular access and emergency access.
- c. Townhouse projects served by an alley providing access to the rear yards of all units are exempt from compliance with subsection (b).

Chapter 5. Cottage Clusters

Sections:

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

A. Permitted Uses and Approval Process

Cottage cluster projects are permitted outright wherever they are allowed as provided in Chapter 1, Section C (Applicability). Cottage cluster projects are subject to the same approval process as that for detached single family dwellings in the same zone and are subject only to clear and objective standards, approval criteria, conditions, and procedures, consistent with the requirements of ORS 197.307(4). Alternatively, an applicant may choose to submit an application for a cottage cluster project subject to discretionary standards and criteria adopted in accordance with ORS 197.307, if such a process is available.

B. Development Standards

1. Applicability.
 - a. Cottage clusters shall meet the standards in subsections (2) through (7) of this section (B).
 - b. The following standards are invalid and do not apply to cottage clusters allowed by this code, except as specified in this section (B):
 - Additional development standards of the applicable base zone related to the standards addressed under subsections (2) through (7) of this section (B).
 - Development standards of the applicable base zone related to lot dimensions, lot coverage, landscape or open space area, or the siting or design of dwellings.
 - The jurisdiction's development standards that apply only to cottage clusters and that conflict with provisions of this code.
2. Minimum Lot Size and Dimensions. Cottage clusters shall meet the minimum lot size and width, and depth standards that apply to detached single family dwellings in the same zone.

3. **Maximum Density.** The jurisdiction's pre-existing density maximums do not apply.
4. **Setbacks.** Cottage clusters shall meet the minimum and maximum setback standards that apply to detached single family dwellings in the same zone, except that minimum setbacks in excess of the following are invalid:
 - Front setbacks: 10 feet
 - Side setbacks: 5 feet
 - Rear setbacks: 10 feet

The minimum distance between all structures, including accessory structures, shall be in accordance with building code requirements.

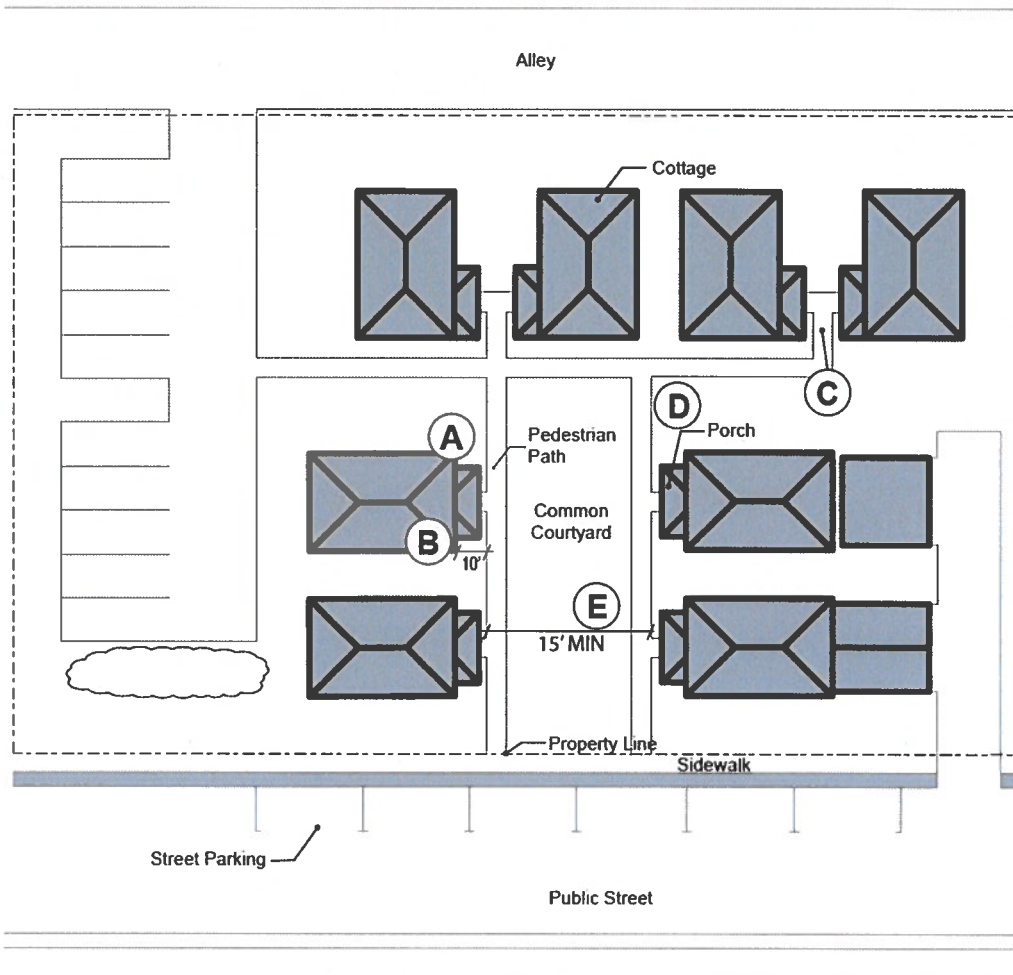
5. **Average Unit Size.** The maximum average floor area for a cottage cluster is 1,400 square feet per dwelling unit. Community buildings shall be included in the average floor area calculation for a cottage cluster.
6. **Building Height.** The maximum building height is 25 feet or two (2) stories, whichever is greater.
7. **Off-Street Parking.**
 - a. **Required Off-Street Parking.** The minimum number of required off-street parking spaces for a cottage cluster project is zero (0) spaces per unit with a floor area less than 1,000 square feet and one (1) space per unit with a floor area of 1,000 square feet or more. Spaces may be provided for individual cottages or in shared parking clusters. A credit for on-street parking shall be granted for some or all of the required off-street parking as provided in subsection (b).
 - b. **On-Street Credit.** If on-street parking spaces meet all the standards in subsections (i)-(iv) below, they shall be counted toward the minimum off-street parking requirement.
 - i. On-street parking must be allowed on the side of the street where the space is to be provided.
 - ii. The space must be a minimum of 22 feet long;
 - iii. The space must be abutting the subject site; and
 - iv. The space must not obstruct a required sight distance area.

C. Design Standards

Cottage clusters shall meet the design standards in subsections (1) through (7) of this section (C). No other design standards shall apply to cottage clusters unless noted in this section. Mandates for construction of a garage or carport and any other design standards are invalid, except as specified in this Section (D).

1. **Cottage Orientation.** Cottages must be clustered around a common courtyard and must meet the following standards (see Figure 27):
 - a. A minimum of fifty (50) percent of cottages within a cluster must be oriented to the common courtyard and must:
 - i. Have a main entrance facing the common courtyard;
 - ii. Be within 10 feet from the common courtyard, measured from the façade of the cottage to the nearest delineation of the common courtyard; and
 - iii. Be connected to the common courtyard by a pedestrian path.
 - b. Cottages within 20 feet of a street property line may have their entrances facing the street.
 - c. Cottages not facing the common courtyard or the street must have their main entrances facing a pedestrian path that is directly connected to the common courtyard.
2. **Common Courtyard Design Standards.** Each cottage cluster must share a common courtyard in order to provide a sense of openness and community of residents. Common courtyards must meet the following standards (see Figure 27):
 - a. The common courtyard must be a single, contiguous, useable piece.
 - b. Cottages must abut the common courtyard on at least two sides of the courtyard.
 - c. The common courtyard must contain a minimum of 150 square feet per cottage within the associated cluster.
 - d. The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.
 - e. The common courtyard shall be developed with a mix of landscaping and lawn area, recreational amenities, hard-surfaced pedestrian paths, and/or paved courtyard area. Impervious elements of the common courtyard shall not exceed 75 percent of the total common courtyard area.
 - f. Pedestrian paths qualify as part of a common courtyard. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.

Figure 27. Cottage Cluster Orientation and Common Courtyard Standards

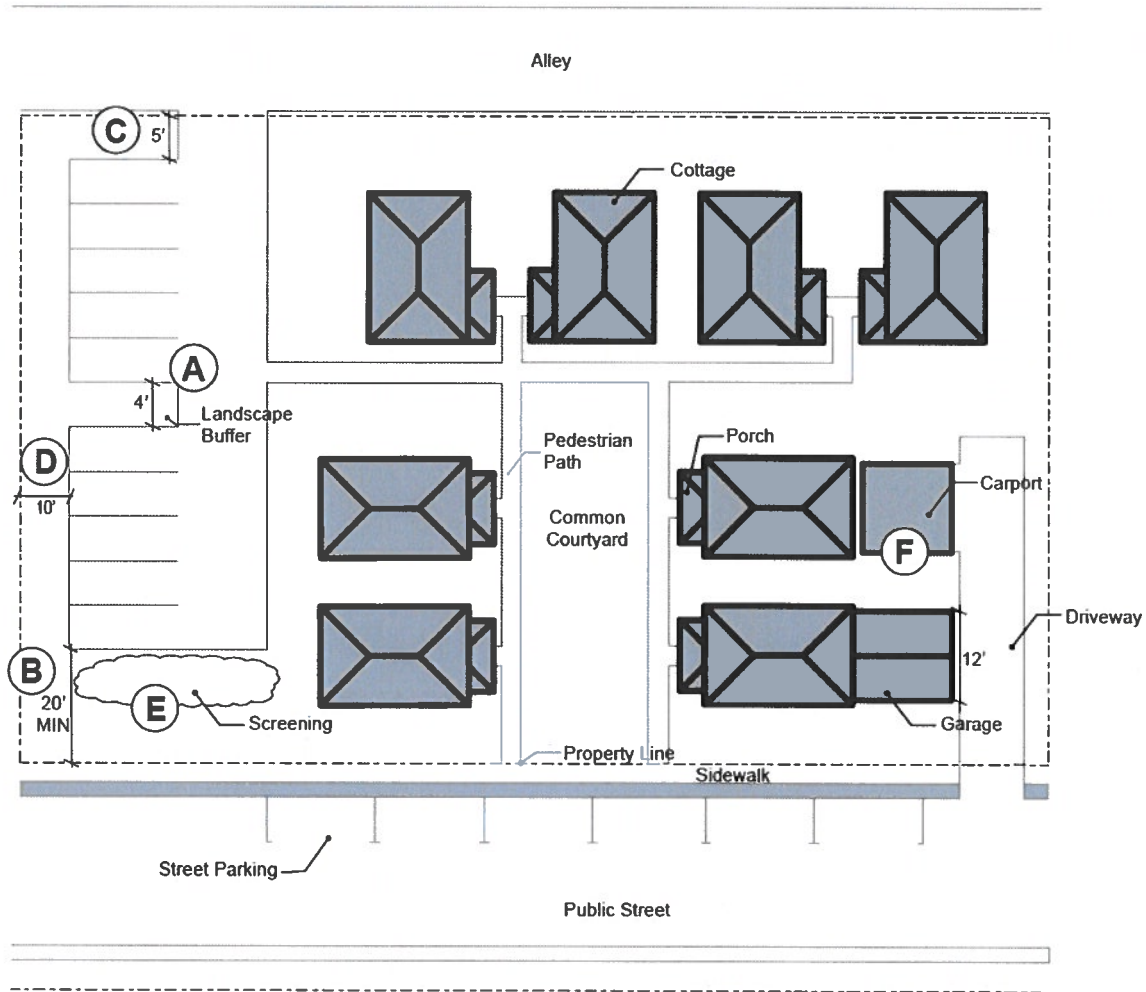


- (A)** A minimum of 50% of cottages must be oriented to the common courtyard.
- (B)** Cottages oriented to the common courtyard must be within 10 feet of the courtyard.
- (C)** Cottages must be connected to the common courtyard by a pedestrian path.
- (D)** Cottages must abut the courtyard on at least two sides of the courtyard.
- (E)** The common courtyard must be at least 15 feet wide at its narrowest width.

3. **Community Buildings.** Cottage cluster projects may include community buildings for the shared use of residents that provide space for accessory uses such as community meeting rooms, guest housing, exercise rooms, day care, or community eating areas. Community buildings must meet the following standards:
 - a. Each cottage cluster is permitted one community building, which shall be included in the calculation of average floor area, pursuant to subsection (B)(5).
 - b. A community building that meets the development code's definition of a dwelling unit must meet the maximum 900 square foot footprint limitation that applies to cottages, unless a covenant is recorded against the property stating that the structure is not a legal dwelling unit and will not be used as a primary dwelling.
4. **Pedestrian Access.**
 - a. An accessible pedestrian path must be provided that connects the main entrance of each cottage to the following:
 - i. The common courtyard;
 - ii. Shared parking areas;
 - iii. Community buildings; and
 - iv. Sidewalks in public rights-of-way abutting the site or roadways if there are no sidewalks.
 - b. The pedestrian path must be hard-surfaced and a minimum of five (5) feet wide.
5. **Windows.** Cottages within 20 feet of a street property line must meet any window coverage requirement that applies to detached single family dwellings in the same zone.
6. **Parking Design** (see Figure 28).
 - a. **Clustered parking.** Off-street parking may be arranged in clusters of not more than five (5) contiguous spaces separated by at least four (4) feet of landscaping. Clustered parking areas may be covered.
 - b. **Parking location and access.**
 - i. Off-street parking spaces and vehicle maneuvering areas shall not be located:
 - Within of 20 feet from any street property line, except alley property lines;
 - Within five (5) feet from alley property lines; or
 - Between a street property line, except alley property lines, and cottages abutting the street property line.

- ii. Off-street parking spaces shall not be located within 10 feet of any other property line. Driveways and drive aisles are permitted within 10 feet of other property lines.
 - c. Screening. Landscaping or architectural screening at least three feet tall shall separate clustered parking areas and parking structures from common courtyards and public streets.
 - d. Garages and carports. Garages and carports (whether shared or individual) must not abut common courtyards. Garage doors for individual garages must not exceed 12 feet in width.
7. Existing Structures. On a lot or parcel to be used for a cottage cluster project, a pre-existing detached single family dwelling may remain within the cottage cluster project area under the following conditions:
- a. The existing dwelling may be nonconforming with respect to the requirements of this code.
 - b. Existing dwellings may be expanded up to the maximum height or footprint required by this code; however, existing dwellings that exceed the maximum height, footprint, and/or unit size of this code may not be expanded.
 - c. The floor area of the existing dwelling shall not count towards the maximum average floor area of a cottage cluster.

Figure 28. Cottage Cluster Parking Design Standards



- (A) Parking allowed in clusters of up to 5 spaces. Clusters separated by minimum 4 feet of landscaping.
- (B) No parking or vehicle area within 20 feet from street property line (except alley).
- (C) No parking or vehicle area within 5 feet of alley property line.
- (D) No parking within 10 feet from other property lines. Driveways and drive aisles permitted within 10 feet.
- (E) Screening required between clustered parking areas or parking structures and public streets or common courtyards.
- (F) Garages and carports must not abut common courtyards. Garage doors for individual garages must not exceed 12 feet in width.

Tentative Planning Commission Work Program

(Scheduling and timing of agenda items is subject to change)



January 11, 2021 Work Session

- Initial Review of Land Use Code Amendments to Implement HB 2001 Duplex, Townhouse, and Cottage Cluster Standards (Carried over from 12-13-20 work session).

January 11, 2021 Regular Session

- Organizational Meeting (Elect Chair and Vice-Chair)

January 25, 2021 Work Session

- File 1-CP-17, Review Results from Nov/Dec TSP Outreach, Preferred Alternatives, Next Steps
- File 5-Z-20 Second Review of Adjustments to Large Wireless and Other Telecommunications Land Use Standards. Will include Provisions for Small Wireless Facilities Outside of the Right-of-Way

January 25, 2021 Regular Session

- File 5-Z-20 Initiate Large Wireless and Other Telecommunications Land Use Standard Legislative Amendments. Will include Provisions for Small Wireless Facilities Outside of the Right-of-Way

February 8, 2021 Work Session

- Second Review of Land Use Code Amendments to Implement HB 2001 Duplex, Townhouse, and Cottage Cluster Standards

February 8, 2021 Regular Session

- Initiate Legislative Process to Amend Land Use Regulations to Implement HB 2001 Duplex, Townhouse, and Cottage Cluster Standards
- Hearing File 1-SV-21, Vacation of a Portion of SW 2nd Street between SW Angle and US 101 (placeholder)

February 22, 2021 Work Session

- File 5-Z-20 Initiate Large Wireless and Other Telecommunications Land Use Standard Legislative Amendments. Will include Provisions for Small Wireless Facilities Outside of the Right-of-Way

February 22, 2021 Regular Session

- Hearing on File 5-Z-20, Amending NMC Chapter 14 for Large Wireless and Other Telecommunications Land Use Standards, including provisions for small wireless outside ROWs

March 8, 2021 Work Session

- Initial Review of Draft Revisions to Transportation Standards in NMC Chapters 13 and 14 Related to Transportation System plan Update
- City / DLCDC Presentation on Newport Beach Access Resiliency Plan (placeholder)

March 8, 2021 Regular Session

- Hearing to amend NMC Chapter 14 Legislative Process to Amend Land Use Regulations to Implement HB 2001 Duplex, Townhouse, and Cottage Cluster Standards

March 22, 2021 Work Session

- Second Review of Draft Revisions to Transportation Standards in NMC Chapters 13 and 14 Related to Transportation System plan Update
- Update on TSP Schedule and Concept for Second Round of Community Outreach (Preferred Alternatives)
- Initial Discussion about Code Options for Lifting Restrictions on the Operation of Food Carts (Council Goal)

March 22, 2021 Regular Session

- TBD