

HB 2138 -1 STAFF MEASURE SUMMARY

House Committee On Housing and Homelessness

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Meeting Dates: 3/3

WHAT THE MEASURE DOES:

The measure local governments to allow a variety of housing types, including duplexes, triplexes, quadplexes, townhouses, and cottage clusters, in areas zoned for residential use. It simplifies approval processes for middle housing development and limits local governments from imposing restrictions that reduce housing density. The measure also modifies regulations for single room occupancy housing by increasing density allowances and reducing parking requirements. Additionally, it voids restrictive covenants and local policies that unreasonably limit housing development and mandates faster approval timelines for housing projects. It streamlines land division processes for middle housing.

Detailed Summary:

Middle Housing

- Changes the definition of “cottage cluster” to mean a grouping of attached or detached dwelling units in any configuration that includes a common courtyard or other shared community amenity and in which each unit has a small footprint.
- Defines “duplex”, “triplex” and “quadplex”.
- Defines “middle housing” as duplexes, triplexes, quadplexes, cottage clusters or townhouses, additional units, existing dwelling units to which additional units are added.
- Classifies land within an urban growth boundary; with base zoning for residential uses; which allows the development of a detached single-unit dwelling; is not zoned primarily for commercial, industrial, agricultural, or public uses; is incorporated or has sufficient urban services; and is not zoned under an interim zoning designation as “zoned for residential use”.
- Requires the lot or parcel to include any existing one single-unit dwelling; one single-unit dwelling plus one accessory dwelling unit; or one duplex.
- Allows cities to require only new units to comply with siting and design standards.
- Permits existing units on the lot or parcel be separated from the new units by a middle housing land division and are considered a single unit.
- Prohibits local governments from requiring a traffic impact analysis for middle housing developed on a lot or parcel for residential infill or redevelopment.
- Defines “accessible homeownership unit” and “affordable homeownership unit” and allows additional development of one additional attached or detached dwelling unit (for any duplex or triplex) or up to two additional attached or detached dwelling units (for a townhouse, quadplex or cottage cluster) if one or more of the units of middle housing is an accessible or affordable homeownership unit on any lot, parcel, or area in a city.
- Directs cities to allow commensurate increases to the developable area, floor area, height, or density requirements to allow for the development of said units.

Single Room Occupancies

- Modifies density requirements for development of single-unit dwellings to up to three times the number of units allowed by the maximum density standards of a lot or parcel on which is allowed multiunit housing with five or more dwelling units.

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- Prohibits a single room occupancy unit be counted as more than one-third of a dwelling unit that is not a single room occupancy unit for the purpose of parking space requirements.

Promoting Housing Density

- Declares instruments executed before, on or after January 1, 2021, that impede the development of middle housing or accessory dwellings as void and unenforceable and as being against the policy of this state of promoting housing availability and affordability and affirmatively furthering fair housing.
- Declares governing documents, adopted before, on or after January 1, 2020, as void and unenforceable and against the policy of the state of promoting housing availability and affordability and affirmatively furthering fair housing if it prohibits or has the effect of unreasonably restricting the development of housing, including accessory dwelling units or middle housing.
- Prohibits cities from adopting land use regulations that decrease the overall allowable or required density of residential development or create additional limitations on allowed housing types that effectively reduce the allowable or required density, except as necessary to comply with a statewide planning goal. Specifies prohibited regulations include any regulation without an equivalent offsetting that limits allowable units per acre or per developable lot or parcel; reduces allowable floor-area-ratio for dwelling units; reduces allowable height; limits or prohibits allowable higher density housing types, including middle housing or multiunit housing; increases minimum lot sizes; or increases setbacks or otherwise limits the developable area of a lot or parcel.
- Allows local governments to adopt and apply standards, conditions, and procedures regulating urban services necessary for the development of housing.

Expedited and Middle Housing Land Divisions

- Requires applications for middle housing plans submitted to the city to include proposal for one development of middle housing that complies with the Oregon residential specialty code and land use regulations and may consist of a single duplex, triplex, quadplex, cottage cluster or structure containing townhouses; and existing middle housing units.
- Excludes lots or parcels with a detached single-unit dwelling and accessory dwelling unit or a duplex from requirement to have exactly one dwelling unit on each resulting lot or parcel for the purposes of the application.
- Allows submissions of applications for a middle housing land division before, after or at the same time as the submission of an application for building permits.
- Allows cities to require separate utilities for each dwelling unit.
- Directs cities to allow any existing units to be considered a single middle housing unit and allow for the unit to be separated by the division.
- Permits a city or a county to prohibit or add approval criteria to the allowance of a new accessory dwelling unit on, or a subsequent middle housing land division of, a lot or parcel resulting from a middle housing land division provided that the middle housing land division lots or parcels may be used to create housing that is at or above the minimum density for the zoning of the land.
- Requires procedures that a governing body of a county or a city adopts to provide for method by which the city or county may approve a plan or plat that includes further division of one or more of the resulting lots or parcels via concurrently submitted applications for middle housing land divisions.
- Modifies timelines for final action on land use applications by adding a new 100-day timeline for affordable housing and a 63-day timeline for expedited land divisions.
- Directs local government to approve a partition or subdivision as an expedited land division unless the applicant requests to use the procedure set forth in a comprehensive plan and land use regulations.
- Directs local governments to provide notice of the decision to the applicant but may not require that notice be given to any other person.
- Permits local governments to assess an application fee calculated to recover the estimated full cost of processing an application based on the estimated average cost of such applications.

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- Directs cities and counties to review and revise fee within one year if necessary to reflect actual experience in processing expedited land decisions.

Rulemaking

- Directs the Land Conservation and Development Commission to adopt rules by January 1, 2028 for prohibiting or restricting siting and design standards that prevent or discourage, or have the effect of preventing or discouraging, the siting of middle housing that is manufactured, site-built or prefabricated; establishing parameters on unreasonable cost or delay for siting and design standards for accessory dwelling units and single room occupancies; regulating cottage clusters for the purposes of appropriately incentivizing the provision of smaller, less expensive housing, shared community amenities and other public benefits in a manner that is financially feasible; amending siting and design parameters for housing types, to better facilitate housing production, availability and affordability; amending permissible discretionary criteria applied by local government; repealing requirements for demolition review for houses listed in the national register of historic places; developing model system development charges for residential development types for the optional adoption or incorporation by local governments; and establishing procedures to estimate the reasonable zoned housing capacity of an area as part of an inventory of buildable lands or housing capacity.

Declares emergency, effective on passage.

Fiscal impact: May have fiscal impact, but no statement yet issued

Revenue impact: May have revenue impact, but no statement yet issued

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 The amendment broadens the definition of "city" to include local governments in urban unincorporated lands and expands middle housing allowances to all residentially designated land. It prohibits traffic impact analyses for middle housing and caps parking requirements for single-room occupancy housing. Allows density bonuses and extends certain compliance deadlines. The amendment removes mandates preventing density reductions. The amendment also makes clear and objective housing approval processes mandatory, expands these standards to unincorporated communities, and adds tree removal regulations to the approval process. Additionally, it delays implementation timelines, adjusts income affordability requirements, and refines demolition review exemptions.

Detailed Summary:

- Modifies definition of "city" to includes local government with respect to land that is within a city's urban unincorporated lands.
- Expands the definition to include land that is "designated to allow" residential uses, rather than just those with base zoning for residential uses.
- Directs local governments to allow all middle housing types on each lot or parcel zoned for residential use.
- Removes exemptions for small cities and certain lands from complying with middle housing regulations.
- Prohibits local governments may from requiring a traffic impact analysis for any individual middle housing development on a lot designated for residential infill or attributing an exaction beyond normal development requirements.
- Revises definitions of "accessible" and "affordable" homeownership units.
- Excludes urban unincorporated areas (outside Metro) from additional housing allowances.
- Specifies unit count outcomes for density bonuses.
- Extends deadlines for compliance, grants cities more time to adjust zoning laws, particularly for cottage clusters, delaying implementation by up to three years.
- Clarifies that local governments can exceed the density bonus requirements if they choose.

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- Requires the Oregon Department of Administrative Services (DAS) to publish income affordability requirements by region annually.
- Expands single room occupancy (SRO) housing definition to include either attached or detached units.
- Allows up to six units on a lot zoned for attached or detached single-unit dwellings.
- Reduces parking requirements by capping how many spaces a city can require for SRO developments: for SROs with 6 or fewer units a city cannot require more parking than is required for one detached dwelling; for SROs with more than 6 units a city cannot require more parking than it does for a multiunit housing development.
- Exempts SROs that function as residential care facilities from the new parking restrictions.
- Removes mandate preventing local governments from adopting zoning laws that reduce density.
- Removes mandate to offset restrictions on housing density.
- Removes urban services from items local governments may adopt e standards, conditions, and procedures for.
- Makes mandatory for local governments to adopt an approval process that only applies clear and objective standards for all housing approval processes.
- Adds tree removal regulations to the list of standards covered under this requirement.
- Applied the clear and objective standard on unincorporated communities designated in county comprehensive plans after Dec. 5, 1994.
- Makes provisions on middle housing land division and adoption of standards and procedures governing approval of plats and plans effective on July 1, 2026.
- Changes deadline for filing a request for an extension for unincorporated urban lands by a local government to June 30 instead of December 31, 2026.
- Removes the financial feasibility requirement for cottage cluster regulations.
- Narrows the repeal of demolition review requirements to only apply to contributing structures in a historic district that are not themselves named historic structures.
- Directs the Land Conservation and Development Commission to report to the legislature on the feasibility and advisability of providing safe harbor protections for cities that use the commission's model system development charges by September 15, 2027.

BACKGROUND: