

HB 2138 -4, -6, -7 STAFF MEASURE SUMMARY

House Committee On Housing and Homelessness

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Meeting Dates: 3/3, 3/26, 4/2, 4/9

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.

- 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.

- 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:

- Technical changes in amendments based on feedback from committee members and stakeholders
- Traffic impacts studies and exemptions
- Cottage cluster requirements and eligible community amenities
- Homeownership associations standards and new units
- North Albany geography, infrastructure, and population growth

EFFECT OF AMENDMENT:

-4 The amendment narrows definitions of duplexes, triplexes, and quadplexes to only attached dwellings and it adds a condition to the definition of “zoned for residential use” that requires the land division to have occurred on or before June 30, 2021. Modifies additional units for duplexes, triplexes, townhouses, and quadplexes to attached units only.

-6 The amendment updates how local governments define and manage residential areas by expanding housing options, streamlining approval processes, and setting clear affordability standards. It also directs certain counties and cities to permit a wider range of housing types on every residential lot, simplifies traffic impact requirements for new developments, and establishes guidelines and deadlines for creating housing units.

Detailed Summary:

Modifies definition of “city” to mean a local government with jurisdiction over unincorporated lands within an urban growth boundary.

Modifies definition of “cottage cluster” to mean grouping of dwelling units that are detached or attached in subgroupings of up to four units in any configuration; have a common courtyard; and each have a small footprint or floor area.

Modifies definition of land “zoned for residential use” to mean land that:

- is within an urban growth boundary;

HB 2138 -4, -6, -7 STAFF MEASURE SUMMARY

- has base zoning for, or is designated to allow, residential uses;
- allows the development of a detached single-unit dwelling;
- is not zoned primarily for commercial, industrial, agricultural or public uses; and
- is incorporated or urban unincorporated land.

Directs certain counties and cities within Metro to allow the development of all middle housing types on each lot or parcel zoned for residential use.

Excludes urban unincorporated land not within Metro from requirement to include specific existing housing on lot or parcel zoned for residential use.

Modifies traffic analysis requirements to prohibit local governments from requiring a traffic impact analysis or attribute an exaction other than a generally applicable system development charge or fee-in-lieu variance charge or a development requirement specific to the lot or parcel or its frontage based on traffic impacts from any individual middle housing development allowed under the amendment's provisions.

Exempts developments of townhouses or cottage clusters with more than twelve units and lots or parcels created by a division of land, other than a middle housing land division, that occurred within the previous five years, from said traffic analysis requirements.

Defines "accessible" and "affordable" unit and makes them available to purchase for a maximum sales price and requires that the unit be purchased by a household with an income below 120 percent of median income, with both the maximum price and income threshold as published per region on an annual basis by the division of the Oregon Department of Administrative Services that serves as office of economic analysis.

Clarifies that provisions do not limit a local government from enacting density bonuses that provide a greater number of accessible or affordable units, or housing that is affordable to more families.

Modifies definition of "metro urban unincorporated lands" and defines "urban unincorporated lands".

Directs local governments to adopt land use regulations on additional units by January 1, 2026 and January 1, 2028 for development of middle housing.

Requires request for extensions to adopt land use regulations to be filed by June 30, 2026 for unincorporated urban lands.

Directs the Oregon Department of Administrative Services to publish the annual maximum sales prices and income affordability requirements by region.

Modifies provisions on single room occupancies and housing density.

Requires local governments to comply with the new density requirements by January 1, 2027.

Allows local government may adopt and apply only clear and objective standards, conditions and procedures regulating tree removal codes related to the development of housing, only within the urban growth boundary; unincorporated community designated in a county's acknowledged comprehensive plan after December 5, 1994; nonresource land; or area zoned for rural residential use.

Clarifies that an application for an expedited land division decision is not subject to the requirements of quasi-judicial land use hearings and that a determination must include an explanation of the applicant's right to appeal the determination.

Modifies rulemaking provisions for the Land Conservation and Development Commission to include adopting operative and applicable dates and providing a report to the legislature by July 1, 2028.

Makes effective the measure's provisions on application for permit or zone on July 1, 2025.

-7 Allows a homeowners association to enforce a provision in a governing document that is otherwise valid, if it appears in a recorded instrument executed before January 1, 2021 or if the provision was adopted before, but has not been materially amended since, January 1, 2021.

BACKGROUND:

Middle housing refers to residential developments that offer a middle ground between detached single-family homes and large multifamily apartment buildings. This category typically includes duplexes, triplexes, fourplexes, townhomes, and sometimes courtyard apartments. These types of housing aim to increase the overall housing supply and affordability while maintaining neighborhood character by providing options that are denser than traditional single-family homes but less intensive than large apartment complexes.