

HB 2138 A STAFF MEASURE SUMMARY

House Committee On Housing and Homelessness

Action Date: 04/09/25

Action: Do pass with amendments and be referred to Ways and Means. (Printed A-Eng.)

Vote: 9-2-1-0

Yeas: 9 - Andersen, Dobson, Fragala, Gamba, Javadi, Levy E, Mannix, Marsh, Sosa

Nays: 2 - Breese-Iverson, Edwards

Exc: 1 - Helfrich

Fiscal: Fiscal impact issued

Revenue: No revenue impact

Prepared By: Iva Sokolovska, LPRO Analyst

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

WHAT THE MEASURE DOES:

The measure expands and streamlines middle housing requirements, applies them to more jurisdictions and certain unincorporated areas, clarifies definitions, and sets new deadlines for local governments to update land use regulations accordingly. It removes private covenants restricting middle housing or accessory dwelling units, eases traffic analysis requirements for small middle housing developments, and allows density bonuses for projects that include accessible or affordable units. The measure revises and simplifies the expedited land division process, limiting public notice and appeals, and requires local governments to process certain partitions as expedited if requested. It allows single room occupancies to be developed in greater numbers where multiunit housing is allowed, with capped parking requirements. It also directs the Land Conservation and Development Commission to adopt rules by 2028.

Detailed Summary:

Definitions

- Defines city to include a local government with jurisdiction over unincorporated lands within an urban growth boundary.
- Modifies definitions of cottage cluster, duplex, triplex, quadplex, and middle housing.
- Defines land “zoned for residential use” to mean land that
 - is within an urban growth boundary;
 - 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.
- Defines “accessible unit” and “affordable unit.”
- Revises definition of “metro urban unincorporated lands” and defines “urban unincorporated lands.”
- Revises definition of “single room occupancy.”

Middle Housing (Sections 1-5a)

- Applies middle housing requirements for cities to unincorporated lands within an urban growth boundary.
- Modifies definitions of cottage clusters, duplex, triplex, quadplex, and middle housing.
- Defines land “zoned for residential use” to include urban unincorporated land, as defined in bill.
- Allows lot or parcel, excluding urban unincorporated land not within Metro, to include existing housing consisting of
 - one single-unit dwelling,
 - one single-unit dwelling plus one accessory dwelling unit, or

HB 2138 A STAFF MEASURE SUMMARY

- one duplex.
- Prohibits requiring existing units from complying with the measure's siting and design standards.
- Allows existing units on the lot or parcel to be separated from the new units by a middle housing land division and be considered a single unit for the purposes of such division.
- Prohibits 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.
- Excludes developments of townhouses or cottage clusters with more than 12 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 traffic impact provisions.
- Grants an automatic density bonus to middle housing developments that include at least one accessible or affordable unit, as defined by bill, beyond what would ordinarily be permitted.
- Updates and clarifies the deadlines by which local governments must adapt or amend their land use regulations and comprehensive plans to comply with the middle housing requirements.
- Updates the Department of Land Conservation and Development extension of the time for middle housing to apply to new middle housing requirements.
- Requires the Oregon Department of Administrative Services to annually publish maximum sales prices and income affordability regional requirements.

Single Room Occupancies (Sections 6 and 6a)

- Adds that, for lots zoned for multiunit housing of five or more units, single room occupancy (SRO) housing may include up to three times the number of units otherwise permitted by the maximum density.
- Caps the parking requirements that local governments can impose for SRO housing.
 - For an SRO with six or fewer units, the required parking for every three SRO units may not exceed what would be required for one single detached dwelling.
 - For an SRO with more than six units, the required parking for every three SRO units may not exceed what would be required for one dwelling unit in a multiunit housing development.
 - Exempts SRO housing operating as a residential care facility.
- Directs local governments to comply with these provisions by January 1, 2027.

Promoting Housing Density (Sections 7-12)

- Expands scope of existing law so that any recorded covenant, condition, or restriction within an urban growth boundary that prohibit middle housing or accessory dwelling units (ADUs) is void and unenforceable for all recorded instruments, regardless of their execution date.
- Makes these provisions operative on January 1, 2027.
- Authorizes local government to adopt and apply only clear and objective standards, conditions and procedures regulating tree removal codes related to the development of housing.

Expedited and Middle Housing Land Divisions (Sections 13-20)

- Amends middle housing land division application to include changes to middle housing laws, including applicability to existing units.
- Allows cities and counties to choose whether to require separate utilities, other than water or wastewater, for each dwelling unit.
- Provides limited exceptions for certain detached dwellings and accessory units from the requirement of one dwelling unit on each lot or parcel.
- Requires local governments to allow use of expedited land division procedures, as amended by bill, if requested by the applicant when reviewing a middle housing land division application.
- Requires local governments to allow the tentative plan application to be submitted before, after, or at the same time as building permit applications.
- Authorizes local governments to require separate water and wastewater utilities for each unit.

HB 2138 A STAFF MEASURE SUMMARY

- Requires local governments to allow existing unit to be counted as a single middle housing unit, with its own lot or parcel.
- Authorizes local governments to prohibit or apply approval criteria to the creation of new accessory dwelling units or future divisions on lots resulting from a middle housing land division under specific circumstances.
- Authorizes local governments to allow more than one of the resulting vacant parcels to be partitioned again within the same calendar year if the original partition was not a middle housing land division.
- Authorizes local governments to adopt standards and procedures for approving subdivisions and partitions in all areas under their jurisdiction.
- Requires that these procedures need to also provide for a method by which the local government can 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 deadlines for local governments to take final action on certain applications, including resolution of all appeals.
- Directs local governments to approve partitions or subdivisions as an expedited land division if requested by the applicant and only under specific circumstances in current law.
- Removes neighbor-notification and public-comment provisions from the expedited land division process.
- Allows only the applicant to appeal an expedited land division.
- Authorizes local governments to charge an application fee which will be reviewed, and if needed, revised, within a year to reflect actual experience in processing expedited land decisions.
- Makes expedited land division a type of land use decision and repeals statutes providing customized expedited land division and middle housing land division processes, including those governing the written notice to land division applicants; the writs of mandamus to compel local governments to issue approval; the appeals process; the mandatory application fees; and the use of referees.

Rulemaking (Section 21)

- Directs the Land Conservation and Development Commission (LCDC) to adopt new administrative rules by January 1, 2028, specifies issues rules must address and objectives of rule adoption.
- Directs LCDC to report to the legislature by July 1, 2028, on the feasibility and advisability of providing safe harbor protections for cities that use the commission's model system development charges or otherwise incentivizing the use of the models.

Conforming Amendments (Sections 22-47)

- Revises and eliminates references to "expedited land division" and moves "expedited land divisions" into the definition of a "land use decision."

Declares emergency, effective on passage.

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:

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:

- For purposes of middle housing requirements, modifies definitions of "city," "cottage cluster," "zoned for residential use," "accessible unit," "affordable unit," "metro urban unincorporated lands," and defines "urban

HB 2138 A STAFF MEASURE SUMMARY

unincorporated lands.”

- Expands requirements on urban unincorporated lands 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 and provides exemptions.
- 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.
- Directs local governments to adopt land use regulations on additional units by January 1, 2027, 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 to adopt and apply only clear and objective standards, conditions and procedures regulating tree removal codes.
- Makes expedited land division decision a land use decision that is not subject to the requirements of quasi-judicial land use hearings and not appealable by parties other than the applicant.
- 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 applications for permit or zone on July 1, 2025.

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.

Single room occupancies (SROs) are a type of residential housing in which each occupant rents an individual, lockable room (or a small suite of rooms) that provides private living and sleeping space but typically shares kitchen or bathroom facilities with other residents in the building. They are often designed to provide affordable housing options for individuals, especially those looking for smaller, more economical units or who otherwise do not require a traditional full apartment. SROs may be operated by private landlords, nonprofits, or government-subsidized programs, and can serve a range of populations—from low-income workers to people experiencing homelessness who need transitional housing.

Expedited land divisions are a streamlined process for dividing land into smaller lots or parcels for residential development. They feature shortened review deadlines, minimal public notice and hearing requirements, and limited appeal procedures, all intended to speed up the creation of housing. Middle housing land divisions require local governments to allow a single lot or parcel—where middle housing such as duplexes, triplexes, quadplexes, cottage clusters, or townhouses is permitted—to be divided so that each unit can sit on its own separate lot.