

---

**AGENDA ITEM SUMMARY**

**Meeting Date:** 10/6/2020  
**Meeting Type:** Work Session  
**Staff Contact/Dept.:** Mark Rust/DPW  
**Staff Phone No:** 541-726-3654  
**Estimated Time:** 45 minutes  
**Council Goals:** Encourage Economic Development and Revitalization through Community Partnerships

---

**SPRINGFIELD  
PLANNING COMMISSION**

---

**ITEM TITLE:** DEVELOPMENT CODE UPDATE PROJECT – QUARTERLY CHECK IN

---

**ACTION REQUESTED:** This meeting is an opportunity for the Planning Commission to provide input and feedback on the Development Code Update Project process.

---

**ISSUE STATEMENT:** Staff will give the Planning Commission an update on the Development Code Update Project.

The Purpose of the Development Code Update Project is to change the Springfield Development Code to support efficient, timely, and clear development review. The updated Development Code will support Springfield's economic development priorities and will honor Springfield's home town feel now and in the future.

---

---

**ATTACHMENTS:** Attachment 1: Communication Memo  
Attachment 2: Council Communication Memorandum from September 21, 2020  
Attachment 3: Testimony to the Land Conservation and Development Commission  
Attachment 4: Development Code Update Project Schedule (7/7/20)

---

---

**DISCUSSION:** **Background**  
Staff last presented to the Planning Commission on this project on July 7, 2020. At this meeting staff gave the Planning Commission an update on the progress of Phase 1, Housing, and Phase 2, Employment Lands, of the Development Code Update Project. Staff will also discuss with the Planning Commission a Communication memo that was sent to City Council on September 21, 2020 (Attachment 2) summarizing the ongoing rule making process for middle housing that directly impact the Phase 1 Housing portion of the Development Code Update Project.**Discussion**

Staff is continuing to participate in the House Bill (HB) 2001 Rules Advisory Committee, and Model Code Technical Advisory Committee that is focused on Middle Housing code requirements. This involvement is informing the work on Springfield's draft housing code and will be discussed in more detail in the Attached Communication Memo and at the work session.

Staff is working on the code audit for the Phase 2, Employment Lands, of the Development Code Update Project. Draft code for Minimum Development Standards is currently undergoing technical review by other city staff. Other employment lands draft code sections will be ready for internal technical review and Technical Advisory Committee review in the next couple months.

**Next Steps**

Staff will consider the input provided by the Planning Commission and continue to make progress on the Development Code Update Project. Staff will continue to participate in the State rule making process for HB 2001, middle housing.

---

---

**COMMUNICATION MEMORANDUM**

**Meeting Date:** 10/6/2020  
**Meeting Type:** Work Session  
**Staff Contact/Dept.:** Mark Rust/DPW  
**Staff Phone No:** 541-726-3654  
**Estimated Time:** 45 Minutes  
**Council Goals:** Encourage Economic Development and Revitalization through Community Partnerships

**SPRINGFIELD  
PLANNING COMMISSION**

---

**ITEM TITLE** DEVELOPMENT CODE UPDATE PROJECT – QUARTERLY CHECK IN

---

**BACKGROUND** Staff last presented to the Planning Commission on this project on July 7, 2020. At this meeting staff gave the Planning Commission an update on the progress of Phase 1, Housing, and Phase 2, Employment Lands, of the Development Code Update Project. Staff will also discuss with the Planning Commission a Communication memo that was sent to City Council on September 21, 2020 (Attachment 2) summarizing the ongoing rule making process for middle housing that directly impact the Phase 1 Housing portion of the Development Code Update Project.

---

**DISCUSSION** **DISCUSSION**

**Phase 1 – Housing code**  
Staff is continuing to participate in the House Bill (HB) 2001 rule making process as a member of the Rules Advisory Committee (RAC), and Model Code Technical Advisory Committee (MCTAC). Staff convened a meeting of the Governance Committee for this project on September 17, 2020 to discuss primarily the housing phase of the project, the upcoming Land Conservation and Development Commission (LCDC) hearing as discussed below, and receive input on moving forward in providing testimony on the many issues and concerns with the draft state rules for implementing HB 2001.

The LCDC hearing on the draft rules was held on Friday September 25, 2020. Written testimony from staff (Attachment 3) and verbal testimony from Springfield City Councilor Moe and Senior Planner Mark Rust was presented to LCDC asking for changes to the draft rules to allow local jurisdictions more flexibility in implementing middle housing. At the time of writing of this memo the LCDC hearing has not taken place. Staff will give an update to the entire Planning Commission on the hearing at the work session.

As detailed in Attachment 2, there are four ways that a jurisdiction could meet the middle housing rules.

1. Model Code
2. Minimum Standards compliance
3. Performance Standards
4. Alternative Siting or Design standards

Since the July 7, 2020 Planning Commission work session where staff discussed the topic of the draft middle housing rules and the Department of Land Conservation and Development's (DLCD's) proposal of a whittle away approach staff has been working with our State Legislators, the League of Oregon Cities (LOC), on the RAC, MCTAC, and with other jurisdictions around the state to identify the need for more flexibility in the rules to allow cities to implement middle housing. As a result of these efforts DLCD proposed a new and different alternate path, "performance standards", that provides clear standards for how many lots must allow middle housing if a jurisdiction does not use the model code or minimum compliance standards.

---

The consideration of the four different options by LCDC and DLCD staff, together with input from the RAC and MCTAC is ongoing. There will likely be a joint RAC/MCTAC meeting with DLCD staff on October 8<sup>th</sup>, depending on the direction from LCDC on September 25<sup>th</sup>, to further refine the rules language and potential options for compliance.

There has been increased pressure recently from different stake holders including housing advocacy groups and developer interests to not allow some of the flexibility sought by local jurisdictions and advocated for by LOC that is contained in the current draft rules. It is anticipated that some of the current draft rule language could be changed to reflect this increased pressure.

It appears that allowing triplexes on 5,000 square foot lots and quadplexes on 7,000 square foot lots, in addition to allowing duplexes on all lots, is a likely outcome for Springfield to consider. There are other provisions to allow townhomes on 1,500 square foot lots and cottage cluster housing that will have to be considered as well, but the draft rules around these two types of housing are still a work in progress.

For Springfield to revise the Development Code to allow these housing types as currently drafted in the rules also requires significant amendments to our Comprehensive Plan. Springfield has both minimum and maximum density provisions that are contained in the Comprehensive Plan and are implemented through our Development Code. The whole residential zoning structure is based on density and with the implementation of the draft rules would have to be reconstructed. Traditional zoning district boundaries may need to be done away with altogether or recrafted to be based on standards other than density.

One option for discussion is to complete all of the work necessary to perform the Comprehensive Plan updates and code changes to implement the rules. This is outside the current scope of the Development Code Update Project. With the current Code Update project, the direction early on was to remain policy neutral with the Comprehensive Plan so that we could avoid the more intensive process of Comprehensive Plan Amendments.

On the other end of the spectrum, we can discuss moving forward with our Development Code Update Project for housing based on our current draft code released prior to the state's rulemaking effort, and then let the state's model code for housing kick in as directly applicable to us. This would mean we would have two parallel codes for certain middle housing types (Springfield's local code and the state's model code).

There are pro's and con's to these two opposite ends of the spectrum options that are not fully understood yet without the rules being finalized. But we believe it is valid food for thought in moving forward to consider these two options as well as discuss potential middle ground options.

### **Phase 2 – Employment lands (commercial and industrial) code**

The Technical Advisory Committee (TAC) for Phase 2 has convened once and will continue meeting to discuss the code audit of employment lands chapters of the Development Code. The first sections to be audited are the Minimum Development Standards (MDS) section of the code, as well as the Site Plan Review section.

Draft code for the Minimum Development Standards is currently undergoing technical

---

---

review by other city staff. Other employment lands draft code sections will be ready for internal technical review and Technical Advisory Committee review in the next couple months. The goal is to have the draft codes sections ready to release to the public for review and comment by the first of the year.

**Phase 3 – Other Code Sections (“Everything else”)**

Staff has not yet begun Phase 3 of the project. See the discussion below under the Timeline heading. When Phase 3 is initiated it will include many sections of Development Code that will not be amended during Phases 1 and 2. Sections that have been highlighted as examples for needed updates include the following:

- 5.7-100 - Annexations
- 5.13-100 - Master Plans
- 5.19-100 - Tree Felling Permits
- 3.3-500 - Hillside Development Overlay District

**Timeline**

According to the overall project timeline (Attachment 4) staff should be starting on Phase 3 of the project. Staff is not on track with the timeline for Phase 3 as this work has not begun at this point. Staff has asked for permission from Council to delay the start of Phase 3 to focus on concurrently processing Phase 1 Housing and Phase 2 Employment Lands to get these phases of the project to an adoption ready state to begin the public hearings process. Staff will proceed with Phase 3 as time allows in the meantime and will fully engage with Phase 3 as Phases 1 and 2 move towards completion. If Council direction approves modifying the timeline, staff will bring a Community Engagement Plan revision, that includes the timeline, to the Planning Commission, acting as the Committee for Citizen Involvement in a subsequent meeting.

---

**NEXT STEPS**

Staff will continue to work on Phase 2, Employment Lands, of the Development Code Update Project. The city’s Technical Advisory Committee for Phase 2 has met virtually and will continue meeting to propose new code for employment lands.

Staff will provide the City Council with a Communication Packet Memorandum in November to report on LCDC’s rulemaking process and will provide a copy of that memo to the Planning Commission as well. Once the LCDC rules for middle housing are adopted and finalized (by December 30, 2020) staff will return to Council to seek further guidance on the City’s response to the adopted rules. The Planning Commission will receive a quarterly update after the first of the year.

Staff will continue working on planning for the public outreach efforts to engage the community to receive feedback and input on the draft code sections as well as considering combining the community engagement efforts on both the housing and employment lands code. The Committee for Citizen Involvement will also meet to review the schedule and outreach efforts for the draft code focusing on housing and employment.

---

**RECOMMENDED ACTION**

No formal action is needed or requested. This meeting is an opportunity for staff to report to the Planning Commission on the City Council direction received at the October 5, 2020 meeting and for the Planning Commission to provide input and feedback on the Development Code Update Project process.

---

**MEMORANDUM**

City of Springfield

---

**Date:** 9/21/2020  
**To:** Nancy Newton **COMMUNICATION**  
**From:** Sandy Belson, Comprehensive Planning Manager **PACKET**  
Mark Rust, Senior Planner  
**Subject:** Rulemaking for HB 2001 and 2003 **MEMORANDUM**

---

**INFORMATION SHARE:**

To address the housing crisis in Oregon, in 2019 the State Legislature passed several bills including House Bill 2001 and 2003. As a result of HB 2001 and 2003, the Department of Land Conservation and Development (DLCD) undertook three Oregon Administrative Rules (OAR) rule-making processes under the umbrella of one rule-making advisory committee. These two bills require cities to take certain actions as further detailed in rulemaking. The Land Conservation and Development Commission (LCDC) has adopted one set of rules and will hold a public hearing this month on the second and third set of rules. This memo first provides more information about the pending rulemaking processes, followed by an explanation of the first set of adopted rules.

**UPCOMING LCDC PUBLIC HEARING:**

On September 1, Oregon Secretary of State Bev Clarno published two Notices of Proposed Rulemaking on behalf of DLCD. LCDC will hold a public hearing on both sets of proposed rules on September 25, and accept verbal and written comment on the draft rule text. The public hearing will be held open until the LCDC's next meeting on November 12-13.

Staff will meet with the Council's Development Code Project Governance Committee in advance of the LCDC public hearing on September 25 and with the full Council in work session on the Development Code Update on October 5.

**DRAFT RULES DISCUSSION:**Housing Production Strategy

DLCD has prepared amendments to Oregon Administrative Rule (OAR) 660-008 – Interpretation of Goal 10 Housing. Statewide Planning Goal 10 is “to provide for the housing needs of citizens of the state.” These rules implement portions of HB 2003 related to housing production strategies and housing capacity analyses. The rules outline the housing production strategy report that cities with a population greater than 10,000 will need to adopt in conjunction with a housing capacity analysis, as well as the associated reporting, review, and enforcement requirements for the program. The proposed amendments to OAR 660-008 are available on [DLCD's website](#).

Cities like Springfield outside the Portland Metropolitan Area are now required to submit a Housing Needs Analysis (proposed to be renamed a Housing Capacity Analysis) on an eight year cycle. Springfield is required to adopt an updated Housing Capacity Analysis by December 31, 2025. In the Housing Capacity Analysis, Springfield will express housing need as a number of needed housing units by type and affordability. Springfield will also determine how much land is necessary to meet the housing need. HB 2003 requires cities over 10,000 in population to adopt a Housing Production Strategy Report within one year of adoption of a Housing Capacity Analysis.

In the proposed rules, DLCD recommends that the Housing Production Strategy Report comprise five components:

***1. Contextualized Housing Needs***

This component would be based on the Housing Capacity Analysis, but would also take into consideration population and market trends. It would include an estimate of the number of people or households experiencing homelessness. It would also require cities to identify housing needs for people with disabilities, including hearing, vision, cognitive, ambulatory, self-care difficulty, and independent living.

***2. Engagement***

This component would identify the process by which the city has engaged a diverse set of stakeholders in the development of the Housing Needs Analysis and Housing Production Strategy and describe how their involvement influenced the Housing Production Strategy adopted by the city. The “Consumers of Needed Housing” must include the State and Federal protected classes. The “Producers of Needed Housing” consists of developers, builders, service providers, or other person or entities providing materials and funding needed to build housing.

***3. Strategies to Meet Future Housing Need***

This component would outline the specific actions, measures, and policies needed to collectively address the 20-year housing need. A product of the rulemaking process is a document entitled “[Housing Production Strategy Guidance for Cities.](#)” This document is a collection of various approaches that a city could take to address housing needs.

***4. Achieving Fair and Equitable Outcomes***

This component would require a city to describe how the selected Housing Production Strategies will achieve equitable outcomes with regard to the following factors:

- a. Location of Housing – creating compact, mixed-use neighborhoods for all residents
- b. Fair Housing – addressing patterns of integration and segregation, disparities in opportunity
- c. Housing Choice – providing protected classes access to desirable neighborhoods
- d. Housing Options for Residents Experiencing Homelessness – including permanent supportive housing
- e. Affordable Homeownership and Affordable Rental Housing
- f. Gentrification, Displacement, and Housing Stability – mitigation of impacts of gentrification

***5. Notable Additional Elements (not all elements are listed in this memo)***

- a. Description of any opportunities, constraints, or negative externalities associated with proposed strategies
- b. Description of actions necessary to implement the proposed strategies
- c. Discussion of how proposed actions will increase housing options for populations with disproportionate housing need
- d. Description of how the city will measure implementation and progress
- e. Summary of needs that are not addressed, including a description of strategies that were considered to address those needs

Upon submittal of the Housing Production Strategy Report, DLCD will review the accuracy and sufficiency of the report based on the legislatively prescribed criteria in Section 6 of HB 2003. In addition, LCDC has proposed the following review criteria:

- The city’s response to address the housing needs of those experiencing homelessness;

- ✓ Increased access to housing opportunity including the elimination of barriers to flexible, fair, and equitable housing options.

Though not a land use decision, DLCDC will seek public comment in review of the city's Housing Production Strategy Report. DLCDC will either:

- ✓ Approve the Report;
- ✓ Approve the Report, subject to further review and action by the Department; or
- ✓ Remand the Report for further modification.

Four years after adoption of the Housing Production Strategy Report, cities outside the Portland Metropolitan Area would be required to submit a narrative report that summarizes actions taken thus far, a reflection of the relative efficacy of the implementation, and a reflection of the actions taken in response to the questions asked in *Section 4 - Achieving Fair and Equitable Outcomes* of the Report.

Per the proposed rules, Springfield is required to adopt an updated Housing Capacity Analysis by December 31, 2025 and a Housing Production Strategy Report during the following calendar year. As presented, the Housing Capacity Analysis and the creation of a Housing Production Strategy will be significant additional work tasks for local governments, with the objective of better and more equitably meeting the housing needs of our residents, including those without homes.

The proposed rules include enforcement measures that DLCDC could take if a city does not submit a complete Housing Capacity Analysis or Housing Production Strategy Report in a timely manner. They also describe what happens if a city does not carry through on implementation, including offering technical assistance, entering into an intergovernmental agreement with the city, removal of finance resource awards, and petitioning LCDC to require compliance.

### Middle Housing

DLCDC has prepared amendments to Oregon Administrative Rule (OAR) 660-046 – Middle Housing. These rules implement HB 2001 related to establishing standards for the siting and design of Middle Housing types in urban growth boundaries. Middle Housing types include: duplex, triplex, quadplex, cottage clusters, and townhomes. The rules are different for medium cities (cities with more than 10,000 and less than 25,000 population) and large cities (cities with over 25,000 population or cities with a population over 1,000 within a metropolitan service district). Springfield falls into the large city category. The [proposed amendments to OAR 660-046](#) are on DLCDC's website.

HB 2001 requires that cities like Springfield, outside the Portland Metropolitan Area, must allow for the development of:

1. Duplex, including a duplex through conversion of an existing detached single dwelling, **on each lot or parcel** zoned for residential use that allows for the development of a detached single dwelling.
2. Triplex, quadplex, cottage clusters, and townhomes, including those created through conversion of existing detached single dwellings, **in areas** zoned for residential use that allow for the development of detached single dwellings. (emphasis added)

The legislation specifies a difference between allowing duplexes “on each lot or parcel”, and allowing the other middle housing types “in areas” included in the rules. This topic was discussed at length in the Rule Advisory Committee meetings. The Model Code and Minimum Development Standards as discussed below are how DLCDC proposed to define what “in areas” means and how it is defined related to “on each lot or parcel”.

A large city may regulate or limit development of middle housing, other than duplexes, on the following types of lands:

1. Goal-Protected Lands (lands with resources or hazards protected under the Statewide Planning Goals);
2. Infrastructure Constrained Lands; and
3. Master Planned Communities.

As proposed with the draft rules, a large city would have four ways of complying with the state mandate to allow middle housing.

1. Model Code
2. Minimum Standards compliance
3. Performance Standards
4. Alternative Siting or Design standards

### ***1) Model Code***

The first way to comply with the new rules would be through adoption of the state model code. As part of the OAR's the Department of Land Conservation and Development, through the rule-making process, developed a model code to implement the new rules. This model code can be thought of as a safe harbor path that provides standards for a city to incorporate. It was clear through the rule making process that the model code is more restrictive (and/or punitive) than the minimum compliance standards referenced below. As an example, the model code would require triplex and quadplexes to be allowed on all lots zoned residential that would allow a detached single family home, regardless of lot size or density; whereas the minimum compliance standards allow a jurisdiction to limit triplexes to 5,000 square foot lots, and quadplexes to 7,000 square foot lots.

The model code could be used as a starting point for a jurisdiction to adjust some of the standards to better fit the specific needs of the community, while staying in compliance with the minimum compliance standards. The model code would also be applied to jurisdictions that do not adopt a compliant code by the time frame established in the legislation - large cities must adopt a compliant code by June 30, 2021. In this case the model code will completely replace and pre-empt any local provisions that conflict with the model code.

### ***2) Minimum Compliance Standards***

As an alternative to adopting the model code a jurisdiction can adopt standards into the existing development code that meet the minimum compliance standards provided in the OAR's. These are the standards that DLCDC will compare amended development codes against to ensure they comply with the state law. They cover many aspects of development of middle housing including permitted uses; development standards like lot size, density, setbacks, height and parking; as well as design standards such as entry orientation, open space, and other design elements. These standards can be found in the draft OAR's [here](#). The minimum compliance standards are primarily contained in section 660-046-0220.

### ***3) Performance Standards***

As part of the Minimum Compliance Standards, Performance Standards would be an alternative to just the minimum lot size and maximum density provisions that are required under the Minimum Compliance Standards. The Performance Standards as proposed would allow a jurisdiction to take an alternative approach to allowing middle housing as long as the alternative approach allows for the following percentages of lots and parcels that allow a single-family detached home to be developed with middle housing:

- A. Triplexes – Must be allowed on 80% of lots and parcels;

- B. Quadplexes – must be allowed on 70% of lots and parcels;
- C. Townhouses – must be allowed on 60% of lots and parcels;
- D. Cottage Clusters – must be allowed on 50% of lots and parcels.

Additionally, the jurisdiction must ensure that equitable distribution of middle housing by allowing at least one middle housing type other than duplexes on 75% of all residential lot and parcels within each census block group within a large city.

#### ***4) Alternative Siting and Design Standards***

Lastly, DLCD recommends a final way to implement the middle housing standards. If a local jurisdiction does not want to use one of the above three options it could adopt alternative siting and design standards if the jurisdiction can demonstrate that the standards meet a list of approval criteria specified in the rules. The proposed rules require findings and analysis to be provided documenting that the proposed standards will not, individually or cumulatively, cause unreasonable cost or delay to the development of middle housing. To demonstrate this, a city would include a comparison to the minimum design standards based on a list of complex factors included in the rules.

Large cities have until June 30, 2021 to adopt compliant regulations. The draft rules include enforcement measures if a city does not adopt compliant regulations in a timely manner. As discussed above in the Model Code section, the model code will be applied to jurisdictions that do not adopt a compliant code by the deadline established in the legislation. In this case the model code will completely replace and pre-empt any provisions that the local jurisdictions code conflict with the model code.

As part of the Springfield's Development Code Update Project, in February 2020, the City released draft code sections for public review. These draft code sections proposed to allow all the middle housing types on lots/parcels in residential zones, as long as the resulting density is allowed by the applicable zoning district in compliance with the Eugene-Springfield Metropolitan Area General Plan (Metro Plan). As presented, the requirements in the proposed rules do not accommodate Springfield's "density approach" to allow Middle Housing and would require the City to modify the existing draft housing code that is out for public comment. These changes would require significant additional work and corresponding amendments to the Metro Plan.

#### **ADOPTED RULES:**

##### **Infrastructure Based Time Extension (IBTER)**

Infrastructure to serve new middle housing development is a topic of key interest. The HB 2001 legislation included provision for Infrastructure Based Time Extension Requests (IBTER). Obtaining an extension would allow a city to delay approval of middle housing types in areas that have limited infrastructure to support the increase in density. In obtaining an extension, the city must also have a plan to provide and fund the necessary infrastructure within a certain time period. Rules have already been written and were adopted by LCDC at their August 5, 2020 meeting. Given the tight timelines in the legislation associated with the IBTER process it was necessary to prioritize adoption of these rules to allow jurisdictions to move forward. Through internal staff discussions and tracking the IBTER rule making process it does not appear that the City of Springfield would benefit from pursuing an IBTER.



September 21, 2020

Land Conservation and Development Commission  
635 Capitol St. NE, Suite 150  
Salem, OR 97301

RE: HB 2001 rulemaking

Commission Members,

Thank you to you and the Department of Land Conservation and Development (DLCD) staff for your work on the rules for HB 2001. Developing proposed Oregon Administrative Rules (OAR) for Chapter 660-046 has been challenging work on a short timeline. Specifically we appreciate DLCD staff member Ethan Stuckmayer who has done fantastic work on this effort.

The City of Springfield supports the principles of good planning, including allowing more diverse housing types throughout Springfield. The City of Springfield has embraced implementation of HB 2001 and at the direction of the Springfield City Council incorporated the legislative changes into Springfield's Development Code Update Project that has been underway for over two years.

Springfield staff stood before the Land Conservation and Development Commission at your September 26, 2019 meeting excited to participate in the process with anticipation of implementing HB 2001 in creative ways. Springfield staff is continuing our participation as members on the Rules Advisory Committee for HB 2001 and 2003, the Middle Housing Model Code Technical Advisory Committee, as well as the Housing Production Strategy Technical Advisory Committee. Based on the extensive time and effort by the City of Springfield to develop and implement plans that are appropriate for our community and fit within the larger planning framework, we have remaining concerns about the draft rules and approach for implementing the middle housing provisions of HB 2001.

### **Requirement to amend Comprehensive Plan**

**Request to change draft rules: Include in the rules allowance for not having to make findings for amending comprehensive plans in order to comply with the rules, similar to the language of Section 3(5) of HB 2001.**

The requirement to allow all middle housing types (other than duplexes) in areas zoned for residential and that allow a single family dwelling has been one of the most difficult areas of the rules to address. Springfield's original approach to allowing middle housing types was to allow all middle housing types throughout all residential zones in conformance with the adopted density for each residential zone rather than identifying specific areas where they are allowed. However, with the draft rules, both the model code and minimum compliance standards would require amendment of the Springfield Comprehensive Plan to drastically increase the existing density standards. Ideally the rules would not mandate an increase in density. The legislation requires allowing the middle housing types in residential areas, it does not mandate an increase in density. Regardless, it is apparent that the rules will require this mandatory increase in

density. We therefore request that, similar to the language of Section 3(5) of HB 2001, the rules allow for amending comprehensive plans in order to comply with the rules without having to make findings for the comprehensive plan amendments. Since the rules implementing HB 2001 are requiring amendments to comprehensive plans, a jurisdiction should not have to justify the amendment just order to comply with the new rules.

### **Cost of implementation**

**Request to change draft rules (findings): Acknowledge in cost of compliance findings that it is not so simple to just adopt the model code and that there are significant budgetary implications at the local level.**

In the DLCD staff report in the cost of compliance section of page 2 of 67, it is stated that jurisdictions have the option to simply adopt the model code language (emphasis added). For anybody that has done planning in Oregon, there is nothing simple about adopting new code. Especially when the code changes also require amendments to the comprehensive plan. This is one of the more difficult types of land use processes that can be undertaken by a jurisdiction. The discussion in these findings state that the cost for a jurisdiction can range from \$50,000 for “simply adopting the model code” to \$150,000 “for drafting separate regulations”. Additionally it states that “The total cost could be higher for jurisdictions that conduct extensive public outreach or additional technical analysis.” (emphasis added) Both of these things, extensive public outreach and “additional” technical analysis is commonplace in planning processes, especially those that include drastic code changes and comprehensive plan amendments as required by the draft rules. Public outreach has become even more difficult now in the era of COVID, with limited in person meetings and technology limitations in many communities. The cost for doing virtual public outreach has become more expensive for many jurisdictions. And the rules require technical analysis in many cases to avoid the punitive nature of the model code. The cost range as proposed by DLCD is significant, and equals 1 FTE for an entire year to “simply” adopt required changes.

In contrast the findings state that for DLCD the rules will “require a substantial staff effort due to the complexity and the variety”. While we don’t disagree with this statement, we believe it will be similarly complex and require substantial staff effort at the local level to figure out how to comply with the rules. DLCD anticipates a need for 2-3 FTE to maintain the program which is a much smaller percentage of staff at the state level compared to need for 1 FTE at the local level for a city like the City of Springfield.

### **Model Code is punitive**

**Request for change to draft rules (findings): Fix the language in the Cost of Compliance findings to recognize the punitive nature of the model code.**

Building on the above concern in regard to the cost to implement the new rules, it is illustrative that there is a typo in the second sentence of the third paragraph under the Cost of Compliance Section, Section (1), where it states “Although not all jurisdictions are expected to adopt the model code in its entirety due to its \_\_\_\_\_ large cities have the option to...” Appropriate phrases to fill this space here might be “punitive nature”, or “restrictive standards”. It was made clear through the rule making process that the model code was set up to be punitive, or have more rigorous standards than the minimum compliance standards. A good example of this are the standards that require triplexes and quadplexes on essentially every lot in the model code,

versus the 5,000 and 7,000 square foot lot size standards for triplexes and quadplexes in the minimum compliance standards.

### **Performance Standards**

#### **Request for change to draft rules: Modify the performance standard percentages to reflect the diverse range of lot size inventories of different cities around the state.**

The performance standards option in the minimum compliance rules are too high. In reviewing the lot size analysis (Exhibit I) performed by DLCD staff of the 22 large cities around the state it is evident that having a one size fits all performance standard for all of these cities is unequitable at best. The percentages for the five middle housing types proposed in 660-046-0205 need to be changed. Instead of having one percentage number for each housing type the percentage for each city should be based on the unique characteristics of that cities lot size inventory. For example, the City of Springfield has 60% of the lots over 7,000 square feet that would allow quadplexes. To meet the performance standard we would have to designate 70% of the lots to allow duplexes, 10% more lots than required in the minimum compliance standards. In this case the standard is punitive. In contrast, for a city like Troutdale who has 80% of their lots that are over 7,000, instead of allowing quadplexes on every 7,000 square foot lot, they could only allow quadplexes on 70% of their lots by choosing the performance standard. In this case there is incentive to use the performance standard. There is no rhyme or reason to this unequitable application of these standards. Both the minimum compliance and performance metric approaches require middle housing on so many lots that local governments will have little real flexibility. The percentages should be lowered to allow cities to determine how best to implement the legislations intent of providing middle housing in areas, not in all areas, and not on nearly every lot.

Thank you for your consideration of these comments and request. We look forward to continuing to work with DLCD in a collaborative manner to reach an outcome that benefits all Oregonians and allows individual jurisdictions to implement HB 2001 in line with the intent of the legislation and in a way that fits the local communities in which it applies. We ask that LCDC support continued efforts by DLCD to draft the rules to support flexibility, to allow local governments to establish the sideboards for the legislation and design implementation strategies as the legislation intended.

Sincerely,

Mark Rust, AICP  
Senior Planner  
City of Springfield

