



# **City of Tualatin Middle Housing Code Update: Code Audit**

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# City of Tualatin Middle Housing Code Update: Code Audit Report

## 1. EXECUTIVE SUMMARY

In 2019, the Oregon Legislature adopted House Bill 2001, also known as the Middle Housing Bill. The purpose of the legislation was to expand housing options in Oregon communities in response to a deepening housing crisis across the state. Unlike conventional multi-family apartments, middle housing, defined as duplexes, triplexes, quadplexes, townhomes, and cottage cluster housing can provide opportunities for both homeownership and rental housing.

This Code Audit identifies land use regulatory barriers to development of required middle housing in Tualatin and recommends options for the City to comply with Oregon House Bill 2001 (2019) (HB 2001).<sup>1</sup> This project is funded by a grant from the Oregon Department of Land Conservation and Development (DLCD). The opinions in this report are those of the consultant only and do not necessarily reflect the opinion of the State of Oregon.

### Summary of Key Findings

- The Code does not define all types of middle housing (i.e. cottage cluster and quadplex are missing) and groups triplexes within the definition of a “multi-family structure”. For compliance with HB 2001, easier implementation, and future updating of standards, the Code should separate out housing types into their own definitions with their own standards.
- Multi-family structures are a conditional use in the RL residential zone and single family detached dwellings are an outright permitted use. Under HB 2001, a large city must apply the same approval process to middle housing as it does single family dwellings in the same zone. Multi-family structures are an outright permitted use in the RML, RMH, RH, and RH-HR residential zones. Tualatin should consider adding specific middle housing types as outright permitted uses in these zones.
- Tualatin’s Code does not include clear and objective standards, conditions, or procedures regulating the siting and design of middle housing. Siting and design standards for middle housing should be the same or less restrictive than the Draft Model Code for Large Cities or the same standards applicable to single family dwellings permitted in the same zone. This is required for full compliance with HB

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<sup>1</sup> This audit relies on a current draft of the HB 2001 requirements (8/4/20) and is subject to any refinements of the final version.

2001. The Code should also include a second pathway for discretionary review if necessary or desired by the applicant.

- Development standards such as setbacks, lot coverage, and lot size requirements are different for middle housing developments and single-family detached dwellings. For minimum compliance with HB 2001, these standards will need to match the development standards for single-family detached dwellings permitted outright in the same zone.
- Density limits are applied to the construction of duplexes, cottage clusters, triplexes, and quadplexes in nearly all residential zones. Under HB 2001, local jurisdictions are not permitted to apply density maximums for duplexes, cottage clusters, triplexes, and quadplexes. Townhouses must be allowed four times the maximum density allowed for single family dwellings in the same zone or 25 units per acre, whichever is less.
- Off-street parking requirements for middle housing developments exceed the maximum amount local jurisdictions are allowed to require under HB 2001.
- Several residential zoning districts do not have clear and objective standards for middle housing developments including requiring an Architectural Review process to determine siting or other development standards.
- Middle housing developments are a conditional use in the Low Density Residential Zone and have more restrictive development standards than detached single-family dwellings.
- Some existing development standards for multi-family structures, while not in direct conflict with the standards in HB 2001, may present a barrier to the development of middle housing and could individually or cumulatively discourage the development of Middle Housing through unreasonable costs or delay which is prohibited by HB 2001.
- Portions of the Tualatin Comprehensive Plan, including the intent of residential zoning districts and recommended densities, will need to be revised in light of the requirements of HB 2001.

## 2. INTRODUCTION

In 2019, the Oregon Legislature adopted House Bill 2001, also known as the Middle Housing Bill. The purpose of the legislation was to expand housing options in Oregon communities in response to the severe housing shortage that exists across much of the state.

“Middle housing”, defined as duplexes, triplexes, quadplexes, townhomes, and cottage clusters, although historically part of the housing stock of many communities, have been omitted from local zoning regulations, particularly in areas zoned for single-family dwellings. There are several reasons for this, not the least of which were Federal lending requirements following World War II that favored exclusionary single-family zoning. Today this approach to

land planning is outmoded as the demand for entry-level homes, as well as downsizing opportunities, require a more diverse housing stock.

### Purpose of the Code Audit

This Code Audit identifies land use regulatory barriers to development of required middle housing in Tualatin and recommends options for the City to comply with Oregon House Bill 2001 (2019) (HB 2001) including the removal of standards, conditions, and procedures regulating the development of middle housing that are not clear and objective. It also identifies strategies for removing barriers to the development of middle housing that are not required under HB 2001.

The report identifies two tracks for implementing middle housing code updates. The first addresses HB 2001's minimum requirements for Large and Metro Cities. The second goes beyond these minimum requirements and identifies additional opportunities to encourage development of middle housing in Tualatin. There are three appendices that provide more detailed information related to the code audit:

- **Appendix A** provides a matrix that identifies applicable standards from the Tualatin Development Code and their consistency with HB 2001;
- **Appendix B** summarizes applicable Comprehensive Plan policies and identifies potential recommendations for consistency with HB 2001; and
- **Appendix C** summarizes applicable strategies from the 2019 Housing Needs Analysis.

### HB 2001 Rules for Middle Housing

HB 2001 requires Oregon cities with populations of 10,000 and over (Medium Cities) to allow a duplex on every lot that is zoned for single-family detached housing. Cities with populations of 25,000 and larger (Large Cities) and cities within the Portland Metro Area are required to allow additional or "upper-level" middle housing types (triplexes, fourplexes, townhomes, and cottage clusters). The bill also requires that local land use regulations do not cause unreasonable cost or delay in permitting middle housing.

On July 24, 2020, the Oregon Land Conservation and Development Commission (LCDC) adopted the implementing rules that cities are to use in attaining compliance with HB 2001. These rules are contained in Oregon Administrative Rules (OAR) 660, Division 46. Large cities may develop their own standards in compliance with the requirements of HB 2001. As of the date of this report, the Model Code for Large Cities, which is to provide guidance for cities with populations 25,000 and larger, was still under review by LCDC, with a draft released for public review on August 24, 2020. If Large Cities do not adopt the required code amendments by June 30, 2022, they must directly apply the Model Code for Large Cities prepared by the LCDC to development in their jurisdictions.

Under OAR 600, Division 46, cities may regulate the siting and design of middle housing, similar to detached single-family housing, including adopting regulations for natural hazards and other areas protected under State planning Goals 5 and 7.

## Methodology

The MIG consultant team reviewed Tualatin’s Comprehensive Plan, 2019 Housing Strategy and Housing Needs Analysis, Development Code (TDC), and Zoning Map to become familiar with the existing policy context for middle housing and to assess land use regulatory barriers to such housing in Tualatin. This report evaluates Tualatin’s land use regulations, contained in Chapters 31-80 of the Tualatin Development Code (TDC), for consistency with HB 2001. The following chapters from the TDC were reviewed as part of this audit:

- Chapter 31 General Provisions
- Chapter 33 Applications and Approval Criteria
- Chapter 34 Special Regulations
- Chapter 35 Nonconforming Situations
- Chapter 36 Subdividing, Partitions, and Property Line Adjustments
- Chapter 39 Use Categories
- Chapter 40 Low Density Residential Zone (RL)
- Chapter 41 Medium Low Density Residential Zone (RML)
- Chapter 42 Medium High Density Residential Zone (RMH)
- Chapter 43 High Density Residential Zone (RH)
- Chapter 44 High Density High Rise Zone (RH-HR)
- Chapter 57 Mixed Use Commercial Zone (MUC)
- Chapter 58 Central Tualatin Overlay Zone
- Chapter 73A Site Design Standards
- Chapter 73B Landscaping Standards
- Chapter 73C Parking Standards

## Definitions

The analysis is based on the middle housing definitions in OAR 660, Division 46, including the adopted rules for Large Cities.

**“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. Units may be located on a single Lot or Parcel, or on individual Lots or Parcels that include a common courtyard.

**“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.

**“Duplex”** means two attached dwelling units on a Lot or Parcel. A local government may define a Duplex to include two detached dwelling units on a Lot or Parcel.

**“Large City”** means each city with a certified Portland State University Population Research Center estimated population of 25,000 or more or city with a population over 1,000 within a

metropolitan service district. This also includes unincorporated areas of counties within a metropolitan service district that are provided with urban services as defined in ORS 195.065.

**“Lot or Parcel”** means any legally created unit of land.

**“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.

**“Middle Housing”** means Duplexes, Triplexes, Quadplexes, Cottage Clusters, and Townhouses.

**“Model Code”** means the applicable model code developed by the Department contained in OAR 660-046-0010(4).

**“Quadplex”** means four attached dwelling units on a Lot or Parcel. A local government may define a Quadplex to include any configuration of four detached or attached dwelling units on one Lot or Parcel.

**“Townhouse”** means a dwelling unit that is part of a row of two or more attached units, where each unit is located on an individual Lot or Parcel and shares at least one common wall with an adjacent unit.

**“Triplex”** means three attached dwelling units on a Lot or Parcel. A local government may define a Triplex to include any configuration of three detached or attached dwelling units on one Lot or Parcel.

**“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.

#### OTHER RELEVANT TERMS FROM THE TUALATIN DEVELOPMENT CODE

**“RL”** refers to the Low Density Residential Zone

**“RML”** refers to the Medium Low Density Residential Zone

**“RMH”** refers to the Medium High Density Residential Zone

**“RH”** refers to the High Density Residential Zone

**“RH-HR”** refers to the High Density High Rise Zone

**“MUC”** refers to the Mixed Use Commercial Zone

### 3. DEVELOPMENT CODE AUDIT FINDINGS

HB 2001 requires that cities allow duplexes on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings. This means that Tualatin will need to permit duplexes on every lot in the RL and RML districts. The remaining middle housing types—triplexes, quadplexes, townhouses, and cottage clusters—must also be permitted in areas zoned for residential use that allow for the development of detached

single-family dwellings, but are allowed certain exceptions, including for lands that lack sufficient infrastructure. Tualatin will need to permit outright all middle housing types in the applicable residential zoning districts through the same non-discretionary review process that applies to single-family homes.

While the table below shows that almost all zones permit middle housing types outright, all zones apply at least one or more standards to middle housing types that do not comply with OAR rules.

Table 1: Permitted Uses in Zoning Districts

Middle Housing Type	RL	RML	RMH	RH	RH-HR	MUC
Duplexes	⊖ !	☑ !	☑ !	☑ !	☑ !	☑ !
Triplexes	⊖ !	☑ !	☑ !	☑ !	☑ !	☑ !
Quadplexes	⊖ !	☑ !	☑ !	☑ !	☑ !	☑ !
Cottage Clusters	⊖ !	☑ !	☑ !	☑ !	☑ !	☑ !
Townhouses	⊖ !	☑ !	☑ !	☑ !	☑ !	☑ !

☑ = Permitted Outright    ⊖ = Conditional Use    ! = One or more standards do not comply with OAR rules or intent of HB 2001

## Duplexes

Currently duplexes are permitted through the conditional use process in the RL zone. Per the state’s draft OARs, duplexes generally must be subject to the same (or less restrictive) standards as apply to single-family detached dwellings (SFD)—including standards for minimum lot size, setbacks, height, and lot coverage. In addition, duplexes must be subject to the same or less restrictive design standards as SFD, which the TDC does not currently do.

## Triplexes and Quadplexes

The TDC currently classifies triplexes and quadplexes as multi-family structures and applies the same use, development, and design standards as apply to all other multi-family structures; triplex has its own definition in the TDC but quadplex does not. These housing types will need to be separated from multi-family so that separate design and development standards can be applied. The draft OARs set strict limits on the standards that can be applied to triplexes and quadplexes and in many cases, the development standards for these housing types must be the same as for single-family dwellings. The multi-family design standards in Chapter 73A are largely out of compliance with the draft OARs, however, the City does have options for how it can approach design standards for middle housing. This will be explored in further phases of the project.



## Cottage Clusters

Cottage clusters are groupings of relatively small homes clustered around a shared courtyard or open space. HB 2001 specifies that the footprint of each dwelling must be limited to 900 square feet. The TDC does not have a separate definition for cottage clusters, although it may be similar to the “garden apartment” which the TDC does have a definition for. Like triplexes and quadplexes, cottage clusters will need to be separated from multi-family so that separate design and development standards can be applied. In terms of design standards, cottage clusters have a unique set of requirements because they often involve shared parking, common open spaces, and a community building. The City’s existing multi-family and single-family design standards are not geared toward this type housing, so a unique set of design standards may be needed. The draft OARs set fairly strict guidelines for what design standards can be applied.

## Townhouses

The TDC has a separate definition for townhouse/rowhouses, which are currently permitted as a conditional use in the RL district and an outright permitted use in the RML, RMH, RH, RH-HR, and MUC districts. The standards for density, minimum lot size and maximum lot coverage, and the buffering standards in the residential zoning districts, will need to be revised to comply with the draft rules as some zoning district standards comply with the draft OAR while others do not. The draft rules require that townhouses are subject to the same or less restrictive design standards as SFD. The TDC requires townhouses to comply with multi-family design standards, which are more restrictive than the standards for SFDs.

## Parking Standards

The City’s current off-street parking requirements will need to be revised for middle housing, as they exceed the ratios permitted by the draft OARs for some middle housing types. Generally, the City can only require one parking space per unit—the exception being triplexes and quadplexes—for which parking requirements are further restricted on smaller lots. Some parking design and landscaping standards may also need to be revised for middle housing.

## Other Barriers

The TDC applies more restrictive standards for multi-family developments under condominium ownership. These standards for ownership should be removed from the TDC as they do not comply with the draft rules. The City may also want to consider revisiting lot size, lot coverage, height, and other development requirements in the RML, RMH, RH, and RH-HR zoning districts as they may be barriers to the development of middle housing. As conceptual designs for middle housing types are developed in later stages of this process, these prototypes of middle housing should be reviewed under the existing development standards in higher density residential zones to ensure that middle housing development can meet the applicable development standards.

## 4. COMPREHENSIVE PLAN REVIEW FINDINGS

Tualatin's Comprehensive Plan and housing policies already support a variety of housing options and the City is currently in the process of revising the Housing Element. However, some amendments to the Comprehensive Plan may be appropriate. Policies that reference specific types of housing should be expanded to include middle housing to create enabling provisions for needed code amendments. The descriptions of the residential district planning objectives will need to be updated to state that the areas are also suited for middle housing, that all middle housing types are permitted in certain residential zones, and update the average housing densities included in the Plan. Appendix B includes the full list of goals and policies in Tualatin's Comprehensive Plan that may need to be revised for consistency with the requirements of HB 2001.

## 5. HOUSING NEEDS ANALYSIS REVIEW FINDINGS

An adequate housing supply is essential for the economic and social health of a community. To advance housing opportunities in Tualatin, the City has developed a Housing Needs Analysis (HNA). The HNA has not been adopted yet, but is intended to guide the City in planning for future housing to meet the community's needs in the next twenty years. Key findings from the HNA include:

- Tualatin's growth will result in the demand for 1,014 new dwelling units over the 20-year planning period.
- Tualatin will need to plan for more single-family attached and multifamily dwelling units to meet City housing needs.
- Tualatin has a small deficit of land for higher density single-family and multi-family housing.
- Tualatin will need to meet the requirements of House Bill 2001.

The HNA also included recommendations to the City that would help address the above findings. These recommendations included but were not limited to ensuring an adequate supply of land is available and serviceable, supporting affordable housing, supporting a wider variety of housing types, funding tools to support residential development, and identifying redevelopment opportunities. The HNA included specific recommendations and strategies that would address the City's compliance with HB 2001 which are summarized below:

- Evaluate opportunities to increase development densities within Tualatin's existing zones by modifying the TDC.
  - Tualatin should evaluate increasing densities in the RH and RH-HR zones.
  - Tualatin should conduct an audit of the TDC to identify barriers to residential development.

- Tualatin should evaluate off-street parking requirements for multi-family housing.
- Adopt a PUD ordinance to allow flexibility in both development standards and housing types.
- Allow and encourage development of duplexes, cottage housing, townhomes, row houses, triplexes, and quadplexes in lower-density residential zones.
  - All the above listed middle housing types in the RL zone and revise the TDC to include development standards for these housing types.
  - Allow cottage cluster housings in the RML and RMH zones at appropriate densities.

Washington County is also in the process of developing a Regional Housing Needs Analysis (RHNA), with a first draft available in late December. The RHNA will involve three components: units needed to accommodate future population growth over 20 years, units that have not been produced but will be needed to accommodate current population, and units needed to house those who are currently experiencing homelessness. The RHNA will provide additional findings and guidance on housing strategies and numbers to the City.

## 6. NEXT STEPS

Following City review of the Draft Code Audit, the MIG consulting team will develop illustrative middle housing code concepts. The code concepts will illustrate basic form and character for middle housing types as recommended from code audit findings. The code concepts will then inform recommended amendments to the City of Tualatin Development Code in spring of 2021 for eventual compliance with HB 2001.