

# ORDINANCE NO. 266-22

## AN ORDINANCE ADOPTING AMENDMENTS TO THE COMPREHENSIVE PLAN AND DEVELOPMENT CODE OF THE CITY OF DURHAM, OREGON

### RECITALS:

**WHEREAS**, the City is proposing amendments to the Durham Comprehensive Plan and Community Development Code to comply with state HB 2001 requirements; and

**WHEREAS**, the City provided notice of the hearings before the Planning Commission and City Council of the post-acknowledgement amendments as required by state law, including notice to the Department of Land Conservation and Development prior to the initial evidentiary hearing consistent with ORS 197.610; and

**WHEREAS**, on May 3, 2022, the Durham Planning Commission held a public hearing and recommended approval of the proposed amendments; and

**WHEREAS**, on May 24, 2022, the Durham City Council held a public hearing, to consider the Planning Commission's recommendation, hear public testimony, apply applicable decision-making criteria, and to consider appropriate findings and conclusions in support of adoption.

### NOW, THEREFORE, THE CITY OF DURHAM ORDAINS AS FOLLOWS:

**SECTION 1. Findings:** Findings of fact in support of the amendments are adopted by the City Council and attached as Exhibit A.

**SECTION 2. Amendments:** The Durham Comprehensive Plan and Durham Development Code are amended as shown in Exhibit B, attached hereto.

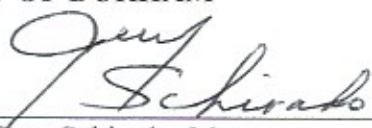
**SECTION 3. Effective Date:** Ordinance No. 266-22 shall be effective June 30, 2022.

**PASSED AND ADOPTED** by the City of Durham, Oregon this 28<sup>th</sup> day of June 2022.

First Reading: May 24, 2022

Second Reading: June 28, 2022

CITY OF DURHAM

By:   
Gerry Schirado, Mayor

ATTEST:

  
Linda Tate, City Administrator / Recorder

**Ordinance No. 266-22**  
**Exhibit A**

**ADOPTED FINDINGS AND CONCLUSIONS**

The relevant criteria are found in the Statewide Planning Goals and Durham Comprehensive Plan. In addition, the relevant Oregon Administrative Rules (OAR 660-046-0000 to OAR 660-046-0235), which implement the requirements of HB 2001 must also be addressed. The findings and conclusions are presented below.

**Statewide Planning Goals**

***Citizen Involvement - Goal 1:** To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

**Finding:** The Durham Development Code (CDC) amendments were created with citizen input. The proposed amendment was advertised as required by the DDC, and the Planning Commission and City Council held public hearings to consider the amendments along with public testimony. This goal is satisfied.

***Land Use Planning - Goal 2:** To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

**Finding:** The city has adopted the Durham Comprehensive Plan and Development Code in accordance this goal, and as noted above, citizens were invited to participate in the creation of the amendments to comply with the requirements of HB 2001. This goal is satisfied.

***Agricultural Lands – Goal 3 and Forest Lands – Goal 4:** To preserve and protect agricultural and forest land.*

**Finding:** These goals are not relevant because the amendments are intended for urban rather than resource land.

***Open spaces, scenic and historic areas, and natural resources – Goal 5:** To conserve open space and protect natural and scenic resources.*

**Finding:** Historic resources, open space and natural resources, consisting primarily of drainageways and wetlands, are recognized in the Comprehensive Plan and DDC. The proposed HB 2001 amendments allow for a wider range of housing types, but the amendments do not affect open space or sensitive lands protection, and these areas will continue to be protected in accordance with current standards and requirements. This goal is satisfied.



***Air, water and land resource quality – Goal 6:** To maintain and improve the quality of the air, water, and land resources of the state.*

**Finding:** As noted under Goal 5 above, existing open space and natural resource areas will continue to be regulated and protected as they are today. The major intention behind the HB 2001 amendments is to allow improved access for residents to a wider range of housing choices at more affordable cost. As noted above, the DDC regulations related to Goal 5 resources will not be affected by these amendments. This goal is satisfied.

***Natural Disasters and Hazards – Goal 7:** To protect life and property from natural disasters and hazards.*

**Finding:** This goal will not be affected because all current regulations related to natural hazard avoidance, protection, and mitigation will continue to be in effect. This goal is satisfied.

***Recreational Needs – Goal 8:** To satisfy the recreation needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

**Finding:** This goal is not relevant because the proposed HB 2001 amendments are not intended to provide or affect significant recreational opportunities.

***Economy – Goal 9:** To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

**Finding:** The HB 2001 amendments are designed to promote a wider range of more affordable housing choices. Housing is an essential component for promoting the health, welfare, and prosperity of residents in the city and surrounding area. This goal is satisfied.

***Housing – Goal 10:** To provide for the housing needs of citizens of the state.*

**Finding:** The HB 2001 amendments provide for a wider range of “middle housing” that consists of duplexes, triplexes, quadplexes, and cottage clusters. The city's current residential zoning allows several of these housing types. These amendments to allow middle housing in the SDR District will further expand the range of housing options for city residents.

As a small jurisdiction with limited financial resources, the city has not had an opportunity to conduct a housing needs analysis (HNA), and it is not currently possible to provide findings pertaining to a HNA. What is known is the city has a very limited residential land supply of less than 25 acres. Although the impact of the proposed amendments cannot be quantified based on a HNA, they will provide additional housing options that are potentially more affordable. This goal is satisfied.

***Public Facilities and Services – Goal 11:** To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

**Finding:** The HB 2001 amendments will not allow significant increases in density or impacts on public facilities or services within the existing city because it is almost fully developed, and there are few developable parcels, with limited acreage, available. As a result, future development impacts are anticipated to be minimal. Therefore, public services and facilities are not expected to be adversely impacted. This goal is satisfied.

**Transportation – Goal 12:** *To provide and encourage a safe, convenient and economic transportation system.*

**Finding:** The city's transportation system generally features fully improved streets and pedestrian and bicycle facilities. However, gaps in the system exist. The city will continue to expect new residential development to provide system improvements proportionate to their impacts. Typically, this would include street improvements along the street frontages of properties being developed. This goal is satisfied.

**Energy Conservation – Goal 13:** *To conserve energy.*

**Finding:** Middle housing is generally more energy efficient due to common wall construction and smaller unit sizes. Offering a wider range of styles for future housing will provide more options to utilize existing urban land more effectively without increasing pressure to further expand the UGB. Taking advantage of the city's existing infrastructure and proximity to work and shopping destinations will be more energy-efficient compared to development further to the edge of the Portland metropolitan urban area. This goal is satisfied.

**Urbanization – Goal 14:** *To provide for an orderly and efficient transition from rural to urban land use.*

**Finding:** Allowing a wider range of residential building types is expected to facilitate the efficient use of existing urban land within the city and reduce the demand for more housing outside of the current UGB and urban reserve areas. This goal is satisfied.

## **Durham Comprehensive Plan**

Oregon Administrative Rules (OAR) 660-046-0000 to OAR 660-046-0235 govern middle housing in medium and large cities in the state of Oregon. The applicable goals and policies are addressed below.

### ***Natural Resources Goals and Policies***

#### ***Goals***

1. *Protect life and property from natural disasters and hazards.*
2. *Conserve open space and protect natural and scenic resources.*
3. *Maintain and improve the quality of air, water, and land.*
4. *Conserve energy.*



### ***Policies***

- 1. Policies to protect life and property from natural disasters and hazards.*
- 2. Policies to conserve open space and protect natural and scenic resources.*
- 3. Policies to maintain and improve the quality of the air, water and land.*
- 4. Policies to conserve energy.*

**Finding:** The proposed amendments have no direct bearing on the goals and policies pertaining to natural resources because the related provisions in the DDC will not be amended.

### ***Growth and Development Goals and Policies***

#### ***Goals***

- 1. Provide for housing opportunities commensurate with Durham's ability to accommodate an expanding population.*
- 2. Provide for economic development opportunity to create a local employment source and broaden the economic base.*
- 3. Provide for a physically attractive community.*

#### ***Housing Policies***

*Policies related to housing call for provision of sufficient support services, compatibility between uses and different housing types, and minimizing environmental impacts.*

**Finding:** The proposed amendments will simply provide for a greater range of housing types in the SDR District, and the housing goals and policies will continue to be supported by the DDC.

### ***Support Systems Goals and Policies***

#### ***Goals***

- 1. Provide a safe, convenient, and economic transportation system*
- 2. Provide for the public facilities and service need of Durham residents.*
- 3. Provide recreational opportunities.*

#### ***Policies***

- 1. Policies to provide a safe, convenient, and economic transportation system.*
- 2. Policies to provide for public facilities and service needs.*

**Finding:** Because the potential for new housing units is minimal due to limited supply of remaining developable and redevelopable residential land in the city, the proposed amendments to comply with HB 2001 will not adversely impact the city's ability to continue complying with these goals and policies.

### **Oregon Administrative Rules 660-046-000 to 660-046-235**

Oregon Administrative Rules (OAR) 660-046-0000 to OAR 660-046-0235 govern middle housing in medium and large cities in the state of Oregon. Because it is part of the Portland metropolitan area, Durham is categorized as a large city in the rule, and the requirements

relevant to large cities are addressed below.

**660-046-0010 APPLICABILITY**

1. *A local government that is a Medium City or Large City must comply with this division.*
2. *Notwithstanding section (1), a Medium or Large City need not comply with this division for:*
  - a. *Lots or Parcels that are not zoned for residential use, including but not limited to Lots or Parcels zoned primarily for commercial, industrial, agricultural, or public uses;*
  - b. *Lots or Parcels that are Zoned for Residential Use but do not allow for the development of a detached single-family dwelling; and*
  - c. *Lots or Parcels that are not incorporated and that are zoned under an interim zoning designation that maintains the land's potential for planned urban development.*
3. *A Medium or Large City may regulate Middle Housing to comply with protective measures (including plans, policies, and regulations) adopted and acknowledged pursuant to statewide land use planning goals. Where Medium and Large Cities have adopted, or shall adopt, regulations implementing the following statewide planning goals, the following provisions provide direction as to how those regulations shall be implemented in relation to Middle Housing, as required by this rule.*
  - a. *Goal 5: Natural Resources, Scenic, and Historic Areas – OAR chapter 660, division 23, prescribes procedures, and in some cases, standards, for complying with Goal 5. OAR chapter 660, division 16 directed implementation of Goal 5 prior to division 23. Local protection measures adopted pursuant to divisions 23 and 16 are applicable to Middle Housing.*
    - A. *Goal 5 Natural Resources – Pursuant to OAR 660-023-0050 through 660-023-0110, Medium and Large Cities must adopt land use regulations to protect water quality, aquatic habitat, and the habitat of threatened, endangered and sensitive species. This includes regulations applicable to Middle Housing to comply with protective measures adopted pursuant to Goal 5.*
      - i. *Medium and Large Cities may apply regulations to Duplexes that apply to detached single-family dwellings in the same zone;*
      - ii. *Medium and Large Cities may limit the development of Middle Housing other than Duplexes in significant resource sites identified and protected pursuant to Goal 5; and*
      - iii. *If a Medium or Large City has not adopted land use regulations pursuant to OAR 660-023-0090, it must apply a 100-foot setback to Middle Housing developed along a riparian corridor.*
    - B. *Goal 5: Historic Resources – Pursuant to OAR 660-023-0200(7), Medium and Large Cities must adopt land use regulations to protect locally significant historic resources. This includes regulations applicable to Middle Housing to comply with protective measures as it relates to the integrity of a historic resource or district. Protective measures shall be adopted and applied as provided in OAR 660-023-0200. Medium and Large Cities may apply regulations adopted under OAR 660-023-0200 to Middle Housing that apply to detached single-family dwellings in the same zone, except as provided below. If a Medium or Large City has not adopted land use regulations to protect significant historic resources listed on the National Register of Historic Places, it must apply protective measures to Middle Housing as provided in OAR 660-023-0200(8)(a) until the Medium or Large City adopts land*



*use regulations in compliance with OAR 660-023-0200. Medium or Large Cities may not apply the following types of regulations specific to Middle Housing:*

- i. Use, density, and occupancy restrictions that prohibit the development of Middle Housing on historic properties or districts that otherwise permit the development of detached single-family dwellings; and*
- ii. Standards that prohibit the development of Middle Housing on historic properties or districts that otherwise permit the development of detached single-family dwellings.*
- b. Goal 6: Air, Water and Land Resources Quality – Pursuant to OAR 660-015-0000(6), a Medium or Large City may limit development within an urban growth boundary to support attainment of federal and state air, water, and land quality requirements. Medium and Large Cities may apply regulations adopted pursuant to Goal 6 to the development of Middle Housing.*
- c. Goal 7: Areas Subject to Natural Hazards – Pursuant to OAR 660-015-0000(7), Medium and Large Cities must adopt comprehensive plans (inventories, policies, and implementing measures) to reduce risk to people and property from natural hazards. Such protective measures adopted pursuant to Goal 7 apply to Middle Housing, including, but not limited to, restrictions on use, density, and occupancy in the following areas:*
  - A. Special Flood Hazard Areas as identified on the applicable Federal Emergency Management Agency Flood Insurance Rate Map; and*
  - B. Other hazard areas identified in an adopted comprehensive plan or development code; provided the Medium or Large City determines that the development of Middle Housing presents a greater risk to life or property than the development of detached single-family dwellings from the identified hazard. Greater risk includes but is not limited to actions or effects such as:*
    - i. Increasing the number of people exposed to a hazard;*
    - ii. Increasing risk of damage to property, built, or natural infrastructure; and*
    - iii. Exacerbating the risk by altering the natural landscape, hydraulics, or hydrology.*
- d. Goal 9: Economic Development - Pursuant to OAR 660-009-0025, Medium and Large Cities must adopt measures adequate to implement industrial and other employment development policies, including comprehensive plan designations. Medium and Large Cities may limit the development of Middle Housing on Lots or Parcels Zoned for Residential Use designated for future industrial or employment uses.*
- e. Goal 11: Public Facilities and Services - Pursuant to OAR 660-011-0020(2), a public facility plan must identify significant public facility projects which are to support the land uses designated in the acknowledged comprehensive plan. This includes public facility projects to support the development of Middle Housing in areas zoned for residential use that allow for the development of detached single-family dwellings. Following adoption of Middle Housing allowances by a Large City, the Large City shall work to ensure that infrastructure serving undeveloped or underdeveloped areas, as defined in OAR 660-046-0320(8), where Middle Housing is allowed is appropriately designed and sized to serve Middle Housing.*

**Finding:** The proposed amendments are designed to comply with HB 2001. DDC regulations to



implement Goals 5, 6, and 7 continue to apply to all residential housing types, including middle housing. Consistent with Goal 9, middle housing is in the SDR District reserving the Industrial Park (IP) and Office Park (OP) districts for non-residential uses that contribute to the economic vitality of the city and region.

The amendments are consistent with Goal 11 because the infrastructure for the existing city is designed to support development. As noted above, the potential for new residential development is limited, and the impact of the HB 2001 amendments will have a minimal impact on existing infrastructure. These provisions of the OAR are satisfied.

**660-046-0030 IMPLEMENTATION OF MIDDLE HOUSING ORDINANCES**

1. *Before a local government amends an acknowledged comprehensive plan or a land use regulation to allow Middle Housing, the Medium or Large City must submit the proposed change to the Department for review and comment pursuant to OAR chapter 660, division 18.*
2. *In adopting or amending regulations or amending a comprehensive plan to allow Middle Housing, a Medium or Large City must include findings demonstrating consideration, as part of the post-acknowledgement plan amendment process, of methods to increase the affordability of Middle Housing through ordinances or policies that include but are not limited to:*
  - a. *Waiving or deferring system development charges;*
  - b. *Adopting or amending criteria for property tax exemptions under ORS 307.515 to ORS 307.523, ORS 307.540 to ORS 307.548 or ORS 307.651 to ORS 307.687 or property tax freezes under ORS 308.450 to ORS 308.481; and*
  - c. *Assessing a construction tax under ORS 320.192 and ORS 320.195.*
3. *When a local government amends its comprehensive plan or land use regulations to allow Middle Housing, the Medium or Large City is not required to consider whether the amendments significantly affect an existing or planned transportation facility.*

**Finding:** Proposed amendments satisfy these requirements because:

1. The city provided notice of the proposed amendments to DLCD as required in OAR 660-018-0020.
2. The proposed amendments, which will allow a broader range of housing types, will contribute to lowering, not raising, housing prices.
3. The proposed amendments do not include any special consideration of the impact of middle housing on the transportation system, because the residential land supply is very limited, and the allowance of middle housing in the SDR District is expected to have a minimal impact on existing infrastructure.

These provisions of the OAR are satisfied.

**660-046-0040 COMPLIANCE**

4. *A Large City which is A Local Government That Has Not Acted by June 30, 2022 or within two years of qualifying as a Large City pursuant to OAR 660-046-0050 and has not received an extension under section (2), shall directly apply the applicable Model Code*



*contained in OAR 660-046-0010(4) for the specific Middle Housing type that is not in compliance with the relevant rules in this division to all proposed development applications for that specific Middle Housing type until such time as the Large City has adopted provisions under section (1).*

**Finding:** The city will comply with the state requirement to adopt all necessary middle housing code amendments prior to June 30, 2022. This provision of the OAR is satisfied.

**660-046-0205 APPLICABILITY OF MIDDLE HOUSING IN LARGE CITIES**

1. *A Large City must allow for the development of Duplexes in the same manner as required for Medium Cities in OAR 660-046-0100 through OAR 660-046-0130.*

**Finding:** This DDC amendment package includes duplexes as a permitted use in the SDR zone. These provisions of the OAR are satisfied.

2. *A Large City must allow for the development of Triplexes, Quadplexes, Townhouses, and Cottage Clusters, including those created through additions to or conversions of existing detached single-family dwellings, in areas zoned for residential use that allow for the development of detached single-family dwellings. A Large City may regulate or limit development of these types of Middle Housing on the following types of lands:*
  - a. *Goal-Protected Lands: Large Cities may regulate Middle Housing on Goal-Protected Lands as provided in OAR 660-046-0010(3);*
  - b. *Master Planned Communities: Large Cities may regulate or limit the development of Middle Housing in Master Planned Communities as follows:*
    - A. *If a Large City has adopted a master plan or a plan that functions in the same manner as a master plan after January 1, 2021, it must allow the development of all Middle Housing types as provided in OAR 660-046-0205 through OAR 660-046-0235.*
      - i. *A Large City must plan to provide urban water, sanitary sewer, stormwater, and transportation systems that accommodate at least 20 dwelling units per net acre if located within a metropolitan service district boundary, and 15 dwelling units per net acre if located outside of a metropolitan service district boundary.*
      - ii. *If a proposed Middle Housing development exceeds the planned public service capacity of a Master Plan, the Large City may require the applicant demonstrate, through an amended public facility plan or similar mechanism, the sufficient provision of public services needed to serve the proposed development.*
      - iii. *A Large City may require a mix of two or more Middle Housing types within a Master Plan or portions of a Master Plan.*
      - iv. *A Large City may designate areas within the master plan exclusively for other housing types, such as multi-family residential structures of five dwelling units or more or manufactured home parks.*
    - B. *If a Large City has adopted a master plan or a plan that functions in the same manner as a master plan before January 1, 2021, it may limit the development of Middle Housing other than Duplexes provided it authorizes in the entire master plan area a net residential density of at least eight dwelling units per acre and allows all*



*dwelling units, at minimum, to be detached single-family dwellings or Duplexes. A Large City may only apply this restriction to portions of the area not developed as of January 1, 2021, and may not apply this restriction after the initial development of any area of the master plan or a plan that functions in the same manner as a master plan, except that a Large City may prohibit redevelopment of other housing types, such as multi-family residential structures and manufactured home parks.*

- c. Impacted by State or Federal Law: A Large City must demonstrate that regulations or limitations of Middle Housing other than Duplexes are necessary to implement or comply with an established state or federal law or regulation on these types of lands.*

**Finding:** The existing DDC in combination with the proposed amendments will allow triplexes, quadplexes, townhouses, and cottage clusters in SDR District. The city has limited infill potential and any new master planned communities are not viewed as being feasible, given a very limited residential land supply consisting of small parcels.

The DDC will continue to protect goal protected lands within the Tualatin River floodplain and drainageways consistent with FEMA, state, and Clean Water Services requirements. These provisions of the OAR are satisfied.

*3. A Large City may:*

- a. Allow for the development of Triplexes, Quadplexes, Townhouses, and Cottage Clusters, including those created through conversion of existing detached single-family dwellings, in areas zoned for residential use that allow for the development of detached single-family dwellings as provided in OAR 660-046-0205 through OAR 660-046-0235; or*
- b. Apply separate minimum lot size and maximum density provisions than what is provided in OAR 660-046-0220, provided that the applicable Middle Housing type other than Duplexes is allowed on the following percentage of Lots and Parcels zoned for residential use that allow for the development of detached single-family dwellings, excluding lands described in subsection (2):*
  - 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; and*
  - D. Cottage Clusters – Must be allowed on 70% of Lots and Parcels.*
  - E. A Middle Housing type is “allowed” on a Lot or Parcel when the following criteria are met:*
    - i. The Middle Housing type is a permitted use on that Lot or Parcel under the same administrative process as a detached single-family dwelling in the same zone;*
    - ii. The Lot or Parcel has sufficient square footage to allow the Middle Housing type within the applicable minimum lot size requirement; and*
    - iii. Maximum density requirements do not prohibit the development of the Middle Housing type on the subject Lot or Parcel; and*
    - iv. The applicable siting or design standards do not individually or cumulatively cause unreasonable cost or delay to the development of that Middle Housing type as provided in OAR 660-046-0210(3).*
  - F. A Large City must ensure the equitable distribution of Middle Housing by*



*allowing, as defined in subsection (3)(b)(E) above, at least one Middle Housing type other than Duplexes and Cottage Clusters on 75 percent or more of all lots and parcels zoned for residential use that allow for the development of detached single-family dwellings within each census block group, with at least four eligible Lots and Parcels as described in subsection (2) of this section, within a Large City.*

- G. *Large Cities must demonstrate continuing compliance with subsection (3)(b) at the following intervals:*
- i. *At the initial submittal of a Middle Housing comprehensive plan or land use regulation change, in accordance with OAR Chapter 660, Division 18;*
  - ii. *At any future Housing Capacity Analysis Deadline as provided in OAR 660-008-0045, except that a demonstration of continuing compliance will not be required earlier than six years after initial adoption of acknowledged land use regulations in compliance with this division; and*
  - iii. *With any future comprehensive plan or land use regulation changes that implements this division, in accordance with OAR Chapter 660, Division 18, for Large Cities that are not subject to the Housing Capacity Analysis Deadline as provided in OAR 660-008-0045, except that a demonstration of continuing compliance will not be required more frequently than once every six years after initial adoption of acknowledged land use regulations in compliance with this division.*

**Finding:** The current DDC in combination with the proposed amendments will allow for triplexes, quadplexes, townhomes, and cottage clusters without distinction of being built new or by using converted structures. The development standards and approval process apply equally to all housing types in essentially the same manner as single family detached homes are today. The city shall commit to demonstrating continued compliance as provided in Subsection G. above. These provisions of the OAR are satisfied.

4. *Pursuant to OAR 660-046-0205 through OAR 660-046-0230, the following numerical standards related to Middle Housing types apply:*
- a. *Duplexes – Large Cities may allow more than two dwellings units on a Lot or Parcel, including any accessory dwelling units.*
  - b. *Triplexes and Quadplexes – Large Cities may allow more than four dwelling units on a lot, including any accessory dwelling units.*
  - c. *Townhouses – Large Cities must require at least two attached Townhouse dwelling units and must allow up to four attached Townhouse units subject to applicable siting or design standards as provided in OAR 660-046-0220 through OAR 660-046-0235. A Large City may allow five or more attached Townhouse dwelling units.*
  - d. *Cottage Clusters –*
    - A. *A Large City is not required to set a minimum number of dwelling units in a Cottage Cluster, but if it chooses to, it may require a minimum of three, four, or five dwelling units in a Cottage Cluster. A Large City may allow, but may not require, greater than five units in a Cottage Cluster.*
    - B. *A Large City must allow up to eight cottages per common courtyard subject to applicable siting or design standards as provided in OAR 660-046-0220 through OAR 660-046-0235. Nothing in this section precludes a Large City from*



*permitting greater than eight dwelling units per common courtyard.*

**Finding:** The proposed DDC amendments will allow duplexes, triplexes, quadplexes, townhouses, and cottage clusters in the SDR District in a manner consistent with the above provisions. Townhouses (attached single family) may have up to 4 attached units in compliance with the minimum requirement of 2 attached units. The minimum of 5 and maximum of 8 cottages in a cottage cluster development are consistent with these OAR requirements. These provisions of the OAR are satisfied.

***660-046-0210 Provisions Applicable to Middle Housing in Large Cities***

1. *Large Cities may regulate Middle Housing to comply with protective measures, including plans, policies and regulations, as provided in OAR 660-046-0010(3).*
2. *Large Cities may regulate siting and design of Middle Housing, provided that the regulations;*
  - a. *Are clear and objective standards, conditions, or procedures consistent with the requirements of ORS 197.307; and*
  - b. *Do not, individually or cumulatively, discourage the development of Middle Housing through unreasonable costs or delay.*
3. *Siting and design standards that do not, individually or cumulatively, discourage the development of Middle Housing through unreasonable cost and delay include only the following:*
  - a. *Regulations to comply with protective measures adopted pursuant to statewide land use planning goals provided in OAR 660-046-0010(3);*
  - b. *Permitted uses and approval processes provided in OAR 660-046-0215;*
  - c. *Siting standards provided in OAR 660-046-0220;*
  - d. *Design standards in Large Cities provided in OAR 660-046-0225;*
  - e. *Middle Housing Conversions provided in OAR 660-046-0230;*
  - f. *Alternative siting or design standards provided in OAR 660-046-0235; and*
  - g. *Any siting and design standards contained in the Model Code referenced in section OAR 660-046- 0010(4).*

**Finding:** The proposed DDC will act to remove any discriminatory provisions for middle housing, and the same review process for single family detached homes will apply. These provisions of the OAR are satisfied.

1. Protective measures primarily pertaining to floodplains and drainageways are equally applied to all development in the city.
2. Clear and objective development and design standards are applied equally to all housing types, and as noted above, discriminatory provisions are proposed for removal.
3. The proposed development and design standards for middle housing are consistent with the requirements noted in Subsection 3 above. These provisions of the OAR are satisfied.

***660-046-0215 PERMITTED USES AND APPROVAL PROCESS***

*Large Cities must apply the same approval process to Middle Housing as detached single-family dwellings in the same zone. Pursuant to OAR 660-008-0015 and ORS 197.307, Large Cities may adopt and apply only clear and objective standards, conditions, and procedures*



*regulating the development of Middle Housing consistent with the requirements of ORS 197.307. Nothing in this rule prohibits a Large City from adopting an alternative approval process for applications and permits for Middle Housing based on approval criteria that are not clear and objective as provided in OAR 660-007-0015(2), OAR 660-008-0015(2), and ORS 197.307(6).*

**Finding:** As indicated above, discriminatory provisions will be deleted, and in addition clear and objective standards will apply to all housing types. These provisions of the OAR are satisfied.

**660-046-0220 MIDDLE HOUSING SITING STANDARDS IN LARGE CITIES**

1. *Large Cities must apply siting standards to Duplexes in the same manner as required for Medium Cities in OAR 660-046-0120.*

**Finding:** Duplexes will be a permitted use in the SDR district, and the siting standards are generally the same as for other housing types except for some standards that recognize the unique character of the housing type, such as cottage clusters. These provisions of the OAR are satisfied.

2. *The following governs Large Cities' regulation of siting standards related to Triplexes and Quadplexes:*
  - a. *Minimum Lot or Parcel Size:*
    - A. *For Triplexes:*
      - i. *If the minimum Lot or Parcel size in the zone for a detached single-family dwelling is 5,000 square feet or less, the minimum Lot or Parcel size for a Triplex may be no greater than 5,000 square feet.*
      - ii. *If the minimum Lot or Parcel size in the zone for a detached single-family dwelling is greater than 5,000 square feet, the minimum Lot or Parcel size for a Triplex may be no greater than the minimum Lot or Parcel size for a detached single-family dwelling.*
    - B. *For Quadplexes:*
      - i. *If the minimum Lot or Parcel size in the zone for a detached single-family dwelling is 7,000 square feet or less, the minimum Lot or Parcel size for a Quadplex may be no greater than 7,000 square feet.*
      - ii. *If the minimum Lot or Parcel size in the zone for a detached single-family dwelling is greater than 7,000 square feet, the minimum Lot or Parcel size for a Quadplex may be no greater than the minimum Lot or Parcel size for a detached single-family dwelling.*
    - C. *A Large City may apply a lesser minimum Lot or Parcel size in any zoning district for a Triplex or Quadplex than provided in paragraphs A. or B.*
  - b. *Density: If a Large City applies density maximums in a zone, it may not apply those maximums to the development of Quadplex and Triplexes.*
  - c. *Setbacks: A Large City may not require setbacks greater than those applicable to detached single-family dwellings in the same zone.*

- d. *Height: A Large City may not apply lower maximum height standards than those applicable to detached single-family dwellings in the same zone, except a maximum height may not be less than 25 feet or two stories.*
- e. *Parking:*
  - A. *For Triplexes, a Large City may require up to the following off-street parking spaces:*
    - i. *For Lots or Parcels of less than 3,000 square feet: one space in total;*
    - ii. *For Lots or Parcels greater than or equal to 3,000 square feet and less than 5,000 square feet: two spaces in total; and*
    - iii. *For Lots or Parcels greater than or equal to 5,000 square feet: three spaces in total.*
  - B. *For Quadplexes, a Large City may require up to the following off-street parking spaces:*
    - i. *For Lots or Parcels of less than 3,000 square feet: one space in total;*
    - ii. *For Lots or Parcels greater than or equal to 3,000 square feet and less than 5,000 square feet: two spaces in total;*
    - iii. *For Lots or Parcels greater than or equal to 5,000 square feet and less than 7,000 square feet: three spaces in total; and*
    - iv. *For Lots or Parcels greater than or equal to 7,000 square feet: four spaces in total.*
  - C. *A Large City may allow on-street parking credits to satisfy off-street parking requirements.*
  - D. *A Large City may allow, but may not require, off-street parking to be provided as a garage or carport.*
  - E. *A Large City must apply the same off-street parking surfacing, dimensional, landscaping, access, and circulation standards that apply to single-family detached dwellings in the same zone.*
  - F. *A Large City may not apply additional minimum parking requirements to Middle Housing created as provided in OAR 660-046-0230.*
- f. *Lot or Parcel Coverage and Floor Area Ratio: Large Cities are not required to apply Lot or Parcel coverage or floor area ratio standards to Triplexes or Quadplexes. However, if the Large City applies Lot or Parcel coverage or floor area ratio standards, it may not establish a cumulative Lot or Parcel coverage or floor area ratio for Triplexes or Quadplexes that is less than established for detached single-family dwelling in the same zone.*
- g. *A Large City shall work with an applicant for development to determine whether Sufficient Infrastructure will be provided, or can be provided, upon submittal of a Triplex or Quadplex development application.*

**Finding:** The proposed standards are consistent with the above requirements as follows:

1. Minimum lot or parcel sizes for single family residences, triplexes, and quadplexes are the same.
2. The DDC will continue to base density in the SDR District on lot size.
3. Setbacks will be applied uniformly to all housing types.
4. Maximum building heights are consistent with the OAR requirements.
5. The normal off-street parking requirement for residences is 1 space per unit. The



DDC does not require garages. However, if one is provided garage spaces count towards meeting the on-site parking requirement.

6. The current DDC and proposed amendments do not include maximum lot coverage or FAR standards.
7. The city does not anticipate infrastructure issues related to new middle housing within the city.

These provisions of the OAR are satisfied.

3. *The following governs Large Cities' regulation of siting standards related to Townhouses:*

- a. *Minimum Lot or Parcel Size: A Large City is not required to apply a minimum Lot or Parcel size to Townhouses, but if it applies those standards, the average minimum Lot or Parcel size for Lot or Parcels in a Townhouse Project may not be greater than 1,500 square feet. A Large City may apply separate minimum Lot or Parcel sizes for internal, external, and corner Townhouse Lots or Parcels provided that they average 1,500 square feet, or less.*
- b. *Minimum Street Frontage: A Large City is not required to apply a minimum street frontage standard to Townhouses, but if it applies those standards, the minimum street frontage standard must not exceed 20 feet. A Large City may allow frontage on public and private streets or alleys; and on shared or common drives. If a Large City allows flag Lots or Parcels, it is not required to allow Townhouses on those Lots or Parcels.*
- c. *Density: If a Large City applies density maximums in a zone, it must allow four times the maximum density allowed for detached single-family dwellings in the same zone for the development of Townhouses or 25 dwelling units per acre, whichever is less.*
- d. *Setbacks: A Large City may not require front, side, or rear setbacks to be greater than those applicable to detached single-family structures in the same zone and must allow zero-foot side setbacks for Lot or Parcel lines where Townhouse units are attached.*
- e. *Height: A Large City may not apply lower maximum height standards than those applicable to detached single-family dwellings in the same zone. If a Large City requires covered or structured parking for townhouses, the applicable height standards must allow construction of at least three stories. If a Large City does not require covered or structured parking, the applicable height standards must allow construction of at least two stories.*
- f. *Parking:*
  - A. *A Large City may not require more than one off-street parking space per Townhouse dwelling unit.*
  - B. *Nothing in this section precludes a Large City from allowing on-street parking credits to satisfy off-street parking requirements.*
  - C. *A Large City must apply the same off-street parking surfacing, dimensional, landscaping, access, and circulation standards that apply to single-family detached dwellings in the same zone.*
- g. *Bulk and Scale: A Large City is not required to apply standards to control bulk and scale to new Townhouses. However, if a Large City chooses to regulate scale and*

*bulk, including but not limited to provisions including Lot or Parcel coverage, floor area ratio, and maximum unit size, those standards cannot cumulatively or individually limit the bulk and scale of the cumulative Townhouse Project greater than that of a single-family detached dwelling.*

- h. A Large City shall work with an applicant for development to determine whether Sufficient Infrastructure will be provided, or can be provided, upon submittal of a Townhouse development application.*

**Finding:** The proposed standards are consistent with the above requirements as follows:

1. The dimensional and density requirements in DDC 16.84.040 allows townhouses on lots as small as 1,500 square feet.
2. The dimensional and density requirements in DDC will allow townhouses on lots as narrow as 20 feet, consistent with the current DDC minimum street frontage standard.
3. The maximum density standards of 18 units per acre for townhouses satisfies this OAR requirement.
4. Setbacks apply equally to all housing types.
5. Maximum building heights are consistent with the OAR requirements. The maximum height of 35 feet for the SDR zone is proposed to be retained.
6. The DDC requires one off-street parking space per unit for townhouses and single family detached homes.
7. The current DDC and proposed amendments do not include bulk and scale standards for townhouses.
8. The city does not anticipate infrastructure issues related to new middle housing.

These provisions of the OAR are satisfied.

- 4. *The following governs Large Cities' regulation of siting standards related to Cottage Clusters:*
  - a. *Minimum Lot or Parcel Size: A Large City is not required to apply minimum Lot or Parcel size standards to new Cottage Clusters. However, if a Large City applies standards to regulate minimum Lot or Parcel size for Cottage Clusters on a single Lot or Parcel, the following provisions apply:*
    - A. *If the minimum Lot or Parcel size in the same zone for a detached single-family dwelling is 7,000 square feet or less, the minimum Lot or Parcel size for a Cottage Cluster may be no greater than 7,000 square feet.*
    - B. *If the minimum Lot or Parcel size in the same zone for a detached single-family dwelling is greater than 7,000 square feet, the minimum Lot or Parcel size for a Cottage Cluster may not be greater than the minimum Lot or Parcel size for a detached single-family dwelling.*
  - b. *Minimum Lot or Parcel Width: A Large City is not required to apply minimum Lot or Parcel width standards to Cottage Clusters. However, if a Large City applies standards to regulate minimum Lot or Parcel width for to Cottage Clusters, it may not require a minimum Lot or Parcel width that is greater than the standard for a single-family detached dwelling in the same zone.*
  - c. *Density: A Large City may not apply density maximums to the development of Cottage*



*Clusters. A Cottage Cluster development must meet a minimum density of at least four units per acre.*

- d. *Setbacks: A Large City may not require perimeter setbacks to be greater than those applicable to detached single-family dwellings in the same zone. Additionally, perimeter setbacks applicable to Cottage Cluster dwelling units may not be greater than ten feet. The minimum distance between structures may not be greater than what is required by applicable building code requirements or 10 feet.*
- e. *Dwelling Unit Size: A Large City may limit the minimum or maximum size of dwelling units in a Cottage Cluster, but must apply a maximum building footprint of 900 square feet per dwelling unit. A Large City may exempt up to 200 square feet in the calculation of dwelling unit footprint for an attached garage or carport. A Large City may not include detached garages, carports, or accessory structures in the calculation of dwelling unit footprint.*
- f. *Parking:*
  - A. *A Large City may not require more than one off-street parking space per dwelling unit in a Cottage Cluster.*
  - B. *A Large City may allow but may not require off-street parking to be provided as a garage or carport.*
  - C. *Nothing in this section precludes a Large City from allowing on-street parking credits to satisfy off-street parking requirements.*
- g. *Lot or Parcel Coverage and Floor Area Ratio: A Large City may not apply Lot or Parcel coverage or floor area ratio standards to Cottage Clusters.*
- h. *Nothing in this division precludes a Large City from allowing Cottage Cluster dwelling units on individual Lots or Parcels within the Cottage Cluster development.*
- i. *A Large City shall work with an applicant for development to determine whether Sufficient Infrastructure will be provided, or can be provided, upon submittal of a Cottage Cluster development application.*

**Finding:** The proposed standards are consistent with the above requirements as follows:

1. The current lot size standard for single family homes and cottage clusters will be the same in the SDR District at 10,000 square feet.
2. The proposed provisions in the DDC do not include specific lot width standards for cottage clusters.
3. There is no density maximum for cottage cluster.
4. Setbacks apply equally to all housing types.
5. Maximum building heights are consistent with the OAR requirements. For cottage clusters the maximum height shall be 25 feet.
6. The DDC requires one off-street parking space per unit for townhouses and single family detached homes.
7. The current CDC and proposed amendments do not include bulk and scale standards for cottage clusters.
8. The city does not anticipate infrastructure issues related to new middle housing.

These provisions of the OAR are satisfied.

#### **660-046-0225 MIDDLE HOUSING DESIGN STANDARDS IN LARGE CITIES**

1. *A Large City is not required to apply design standards to Middle Housing. However, if a Large City chooses to apply design standards to Middle Housing, it may only apply the following:*
  - a. *Design standards in the Model Code for Large Cities in OAR 660-046-0010(4)(b);*
  - b. *Design standards that are less restrictive than those in the Model Code for Large Cities in OAR 660-046-0010(4)(b);*
  - c. *The same clear and objective design standards that the Large City applies to detached single-family structures in the same zone. Design standards may not scale by the number of dwelling units or other features that scale with the number of dwelling units, such as primary entrances. Design standards may scale with form-based attributes, including but not limited to floor area, street-facing façade, height, bulk, and scale; or*
  - d. *Alternative design standards as provided in OAR 660-046-0235.*
2. *A Large City may not apply design standards to Middle Housing created as provided in OAR 660-046-0230.*

**Finding:** The proposed amendments apply the same types of development and design standards for all types of housing including single family detached and middle housing. These provisions of the OAR are satisfied.

#### **660-046-0230 MIDDLE HOUSING CONVERSIONS**

1. *Additions to, or conversions of, an existing detached single-family dwelling into Middle Housing is allowed in Large Cities pursuant to OAR 660-046-0205(2), provided that the addition or conversion does not increase nonconformance with applicable clear and objective standards, unless increasing nonconformance is otherwise permitted by the Large City's development code.*
2. *If Middle Housing is created through the addition to, or conversion of, an existing single-family detached dwelling, a Large City or other utility service provider that grants clear and objective exceptions to public works standards to detached single-family dwelling development must allow the granting of the same exceptions to Middle Housing.*
3. *A preexisting detached single-family dwelling may remain on a Lot or Parcel with a Cottage Cluster as described below:*
  - a. *The preexisting single-family dwelling may be nonconforming with respect to the requirements of the applicable code;*
  - b. *The preexisting single-family dwelling may be expanded up to the maximum height, footprint, or unit size required by the applicable code; however, a preexisting single-family dwelling that exceeds the maximum height, footprint, or unit size of the applicable code may not be expanded;*
  - c. *The preexisting single-family dwelling shall count as a unit in the Cottage Cluster;*
  - d. *The floor area of the preexisting single-family dwelling shall not count towards any Cottage Cluster average or Cottage Cluster project average or total unit size limits; or*
  - e. *A Large City may apply a time limit on the conversion of a single-family dwelling to a Cottage Cluster not to exceed five years.*



**Finding:** The proposed amendments will:

1. Allow conversion of existing detached single family dwellings into middle housing.
2. Continue to have the same requirements for middle housing as it has for single family detached homes.
3. Allow a preexisting single family dwelling as a cottage cluster unit because there are no prohibitions or requirements proposed that would prevent or discourage this.

These provisions of the OAR are satisfied.

**660-046-0235 ALTERNATIVE SITING OR DESIGN STANDARDS**

*A Large City may adopt Siting or Design Standards not authorized by OAR 660-046-0220 or OAR 660-046-0225 as allowed under subsection (1) below if the city can demonstrate that it meets the applicable criteria laid out in either subsection (1) below. Siting or Design standards do not include minimum Lot or Parcel size and maximum density requirements.*

1. *A Large City must submit to the Department findings and analysis demonstrating that the proposed standard or standards will not, individually or cumulatively, cause unreasonable cost or delay to the development of Middle Housing. To demonstrate that, the Large City must consider how a standard or standards, individually and cumulatively, affect the following factors in comparison to what is would otherwise be required under OAR 660-046-0220 or OAR 660-046-0225:*
  - a. *The total time and cost of construction, including design, labor, and materials;*
  - b. *The total cost of land;*
  - c. *The availability and acquisition of land, including areas with existing development;*
  - d. *The total time and cost of permitting and fees required to make land suitable for development;*
  - e. *The cumulative livable floor area that can be produced; and*
  - f. *The proportionality of cumulative time and cost imposed by the proposed standard(s) in relationship to the public need or interest the standard(s) fulfill.*

**Finding:** This OAR section does not apply because the city is not proposing unauthorized standards.

**Ordinance No. 266-22  
Exhibit B**

**Urbsworks Amendment Package**