

HB2001 Implementation Fact Sheet #2 – Lot Size & Use

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Introduction

The DLCDC “Middle Housing” rules and “Model Code” are rife with inconsistencies, ambiguities, omissions and overreach.

The City of Eugene must resolve the rules in a manner that is clear, objective, comprehensible, reasonable and fair.

This is the second in a series of “Fact Sheets” to assist the Planning Commission and City Council in that endeavor.

DLCD Rules

These Fact Sheets provide excerpted sections of the DLCDC rules relevant to the covered topic. Below are DLCDC rules related to lot size and the residential uses on lots in “Large Cities.”

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.

660-046-0120 Duplex Siting Standards in Medium Cities

1. A Medium City must allow for the development of a Duplex, including those Duplexes created through conversion of an existing detached single-family dwelling, on each Lot or Parcel zoned for residential use that allows for the development of detached single-family dwellings.

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

2. Large Cities may regulate Middle Housing to comply with protective measures, including plans, policies and regulations, as provided in OAR 660-046-0010(3).
3. 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.
4. 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).

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.

660-046-0120 Duplex Siting Standards in Medium Cities

The following standards apply to all Duplexes:

- 1. Minimum Lot or Parcel Size: A Medium City may not require a minimum Lot or Parcel size that is greater than the minimum Lot or Parcel size required for a detached single-family dwelling in the same zone. Additionally, Medium Cities shall allow the development of a Duplex on any property zoned to allow detached single-family dwellings, which was legally created prior to the Medium City’s current lot size minimum for detached single-family dwellings in the same zone.

- 2. The following governs Large Cities’ regulation of siting standards related to Triplexes and Quadplexes:
 - a. Minimum Lot or Parcel Size:
 - 1) 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.
 - 2) For Quadplexes:
 - iii. 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.
 - iv. 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.
 - ...
 - 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.

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.

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 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.

Model Code Provisions

Notes:

- 1. In general, the Model Code minimum lot size is the same for "development standards that apply to detached single family dwellings in the same zone."
- 2. Under Definitions: "Frontage" means the portion of a lot or parcel that abuts a street.

Chapter 3. Triplexes and Quadplexes

B. Development Standards

7. Off-Street Parking.

- a. **Required Off-Street Parking.** The minimum number of required off-street parking spaces is:
 - i. In zones with a minimum lot size of less than 5,000 square feet, one (1) off-street parking space per development.

- ii. In zones with a minimum lot size of 5,000 square feet or more, two (2) off-street parking spaces per development.

Comments

Lot Size and Frontage are a major determinant of development intensity, which in turn impacts public infrastructure and service requirements. Under OAR, the minimum lot size for “detached single-family dwelling” is the main “dial” to control the duplex and triplex types, and this one value needs to strike a balance so that the minimum lot size isn’t unreasonably large for a “Single-Dwelling” (see Fact Sheet #1) and isn’t unreasonably small for the multiple dwellings in duplexes and triplexes.

Note that “Lot Size” comprises two standards:

1. Minimum lot size to allow a particular residential use; and
2. Minimum lot size to create a new lot.

OAR requires a duplex to be allowed on “on each Lot or Parcel zoned for residential use that allows for the development of detached single-family dwellings.” The grammar is unclear here: Does the qualifier “that allows ...” apply to the zone or a subject lot. The Eugene code must make clear that the qualifier applies to a subject lot, otherwise undevelopable lots that were zoned (e.g., R-1) would have to allow a duplex, even if the code didn’t allow a single detached dwelling. In any case, for practical purposes a duplex must be allowed on any developable (e.g., R-1) lot, which includes existing, nonconforming lots. Accordingly, a “minimum lot size” for duplexes appears to be a meaningful criteria only related to the creation of new lots.

OAR widely prohibits any useful density limits on Middle Housing, but minimum lot size is a proxy for density. For reference: Eugene’s current R-1 “Maximum Density” of 14 dwelling units per net acre (du/na) has effectively required a minimum lot size of 3,112 s.f. for a conforming detached, single-family dwelling and 6,223 s.f. for a duplex. The minimum for new R-1 lots is 4,500 s.f. for a (standard) detached, single-family dwelling lot and 8,000 s.f., for a “duplex” lot.

OAR also limits the minimum lot for triplex use to the minimum lot size for detached, single-family dwellings (or 5,000 s.f., whichever is larger). Thus, this irrational tying of minimum lot size for one, two, or three dwellings to the minimum for one dwelling creates a dilemma: The minimum shouldn’t be so large as to impose a burden to creating new lots for detached single-family development, but the minimum should nonetheless be of reasonable size to support the intensity of three dwellings.

A 5,000 s.f. minimum lot size for detached, single-family (with or without an ADU), duplexes and triplexes would be a reasonable balance, only slightly larger than the current code criteria of 4,500 s.f. for a detached, single-family dwelling.

OAR also ties the number of parking spaces that can be required to the minimum lot size. Adopting 5,000 s.f. minimum lot size would importantly also allow the City to require up to one off-street parking space per duplex or triplex dwelling. (Maintaining the current 4,500 s.f. minimum lot size would not.) With the greater flexibility of a 5,000 s.f. minimum lot size, the City could still require fewer spaces and/or provide “credit” for on-street parking as is done in the Jefferson-Westside Special Area Zone (S-JW Zone). EC 9.3625(7).

Effectively, OAR limits the minimum lot size for quadplexes to 7,000 s.f., which is what the City should adopt for purposes of both adequate development area and the flexibility to require up to four off-street parking spaces.

OAR explicitly sets the Townhouse minimum lot size to no more than an average of 1,500 s.f., which is what the City should adopt.

OAR appears to have boloxed the criteria for “Cottage Clusters” by limiting the minimum lot size to 7,000 s.f., while not considering how many cottages may be on a lot. Note also that OAR permits the City to allow “Cottage Cluster” on individual lots. Thus, any single value for minimum lot size may be either too low (for a large number of cottages) or too high for individual cottages on their own lots.

The OAR for minimum lot sizes is another example of how ill-considered these DLCD “top-down, one-size fits-all” dictates are. Effectively, they eliminate the practical ability for Eugene’s Land Use Code to allow creation of new “small” lots (e.g., about 2,500 s.f.) for a single dwelling or “tiny” lots for “cottages” or “tiny houses.” Until such time as DLCD fixes the OAR rules, the best approach would be to limit any cottage cluster to no more than 8 cottages that share one lot of at least 7,000 s.f.

Neither the OAR, nor the “Model Code” address street frontage, lot width or any other lot dimensional criteroa in any comprehensive manner. However, because OAR includes “Frontage” as a criterion for Townhouses and “Lot Width” as a criterion for “Cottage Clusters,” both criteria would seem allowable to adopt for all housing forms, as well as for more functional lot dimensional criteria, such as adopted in the S-JW Zone (see below).

The current R-1 minimum is 50 feet for both Lot Frontage and Lot Width. Both of these criteria, however, are not clearly defined in current code. The City should amend the definition (or application) of “Lot Frontage” to specify a minimum depth to the required “frontage” and require that it be on a street (not an alley). The City should avoid “Lot Width Minimum” and use “Minimum Interior Lot Dimension” and other more functional dimensional criteria, such as found in the S-JW Zone Lot Standards (EC 9.3631(1).)

Proposed code criteria

Residential use	Minimum Lot Size	Minimum Frontage on at least one Street	Notes
One or two dwellings.	5,000 s.f. or larger lot	50 feet	Allowed as nonconforming use on smaller lots
A single “Triplex”	5,000 s.f. or larger lot	50 feet	No other dwellings
A single “Quadplex”	7,000 s.f. or larger lot	50 feet	No other dwellings
“Townhouse”	1,500 s.f per dwelling	20 feet	Maximum 4 attached dwellings
“Cottage Cluster”	7,000 s.f. per development	50 feet	Maximum 8 detached dwellings
Other than above: three to eight dwellings	3,000 s.f. per dwelling	50 feet	

Additional code criteria

1. Minimum size to create any new lot: 5,000 s.f.
2. Prohibit creation of the following types of new lots that are allowed in current code:
 - a. Flag lots
 - b. “Small” lots
 - c. Alley-access-only lots (e.g., in S-JW Zone)
3. Require all newly created residential lots and all development for three or more dwellings or that would increase the number of dwellings on a lot to a total of three or more dwellings to be accessible

by emergency vehicles in a manner that fully complies (no adjustments or variances) with the Oregon Fire Code's Fire Apparatus Access Road standards, as well as complies with the Eugene Adopted Street Standards (including accessible sidewalks).

This would not require a property owner or developer to actually construct road improvements that would be required for compliance. It would not conflict with Nolan/Dolan requirements! But it would not allow development in locations that did not have the required access for the safety of residents of the proposed development and impacted neighboring residents.

A subsequent Fact Sheet will address special situations that may limit the number and/or types of dwellings on a lot; e.g., compliance with Statewide Planning Goals. (See OAR 660-046-0010(3)).