



MEMORANDUM

Keizer HB 2001 Code Audit

City of Keizer

DATE November 18, 2021
TO Shane Witham and Dina Horner, Keizer, OR
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FROM Matt Hastie and Brandon Crawford, APG
CC File

I. INTRODUCTION

The purpose of The Keizer Middle Housing Code Update project is to bring the City into compliance with House Bill 2001 (HB 2001). In 2019, the Oregon Legislature adopted HB 2001 requiring cities to provide more housing choices, especially housing choices more people can afford. The Code Update project is funded in part by an Oregon Department of Land Conservation and Development (DLCD) grant, with a portion allocated for planning assistance to local governments. In addition, the State recently adopted SB 458 (2021), which requires cities to allow expedited land divisions for middle housing. This memorandum provides an overview of the new state housing requirements for both HB 2001 and SB 458, and an audit of the City's adopted Comprehensive Plan and Development Code.

The purpose of the audit is to evaluate the City's Code and Comprehensive Plan's current compliance with HB 2001 provisions (OAR 660-046), in addition to new rules established by SB 458. The audit examines possible amendments necessary to bring the City into compliance. In particular, this audit focuses on determining whether the City has:

- Standards permitting the development of duplexes, triplexes, quadplexes, cottage cluster, and townhomes in compliance with HB 2001.
- A clear and objective path for approval of residential development.
- Standards, conditions, or procedures that have the effect of discouraging duplexes through unreasonable cost and delay.
- Criteria or procedures related to application requirements, or review or appeal procedures that may hinder development of middle housing.

This memorandum includes the following sections:

- **Overview of HB 2001** – This section summarizes State requirements and the City's responsibilities to implement them.

- **Summary of Findings.** This section provides a summary of findings from the review of City policies and code requirements.
- **Comprehensive Plan Audit.** This section includes a detailed review of the City's Comprehensive Plan policies, goals, and implementing measures for their support of housing objectives.
- **Code Audit.** A series of tables in this section provide a detailed review of the Development Code, as well recommend amendments for consistency with HB 2001. The tables are organized by topic and focus on applicable zones, middle housing requirements, siting and design requirements, and other provisions.
- **SB 458 Audit.** This section includes a high-level overview of SB 458 (middle housing land division) background, requirements, and areas of the Code that will likely need to be updated.
- **Next Steps.** This section describes the upcoming Code Update project tasks.

OVERVIEW OF HB 2001

WHAT IS MIDDLE HOUSING?

Small families, young adults, and the growing population of elderly often desire and need housing options that offer a smaller footprint, lower maintenance, and easier access to public transportation, services, and social opportunities. These amenities are not as readily available in neighborhoods composed exclusively of single detached housing, where housing and transportation costs are relatively higher and where development of nearby supporting commercial services is less financially feasible.

Middle housing refers to a range of smaller attached housing types, such as duplexes and triplexes, as well as clustered housing built at a similar small scale but as single-family detached houses. The term “missing middle” housing was coined by urban planner Daniel Parolek to refer to housing that fits in between single-family homes and larger apartment buildings but that’s largely been missing from most cities’ neighborhood patterns for the last 70 years. Middle housing was common in neighborhoods in many communities prior to World War II. Since then, many cities have prohibited or significantly limited middle housing in single-family neighborhoods through zoning regulations that categorized them as “multi-family housing.” This project is an opportunity to expand housing options in more neighborhoods in Keizer by allowing middle housing types in the City’s single-family residential zones, as well as updating other land use regulations to better support their production. The outcome of this project will shape how the community develops and will expand opportunities for where people can choose to live, and what type of homes they live in.



HB 2001

The Oregon Legislature passed House Bill 2001 in 2019 as a means to respond to the growing crisis over housing affordability and availability in the state. The intention of HB 2001 is to expand housing options in Oregon’s cities by permitting middle housing – defined as duplexes, triplexes, quadplexes, townhomes, and cottage clusters – in most residential areas. The provisions of the legislation require compliance for both large cities (25,000+ population and all cities in a Metro region over 1,000), as well as medium-sized cities (10,000 - 24,999 population). Oregon Administrative Rule (OAR) 660 Division 46 implements the requirements of HB 2001.

Pursuant to OAR 660-046, Keizer is considered a Large City and is required to allow the following:

- Duplexes on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings; and
- Triplexes, quadplexes, cottage clusters, and townhomes in areas zoned for residential use that allow for the development of detached single-family dwellings.

The City “may regulate siting and design of middle housing.” However, it may not adopt standards or requirements that result in unreasonable cost or delay in the development of middle housing. There are two approaches to compliance:

- 1) Adopt the Housing Options Model Code for Large Cities, or
- 2) Amend the code, consistent with minimum compliance standards included in OAR 660 Division 46.

The Housing Options Model Code for Large Cities (Model Code) provides guidance to cities in implementing code provisions that comply with the purpose of HB 2001. The Model Code defines how middle housing should be allowed on all lots and parcels that are zoned for residential use that also allow the development of SFDs. The Model Code sets specific standards that can be applied without further interpretation or amendments.

OAR 660-046 establishes the minimum standards that a city must meet to comply with the provisions of HB 2001. The standards provide flexibility for cities to adapt requirements to local

codes and have been vetted as reasonable for determining minimum compliance. The requirements are reviewed against Keizer's existing code in Section IV.

Large cities, which includes Keizer, are required to adopt code provisions that meet minimum compliance standards (OAR 660-046) by June 30, 2022. If the City does not adopt standards that meet minimum compliance, then the model code is automatically applied until the City updates the Code to meet minimum compliance. The Model Code has been approved by and adopted by the Land Conservation and Development Commission (LCDC) and therefore meets minimum compliance standards. This audit is the first step of the City's process to determine needed Development Code amendments to meet minimum compliance requirements.

II. SUMMARY OF FINDINGS

The Keizer Development Code will need several updates to comply with HB 2001. Most of the middle housing types are already allowed in most residential zones. However certain development and design standards will need revisions to meet minimum compliance standards. The City will have the opportunity to fine-tune some updates so that they are tailored for Keizer. A summary of the required updates includes:

- Update Comprehensive Plan policies mainly pertaining to language that prioritizes single-family detached and residential density ranges
- Allow each middle housing type in RS zone
- Create new/reduced minimum lot sizes for most middle housing types
- Create new/reduced setbacks for most middle housing types
- Exempt density maximums for some middle housing types
- Revised minimum parking requirements
- Update design standards for most middle housing types to be consistent with SFD or less restrictive than the model code
- Allow cottage clusters outright in each zone

The audit also identifies areas of the Code that would benefit from amendments, but where updates are not necessarily required. Some of these recommended updates include:

- Add new definitions for middle housing, triplexes, and quadplexes
- Add provisions that clarify allowed uses and procedures that are specific to middle housing types, such as middle housing conversions and review development procedures
- Add provisions and procedures that specify the requirements of SB 458 – Middle Housing Land Divisions; alternatively, the Code could reference procedures found in state statutes

III. COMPREHENSIVE PLAN AUDIT

This section of the report lists a limited number of goals and policies (and implementation methods if applicable) in the Housing chapter of The Keizer Comprehensive Plan that may need to be revised for consistency with the requirements of HB 2001.

The primary reason the Comprehensive Plan items listed below should be revised is because they do not include references to middle housing types and/or because some of them may conflict with HB 2001 and OAR 660-046 requirements and with expected updates to the Development Code. They should be updated to reflect the intent of HB 2001 and for consistency with development code provisions related to those forms of housing. Objectives, goals, and policies not listed appear to be consistent with HB 2001 and do not warrant revision.

We recommend amendments to the following Comprehensive Plan housing elements to establish consistency with middle housing code updates. Each policy or objective that may need to be amended is highlighted. An assessment of policies that need to be updated is provided in the following section.

COMPREHENSIVE PLAN PROVISIONS

III. Findings and Policies

C. Land-Use and Economic Development

[...]

4. RESIDENTIAL DEVELOPMENT GOALS, OBJECTIVES AND POLICIES

[...]

d. Goal 4 Provide and allow for appropriate levels of residential development consistent with comprehensive plan designations.

1) Objective 4.1 Provide for three general levels of residential density

a) Policies 4.1:

(1) Low-Density Residential

(a) Allow single-family residential uses as the predominant land use type in low-density residential areas.

(b) Ensure that:

i. Land use is predominantly single-family residential, with up to 8 units per gross acre.

ii. A variety of housing types are allowed in this category such as detached, attached duplex and manufactured housing. The zoning and subdivision ordinance will more specifically describe structural types. In this district, each residential unit will be on a single lot.

(2) Medium Density Residential

(a) Allow a mix of housing types in this category at a density averaging from 6 to 10 dwelling units per acre. Identify criteria and location for this category in the zoning ordinance.

(b) Allow detached, attached, duplex, and multiple family housing.

(3) Medium and High Density Residential

(a) Allow a mix of housing types in this category in two general levels of residential density:

i. Medium density – over 8 and up to 16 units per gross acre.

ii. High density – over 16 units per gross acre. Identify criteria and location for these two sub-categories in the zoning ordinance.

(b) Allow attached, duplex and multiple housing in this category.

(4) Mixed Use

(b) Allow detached, duplex and multiple family housing.

ASSESSMENT OF NEEDED COMPREHENSIVE PLAN UPDATES

The Comprehensive Plan goals, policies, and measures listed above likely will need to be amended. Specifically, Comprehensive Plan Objective 4.1 will need to be updated to account for HB 2001. Under this Objective, the City amend the following policy areas:

- Clarify that middle housing types are exempt from the maximum density requirements established for each level of residential density (see Section IV for further explanation on density exemptions)
- Explicitly state “middle housing” as an allowed use in each level of density. This is necessary to:
 - Establish that low-density zones cannot exclusively allow single-family detached and must allow middle housing
 - Provide policy support and consistency with the Development Code
- Remove the low-density policy statement (ii) that states “each residential unit will be on a single lot”. This conflicts with the required middle housing code updates for single-family zones.

IV. KEIZER HOUSING OPTIONS (HB2001 COMPLIANCE) CODE AUDIT

This section summarizes key insights from the initial Code audit by identifying additional Code issues related to middle housing development. This audit evaluates current regulating provisions for middle housing and in some cases compares them to requirements for single-family homes where the City must apply identical or similar requirements to those two categories of housing. The Oregon Administrative Rules (OAR 660-046) that implement HB 2001 and associated statutes (ORS 197.758) will serve as the basis for determining whether residential code provisions meet the minimum compliance standards.

The Middle Housing Model Code for Large Cities also is used for additional guidance. It is important to note that the Model Code standards are NOT REQUIRED, but rather cities have the option to adopt it as a path toward compliance with HB 2001. In some cases, Model Code provisions serve as standards that already have been vetted by the state as in compliance with HB 2001 (e.g., design standards for triplexes, quadplexes, townhomes and cottage clusters). These standards can be incorporated into the City’s code without further analysis, if desired. In addition, cities are required to adopt the Model Code only if they do not meet minimum compliance standards before June 30, 2022. The Model Code standards are included in this audit to further inform the city staff of its options for compliance, in the event the City chooses to adopt portions of the Model Code.

The Code audit focuses on identifying:

- Use restrictions that preclude middle housing in residential zones;
- Zone development standards, general siting and development standards, lot standards, and design standards that do not appear to comply with the OAR minimum compliance standards;
- Criteria or procedures related to development application requirements, review, or appeal that that may hinder development of middle housing; and
- Standards, conditions, or procedures that have the effect, either in themselves or cumulatively, of discouraging middle housing through unreasonable cost or delay.

This section provides more details about statutory and draft OAR requirements, in order to put the identified Code issues into context and inform the HB 2001 audit table.

Key to Responses

N/A	The criterion is not applicable.
Y	Regulations appear to comply with OAR 660-046 requirements for Medium Cities
N	Regulations appear to NOT comply with OAR 660-046
MC	Regulations are ambiguous regarding OAR 660-046. May not comply.

APPLICABILITY

HB 2001 requires that Large Cities allow:

- Duplexes on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings; and
- Triplexes, quadplexes, cottage clusters, and townhouses in areas zoned for residential use that allow for the development of detached single-family dwellings.

While duplexes must be allowed on every residential lot where a single-family detached (SFD) dwelling can be built, OAR 660-046-0205 allows the City to regulate or limit development of other “higher” middle housing types in the following areas:

- **Goal-Protected Lands** – Cities can limit middle housing development other than duplexes in areas protected or designated pursuant to a statewide planning goal. In Keizer, that includes the Natural Resource Overlay districts such as the Resource Conservation Overlay Zone (2.126), the Greenway Management Overlay Zone (2.123), and the Floodplain Overlay Zone (2.122).
- **Master Planned Communities** – Large Cities can regulate or limit middle housing other than duplexes in master planned communities (as defined in OAR 660-046-0020), but must meet certain density targets. Keizer’s Lockhaven Center Master Plan district is the only master planned community in the City that currently allows duplexes and other middle housing types.

Lands Impacted by State or Federal Law – Cities must demonstrate that limiting middle housing is necessary to implement or comply with an established state or federal law or regulation on these types of lands. This provision likely does not apply in Keizer except possibly on lands that are already covered under “Goal-Protected Lands”.

TABLE 1: ZONE AUDIT

Applicability (OAR 660-046-01015)	Assessment	Compliant (Y/N)
<p>Which residential zones are subject to the HB 2001 requirements? “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. The City need not comply with this division for:</p> <ul style="list-style-type: none"> • Lands that are not zoned for residential use, including but not 	<p>Applicable zones:</p> <ul style="list-style-type: none"> • 2.102 RS – <i>Single Family Residential</i> • 2.103 RL – <i>Limited Density Residential</i> • 2.104 RM – <i>Medium Density Residential</i> • 2.105 RH – <i>High Density Residential</i> • 2.107 MU – <i>Mixed Use</i> • 2.130 RCOD – <i>River Cherry Overlay District</i> 	<p>N</p>

limited to lands zoned primarily for commercial, industrial, agricultural, or public uses;

- Residentially zoned lands that do not allow for the development of a detached single-family home; or
- Lands that are not incorporated and that are zoned under an interim zoning designation that maintains the land’s potential for planned urban development

The RS zone is currently the only residential zone that does not allow any middle housing types. The RL, RM, MU, RH, and RCOD zones are close to compliance with this requirement, as they allow every middle housing type outright except for cottage clusters, which are allowed as a conditional or special permitted use.

Figure 1 below shows the current residential zones in Keizer. The majority of the City is currently zoned Single Family (RS), where none of the middle housing types are currently permitted. We also note that the High Density (RH) zone currently does not apply anywhere in the City. Although amendments to this zone are required, the updates will have minimal impact in the near-term due to the absence of current application of this zone. Figure 1 also shows the “Limited Use” and other residential overlay zones (except for River Cherry). These zones have slightly different standards than the base residential zones, but middle housing also will apply in the portions of these zones that are applied to residential base zones.

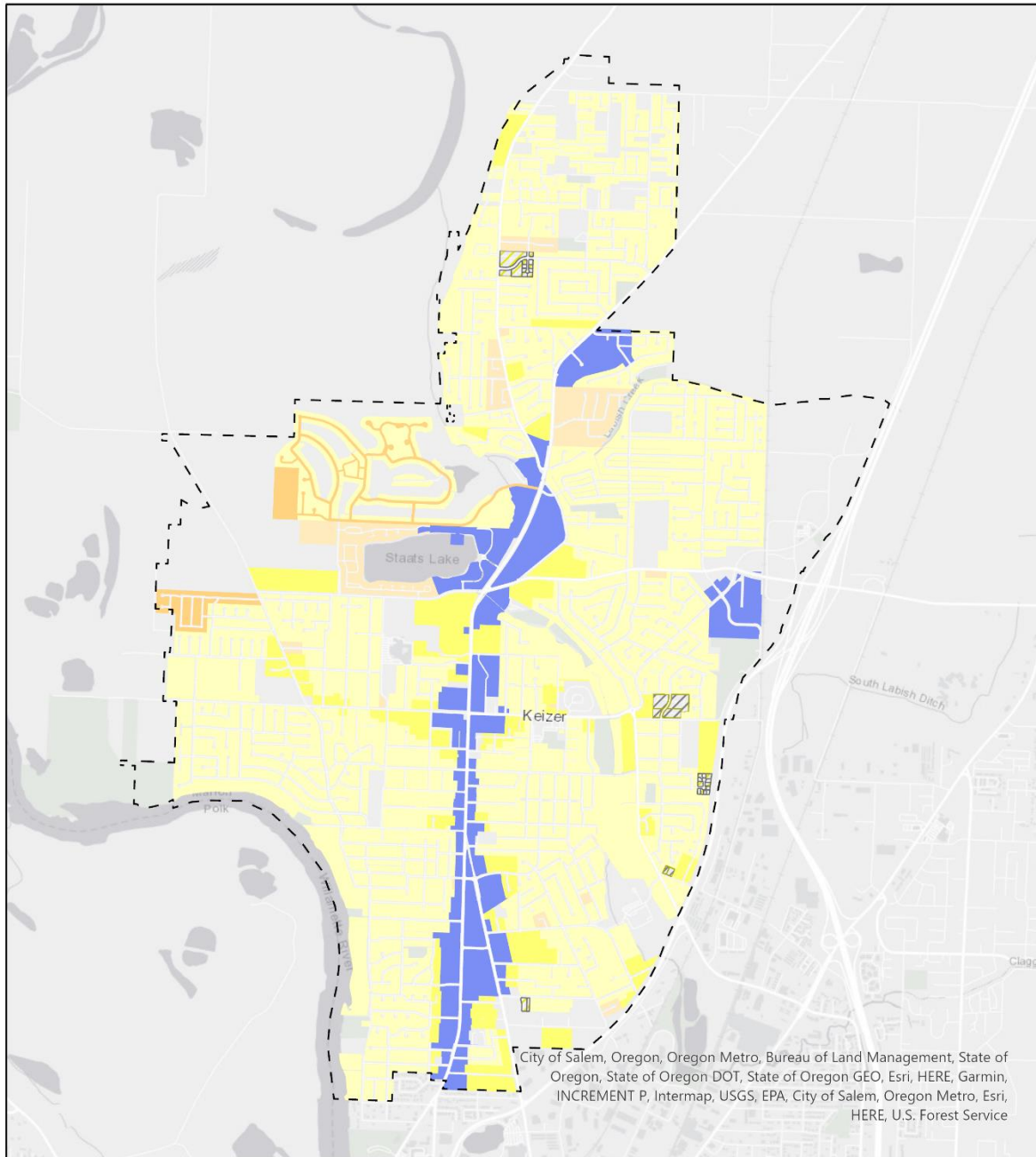
While the Mixed Use zone is implemented through the City’s Mixed Use Comprehensive Plan designation, allowing single-family detached may qualify this zone as HB 2001 applicable. The criteria for HB 2001 applicability includes a designation in which residential is the *primary* use. Keizer’s Mixed Use zone does not specify whether residential or commercial are the primary uses. Instead, the Comprehensive Plan states Mixed Use is “... intended for development that combines commercial and residential uses in a single complex”, and they encourage a mix of residential and commercial while providing new housing opportunities. We interpret this Comprehensive Plan description to intend for residential as a primary use along with commercial, and not a secondary or supplementary use. Therefore, HB 2001 will apply to this zone. If the City wants to apply alternative standards or keep current middle housing

standards for this zone, the community may consider removing SFD as a permitted use.

The River Cherry Overlay District (RCOD) is not an expressly residential zone, however it overlays with multiple residential zones. Standards in the RCOD supersede requirements in underlying zoning districts, and therefore is subject to HB 2001 in the areas where it overlays residential zones. Where this overlay district applies to commercial, HB 2001 would not apply.

Another zone in Keizer that allows residential uses includes the *Residential Commercial* (RC – 2.106) zone. This zone is not subject to HB 2001 requirements. The RC zone does not permit SFD outright, as a dwelling is only permitted per each business use on a lot or parcel. The City may still choose to update these zoning designations to allow for more middle housing if desired.

FIGURE 1: KEIZER AREAS WHERE HB 2001 APPLIES – RESIDENTIAL ZONES



Keizer Residential Zones



- | | |
|---|--|
| <ul style="list-style-type: none"> City Limits Residential Zone RL - Limited Density Residential RL-Limited Use | <ul style="list-style-type: none"> RM - Medium Density Residential RM-Limited Use RS - Single Family Residential RS-Odor Improvement Overlay MU - Mixed Use |
|---|--|

FIGURE 2: RIVER CHERRY OVERLAY DISTRICT

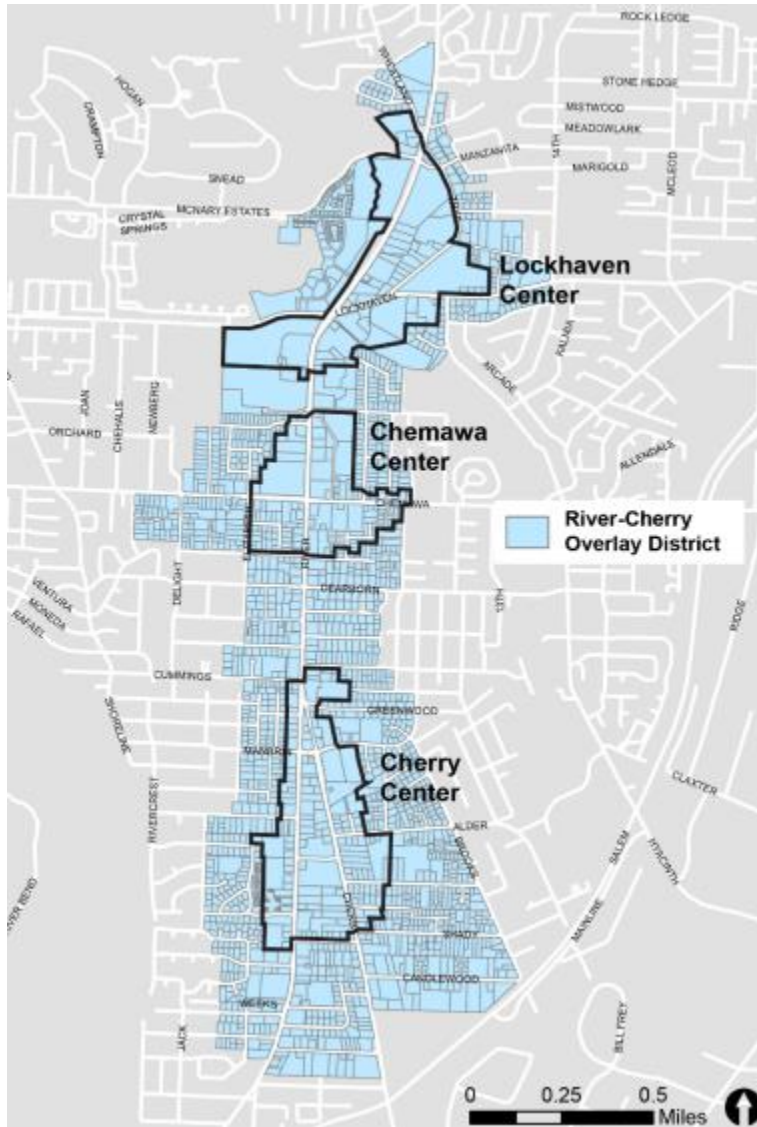


TABLE 2: GOAL PROTECTED LAND

Applicability (OAR 660-046-0010)	Assessment	Compliant (Y/N)
<p>Do the middle housing regulations comply with the regulations of goal-protected areas?</p> <p>Local governments may regulate Middle Housing to comply with protective measures (including plans, policies, and regulations) adopted and acknowledged pursuant to statewide land use planning goals. OAR 660-046-0010(3) describes the requirements for Middle Housing provisions in relation to regulations implementing the provisions of goal-protected areas</p>	<p>The goal protected lands that are found in Keizer are:</p> <ul style="list-style-type: none"> • Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources • Goal 6: Air, Water and Land Resources Quality • Goal 7: Natural Hazards <p>Keizer already regulates the Protective zones in Development Code through the following provisions:</p> <p>Goal 5 & 6: <i>2.123 Greenway Management Overlay Zone</i> <i>2.311.05 Common Open Space</i> <i>2.126 Resource Conservation Overlay Zone</i></p> <p><i>Comprehensive Plan Chapter III.A Significant Natural and Cultural Features</i></p> <p>Goal 7: <i>2.122 Flood Plain Overlay Zone</i></p> <p>The provisions for goal protected lands described above will continue to apply to the development of middle housing in residential zones.</p>	<p>Y</p>

DUPLEXES

Duplexes can either be stacked or side-by-side. Traditionally, most development codes have defined duplex units as two attached units that form a single building, but OAR 660-046 allows cities the option of including detached units in the definition as well.¹ The building(s) must be on a single lot or parcel (if on a separate parcel, then the units would be considered “townhouses”). HB 2001 requires that within the applicable zones, cities allow a duplex on every lot that would allow a SFD dwelling. Table 3 examines the OAR definitions for duplexes against the City’s current definition.

DEFINITIONS

TABLE 3 DUPLEX DEFINITIONS

DEFINITIONS (OAR 660-046-0020)	Assessment	Compliant (Y/N)
<p>“Duplex” means two attached dwelling units on a Lot or Parcel.</p> <p><i>NOTE: A local government may define a Duplex to include two detached dwelling units on a Lot or Parcel.</i></p>	<p><i>Dwelling, Two-Family (Duplex):</i> A detached building on a single parcel or lot containing 2 dwelling units designed exclusively for occupancy by 2 families living independently of each other.</p> <p>The City may also consider revising the definition to allow for detached duplexes. It may also be useful to revise to acknowledge that the units could be on separate lots if divided through a Middle Housing Land Division, per SB 458 (see Section V for more details on SB 458).</p>	<p>Y</p>
<p>Are other terms defined in the jurisdiction’s code in a manner that would create a conflict with HB 2001?</p> <p><i>NOTE: For example, definitions of “dwelling,” “family” or “household” that when used in conjunction with the middle housing types would unreasonably limit the size of units. Other terms to look for: accessory dwelling unit (potential conflict with duplex); multifamily; floor area; FAR; building footprint; lot coverage; common wall; attached; etc.</i></p>	<p>No other definitions in the Code would create a conflict with the current definition for duplexes.</p>	<p>Y</p>

¹ Note that cities are *not required* to define two *detached* units on a single lot as a duplex. However, if the City chooses to include the detached option in the duplex definition, then required development standards for single-family detached, and therefore attached duplexes, also apply to detached duplexes.

ATTACHED DUPLEX EXAMPLES



Stacked duplex



Side-by-side duplex



Side-by-side duplex

SITING AND DESIGN REQUIREMENTS

Siting and Design requirements can have a significant effect on the form and feasibility of development. These requirements regulate where buildings can be located on a site, lot size requirements, off-street parking, and more. HB 2001 provisions allow cities to have flexibility in siting and design requirements for applicable lands, as long as they are consistent with the minimum siting and design requirements established in the OARs and the standards do not create “unreasonable cost and delay.” Generally, the reasonableness standard is measured by comparing cost and delay of middle housing standards to that of detached SFD types. Per OAR 660-046-0125, medium (and large) cities that choose to apply design standards to new duplexes may only apply the same clear and objective standards that applies to detached SFD in the same zone. Below, Table 4 audits minimum compliance for both siting and design standards.

TABLE 4: DUPLEX SITING AND DESIGN REQUIREMENTS

SITING AND DESIGN REQUIREMENTS (660-046-0110 – 660-046-0125)	Assessment	Compliant Y/N
Are duplexes allowed on every parcel that allows a detached single-family dwelling (SFD)?	<p><u>Single Family Residential (RS – 2.106)</u></p> <p>Duplexes are not permitted outright.</p> <p>Allowed as a Special Permitted Use on corner lots of 7,000 sf.</p>	N
	<p><u>Limited Density Residential (RL – 2.103)</u></p> <p>Duplexes are not permitted outright.</p>	
	<p><u>Medium Density Residential (RM – 2.104)</u></p> <p>Duplexes are not permitted on every parcel that allows SFD.</p>	

	<p><u>High Density Residential (RH – 2.105)</u></p> <p>Duplexes permitted on any parcel that permits SFD.</p>	<p>Y</p>
	<p><u>Mixed Use (MU – 2.107)</u></p> <p>Duplexes are not permitted on every parcel that permits SFD.</p>	<p>N</p>
	<p><u>River Cherry Overlay District (RCOD – 2.130.04.A)</u></p> <p>Duplexes are not permitted on every parcel that permits SFD.</p>	<p>N</p>
<p>Does the Code allow the development of a Duplex on any property zoned to allow detached SFDs, which was legally created prior to the City’s current lot size minimum for detached SFDs in the same zone.</p>	<p><u>Development of a Lot of Record (2.201.03C) –</u> The use or development of any legal lot of record shall be subject to the regulations applied to the property when such development or use begins, irrespective of the lot width, street frontage, depth or area, but subject to all other regulations.</p> <p>Development regulations for legal lots of record appear to apply equally for all types of development, including single-family detached, notwithstanding other development code requirements that also apply to these lots.</p>	<p>Y</p>
<p>Are there density maximums in any zones? If so, do those maximums exempt (or otherwise not apply) to duplexes?</p>	<p><u>Single Family Residential (RS) – 8 units per acre</u></p> <p>No exemptions for duplexes.</p>	<p>N</p>
	<p><u>Limited Density Residential (RL)</u></p> <ul style="list-style-type: none"> • Medium Density Comp Plan – 10 units per acre • Medium-High Density Comp Plan – 14 units per acre <p>No exemptions for duplexes.</p>	<p>N</p>
	<p><u>Medium Density Residential (RM)</u></p> <ul style="list-style-type: none"> • Medium Density Comp Plan – 10 units per acre 	<p>N</p>

	<ul style="list-style-type: none"> • Medium-High Density Comp Plan – 22 units per acre <p>No exemptions for duplexes.</p>	
	<p><u>High Density Residential (RH)</u></p> <p>No maximum density for any residential/housing type.</p>	Y
	<p><u>Mixed Use (MU)</u></p> <p>24 units per acre.</p>	N
	<p><u>River Cherry Overly District (RCOD)</u></p> <ul style="list-style-type: none"> • RM – 24 units per acre • RS – 10 units per acre • MU – 28 units per acre <p>No exemptions for duplexes.</p>	N
<p>Are duplexes subject to the same lot size standards as detached SFDs?</p>	<p><u>Single Family Residential (RS – 2.102.05.A)</u></p> <ul style="list-style-type: none"> • Single Family: 4,000 sf • Duplexes: allowed as a Special Permitted Use on corner lots of 7,000 sf or more. 	N
	<p><u>Limited Density Residential (RL – 2.103.05.A):</u></p> <ul style="list-style-type: none"> • Single Family: 4,000 sf • Duplex: 7,000 sf 	N
	<p><u>Medium Density Residential (RM – 2.104.05.A):</u></p> <ul style="list-style-type: none"> • Single Family: 4,000 sf • Duplex: 6,000 sf 	N
	<p><u>High Density Residential (RH – 2.105.05.A):</u></p> <p>All Residential: 6,000 sf</p>	Y
	<p><u>Mixed Use (MU – 2.107.06.A):</u></p> <ul style="list-style-type: none"> • Single Family: 4,000 sf • Duplex: 6,000 sf 	N

	<p><u>River Cherry Overlay District (RCOD – 2.130.05.A):</u></p> <ul style="list-style-type: none"> • RM: <ul style="list-style-type: none"> ○ SFD: 3,000 sf ○ Duplex: 4,000 sf • RS: <ul style="list-style-type: none"> ○ SFD: 3,500 sf ○ Duplex: corner lots of more than 5,000 sf • MU: <ul style="list-style-type: none"> ○ SFD: 3,000 sf ○ Duplex: 4,000 sf 	
<p>Are duplexes subject to the same setback standards as detached SFDs?</p>	<p><u>Limited Density Residential (RL – 2.103.05.B):</u></p> <ul style="list-style-type: none"> • SFD: <ul style="list-style-type: none"> ○ Front – 10 ft. ○ Side – 5 ft. or 0 ft. for SFD located contiguous to a lot line (2.404) ○ Rear – 14 ft. for single story or 20 ft. for 2-story • Duplex <ul style="list-style-type: none"> ○ Front and Rear – same as SFD ○ Side – same as SFD except no zero side yard exception 	<p>N</p>
	<p><u>Medium Density Residential (RM – 2.104.05.B)</u></p> <ul style="list-style-type: none"> • SFD: <ul style="list-style-type: none"> ○ Front – 10 ft. ○ Side – 5 ft. or 0 ft. for SFD located contiguous to a lot line (2.404) ○ Rear – 14 ft. for single story or 20 ft. for 2-story • Duplex <ul style="list-style-type: none"> ○ Front and Rear: same as SFD ○ Side – Same as SFD except no zero side yard exception 	<p>N</p>
	<p><u>High Density Residential (RH– 2.105.05.B)</u></p> <ul style="list-style-type: none"> • All residential <ul style="list-style-type: none"> ○ Front – 10 ft. 	<p>Y</p>

	<ul style="list-style-type: none"> ○ Side – 10 ft. ○ Rear – 14 ft. for single story or 20 ft. for 2-story 	
	<p><u>Mixed Use (MU – 2.107.06.B)</u></p> <ul style="list-style-type: none"> ● SFD and duplex <ul style="list-style-type: none"> ○ Front – 10 ft. ○ Side – 5 ft. ○ Rear – 14 ft. for single story or 20 ft. for 2-story 	Y
	<p><u>River Cherry Overlay District (RCOD)</u></p> <p>No setback standards (defer to underlying zone)</p>	Y
Are duplexes subject to the same maximum height standards as detached SFDs?	The same maximum height applies to the SFD and duplexes for all residential zones where duplexes are permitted.	Y
Does the zone have a lot coverage standard? If so, is the standard the same for duplexes and SFDs?	There are lot coverage requirements for each residential zone. The coverage requirements are the same for SFD and duplexes.	Y
Does the zone have an FAR standard? If so, is the standard the same for duplexes and SFDs?	There are no FARs that apply to residential development in the City’s Code.	NA

<p>Does the Code apply the same design standards to SFDs as it does to duplexes (i.e., there are no design standards that only apply to duplexes)?</p>	<p>Design Standards for <i>Single Family Dwellings</i> – 2.314</p> <p>Design Standards for <i>residential with 4 or more attached dwellings</i>, including cottage clusters – 2.315</p> <p>The City does not have any specific design standards for duplexes. By virtue of not having design requirements for duplexes, design standards for duplexes do not exceed (i.e., are not more restrictive) than those for single-family detached. Therefore, the Code complies with HB 2001 design standards for duplexes.</p> <p>If the City chooses to apply design standards to duplexes through this Code update, the Code Chapter 2.314 – Design Standards for SFD – should be amended to include duplexes. The City has historically applied the SFD design standards to duplexes. The design standards for duplexes would have to be equal or less restrictive standards applied to SFD.</p>	<p>Y</p>
<p>Does the city offer the same clear and objective exceptions to public works standards to duplexes that they offer to SFDs?</p>	<p><i>Public Facility Improvement Requirements – 2.301.03:</i></p> <p>Public facility improvement requirements apply equally to SFD and duplexes.</p>	<p>Y</p>

TRIPLEXES AND QUADPLEXES

Triplexes and quadplexes, like duplexes, can either be stacked or side-by-side. They also can be attached or detached, depending on how the City chooses to define them. Currently, the City defines them as attached structures. The building(s) must be on a single lot or parcel (if on separate parcels, then the units would be considered “townhouses”). Unless the City pursues the “Performance Metric Approach” as discussed on page **Error! Bookmark not defined.**, the OARs require that the City allow triplexes and quadplexes in all applicable zoning districts that would allow development of a SFD (the exception being lots meeting the definition of “Goal Protected” or “Impacted by State or Federal Law”). While HB 2001 and OAR 660-046 define triplexes and quadplexes as being on a single lot, Senate Bill 458 requires cities to allow for those lots to be

divided to result in each housing unit being located on its own individual lot. This issue is described in more detail in a subsequent section of this memo.

DEFINITIONS

TABLE 5: TRIPLEX AND QUADPLEX DEFINITIONS

DEFINITIONS (OAR 660-046-0020)	Assessment	Compliant (Y/N)
<p>“Triplex” means three attached dwelling units on a Lot or Parcel. A Large City may define a Triplex to include any configuration of three detached or attached dwelling units on one Lot or Parcel.</p> <p>“Quadplex” means four attached dwelling units on a Lot or Parcel. A Large City may define a Quadplex to include any configuration of four detached or attached dwelling units on one Lot or Parcel.</p> <p>“Middle Housing” means Duplexes, Triplexes, Quadplexes, Cottage Clusters, and Townhouses.</p>	<p><u>Dwelling, Multi-Family</u>: A building on a single parcel or lot containing 3 or more dwelling units designed for occupancy by 3 or more families living independently of each other.</p> <p>Although the City is not required to provide separate definitions for tri and quadplexes, distinguishing these housing types from multi-family will add clarity for code sections that regulate tris and quads. Similarly, providing a definition for “middle housing” will also generally help clarify code sections that refer to these housing types together. It also will allow the City to continue to apply existing design standards to multi-family developments that include five or more units.</p> <p>The City may also want to consider revising to acknowledge that units could be on separate lots if divided through a Middle Housing Land Division, per SB 458 (see Section V of this memo for more details).</p>	<p>MC</p>

<p>Are other terms defined in the jurisdiction’s code in a manner that would create a conflict with HB 2001?</p> <p><i>NOTE: For example, definitions of “dwelling,” “family” or “household” that when used in conjunction with the middle housing types would unreasonably limit the size of units. Other terms to look for: accessory dwelling unit (potential conflict with duplex); multifamily; floor area; FAR; building footprint; lot coverage; common wall; attached; etc.</i></p>	<p><u><i>Dwelling, Multifamily.</i></u> A structure or development containing at least 3 dwelling units in any vertical or horizontal arrangement, located on a single lot. See also, Cottage Cluster Development.</p> <p>While the existing definitions of dwellings do not conflict with requirements of HB 2001, if the City chooses to adopt separate definitions for triplex, quadplex, and middle housing, then these new definitions would conflict with “multifamily”. It is highly recommended this definition is amended and definitions for each middle housing type be added to the Code.</p>	<p>MC</p>
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EXAMPLES OF TRIPLEXES AND QUADPLEXES



SITING AND DESIGN REQUIREMENTS

TABLE 6: TRIPLEX AND QUADPLEX SITING AND DESIGN REQUIREMENTS

SITING AND DESIGN REQUIREMENTS (660-046-0220(2) and 660-046-0225)	Assessment	Compliant (Y/N)
<p>Are triplexes/quadplexes allowed in every residential zone that allow single-family detached dwellings?</p>	<p><u><i>Single Family Residential (RS – 2.106.02)</i></u> Triplexes/quadplexes are not permitted outright.</p>	<p>N</p>
	<p><u><i>Limited Density Residential (RL – 2.103.02.C)</i></u> Triplexes/quadplexes are permitted outright.</p>	<p>Y</p>
	<p><u><i>Medium Density Residential (RM – 2.104.02.C)</i></u></p>	<p>Y</p>

	Triplexes/quadplexes are permitted outright.	
	<u>High Density Residential (RH – 2.105.02.A)</u> Triplexes/quadplexes are permitted outright.	Y
	<u>Mixed Use (MU – 2.107.02.A)</u> Triplexes/quadplexes are permitted outright.	Y
	<u>River Cherry Overlay District (RCOD – 2.130.04.A)</u> Triplexes/quadplexes are permitted outright in the RM zone. Triplexes/quadplexes are not allowed in the RS zone.	Y
<p>Do the minimum lot sizes in each zone meet the following standards?</p> <ul style="list-style-type: none"> • If SFD lot size is 5,000 sf or less; then, triplex lot size is not more than 5,000 sf • If SFD lot size is more than 5,000 sf; then triplex lot size is not more than the SFD lot size • If SFD lot size is 7,000 sf or less; then, quadplex lot size is not more than 7,000 sf • If SFD lot size is more than 7,000 sf; then quadplex lot size is not more than the SFD lot size 	<u>Single Family Residential (RS – 2.102.05.A)</u> Minimum lot size for SFD is 4,000 sf Duplexes are only permitted on corner lots of 7,000 sf or more.	N/A
	<u>Limited Density Residential (RL – 2.103.05.A)</u> <ul style="list-style-type: none"> • SFD – 4,000 sf • MF – 10,000 sf 	N
	<u>Medium Density Residential (RM – 2.104.05.A)</u> <ul style="list-style-type: none"> • SFD – 4,000 sf • MF – 9,000 sf 	N
	<u>High Density Residential (RH – 2.105.05.A)</u> Minimum lot size for all residential: 6,000 sf	Y
	<u>Mixed Use (MU – 2.107.06.A)</u> <ul style="list-style-type: none"> • SFD – 4,000 sf • MF – 6,000 sf Does not comply for triplexes. Complies for quadplexes.	N
	<u>River Cherry Overlay District (RCOD – 2.130.05.A)</u> <ul style="list-style-type: none"> • RM and MU – uses density only • RS – Triplexes and Quadplexes are not allowed. 	N/A

<p>Are there density maximums in any zones? If so, do those maximums exempt (or otherwise not apply) to triplexes/quadplexes?</p>	<p><u>Single Family Residential (RS)</u> – 8 units per acre</p> <p>No exemptions for multi-family</p>	N
	<p><u>Limited Density Residential (RL)</u></p> <ul style="list-style-type: none"> • Medium Density Comp Plan – 10 units per acre • Medium-High Density Comp Plan – 14 units per acre <p>No exemptions for multi-family.</p>	N
	<p><u>Medium Density Residential (RM)</u></p> <ul style="list-style-type: none"> • Medium Density Comp Plan – 10 units per acre • Medium-High Density Comp Plan – 22 units per acre <p>No exemptions for multi-family.</p>	N
	<p><u>High Density Residential (RH)</u></p> <p>No maximum density for any residential/housing type.</p>	Y
	<p><u>Mixed Use (MU)</u></p> <p>24 units per acre</p>	N
	<p><u>River Cherry Overlay District (RCOD)</u></p> <ul style="list-style-type: none"> • RM – 24 units per acre • RS – 10 units per acre • MU – 28 units per acre <p>No exemptions for multi-family.</p>	N

<p>Are triplexes/quadplexes subject to the same setback standards as detached SFDs?</p>	<p><u>Limited Density Residential (RL – 2.103.05.B):</u></p> <ul style="list-style-type: none"> • SFD: <ul style="list-style-type: none"> ○ Front – 10 ft. ○ Side – 5 ft. or 0 ft. for SFD located contiguous to a lot line (2.404) ○ Rear – 14 ft. for single story or 20 ft. for 2-story • Multi-family (tri/quadplex) <ul style="list-style-type: none"> ○ Front and Rear – same as SFD ○ Side – 10 ft. 	<p>N</p>
	<p><u>Medium Density Residential (RM – 2.104.05.B)</u></p> <ul style="list-style-type: none"> • SFD: <ul style="list-style-type: none"> ○ Front – 10 ft. ○ Side – 5 ft. or 0 ft. for SFD located contiguous to a lot line (2.404) ○ Rear – 14 ft. for single story or 20 ft. for 2-story • Multi-family (tri/quadplex) <ul style="list-style-type: none"> ○ Front and Rear: same as SFD ○ Side – 10 ft. 	<p>N</p>
	<p><u>High Density Residential (RH – 2.105.05.B)</u></p> <ul style="list-style-type: none"> • All residential <ul style="list-style-type: none"> ○ Front – 10 ft. ○ Side – 10 ft. 	<p>Y</p>

	<ul style="list-style-type: none"> ○ Rear – 14 ft. for single story or 20 ft. for 2-story 	
	<p><u>Mixed Use (MU – 2.107.06.B)</u></p> <ul style="list-style-type: none"> ● SFD: <ul style="list-style-type: none"> ○ Front – 10 ft. ○ Side – 5 ft. ○ Rear – 14 ft. for single story, 20 ft. for 2-story ● MF: <ul style="list-style-type: none"> ○ Front and rear – same as SFD ○ Side – 10 ft. 	N
	<ul style="list-style-type: none"> ● <u>River Cherry Overlay District (RCOD)</u> <p>Multi-family: 5 ft (front only)</p> <p>There is no setback standard for SFD, which means the setback defers to the underlying residential zone. The multi-family setback of 5 feet on properties that front on River Road, Lockhaven Drive, Chemawa Road, and Cherry Avenue in designated Centers, which is less than the front setback for SFD in each underlying zone. However, setbacks are regulated by the underlying zone elsewhere, which are not less than SFD setbacks.</p>	N
<p>Are triplexes and quadplexes subject to the same or higher maximum height standards as SFDs and does that the standard allow buildings to be at least 25 feet in height or two stories?</p>	<p>The same maximum height applies to the SFD and multi-family for all residential zones where multi-family is permitted.</p>	Y
<p>Does the zone have a lot coverage standard? If so, is the standard the same for tri/quadplexes and SFDs?</p>	<p>There are lot coverage requirements for each residential zone. The coverage requirements are the same for all residential types.</p>	Y
<p>Does the zone have an FAR standard? If so, is the standard the same for tri/quadplexes and SFDs?</p>	<p>There are no FARs that apply to residential development in the City’s Code.</p>	N/A

<p>Does the Code include design standards for triplexes and quadplexes that are either:</p> <ul style="list-style-type: none"> • The same as or less restrictive than the Model Code for Large Cities; or • The same as design standards applicable to SFD dwellings?* <p><i>*NOTE: Design standards may not scale based on number of units (e.g., primary entrance requirements), but may scale based on form-based attributes (e.g., floor area and street-facing façade).</i></p>	<p>Design Standards for <i>Single Family Dwellings</i> – 2.314</p> <p>Design Standards for <i>residential with 4 or more attached dwellings</i>, including cottage clusters – 2.315</p> <p>The design/development standards established in KDC 2.315 are more restrictive than those established in the Model Code for Large Cities. Examples of more restrictive standards include the following:</p> <ul style="list-style-type: none"> • Required Building, trim, and foundational material • Required colors • More restrictive building plane requirements <p>The Code does not have design standards for triplexes. All other types of multi-family (including quadplexes) have a separate set of design standards. In addition, the River Cherry Overlay District requires design standards that apply to multi-family development (includes tri/quadplexes).</p>	<p>N</p>
<p>Does the Code include siting and design standards for triplexes and quadplexes that diverge from the standards in OAR 660-046-0220 or 660-046-0225, but that individually or cumulatively do not cause unreasonable cost or delay?</p>	<p>OAR 660-046-0235 allows existing “alternative design standards” to remain, if a city can demonstrate that they do not cause unreasonable cost or delay. Keizer’s multi-family design standards are the existing standards applicable to triplexes and quadplexes. However, these standards are unlikely to meet the test for unreasonable cost or delay because they are generally geared toward larger-scale multi-family development.</p>	<p>MC</p>

TOWNHOUSES

Townhouses are homes constructed in a row of attached units, each on a separate lot. HB 2001 provides a specific definition for townhouses.

The OAR requires that the City allow townhouses in residential zoning districts that allow SFDs (the exception being lots meeting the definition of “Goal Protected” or “Impacted by State or Federal Law”).

DEFINITIONS

TABLE 7: TOWNHOME DEFINITION REQUIREMENTS

DEFINITIONS (OAR 660-046-0020)	Assessment	Compliant (Y/N)
<p>“Townhouse” means a dwelling unit that is part of a row of two or more attached dwelling units, where each unit is located on an individual Lot or Parcel and shares at least one common wall with an adjacent dwelling unit.</p>	<p><u>Dwelling, Townhouse</u>: A multi-family structure so designed that each individual dwelling unit is located upon a separate lot or parcel.</p> <p><u>Attached Dwellings</u>: Two or more dwelling units on separate properties that share a common wall for a full story that adjoins enclosed habitable space on each side. Attached dwellings shall be joined along a common wall for no less than one story for a distance of at least 10 feet.</p> <p>While the existing definition for townhouse complies, the City should consider removing the “multi-family” characterization in the definition to distinguish this middle housing type from multi-family housing as currently defined in the Code.</p> <p>The definition for “attached dwelling” also defines townhomes with slightly different criteria. We recommend removing this definition to avoid redundant definitions.</p>	<p style="text-align: center; font-weight: bold;">MC</p>
<p>Are other terms defined in the jurisdiction’s code in a manner that would create a conflict with HB 2001?</p>	<p><u>Dwelling, Multi-Family</u>: A building on a single parcel or lot containing 3 or more dwelling units designed for occupancy by 3 or more families living independently of each other.</p> <p>The definition for “multi-family” being on “a single parcel or lot” conflicts with the existing and required townhouse definition in which each unit must be on an individual lot. Simply removing “multi-family” from the townhouse definition (see assessment above) will resolve this conflict.</p>	<p style="text-align: center; font-weight: bold;">N</p>

EXAMPLES OF TOWNHOMES



SITING AND DESIGN REQUIREMENTS

TABLE 8 TOWNHOME SITING AND DESIGN REQUIREMENTS

SITING AND DESIGN REQUIREMENTS (660-046-0205(4)(c) and 660-046-0220(3))	Assessment	Compliant (Y/N)
<p>Are townhomes allowed in every residential zone that allow single-family detached dwellings?</p>	<p><u>Single Family Residential (RS – 2.102.03)</u></p> <p>Townhouses and attached housing are not explicitly permitted in this zone. However, zero side yard dwellings are permitted as a Special Use in this zone and in most respects would meet the definition of townhouses.</p>	N
	<p><u>Limited Density Residential (RL – 2.103.02.C/D)</u></p> <p>Townhouses are permitted outright.</p>	Y
	<p><u>Medium Density Residential (RM – 2.104.02.C/D)</u></p> <p>Townhouses are permitted outright.</p>	Y
	<p><u>High Density Residential (RH – 2.105.02.A)</u></p> <p>Townhouses are permitted outright.</p>	Y
	<p><u>Mixed Use (MU – 2.107.02.A)</u></p> <p>Townhouses are permitted outright.</p>	Y

	<p><u>River Cherry Overlay District (RCOD – 2.130.05.A.1</u></p> <p>Townhouses are permitted outright.</p>	<p>Y</p>
<p>Does each zone have a minimum lot size for townhouses? If so, is the average minimum lot size less than or equal to 1,500 sf?</p>	<p><u>Single Family Residential (RS – 2.102.05.A)</u></p> <p>Minimum lot size for SFD is 4,000 sf.</p> <p>Zero lot line dwellings are allowed as a Special Use on 4,000 sf or more lots. These dwellings are essentially townhouses.</p>	<p>N</p>
	<p><u>Limited Density Residential (RL – 2.103.05.A(2))</u></p> <ul style="list-style-type: none"> • 3,500 sf if attached on one side • 3,000 sf attached on both sides 	<p>N</p>
	<p><u>Medium Density Residential (RM – 2.104.05.A(2))</u></p> <ul style="list-style-type: none"> • 3,500 sf if attached on one side • 3,000 sf if attached on both sides 	<p>N</p>
	<p><u>High Density Residential (RH – 2.105.05.A)</u></p> <p>Minimum lot size for all residential: 6,000 sf</p>	<p>N</p>
	<p><u>Mixed Use (MU – 2.107.06.A)</u></p> <p>3,500 sf if attached on one side, 3,000 sf if attached on both sides.</p>	<p>N</p>
	<p><u>River Cherry Overlay District (RCOD – 2.130.05.A)</u></p> <ul style="list-style-type: none"> • RM – 2,500 sf • MU – 2,000 sf • RS – 3,000 sf 	<p>N</p>
	<p><u>Zero Side Yard Dwelling Units (2.404)</u></p> <p><i>C. Lot Size and Dimensions. Any lot that is part of an attached zero lot line development with more than two units may be less than the</i></p>	<p>MC</p>

	<p><i>minimum lot size permitted in the zoning district provided that the average lot size of all lots in the development meets the density and minimum lot size requirements for the zone.</i></p>	
<p>Do any zones have a maximum density? If so, is the maximum density for townhouses at least 4 times the maximum for SFDs or 25 du/ac, whichever is less?</p>	<p><u>Single Family Residential (RS)</u> – 8 units per acre</p> <p>Zero side yard dwelling units are allowed as a Special Use. Once fully permitted, a provision will need to be added to either exempt townhouses from the existing density requirement or the State’s allowed density maximum will need to be added.</p>	<p>N/A</p>
<p><u>Limited Density Residential (RL)</u></p> <ul style="list-style-type: none"> • Medium Density Comp Plan – 10 units per acre • Medium-High Density Comp Plan – 14 units per acre <p>Density requirement applies equally to all housing types.</p>	<p>N</p>	
<p><u>Medium Density Residential (RM)</u></p> <ul style="list-style-type: none"> • Medium Density Comp Plan – 10 units per acre • Medium-High Density Comp Plan – 22 units per acre <p>Density requirement applies equally to all housing types.</p>	<p>N</p>	
<p><u>High Density Residential (RH)</u></p> <p>No maximum density for any residential/housing type.</p>	<p>Y</p>	
<p><u>Mixed Use (MU)</u></p> <p>24 units per acre</p>	<p>N</p>	

	<p><u>River Cherry Overly District (RCOD)</u></p> <ul style="list-style-type: none"> • RM – 24 units per acre • RS – 10 units per acre <p>Density requirement applies equally to all housing types.</p>	N
<p>Does each zone have a minimum street frontage for townhouses? If so, is the minimum street frontage less than or equal to 20 feet?</p>	<p><u>Zero Side Yard Dwellings (2.404)</u></p> <p><i>C. [for more than 2 units] The minimum lot width for zero lot line development providing attached dwellings shall be 20 feet.</i></p> <p><u>River Cherry Dimensional Requirements – Average Lot Width (2.130.05.A)</u></p> <ul style="list-style-type: none"> • MU – 20 ft. • RM – 25 ft. • RS – 35 ft. 	N
<p>Are townhouses subject to the same or lesser setback standards as detached SFDs with the exception that townhouses can have a zero interior side setback?</p>	<p><u>Single Family Residential (RS – 2.102.05.B):</u></p> <ul style="list-style-type: none"> • SFD: <ul style="list-style-type: none"> ○ Front – 10 ft. ○ Side – 5 ft. or 0 ft. for SFD located contiguous to a lot line (2.404) ○ Rear – 14 ft. for single story or 20 ft. for 2-story • <u>Townhouses</u> <ul style="list-style-type: none"> ○ <u>Front, Side and Rear – same as SFD</u> 	Y

	<p><u>Limited Density Residential (RL – 2.103.05.B):</u></p> <p>Same as RS.</p>	Y
	<p><u>Medium Density Residential (RM – 2.104.05.B)</u></p> <p>Same as RS and RL.</p>	Y
	<p><u>High Density Residential (RH – 2.105.05.B)</u></p> <ul style="list-style-type: none"> • All residential <ul style="list-style-type: none"> ○ Front – 10 ft. ○ Side – 10 ft. or 0 ft. for SFD located contiguous to a lot line (2.404) ○ Rear – 14 ft. for single story or 20 ft. for 2-story 	Y
	<p><u>Mixed Use (MU – 2.107.06.B)</u></p> <p>Same as RS, RL, and RM zones.</p>	Y
	<p><u>River Cherry Overlay District (RCOD 2.130.09.A.1)</u></p> <ul style="list-style-type: none"> • SFD: None – defers to underlying zone • Townhouses: None – defers to underlying zone 	Y
Are townhomes subject to the same or higher maximum height standards as SFDs?	The same maximum height applies to SFD and townhouses for all residential zones where townhouses are permitted.	Y
Are the standards regulating the bulk and scale (e.g., lot coverage) of townhouse projects (i.e.,	There are lot coverage requirements for each residential zone. The coverage requirements are the same for all residential types. There	MC

<p>the whole townhouse development site) no more restrictive than those regulating detached SFDs?</p>	<p>are no other standards regulating bulk and scale that are unique to townhouses. Therefore, the Code appears to comply with this requirement.</p>	
<p>Does the zone have an FAR standard? If so, is the standard the same for townhouses and SFDs?</p>	<p>There are no FARs that apply to residential development in the City’s Code.</p>	<p>NA</p>
<p>Does the Code include design standards for townhouses that are either:</p> <ul style="list-style-type: none"> • The same as or less restrictive than the Model Code for Large Cities; or • The same as design standards applicable to SFD dwellings?* <p><i>*NOTE: Design standards may not scale based on number of units (e.g., primary entrance requirements), but may scale based on form-based attributes (e.g., floor area and street-facing façade.</i></p>	<p>Design Standards for <i>Single Family Dwellings</i> – 2.314</p> <p>Design Standards for <i>residential with 4 or more attached dwellings</i>, including cottage clusters – 2.315</p> <p>The River Cherry Overlay District also has various additional design standards for multi-family that exceed those in the Model Code. Changing the definition of Townhouse to not include “multi-family” will resolve this compliance issue.</p> <p>The design/development standards established in KDC 2.315 are more restrictive than those established in the Model Code for Large Cities. These existing design standards apply equally for multi-family and townhouses (4+). Some of these standards may need to be revised or eliminated.</p>	<p>N</p>
<p>Does the Code include siting and design standards for townhouses that diverge from the standards in OAR 660-046-0220 or 660-046-0225, but that individually or cumulatively do not cause unreasonable cost or delay?</p>	<p>OAR 660-046-0235 allows existing “alternative design standards” to remain, if a city can demonstrate that they do not cause unreasonable cost or delay. As noted above, Keizer’s multi-family design standards are the existing standards applicable to townhouses. For standards that do not meet minimum compliance, as noted above, it may be possible to demonstrate some standards do not cause unreasonable cost or delay. This will be further assessed through the Code amendment process.</p>	<p>MC</p>

COTTAGE CLUSTERS

Cottage clusters are groupings of relatively small homes clustered around a shared courtyard or open space. They often feature shared or clustered parking areas and may have a community building for shared use by the residents. HB 2001 provides a specific definition for cottage clusters that limits the footprint of each dwelling to 900 sf. The OARs require that the City allow cottage clusters in residential zoning districts that allow SFDs (the exception being lots meeting the definition of “Goal Protected” or “Impacted by State or Federal Law”).

DEFINITIONS

TABLE 9 COTTAGE CLUSTER DEFINITION REQUIREMENTS

DEFINITIONS (OAR 660-046-0020)	Assessment	Compliant (Y/N)
<p>“Cottage Cluster” means a grouping of no fewer than four detached dwelling units per acre with a footprint of less than 900 square feet each that includes a common courtyard. A Medium or Large City may allow Cottage Cluster units to be located on a single Lot or Parcel, or on individual Lots or Parcels.</p>	<p>While the City allows cottage clusters and has a Code section for this housing type, there is no formal definition for cottage clusters.</p> <p>The City may also want to consider an acknowledgement that units could be on separate lots if divided through a Middle Housing Land Division, per SB 458 (see Section V of this memo for more details).</p>	N
<p>Are other terms defined in the jurisdiction’s code in a manner that would create a conflict with HB 2001?</p> <p><i>NOTE: For example, definitions of “dwelling,” “family” or “household” that when used in conjunction with the middle housing types would unreasonably limit the size of units. Other terms to look for: accessory dwelling unit (potential conflict with duplex); multifamily; floor area; FAR; building footprint; lot coverage; common wall; attached; etc.</i></p>	<p><u><i>Dwelling, Multi-Family</i></u>: A building on a single parcel or lot containing 3 or more dwelling units designed for occupancy by 3 or more families living independently of each other.</p> <p>The current multi-family definition could also apply to cottage clusters. The definition should be revised to distinguish cottage clusters from multi-family (e.g., “5 or more <i>attached</i> units” or “with the exception of dwellings meeting the definition of and proposed as a cottage cluster development”).</p>	N

EXAMPLES OF COTTAGE CLUSTERS



SITING AND DESIGN REQUIREMENTS

TABLE 10 COTTAGE CLUSTER SITING AND DESIGN REQUIREMENTS

SITING AND DESIGN REQUIREMENTS (660-046-0205(4)(d) and 660-046-0220(4))	Assessment	Compliant (Y/N)
<p>Are cottage clusters allowed outright in every residential zone that allow single-family detached dwellings?</p>	<p><u>Single Family Residential (RS – 2.102.04)</u> Cottage Clusters are permitted only as a conditional use with or without the creation of any new lots.</p>	N
	<p><u>Limited Density Residential (RL – 2.103.03 & 4)</u> Cottage clusters are not permitted outright. They are permitted only as a special use without the creation of any new lots or conditional use with the creation of any lots.</p>	N
	<p><u>Medium Density Residential (RM – 2.104.03 & 4)</u> Cottage clusters are not permitted outright. They are permitted only as a special use without the creation of any new lots or as a conditional use with the creation of any lots</p>	N
	<p><u>High Density Residential (RH – 2.105.03 & 4)</u> Cottage clusters are not permitted outright. They are permitted only as a special use without the creation of any new lots or conditional use with the creation of any lots</p>	N
	<p><u>Mixed Use (MU – 2.107.04)</u></p>	N

	<p>Cottage clusters are not permitted outright. They are permitted only as a conditional use with the creation of new lots.</p>	
	<p><u>River Cherry Overlay District (RCOD – 2.130.04.A)</u></p> <p>Cottage clusters are not permitted outright. They are permitted as a special use in the Mixed Use zone and they defer to the underlying zone elsewhere.</p>	N
<p>Do the minimum lot sizes in each zone meet the following standards?</p> <ul style="list-style-type: none"> • If SFD lot size is 7,000 sf or less; then, cottage cluster lot size is not more than 7,000 sf • If SFD lot size is more than 7,000 sf; then cottage cluster lot size is not more than the SFD lot size 	<p>The minimum lot size for all cottage cluster development, regardless of zone, is 30,000 square feet. This standard does not comply with any of the current residential zones based on their SFD lot size:</p> <ul style="list-style-type: none"> • RS, RL, RM, and MU: 4,000 sf • RH: 6,000 sf • RCOD: <ul style="list-style-type: none"> ○ RS – 3,500 sf ○ RM and MU - 3,000 sf 	N
<p>Are there density maximums in any zones? If so, do those maximums exempt (or otherwise not apply) cottage clusters?</p>	<p>The RS, RL, RM, MU, and RCOD zones all have maximum density requirements, as documented in previous sections. Per KDC 2.432.03.B, the density standard for each base zone applies to cottage clusters.</p>	N
	<p><u>High Density Residential (RH)</u></p> <p>No maximum density for any residential/housing type.</p>	Y
<p>Does any zone have a minimum density? If so, is the minimum density for cottage clusters at least 4 units/acre?</p>	<p><u>Single-Family Residential (RS 2.102.06.I)</u></p> <p>When RS zoned property is subdivided the minimum density shall be 4 units per acre.</p>	MC

	<p><u>Low Density Residential (RL 2.103.06.1)</u></p> <ol style="list-style-type: none"> 1. For property designated Medium Density in the Comprehensive Plan, the minimum density shall be 6 units per acre... 2. For property designated Medium-High Density in the Comprehensive Plan, the minimum density shall be 8 units per acre... <p><i>This provision complies for properties designated Medium or Medium-High in the Comprehensive Plan, however there is no minimum density requirement for the Low Density designation.</i></p>	<p>MC</p>
	<p><u>Medium Density Residential (RL 2.104.06.1)</u></p> <ol style="list-style-type: none"> 1. For property designated Medium Density in the Comprehensive Plan, the minimum density shall be 6 units per acre... 2. For property designated Medium-High Density in the Comprehensive Plan, the minimum density shall be 8 units per acre... <p>This provision complies for properties designated Medium or Medium-High in the Comprehensive Plan.</p>	<p>Y</p>
	<p><u>High Density Residential (RH 2.105.06.1)</u></p> <p>Minimum density for RH is 16 units per acre, regardless of the Comprehensive Plan designation.</p>	<p>Y</p>
	<p><u>River-Cherry Overlay District (RCOD 2.130.05-2)</u></p> <p>The RCOD defers to the same minimum density requirement for areas that overlap</p>	<p>Y</p>

	<p>RM, and has a minimum density requirement of 6 units/acre for areas that overlap RS.</p>	
<p>Are cottage cluster subject to the same or lesser setback standards as detached SFDs with the exception that perimeter setbacks applicable to dwelling units must not exceed 10 feet?</p>	<p>RS, RL and RM:</p> <ul style="list-style-type: none"> • SFD: <ul style="list-style-type: none"> ○ Front – 10 ft. ○ Side – 5 ft. or 0 ft. for SFD located contiguous to a lot line (2.404) ○ Rear – 14 ft. for single story or 20 ft. for 2-story • Cottage Cluster (2.432.03.B.7) <ul style="list-style-type: none"> ○ Front: 15 feet ○ Side: 5 feet ○ Rear: 10 feet ○ Street- side: 10 feet ○ Garage entrance: 20 feet ○ 10 ft. between units <p><u>High Density Residential (RH – 2.105.05.B)</u></p> <ul style="list-style-type: none"> • All residential (except for CC) <ul style="list-style-type: none"> ○ Front – 10 ft. ○ Side – 10 ft. ○ Rear – 14 ft. for single story or 20 ft. for 2-story • Cottage cluster (same in all zones – see above). <p><u>River Cherry Overlay District (RCOD)</u></p> <ul style="list-style-type: none"> • SFD: None • Cottage Cluster (same in all zones – see above) 	<p style="text-align: center;">N</p> <p style="text-align: center;">N</p> <p style="text-align: center;">N</p>

<p>Except for preexisting SFDs, are individual cottages limited to no more than a 900 sf footprint?</p>	<p>Cottages are required to have a minimum 1,000 sf building footprint (2.432.04.A.1).</p>	<p>N</p>
<p>Are the cottage clusters exempt from standards for lot coverage and FAR?</p>	<p>There is no maximum lot coverage or FAR for cottage clusters.</p>	<p>Y</p>
<p>Does the Code include clear and objective design standards for cottage clusters that are either:</p> <ul style="list-style-type: none"> • The same as or less restrictive than the Model Code for Large Cities; or • The same as design standards applicable to detached SFDs?* <p><i>*NOTE: Design standards may not scale based on number of units (e.g., primary entrance requirements), but may scale based on form-based attributes (e.g., floor area and street-facing façade.</i></p>	<p>The following cottage cluster design standards either more restrictive than the model code and are not the same as SFD design standards, or they are not clear and objective. For the purposes of this audit, landscaping standards will be considered design standards. Note that the City may have the option to follow the Alternative Design Standards path (OAR 660-046-0235) if it chooses, but it will need to prepare and adopt findings that standards will not result in unreasonable cost or delay to justify that path.</p> <p><u>Site Requirements (2.432.03)</u></p> <p>F. Screening and Landscaping</p> <p style="padding-left: 40px;">2. Landscaping located in common open spaces shall be designed to allow for easy access and use of the space by all residents, and to facilitate maintenance needs.</p> <p style="padding-left: 40px;">3. Landscaping Plan to be submitted and approved. Boundaries between cottage developments and neighboring properties shall be screened with landscaping and fencing as identified in 2.432.03.G.2 in order to reduce the appearance of bulk or intrusion onto adjacent properties or may be otherwise treated through increased building setbacks or architectural techniques to meet the intent of this section.</p>	<p>N</p>

G. Fences.

1. No fence taller than 3 feet in height shall be located between the front wall of a cottage or community building and the common open space.
2. A 6 foot high sight obscuring fence shall be placed along the property line adjacent to any residential single family use.

Building Requirements – 2.432.04

2. Porches. Attached, covered porches are required and shall have minimum depth of 6 feet and shall be a significant feature of the structure.
3. Other design requirements. Cottages shall contain a variety of designs that include articulation of facades; changes in materials, texture, color, and window treatments; and other architectural features so all units do not appear identical. Cottage development structures shall provide for substantial exterior architectural elements that are consistent with traditional northwest cottage design and small home craftsmanship design elements. Roofs of cottage developments shall have eaves to efficiently shed rain and provide protection for exterior walls.

B. Two-Unit Structures in RS zone. (6/14) 1. Attached two-unit structures are allowed and must be similar in appearance to detached cottages.

D. Community Buildings.

2. A community building shall be of similar scale, design, and height as the cottages.

	<p>G. Renovation and Expansion.</p> <p>1. Renovations shall be in keeping with the size and architectural character of the new development.</p>	
<p>Does the Code include siting and design standards for cottage clusters that diverge from the standards in OAR 660-046-0220 or 660-046-0225, but that individually or cumulatively do not cause unreasonable cost or delay?</p>	<p>Most of the standards that deviate from the Code are noted in the audit sections above (Cottage Cluster requirements) and later audit sections (procedures, etc.). Other standards that deviate do not appear to individually or cumulatively cause unreasonable cost or delay, however the project team will continue to assess these standards and their compliance throughout the Code Update.</p>	N

OTHER PROVISIONS

PARKING REQUIREMENTS

TABLE 11 MIDDLE HOUSING PARKING REQUIREMENTS

Parking (OAR 660-040 – 0120)	Assessment	Compliant (Y/N)
<p>Are duplexes only required to provide a minimum of two or fewer total off-street parking spaces for the duplex?²</p>	<p><i>Off-Street Automobile Parking Requirements – 2.303.06</i></p> <p>Minimum <i>two spaces per dwelling unit.</i></p>	N
<p>Are triplexes only required to provide the following minimum number of off-street parking spaces?</p> <ul style="list-style-type: none"> For lots less than 3,000 sf: one space in total For lots greater than or equal to 3,000 sf and less than 5,000 sf: two spaces 	<p><i>Off-Street Automobile Parking Requirements – 2.303.06</i></p> <ul style="list-style-type: none"> 1 space per 1 bedroom unit + 1 additional space for every 10 units, OR 1.5 spaces per 2 or more bedroom units +1 additional space for every 10 units 	N

² State rules require that cities cannot *require* duplexes to provide over two spaces (in total for both units). This is not a parking maximum, which cities do not have to require for duplexes.

For lots greater than or equal to 5,000 square feet: 3 spaces	Either of the existing options would likely amount to more than three spaces for a triplex.	
<p>Are quadplexes only required to provide the following minimum number of off-street parking spaces?</p> <ul style="list-style-type: none"> For lots less than 3,000 sf: 1 space or fewer in total For lots greater than or equal to 3,000 sf and less than 5,000 sf: 2 spaces or fewer For lots greater than or equal to 5,000 sf and less than 7,000 sf: 3 spaces or fewer <p>For lots greater than or equal to 7,000 square feet: 4 spaces or fewer</p>	Same as triplexes (multi-family). Either existing option would likely amount to more than four spaces for a quadplex.	N
Are townhouses only required to provide a minimum of 1 or fewer spaces?	<ul style="list-style-type: none"> 2 units – same as SFD (2 per unit) 3+ units – same as multi-family (see above). 	N
Are cottage clusters only required to provide a minimum of 1 or fewer spaces per unit?	2 parking spaces per cottage (2.432.03.E.4)	N
Are all middle housing types subject to the same off-street parking surfacing, dimensional, landscaping, access, and circulation standards that apply to single-family detached dwellings in the same zone?	<p><i>Parking and Loading Area Development Requirements – 2.303.11</i></p> <p>The Code applies the same parking development requirements for all residential uses.</p>	Y
Does the city allow for on-street parking credits? (<i>optional</i>)	No on-street parking credits are applied in Keizer.	N/A

CONVERSIONS

TABLE 12: MIDDLE HOUSING CONVERSIONS

OAR 660-046-0125, 660-046-0130, 660-046-0230, and 660-046-0225	Assessment	Compliant (Y/N)
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<p>Are conversions of detached SFDs into duplexes exempt from meeting the design standards (provided the conversion does not increase nonconformance with the Code)?</p>	<p>The City Code does not <i>specifically</i> address SFD to duplex conversions. In addition, as noted in the design standards section, the Code does not apply any design standards to duplexes. As a result, conversion of an SFD to duplexes appears to be exempt from meeting design standards. However, the City may want to update its code to explicitly allow for conversions and clarify that they would be exempt from such standards.</p>	<p>Y</p>
<p>Would a duplex created by internal conversion of, or addition to, an existing SFD be exempt from design standards?</p>	<p>Because the City does not have design requirements specific to duplexes, they are implicitly exempt from design standards from internal conversions.</p>	<p>Y</p>
<p>Would other middle housing types created by internal conversion of, or addition to, an existing SFD be allowed provided the conversion or addition does not increase nonconformance with the Code?</p>	<p>Nothing in the Code explicitly exempts SFD from being converted into SFD. In addition, the Code allows for an existing SFD to count toward a cottage cluster development (2.432..04.F).</p>	<p>Y</p>
<p>Would other middle housing types created by internal conversion of, or addition to, an existing SFD be exempt from design standards?</p>	<p>Because multi-family (which include tri/quadplex) and cottage clusters have design standards that deviate from SFD design standards, conversions would likely run into barriers for design requirements. The City will need to exempt conversions from additional design requirements.</p>	<p>N</p>
<p>Does the city offer the same clear and objective exceptions to public works standards to middle housing converted from detached SFDs that they offer to SFDs?</p>	<p>The City Code does not address exceptions, however because cottage cluster developments have their own set of public works/improvement standards (2.432.03.H), these improvements would be triggered in the event of an SFD conversion.</p>	<p>N</p>

PROCEDURES

The OARs require that middle housing be subject to the same approval process as single-family detached dwellings, and subject to only clear and objective standards, conditions, and procedures, unless discretionary standards and criteria have been adopted for historic districts, in accordance with ORS 197.307(5). Section V of this memo will further examine current procedures as they relate to SB 458 (Middle Housing Land Divisions).

TABLE 13 PROCEDURES THAT APPLY TO MIDDLE HOUSING

PROCEDURES (OAR 660-046-0215)	Assessment	Compliant (Y/N)
Are all duplexes subject to the same approval process as detached SFDs?	<p>The City’s Development Review (3.102.05) procedure applies to both SFD and duplexes.</p> <p>Specifically, the City reviews SFD and duplexes for consistency with section 2.314 – Standards for Single Family Dwellings. This section will need to be amended to clarify that these standards and procedures also apply to duplexes.</p>	MC
Triplex/Quadplex	<p>The City’s Development Review (3.102.05) procedure applies to both SFD and multi-family (i.e., tri/quadplexes). However, SFD is subject to Section 2.314, whereas multifamily is subject to Section 2.315 – Development Standards.</p>	N
Townhouses	<p>The City’s Development Review (3.102.05) procedure applies to both SFD and townhouses. However, SFD is subject to Section 2.314, whereas townhouses with 3+ units are subject to Section 2.315 – Development Standards.</p>	N
Cottage Cluster	<p>Cottage clusters are subject to Type II-C quasi-judicial action.</p>	N

ADDITIONAL STANDARDS

The following includes additional standards and requirements that apply to middle housing types that are not required for single-family detached homes. These standards may need to be revised to

meet the general requirement that middle housing types are subject to the same standards as single-family detached.

TABLE 14: ADDITIONAL STANDARDS THAT APPLY TO MIDDLE HOUSING UPDATES

ADDITIONAL NOTES	Assessment	Compliant (Y/N)
Storage	<p><u>Recreational Vehicle Storage – Single Family Homes (2.413)</u></p> <p>RV storage may also need to be allowed for duplexes and other middle housing types, because it is allow for SFD. However, this standard likely would not be a barrier for the development of middle housing.</p>	MC
Improvements and utilities	<p>The following utility improvements and standards are required for cottage clusters. These do not apply to SFD.</p> <p><u>Cottage Cluster Site Requirements (2.432.03)</u></p> <p>H. Utilities.</p> <ol style="list-style-type: none"> 1. Streets. Street improvements shall be required for all cottage cluster developments that contain 4 or more dwelling units. Street improvements may include street widening, curb, gutters, and sidewalks. All street improvements shall comply with the current Design Standards and Construction Standards of the City of Keizer Department of Public Works. 5. Trash Storage. Any areas where communal trash and recycling are stored shall be screened by a sight-obscuring fence and/or vegetation. In addition, a trash and recycling plan will be required. 	N

V. SENATE BILL 458 AUDIT

OVERVIEW

Senate Bill 458 (SB 458) was passed by the Oregon Legislature in May 2021 as a follow-up to HB 2001. SB 458 allows land divisions for middle housing, enabling dwelling units to be sold and owned individually without the need to go through the condominium conversion process. The legislation requires cities to allow land divisions for any HB 2001 middle housing type (duplexes, triplexes, quadplexes, townhouses, and cottage clusters) built in accordance with the local middle housing code provisions adopted under ORS 197.758. The result of such a “middle housing land division” (MHL) will be exactly one dwelling on each resulting lot.

Even though the land may be divided, the bill specifies that “The type of middle housing developed on the original parcel is not altered by a middle housing land division.” For example, the units in a subdivided cottage cluster will not become single-detached dwellings—they will remain cottage cluster units for the purpose of applying the City’s Development Code. This means that Keizer and other cities will not be obligated to allow accessory dwelling units on the resulting individual cottage lots or to allow the resulting lots to be further divided. As another example, a partitioned attached triplex will not become townhouses—the units will remain triplex units, even though they each now sit on their own lots. SB 458 also establishes the review criteria and conditions cities may impose during review and approval of MHL applications, and prevents homeowner associations or restrictive covenants from prohibiting land divisions. The provisions of SB 458 apply to MHLs permitted on or after July 1, 2022.

SUMMARY OF SB 458 REQUIREMENTS

Below is a summary of the requirements and potential implications of SB 458. This is based on APG’s understanding of the legislation, discussion with other jurisdictions, and guidance provided by the Oregon Department of Land Conservation and Development (DLCD). Some of these issues may warrant further discussion with Keizer’s City Attorney.

- **Applicability to all middle housing types.** SB 458 applies to any lot that allows middle housing under ORS 197.758. Further discussion of townhouses and detached plexes is provided below.
 - **Townhouses.** By definition, townhouses are already divided so that each unit is on its own lot; however, the implication of SB 458 is that townhouse proposals must be allowed to be reviewed under the expedited land division procedure specified by state statute. See below for details about expedited land divisions.
 - **Detached Plexes.** If the City chooses to allow detached forms of plexes (duplexes, triplexes, and quadplexes), the result of an MHL for these housing types would functionally be the same as single-detached homes on undersized lots. This could be seen as a way to circumvent the City’s single-detached lot standards. It is our understanding that because it is optional to allow detached plexes, the City is not obligated to allow middle housing land divisions for detached plexes under SB 458. Therefore, if the City wished to avoid the issues noted above, it could exclude detached

plexes from its MHLD provisions. (Note: It may be wise to consult the City Attorney on this issue.)

- **Only HB 2001 zones.** SB 458 only applies to middle housing permitted under ORS 197.758—i.e., in zones subject to HB 2001. Therefore, the City is only required to permit MHLDs in the RS, RL, RM, RH, MU, and RCOD zones.
- **One unit on each resulting lot.** The land division must result in exactly one dwelling per lot—e.g., you cannot divide an 8-unit cottage cluster into four individual lots and fifth lot with four units. The only exception is that common areas may be located in a separate lot or shared tract.
- **Separate utilities.** Separate utilities for each dwelling unit must be provided if a development is to qualify for an MHLD.
- **Easements for shared facilities.** Easements are required for:
 - Pedestrian access (e.g., all pedestrian paths in a cottage cluster)
 - Common areas (e.g., common courtyards, community buildings)
 - Driveways and parking areas (if shared)
 - Utilities
- **Must meet building code.** The proposal must demonstrate how it meets the requirements of the building code (Oregon Residential Specialty Code). For example, if an attached duplex is being divided, there must be firewall construction between the two units. Despite this, the legislation includes provisions that suggest cities could allow a land division (i.e., approve an MHLD) *before* building permit approval. However, through discussion with other jurisdictions, it seems that requiring approved building permits before allowing an MHLD may be the best approach. An approved building permit would provide assurance that the lots would be developable and meet the building code. This appears to be the most reliable way for planning staff to make an affirmative finding about a proposal’s consistency with the building code. (This may warrant further discussion with the City Attorney.)
- **Land division follows permit approval.** In a typical land division, the land is divided prior to building permits being reviewed and issued for construction. However, SB 458 states that nothing “prohibits a city or county from requiring a final plat before issuing building permits”. As noted in the previous bullet, other jurisdictions have determined that the MHLD should follow building permit issuance. Requiring a building permit prior to a division would help ensure the lots are developable (e.g., adequate utilities are provided, access, etc.). The division could also be approved after the development is constructed. In fact, SB 458 allows division of existing middle housing that was developed prior to HB 2001 taking effect—as long as the development meets the City’s adopted middle housing code standards. SB 458 also gives cities the option of allowing concurrent review of building permits and the land division—however, other jurisdictions have determined this approach to be impractical. We recommend discussing this matter with your City Attorney.

- **Street frontage improvements and right-of-way dedication.** SB 458 specifies that cities can require street frontage improvements and dedication of right-of-way for newly created lots abutting a street. Land divisions are often a trigger for requiring frontage improvements or dedication, whereas infill development on an existing lot may not trigger these requirements. Therefore, under SB 458, frontage improvements and right-of-way dedication may be required with an MHLD even if those improvements would not be required for a single-lot development. Such improvement or dedication would be dependent upon the City making findings to demonstrate consistency with constitutional requirements (i.e., Dolan).
- **Conditions of approval.** Cities can add conditions to the approval of an MHLD to prohibit the further division of the resulting lots and to require that a notation appear on the final plat indicating that the approval was given under the ORS provisions.
- **Tentative/final plats.** Cities may require that applicants submit tentative and final plats in a manner consistent with their applicable platting standards.
- **What cities cannot require.** SB 458 specifies that the following cannot be required as part of a middle housing land division:
 - **Street frontage for lots.** Typically, newly created lots are required to have frontage on a public or private street. SB 458 specifies that cities cannot require street frontage for lots created through an MHLD (e.g., lots at the rear of the site could only have access to the street via access easement). From our understanding, the City has the discretion to specify easement standards/dimensions and processes if the easements satisfy the requirements Section 2(2)(c) of SB 458. Similarly, the City may use their current access easement standards if those standards satisfy the applicable SB 458 requirements.
 - **Parking or driveway access to each lot.** While the housing must meet applicable parking requirements, cities cannot require that each resulting lot have its own parking space or driveway access. For example, a triplex could have a shared parking area with three spaces; the City cannot preclude the triplex lot from being divided such that two of the resulting lots only have access to the parking area via access easement. It is unclear at this time whether the resulting access easement for shared parking would need to be in a formalized easement.
 - **Minimum lot size or dimensions.** Cities cannot specify minimum area or dimensions for lots resulting from an MHLD.
 - **Other review criteria.** The City cannot apply any approval criteria other than the approval criteria specified in SB 458 to applications for MHLDs—these include the City’s development code standards for middle housing, separate utilities, easements, one dwelling on each lot, and building code compliance.
 - **Other conditions of approval.** The City cannot apply any conditions of approval other than those specified in the bill, and those necessary to ensure consistency with the approval criteria.

EXPEDITED LAND DIVISION PROCEDURES

SB 458 requires cities to apply the same procedure for MHLDs as applies to expedited land divisions (ELDs). The ELD process is outlined in ORS 197.360 to 197.380 and provides an alternative procedure intended to streamline the review of residential land divisions under state law. Currently, land divisions must meet very specific criteria to qualify for an ELD. The ELD process is outlined below:

- Submittal requirements are consistent with typical land divisions.
- Completeness review must occur by City within 21 days of application submittal.
- Notice is given to properties within 100 ft of the site and to applicable neighborhood association(s).
- There is a 14-day comment period.
- A decision must be made by the city within 63 days after a complete application is submitted (unless extended).
- Only the applicant and any person or organization who files written comments in the comment period as specified in the bill may appeal. An appeal must be filed within 14 days of mailing the notice of decision.
- A City-appointed “referee” decides any appeal decision—often this is a city’s Hearings Officer, who must issue a decision within 42 days of the appeal being filed. The decision of the referee is the final local decision on the MHLD application.
- Appeals of the referee’s decision go to the Oregon Court of Appeals.

CODE OPTIONS AND RECOMMENDATIONS

It is important to note that SB 458 will apply to middle housing land divisions regardless of whether the City chooses to incorporate any of the provisions into the Code. For expedited land divisions, Keizer’s code simply points to the applicable sections of the ORS, and City staff apply those regulations directly to any ELD applications. However, while ELDs have not been very popular in most jurisdictions, we expect MHLDs to be requested more frequently. This is because MHLDs enable “fee simple” ownership of middle housing, and this type of ownership tends to be more desirable among developers, as compared to either rental housing or condominiums. Because it is expected to be used more frequently, we recommend that MHLD provisions be incorporated directly into the Code. This way, the code can clarify the MHLD requirements and their relationships with other elements of the KDC, thereby easing implementation for both staff and applicants.

Below are some recommendations and options for incorporating the MHLD provisions into the Code.

DEFINITIONS – 1.200

We suggest considering the following definition to the code.

- **Housing type definitions.** SB 458 says “The type of middle housing developed on the original parcel is not altered by a middle housing land division.” It may be useful to acknowledge this in the definitions for certain middle housing types. For example, a duplex could be defined as two units on a single lot, or on separate lots if divided pursuant to a middle housing land division. (Note: New definitions for triplex, quadplex, and cottage cluster would need to be added). The City would likely need a mechanism for tracking the housing type after a MHL D occurs to ensure its original housing status (i.e., middle housing) is maintained. Doing so would help the City ensure the unit on the resulting lot will continue being subject to standards/rules that apply to that middle housing type. To date, we are unaware of current strategies for tracking this type of procedure, however some jurisdictions have discussed integrating MHL D tracking into building permit and/or land use permit tracking software as a potential strategy. We will explore approaches other jurisdictions are considering.
- **Definition for Middle Housing Land Division.** It may be helpful to have a definition that describes an MHL D and points to the applicable ORS requirements.
- **Middle Housing Child Lot / Parent Lot.** Potentially add definitions to distinguish between the original lot that is divided by an MHL D (“parent lot”) and the resulting lots (“child lots”). These terms would be useful within the MHL D application provisions in Chapter 3, and in clarifying the applicability of certain development and design standards to parent lots vs. child lots.

SUMMARY OF APPLICATION TYPES – 3.101

Because MHL Ds are subject to the same procedural requirements as Expedited Land Divisions (ELD), we assume that an MHL Ds are not classified as a “land use decision”. ORS 197.360 states that an expedited land division “is not a land use decision or a limited land use decision under ORS 197.015 or a permit under ORS 215.402 or 227.160.” Therefore, MHL Ds cannot be classified under one of Keizer’s land use applications (Type 1 through Type 4). We have also assumed that MHL Ds cannot be subject to requirements for things like pre-application conferences and neighborhood meetings because they are not included in the statutory procedures. The City may wish to seek advice from the City Attorney on this issue.

We recommend adding MHL Ds and ELDs as new application types, which would be a new category that does not fit under traditional “land use”. The MHL D application would be added to the Land Use Application Process table (with a clarifying footnote stating that MHL D/ELDs are not actually land use actions).

PROCEDURES *NEW SECTIONS* - 3.115

We recommend incorporating the ELD/MHL D procedures from the ORS directly into the Code to make them easier to implement. Consider adding a section that outlines the MHL D and ELD application procedure. These sections would follow a similar format as Partitions (3.107) and Property Line Adjustments (3.106), which would detail the following:

- Purpose: General statement that reflects the intent of SB 458 (e.g., To facilitate the creation of individual lots for middle housing types, which will promote fee-simple homeownership opportunities)
- Applicability: Any middle housing type (as defined by HB 2001) that is in a residential zone
- Application and Fee: Same as Partitions, which would trigger improvements. However, we are uncertain whether a Partition procedure can apply, since the MHLD cannot be a land use action. We will continue to consider and discuss this option as the project progresses.
- General provisions: Follow SB 458 provisions
- Submittal requirements: These can be the same or similar to PLA or Partitions
- Review Criteria: Follow SB 458 criteria
- Process for Final Plat Approval: This could likely follow the same or similar process as Partitions

This section should incorporate the criteria and procedures outlined in SB 458 and ORS 197.360. Those provisions cover:

- Completeness review
- Notice requirements
- Comment period
- Decision deadline
- Extension of 63-day review timeline
- Appeal procedures

GENERAL PROCEDURES – TYPES I, II, AND III ACTIONS – 3.202

Middle Housing Land Division Application – Add Middle Housing Land Division (MHLDs) as an available alternative or option under the Type I-B and I-D procedures, similar to Expedited Land Division.

DESIGN AND DEVELOPMENT STANDARDS (VARIOUS SECTIONS)

For the various residential zone sections and associated design standards, add a statement (potentially as a footnote to the development standards table) indicating that if a duplex, triplex, quadplex, or cottage cluster has been divided by a MHLD, the site development standards that are applicable to the lot shall apply to the middle housing parent lot, not to the child lots (as required by SB 458). The same exception should not apply to townhouses, since the site development standards already apply to individual townhouse lots.

VI. NEXT STEPS

This audit will be reviewed by the project management team (PMT), which includes Keizer Planning staff and representatives from DLCDC. Once the audit is reviewed and finalized by the PMT, the Planning Commission will review the findings of the audit and discuss needed policy and code updates. Following the Planning Commission meeting, the team will draft proposed amendments to the Keizer Development Code. Note that other areas of non-compliance may be identified in later

stages of the Code Update project, and the City may choose to update other areas of the Code that are not required by the State. This Code Audit serves as an initial assessment of needed updates.