HB 2001: The Basics

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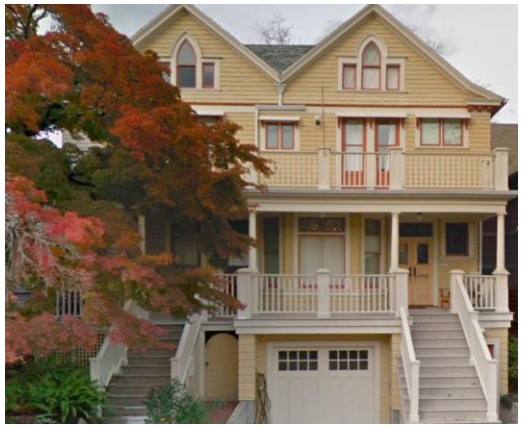

HB 2001 - Definitions

Middle housing is:

- Duplexes
- Triplexes
- Quadplexes
- Cottage clusters: group of 4 or more detached units/acre with footprint of less than 900 sq. ft. each and includes a common courtyard
- Townhouses: row of 2 or more attached units, each dwelling unit on an individual lot/parcel and shares at least one common wall with adjacent unit

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HB 2001 - Application

Cities over 10,000 (not in Metro)

- Duplexes must be allowed on SF *lots* in residential *zones*
  - by June 30, 2021

Cities over 25,000; all Metro cities over 1,000

- Duplexes must be allowed on SF lots in residential zones
- All middle housing types must be allowed in residential *areas* where SF housing allowed
  - by June 30, 2022

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HB 2001- Where it Does Not Apply

- Metro cities under 1,000
- Lands outside UGBs
- Unincorporated lands that lack sufficient urban services
- Lands not zoned for residential use, including lands zoned for commercial, industrial, agricultural, or public use;
- Unincorporated lands zoned under an interim zoning designation that maintains the land's potential for planned urban development

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State Level Implementation
Model Code

- **December 31, 2020**: DLCD must adopt **Model Code** (with Building Codes Division of Dept of Consumer & Business Services) for duplexes and other middle housing
  - DLCD will appoint a Rules Advisory Committee
- Local governments whose codes and comprehensive plans do not allow middle housing by required date must directly apply the Model Code

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State Level Implementation
Internal Conversion of SF Housing

Department of Consumer & Business Services shall:

- establish uniform standards to allow alternate approval of construction for conversion of SF dwellings into no more than **four units**
- applies to units built to Low-Rise Residential Dwelling Code that received occupancy approval prior to January 1, 2020
- must include standards describing requirements for complete application

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Local Government Implementation
Siting & Design

- Local governments may regulate siting & design if the regulations do not, individually or cumulatively, discourage development through unreasonable costs or delay
- Local governments may regulate middle housing to comply with protective measures adopted pursuant to statewide planning goals

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Local Government Implementation
Affordability Incentives

In implementing HB 2001, local governments shall consider ways to increase affordability of middle housing, including but not limited to:

- Waiving or deferring SDCs
- Adopting or amending criteria for property tax exemptions or freezes under various statutory provisions
- Assessing a construction excise tax

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Local Government Implementation
Transportation Planning

When local government makes a legislative decision to amend its comprehensive plan or adopt land use regulations to allow middle housing in areas zoned for residential use that allow for detached SF dwellings:

- the local government is not required to consider whether the amendments significantly affect an existing or planned transportation facility

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Infrastructure Extension to Deadlines

Extension to compliance deadlines allowed:

- for specific areas identified by city where water, sewer, storm drainage, or transportation services are significantly deficient or are expected to be significantly deficient before December 31, 2023, *and*
- for which local government has established a plan to remedy the deficiency that DLCD approves, *and*
- extension may not extend beyond the plan date by which the local government intends to correct the deficiency.

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Calculating Housing Capacity with HB 2001

Local jurisdictions may not assume more than **3%** increase in existing capacity due to HB 2001 rezoning without a quantifiable validation to go beyond:

- **Outside Metro:** the assumed housing capacity has been achieved in areas zoned to allow no greater than the same authorized density level within the local jurisdiction or a jurisdiction in the same region.
- **Metro:** the assumed housing capacity has been achieved in areas zoned to allow no greater than the same authorized density level within the Metro district.

Authorized Density Level: "…the maximum number of lots or dwelling units or the maximum floor area ratio that is permitted under local land use regulations."

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Prohibits Restrictions on Middle Housing

- Prohibits Homeowners Associations (HOAs) from adopting provisions on or after bill's effective date that prohibit or unreasonably restrict housing development otherwise allowed by local land use regulations.
- Renders provisions in deed restrictions adopted after bill's effective date unenforceable if provisions would prohibit middle housing or ADUs, but allow development of detached SF homes.

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Accessory Dwelling Unit

SB 1051 (2017) Clarification

Reasonable local regulations relating to siting and design of ADUs:

- Does *not* include owner occupancy requirements of primary or accessory structure or requirements for additional off-street parking.
- *Unless* part of regulating vacation occupancies, as defined in ORS 90.100, to require owner-occupancy or off-street parking.

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Reporting Requirements

Cities over 10,000 must, by February 1 of each year, submit to DLCD a **report** for the immediately preceding calendar year stating the total number of permitted and the total number of produced:

- ADUs
- regulated affordable ADUs
- middle housing units
- regulated affordable middle housing units

(in addition to existing reporting requirements)

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Funding!

Appropriates $3.5 million to DLCD to provide technical assistance to local governments to implement HB 2001.

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HB 2001 (Notice, Claims, and Implementation Challenges)

Lauren Sommers, City of Eugene

Oregon City Attorneys Association/Oregon State Bar

Government Law Section

Fall 2019

Measure 56 Notice and HB 2001

- A local government is required to mail Measure 56 notice to the owner of each lot or parcel that an ordinance amending your land use regulations proposes to “rezone.”
- For purposes of Measure 56 notice, property is rezoned when the local government:
  - Changes the base zoning classification of the property; or
  - Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

Measure 56 Notice and HB 2001

- Owner means owner of title to real property or contract purchaser as shown on the last available complete tax roll.
- The requirements of Measure 56 are codified at:
  - ORS 227.186 (cities)
  - ORS 215.503 (counties)
  - ORS 197.047 (state)

Measure 56 Notice and HB 2001

Implementation of HB 2001 generally appears to require the expansion of land uses allowed in a zone rather than the limitation or prohibition of land uses.

However, if implementation of HB 2001 would result in zone changes or the limitation or prohibition of land uses previously allowed in a zone, Measure 56 notice is required.

HB 2001 and Measure 49

- The owner of real property may file a Measure 49 claim for compensation or waiver of applicable land use regulations if:
  - The claim is filed within 5 years of adoption of the land use regulation;
  - The land use regulation restricts the residential use of the residentially zoned private real property; and
  - The land use regulation reduces the fair market value of the real property.

HB 2001 and Measure 49

- Implementation of HB 2001 generally should not restrict the residential use of residentially zoned real property because if anything, HB 2001 requires local governments to allow *additional* residential uses on residentially zoned real property.
- Theoretically, some implementation strategies could result in Measure 49 claims (ex. increase in minimum lot size to allow uses required by HB 2001 and comply with pre-existing maximum density requirements or limitation of certain middle housing types to particular areas of residential zones).

Implementation Challenges

- Will likely require land use code amendments
- May require comprehensive plan amendments
- Competing (and vocal) interest groups
- Local elected officials who balk at state pre-emption
- Undefined terms
- Timing
- Consequences