

IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON
ORDINANCE 20-O-786

**IN THE MATTER OF ORDINANCE 20-O-786, AN ORDINANCE AMENDING A SUBSECTION OF
BROOKINGS MUNICIPAL CODE IN CHAPTER 17.180 WORKFORCE HOUSING**

Sections:

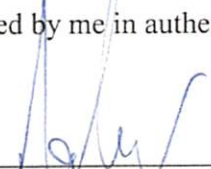
- Section 1. Ordinances Identified.
- Section 2. Amends Chapter 17.180 Workforce Housing

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends the Brookings Municipal Code Sections 17.180 Workforce Housing

Section 2. Amend Chapter 17.180 Workforce Housing, is hereby amended to read as presented in Exhibit A attached hereto with additions designated in bold and underlined and deletions being bold and struck out.

First Reading: February 24, 2020 Passage: February 24, 2020
Second Reading: February 24, 2020 Effective Date: March 24, 2020
Signed by me in authentication of its passage this 24th, day of February, 2020



Mayor Jake Pieper

ATTEST:



City Recorder Jahell K Howard

Exhibit A

Work Force Housing

Changes to BMC:

(additions are **bold and underlined**, deletions are **~~bold and strikeout~~**)

Chapter 17.180

WORKFORCE HOUSING

17.180.040 Accessory dwelling unit.

C. Only the property owner may apply for an ADU. ~~The property owner must occupy the primary dwelling as their primary residence. A "primary residence" shall be the residence where the owner is registered to vote, used as the primary residence for tax purposes, or with other proof that the residence is primary. The owner shall sign an affidavit before a notary affirming that the owner occupies the primary dwelling. A deed restriction shall be recorded and a copy provided to the city declaring the accessory dwelling unit status of the subject property.~~

F. ~~Deleted~~ **One off street parking space shall be provided for the ADU in addition to the two off street parking spaces required for the primary dwelling pursuant to Chapter 17.92 BMC.**

HB 2001 Section-by-Section Summary

SECTION 1: Placement of new requirement in statute

Places section 2 in ORS 197

SECTION 2: Middle housing inclusion mandate

Section 2(1) Definitions:

- "cottage cluster": 4 or more detached units per acre with a 900 sq. feet footprint and shared courtyard
- "Middle Housing": duplexes, triplexes, quadplexes, cottage clusters and townhouses
- "Townhouses": row of 2 or more attached units with at least one common wall between units, each on individual lots/parcels

Sections 2(2) - 2(4) Requirements:

- Section 2(2) Cities outside Metro with populations 25,000 or more and cities within Metro with populations of 1,000 (per section 2(4)) or more must allow development of:
 - All middle housing types in areas zoned for residential use that allow for the development of detached single-family dwellings AND
 - A duplex on every lot or parcel zoned for residential use that allows single-family dwellings
- Section 2(3) Cities outside Metro with populations more than 10,000 and less than 25,000 shall allow the development of:
 - A duplex on each lot or parcel zoned for residential use that allow for development of detached single-family dwelling
 - These cities may also allow other middle housing types in these areas
- Section 2(4) The areas that are not impacts are:
 - Lands not in a UGB
 - Unincorporated lands without sufficient urban services (ORS 195.065)
 - Lands not zoned for residential use, including lands zoned primarily for commercial, industrial, agricultural or public uses OR
 - Lands that are not incorporated and are zoned under an interim zoning designation that maintains the land's potential for planned urban development

Section 2(5) Permitted regulatory options

- Can regulate siting & design
 - These regulations cannot individually or cumulatively discourage development of all middle housing types permitted in the area through unreasonable costs or delay
- Can regulate to comply with "protective measures adopted pursuant to statewide land use planning goals"
- Can permit middle housing in areas not included in requirement
- Can allow single-family dwelling units to be built

SECTION 3: Timing and Enforcement for compliance with mandates

Section 3(1) Timing

- Cities included under section 2(2) must complete their comprehensive plan revision implementing section 2 by June 30, 2022
- Cities included under section 2(3) must complete their comprehensive plan revision implementing section 2 by June 30, 2021

Section 3(2) DLCD Model

DLCD shall develop a model middle housing code by December 31, 2020

Section 3(3) Enforcement

If city does not update their comprehensive plan by the deadlines set in section 3(1), the model ordinance developed under section 3(2) shall be directly applied until revisions are adopted

Section 3(4) Incentives

Cities shall consider ways to increase the affordability of middle housing through ordinances/policies that include, but are not limited to:

- Waiving/deferring system development charges
- Adopting or amending criteria for property taxes AND
- Assessing a construction excise tax

Section 3(5) Transportation system plan update

Actions taken under section 2 does not require the city to consider whether the amendments significantly affect an existing or planned transportation facility

SECTION 4: Extension for underserved areas

Sections 4(1) - 4(2) Extension

DLCD can grant an extension for completion of the requirements under Section 2 for specific areas within the city if:

the city has identified water, sewer, storm drainage or transportation service that are either significantly deficient or are expected to be significantly deficient before December 31, 2023

the city has a plan of action to remedy the deficiency in the services approved by the department extension cannot exceed the period of time by which the city plans for remedy

Section 4(3) Areas not under extension

Areas not provided an extension must apply the change in comp plan adopted under section 2 or the model code under section 3 if they do not have a local update in place

Section 4(4)-4(6) Process

Deadline for filing

- Cities included under section 2(2) must file by June 30, 2021
- Cities included under section 2(3) must file by December 3 2020

Deadline for decision

- DLCD must rule on an extension for cities under section 2(2) within 120 days of receipt of a complete application
- DLCD must rule on an extension for cities under section 2(3) within 90 days of receipt of a complete application

Form & Substance of application

- DLCD shall create an application for extension by rule and may include rules regarding:
 - o Defining the affect areas
 - o Calculating the deficiencies of water, sewer, storm drainage or transportation services
 - o Service deficiency levels required to qualify
 - o Components and timing of a remediation plan to qualify
 - o Standards for evaluating applications AND
 - o Establishing deadlines and components for approval of the plan of action

SECTION 5: Housing Capacity Calculations and Actions

Amendments to ORS 197.296 (Buildable lands capacity analysis for residential land in Metro and cities over 25,000 in population)

- Adds language to requirement of tasks the local government must complete during periodic review or legislative review of the comp plan/regional framework related to a UGB and applying the housing goal under ORS 197.296(3)(b):
 - o cities/Metro conduct analysis of existing and projected housing need by type
 - o in accordance with all factors under ORS 197.303
- Amends language related to the applicable data to be used to determine housing capacity under ORS 197.296(5):
 - o Deletes application of section to determination of housing need
 - o Amends reference from section (3) of ORS 197; 296-to-refer-to-section-(3)(a) of ORS 197.296
 - o Changes the period of data to be consider to data collected since the last review or six years, whichever is greater
 - o Adds data to be considered:
 - (C) Market factors that may substantially impact future urban residential development; and
 - o Deletes the following data from consideration:
 - (C) Demographic and population trends
 - (D) Economic trends and cycles;
 - o Changes the exception for using a wider geographic area or longer time period by deleting the reference to "for economic cycles and trends" under ORS 197.296(5)(b) and applies to all data considered
- Amends requirements for addressing a finding that need is greater than capacity under ORS 197.296(6)
 - o Changes language under ORS 197.296(6) to allow a city to take action under one or both (instead of "more" in current statute)
 - o Amends option related to updating its comprehensive plan, regional framework plan, functional plan or land use regulation under ORS 197.296(6)(b)
 - Deletes requirement that the local government *monitor and record the level of development activity and development density by housing type following the date of the adoption of the new measures; or*
 - Adds requirement that the local government adopt findings regarding the density expectations assumed to result from measures adopted under this paragraph based upon the factors listed in ORS 197.303 (2) and data in subsection (5)(a) of this section. The density expectations may not project an increase in residential capacity above achieved density by more than three percent without quantifiable validation of such departures. For a local government located outside of a metropolitan service district, a quantifiable validation must demonstrate that the assumed housing capacity has been achieved in areas that are zoned to allow no greater than the same authorized density level within the local Jurisdiction or a jurisdiction in the same region. For a metropolitan servicedistrict, a quantifiable validation must demonstrate that the assumed housing capacity has

been achieved in areas that are zoned to allow no greater than the same authorized density level within the metropolitan service district.

- Deletes option of a combination of the actions under paragraphs (a) and (b) under ORS 197.269(c), which is allowed by the language change in the section (6) language
- Defines "authorized density"
 - (c) As used in this subsection, "authorized density level" has the meaning given that term in ORS 227.175.
- Amends ORS 197.269(7) to use the housing need analysis conducted under ORS 197.296(3)(b)
- Amends ORS 197.269(8)(b) to require the monitoring of actions taken under ORS 197.296(6) and (7) following the adoption of these actions. (Timing is currently not specified)
- Amends ORS 197.269(9) add requirement that the local government adoption actions under ORS 197.296(6) and (7) shall ensure that land zoned for needed housing is... and is in areas where sufficient urban services are planned to enable the higher density development to occur over the 20-year period.

SECTION 6: Needed housing definition

Amends ORS 197.303 (defining needed housing)

- Expands the sections of the ORS to which the definition applies to ORS 197.295 to 197.314
- Adds a new subsection (2)-(4):
 - (2) For the purpose of estimating housing needs, as described in ORS 197.296(3)(b), a local government shall use the population projections prescribed by ORS 195.033 or 195.036 and shall consider and adopt findings related to changes in each of the following factors since the last periodic or legislative review or six years, whichever is greater, and the projected future changes in these factors over a 20-year planning period:
 - (a) Household sizes;
 - (b) Household demographics in terms of age, gender, race or other established demographic category;
 - (c) Household incomes;
 - (d) Vacancy rates; and
 - (e) Housing costs.
 - (3) A local government shall make the estimate described in subsection (2) of this section using a shorter time period than since the last periodic or legislative review or six years, whichever is greater, if the local government finds that the shorter time period will provide more accurate and reliable data related to housing need. The shorter time period may not be less than three years.
 - (4) A local government shall use data from a wider geographic area or use a time period longer than the time period described in subsection (2) of this section if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to subsection (2) of this section. The local government must clearly describe the geographic area, time frame and source of data used in an estimate performed under this subsection.
- Renumbers current subsections (2) & (3) to (5) & (6)

SECTION 7: ADU regulation amendment

Amends ORS 197.312 as amended in 2018 to require the inclusion of AOU's on lots that allow single-family dwellings

- Add a limits on "reasonable local regulations":
 - (B) "Reasonable local regulations relating to siting and design" does not include owner-occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street parking.
- Clarifies ability to regulate short term rentals:
 - (6) Subsection (5) of this section does not prohibit local governments from regulating vacation occupancies, as defined in ORS 90.100, to require owner-occupancy or off-street parking.

SECTION 8: Severely rent burdened community requirements

Amends the laws adopted in 2018 related to requirements for cities with a population greater than 10,000 that are severely rent burdened for reporting and meeting requirements

- Deletes section (l)(c):
 - (c) A single-family unit may be rented or owned by a household and includes single-family homes, duplexes, townhomes, row homes and mobile homes.
- Adds new units of housing required for reporting:
 - (g) Accessory dwelling units.
 - (h) Regulated affordable accessory dwelling units.
 - Units of middle housing, as defined in section 2 of this 2019 Act.
 - (j) Regulated affordable units of middle housing.

SECTION 9: Conversion building code process

Amends ORS 455.610 to allow for local options for conversion of single-family units into duplexes, triplexes or quadplexes

Adds the following requirements:

- (8) The director, by rule, shall establish uniform standards for a municipality to allow alternate approval of construction related to conversions of single-family dwellings into no more than four residential dwelling units built to the Low-Rise

Residential Dwelling Code that received occupancy approval prior to January 1, 2020. The standards established under this subsection must include standards describing the information that must be submitted before an application for alternate approval will be deemed complete.

- (9)(a) A building official described in ORS 455.148 or 455.150 must approve or deny an application for alternate approval under subsection (8) of this section no later than 15 business days after receiving a complete application.
 - (b) A building official who denies an application for alternate approval under this subsection shall provide to the applicant:
 - (A) A written explanation of the basis for the denial; and
 - (B) A statement that describes the applicant's appeal rights under subsection (10) of this section.
- (10)(a) An appeal from a denial under subsection (9) of this section must be made through a municipal administrative process. A municipality shall provide an administrative process that:
 - (A) Is other than a judicial proceeding in a court of law; and
 - (B) Affords the party an opportunity to appeal the denial before an individual, department or body that is other than a plan reviewer, inspector or building official for the municipality.
- (b) A decision in an administrative process under this subsection must be completed no later than 30 business days after the building official receives notice of the appeal.
- (c) Notwithstanding ORS 455.690, a municipal administrative process required under this subsection is the exclusive means for appealing a denial under subsection (9) of this section.
- (11) The costs incurred by a municipality under subsections (9) and (10) of this section are building inspection program administration and enforcement costs for the purpose of fee adoption under ORS 455.210.

SECTION 10: Report relating reducing costs

Adds requirement that the Department of Consumer and Business Services create a report on reducing the costs and administrative barriers to development

Adds the following reporting requirement

- It is the policy of the State of Oregon to reduce the extent practicable administrative and permitting costs and barriers to the construction of middle housing, as defined in section 2 of this 2019 Act, while maintaining safety, public health and the general welfare with respect to construction and occupancy.
- The Department of Consumer and Business Services shall submit a report describing rules and standards relating to low-rise residential dwellings proposed under ORS 455.610, as amended by section 9 of this 2016 Act, in the manner provided in ORS 192.245, to an interim committee of the Legislative Assembly related to housing no later than January 1, 2020.

SECTION 11: Technical placement of statute

Places section 12 in ORS 94.550 to 94.783 (Relating to planned communities and their governing documents)

SECTION 12: Planned Unit Development governing documents

Any provision in a governing document of a planned unit development created after this bill goes into effect that preempts the development of middle housing is unenforceable.

- Adds provision to ORS 94:
 - A provision in a governing document that is adopted or amended on or after the effective date of this 2019 Act, is void and unenforceable to the extent that the provision would prohibit or have the effect of unreasonably restricting the development of housing that is otherwise allowable under the maximum density of the zoning for the land.

SECTION 13: Deed Restrictions

Adds provisions to the law:

- A provision in a recorded instrument affecting real property is not enforceable if:
 - (1) The provision would allow the development of a single-family dwelling on the real property but would prohibit the development of:
 - (a) Middle housing, as defined in section 2 of this 2019 Act; or
 - (b) An accessory dwelling unit allowed under ORS 197.312 (5); and
 - (2) The instrument was executed on or after the effective date of this 2019 Act.

SECTION 14: Operative Date

Sets an operative date of January 1, 2020 for section 1, 5-9, and 12-13. Allows DLCD and DCBS to take action necessary to meet the duties assigned in the bill prior to January 1, 2020.

SECTION 15: Technical Assistance

Provides \$3.5 million for DLCD to provide as technical assistance to local jurisdictions subject to requirements of the bill. Prioritizes funds to cities with limited planning staff or that commit to early implementation.

SECTION 16: Emergency Clause

The bill goes into effect upon passage and signing into law.