LC0333 Amendment and Feedback Tracking

Policy Issue	Policy Change in LC0333	Anticipated Changes in Amendment	
Middle Housing Development Sections			
Section 1			
Unincorporated communities are serviced with urban services and are often in need of denser and more affordable housing types to meet the needs of their residents. Currently, counties are not required to allow middle housing on SFU-zoned land within these regions.	Require unincorporated urban communities to allow middle housing on lots zoned to allow for single-family residences.	1. Page 2 lines 8-9: technical fix to address that UUL land is separate from land within incorporated city boundaries. 2. Include UULs as part of the requirements of ORS 197A.420. If a UUL is within the UGB with a population <25,000, then they are part of the duplex siting requirements, and if they are a Metro jurisdiction or with a population >25,000, they are subject to all middle housing requirements. 3. Add counties to the attorney fees provisions under SB1537 as it relates to housing in UULs. 4. Exempt UULs from density bonus sections (see later sections in table). Metro UULs should still be subject to these provisions.	1. Included in -1 amendment, language may need work. 2. Included in -1 amendment. 3. Not needed, would already apply via SB1537(2024). 4. Included in -1 amendment.
The definition of a cottage cluster in ORS 197A.420 is unnecessarily restrictive and does not provide flexibility for attached clusters or units with a larger footprint. It also requires a courtyard, which can result in cost and delay to development and may not meet the specific needs of that community.	Remove the requirement for cottage clusters to be detached units of 900 sq. ft. or less. Enable them to be attached. Require them to still be small units, with specifics articulated in OAR 660-046. Remove the requirement for units to circle a courtyard and replace it with a requirement for inclusion of a community amenity to be specified in rule.	1. Modify the word “footprint” in Section 1.(1)(c) to “footprint or floor area”. 2. Add a provision specifying that the operative date of this subsection is after January 1, 2028 (this may require moving it to an entirely new section). 3. Page 2 lines 14-26: add back cottage courtyard requirement.	1. Included in -1 amendment. 2. Included in -1 amendment. 3. Need to remove community amenity in -2 amendment.
Current statute’s lack of reference to base zones for establishing where middle housing must be allowed creates a structure where overlay zones could effectively prohibit middles housing.	Change language in ORS 197A.420 to ‘base zoned for’ with exceptions for the following: lands that do not allow for the development detached SFUs; and lands that limit residential development for compliance with goal protections.	1. Add an “as used in this section” clause to Section 1.(j).	1. Not needed, already applies via (1).
Cities generally do not allow additional middle housing types to be built on a lot with an existing single unit dwelling. This makes infill developments for middle housing difficult or impossible in many instances.	Require that cities allow middle housing development on lots with existing single unit dwellings or duplex, and make it a nonconforming middle housing unit for purposes of MHLD	1. Page 4 line 28: change ‘may’ to ‘must’ in Section 1(4)(b). 2. Modify Section 1.(4)(a) to clarify that the city must allow the existing unit(s) to be nonconforming. 3. Change Section 14. (2)(a)(B) to “The retention or rehabilitation of existing units allowed under ORS 197A.420 (4), if any”. 4. Change Section 14. (4)(h) to say “to be allocated its own lot or parcel in the division” rather than “to be separated by the division”.	1. Not needed, applicability of current language meets request. 2. Included in -1 amendment, language may need work. 3. Included in -1 amendment, language may need work. 4. Included in -1 amendment.
Traffic impact analyses and traffic-related exactions create undue burden for middle housing developers and are largely unnecessary for infill lots, and often utilized to disincentivize middle housing.	Prohibit traffic impact analyses and traffic-related exactions for infill middle housing developments.	1. Page 4 lines 11-13: specify that the prohibition on traffic impact analysis applies to a single middle housing development (duplexes, triplexes, quadplexes, cottage clusters or townhouses [maximum 8 dwelling units], including any density bonuses) on sites within areas of existing residential housing served by urban services.	1. Not included, more work is needed on policy language for -2 amendment to match intent.

Section 3			
Creating affordable homeownership opportunities is a key policy goal for the state, especially with long-standing racial disparities in homeownership resulting from discriminatory federal and state policies. Density bonuses are an effective way to operationalize this goal and incentivize affordable housing development.	Require cities to allow for 1-2 additional units on sites zoned for duplexes, triplexes, or quadplexes if sold as affordable housing. Standards should dictate that there must be at least one unit that sells for at or below 120% of median income with a 10-year resale restriction. Cities may seek recourse for unmet standards.	1. Page 5-6 lines 24-31 and 1-18: remove affordable housing provisions for middle housing in non-Metro UULs. 2. Page 5-6 lines 24-31 and 1-18: add provisions to clarify that this section does not prohibit a city from enacting an affordable housing density bonus that provides more affordable housing units, or a deeper level of required affordability, in order to meet the requirements of this section. 3. Page 5-6 lines 24-31 and 1-18: add provisions specifying that DAS OEA will publish an affordable price cap and income eligibility cap by region on an annual basis for the purposes of administering the affordable housing bonus. 4. Page 5-6 lines 24-31 and 1-18: add provisions specifying that the affordability restriction is executed via a recorded deed restriction prior to a city issuing a certificate of occupancy. 5. Page 5-6 lines 24-31 and 1-18: clarify that density bonus is still subject to goal protections and can be denied based on goal protections – include language in the provision that mirrors that of ORS 197A.420(5): 'Local governments may regulate middle housing to comply with protective measures adopted pursuant to statewide land use planning goals.' 6. Page 6 lines 7-10: clarify what 'lot, parcel, or area' means under Section 3(2). 7. Page 6 lines 11-12: clarify that the density bonus provision results in a triplex or quadplex. 8. Page 6 lines 13-14: clarify that the density bonus provision results in additional townhouse allowance, a 6-unit development, or additional cottage cluster allowance.	1. Included in -1 amendment. 2. Included in -1 amendment. 3. Included in -1 amendment, language may need work and the sales price cap requirement needs to be added in -2 amendment. 4. Included in -1 amendment. 5. Included in -1 amendment. 6. Included in -1 amendment. 7. Included in -1 amendment. 8. Included in -1 amendment.
Creating accessible housing is a key policy goal for the state. Density bonuses are an effective way to operationalize this goal and incentivize affordable housing development.	Require cities to allow for 1-2 additional units on sites zoned for duplexes, triplexes, or quadplexes if built to an accessible standard.	1. Page 5-6 lines 24-31 and 1-18: remove accessible housing provisions for middle housing in non-Metro UULs. 2. Page 5-6 lines 24-31 and 1-18: add provisions to clarify that this section does not prohibit a city from enacting an accessible housing density bonus that provides more accessible housing units in order to meet the requirements of this section. 3. Page 5-6 lines 24-31 and 1-18: clarify that density bonus is still subject to goal protections and can be denied based on goal protections – include language in the provision that mirrors that of ORS 197A.420(5): 'Local governments may regulate middle housing to comply with protective measures adopted pursuant to statewide land use planning goals.' 4. Page 5 lines 25-29: amend language to specify 'a unit of housing that complies with the "Type A" requirements applicable to units as set forth in section 1103 of the Standard for Accessible and Usable Buildings and Facilities (ICC A117.1-2017) published by the International Code Council and codified in Oregon state building code.' 5. Page 6 lines 7-10: clarify what 'lot, parcel, or area' means under Section 3(2). 6. Page 6 lines 11-12: clarify that the density bonus provision results in a triplex or quadplex. 7. Page 6 lines 13-14: clarify that the density bonus provision results in additional townhouse allowance, a 6-unit development, or additional cottage cluster allowance.	1. Included in -1 amendment. 2. Included in -1 amendment. 3. Included in -1 amendment. 4. Included in -1 amendment. 5. Included in -1 amendment. 6. Included in -1 amendment. 7. Included in -1 amendment.

Single Room Occupancy Sections			
Section 6			
SRO units are counted on a 1:1 ratio to FUs, although they take up significantly less space than a traditional unit. Therefore, density standards and parking mandates are applied to SRO units the same as they would be applied to a traditional unit.	Define SROs as one-third of a traditional unit for purposes of density standards and parking mandates.	1. Delete the word "maximum" in Section 6. (3). 2. Allow attached and detached SROs. 3. Clarify that the adjustment to allowed parking requirements in Section 6. (3) is tied to the base zoning – suggested language is "For the purpose of any requirement establishing the minimum number of parking spaces for a single room occupancy development, local governments shall not require more than the parking the local government requires for a single detached dwelling for every three single room occupancy units in a development including up to six units, and shall not require more than the parking required for one dwelling unit in a multi-unit housing development for every three single room occupancy units in a development including more than six units". 4. Add clarification that the provisions of Section 6. (3) do not apply to residential care facilities as defined in ORS 443.100.	1. Included in -1 amendment. 2. Included in -1 amendment. 3. Included in -1 amendment. 4. Included in -1 amendment.
Promoting Housing Density Sections			
Sections 7 through 10			
CC&Rs often pose a barrier to middle housing production if a lot has a CC&R that restricts denser housing types or ADUs.	Invalidate CC&Rs passed prior to HB 2001 (2019) that prohibit middle housing development.	1. In Section 7, change "single-family" to "single-unit" to be consistent with proposed language changes in LC 331	1. Included in -1 amendment.
Section 11			
Local governments may downzone an area to reduce the density of allowed housing. This makes it more difficult to develop dense and affordable housing.	Disallow downzoning within an urban growth boundary.	1. Remove this section.	1. Included in -1 amendment.
Sections 12 and 13			
In response to a court opinion which interpreted that requirements outside of that attached to the specific housing unit were not covered under the clear and objective requirements. This is against the legislative intent, and statutory clarification is required to ensure that all development requirements related to needed housing are clear and objective.	Amend ORS 197.307 to clarify that additional aspects of a housing development that make it usable, e.g., public right-of-way, are still subject to clear and objective standards.	1. Remove current language in Section 12. (1) and Section 13. (1) and replace with more specific language rather than "urban services". 2. Add provision that tree removal code on residential properties has to be clear and objective.	1. Not included, more work is needed on policy language for -2 amendment to match intent. 2. Included in -1 amendment.
Expedited and Middle Housing Land Divisions Sections			
Section 14			
The intent of the MHLD statute was to only allow a division for one middle housing development proposal. The statute currently reads 'a proposal for development of middle housing.' Clarifying this point will make it easier for cities to implement.	Amend ORS 92.031(2)(a) to require approval of one MHLD proposal under applicable criteria.	1. Change reference to Section 5 in Section 14. (1) to Section 3 2. Clarify the definition of "one middle housing development in Section 14. (1)(a) by moving the existing (B) to (C) and adding a new (B) which includes units produced through a density bonus – i.e., all of the types listed in (A) and the six-plex.	1. Included in -1 amendment. 2. Included in -1 amendment.

There is some disagreement over whether the language of ORS 92.031(4)(e) permits a city to allow the submission of an MHLD application before submission of an application for those building permits. This should be clarified so that cities can adopt this procedure into their code and allow submission of an MHLD application in these instances.	Amend ORS 92.031(4)(e) to explicitly allow submittal of an MHLD application before, during, or after submission of building permit applications.	1. Require that the local government issue a tentative plat for those instances where building plans have not been received.	1. Included in -1 amendment.
Sections 20 and 21			
The local appeals process for MHLDs is burdensome for city governments and adds time and cost to development projects.	Remove MHLD and expedited land division local appeals section and send cases straight to LUBA without an option for a local appeal.	1. Change the "May" in Section 20. (2) back to "Must".	1. This is incorrect per ORS 174.100 (6) and therefore not included.
Rulemaking Sections			
Section 22			
Various rulemaking direction.	No effective date for rule sections.	1. Add an effective date for the rules	1. Included in -1 amendment.
	Cottage cluster definition – define "small footprint" and "community amenity" in ORS 197A.420 in rule.	1. Remove the word "appropriately" from Section 22. (1)(c). 2. Change the word "footprint" to "footprint and floor area" in Section 22. (1)(c).	1. Included in -1 amendment. 2. Included in -1 amendment.
	Siting and design parameters for existing housing types – assess barriers to production stemming from allowed siting and design standards and amend the existing ones in OAR 660-046.	1. Add the word "middle" to "housing types" in Section 22. (1)(d). 2. Remove "to better facilitate housing production, availability and affordability" in Section 22. (1)(d) and state "in accordance with the principles outlined in ORS 197A.025".	1. Changes included in -1 amendment, but language needs work. 2. Changes included in -1 amendment, but language needs work.
	Parameters around discretionary pathways for approval – clarify what local committees are allowed to evaluate in the approval or denial of a housing project.	1. Add to the end of Section 22. (1)(e) the phrase "in accordance with the principles outlined in ORS 197A.025".	1. Changes included in -1 amendment, but language needs work.
	Remove the current administrative rules requiring demolition review for contributing resources in historic districts that are listed only on the National Register of Historic Resources and do not have a local Goal 5 designation process.	1. Remove "houses" from Section 22. (1)(f) and replace it with "eligible, contributing structures that do not have a local Goal 5 designation process."	1. Changes included in -1 amendment, but language needs work to reflect intent to remove state demolition review requirement for contributing structures with no local Goal 5 designation in historic districts listed on the National Register.
	System development charges – create a model for SDC for residential development.	1. Add a statement to Section 22. (1)(g) that creates legal protection for cities that utilize the state model SDC	1. Included in -1 amendment.