

Memo

DATE: October 13, 2020

TO: Ashland Planning Commission

FROM: Maria Harris, Planning Manager

RE: State requirements for middle housing (duplexes) and accessory residential units

Summary

This is an informational item to update the Planning Commission on new State rules that require allowing duplexes and the related upcoming code amendment project.

Background

In the 2019 legislative session, the Oregon State Legislature passed House Bill (HB) 2001 “relating to housing; creating new provisions; amending ORS197.296, 197.303, 197.312 and 455.610 and section 1, chapter 47, Oregon Laws 2018; and declaring an emergency.” The bill became effective on August 8, 2019. See attached “House Bill 2001: More Housing Choices for Oregonians” by the Department of Land Conservation and Development (DLCD).

HB 2001 requires cities to allow “middle housing” including duplexes, triplexes, quadplexes, cottage clusters and townhouses on residentially zoned lots or in residential areas where single-family dwellings are permitted. HB 2001 also includes a provision that prohibits jurisdictions from requiring off-street parking and owner-occupancy requirements for accessory dwelling units (ADUs).

“Medium cities” with a population between 10,000 and 25,000 and outside the Portland Metro boundary are required to amend codes to allow duplexes on residentially zoned lots that allow the development of detached single-family homes. “Large cities” with a population of more than 25,000 or located in the Portland Metro boundary with a population of more than 1,000 are required to provide all types of middle housing. In the Rogue Valley, Ashland and Central Point are medium cities and Medford is a large city. The attached map details the medium and large cities throughout the state.

Medium cities such as Ashland are required to amend local codes or adopt the model code by June 30, 2021 to address the requirements of House Bill 2001. The State’s model code is attached.

The Land Conservation and Development Commission(LCDC) adopted Chapter 660 Division 46 Middle Housing in Medium and Large Cities in July 2020 and the administrative rules became effective on August 7, 2020. The administrative rules provide standards for medium cities for the development of middle housing as well as a model code.

HB 2001 says that cities may regulate the siting and design of duplexes as long as the regulations do not, individually or cumulatively, deter the development of duplexes through unreasonable cost and delay.



The administrative rules clarify that siting and design standards that create unreasonable cost and delay include any standards applied to duplex development that are more restrictive than those applicable to detached single-family dwellings in the same zone.

State Requirements

The following is a summary of the provisions of the administrative rules for duplexes that apply to medium cities such as Ashland.

- **Permitted Use:** Duplexes must be allowed on residentially zoned lots where detached single-family dwellings are permitted.
- **Approval Process:** Cities must apply the same approval process to duplexes as is in place for detached single-family dwellings in the same zone.
- **Definition:** A duplex is two attached dwelling units on one lot or parcel. Cities have the option of defining two detached units on a lot as a duplex.
- **Type of Construction:** Duplexes must be allowed as new construction or as conversion of an existing detached single-family dwelling. Conversions of detached single-family dwellings to duplexes does not have to be permitted if it increases nonconformance with applicable clear and objective standards.
- **Siting and Design Standards:** Cities may have siting and design standards for duplexes that are clear and objective; however, standards cannot be more restrictive than those applicable to detached single-family dwellings in the same zone.
 - **Permitted Standards:** The following standards are permitted and are not considered “discouraging the development through unreasonable cost or delay.”
 - Adopted and acknowledged regulations to comply with statewide land use planning goals for the **protection of natural resources and areas subject to natural hazards** such as wetlands and riparian areas, floodplains and hillside and wildfire lands. Regulations that apply to detached single-family residences in the same zone can be applied to duplexes.
 - **Prohibited Standards:** The following siting and design standards are **not** permitted for duplexes. Here again, the threshold is a city may not require a more restrictive standard for a duplex than is used for a detached single-family residence.
 - **Historic Properties or Districts:** Use, density, occupancy restrictions and standards that prohibit the development of duplexes on **historic properties or districts** that otherwise permit the development of detached single-family dwellings.
 - **Minimum Lot Size:** Standards cannot require a larger minimum lot size for duplexes.
 - **Density:** Density maximums cannot be applied to development of duplexes.
 - **Height and Setbacks:** Standards for development of duplexes cannot require greater setbacks or lower building heights.
 - **Lot Coverage:** Standards cannot require less lot coverage for duplexes.
 - **Parking and Public Works**
 - May require no more than two off-street parking spaces for a duplex.
 - Must allow exceptions to public works standards for detached single-family homes also for duplexes.



Project Approach

Staff anticipates the HB 2001 code amendments will take approximately seven to eight months.

October/November 2020	Develop Draft Code Set Up Project Web Page Draft Article for City Source
January 2021	Planning Commission Study Session
February 2021	City Council Study Session
March 2021	Planning Commission Public Hearing
April 2021	City Council Public Hearing
May 2021	City Council First Reading
June 2021	City Council Second Reading



House Bill 2001: More Housing Choices for Oregonians

In 2019, the Oregon Legislature passed House Bill 2001, a bipartisan bill to help provide Oregonians with **more housing choices**, especially housing choices **more people can afford**.

The new law lets people build certain traditional housing types that already exist in most cities, instead of being limited to a single housing type.

House Bill 2001 requires updates of local rules that have limited what sorts of housing people could build. These limitations have led to increased housing costs.

The Need for More Diverse, Affordable Choices

People need a variety of housing choices. Today, too many Oregonians are paying too much for the housing they have and are limited to renting or buying detached single-unit homes. Meanwhile, the composition of Oregon households is shifting; more than a quarter of households today are a single person living alone.

At different times in their lives, we have different needs. Imagine what sort of housing a young adult might want or be able to afford, or think of the needs of a retired person.

The Bill: Traditional Housing Types Allowed in Most Neighborhoods Soon

Under the bill, by June 30, 2021, Oregon's medium-sized cities must allow Oregonians to build duplexes in areas zoned for single-family dwellings. Most cities already allowed duplexes in certain circumstances.

By June 30, 2022, cities in the Portland Metro region and Oregon's other largest dozen cities (those over 25,000 population), must allow people to build duplexes, triplexes, fourplexes, cottage clusters, and townhouses in residential areas.

These houses can be more affordable and meet the housing needs of many younger people, older people, and people who work hard but can't afford a large detached house of their own.

The bill also provided \$3.5 million for technical assistance to cities, and has other details. Read the bill for details: olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2001/Enrolled

Siting and Design Flexibility; Transformation Expected to be Gradual

While the bill re-legalizes certain housing types, the bill is about choices. People can still build detached single-family homes. We expect most homes in residential areas to be built as such.

Cities can set reasonable siting and design requirements on the houses, including making sure there is adequate infrastructure. The bill directs the Department of Land Conservation and Development (DLCD) to help cities figure this out.

While the law allows traditional housing types, DLCD expects the transformation of housing choices to be gradual. Cities have allowed some of these types in certain areas. Not many have been built. Local knowledge of how to build these housing types will grow over time. The building of them will depend on local housing markets.

Learn More and Sign Up to Stay Informed

www.oregon.gov/lcd/UP/Pages/Housing-Choices.aspx

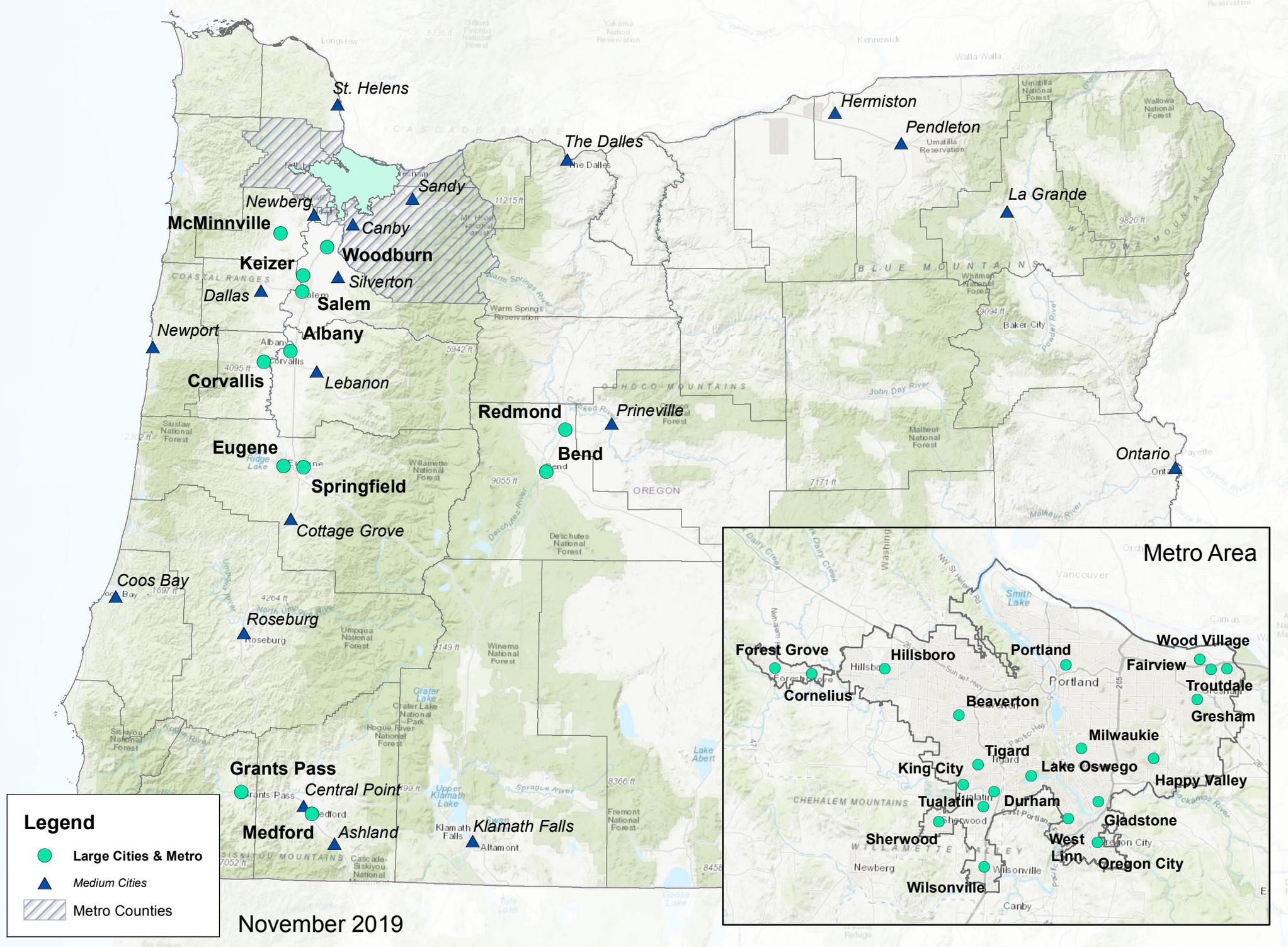
Ethan Stuckmayer, Senior Housing Planner, ethan.stuckmayer@state.or.us (503) 934-0619



Before being outlawed, non-single-unit homes have long been built in our cities; this is a Salem triplex.



Cities and Counties Affected by HB 2001





MEMORANDUM

Model Code for Medium Cities (LCDC DRAFT REVISED) DLCD Middle Housing Model Code

DATE July 7, 2020
TO Oregon Land Conservation and Development Commission
FROM Matt Hastie, Cathy Corliss, and Kate Rogers, Angelo Planning Group
CC Ethan Stuckmayer and Robert Mansolillo, DLCD
Project Team

Middle Housing Model Code for Medium Cities

User's Guide:

Oregon House Bill 2001 (2019) (HB 2001) requires that "Medium Cities" (defined as cities with a population of more than 10,000 and less than 25,000 that are not within Metro's jurisdiction) allow a duplex on each lot or parcel zoned for residential use that allows for the development of detached single family dwellings. Duplexes provide an opportunity to increase housing supply in developed neighborhoods and can blend in well with detached single-family dwellings.

The bill allows local governments to regulate siting and design of duplexes, provided that the regulations do not, individually or cumulatively, discourage duplex development through unreasonable costs or delay. When regulating siting and design of duplexes, Medium Cities should balance concerns about neighborhood compatibility and other factors against the need to address Oregon's housing shortage by removing barriers to development and should ensure that any siting and design regulations do not, individually or cumulatively, discourage the development of duplexes through unreasonable costs or delay.

Medium Cities may develop their own standards in compliance with the requirements of HB 2001. This model code may provide guidance toward that end. However, if Medium Cities do not wish to prepare their own standards or if Medium Cities do not adopt the required code amendments by June 30, 2021, they must directly apply this model code prepared by the Department of Land and Conservation Development (DLCD) to development in their jurisdictions. The model code is intended to be straightforward and implementable by Medium Cities

throughout the state. The model rules are consistent with the requirements and intent of HB 2001 and are intended to ensure that a duplex is no more difficult to develop than a detached single family home. The model code will be adopted by reference into Oregon Administrative Rules.

To the extent they are applicable, the Administrative Rules contained in Chapter 660, Division 46 apply to and may be used to interpret this model code.

Sections:

- A. Purpose**
- B. Definitions**
- C. Applicability**
- D. Relationship to Other Regulations**
- E. Permitted Uses and Approval Process**
- F. Development Standards**
- G. Design Standards**
- H. Duplex Conversions**
- I. Figures**

A. Purpose

The purpose of this model middle housing code (“code”) is to implement HB 2001, codified in ORS 197.758 et seq, by providing siting and design standards for duplexes developed on lots or parcels that allow for the development of detached single family dwellings.

B. Definitions

The following definitions shall apply for the purposes of this code, notwithstanding other definitions in the development code:

1. “Detached single family dwelling” means a detached structure on a lot or parcel that is comprised of a single dwelling unit. Detached single family dwellings may be constructed off-site, e.g., manufactured dwellings or modular homes.
2. “Duplex” means two dwelling units on a lot or parcel in any configuration. Figures 1–6 in Section I illustrate examples of possible duplex configurations. In instances where a development can meet the definition of a duplex and also meets the definition of a primary dwelling unit with an accessory dwelling unit (ADU), the applicant shall specify at the time of application review whether the development is considered a duplex or a primary dwelling unit with an ADU.
3. “Lot or Parcel” means any legally created unit of land.

4. “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.

C. Applicability

1. Except as specified in subsection (2) of this section (C), the standards in this code allow for the development of duplexes, including those created through conversion of existing detached single family dwellings, on lots or parcels zoned for residential use that allow for the development of detached single family dwellings.
2. The standards in this code do not allow the following, unless otherwise permitted by the development code:
 - Creation of duplexes on lots or parcels on lands that are not zoned for residential use. This includes lands zoned primarily for commercial, industrial, agricultural, public, or mixed uses, even if those zones allow for the development of detached single family dwellings.
 - Creation of more than two dwelling units on a single lot or parcel.

D. Relationship to Other Regulations

1. Conflicts. In the event of a conflict between this code and other standards applicable to a duplex, the standards of this code control.
2. Public Works Standards. Clear and objective exceptions to public works standards granted to single family dwellings shall also be granted to duplexes.
3. Protective Measures. Duplexes shall comply with protective measures (plans, policies, or regulations) adopted pursuant to statewide land use planning goals (e.g., environmental and natural hazard protections).

E. Permitted Uses and Approval Process

Duplexes are permitted outright on lots or parcels zoned for residential use that allow for the development of detached single family dwellings. Duplexes are subject to the same approval process as that for detached single family dwellings in the same zone and are subject only to clear and objective standards, approval criteria, conditions, and procedures. Alternatively, an applicant may choose to submit an application for a duplex subject to discretionary standards and criteria adopted in accordance with ORS 197.307, if such a process is available.

F. Development Standards

Except as specified below, duplexes shall meet all clear and objective development standards that apply to detached single family dwellings in the same zone (including, but not limited to, minimum and maximum lot size, minimum and maximum setbacks, and building height), unless those standards conflict with this code.

The following development standards are invalid and do not apply to duplexes being developed on lots or parcels zoned for residential use that allow the development of a detached single family dwelling:

1. Maximum Density. The jurisdiction's pre-existing density maximums and minimum lot sizes for duplexes do not apply.
2. Setbacks. A minimum front setback of greater than 20 feet or a minimum rear setback of greater than 15 feet except for those minimum setbacks applicable to garages and carports.
3. Off-Street Parking. Any off-street parking requirement.

G. Design Standards

New duplexes shall meet all clear and objective design standards (e.g., entry orientation, window coverage, articulation, etc.) that apply to detached single family dwellings in the same zone, unless those standards conflict with this code. Facades of dwellings that are separated from the street property line by another dwelling are exempt from meeting building design standards.

Any design standards that apply only to duplexes are invalid.

H. Duplex Conversions

Conversion of an existing detached single family dwelling to a duplex is allowed, pursuant to Section C, provided that the conversion does not increase nonconformance with applicable clear and objective standards.

I. Figures

The following figures illustrate examples of possible duplex configurations. Other configurations may also be acceptable, provided the development meets the definition of duplex, pursuant to Section B.

Figure 1. Stacked Duplex

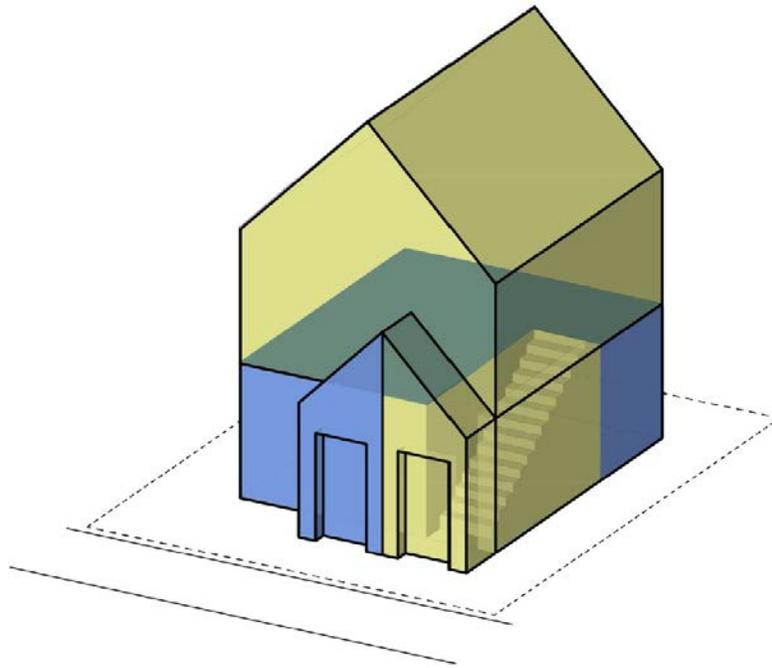


Figure 2. Side-by-Side Duplex

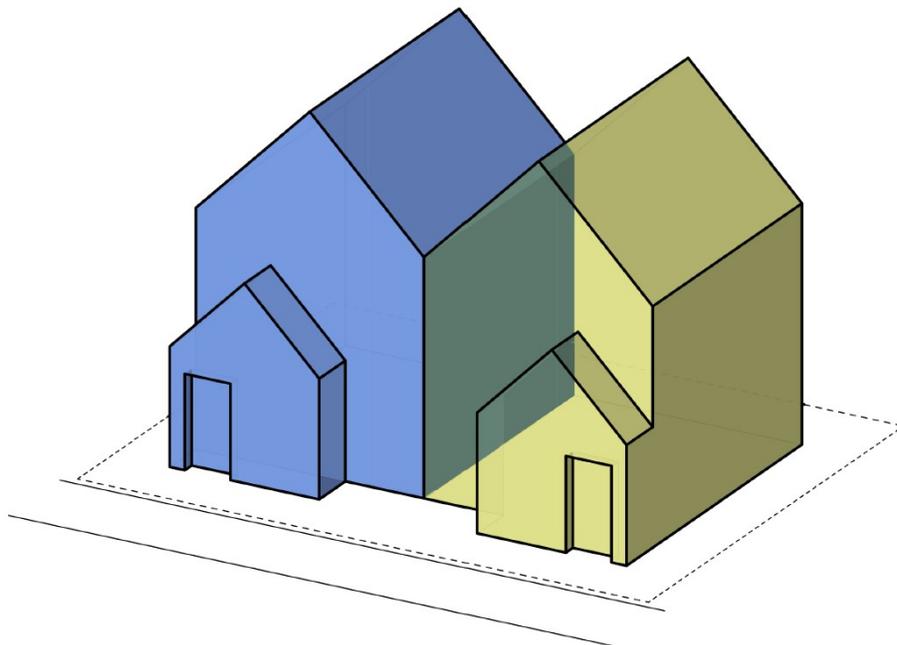


Figure 3. Duplex Attached by Garage Wall

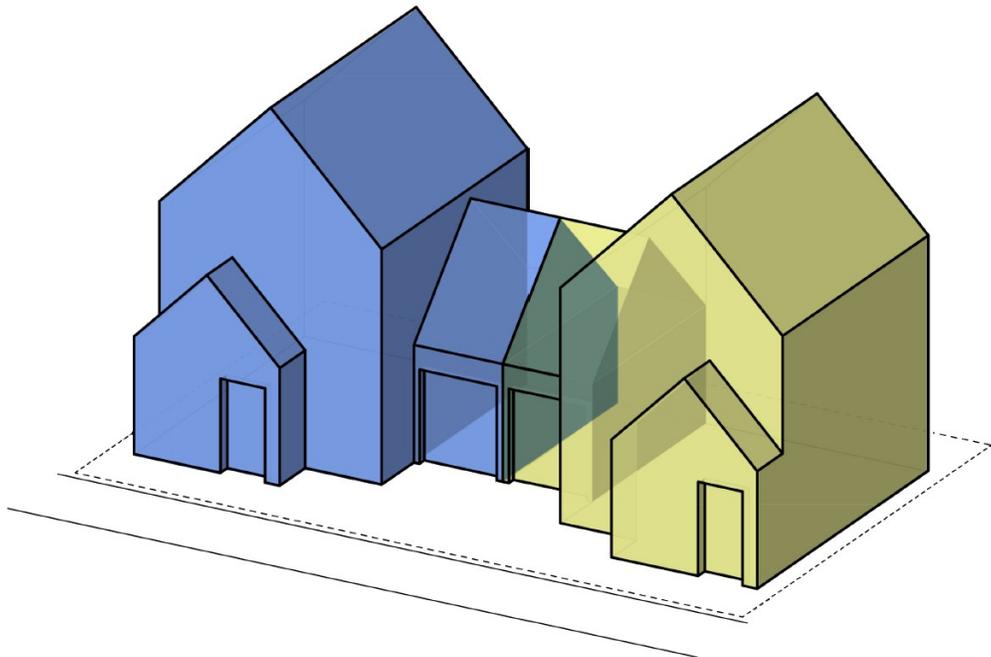


Figure 4. Duplex Attached by Breezeway

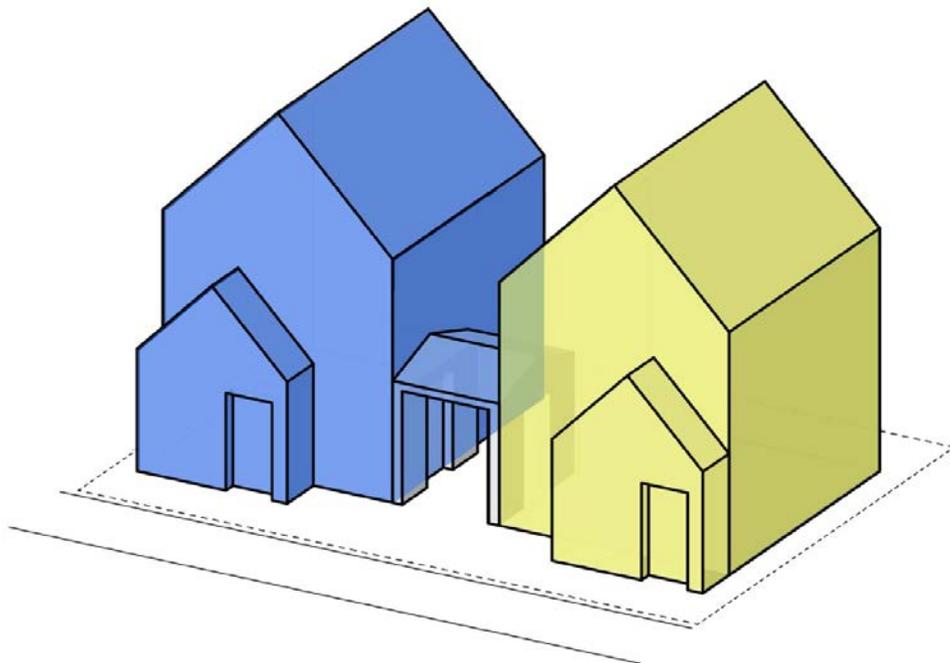


Figure 5. Detached Duplex Units Side-by-Side

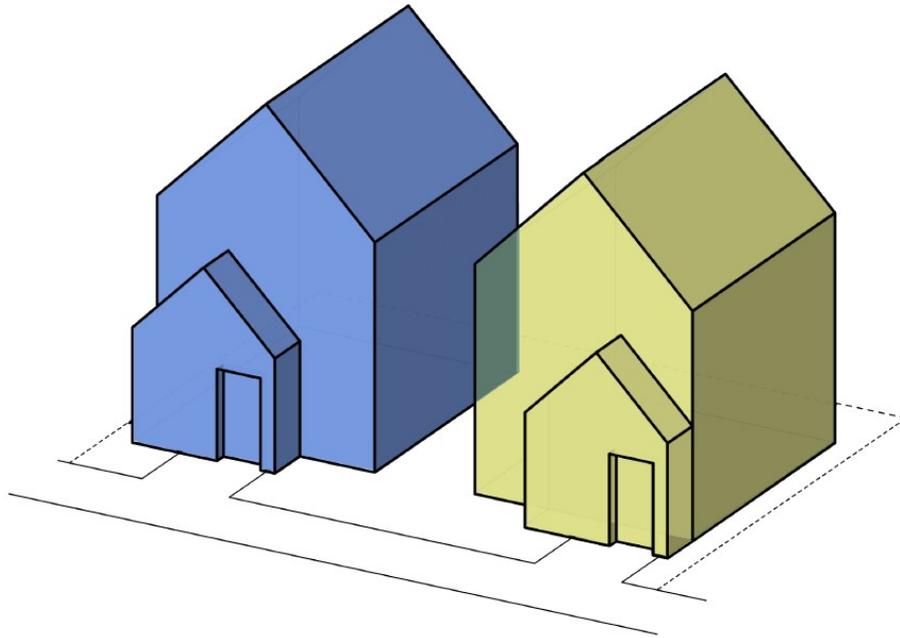


Figure 6. Detached Duplex Units Front and Back

