



Code Amendment Proposal Application

Department of Consumer & Business Services

Building Codes Division

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STAFF USE ONLY

Application no.:

Approved

Denied

Instructions: Fill in all the following information, attach any supplementary information you relied on, and mail to the address listed above. For more information, please refer to the Building Codes Division website, oregon.gov/ bcd.

APPLICANT INFORMATION

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Date: 1/12/2017

Representing: Portland Bureau of Planning and Sustainability

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PROPOSED CODE LANGUAGE

This proposed code amendment (check one):

Amends (code, edition, section): 2018 OSSC sections 202 and 310

Adopts a new section (code, edition): _____

Repeals (code, edition, section): _____

You must provide language for review by the code review committee and advisory board. Failure to provide language will invalidate the application.

Please use the following format to show additions and deletions from the code — strike through ~~deleted text~~, underline and bold **new text**.

Use arrow keys to advance to the next text box.

Proposed language:

The proposed new language would allow the internal conversion of existing dwellings into three or four dwelling units to fall within the jurisdiction of the residential building code. The proposed new language is as follows:

Section 202. Internal Conversion. The adaptive reuse of an existing dwelling into multiple dwelling units.

Section 310.5.2. Internal Conversion of Existing Dwellings. Dwellings converted into up to four dwelling units are permitted to comply with the residential code provided the dwelling being converted was constructed prior to January 1, 2017.

See attached document for complete details.



APPLICATION CRITERIA

Attach to this application written responses to the following questions. If needed, include in the response an explanation why a question does not apply to your proposed code amendment. The code review committee may reject an incomplete application. You must provide a thorough and complete response to all questions, or your application may be considered incomplete.

Questions:

1. What does this code proposal do?
2. What problem in the code does this proposal intend to address?
3. Is the problem a fire or life safety matter? If so, explain.
4. Does the problem cause delays in the cost of construction or inconsistency in application of the code? If so, how?
5. How does this proposal solve the problem?
6. Are there other alternatives to this proposal that solve the problem? If so, why is this proposal the best solution?
7. Does this proposal require a change in statute or administrative rule?
8. What fiscal impact does this proposal have? Explain.
9. If there is a fiscal impact, who is affected?
10. Does this proposal enhance statewide consistency and predictability? If so, how?
11. Does this proposal reduce or streamline regulation under the code? If yes, explain how.
12. Has this been proposed at the national model code level? If not, why not? If so, what happened and why was it not adopted there?
13. Does this proposal add to the cost of construction? If so, explain how the added cost contributes to the health and safety of occupants, or is necessary to conserve scarce resources.
14. If this proposal will affect the cost of development of a detached single-family dwelling, please indicate the cost. For the purposes of illustrating the change on the cost, please use a 6,000-square-foot parcel and the construction of a 1,200-square-foot detached single-family dwelling on that parcel. The information on the cost must be sufficient to assist the division in preparing a housing cost impact statement.
15. What assumptions affect the projected costs or savings associated with this proposal?
16. It is important that proposals be shared with people and organizations that will be impacted by them. Was this proposal developed with people or organizations likely to be affected by it? Has it been reviewed or shared with people or organizations likely to be affected by it? If so, who? If not, why not?

APPLICANT SIGNATURE

Signature: BRANDON SPENKER-HARTLE

Date: 1/12/2017

Copyright notice: By signing this proposed code amendment application, I understand and acknowledge that the work contained in this application is original, or if not original, I have the right to copy the work. By signing this work, I understand that any rights I may have in this work, including any form of derivative works and compilations, are assigned to the Department of Consumer and Business Services. I also understand that I do not retain or acquire any rights once this work is used in a Department of Consumer and Business Services publication.

APPLICATION PROCESSING

The code review committee screens proposed amendments to determine whether they meet the requirements of Oregon Administrative Rule (OAR) 918-008-0060. The committee will return proposed code amendments that do not substantially meet the requirements of OAR 918-008-0060, with specific reasons included in the returned application.

If you submit completed proposed code amendments to the committee before the end of the timetable established under OAR 918-008-0020, the committee will forward them to the appropriate advisory board for review. The committee will not forward proposed code amendments that are not completed before the end of the timetable.

If you complete proposed code amendments but do not submit them before the end of the timetable, you may submit them as completed applications for consideration during the next opportunity given to make amendments to the state building code.

Note: The committee is not obligated to examine a proposed code amendment submitted after the end of the timetable.



Proposed code, edition, and section

2018 Oregon Structural Specialty Code (OSSC), section 202 and section 310

Proposed language and/or explanation of proposed language

The proposed new language would allow the internal conversion of existing dwellings into three or four dwelling units to fall within the jurisdiction of the residential building code.

The proposed new language is as follows:

Section 202. **Internal Conversion. The adaptive reuse of an existing dwelling into multiple dwelling units.**

Section 310.5.2. Internal Conversion of Existing Dwellings. Dwellings converted into up to four dwelling units are permitted to comply with the residential code provided the dwelling being converted was constructed prior to January 1, 2017.*

*Note that this application welcomes additional discussion regarding thresholds for unit number and date of construction provided that three- and four-unit conversions in buildings built more than 50 years ago are included.

What does this code proposal do?

This code proposal supports the creation of more affordable housing options, preservation of historic resources, and reduction of landfill waste by allowing the internal conversion of older residential structures into multiple dwelling units within the Oregon Residential Specialty Code (ORSC). Currently only one and two dwelling unit conversion projects are permissible within the ORSC as work that results in three or more dwelling units falls within the jurisdiction of the Oregon Structural Specialty Code (OSSC). The provisions of the OSSC, while appropriate for the construction of new multifamily buildings, make the successful adaptive reuse of existing single-family houses into more than two dwelling units virtually impossible in many cases. The exterior character, interior layout, and existing assemblies present in older dwellings are, by their inherent nature, more compatible with the ORSC than the OSSC. This proposal argues that the adaptation of existing dwellings for continued residential use, albeit with more than two dwelling units, appropriately lies within the jurisdiction of the ORSC, not the OSSC. Supplemental materials referenced in this proposal were emailed separately.

What problem in the code does this proposal intend to address?

According to a 2016 internal conversion report commissioned by the Portland Bureau of Planning and Sustainability, "A primary obstacle to converting houses into 3+ units is the transition from residential to commercial building code. Although appeals are regularly considered to allow for alternative paths to code compliance, advocating for a statewide change in the building code thresholds for internal conversions could more readily enable conversions and minimize the level of exterior change required for 3+ unit conversions." Report author DECA Architecture identified the following OSSC requirements as being challenging and often insurmountable when considering conversion of an existing dwelling into more than two dwelling units:

- 1) Walls and floors separating dwelling units from each other and from common spaces must be 1-hour fire rated.
- 2) Exterior walls within 10 feet of a property line must be 1-hour rated construction.
- 3) Exterior walls within 30 feet of an adjoining lot line are subject to maximum opening area requirements.

- 4) Walls and floors separating dwelling units from each other and from common areas must have a Sound Transmission Class (STC) of at least 50. Floors must have an Impact Isolation Class (IIC) of at least 45.
- 5) Converting an existing house to three or more units under the OSSC would require a change of occupancy from R-3 to R-2, raising the hazard classification from 1 to 4 and, in Portland, triggering a seismic upgrade to current commercial code.

Although Wall, floor, and roof assembly fire ratings are tested and certified for most modern materials and methods, fire ratings can be more difficult to achieve with older materials thereby necessitating the replacement of historic fabric. Significant replacement of interior and exterior walls, floors, cladding, and windows harm the integrity of historic buildings and add cost to the construction budget. The OSSC requirements for fire ratings, opening requirements, sound and impact reductions, and seismic upgrade often make internal conversion projects financially infeasible, render older houses too altered to convey their historic character, and result in an economic advantage for new construction despite public goals that favor building retention.

Is the problem a fire or life safety matter? If so, explain.

Although this proposal does not include requirements for fire or life safety beyond those mandated by the ORSC, if the Building Codes Structures Board is concerned about fire and/or life safety measures, there may be opportunities to address those concerns (such as requiring a Type 13R sprinkler system or comparable mitigation in certain cases) for 3+ unit conversion projects. We would welcome entertaining this conversation with the Board.

Does the problem cause delays in the cost of construction or inconsistency in application of the code? If so, how?

The proposal intends to make the conversion of existing dwellings into multiple dwelling units more feasible so to reduce the cost of creating smaller housing units within the existing built environment of Oregon's larger cities. Without reducing the barriers to such projects, diverse Oregonians looking for more affordable housing options will be left to pay new construction prices to live in smaller-than-single-family-house units in residential neighborhoods. The proposal is intended to reduce housing costs for permanent renters and owners wanting the option of smaller housing units within the envelope of an existing single-family house.

How does this proposal solve the problem?

The proposal reduces regulatory hurdles associated with adapting dwellings into multiple dwelling units, allows for greater retention of historic materials when houses are converted, and permits residential projects within the envelope of existing dwellings to be reviewed within a more appropriate building code.

Are there other alternatives to this proposal that solve the problem? If so, why is this proposal the best solution?

A number of financial and regulatory incentives and restrictions have been identified as possible ways to advance the internal conversion of existing dwellings, but there exists no clear local alternative that could better address the retention of historic fabric than the proposed change of jurisdiction from the OSSC to ORSC for such projects.

Does this proposal require a change in statute or administrative rule?

Not to the knowledge of the applicant.

What fiscal impact does this proposal have? Explain.

The proposal seeks to reduce the fiscal impact to property owners and historic preservation developers seeking to internally convert existing dwellings, passing on cost savings to renters and condominium buyers seeking to occupy smaller dwelling units within the envelope of an existing residential building.

Within the Portland area urban growth boundary, for example, single-dwelling residential zones make up 48% of all land area. With cities such as Portland considering zoning changes to allow for “middle housing” (i.e. duplexes, triplexes, and quadplexes) to be constructed within single-dwelling zones, public interest in internally converting existing housing has been on the rise. The change advanced by this proposal would allow for more existing building stock to be kept out of the landfill as cities begin allowing for “middle housing” densities in single-family zones.

If there is a fiscal impact, who is affected? *

The fiscal impacts of the proposal would positively benefit existing homeowners, small-scale neighborhood developers, and future renters and condominium owners seeking more affordable housing options.

Does this proposal enhance statewide consistency and predictability? If so, how?

This proposal advances housing, historic preservation, energy conservation, and community development goals by making it easier to convert existing single-family houses into multiple dwelling units that are more space efficient, environmentally friendly, and affordable than new multifamily construction or continued single-family use. Although, conceptually, applying the ORSC to such projects may appear to be a reduction in regulation, the fact is that many existing single-family houses have comparable occupancy numbers without the fire/life safety goals that would be achieved by compliance with the ORSC. Retaining the OSSC as the governing code for internal conversions would disincentive such projects and, therefore, not encourage the marketplace to invest in converting and, simultaneously, upgrading old houses.

Below is an overview of how this proposal would enhance consistency with other public goals:

- 1) Housing goals: In September 2016, the White House released a “Housing Development Toolkit” promoting the creation of healthy, responsive, affordable, high-opportunity housing markets. Page three of the Toolkit proclaims that “housing regulation that allows supply to respond elastically to demand helps cities protect homeowners and home values while maintaining housing affordability... Regions are better able to compete in the modern economy when their housing development is allowed to meet local needs.” The production of “missing middle” (duplex, triplex, quadplex) housing in traditionally single-family zones is quickly becoming a laudable public goal to combat rapidly increasing home prices and the dearth of opportunities for housing choice allowed by current land use zoning. Providing for the feasible conversion of dwellings into multiple units would support housing choice and affordability in jurisdictions across Oregon.
- 2) Historic preservation goals: Statewide Land Use Goal 5 states that, “Local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations.” The preservation of historic resources has become a critical part of Oregon’s management of population growth and community change. According to the Oregon Historic Sites Database, 27,361

Oregon houses are eligible for historic designation with 8,179 already listed in the National Register of Historic Places. The continued preservation of historic houses is critical for honoring and conserving Oregon's architectural and cultural sense of place. The adaptive reuse of these houses as multiple dwelling units would provide an economic incentive for retaining and investing in Oregon's historic buildings. Such incentives are critical to the long-term preservation of historic resources. According to their 2015 opinion in *King v Clackamas County*, Oregon's Land Use Board of Appeals found that "many historic resources are in private ownership, and conservation of historic resources often represents a significant financial burden. As a practical and financial reality, the preservation of historic resources depends heavily on the voluntary efforts and financial resources of private property owners. Local governments are frequently in a position where they can only 'foster and encourage the preservation, management and enhancement' of historic resources. Nonetheless, it is clear that [Land Use] Goal 5 requires a local government to do what it can, within the limits of the goal and rule, to help willing property owners achieve the actual (and not merely nominal) conservation of historic resources for present and future generations." Applying the ORSC to internal conversion projects would reduce regulatory barriers and support the retention of historic houses and their component interior and external materials, while creating a situation where houses are brought up to modern residential code standards in the conversion process.

- 3) Energy conservation goals: Demolition and construction waste represents approximately one-third of Oregon's landfill waste stream. Oftentimes viable existing buildings are raised and replaced because of the relative ease of new construction when compared to the complexities inherent in rehabilitation. Creating incentives for the retention and reuse of existing buildings conserves their embodied energy and limits the environmental impact associated with manufacturing and transporting material for new construction. According to 2011 National Trust for Historic Preservation research conducted in Portland, when a single-family house is replaced with a new house that is 30 percent more efficient than an average-performing existing building, "it will take 50 years to overcome, through efficient operations, the negative climate change impacts related to the construction process."
- 4) Community development goals: As Oregon's larger communities grapple with significant growth pressures, the need for practical solutions to house current and future Oregonians is greater than it has been in a century. Internally converting houses into multiple dwelling units minimizes the aesthetic and environmental costs of added density, allows for the economic diversification of neighborhoods, and encourages the use of skilled local labor in the rehabilitation process. Data show that every dollar spent on rehabilitation creates more jobs than a dollar spent on new construction. Reducing regulatory hurdles to internal conversions would meaningfully foster "sustainability," defined by ORS 184.421 as "using, developing and protecting resources in a manner that enables people to meet current needs and provides that future generations can also meet future needs, from the joint perspective of environmental, economic and community objectives."

Does this proposal reduce or streamline regulation under the code? If yes, explain how.

The proposal would make production of "middle housing" more feasible within the existing built environment by allowing for the conversion of houses into multiple dwelling units by property owners, developers, designers, and contractors most familiar with residential building

assemblies and the provisions of the ORSC. Because older houses historically had significantly greater occupancy numbers than they have today, conversion of houses into multiple dwelling units would not necessarily increase the number of occupants, nor necessarily the number of kitchens or bathrooms, but would allow existing dwellings to more efficiently house those families seeking smaller accommodations than is provided by typical single-family houses. For example, what was once a single-family house occupied by a family of six could be converted into a three-unit condominium for empty nesters without increasing the number of people living in the building. Such conversion projects are often infeasible within the OSSC, but if allowed within the ORSC could result in increases in code compliance as older, code-deficient housing stock is converted and subject to the rules of the ORSC.

Allowing such conversion projects to occur within the ORSC would reduce the amount of historic materials removed from the inside and outside of older houses, acknowledge the appropriateness of the ORSC for such projects, and make more feasible the continued use of houses at occupancy levels consistent with those that were common in the past. Such a change would reduce the over-regulatory application of the OSSC to internal conversion projects, while incentivizing the upgrade of existing houses to ORSC standards.

Has this been proposed at the national model code level? If not, why not? If so, what happened and why was it not adopted there?

Not to the knowledge of the applicant.

Does this proposal add to the cost of construction? If so, explain how the added cost contributes to the health and safety of occupants, or is necessary to conserve scarce resources
The proposal intends to reduce the cost of remodel construction.

If this proposal will affect the cost of development of a detached single-family dwelling, please indicate the cost. For the purposes of illustrating the change on the cost, please use a 6,000-square-foot parcel and the construction of a 1,200-squarefoot detached single-family dwelling on that parcel. The information on the cost must be sufficient to assist the division in preparing a housing cost impact statement.

The proposal intends to allow existing detached single-family dwelling to be converted to multiple housing units. In the example cited above, an existing 1,200 square-foot house could be converted into three 400 square-foot micro condominiums, offering a more affordable entry-level option in a marketplace that today has limited options for small neighborhood units.

What assumptions affect the projected costs or savings associated with this proposal?

For internal conversion projects to be allowed, local governments must make changes to their zoning codes to permit such densities in single-dwelling zones. The Portland City Council voted unanimously on December 7, 2016, to pursue the citywide allowance of internal conversions that result in up to four units. The City Council-approved concept found that “options that allow owners to add value by improving existing houses, extending the lifespan of houses and making them more economically competitive in comparison to new construction create incentives to preserve and reuse current housing.” Although the Bureau of Planning and Sustainability is currently drafting the new zoning code provisions that would allow such conversions, the Council concept identified that “the Oregon State Building Code can add significant cost and complexity when converting existing houses. Non-Zoning Code incentives...may be especially useful in further encouraging adaptive reuse of existing housing.”

It is important that proposals be shared with people and organizations that will be impacted. Was this proposal developed with people or organizations likely to be affected by it? Has it been reviewed or shared with people or organizations likely to be affected by it? If so, who? If not, why not?

This proposal represents a critical component of the achievement of multiple public policy goals being discussed in jurisdictions across Oregon. In 2016, the City of Portland's "Residential Infill Project" engaged over 10,000 Portlanders in a citywide discussion about allowing additional dwelling units within Portland's single-dwelling zones. In response to this significant public testimony, the Portland City Council in December adopted a concept that would allow internal conversion of existing houses into multiple dwelling units in all Portland neighborhoods. The concept was supported by organizations ranging from Restore Oregon to 1000 Friends of Oregon, as well as by affordable housing and historic preservation advocates. Although this building code proposal is just one element of the internal conversion strategy discussed broadly in Portland, it is critical for achieving the flexibility and feasibility needed to retain and reuse existing dwellings as "middle housing."

A May 2016 report funded by the Oregon Department of Environmental Quality highlighted the growing public interest in the internal conversion of existing dwellings and the need to have such projects fall within the jurisdiction of the ORSC. According to report authors, "The tradition of internally dividing homes into smaller units (and sometimes opening them back up again into single-family homes) in response to changing household compositions and housing demand goes as far back as the residential construction industry. When workers flooded into Portland during World War II to support the shipbuilding industry, one policy response to the associated housing shortage was to allow homes in single-dwelling residential zones to be internally divided into multiple units. More recently, there has been renewed interest in internal home divisions as a way to meet multiple public policy goals. This is especially true in larger Oregon cities where housing supply has failed to keep up with demand, rents have increased, and public pressure to preserve older homes has grown. Add to this the long-term trend of diminishing household sizes and the increasing number of people either downsizing or living with roommates out of choice or economic necessity, and it's no surprise that older homes are once again being called upon to serve multiple, smaller households, legally or not...The major limitations on internal home internal conversions predominantly stem from building, not zoning, codes. Internal conversions to three or more units trigger commercial codes and their accompanying requirements for firewalls and sprinkler systems that can be costly enough to jeopardize the financial feasibility of a conversion. Duplex conversions are more likely to work, since they can be done under the residential (one- and two-family) building code. As an illustration of how modern building codes can stand in the way of this housing type, consider the infrequency with which large single-family homes in multi-dwelling zones ever get converted to multiple units. This used to happen regularly. With modern building codes, it probably won't happen nearly as often."

The Portland Bureau of Planning and Sustainability would be happy to provide additional information or context related to this proposal. We are appreciative of all you do for Oregon and look forward to your consideration of this application.