

9-462.13. Zoning; development; middle housing; applicability; definitions

A. On or before January 1, 2026, a municipality with a population of seventy-five thousand persons or more must authorize by ordinance and incorporate into its development regulations, zoning regulations and other official controls the development of duplexes, triplexes, fourplexes and townhomes as a permitted use on both of the following:

1. All lots zoned for single-family residential use within one mile of the municipality's central business district.
2. At least twenty percent of any new development of more than ten contiguous acres.

B. The municipality may not do any of the following:

1. Discourage the development of middle housing through requirements or actions that individually or cumulatively make impracticable the permitting, siting, or construction of middle housing.
2. Restrict middle housing types to less than two floors.
3. Restrict middle housing types to a floor area ratio of less than fifty percent.
4. Set restrictions, permitting or review processes for middle housing that are more restrictive than those for single-family dwellings within the same zone.
5. Require owner occupancy of any structures on the lot.
6. Require any structures to comply with a commercial building code or to contain a fire sprinkler.
7. Require more than one off-street parking space per unit.

C. This section does not prohibit the governing body of a municipality from allowing either of the following:

1. Single-family dwellings in areas zoned for single-family dwellings.
2. Additional types of middle housing not required under this section.

D. This section does not apply to any of the following:

1. Areas that are not incorporated.
2. Areas that lack sufficient urban services.
3. Areas that are not served by water and sewer services.
4. Areas that are not zoned for residential use.
5. Areas that are not incorporated and are zoned under an interim zoning designation that maintains the area's potential for planned urban development.
6. Areas covered under title 48, chapter 6, article 4.
7. Any land within the territory in the vicinity of a public airport as defined in section 28-8486 or to the extent this section would interfere with the public airport's ability to comply with the laws, regulations and requirements of the United States related to applying for, receiving or spending federal monies.
8. Any land within the territory in the vicinity of a military airport as defined in section 28-8461.

E. If a municipality does not adopt the regulations required by this section on or before January 1, 2026, middle housing shall be allowed on all lots in the municipality zoned for single-family residential use without any limitations.

F. This section does not change or otherwise impair the terms of any development agreement that exists on September 14, 2024.

G. Notwithstanding subsection A of this section, a utility provider impacted by a development being developed pursuant to this section shall have the opportunity to review and approve the site plan for the development.

H. For the purpose of this section:

1. "Building code":

(a) Means a construction code adopted by a municipality.

(b) Includes a model building code, commercial code, plumbing and mechanical code, electric code, energy conservation code, fire code, property maintenance code, neighborhood preservation code, antiblight code or other similar code.

2. "Central business district" means an area or series of areas designated by a municipality that are primarily nonindustrial and that attract community activity, including the entire geographic area that the municipality has officially designated as its downtown or equivalent on September 14, 2024.

3. "Duplex" means two dwelling units on the same parcel or lot in attached, detached or semidetached arrangements that are designed for residential occupancy by not more than two households living independently from each other.

4. "Floor area ratio" means the ratio of allowed square footage in a middle housing project to the square footage of the parcel on which it is built.

5. "Fourplex" means four dwelling units on the same parcel or lot in attached, detached or semidetached arrangements that are designed for residential occupancy by not more than four households living independently from each other.

6. "Household" means either:

(a) A single person living or residing in a dwelling or place of residence.

(b) Two or more persons living together or residing in the same dwelling or place of residence.

7. "Middle housing":

(a) Means buildings that are compatible in scale, form and character with single-family houses and that contain two or more attached, detached, stacked or clustered homes.

(b) Includes duplexes, triplexes, fourplexes and townhouses.

8. "Permitted use" means the ability for a development to be approved without requiring a public hearing, variance, conditional use permit, special permit or special exception, other than a discretionary zoning action to determination that a site plan conforms with applicable zoning regulations.

9. "Townhouses" means dwelling units that are constructed in a row of two or more attached units in which each dwelling unit shares at least one common wall with an adjacent unit and that are accessed by separate outdoor entrances.

10. "Triplex" means three dwelling units on the same parcel or lot in attached, detached or semidetached arrangements that are designed for residential occupancy by not more than three households living independently from each other.