

A-Engrossed House Bill 2001

Ordered by the House April 12
Including House Amendments dated April 12

Sponsored by Representative KOTEK; Representatives FAHEY, MARSH, MITCHELL (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires cities with population greater than 10,000 [*and counties with population greater than 15,000*] to allow [*middle housing*] **duplexes** in lands zoned for single-family dwellings within urban growth boundary. **Requires Metro counties and cities and cities with population greater than 25,000 to allow middle housing in lands zoned for residential uses within urban growth boundary.** Requires Land Conservation and Development Commission to draft model [*code*] **ordinances**. Requires cities and counties to amend their comprehensive plan and land use regulations to conform with [*requirement by December 31, 2020,*] **requirements** or to directly apply model [*code*] **ordinance** developed by commission.

Appropriates moneys to Department of Land Conservation and Development to provide technical assistance to local governments in implementing middle housing regulations and to plan improvement of urban services supporting middle housing.

Requires local governments to support density expectations with findings when updating regulations to accommodate housing need.

Requires cities to include number of permits issued and units produced of accessory dwelling units and middle housing in report to Department of Land Conservation and Development.

Requires Department of Consumer and Business Services to [*amend Low-Rise Residential Dwelling Code to apply to*] **establish alternate approval standards** for low-rise middle housing [*and to amend State of Oregon Structural Specialty Code to not apply to low-rise middle housing*] **conversions**. **Requires department to report on rules and standards to an interim committee of the Legislative Assembly by January 1, 2020.**

[*Allows attorney fees, beginning January 1, 2021, for prevailing applicant whose proposal to develop middle housing is denied.*]

Prohibits enforcement of new restrictions that would prohibit the construction of middle housing in governing documents for planned communities or instruments conveying title to real property.

Prohibits conditioning approval of accessory dwelling unit within urban growth boundary on off-street parking availability or owner occupancy.

[*Prohibits local governments from requiring system development charges to be paid by developer of middle housing before occupancy permit is issued.*]

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to housing; creating new provisions; amending ORS 197.296, 197.303, 197.312 and 455.610
3 and section 1, chapter 47, Oregon Laws 2018; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 197.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **"Cottage clusters"** means groupings of no fewer than four detached housing units per
8 acre with a footprint of less than 900 square feet each and that include a common courtyard.

9 (b) **"Middle housing"** means:

10 (A) **Duplexes;**

11 (B) **Triplexes;**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

- 1 (C) Quadplexes;
- 2 (D) Cottage clusters; and
- 3 (E) Townhouses.

4 (c) "Townhouses" means a dwelling unit constructed in a row of two or more attached
5 units, where each dwelling unit is located on an individual lot or parcel and shares at least
6 one common wall with an adjacent unit.

7 (2) Except as provided in subsection (4) of this section, each city with a population
8 greater than or equal to 25,000 and each county or city within a metropolitan service district
9 shall permit the development of all middle housing types in areas that are zoned for resi-
10 dential use and allow for detached single-family dwellings.

11 (3) Except as provided in subsection (4) of this section, each city with a population
12 greater than 10,000 and less than 25,000 outside of a metropolitan service district shall permit
13 the development of a duplex on each lot, in an area zoned for residential use, that allows for
14 the development of a detached single-family dwelling. Nothing in this subsection prohibits a
15 local government from allowing middle housing types in addition to duplexes.

16 (4) This section does not apply to:

17 (a) Cities with a population of 1,000 or fewer;

18 (b) Lands not within an urban growth boundary;

19 (c) Lands that are not incorporated and also lack sufficient urban services, as defined in
20 ORS 195.065;

21 (d) Lands that are not zoned for residential use, including lands zoned primarily for
22 commercial, industrial, agricultural or public uses; or

23 (e) Lands that are not incorporated and are zoned under an interim zoning designation
24 that maintains the land's potential for planned urban development.

25 (5) Local governments may regulate siting and design of middle housing required to be
26 permitted under this section, provided that, for each lot or parcel that allows for the devel-
27 opment of a detached single-family home, the regulations allow for at least one middle
28 housing type and do not, individually or cumulatively, discourage the development of all
29 middle housing types permitted in the area through unreasonable costs or delay. Local gov-
30 ernments may regulate middle housing to comply with protective measures adopted pursuant
31 to statewide land use planning goals.

32 (6) This section does not prohibit local governments from permitting:

33 (a) Single-family dwellings in areas zoned to allow for single-family dwellings; or

34 (b) Middle housing in areas not required under this section.

35 **SECTION 3.** (1) Notwithstanding ORS 197.646, a local government shall adopt land use
36 regulations or amend its comprehensive plan to implement section 2 of this 2019 Act no later
37 than:

38 (a) June 30, 2021, for each local government subject to section 2 (3) of this 2019 Act; or

39 (b) June 30, 2022, for each local government subject to section 2 (2) of this 2019 Act.

40 (2) The Land Conservation and Development Commission, with the assistance of the
41 Building Codes Division of the Department of Consumer and Business Services, shall develop
42 a model middle housing ordinance no later than December 31, 2020.

43 (3) A local government that has not acted within the time provided under subsection (1)
44 of this section shall directly apply the model ordinance developed by the commission under
45 subsection (2) of this section under ORS 197.646 (3) until the local government acts as de-

1 scribed in subsection (1) of this section.

2 (4) In adopting regulations or amending a comprehensive plan under this section, a local
3 government shall consider ways to increase the affordability of middle housing by considering
4 ordinances and policies that include but are not limited to:

5 (a) Waiving or deferring system development charges;

6 (b) Adopting or amending criteria for property tax exemptions under ORS 307.515 to
7 307.523, 307.540 to 307.548 or 307.651 to 307.687 or property tax freezes under ORS 308.450 to
8 308.481; and

9 (c) Assessing a construction tax under ORS 320.192 and 320.195.

10 (5) A final action adopted by a local government to allow middle housing does not con-
11 stitute a comprehensive plan amendment or land use regulation that must comply with a
12 statewide planning goal related to transportation or any implementing administrative rules
13 for a statewide planning goal related to transportation.

14 **SECTION 4.** (1) Notwithstanding section 3 (1) or (3) of this 2019 Act, the Department of
15 Land Conservation and Development may grant to a local government that is subject to
16 section 2 of this 2019 Act an extension of the time allowed to adopt land use regulations or
17 amend its comprehensive plan under section 3 of this 2019 Act.

18 (2) An extension under this section may be applied only to specific areas where the local
19 government has identified water, sewer, storm drainage or transportation services that are
20 either significantly deficient or are expected to be significantly deficient before December 31,
21 2023, and for which the local government has established a plan of actions that will remedy
22 the deficiency in those services that is approved by the department. The extension may not
23 extend beyond the date that the local government intends to correct the deficiency under the
24 plan.

25 (3) In areas where the extension under this section does not apply, the local government
26 shall apply its own land use regulations consistent with section 3 (1) of this 2019 Act or the
27 model ordinance developed under section 3 (2) of this 2019 Act.

28 (4) A request for an extension under this section must be filed with the department no
29 later than December 31, 2020.

30 (5) The department shall grant or deny a request for an extension under this section
31 within 90 days of receipt.

32 (6) The department shall adopt rules regarding the form and substance of a local
33 government's application for an extension under this section. The department may include
34 rules regarding:

35 (a) Defining the affected areas;

36 (b) Calculating deficiencies of water, sewer, storm drainage or transportation services;

37 (c) Service deficiency levels required to qualify for the extension;

38 (d) The components and timing of a remediation plan necessary to qualify for an exten-
39 sion; and

40 (e) Standards for evaluating applications.

41 **SECTION 5.** ORS 197.296 is amended to read:

42 197.296. (1)(a) The provisions of subsections (2) to (9) of this section apply to metropolitan ser-
43 vice district regional framework plans and local government comprehensive plans for lands within
44 the urban growth boundary of a city that is located outside of a metropolitan service district and
45 has a population of 25,000 or more.

1 (b) The Land Conservation and Development Commission may establish a set of factors under
2 which additional cities are subject to the provisions of this section. In establishing the set of factors
3 required under this paragraph, the commission shall consider the size of the city, the rate of popu-
4 lation growth of the city or the proximity of the city to another city with a population of 25,000 or
5 more or to a metropolitan service district.

6 (2) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of
7 the comprehensive plan or regional framework plan that concerns the urban growth boundary and
8 requires the application of a statewide planning goal relating to buildable lands for residential use,
9 a local government shall demonstrate that its comprehensive plan or regional framework plan pro-
10 vides sufficient buildable lands within the urban growth boundary established pursuant to statewide
11 planning goals to accommodate estimated housing needs for 20 years. The 20-year period shall
12 commence on the date initially scheduled for completion of the periodic or legislative review.

13 (3) In performing the duties under subsection (2) of this section, a local government shall:

14 (a) Inventory the supply of buildable lands within the urban growth boundary and determine the
15 housing capacity of the buildable lands; and

16 (b) Conduct an analysis of **existing and projected** housing need by type and density range, in
17 accordance with **all factors under** ORS 197.303 and statewide planning goals and rules relating to
18 housing, to determine the number of units and amount of land needed for each needed housing type
19 for the next 20 years.

20 (4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, “buildable
21 lands” includes:

22 (A) Vacant lands planned or zoned for residential use;

23 (B) Partially vacant lands planned or zoned for residential use;

24 (C) Lands that may be used for a mix of residential and employment uses under the existing
25 planning or zoning; and

26 (D) Lands that may be used for residential infill or redevelopment.

27 (b) For the purpose of the inventory and determination of housing capacity described in sub-
28 section (3)(a) of this section, the local government must demonstrate consideration of:

29 (A) The extent that residential development is prohibited or restricted by local regulation and
30 ordinance, state law and rule or federal statute and regulation;

31 (B) A written long term contract or easement for radio, telecommunications or electrical facili-
32 ties, if the written contract or easement is provided to the local government; and

33 (C) The presence of a single family dwelling or other structure on a lot or parcel.

34 (c) Except for land that may be used for residential infill or redevelopment, a local government
35 shall create a map or document that may be used to verify and identify specific lots or parcels that
36 have been determined to be buildable lands.

37 (5)(a) Except as provided in [*paragraphs (b) and (c)*] **paragraph (b)** of this subsection, the de-
38 termination of housing capacity [*and need*] pursuant to subsection [(3)] **(3)(a)** of this section must
39 be based on data relating to land within the urban growth boundary that has been collected since
40 the last [*periodic*] review or [*five*] **six** years, whichever is greater. The data shall include:

41 (A) The number, density and average mix of housing types of urban residential development that
42 have actually occurred;

43 (B) Trends in density and average mix of housing types of urban residential development; **and**

44 [*(C) Demographic and population trends;*]

45 [*(D) Economic trends and cycles; and*]

1 *[(E)]* (C) The number, density and average mix of housing types that have occurred on the
2 buildable lands described in subsection (4)(a) of this section.

3 (b) A local government shall make the determination described in paragraph (a) of this sub-
4 section using a shorter time period than the time period described in paragraph (a) of this subsection
5 if the local government finds that the shorter time period will provide more accurate and reliable
6 data related to housing capacity *[and need]*. The shorter time period may not be less than three
7 years.

8 *[(c) A local government shall use data from a wider geographic area or use a time period for eco-
9 nomic cycles and trends longer than the time period described in paragraph (a) of this subsection if the
10 analysis of a wider geographic area or the use of a longer time period will provide more accurate,
11 complete and reliable data relating to trends affecting housing need than an analysis performed pur-
12 suant to paragraph (a) of this subsection. The local government must clearly describe the geographic
13 area, time frame and source of data used in a determination performed under this paragraph.]*

14 (6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than
15 the housing capacity determined pursuant to subsection (3)(a) of this section, the local government
16 shall take one or *[more]* **both** of the following actions to accommodate the additional housing need:

17 (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate
18 housing needs for the next 20 years. As part of this process, the local government shall consider the
19 effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include
20 sufficient land reasonably necessary to accommodate the siting of new public school facilities. The
21 need and inclusion of lands for new public school facilities shall be a coordinated process between
22 the affected public school districts and the local government that has the authority to approve the
23 urban growth boundary[;].

24 (b) Amend its comprehensive plan, regional framework plan, functional plan or land use regu-
25 lations to include new measures that demonstrably increase the likelihood that residential develop-
26 ment will occur at densities sufficient to accommodate housing needs for the next 20 years without
27 expansion of the urban growth boundary. A local government or metropolitan service district that
28 takes this action shall *[monitor and record the level of development activity and development density
29 by housing type following the date of the adoption of the new measures; or]* **adopt findings regarding
30 the density expectations assumed to result from measures adopted under this paragraph
31 based upon the factors listed in ORS 197.303 (2) and subsection (5)(a) of this section. The
32 density expectations may not project an increase in residential capacity above achieved den-
33 sity by more than three percent without quantifiable validation of such departures. For a
34 local government located outside of a metropolitan service district, a quantifiable validation
35 must demonstrate that the assumed housing capacity has been achieved in areas that are
36 zoned to allow the same authorized density level within the local jurisdiction or a jurisdiction
37 in the same region. For a metropolitan service district, a quantifiable validation must dem-
38 onstrate that the assumed housing capacity has been achieved in areas that are zoned to
39 allow the same authorized density level within the metropolitan service district.**

40 *[(c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection.]*

41 (c) **As used in this subsection, “authorized density level” has the meaning given that
42 term in ORS 215.416 and 227.175.**

43 (7) Using the **housing need** analysis conducted under subsection (3)(b) of this section, the local
44 government shall determine the overall average density and overall mix of housing types at which
45 residential development of needed housing types must occur in order to meet housing needs over the

1 next 20 years. If that density is greater than the actual density of development determined under
 2 subsection (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types
 3 determined under subsection (5)(a)(A) of this section, the local government, as part of its periodic
 4 review, shall adopt measures that demonstrably increase the likelihood that residential development
 5 will occur at the housing types and density and at the mix of housing types required to meet housing
 6 needs over the next 20 years.

7 (8)(a) A local government outside a metropolitan service district that takes any actions under
 8 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use
 9 regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to
 10 197.314.

11 (b) *[The]* A local government shall determine the density and mix of housing types anticipated
 12 as a result of actions taken under subsections (6) and (7) of this section and monitor and record the
 13 actual density and mix of housing types achieved **following the adoption of these actions**. The
 14 local government shall compare actual and anticipated density and mix. The local government shall
 15 submit its comparison to the commission at the next periodic review or at the next legislative re-
 16 view of its urban growth boundary, whichever comes first.

17 (9) In establishing that actions and measures adopted under subsections (6) and (7) of this sec-
 18 tion demonstrably increase the likelihood of higher density residential development, the local gov-
 19 ernment shall at a minimum ensure that land zoned for needed housing is in locations appropriate
 20 for the housing types identified under subsection (3) of this section, *[and]* is zoned at density ranges
 21 that are likely to be achieved by the housing market using the analysis in subsection (3) of this
 22 section **and is in areas where sufficient urban services are planned to enable the higher den-
 23 sity development to occur over the 20-year period**. Actions or measures, or both, may include
 24 but are not limited to:

25 (a) Increases in the permitted density on existing residential land;

26 (b) Financial incentives for higher density housing;

27 (c) Provisions permitting additional density beyond that generally allowed in the zoning district
 28 in exchange for amenities and features provided by the developer;

29 (d) Removal or easing of approval standards or procedures;

30 (e) Minimum density ranges;

31 (f) Redevelopment and infill strategies;

32 (g) Authorization of housing types not previously allowed by the plan or regulations;

33 (h) Adoption of an average residential density standard; and

34 (i) Rezoning or redesignation of nonresidential land.

35 (10)(a) The provisions of this subsection apply to local government comprehensive plans for
 36 lands within the urban growth boundary of a city that is located outside of a metropolitan service
 37 district and has a population of less than 25,000.

38 (b) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of
 39 the comprehensive plan that requires the application of a statewide planning goal relating to
 40 buildable lands for residential use, a city shall, according to rules of the commission:

41 (A) Determine the estimated housing needs within the jurisdiction for the next 20 years;

42 (B) Inventory the supply of buildable lands available within the urban growth boundary to ac-
 43 commodate the estimated housing needs determined under this subsection; and

44 (C) Adopt measures necessary to accommodate the estimated housing needs determined under
 45 this subsection.

1 (c) For the purpose of the inventory described in this subsection, “buildable lands” includes
2 those lands described in subsection (4)(a) of this section.

3 **SECTION 6.** ORS 197.303 is amended to read:

4 197.303. (1) As used in ORS 197.307, “needed housing” means all housing on land zoned for res-
5 idential use or mixed residential and commercial use that is determined to meet the need shown for
6 housing within an urban growth boundary at price ranges and rent levels that are affordable to
7 households within the county with a variety of incomes, including but not limited to households with
8 low incomes, very low incomes and extremely low incomes, as those terms are defined by the United
9 States Department of Housing and Urban Development under 42 U.S.C. 1437a. “Needed housing”
10 includes the following housing types:

11 (a) Attached and detached single-family housing and multiple family housing for both owner and
12 renter occupancy;

13 (b) Government assisted housing;

14 (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

15 (d) Manufactured homes on individual lots planned and zoned for single-family residential use
16 that are in addition to lots within designated manufactured dwelling subdivisions; and

17 (e) Housing for farmworkers.

18 **(2) For the purpose of estimating housing needs, a local government shall use the popu-
19 lation projections prescribed by ORS 195.033 or 195.036 and shall consider and adopt findings
20 related to the following factors and the projected changes in these factors:**

21 **(a) Household sizes;**

22 **(b) Household demographics in terms of age, gender, race or other established demo-
23 graphic category;**

24 **(c) Household incomes;**

25 **(d) Vacancy rates; and**

26 **(e) Employment types and income.**

27 [(2)] **(3)** Subsection (1)(a) and (d) of this section does not apply to:

28 (a) A city with a population of less than 2,500.

29 (b) A county with a population of less than 15,000.

30 (3) A local government may take an exception under ORS 197.732 to the definition of “needed
31 housing” in subsection (1) of this section in the same manner that an exception may be taken under
32 the goals.

33 **SECTION 7.** ORS 197.312, as amended by section 7, chapter 15, Oregon Laws 2018, is amended
34 to read:

35 197.312. (1) A city or county may not by charter prohibit from all residential zones attached or
36 detached single-family housing, multifamily housing for both owner and renter occupancy or manu-
37 factured homes. A city or county may not by charter prohibit government assisted housing or impose
38 additional approval standards on government assisted housing that are not applied to similar but
39 unassisted housing.

40 (2)(a) A single-family dwelling for a farmworker and the farmworker’s immediate family is a
41 permitted use in any residential or commercial zone that allows single-family dwellings as a per-
42 mitted use.

43 (b) A city or county may not impose a zoning requirement on the establishment and maintenance
44 of a single-family dwelling for a farmworker and the farmworker’s immediate family in a residential
45 or commercial zone described in paragraph (a) of this subsection that is more restrictive than a

1 zoning requirement imposed on other single-family dwellings in the same zone.

2 (3)(a) Multifamily housing for farmworkers and farmworkers' immediate families is a permitted
3 use in any residential or commercial zone that allows multifamily housing generally as a permitted
4 use.

5 (b) A city or county may not impose a zoning requirement on the establishment and maintenance
6 of multifamily housing for farmworkers and farmworkers' immediate families in a residential or
7 commercial zone described in paragraph (a) of this subsection that is more restrictive than a zoning
8 requirement imposed on other multifamily housing in the same zone.

9 (4) A city or county may not prohibit a property owner or developer from maintaining a real
10 estate sales office in a subdivision or planned community containing more than 50 lots or dwelling
11 units for the sale of lots or dwelling units that remain available for sale to the public.

12 (5)(a) A city with a population greater than 2,500 or a county with a population greater than
13 15,000 shall allow in areas within the urban growth boundary that are zoned for detached single-
14 family dwellings the development of at least one accessory dwelling unit for each detached single-
15 family dwelling, subject to reasonable local regulations relating to siting and design.

16 (b) As used in this subsection[,]:

17 (A) "Accessory dwelling unit" means an interior, attached or detached residential structure that
18 is used in connection with or that is accessory to a single-family dwelling.

19 (B) "Reasonable local regulations relating to siting and design" does not include owner-
20 occupancy requirements of either the primary or accessory structure or requirements to
21 construct additional off-street parking.

22 (6) Subsection (5) of this section does not prohibit local governments from regulating
23 vacation occupancies, as defined in ORS 90.100, to require owner-occupancy or off-street
24 parking.

25 **SECTION 8.** Section 1, chapter 47, Oregon Laws 2018, is amended to read:

26 **Sec. 1.** (1) For purposes of this section:

27 (a) A household is severely rent burdened if the household spends more than 50 percent of the
28 income of the household on gross rent for housing.

29 (b) A regulated affordable unit is a residential unit subject to a regulatory agreement that runs
30 with the land and that requires affordability for an established income level for a defined period of
31 time.

32 [*(c) A single-family unit may be rented or owned by a household and includes single-family homes,*
33 *duplexes, townhomes, row homes and mobile homes.*]

34 (2)(a) The Housing and Community Services Department shall annually provide to the governing
35 body of each city in this state with a population greater than 10,000 the most current data available
36 from the United States Census Bureau, or any other source the department considers at least as
37 reliable, showing the percentage of renter households in the city that are severely rent burdened.

38 (b) The Housing and Community Services Department, in collaboration with the Department of
39 Land Conservation and Development, shall develop a survey form on which the governing body of
40 a city may provide specific information related to the affordability of housing within the city, in-
41 cluding, but not limited to:

42 (A) The actions relating to land use and other related matters that the governing body has taken
43 to increase the affordability of housing and reduce rent burdens for severely rent burdened house-
44 holds; and

45 (B) The additional actions the governing body intends to take to reduce rent burdens for se-

1 verely rent burdened households.

2 (c) If the Housing and Community Services Department determines that at least 25 percent of
3 the renter households in a city are severely rent burdened, the department shall provide the gov-
4 erning body of the city with the survey form developed pursuant to paragraph (b) of this subsection.

5 (d) The governing body of the city shall return the completed survey form to the Housing and
6 Community Services Department and the Department of Land Conservation and Development within
7 60 days of receipt.

8 (3)(a) In any year in which the governing body of a city is informed under this section that at
9 least 25 percent of the renter households in the city are severely rent burdened, the governing body
10 shall hold at least one public meeting to discuss the causes and consequences of severe rent burdens
11 within the city, the barriers to reducing rent burdens and possible solutions.

12 (b) The Housing and Community Services Department may adopt rules governing the conduct
13 of the public meeting required under this subsection.

14 (4) No later than February 1 of each year, the governing body of each city in this state with a
15 population greater than 10,000 shall submit to the Department of Land Conservation and Develop-
16 ment a report for the immediately preceding calendar year setting forth separately for each of the
17 following categories the total number of units that were permitted and the total number that were
18 produced:

19 (a) Residential units.

20 (b) Regulated affordable residential units.

21 (c) Multifamily residential units.

22 (d) Regulated affordable multifamily residential units.

23 (e) Single-family [*units*] **homes**.

24 (f) Regulated affordable single-family [*units*] **homes**.

25 **(g) Accessory dwelling units.**

26 **(h) Regulated affordable accessory dwelling units.**

27 **(i) Units of middle housing, as defined in section 2 of this 2019 Act.**

28 **(j) Regulated affordable units of middle housing.**

29 **SECTION 9.** ORS 455.610 is amended to read:

30 455.610. (1) The Director of the Department of Consumer and Business Services shall adopt, and
31 amend as necessary, a Low-Rise Residential Dwelling Code that contains all requirements, including
32 structural design provisions, related to the construction of residential dwellings three stories or less
33 above grade. The code provisions for plumbing and electrical requirements must be compatible with
34 other specialty codes adopted by the director. The Electrical and Elevator Board, the Mechanical
35 Board and the State Plumbing Board shall review, respectively, amendments to the electrical, me-
36 chanical or plumbing provisions of the code.

37 (2) Changes or amendments to the code adopted under subsection (1) of this section may be made
38 when:

39 (a) Required by geographic or climatic conditions unique to Oregon;

40 (b) Necessary to be compatible with other statutory provisions;

41 (c) Changes to the national codes are adopted in Oregon; or

42 (d) Necessary to authorize the use of building materials and techniques that are consistent with
43 nationally recognized standards and building practices.

44 (3) Notwithstanding ORS 455.030, 455.035, 455.110 and 455.112, the director may, at any time
45 following appropriate consultation with the Mechanical Board or Building Codes Structures Board,

1 amend the mechanical specialty code or structural specialty code to ensure compatibility with the
2 Low-Rise Residential Dwelling Code.

3 (4) The water conservation provisions for toilets, urinals, shower heads and interior faucets
4 adopted in the Low-Rise Residential Dwelling Code shall be the same as those adopted under ORS
5 447.020 to meet the requirements of ORS 447.145.

6 (5) The Low-Rise Residential Dwelling Code shall be adopted and amended as provided by ORS
7 455.030 and 455.110.

8 (6) The director, by rule, shall establish uniform standards for a municipality to allow an alter-
9 nate method of construction to the requirements for one and two family dwellings built to the
10 Low-Rise Residential Dwelling Code in areas where the local jurisdiction determines that the fire
11 apparatus means of approach to a property or water supply serving a property does not meet ap-
12 plicable fire code or state building code requirements. The alternate method of construction, which
13 may include but is not limited to the installation of automatic fire sprinkler systems, must be ap-
14 proved in conjunction with the approval of an application under ORS 197.522.

15 (7) For lots of record existing before July 2, 2001, or property that receives any approval for
16 partition, subdivision or construction under ORS 197.522 before July 2, 2001, a municipality allowing
17 an alternate method of construction to the requirements for one and two family dwellings built to
18 the Low-Rise Residential Dwelling Code may apply the uniform standards established by the director
19 pursuant to subsection (6) of this section. For property that receives all approvals for partition,
20 subdivision or construction under ORS 197.522 on or after July 2, 2001, a municipality allowing an
21 alternate method of construction to the requirements for one and two family dwellings built to the
22 Low-Rise Residential Dwelling Code must apply the uniform standards established by the director
23 pursuant to subsection (6) of this section.

24 **(8) The director, by rule, shall establish uniform standards for a municipality to allow**
25 **alternate approval of construction related to conversions of low-rise residential dwellings to**
26 **no more than four residential dwelling units built to the Low-Rise Residential Dwelling Code**
27 **that received occupancy approval prior to January 1, 2020. The standards adopted under this**
28 **subsection shall include standards describing the information that must be submitted before**
29 **an application for alternate approval will be deemed complete.**

30 **(9)(a) A building official described in ORS 455.148 or 455.150 must approve or deny an**
31 **application for alternate approval under subsection (8) of this section within 15 days of re-**
32 **ceiving a complete application.**

33 **(b) A building official who denies an application for alternate approval under this sub-**
34 **section shall provide to the applicant:**

35 **(A) A written explanation of the basis for the denial; and**

36 **(B) A statement that describes the applicant's appeal rights under subsection (10) of this**
37 **section.**

38 **(10) An appeal from a denial under subsection (9) of this section shall be made to the**
39 **Residential and Manufactured Structures Board. The board shall issue a decision no later**
40 **than 30 days after the appeal is first made. The decision of the board may not be appealed.**

41 **SECTION 10. (1) It is the policy of the State of Oregon to reduce to the extent practicable**
42 **administrative and permitting costs and barriers to the construction of middle housing, as**
43 **defined in section 2 of this 2019 Act, while maintaining safety, public health and the general**
44 **welfare with respect to construction and occupancy.**

45 **(2) The Department of Consumer and Business Services shall submit a report describing**

1 rules and standards relating to low-rise residential dwellings proposed under ORS 455.610, as
2 amended by section 9 of this 2019 Act, in the manner provided in ORS 192.245, to an interim
3 committee of the Legislative Assembly related to housing no later than January 1, 2020.

4 **SECTION 11.** Section 12 of this 2019 Act is added to and made a part of ORS 94.550 to
5 94.783.

6 **SECTION 12.** A provision in a governing document that is adopted or amended on or after
7 the effective date of this 2019 Act, is void and unenforceable to the extent that the provision
8 would prohibit or have the effect of unreasonably restricting the development of housing that
9 is otherwise allowable under the maximum density of the zoning for the land.

10 **SECTION 13.** A provision in an instrument conveying, or contracting to convey, title to
11 real property is not enforceable if:

12 (1) The provision would prohibit the development of middle housing, as defined in section
13 2 of this 2019 Act, on the property but would allow the development of a single-family
14 dwelling; and

15 (2) The instrument was executed on or after the effective date of this 2019 Act.

16 **SECTION 14.** (1) Sections 2, 12 and 13 of this 2019 Act and the amendments to ORS
17 197.296, 197.303, 197.312 and 455.610 and section 1, chapter 47, Oregon Laws 2018, by sections
18 5 to 9 of this 2019 Act become operative on January 1, 2020.

19 (2) The Land Conservation and Development Commission, the Department of Consumer
20 and Business Services and the Residential and Manufactured Structures Board may take any
21 actions before the operative date specified in subsection (1) of this section necessary to en-
22 able the commission, department or board to exercise, on or after the operative date speci-
23 fied in subsection (1) of this section, the duties required under sections 2, 3 and 10 of this
24 2019 Act and the amendments to ORS 455.610 by section 9 of this 2019 Act.

25 **SECTION 15.** In addition to and not in lieu of any other appropriation, there is appro-
26 priated to the Land Conservation and Development Commission, for the biennium beginning
27 July 1, 2019, out of the General Fund:

28 (1) The amount of \$_____ for the purpose of enforcing section 3 (1) of this 2019 Act
29 through enforcement actions as provided in ORS 197.319 to 197.335; and

30 (2) The amount of \$_____ for the activities of the commission under section 3 (2) and
31 (3) of this 2019 Act.

32 **SECTION 16.** In addition to and not in lieu of any other appropriation, there is appro-
33 priated to the Department of Land Conservation and Development, for the biennium begin-
34 ning July 1, 2019, out of the General Fund, the amount of \$3,000,000 for the purpose of
35 providing technical assistance to local governments in implementing section 3 (1) of this 2019
36 Act and to develop plans to improve water, sewer, storm drainage and transportation ser-
37 vices as described in section 4 (2) of this 2019 Act. The department shall prioritize technical
38 assistance to cities or counties with limited planning staff or that commit to implementation
39 earlier than the date required under section 3 (1) of this 2019 Act.

40 **SECTION 17.** This 2019 Act being necessary for the immediate preservation of the public
41 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
42 on its passage.