

B-Engrossed House Bill 2001

Ordered by the House June 19
Including House Amendments dated April 12 and June 19

Sponsored by Representative KOTEK; Representatives FAHEY, HERNANDEZ, MARSH, MITCHELL, POWER, STARK, WILLIAMS, ZIKA (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 **or within Metro** to allow 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 ordinances. Requires cities and counties to amend their comprehensive plan and land use regulations to conform with requirements or to directly apply model 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 establish alternate approval standards for 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.

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

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

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;**

12 (C) **Quadplexes;**

13 (D) **Cottage clusters; and**

14 (E) **Townhouses.**

15 (c) **“Townhouses” means a dwelling unit constructed in a row of two or more attached**

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 units, where each dwelling unit is located on an individual lot or parcel and shares at least
2 one common wall with an adjacent unit.

3 (2) Except as provided in subsection (4) of this section, each city with a population of
4 25,000 or more and each county or city within a metropolitan service district shall allow the
5 development of:

6 (a) All middle housing types in areas zoned for residential use that allow for the devel-
7 opment of detached single-family dwellings; and

8 (b) A duplex on each lot or parcel zoned for residential use that allows for the develop-
9 ment of detached single-family dwellings.

10 (3) Except as provided in subsection (4) of this section, each city not within a metropol-
11 itan service district with a population of more than 10,000 and less than 25,000 shall allow the
12 development of a duplex on each lot or parcel zoned for residential use that allows for the
13 development of detached single-family dwellings. Nothing in this subsection prohibits a local
14 government from allowing middle housing types in addition to duplexes.

15 (4) This section does not apply to:

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

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

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

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

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

24 (5) Local governments may regulate siting and design of middle housing required to be
25 permitted under this section, provided that the regulations do not, individually or cumula-
26 tively, discourage the development of all middle housing types permitted in the area through
27 unreasonable costs or delay. Local governments may regulate middle housing to comply with
28 protective measures adopted pursuant to statewide land use planning goals.

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

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

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

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

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

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

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

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

44 (4) In adopting regulations or amending a comprehensive plan under this section, a local
45 government shall consider ways to increase the affordability of middle housing by considering

1 ordinances and policies that include but are not limited to:

2 (a) Waiving or deferring system development charges;

3 (b) Adopting or amending criteria for property tax exemptions under ORS 307.515 to
4 307.523, 307.540 to 307.548 or 307.651 to 307.687 or property tax freezes under ORS 308.450 to
5 308.481; and

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

7 (5) When a local government makes a legislative decision to amend its comprehensive
8 plan or land use regulations to allow middle housing in areas zoned for residential use that
9 allow for detached single-family dwellings, the local government is not required to consider
10 whether the amendments significantly affect an existing or planned transportation facility.

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

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

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

25 (4) A request for an extension by a local government must be filed with the department
26 no later than:

27 (a) December 31, 2020, for a city subject to section 2 (3) of this 2019 Act.

28 (b) June 30, 2021, for a local government subject to section 2 (2) of this 2019 Act.

29 (5) The department shall grant or deny a request for an extension under this section:

30 (a) Within 90 days of receipt of a complete request from a city subject to section 2 (3)
31 of this 2019 Act.

32 (b) Within 120 days of receipt of a complete request from a local government subject to
33 section 2 (2) of this 2019 Act.

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

37 (a) Defining the affected areas;

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

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

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

42 (e) Standards for evaluating applications; and

43 (f) Establishing deadlines and components for the approval of a plan of action.

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

45 197.296. (1)(a) The provisions of subsections (2) to (9) of this section apply to metropolitan ser-

1 vice district regional framework plans and local government comprehensive plans for lands within
2 the urban growth boundary of a city that is located outside of a metropolitan service district and
3 has a population of 25,000 or more.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 (C) **Market factors that may substantially impact future urban residential development;**

3 **and**

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

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

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

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

13 (c) A local government shall use data from a wider geographic area or use a time period [*for*
14 *economic cycles and trends*] longer than the time period described in paragraph (a) of this subsection
15 if the analysis of a wider geographic area or the use of a longer time period will provide more ac-
16 curate, complete and reliable data relating to trends affecting housing need than an analysis per-
17 formed pursuant to paragraph (a) of this subsection. The local government must clearly describe the
18 geographic area, time frame and source of data used in a determination performed under this para-
19 graph.

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

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

30 (b) Amend its comprehensive plan, regional framework plan, functional plan or land use regu-
31 lations to include new measures that demonstrably increase the likelihood that residential develop-
32 ment will occur at densities sufficient to accommodate housing needs for the next 20 years without
33 expansion of the urban growth boundary. A local government or metropolitan service district that
34 takes this action shall [*monitor and record the level of development activity and development density*
35 *by housing type following the date of the adoption of the new measures; or*] **adopt findings regarding**
36 **the density expectations assumed to result from measures adopted under this paragraph**
37 **based upon the factors listed in ORS 197.303 (2) and data in subsection (5)(a) of this section.**
38 **The density expectations may not project an increase in residential capacity above achieved**
39 **density by more than three percent without quantifiable validation of such departures. For**
40 **a local government located outside of a metropolitan service district, a quantifiable validation**
41 **must demonstrate that the assumed housing capacity has been achieved in areas that are**
42 **zoned to allow no greater than the same authorized density level within the local jurisdiction**
43 **or a jurisdiction in the same region. For a metropolitan service district, a quantifiable vali-**
44 **ation must demonstrate that the assumed housing capacity has been achieved in areas that**
45 **are zoned to allow no greater than the same authorized density level within the metropolitan**

1 **service district.**

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

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

5 (7) Using the **housing need** analysis conducted under subsection (3)(b) of this section, the local
6 government shall determine the overall average density and overall mix of housing types at which
7 residential development of needed housing types must occur in order to meet housing needs over the
8 next 20 years. If that density is greater than the actual density of development determined under
9 subsection (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types
10 determined under subsection (5)(a)(A) of this section, the local government, as part of its periodic
11 review, shall adopt measures that demonstrably increase the likelihood that residential development
12 will occur at the housing types and density and at the mix of housing types required to meet housing
13 needs over the next 20 years.

14 (8)(a) A local government outside a metropolitan service district that takes any actions under
15 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use
16 regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to
17 197.314.

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

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

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

33 (b) Financial incentives for higher density housing;

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

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

37 (e) Minimum density ranges;

38 (f) Redevelopment and infill strategies;

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

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

41 (i) Rezoning or redesignation of nonresidential land.

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

45 (b) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of

1 the comprehensive plan that requires the application of a statewide planning goal relating to
2 buildable lands for residential use, a city shall, according to rules of the commission:

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

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

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

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

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

11 197.303. (1) As used in ORS [197.307] **197.295 to 197.314**, “needed housing” means all housing
12 on land zoned for residential use or mixed residential and commercial use that is determined to meet
13 the need shown for housing within an urban growth boundary at price ranges and rent levels that
14 are affordable to households within the county with a variety of incomes, including but not limited
15 to households with low incomes, very low incomes and extremely low incomes, as those terms are
16 defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a.
17 “Needed housing” includes the following housing types:

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

20 (b) Government assisted housing;

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

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

24 (e) Housing for farmworkers.

25 **(2) For the purpose of estimating housing needs, as described in ORS 197.296 (3)(b), a lo-**
26 **cal government shall use the population projections prescribed by ORS 195.033 or 195.036 and**
27 **shall consider and adopt findings related to changes in each of the following factors since the**
28 **last periodic or legislative review or six years, whichever is greater, and the projected future**
29 **changes in these factors over a 20-year planning period:**

30 (a) **Household sizes;**

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

33 (c) **Household incomes;**

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

35 (e) **Housing costs.**

36 **(3) A local government shall make the estimate described in subsection (2) of this section**
37 **using a shorter time period than since the last periodic or legislative review or six years,**
38 **whichever is greater, if the local government finds that the shorter time period will provide**
39 **more accurate and reliable data related to housing need. The shorter time period may not**
40 **be less than three years.**

41 **(4) A local government shall use data from a wider geographic area or use a time period**
42 **longer than the time period described in subsection (2) of this section if the analysis of a**
43 **wider geographic area or the use of a longer time period will provide more accurate, com-**
44 **plete and reliable data relating to trends affecting housing need than an analysis performed**
45 **pursuant to subsection (2) of this section. The local government must clearly describe the**

1 **geographic area, time frame and source of data used in an estimate performed under this**
2 **subsection.**

3 [(2)] (5) Subsection (1)(a) and (d) of this section does not apply to:

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

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

6 [(3)] (6) A local government may take an exception under ORS 197.732 to the definition of
7 “needed housing” in subsection (1) of this section in the same manner that an exception may be
8 taken under the goals.

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

11 197.312. (1) A city or county may not by charter prohibit from all residential zones attached or
12 detached single-family housing, multifamily housing for both owner and renter occupancy or manu-
13 factured homes. A city or county may not by charter prohibit government assisted housing or impose
14 additional approval standards on government assisted housing that are not applied to similar but
15 unassisted housing.

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

19 (b) A city or county may not impose a zoning requirement on the establishment and maintenance
20 of a single-family dwelling for a farmworker and the farmworker’s immediate family in a residential
21 or commercial zone described in paragraph (a) of this subsection that is more restrictive than a
22 zoning requirement imposed on other single-family dwellings in the same zone.

23 (3)(a) Multifamily housing for farmworkers and farmworkers’ immediate families is a permitted
24 use in any residential or commercial zone that allows multifamily housing generally as a permitted
25 use.

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

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

33 (5)(a) A city with a population greater than 2,500 or a county with a population greater than
34 15,000 shall allow in areas within the urban growth boundary that are zoned for detached single-
35 family dwellings the development of at least one accessory dwelling unit for each detached single-
36 family dwelling, subject to reasonable local regulations relating to siting and design.

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

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

40 (B) “Reasonable local regulations relating to siting and design” does not include owner-
41 occupancy requirements of either the primary or accessory structure or requirements to
42 construct additional off-street parking.

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

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

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

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

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

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

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

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

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

21 (B) The additional actions the governing body intends to take to reduce rent burdens for se-
22 verely rent burdened households.

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

26 (d) The governing body of the city shall return the completed survey form to the Housing and
27 Community Services Department and the Department of Land Conservation and Development within
28 60 days of receipt.

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

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

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

40 (a) Residential units.

41 (b) Regulated affordable residential units.

42 (c) Multifamily residential units.

43 (d) Regulated affordable multifamily residential units.

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

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

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

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

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

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

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

6 455.610. (1) The Director of the Department of Consumer and Business Services shall adopt, and
7 amend as necessary, a Low-Rise Residential Dwelling Code that contains all requirements, including
8 structural design provisions, related to the construction of residential dwellings three stories or less
9 above grade. The code provisions for plumbing and electrical requirements must be compatible with
10 other specialty codes adopted by the director. The Electrical and Elevator Board, the Mechanical
11 Board and the State Plumbing Board shall review, respectively, amendments to the electrical, me-
12 chanical or plumbing provisions of the code.

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

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

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

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

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

20 (3) Notwithstanding ORS 455.030, 455.035, 455.110 and 455.112, the director may, at any time
21 following appropriate consultation with the Mechanical Board or Building Codes Structures Board,
22 amend the mechanical specialty code or structural specialty code to ensure compatibility with the
23 Low-Rise Residential Dwelling Code.

24 (4) The water conservation provisions for toilets, urinals, shower heads and interior faucets
25 adopted in the Low-Rise Residential Dwelling Code shall be the same as those adopted under ORS
26 447.020 to meet the requirements of ORS 447.145.

27 (5) The Low-Rise Residential Dwelling Code shall be adopted and amended as provided by ORS
28 455.030 and 455.110.

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

36 (7) For lots of record existing before July 2, 2001, or property that receives any approval for
37 partition, subdivision or construction under ORS 197.522 before July 2, 2001, a municipality allowing
38 an alternate method of construction to the requirements for one and two family dwellings built to
39 the Low-Rise Residential Dwelling Code may apply the uniform standards established by the director
40 pursuant to subsection (6) of this section. For property that receives all approvals for partition,
41 subdivision or construction under ORS 197.522 on or after July 2, 2001, a municipality allowing an
42 alternate method of construction to the requirements for one and two family dwellings built to the
43 Low-Rise Residential Dwelling Code must apply the uniform standards established by the director
44 pursuant to subsection (6) of this section.

45 **(8) The director, by rule, shall establish uniform standards for a municipality to allow**

1 alternate approval of construction related to conversions of single-family dwellings into no
2 more than four residential dwelling units built to the Low-Rise Residential Dwelling Code
3 that received occupancy approval prior to January 1, 2020. The standards established under
4 this subsection must include standards describing the information that must be submitted
5 before an application for alternate approval will be deemed complete.

6 (9)(a) A building official described in ORS 455.148 or 455.150 must approve or deny an
7 application for alternate approval under subsection (8) of this section no later than 15 busi-
8 ness days after receiving a complete application.

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

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

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

14 (10)(a) An appeal from a denial under subsection (9) of this section must be made through
15 a municipal administrative process. A municipality shall provide an administrative process
16 that:

17 (A) Is other than a judicial proceeding in a court of law; and

18 (B) Affords the party an opportunity to appeal the denial before an individual, department
19 or body that is other than a plan reviewer, inspector or building official for the municipality.

20 (b) A decision in an administrative process under this subsection must be completed no
21 later than 30 business days after the building official receives notice of the appeal.

22 (c) Notwithstanding ORS 455.690, a municipal administrative process required under this
23 subsection is the exclusive means for appealing a denial under subsection (9) of this section.

24 (11) The costs incurred by a municipality under subsections (9) and (10) of this section
25 are building inspection program administration and enforcement costs for the purpose of fee
26 adoption under ORS 455.210.

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

31 (2) The Department of Consumer and Business Services shall submit a report describing
32 rules and standards relating to low-rise residential dwellings proposed under ORS 455.610, as
33 amended by section 9 of this 2019 Act, in the manner provided in ORS 192.245, to an interim
34 committee of the Legislative Assembly related to housing no later than January 1, 2020.

35 **SECTION 11.** Section 12 of this 2019 Act is added to and made a part of ORS 94.550 to
36 94.783.

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

41 **SECTION 13.** A provision in a recorded instrument affecting real property is not en-
42 forceable if:

43 (1) The provision would allow the development of a single-family dwelling on the real
44 property but would prohibit the development of:

45 (a) Middle housing, as defined in section 2 of this 2019 Act; or

1 (b) An accessory dwelling unit allowed under ORS 197.312 (5); and

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

3 **SECTION 14.** (1) Sections 2, 12 and 13 of this 2019 Act and the amendments to ORS
4 197.296, 197.303, 197.312 and 455.610 and section 1, chapter 47, Oregon Laws 2018, by sections
5 5 to 9 of this 2019 Act become operative on January 1, 2020.

6 (2) The Land Conservation and Development Commission, the Department of Consumer
7 and Business Services and the Residential and Manufactured Structures Board may take any
8 actions before the operative date specified in subsection (1) of this section necessary to en-
9 able the commission, department or board to exercise, on or after the operative date speci-
10 fied in subsection (1) of this section, the duties required under sections 2, 3 and 10 of this
11 2019 Act and the amendments to ORS 455.610 by section 9 of this 2019 Act.

12 **SECTION 15.** In addition to and not in lieu of any other appropriation, there is appro-
13 priated to the Department of Land Conservation and Development, for the biennium begin-
14 ning July 1, 2019, out of the General Fund, the amount of \$3,500,000 for the purpose of
15 providing technical assistance to local governments in implementing section 3 (1) of this 2019
16 Act and to develop plans to improve water, sewer, storm drainage and transportation ser-
17 vices as described in section 4 (2) of this 2019 Act. The department shall prioritize technical
18 assistance to cities or counties with limited planning staff or that commit to implementation
19 earlier than the date required under section 3 (1) of this 2019 Act.

20 **SECTION 16.** This 2019 Act being necessary for the immediate preservation of the public
21 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
22 on its passage.
23