

# House Bill 2001

Sponsored by Representative KOTEK (Pre-session 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 **as introduced**.

Requires cities with population greater than 10,000 and counties with population greater than 15,000 to allow middle housing in lands zoned for single-family dwellings within urban growth boundary. Requires Land Conservation and Development Commission to draft model code. Requires cities and counties to amend their comprehensive plan and land use regulations to conform with requirement by December 31, 2020, or to directly apply model code developed by commission. Requires Department of Consumer and Business Services to amend Low-Rise Residential Dwelling Code to apply to low-rise middle housing and to amend State of Oregon Structural Specialty Code to not apply to low-rise middle housing.

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

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 197.312; and declaring an emergency.

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

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

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

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

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

9 (A) **Duplexes;**

10 (B) **Triplexes;**

11 (C) **Quadplexes; and**

12 (D) **Cottage clusters.**

13 (2) **Each city with a population greater than 10,000 and each county with a population**  
14 **greater than 15,000 shall allow, within its urban growth boundary in areas zoned for detached**  
15 **single-family dwellings, the development of at least one middle housing type on each lot,**  
16 **subject to reasonable local regulations related to siting and design.**

17 **SECTION 3. No later than December 31, 2020:**

18 (1) **Notwithstanding ORS 197.646, each local government subject to section 2 of this 2019**  
19 **Act shall update its comprehensive plan and land use regulations to implement section 2 of**  
20 **this 2019 Act.**

21 (2) **The Land Conservation and Development Commission, with the assistance of the**  
22 **Building Codes Division of the Department of Consumer and Business Services, shall develop**  
23 **a model middle housing code.**

24 (3) **A local government that has not adopted its own comprehensive plan and land use**

**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 regulations under subsection (1) of this section shall directly apply the model code developed  
 2 by the commission under subsection (2) of this section under ORS 197.646 (3).

3 **SECTION 4.** (1) It is the policy of the State of Oregon to reduce to the extent practicable  
 4 administrative and permitting costs and barriers to the construction of middle housing, as  
 5 defined in section 2 of this 2019 Act, while maintaining safety, public health and the general  
 6 welfare with respect to construction and occupancy.

7 (2) Notwithstanding ORS 455.035, on or before January 1, 2021, the Department of Con-  
 8 sumer and Business Services shall adopt changes to:

9 (a) The Low-Rise Residential Dwelling Code to apply the code to all middle housing types;  
 10 and

11 (b) The State of Oregon Structural Specialty Code to exempt all middle housing that is  
 12 three stories or less above grade from requirements of the code.

13 **SECTION 5.** Section 6 of this 2019 Act is added to and made a part of ORS 223.297 to  
 14 223.314.

15 **SECTION 6.** A local government may not require that a system development charge for  
 16 middle housing, as defined in section 2 of this 2019 Act, be paid prior to the issuance of an  
 17 occupancy permit for the dwelling. The local government may enforce the system develop-  
 18 ment charge by an encumbrance against the property, but may not charge any interest on  
 19 the system development charge prior to the issuance of the occupancy permit.

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

22 197.312. (1) A city or county may not by charter prohibit from all residential zones attached or  
 23 detached single-family housing, multifamily housing for both owner and renter occupancy or manu-  
 24 factured homes. A city or county may not by charter prohibit government assisted housing or impose  
 25 additional approval standards on government assisted housing that are not applied to similar but  
 26 unassisted housing.

27 (2)(a) A single-family dwelling for a farmworker and the farmworker's immediate family is a  
 28 permitted use in any residential or commercial zone that allows single-family dwellings as a per-  
 29 mitted use.

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

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

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

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

44 (5)(a) A city with a population greater than 2,500 or a county with a population greater than  
 45 15,000 shall allow in areas within the urban growth boundary that are zoned for detached single-

1 family dwellings the development of at least one accessory dwelling unit for each detached single-  
2 family dwelling, subject to reasonable local regulations relating to siting and design.

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

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

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

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

12 **SECTION 8.** Section 2 of this 2019 Act is amended to read:

13 **Sec. 2.** (1) As used in this section:

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

16 (b) "Middle housing" means:

17 (A) Duplexes;

18 (B) Triplexes;

19 (C) Quadplexes; and

20 (D) Cottage clusters.

21 (2) Each city with a population greater than 10,000 and each county with a population greater  
22 than 15,000 shall allow, within its urban growth boundary in areas zoned for detached single-family  
23 dwellings, the development of at least one middle housing type on each lot, subject to reasonable  
24 local regulations related to siting and design.

25 (3) An applicant whose proposal to develop middle housing under this section is denied  
26 is entitled to attorney fees if the applicant is the prevailing party on an appeal to the Land  
27 Use Board of Appeals.

28 **SECTION 9.** (1) Sections 2, 3, 4 and 6 of this 2019 Act and the amendments to ORS 197.312  
29 by section 7 of this 2019 Act become operative on January 1, 2020.

30 (2) The amendments to section 2 of this 2019 Act by section 8 of this 2019 Act become  
31 operative on January 1, 2021.

32 (3) The Land Conservation and Development Commission, the Department of Consumer  
33 and Business Services and the Residential and Manufactured Structures Board may take any  
34 actions before the operative date specified in subsection (1) of this section necessary to en-  
35 able the commission to exercise, on or after the operative date specified in subsection (1) of  
36 this section, the duties required under section 3 of this 2019 Act.

37 **SECTION 10.** In addition to and not in lieu of any other appropriation, there is appro-  
38 priated to the Land Conservation and Development Commission, for the biennium beginning  
39 July 1, 2019, out of the General Fund:

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

42 (2) The amount of \$\_\_\_\_\_ for the activities of the commission under section 3 (2) and  
43 (3) of this 2019 Act.

44 **SECTION 11.** This 2019 Act being necessary for the immediate preservation of the public  
45 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect

1 **on its passage.**

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