
AGENDA ITEM SUMMARY**SPRINGFIELD
CITY COUNCIL**

Meeting Date: 9/23/2019
Meeting Type: Work Session
Staff Contact/Dept.: Mark Rust
Staff Phone No: 541-726-3654
Estimated Time: 40 Minutes
Council Goals: Encourage Economic Development and Revitalization through Community Partnerships

ITEM TITLE: DEVELOPMENT CODE UPDATE PROJECT – STATUS CHECK IN

ACTION REQUESTED: Council to provide input and feedback on the project process and progress.

ISSUE STATEMENT: The progress on the Development Code Update Project is continuing and the project is evolving. Staff will give the Council an update on the project status and is asking Council for input and feedback on the project process and progress. As part of this conversation staff will be presenting information on newly adopted legislation (HB 2001) and ideas for implementing the new laws into the code update project.

ATTACHMENTS: Attachment 1 – Council Briefing Memo
Attachment 2 – Revised Development Code Project Schedule
Attachment 3 – Adoption Process Timeline
Attachment 4 - Key Elements of House Bill 2001 – Middle Housing (hand out from DLCD)
Attachment 5 – House Bill 2001, Enrolled version (highlighted)

**DISCUSSION/
FINANCIAL
IMPACT:** Staff has been evaluating how the recently adopted House Bill 2001 impacts the Development Code Update Project. Implementing the new legislative mandates into the code update project will require some more time and work to complete.

At this meeting staff will present information on the HB 2001 requirements and discuss the impacts to the project scope and timeline.

MEMORANDUM

City of Springfield

Date: 9/23/2019
To: Mary Bridget Smith
From: Tom Boyatt, Community Development Director
Mark Rust, Senior Planner
Subject: Development Code Update Project – Status Check In
and Legislative Update

**COUNCIL
BRIEFING
MEMORANDUM**

ISSUE

The progress on the Development Code Update Project is continuing and the project is evolving. Staff will give the Council an update on the project status and is asking Council for input and feedback on the project process and progress. As part of this conversation staff will be presenting information on newly adopted legislation and ideas for implementing new law into the code update project.

**COUNCIL GOALS/
MANDATE**

Encourage Economic Development and Revitalization through Community Partnerships

BACKGROUND

Staff last presented to the City Council on this project on June 24, 2019. As part of the original scope for the Development Code Update Project, the objectives include implementing the City's adopted policies. With the passage of HB 2001 the city is required to allow uses that will arguably be new policy direction.

DISCUSSION

HB 2001

The Oregon Legislature adopted House Bill 2001 at the end of the legislative session and the bill has been signed into law by the governor. The bill is commonly referred to as the middle housing bill.

Middle Housing

New housing regulations contained in HB 2001 require the city to allow the development of middle housing. Middle housing is defined as duplexes, triplexes, quadplexes, cottage clusters, and townhouses. These middle housing types are required to be allowed as follows:

1. A duplex must be allowed on each lot or parcel zoned for residential use that allows for the development of detached single family dwellings; and
2. All middle housing types must be allowed in areas zoned for residential use that allows for the development of detached single family dwellings.

The legislation gives the city the ability to regulate siting and design of middle housing provided that the regulations do not, individually or cumulatively, discourage the development of all middle housing types permitted in the area through unreasonable cost or delay.

Significant dates

There are a couple of mandatory deadlines for both the state and the city to complete certain work. The state must adopt administrative rules to implement the new legislation and adopt a model code by December 31, 2020. The city must adopt regulations to implement the legislation

(or adopt the model code) by June 30, 2022. If the city does not adopt regulations or the model code by this date, the city must then directly apply the model code.

Grant Funding

The legislation includes \$3.5 million in funding for the 2019-2021 biennium for the purpose of providing technical assistance to local governments in implementing the legislation. The legislation states that prioritization for the technical assistance may be given to cities that commit to implementation earlier than the date required.

With the City's Development Code Update Project, especially with the first phase of the project focusing on housing, Springfield is out in front of the deadlines in the legislation for making changes to our Development Code. Many of the objectives and key messages of the code update project appear to be in line with the intent of the legislation. However the legislation likely goes farther in allowing middle housing than would have been contemplated otherwise. The objectives of the project, included in the approved Community Engagement Plan for the project, include:

- Implementing the City's adopted policies; and
- Complying with mandatory regulatory requirements.

Of the existing adopted policies applicable to the code update project, many are listed in the Community Engagement Plan as key messages.

- Reducing development barriers to allow for efficient utilization of the available land supply inside the Urban Growth Boundary. (Policy H.6 in the Housing Element)
- Encouraging and facilitating development of more attached and clustered single-family housing in the low density and medium density residential zones. (Policy H.7 in the Housing Element)
- Providing a variety of housing options for all income levels in both existing neighborhoods and new residential areas. (Policy H.11 in the Housing Element)
- Enhancing the quality and affordability of new development within existing neighborhoods and of multi-family housing. (Policy H.15 in the Housing Element)
- Promoting compact, orderly, and efficient urban development. (Goal UG-1 in the Urbanization Element)

With HB 2001 implementing new regulatory requirements that must be complied with, it makes sense to integrate the required changes into the code update project. However in doing so, some of the new work is outside of the original scope of what was anticipated for the project. Fully implementing the new legislative mandates into the code project now will require some more time and work to complete.

Staff met with the Governance Committee for the Development Code Update Project since the passage of HB 2001, both on August 1, 2019 and September 12, 2019. At these meetings the topic of implementing the new HB 2001 provisions with the Development Code Update Project now versus waiting was discussed.

Options considered for moving forward included:

1. Fully implementing HB 2001 provisions now as part of the housing phase of the project with the understanding that the timeline for the larger project will be impacted.
 2. Proceed with the housing phase of the code update project now without fully implementing HB 2001 provisions then setting the housing phase aside until a model code and implementing rules are developed and grant funding becomes available to
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complete the legislative mandates. In the mean time staff would work on the employment phase of the project.

3. Stop working on the housing phase now and wait until a model code and implementing rules are developed and grant funding becomes available to include the legislative mandates and complete the housing phase at that time. In the mean time staff would work on the employment phase of the project.

Staff has been in contact with our state agency partners in regard to being involved with the rule making process for implementing the legislation, assessing the current and future grant opportunities that are or will be available to assist in completing the work, and discussing the work the state will be undertaking to develop the model code. Since there are multiple potential grant opportunities available now and over the next year (current Technical Assistance (TA) grant, HB 2001 grant, and HB 2003 grant) staff will continue to strategize and work with DLCDC to determine the most efficient use of grant funds for completing the necessary work tasks.

The direction from the Governance Committee is to proceed with the housing phase including fully implementing the new legislative mandates (option 1 above). Staff will discuss with Council the anticipated impacts to the larger project timeline as we move forward to fully implement HB 2001 requirements now.

The project timeline is proposed to be modified with the direction to fully implement HB 2001 now. Attachment #2 is a revised project schedule showing changes to provide additional time for this implementation. We anticipate extending the public outreach task of Phase 1 (Housing) to allow for more time to get input from the public on the changes to the code that incorporate the HB 2001 requirements. The subsequent tasks and phases of the project have been adjusted to correspond to these changes. Attachment #3 shows an anticipated schedule for the adoption process for the Housing phase of the project.

The second phase of the project, the Employment lands phase, is anticipated to be kicked off after the first of the year. In trying to recruit for the Technical Advisory Committee (TAC) initially for the second phase to stay on schedule this past spring and summer we have not received much interest, only two applicants for the employment TAC were received. With the adjusted timeline we intend to suspend the current TAC recruitment for the employment phase while focusing on drafting the housing code and re-launch the employment phase and recruitment for the TAC after the first of the year.


NEXT STEPS

Staff will continue to meet with the Residential Technical Advisory Committee. Staff is proceeding with drafting code language considering the needs for clear and objective standards for housing. Staff is scheduled to check back in with the City Council on December 1, 2019.

RECOMMENDED ACTION

Provide input and feedback on the project process and progress.

Development Code Update Housing Phase - Adoption Timeline

	2020						2021		
	7/20	8/20	9/20	10/20	11/20	12/20	1/21	2/21	3/21
Task 1: Planning Commission (joint) - Work Session(s)		Recess							
Task 2: Planning Commission (joint) - Public Hearing(s)									
Task 3: City Council/BCC (joint) - Work Session(s)						Recess			
Task 4: City Council/BCC (joint) - Public Hearing(s)									
Task 5: Adoption									



KEY ELEMENTS OF HOUSE BILL 2001 (Middle Housing)

Updated August 20, 2019

House Bill 2001 (HB 2001) provides \$3.5 million to DLCD for technical assistance to local governments to:

- 1) assist local governments with the development of regulations to allow duplexes and/or middle housing, as specified in the bill, and/or
- 2) assist local governments with the development of plans to improve water, sewer, storm drainage and transportation services in areas where duplexes and other middle housing types would not be feasible due to service constraints.

DLCD Required Rulemaking: Who is affected: Significant dates: Local Government Deadlines: Effect of missed deadline:	Middle Housing Requirements		Infrastructure Deficiency Process
	Medium Cities	Large Cities	Medium & Large Cities
	DLCD Rules and model code adoption December 31, 2020	DLCD Rules and model code adoption December 31, 2020	DLCD Rules adoption [no date specified in bill] Target: July 2020
	Local Government Adoption of model code or alternative June 30, 2021	Local Government Adoption of model code or alternative June 30, 2022	Medium Cities Extension Requests by December 31, 2020 Large Cities Extension Requests by June 30, 2021
	Model code applies directly	Model code applies directly	No extension granted

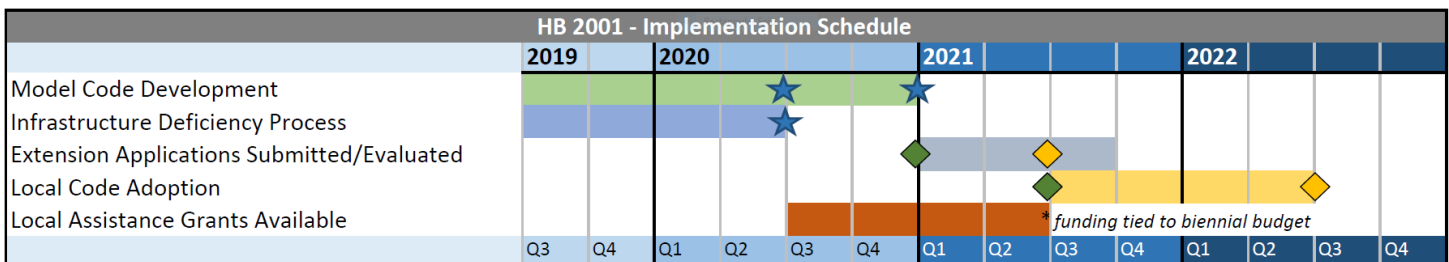
Medium Cities

All Oregon cities outside the Portland Metro boundary with a population between 10,000 and 25,000.	
Middle Housing Requirement	Duplexes “on each lot or parcel zoned for residential use that allows for the development of detached single family dwellings.”

Large Cities

All Oregon cities with a population of more than 25,000, unincorporated areas within the Portland Metro boundary that are served by sufficient urban services, and all cities within the Portland Metro boundary with a population of more than 1,000.	
Middle Housing Requirement	Duplexes (as above) <u>AND</u> triplexes, quadplexes, cottage clusters, and townhouses “in areas zoned for residential use that allow for the development of detached single family dwellings.”

Flexibility *Medium and Large Cities “may regulate siting and design of middle housing required to be permitted under this section, provided that the regulations do not, individually or cumulatively, discourage the development of all middle housing types permitted in the area through unreasonable cost or delay.”*



◆ Medium Cities ◆ Large Cities ★ DLCD Action

For specific dates, please reference chart above or enrolled version of HB 2001

Other Provisions in HB 2001

- ✓ A local government may request an extension of time to adopt the required regulations based on an application identifying an infrastructure constraint (water, sewer, storm drainage, or transportation) to accommodating middle housing development, along with a plan of actions to remedy the deficiencies in those services.
- ✓ The applications for time extensions based on infrastructure deficiency will be reviewed by DLCD and approved or denied.
- ✓ Housing Needs Analyses may not assume more than a three percent increase in housing units produced as a result of the adoption of middle housing regulations unless the local government can show that higher increases have been achieved to date.
- ✓ The bill amends requirements relating to accessory dwelling units (ADUs). The bill states, “Reasonable local regulations relating to siting and design’ [for ADUs] does not include owner-occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street parking.” However, such regulations may be applied if the ADU is used for vacation occupancy.
- ✓ Changes the annual housing production survey required by passage of HB 4006 in 2018. Adds requirement to report on ADUs and units of middle housing, both for market rate housing and for regulated affordable units.
- ✓ Directs the Building Codes Division to develop standards to facilitate conversions of single-family dwellings into no more than four residential dwelling units.
- ✓ Prohibits the establishment of new Covenants, Conditions & Restrictions or similar instruments that would prohibit middle housing or ADUs in a residential neighborhood.
- ✓ The bill also notes that the department shall prioritize technical assistance to cities or counties with limited planning staff, or that commit to implementation earlier than the date required by the act.

This fact sheet is intended to summarize key elements of HB 2001. It is not intended to replace a detailed review of the legislation. For specific bill language, please review the enrolled version of the HB 2001:
<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2001>

“HB 2001 is focused on increasing the supply of ‘middle housing’ in Oregon cities – not by limiting construction of single family homes, but by allowing development of duplexes, triplexes, and quadplexes. Through technical assistance and resources for local governments, DLCD joins the effort to help create housing opportunities for all Oregonians.”

- Jim Rue, DLCD Director

For more information visit our website at www.oregon.gov/lcd

DLCD Staff Contacts: With questions about local implementation –
[Contact your Regional Representative](#)

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Enrolled

House Bill 2001

Sponsored by Representative KOTEK; Representatives FAHEY, HERNANDEZ, MARSH, MITCHELL, POWER, STARK, WILLIAMS, ZIKA (Presession filed.)

CHAPTER

AN ACT

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

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

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

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

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

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

(A) Duplexes;

(B) Triplexes;

(C) Quadplexes;

(D) Cottage clusters; and

(E) Townhouses.

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

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

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

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

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

(4) This section **does not apply to:**

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

(b) Lands not within an urban growth boundary;

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Waiving or deferring system development charges;

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

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

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

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

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

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

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

- (a) December 31, 2020, for a city subject to section 2 (3) of this 2019 Act.
- (b) June 30, 2021, for a local government subject to section 2 (2) of this 2019 Act.
- (5) The department shall grant or deny a request for an extension under this section:
 - (a) Within 90 days of receipt of a complete request from a city subject to section 2 (3) of this 2019 Act.
 - (b) Within 120 days of receipt of a complete request from a local government subject to section 2 (2) of this 2019 Act.
- (6) The department shall adopt rules regarding the form and substance of a local government's application for an extension under this section. The department may include rules regarding:
 - (a) Defining the affected areas;
 - (b) Calculating deficiencies of water, sewer, storm drainage or transportation services;
 - (c) Service deficiency levels required to qualify for the extension;
 - (d) The components and timing of a remediation plan necessary to qualify for an extension;
 - (e) Standards for evaluating applications; and
 - (f) Establishing deadlines and components for the approval of a plan of action.

SECTION 5. ORS 197.296 is amended to read:

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

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

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

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

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

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

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

- (A) Vacant lands planned or zoned for residential use;
- (B) Partially vacant lands planned or zoned for residential use;
- (C) Lands that may be used for a mix of residential and employment uses under the existing planning or zoning; and
- (D) Lands that may be used for residential infill or redevelopment.

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

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

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

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

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

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

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

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

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

[(C) Demographic and population trends;]

[(D) Economic trends and cycles; and]

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

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

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

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

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

(b) Amend its comprehensive plan, regional framework plan, functional plan or land use regulations to include new measures that demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years without expansion of the urban growth boundary. A local government or metropolitan service district that takes this action shall *[monitor and record the level of development activity and development density by housing type following the date of the adoption of the new measures; or]* **adopt findings regarding the density expectations assumed to result from measures adopted under this paragraph based upon the factors listed in ORS 197.303 (2) and data in subsection (5)(a) of this section. The density expectations may not project an increase in residential capacity above achieved density by more than three percent without quantifiable validation of such departures. For a local government located outside of a metropolitan service district, a quantifiable vali-**

ation must demonstrate that the assumed housing capacity has been achieved in areas that are zoned to allow no greater than the same authorized density level within the local jurisdiction or a jurisdiction in the same region. For a metropolitan service district, a quantifiable validation must demonstrate that the assumed housing capacity has been achieved in areas that are zoned to allow no greater than the same authorized density level within the metropolitan service district.

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

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

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

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

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

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

- (a) Increases in the permitted density on existing residential land;
- (b) Financial incentives for higher density housing;
- (c) Provisions permitting additional density beyond that generally allowed in the zoning district in exchange for amenities and features provided by the developer;
- (d) Removal or easing of approval standards or procedures;
- (e) Minimum density ranges;
- (f) Redevelopment and infill strategies;
- (g) Authorization of housing types not previously allowed by the plan or regulations;
- (h) Adoption of an average residential density standard; and
- (i) Rezoning or redesignation of nonresidential land.

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

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

- (A) Determine the estimated housing needs within the jurisdiction for the next 20 years;
- (B) Inventory the supply of buildable lands available within the urban growth boundary to accommodate the estimated housing needs determined under this subsection; and
- (C) Adopt measures necessary to accommodate the estimated housing needs determined under this subsection.

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

SECTION 6. ORS 197.303 is amended to read:

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

- (a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;
- (b) Government assisted housing;
- (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;
- (d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and
- (e) Housing for farmworkers.

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

- (a) Household sizes;**
- (b) Household demographics in terms of age, gender, race or other established demographic category;**
- (c) Household incomes;**
- (d) Vacancy rates; and**
- (e) Housing costs.**

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

(4) A local government shall use data from a wider geographic area or use a time period longer than the time period described in subsection (2) of this section if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to subsection (2) of this section. The local government must clearly describe the geographic area, time frame and source of data used in an estimate performed under this subsection.

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

- (a) A city with a population of less than 2,500.
- (b) A county with a population of less than 15,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The Housing and Community Services Department, in collaboration with the Department of Land Conservation and Development, shall develop a survey form on which the governing body of

a city may provide specific information related to the affordability of housing within the city, including, but not limited to:

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

(B) The additional actions the governing body intends to take to reduce rent burdens for severely rent burdened households.

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

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

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

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

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

- (a) Residential units.
- (b) Regulated affordable residential units.
- (c) Multifamily residential units.
- (d) Regulated affordable multifamily residential units.
- (e) Single-family [*units*] **homes**.
- (f) Regulated affordable single-family [*units*] **homes**.
- (g) **Accessory dwelling units.**
- (h) **Regulated affordable accessory dwelling units.**
- (i) **Units of middle housing, as defined in section 2 of this 2019 Act.**
- (j) **Regulated affordable units of middle housing.**

SECTION 9. ORS 455.610 is amended to read:

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

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

- (a) Required by geographic or climatic conditions unique to Oregon;
- (b) Necessary to be compatible with other statutory provisions;
- (c) Changes to the national codes are adopted in Oregon; or
- (d) Necessary to authorize the use of building materials and techniques that are consistent with nationally recognized standards and building practices.

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

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

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

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

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

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

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

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

(b) A building official who denies an application for alternate approval under this subsection shall provide to the applicant:

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 13. A provision in a recorded instrument affecting real property is not enforceable if:

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

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

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

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

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

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

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

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

Passed by House June 20, 2019

.....
Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 30, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State