



Planning & Community Dev.
117 N Molalla Avenue
PO Box 248
Molalla, Oregon 97038
Phone: (503) 759-0219
communityplanner@cityofmolalla.com

AGENDA
Molalla Planning Commission
6:30 PM, June 2, 2021

Meeting Location: Molalla Adult Center
315 Kennel Avenue.
Molalla, OR 97038

The Planning Commission Meeting will begin at 6:30pm. The Planning Commission has adopted Public Participation Rules. Copies of these rules and public comment cards are available at the entry desk. Public comment cards must be turned in prior to the start of the Commission meeting. The City will endeavor to provide a qualified bilingual interpreter, at no cost, if requested at least 48 hours prior to the meeting. To obtain services call the City Recorder at (503) 829-6855.

- I. CALL TO ORDER**
- II. FLAG SALUTE AND ROLL CALL**
- III. PUBLIC COMMENT** – Limited to 3 minutes per person
- IV. MINUTES:**
 - May 5, 2021 Planning Commission Meeting
- V. ORDINANCE REVIEW:**
 - DCA05-2021 HB2001 Compliance
- VI. DISCUSSION ITEMS:**
 - Residential/Industrial Compatibility
- VII. REPORTS AND ANNOUNCEMENTS**
 - Planner's Report
 - Director's Report
- VIII. ADJOURNMENT**

City of Molalla ■ *Community Planning & Development* ■ 117 N. Molalla Avenue, Molalla, OR 97038 ■ (503) 759-0219

Chairwoman Rae Lynn Botsford | Commissioner Doug Eaglebear | Commissioner Jennifer Satter | Commissioner Connie Ferrens
Commissioner Jacob Giberson | Commissioner Rick Deaton | Commissioner Sarah Schoenborn



**Molalla Planning Commission
MINUTES Molalla Adult
Center
315 Kennel Ave., Molalla, OR
97038
May 5, 2021**

The May 5, 2021 meeting of the Molalla Planning Commission was called to order by Chair Rae Botsford at 6:34pm.

COMMISSIONER ATTENDANCE:

Chair Rae Lynn Botsford – Present
Commissioner Rick Deaton – Present
Commissioner Doug Eaglebear – Present
Commissioner Jennifer Satter – Present
Commissioner Jacob Giberson – Absent
Commissioner Connie Farrens – Present

STAFF IN ATTENDANCE:

Mac Corthell, Planning Director - Present
Dan Zinder, Associate Planner – Present
Julie Larson, Planning Specialist - Present
Gerald Fischer, PW Director - Present

AGENDA:

I. CALL TO ORDER

II. SALUTE AND ROLL CALL

III. PUBLIC COMMENT – Limited to 3 minutes per person

No Public Comment

IV. MINUTES

- April 7, 2021 Planning Commission Meeting

Planning Commission approved minutes 6-0

V. ORDINANCE REVIEW

- DCA08-2021 (Tax Lot 52E05 02002)

Begins at 1:00:00 of meeting video. (*Link posted below*)

Planning Director Mac Corthell presented the staff report and criteria for planning file DCA08-2021, Annexation and Zone Change of lot 52E17A 102 & 290, 52E17 2480.

DECISION:

After a brief discussion, Planning Commission recommended that City Council adopt Ordinance Number 2021-00. Poll 6-0

VI. PUBLIC HEARING

- Water Master Plan

Begins at 0:03:55 of meeting video. (*Link posted below*)

Ryan Quigley of The Dyer Partnership Engineers & Planners, Inc. gave a presentation on the Water Master plan, including an explanation of needed upgrades and repairs to meet the required 20-year planning period, phased construction and cost analysis.

DECISION:

After a brief discussion, including Ryan Quigley, Gerald Fischer Public Works Director and the Planning Commission the Planning Commission recommended that City Council adopt the amendment to the Comprehensive Plan. Poll 6-0.

VII. REPORTS AND ANNOUNCEMENTS

- Planners Report
- Directors Report

VIII. ADJOURNMENT

PLANNING COMMISSION MEETING CAN BE VIEWED IN IT'S ENTIRIETY HERE:

[May 5, 2021 Planning Commission Meeting Video](#)

Chair, Rae Lynn Botsford

Date

ATTEST: _____
Mac Corthell, Planning Director

City of Molalla

Planning Commission Meeting



Agenda Category: Ordinance Review

Subject: Amendment of the City of Molalla Development Code to comply with HB2001, Duplexes and Accessory Structures in Residential Zones.

Date of Meeting to be Presented: 6/2/21 – PC Review & Recommendation, 6/23/21 – CC Public Hearing, 1st reading, possible 2nd reading.

Fiscal Impact: Costs associated with development and implementation, and costs associated with reconciling master planning documents with increased densities in some residential zones.

Background: House Bill 2001 passed in the 2019 Regular Legislative Session and requires cities of 10,000 or more to meet certain requirements.

Requirement 1. *“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.”*

The most recent PSU (official) population estimate for the City of Molalla is 9,910. With revisions coming in late June, and again in September, Molalla will almost certainly surpass the 10,000-population mark. Once that happens, Molalla falls into the medium sized (10k-25k population) city requirements for HB 2001 and if we have not adopted an ordinance that reconciles our code with HB 2001 requirements, the model code (attached) automatically supersedes our code and applies. Staff finds the model code to be a more intensive and permissive regulation than what is required by law and is proposing the attached amendment in lieu.

The proposed amendment meets the call of Requirement 1 by making the standards for duplexes equivalent to those for a detached single family residential build.

Requirement 2. Additionally, HB 2001 requires the Council to address and make findings relevant to increased housing affordability, explicitly:

- a) *Waiving or deferring **system development charges**;*
- b) *Adopting or amending criteria for **property tax exemptions** under ORS 307.515 (Definitions for ORS 307.515 to 307.523) to 307.523 (Time for filing application), 307.540 (Definitions for ORS 307.540 to 307.548) to 307.548 (Termination of exemption) or 307.651 (Definitions for ORS 307.651 to 307.687) to 307.687 (Review of denial of application) or property tax freezes under ORS 308.450 (Definitions for ORS 308.450 to 308.481) to 308.481 (Extending deadline for completion of rehabilitation project); and*
- c) *Assessing a **construction tax** under ORS 320.192 (City or county ordinance or resolution to impose tax) and 320.195 (Deposit of revenues).*

City Staff's discussion and recommendations on this requirement are located in the findings of fact attached.

Requirement 3. *"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."

This provision is not accounted for in the proposed amendment because the current development code already complies with this requirement.

Exhibits:

- 1. Proposed Amendment
- 2. Findings of Fact
- 3. Model HB 2001 Compliant Code
- 4. HB 2001 Language

Recommended Action & Motion(s): Recommend Adoption to the City Council.

- 1. I move the Molalla Planning Commission recommend adoption of ordinance DCA05-2021, **AN ORDINANCE OF THE CITY OF MOLALLA, OREGON AMENDING MOLALLA MUNICIPAL CODE TO COMPLY WITH HOUSE BILL 2001.**



ORDINANCE NUMBER 2021-00

AN ORDINANCE OF THE CITY OF MOLALLA, OREGON AMENDING MOLALLA MUNICIPAL CODE SECTION 17-2.2.040.D TO COMPLY WITH HB 2001

WHEREAS, HB 2001 was adopted by the Oregon Legislature in the 2019 Regular Session; and

WHEREAS, HB 2001 creates requirements for cities over 10,000 in population; and

WHEREAS, The City of Molalla was at 9,910 in the January 2021 Portland State University (PSU) population report; and

WHEREAS, The new PSU population report will be released in June 2021 with a likely population over 10,000 for the City of Molalla; and

WHEREAS, The City of Molalla must comply with HB 2001 prior to hitting the 10,000 population mark; and

WHEREAS, Failure to comply with HB 2001 prior to the 10,000 population mark will result in a 'model code' superseding the City's development code as it relates to the subject matter of HB 2001.

Now, Therefore, the City of Molalla does ordain as follows:

Section 1. Molalla Municipal Code Sections 17-2.2.040.D is hereby amended consistent with Exhibit 1, which is incorporated herein and adopted by reference.

Section 2. The findings related to this amendment, attached as Exhibit 2, are incorporated herein by reference and adopted.

Section 3. Effective Date. This ordinance shall be effective 30 days after adoption by the City Council and approval by the Mayor.

The first reading of this ordinance was held on May 26, 2021 and was passed by a vote of ____ Aye and ____ Nay votes.

The second reading of this ordinance was held on _____ and was adopted by a vote of ____Aye and _____ Nay votes; **OR**

This ordinance was made available to the public at least 5 days prior to the first reading and was adopted at the first reading by unanimous approval of the City Council; the second reading is waived.

This ordinance is hereby adopted this ____ day of _____ 2021.

Scott Keyser, Mayor

ATTEST:

Christie DeSantis, City Recorder

EXHIBIT 1 – PROPOSED AMENDMENT (2 pages)

Proposed Language – Purple

Existing Language – Black

Proposed Removals – ~~Strikethrough~~

Table 17-2.2.040.D Lot and Development Standards for Residential Zones

Standard	R1 Zone	R2 Zone	R3 Zone	R5 Zone
<p>Residential Density, per section 17.2.2.060 (Dwelling Units per net acre) – minimum and Maximum</p> <p><i>*Duplexes in the Residential Zone Shall be Calculated as 1 DU for purposes of meeting maximum density standards</i></p>	Min 4 DU and a Max 8 DU per net buildable acre	Min 6 DU and a Max 12 DU per net buildable acre	Min 8 DU and a Max 24 DU per net buildable acre	Min 6 DU and a Max 24 DU per net buildable acre
<p>Minimum Lot Area (square Feet)</p> <p>Single-Family, not attached</p> <p>Duplex (per duplex)</p>	5,000sf 6,000sf 5,000sf	3,600sf 5,800sf 3,600sf	3,000sf 4,500sf 3,000sf	3,000sf 4,500sf 3,000sf
<p>Minimum Lot Width</p> <p>Single-Family, not attached</p> <p>Corner Lot</p> <p>Interior Lot</p> <p>Duplex (per duplex)</p> <p>Corner Lot</p> <p>Interior Lot</p>	60ft 50ft 60ft 60ft 50ft	50ft 46ft 56ft 50ft 46ft	48ft 44ft 56ft 48ft 44ft	48ft 44ft 50ft 48ft 44ft
<p>Lot Coverage. Maximum Lot Coverage (foundation plane area as % of site area)</p> <p>Single-Family, not attached</p> <p>Duplex (per duplex)</p>	40% 60%	50% 60%	50% 75%	50% 75%
<p>Build-To Line Maximum (feet):</p> <p><u>Applies to New Buildings Only, except does not apply to detached single-family dwellings and duplexes:</u></p>	Not Applicable	20 ft; may be increased when pedestrian	20 ft; may be increased when pedestrian	20 ft; may be increased when pedestrian

<p>1) At least one primary building entrance shall be built no farther from the street right-of-way than the build-to line; except that where a greater setback is required for a Planned Street Improvement, the build-to line increases proportionately.</p> <p>2) The City may also approve exceptions to the build-to line through Site Design Review where pedestrian amenities are provided between a primary building entrance and the street right-of-way. (See also Section 17-3.2.050 Civic Space and Pedestrian Amenities.)</p>		<p>amenities are provided between a primary building entrance and street</p>	<p>amenities are provided between a primary building entrance and street</p>	<p>amenities are provided between a primary building entrance and street</p>
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EXHIBIT 2 – FINDINGS OF FACT (4 pages)

MMC 17-4.6.020 Procedure. Except for corrections, amendments to Development Code Text are Legislative (Type IV).

Staff Response: The proposed ordinance is and amendment to Development Code Text and as such follows a Legislative Type IV process.

MMC 17-4.1.050(C) Type IV (Legislative Decisions) Procedure.

- 1. The planning official shall notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments at least 35 days before the first public hearing.*

Staff Response: The proposed ordinance was appropriately noticed to DLCD on 5/17/21, 37 days prior to the 6/23/21 public hearing. This requirement has been complied with.

- 2. At least 10 days before the scheduled City Council public hearing date, public notice shall be published in a newspaper of general circulation in the city and the City's website.*

Staff Response: This proposed ordinance will be appropriately noticed in the paper and online at least 10 days prior to the City Council public hearing.

MMC 17-4.6.030 Amendments to Code; Criteria *Planning Commission review and recommendation, and City Council approval, of an ordinance amending the Zoning Map, Development Code, or Comprehensive Plan shall be based on all of the following criteria:*

- A. If the proposal involves an amendment to the Comprehensive Plan, the amendment must be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules;*

Finding: The proposal does not involve an amendment to the Comprehensive Plan.
This criterion is not applicable.

B. The proposal must be consistent with the Comprehensive Plan (the Comprehensive Plan may be amended concurrently with proposed changes in zoning);

Finding: This proposal increases housing options in the residential zone in accordance with the comprehensive plan. Additionally, the maximum density requirements in the residential zones are superseded by the requirements of HB 2001 in the case that a Duplex exceeds the maximum density, but a single-family detached would not. However, density standards still apply as written in all other circumstances. This criterion is met.

C. The City Council must find the proposal to be in the public interest with regard to community conditions; the proposal either responds to changes in the community, or it corrects a mistake or inconsistency in the subject plan or code;

Finding: This amendment is purposed to comply with HB 2001, a state mandate to allow for Duplex development on any lot that a Single Family-detached home could be sited. The mandate applies to all cities over 10,000 in population, and the City of Molalla rests at over 9,900 in the January 2021 PSU population estimate. Thus the changes in the size of the community make compliance with HB 2001 a requirement, and this proposal meets those requirements. This criterion is met.

D. The amendment must conform to Section 17-4.6.050 Transportation Planning Rule Compliance

Finding: By the language of the statute, HB 2001 exempts transportation rule compliance from the considerations in adoption of a compliant regulation. This criterion is not applicable.

Additional Findings Mandated by HB 2001

a) Waiving or deferring system development charges;

Staff Response: The Molalla City Council has held 7 meetings in the last 3 months aimed at reconsidering and calibrating System Development Charges (SDC's). While reevaluation and adjustment of SDC's is the intent of this exercise, waiver of SDC's has not been deemed a viable option based on a historical lack of enforcing developer improvements and SDC's which has led to underdeveloped infrastructure that cannot support expansion without improvement.

The city code currently provides a deferral system whereby SDC's can be amortized and paid back over a longer term (\$10k or more) or deferred and paid at a later date (less than \$10k). MMC 13.14.095.

Finding: The City of Molalla offers a deferred and amortized SDC payment option. SDC waiver is not a viable option due to the underimproved state of the City's public infrastructure.

- b) *Adopting or amending criteria for property tax exemptions under ORS 307.515 (Definitions for ORS 307.515 to 307.523) to 307.523 (Time for filing application), 307.540 (Definitions for ORS 307.540 to 307.548) to 307.548 (Termination of exemption) or 307.651 (Definitions for ORS 307.651 to 307.687) to 307.687 (Review of denial of application) or property tax freezes under ORS 308.450 (Definitions for ORS 308.450 to 308.481) to 308.481 (Extending deadline for completion of rehabilitation project); and*

Staff Response:

ORS 307.515 – 307.523 provides an option for local governments to exempt a property or portion thereof from property taxes if the property is built after adoption of the provision, is occupied by low-income persons (income at or below 60% of area median income), the rent reflects the full value of the exemption, and the exemption has been approved.

ORS 307.540-307.548 provides an option to exempt property from property taxes in the case a non-profit purchase and develops the property for low-income housing. Also provides an option to terminate the exemption in case the property is not used as low-income housing.

ORS 307.651-307.687 provides an option to exempt single-unit housing for up to 10 tax years, provided a public benefit or specified design element is met.

ORS 308.450-308.481 provides an option to limit the taxes on a property in exchange for rehabilitation of the property and rent controls during the exemption period.

All Provisions These exemptions, subject to some exceptions, apply only to the City of Molalla property taxes.

Finding: Adoption of any of the above provisions will result in a reduction of property tax revenue below what would be received by the city. Additionally, establishing an appropriate program in any one of these areas would require an initial startup cost in the form of staff and/or consultant time, as well as ongoing costs to manager/administer the program. The city currently lacks the staff capacity to take on development and management of such a program. These property tax exemptions are not currently viable for the City of Molalla.

- c) *Assessing a construction tax under ORS 320.192 (City or county ordinance or resolution to impose tax) and 320.195 (Deposit of revenues).*

Staff Response: These provisions create a regulatory scheme whereby the city can impose a tax on improvements to real property creating a new structure or increased square footage.

Finding: The City of Molalla is currently underdeveloped in terms of public infrastructure which places a substantial burden on developers in the form of required development improvements and system development charges. Adding an additional tax would have a chilling effect on development beyond what is already being experienced due to the existing fees/improvement requirements listed above. This tax is not currently viable for the City of Molalla.

Medium Cities Middle Housing Model Code

User's Guide:

Oregon House Bill 2001 (2019) (HB 2001) requires that “Medium Cities” (defined as cities with a population of more than 10,000 and less than 25,000 that are not within Metro’s jurisdiction) allow a duplex on each lot or parcel zoned for residential use that allows for the development of detached single family dwellings. Duplexes provide an opportunity to increase housing supply in developed neighborhoods and can blend in well with detached single-family dwellings.

The bill allows local governments to regulate siting and design of duplexes, provided that the regulations do not, individually or cumulatively, discourage duplex development through unreasonable costs or delay. When regulating siting and design of duplexes, Medium Cities should balance concerns about neighborhood compatibility and other factors against the need to address Oregon’s housing shortage by removing barriers to development and should ensure that any siting and design regulations do not, individually or cumulatively, discourage the development of duplexes through unreasonable costs or delay.

Medium Cities may develop their own standards in compliance with the requirements of HB 2001. This model code may provide guidance toward that end. However, if Medium Cities do not wish to prepare their own standards or if Medium Cities do not adopt the required code amendments by June 30, 2021, they must directly apply this model code prepared by the Department of Land and Conservation Development (DCLD) to development in their jurisdictions. The model code is intended to be straightforward and implementable by Medium Cities throughout the state. The model rules are consistent with the requirements and intent of HB 2001 and are intended to ensure that a duplex is no more difficult to develop than a detached single family home. The model code will be adopted by reference into Oregon Administrative Rules.

To the extent they are applicable, the Administrative Rules contained in Chapter 660, Division 46 apply to and may be used to interpret this model code.

Sections:

- A. Purpose**
- B. Definitions**
- C. Applicability**
- D. Relationship to Other Regulations**
- E. Permitted Uses and Approval Process**
- F. Development Standards**
- G. Design Standards**
- H. Duplex Conversions**
- I. Figures**

A. Purpose

The purpose of this model middle housing code (“code”) is to implement HB 2001, codified in ORS 197.758 et seq, by providing siting and design standards for duplexes developed on lots or parcels that allow for the development of detached single family dwellings.

B. Definitions

The following definitions shall apply for the purposes of this code, notwithstanding other definitions in the development code:

1. “Detached single family dwelling” means a detached structure on a lot or parcel that is comprised of a single dwelling unit. Detached single family dwellings may be constructed off-site, e.g., manufactured dwellings or modular homes.
2. “Duplex” means two dwelling units on a lot or parcel in any configuration. Figures 1–6 in Section I illustrate examples of possible duplex configurations. In instances where a development can meet the definition of a duplex and also meets the definition of a primary dwelling unit with an accessory dwelling unit (ADU), the applicant shall specify at the time of application review whether the development is considered a duplex or a primary dwelling unit with an ADU.
3. “Lot or Parcel” means any legally created unit of land.
4. “Zoned for residential use” means a zoning district in which residential dwellings are the primary use and which implements a residential Comprehensive Plan map designation.

C. Applicability

1. Except as specified in subsection (2) of this section (C), the standards in this code allow for the development of duplexes, including those created through conversion of existing detached single family dwellings, on lots or parcels zoned for residential use that allow for the development of detached single family dwellings.
2. The standards in this code do not allow the following, unless otherwise permitted by the development code:

- Creation of duplexes on lots or parcels on lands that are not zoned for residential use. This includes lands zoned primarily for commercial, industrial, agricultural, public, or mixed uses, even if those zones allow for the development of detached single family dwellings.
- Creation of more than two dwelling units on a single lot or parcel.

D. Relationship to Other Regulations

1. Conflicts. In the event of a conflict between this code and other standards applicable to a duplex, the standards of this code control.
2. Public Works Standards. Clear and objective exceptions to public works standards granted to single family dwellings shall also be granted to duplexes.
3. Protective Measures. Duplexes shall comply with protective measures (plans, policies, or regulations) adopted pursuant to statewide land use planning goals (e.g., environmental and natural hazard protections).

E. Permitted Uses and Approval Process

Duplexes are permitted outright on lots or parcels zoned for residential use that allow for the development of detached single family dwellings. Duplexes are subject to the same approval process as that for detached single family dwellings in the same zone and are subject only to clear and objective standards, approval criteria, conditions, and procedures. Alternatively, an applicant may choose to submit an application for a duplex subject to discretionary standards and criteria adopted in accordance with ORS 197.307, if such a process is available.

F. Development Standards

Except as specified below, duplexes shall meet all clear and objective development standards that apply to detached single family dwellings in the same zone (including, but not limited to, minimum and maximum lot size, minimum and maximum setbacks, and building height), unless those standards conflict with this code.

The following development standards are invalid and do not apply to duplexes being developed on lots or parcels zoned for residential use that allow the development of a detached single family dwelling:

1. Maximum Density. The jurisdiction's pre-existing density maximums and minimum lot sizes for duplexes do not apply.
2. Setbacks. A minimum front setback of greater than 20 feet or a minimum rear setback of greater than 15 feet except for those minimum setbacks applicable to garages and carports.
3. Off-Street Parking. Any off-street parking requirement.

G. Design Standards

New duplexes shall meet all clear and objective design standards (e.g., entry orientation, window coverage, articulation, etc.) that apply to detached single family dwellings in the same zone, unless those standards conflict with this code. Facades of dwellings that are separated from the street property line by another dwelling are exempt from meeting building design standards.

Any design standards that apply only to duplexes are invalid.

H. Duplex Conversions

Conversion of an existing detached single family dwelling to a duplex is allowed, pursuant to Section C, provided that the conversion does not increase nonconformance with applicable clear and objective standards.

I. Figures

The following figures illustrate examples of possible duplex configurations. Other configurations may also be acceptable, provided the development meets the definition of duplex, pursuant to Section B.

Figure 1. Stacked Duplex

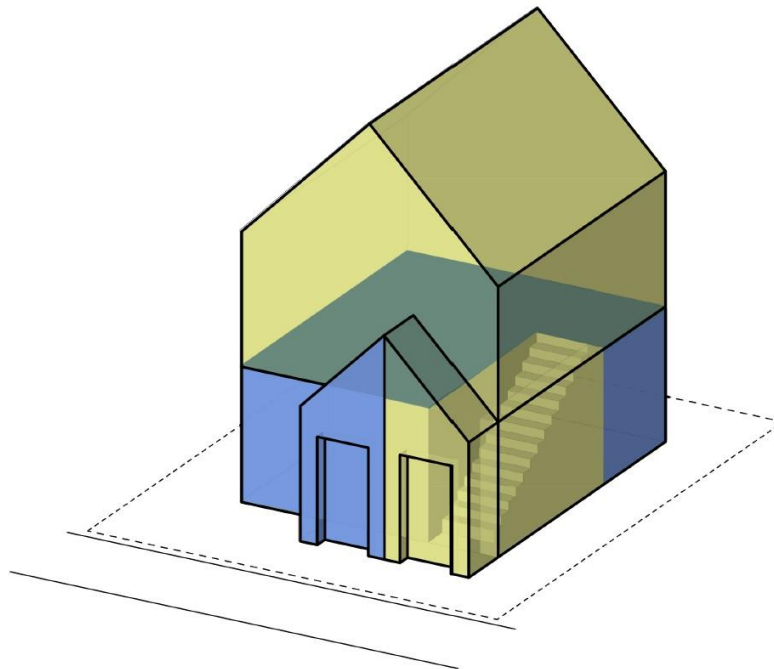


Figure 2. Side-by-Side Duplex

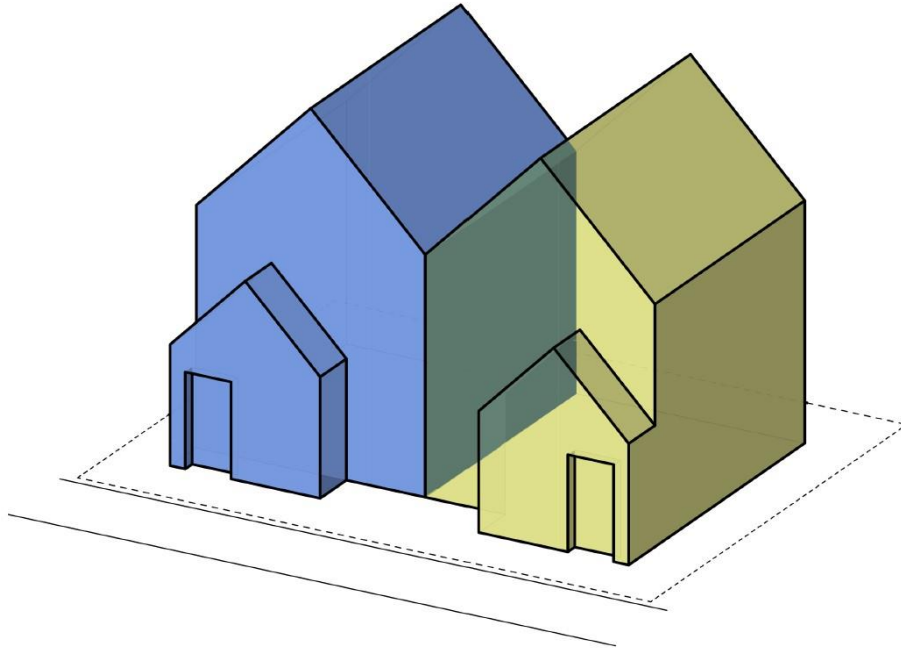


Figure 3. Duplex Attached by Garage Wall

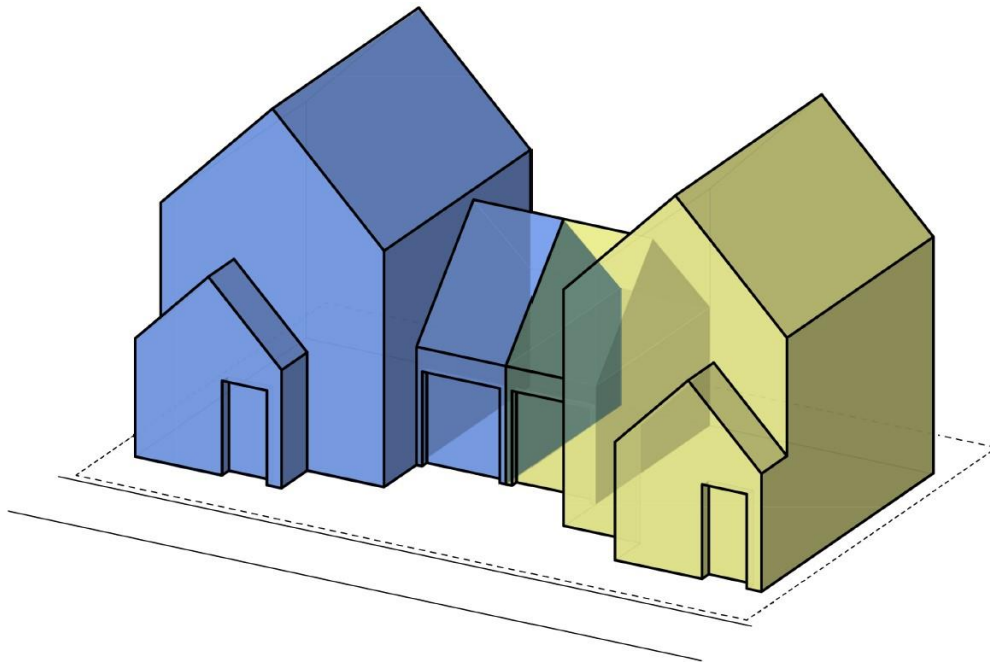


Figure 4. Duplex Attached by Breezeway

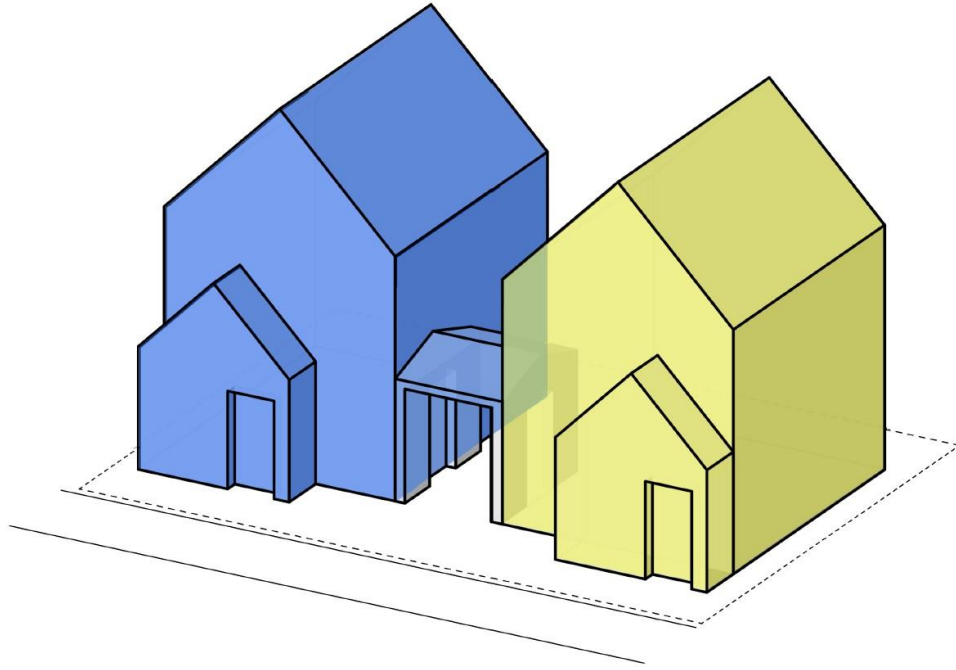


Figure 5. Detached Duplex Units Side-by-Side

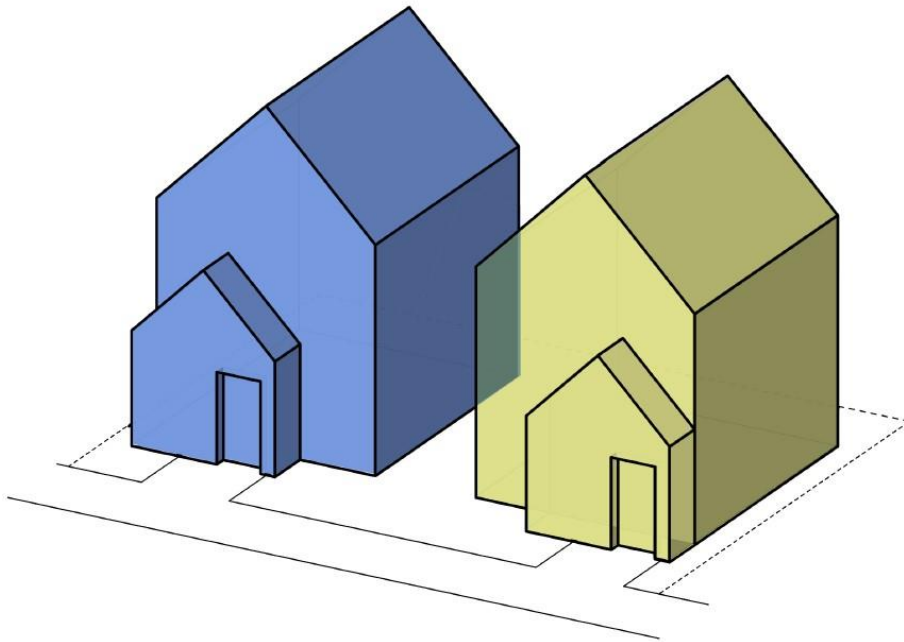
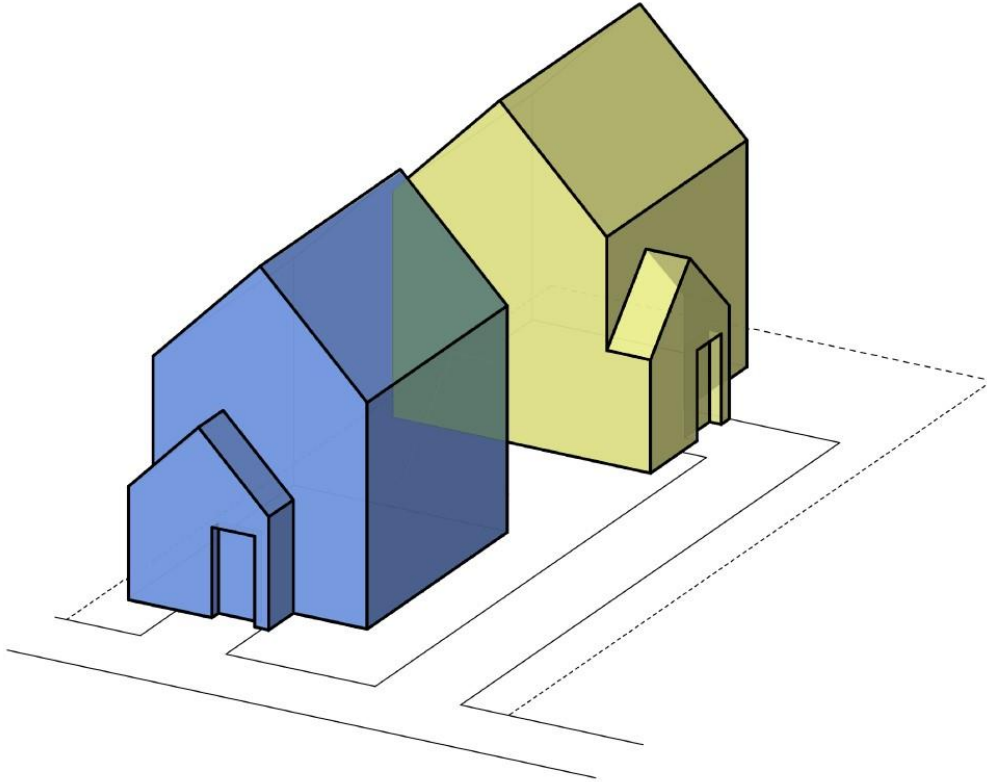


Figure 6. Detached Duplex Units Front and Back



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

.....
Tina Kotek, Speaker of House

Passed by Senate June 30, 2019

.....
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



Planning Department
117 N Molalla Avenue
PO Box 248
Molalla, Oregon 97038
Phone: (503) 759-0205
communityplanner@cityofmolalla.com

Staff Report

Planning Commission Discussion

Subject: Review and discuss the utility of the Conditional Use Permit to mitigate noise and other potential compatibility conflicts between Residential and Industrial uses.

Staff Recommendation: Provide guidance on a potential proposed ordinance to require a Conditional Use Permit (CUP) for potential conflict areas between residential and industrial uses.

Date of Meeting to Be Presented: March 3rd, 2020 – PC Discussion; June 7th, 2021 – PC Discussion

Background: Compatibility concerns between residential and industrial uses were initially raised on March 3rd, 2020 in response to a proposed development in which the Molalla Planning Commission expressed that existing Development Code did not provide strong mechanisms to require mitigation between these uses to prevent future conflicts from arising. This concern is consistent with concerns raised in the Molalla Comprehensive Plan. Goal 9 of the Comprehensive Plan advises that industrial uses should achieve “compatibility with adjacent or nearby residential and commercial development;” and Goals 9 and 10 generally discourage mixing of industrial and residential uses.

Planning Staff reviewed several options to achieve better use compatibility in existing zones, including the Conditional Use Permit (CUP), restrictions on housing types in commercial zones, spot ordinances to address noise, buffering, and other potential conflict sources, and modifications to the zone code. Staff’s position is that requiring a CUP for specified situations of incompatibility provides the greatest degree of both strength and flexibility to address these issues without conflicting with other provisions of the Comprehensive Plan or engaging in a prolonged process. CUPs, subject to MMC Chapter 17-4.4 provide Staff and Commission the ability to apply conditions relating to hours of operation, design, screening, buffering, architecture, lighting, height, noise, and other mechanisms.

Staff proposes amending the Allowed Uses section (MMC 17-2.2.030) with a new Land Use Compatibility provision as follows:

- K. **Land Use Compatibility:** A Conditional Use Permit is required for the following land use proposals;
1. Residential proposals of three or more units in any zone and located on a property or properties directly abutting an industrial zone;
 2. Proposals that include any residential use on a commercially zoned property or properties and that are sited abutting an industrial zone;
 3. Industrial proposals on properties abutting an existing *conforming* residential use.

When the City expands, new zones will be designed to create separation of industrial and residential uses.