

(To Resolve Conflicts)

B-Engrossed Senate Bill 406

Ordered by the House May 19
Including Senate Amendments dated April 10 and House Amendments
dated May 19 to resolve conflicts

Sponsored by Senator WEBER, Representative JAVADI; Senator SMITH DB, Representatives GAMBIA, HELFRICH
(Presession filed.)

SUMMARY

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

Requires certain cities and communities in Tillamook County to allow middle housing on residentially zoned lands, to adopt housing production strategies and to accommodate estimated housing needs upon lands inventoried as buildable lands.

Requires Oregon Department of Administrative Services and Housing and Community Services Department to include those cities and communities within Oregon Housing Needs Analysis.

Requires Department of Land Conservation and Development to adopt rules establishing deadlines for those Tillamook County cities and communities to meet urbanization requirement and authorizes Land Conservation and Development Commission to adopt rules to allow cooperation among those cities, communities and county to meet those requirements.

A BILL FOR AN ACT

1
2 Relating to housing in Tillamook County; creating new provisions; and amending ORS 197.286,
3 197.758, section 3, chapter 639, Oregon Laws 2019, and sections 1, 4, 5 and 9, chapter 13, Oregon
4 Laws 2023 (Enrolled House Bill 2001).

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

6 **SECTION 1.** If House Bill 2001 becomes law, ORS 197.286, as amended by section 5, chapter
7 54, Oregon Laws 2022, and section 12, chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001), is
8 amended to read:

9 197.286. As used in ORS 197.286 to 197.314 and 197.475 to 197.490:

10 (1) "Allocated housing need" means:

11 (a) For a city outside Metro, the housing need allocated to a city under section 2 (2), **chapter**
12 **13, Oregon Laws 2023 (Enrolled House Bill 2001)**, [of this 2023 Act] as segmented by income level
13 under section 2 (4), **chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001)**, [of this 2023 Act];
14 or

15 (b) For a city within Metro, the housing need allocated to the city by Metro under ORS 197.303
16 (3).

17 (2) "Buildable lands" means lands in urban and urbanizable areas that are suitable, available
18 and necessary for the development of needed housing over a 20-year planning period, including both
19 vacant land and developed land likely to be redeveloped.

20 (3) "City" and "city with a population of 10,000 or greater" includes, regardless of size,
21 **any city within Tillamook County and the communities of Barview/Twin Rocks/Watseco,**
22 **Cloverdale, Hebo, Neahkahnie, Neskowin, Netarts, Oceanside and Pacific City/Woods.**

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

1 [(3)] (4) “Government assisted housing” means housing that is financed in whole or part by ei-
2 ther a federal or state housing agency or a housing authority as defined in ORS 456.005, or housing
3 that is occupied by a tenant or tenants who benefit from rent supplements or housing vouchers
4 provided by either a federal or state housing agency or a local housing authority.

5 [(4)] (5) “Housing capacity” means the number of needed housing units that can be developed
6 on buildable lands within the 20-year planning period based on the land’s comprehensive plan des-
7 ignation and capacity for housing development and redevelopment.

8 [(5)] (6) “Housing production strategy” means a strategy adopted by a local government to pro-
9 mote housing production under ORS 197.290.

10 [(6)] (7) “Manufactured dwelling,” “manufactured dwelling park,” “manufactured home” and
11 “mobile home park” have the meanings given those terms in ORS 446.003.

12 [(7)] (8) “Periodic review” means the process and procedures as set forth in ORS 197.628 to
13 197.651.

14 [(8)] (9) “Prefabricated structure” means a prefabricated structure, as defined in ORS 455.010,
15 that is relocatable, more than eight and one-half feet wide and designed for use as a single-family
16 dwelling.

17 **SECTION 2.** ORS 197.758 is amended to read:

18 197.758. (1) As used in this section:

19 (a) **“City” or “city with a population of 25,000 or greater” includes, regardless of size, any**
20 **city within Tillamook County and the communities of Barview/Twin Rocks/Watseco,**
21 **Cloverdale, Hebo, Neahkahnie, Neskowin, Netarts, Oceanside and Pacific City/Woods.**

22 [(a)] (b) “Cottage clusters” means groupings of no fewer than four detached housing units per
23 acre with a footprint of less than 900 square feet each and that include a common courtyard.

24 [(b)] (c) “Middle housing” means:

25 (A) Duplexes;

26 (B) Triplexes;

27 (C) Quadplexes;

28 (D) Cottage clusters; and

29 (E) Townhouses.

30 [(c)] (d) “Townhouses” means a dwelling unit constructed in a row of two or more attached
31 units, where each dwelling unit is located on an individual lot or parcel and shares at least one
32 common wall with an adjacent unit.

33 (2) Except as provided in subsection (4) of this section, each city with a population of 25,000 or
34 [more] **greater** and each county or city within a metropolitan service district shall allow the de-
35 velopment of:

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

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

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

45 (4)(a) **Except within Tillamook County,** this section does not apply to:

1 [(a)] (A) Cities with a population of 1,000 or fewer, **except inside of Tillamook County**;

2 [(b)] (B) Lands not within an urban growth boundary;

3 [(c)] (C) Lands that are not incorporated and also lack sufficient urban services, as defined in
4 ORS 195.065; **or**

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

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

9 **(b) This section does not apply to lands that are not zoned for residential use, including**
10 **lands zoned primarily for commercial, industrial, agricultural or public uses.**

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

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

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

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

19 **SECTION 3.** Section 3, chapter 639, Oregon Laws 2019, is amended to read:

20 **Sec. 3.** (1) Notwithstanding ORS 197.646, a local government shall adopt land use regulations
21 or amend its comprehensive plan to implement [section 2 of this 2019 Act] **ORS 197.758** no later than:

22 (a) June 30, 2021, for each city subject to [section 2 (3) of this 2019 Act] **ORS 197.758 (3)**; [or]

23 (b) June 30, 2022, for each local government subject to [section 2 (2) of this 2019 Act.] **ORS**
24 **197.758 (2) except as provided in paragraph (c) of this subsection; or**

25 **(c) July 1, 2025, for each city, as defined in ORS 197.758, in Tillamook County.**

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

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

33 (4) In adopting regulations or amending a comprehensive plan under this section, a local gov-
34 ernment shall consider ways to increase the affordability of middle housing by considering ordi-
35 nances and policies that include but are not limited to:

36 (a) Waiving or deferring system development charges;

37 (b) Adopting or amending criteria for property tax exemptions under ORS 307.515 to 307.523,
38 307.540 to 307.548 or 307.651 to 307.687 or property tax freezes under ORS 308.450 to 308.481; and

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

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

44 **SECTION 4.** If House Bill 2001 becomes law, section 1, chapter 13, Oregon Laws 2023 (Enrolled
45 House Bill 2001), is amended to read:

1 **Sec. 1.** (1) There is established within the Oregon Department of Administrative Services the
2 Oregon Housing Needs Analysis. The purposes of the Oregon Housing Needs Analysis are to further
3 the:

4 (a) Production of housing to meet the need of Oregonians at all levels of affordability; and

5 (b) Production of housing in a way that creates more housing choice by affirmatively furthering
6 fair housing, as defined in ORS 197.290.

7 (2) The Oregon Housing Needs Analysis consists of three components as follows:

8 (a) The annual statewide housing analysis under section 2 (1), **chapter 13, Oregon Laws 2023**
9 **(Enrolled House Bill 2001)** *[of this 2023 Act]*;

10 (b) The allocated housing need under section 2 (2), **chapter 13, Oregon Laws 2023 (Enrolled**
11 **House Bill 2001)** *[of this 2023 Act]*; and

12 (c) The housing production targets under section 3, **chapter 13, Oregon Laws 2023 (Enrolled**
13 **House Bill 2001)** *[of this 2023 Act]*.

14 (3) Actions taken by the department under sections 1 to 3, **chapter 13, Oregon Laws 2023**
15 **(Enrolled House Bill 2001)** *[of this 2023 Act]*, are not subject to ORS 197.180 and are not land use
16 decisions.

17 (4) The Department of Land Conservation and Development and the Housing and Community
18 Services Department:

19 (a) Shall assist the Oregon Department of Administrative Services with its duties under sections
20 1 to 3, **chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001)** *[of this 2023 Act]*.

21 (b) May study and recommend methodological changes to the Oregon Department of Adminis-
22 trative Services to improve the Oregon Housing Needs Analysis' functions and suitability for its
23 purposes under subsection (1) of this section. The departments may solicit written and oral public
24 testimony to inform their recommendations.

25 **(5) As used in sections 1 to 3, chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001),**
26 **“city” or “city with a population of 10,000 or greater” has the meaning given the term in ORS**
27 **197.286.**

28 **SECTION 4a. If House Bill 2889 becomes law, section 4 of this 2023 Act (amending section**
29 **1, chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001)) is repealed and section 1, chapter**
30 **13, Oregon Laws 2023 (Enrolled House Bill 2001), as amended by section 1, chapter __,**
31 **Oregon Laws 2023 (Enrolled House Bill 2889), is amended to read:**

32 **Sec. 1.** (1) There is established within the Oregon Department of Administrative Services the
33 Oregon Housing Needs Analysis. The purposes of the Oregon Housing Needs Analysis are to further
34 the:

35 (a) Production of housing to meet the need of Oregonians at all levels of affordability; and

36 (b) Production of housing in a way that creates more housing choice by affirmatively furthering
37 fair housing, as defined in ORS 197.290.

38 (2) The Oregon Housing Needs Analysis consists of three components as follows:

39 (a) The annual statewide housing analysis under section 2 (1), chapter 13, Oregon Laws 2023
40 **(Enrolled House Bill 2001)**;

41 (b) The allocated housing need under section 2 (2), chapter 13, Oregon Laws 2023 **(Enrolled**
42 **House Bill 2001)**; and

43 (c) The housing production targets under section 3, chapter 13, Oregon Laws 2023 **(Enrolled**
44 **House Bill 2001)**.

45 (3) Actions taken by the department under sections 1 to 3, chapter 13, Oregon Laws 2023 (En-

1 rolled House Bill 2001), are not subject to ORS 197.180 and are not land use decisions.

2 (4) The Department of Land Conservation and Development and the Housing and Community
3 Services Department:

4 (a) Shall assist the Oregon Department of Administrative Services with its duties under sections
5 1 to 3, chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001).

6 (b) May study and recommend methodological changes to the Oregon Department of Adminis-
7 trative Services to improve the Oregon Housing Needs Analysis' functions and suitability for its
8 purposes under subsection (1) of this section. The departments shall solicit written and oral public
9 testimony to inform their recommendations.

10 (5) As used in sections 1 to 3, chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001), "city"
11 or "city with a population of 10,000 or greater" includes **cities, as defined in ORS 197.286, and**
12 urban unincorporated communities in Metro, as defined in ORS 197.015.

13 **SECTION 5.** If House Bill 2001 becomes law, section 4, chapter 13, Oregon Laws 2023 (Enrolled
14 House Bill 2001), is amended to read:

15 **Sec. 4.** (1) The Housing and Community Services Department may adopt rules to implement this
16 section and section 5, **chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001)** [*of this 2023*
17 *Act*].

18 (2) On an annual basis the Housing and Community Services Department shall update a publicly
19 available statewide housing production dashboard.

20 (3) The dashboard shall include, for each city with a population of 10,000 or greater, **as defined**
21 **in ORS 197.286:**

22 (a) Progress toward housing production by affordability levels, as described in section 2 (4),
23 **chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001)**, [*of this 2023 Act*] and total housing
24 targets; and

25 (b) A comparative analysis of progress in comparison to the region and other local governments
26 with similar market types.

27 (4) Information in the dashboard must be based on:

28 (a) Inventory of publicly supported housing, as defined in ORS 456.250, that is maintained by the
29 department; and

30 (b) Information submitted to the department under section 37 (3), **chapter 13, Oregon Laws**
31 **2023 (Enrolled House Bill 2001)** [*of this 2023 Act*].

32 **SECTION 5a.** If House Bill 2889 becomes law, section 5 of this 2023 Act (amending section
33 **4, chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001)**) is repealed.

34 **SECTION 6.** If House Bill 2001 becomes law, section 5, chapter 13, Oregon Laws 2023 (Enrolled
35 House Bill 2001), is amended to read:

36 **Sec. 5.** (1) On an annual basis the Housing and Community Services Department shall update
37 publicly available statewide housing equity indicators.

38 (2) The indicators shall include, for each city **under section 4, chapter 13, Oregon Laws 2023**
39 **(Enrolled House Bill 2001)**, quantifiable data, to the extent that the department can determine,
40 define or estimate it, displaying:

41 (a) Housing outcomes, such as cost burden and availability of housing units to own or to rent,
42 and housing condition for various demographics, including race or ethnicity, disability status, Eng-
43 lish proficiency and age;

44 (b) Housing types produced and overall land efficiency of housing production;

45 (c) New housing units built to standards, as defined by the Department of Consumer and Busi-

1 ness Services by rule, relating to accessibility and visitability;

2 (d) Risk of gentrification and displacement;

3 (e) Housing segregation by race and income;

4 (f) Environmentally just housing outcomes, informed by the environmental justice mapping tool,
5 developed by the Environmental Justice Council under section 12, chapter 58, Oregon Laws 2022;

6 (g) Residential tenants who spend more than 50 percent of their household income on gross rent
7 for housing; and

8 (h) Other measurable factors or indicators identified by the department.

9 **SECTION 7.** If House Bill 2001 becomes law, section 9, chapter 13, Oregon Laws 2023 (Enrolled
10 House Bill 2001), is amended to read:

11 **Sec. 9.** (1) The Land Conservation and Development Commission shall adopt rules and amend-
12 ments to rules related to urbanization as follows:

13 (a) **On or before June 30, 2024, adopt a schedule by which cities, as defined in ORS 197.286,**
14 **in Tillamook County shall demonstrate sufficient buildable lands.**

15 [(a)] (b) On or before January 1, 2025, to implement ORS 197.290, 197.291, 197.293, 197.319 (4),
16 197.320 (13) and 197.335 (6); and

17 [(b)] (c) On or before January 1, 2026, to implement ORS 197.286 to 197.314, except as provided
18 in paragraph [(a)] (b) of this subsection.

19 (2) In adopting rules under this section, the commission shall prioritize:

20 (a) Facilitating and encouraging housing production, affordability and housing choice on
21 buildable lands within an urban growth boundary;

22 (b) Providing greater clarity and certainty in the adoption and acknowledgement of housing ca-
23 pacity analyses, urban growth boundary amendments, urban growth boundary exchanges or urban
24 reserves to accommodate an identified housing need;

25 (c) Reducing analytical burden, minimizing procedural redundancy and increasing legal certainty
26 for local governments pursuing urban growth boundary amendments, urban growth boundary ex-
27 changes or urban reserves where a housing need is identified, especially for smaller cities, consist-
28 ent with the appropriate protection of resource lands; and

29 (d) Supporting coordinated public facilities planning, annexation, and comprehensive plan
30 amendments to facilitate the development of lands brought into an urban growth boundary.

31 (3) In adopting rules under subsection [(1)(a)] (1)(b) of this section, the commission shall:

32 (a) Consult with the Housing and Community Services Department, Department of Transporta-
33 tion, Department of Environmental Quality, Department of State Lands, Oregon Business Develop-
34 ment Department and Department of Consumer and Business Services;

35 (b) Provide clear parameters on the types and extent of actions needed or allowed under ORS
36 197.290 (3) that are consistent with the technical and resource capacities of varying sizes of local
37 governments; and

38 (c) Recognize actions already taken by local governments.

39 (4) To avoid interference with current planning activities or to avoid unjust or surprising re-
40 sults, the Land Conservation and Development Commission may postpone, for cities specified by the
41 commission, the applicability of section 13, 21, 22 or 23, **chapter 13, Oregon Laws 2023 (Enrolled**
42 **House Bill 2001)**, [of this 2023 Act] and the amendments to ORS 197.286, 197.290, 197.296, 197.297
43 and 197.303, by sections 12 and 25 to 28, **chapter 13, Oregon Laws 2023 (Enrolled House Bill**
44 **2001)** [of this 2023 Act], until a date that is not later than January 1, 2026.

45 (5) **To provide for flexibility and coordination of county resources, the commission may**

1 **adopt any policies or rules necessary to allow cities, as defined in ORS 197.286, in Tillamook**
2 **County to cooperate with the county in fulfilling any of the cities' duties under ORS 197.286**
3 **to 197.314 or coordinating the distribution of any funds to the cities for such purposes.**

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