

AGENDA
DAYTON PLANNING COMMISSION, DAYTON CITY COUNCIL &
HISTORIC PRESERVATION COMMITTEE
SPECIAL JOINT MEETING

Date: Thursday, March 29, 2018

Place: City Hall Annex, 408 Ferry Street, Dayton, Oregon

Time: 6:30 pm

Item	Description	Page #
A.	Call to Order	
B.	Approval of Order of Agenda (additions, corrections or deletions to the agenda)	
C.	Appearance of interested citizens	
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">This time is reserved for questions or comments from persons in the audience on any topic.</div>		
D.	Open forum joint meeting by request of the City of Dayton for discussion regarding Senate Bill 1051 and changes to the Dayton Municipal Code to allow accessory dwelling units in the single-family residential zone (R-1).	
	1) Staff Report – Dated March 22, 2018	3
	2) Exhibit A - Senate Bill 1051 Memo	11
	3) Exhibit B - Senate Bill 1051 and Summary	13
	4) Exhibit C - DLCDC Summary of ADU Regulations by City and County	30
E.	Other Business	
F.	Adjournment	

Posted: March 23, 2018

By: Patty Ringnalda, City Clerk

Persons with hearing, visual or manual impairments who wish to participate in the meeting should contact the City of Dayton at least 32 working hours (4 days) prior to the meeting date in order that appropriate communication assistance can be arranged. The Dayton City Hall Annex is accessible to the disabled. Please let us know if you need any special accommodations to attend this meeting.

Next Scheduled Meeting Date
Thursday, April 12, 2018

City of Dayton, PO Box 330, 416 Ferry Street, Dayton Oregon 97114

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CITY OF DAYTON

STAFF REPORT

DEVELOPMENT CODE UPDATE – ACCESSORY DWELLING UNITS

Report Date: March 22, 2018

Joint Meeting/Work Session: March 29, 2018

OVERVIEW:	Updates to the Dayton Development Code to allow for Accessory Dwelling Units (ADUs) in all zones where detached single-family dwellings are permitted.
APPLICABLE CRITERIA:	Dayton Development Code
EXHIBITS:	A. Senate Bill 1051 Memo B. SB 1051 and Summary C. DLCDC Summary of ADU Regulations D. ADU Program Guide – Portland

I. SUMMARY

PURPOSE

The purpose of this report is to provide the Planning Commission and City Council with information related to adding Accessory Dwelling Unit (ADU) as a permitted use in the R-1 District, and to clarify that residential development can occur on a property in a residential zone where a house of worship exists.

ACCESSORY DWELLING UNITS (ADU)

An ADU is a habitable space that includes a kitchen, bathroom and living space. Even though an ADU has some characteristics of an “accessory structure” such as a garage, shop or storage shed, an ADU is its own independent use.

The line between ADU’s and accessory structures can be blurred because a portion of the main floor of a garage or the second floor of a garage can be an ADU. In such cases the portion of the building with the ADU is the ADU, and the portion of the building with the garage is the garage.

SENATE BILL 1051

The 2017 Legislature passed SB 1051 which addresses, generally, affordable housing and includes several sections. This report addresses only ADU's and residential development on a property in a residential zone where a house of worship exists.

SB 1051, Section 6, amends Oregon Revised Statute 197. The section in ORS 197 that was amended is "Urban Growth Boundaries and Needed Housing Within Boundaries. ORS 197.312 addresses "Limitation on city and county authority to prohibit certain kinds of housing; zoning requirements for farmworker housing; real estate sales office."

SB 1051, Section 6, Subsection (5) states:

(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 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 "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.

Although the above appears to be clear, the Bill's requirements are listed below.

1. Cities with a population greater than 2,500 in the city limits must allow ADUs in any zone that allows detached single family residences.
2. ADU's can be attached (part of the main dwelling) or detached from the main dwelling.
3. Where a zoning district allows a detached single-family dwelling, that district must allow at least 1 ADU on a property where a detached single-family dwelling is located on the property. The Dayton Development Code allows detached single-family dwellings in the Low Density Residential District (R-1) and the Limited Density Residential District (R-2). The R-2 District already allows ADUs as a Special Permitted Use, subject to the standards of Section 7.2.4.
4. Standards adopted by a city must relate to "siting and design" of ADU's and they must be "reasonable."

Prior to SB 1051 the Oregon Revised Statutes did not require cities and counties to allow ADU's, but some cities and counties amended their development codes over the years to allow them.

The basic reasons ADU's are supported are:

1. Housing is tight throughout Oregon and ADU's provide more housing.
2. The additional income can help the property owner remain the owner and pay off the mortgage, thus maintaining home ownership and neighborhood viability.
3. Adult children can have an affordable place to live.
4. Other residents can have access to affordable housing.
5. The land would be used more efficiently with an ADU on the property.
6. The increased density means more neighborhood activity.

The basic reasons ADU's are not supported are:

1. A tight housing market is not sufficient reason to increase density in existing single family neighborhoods.
2. The increased density results in excessive activity, thus reducing the ability of next door residents to achieve quiet enjoyment of their residences.
4. The increased density results in more vehicle trips in the neighborhood.
5. The increased density results in more vehicles parking on the street.

II. PROCEDURE

Amendments to the City's Development Code are Type IV procedures according to the Dayton Development Code 7.3.101.04. A Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. Private parties cannot apply for a Type IV action; it must be initiated by City staff, Planning Commission, or City Council. Public notice and hearings are provided in a Type IV process.

The Criteria for Approval of an amendment to the Dayton Development Code are listed in Section 7.3.112.03, and are listed below:

- A. Impact of the proposed amendment on land use and development patterns within the city, as measured by:
 1. Traffic generation and circulation patterns;
 2. Demand for public facilities and services;
 3. Level of park and recreation facilities;
 4. Economic activities;
 5. Protection and use of natural resources;
 6. Compliance of the proposal with existing adopted special - purpose plans or programs, such as public facilities improvements.

- B. A demonstrated need exists for the product of the proposed amendment.
- C. The proposed amendment complies with all applicable Statewide Planning Goals and administrative rule requirements.
- D. The amendment is appropriate as measured by at least one of the following criteria:
 - 1. It corrects identified error(s) in the provisions of the plan.
 - 2. It represents a logical implementation of the plan.
 - 3. It is mandated by changes in federal, state, or local law.
 - 4. It is otherwise deemed by the council to be desirable, appropriate, and proper.

Staff will present proposed finding of fact at the hearing.

III. CONSIDERATIONS

SB 1051 calls for ADU regulations to comply with the 4 items at the bottom of p. 2 and relate to “siting and design” and be “reasonable,” but otherwise the Bill does not set standards. Thus, each city must determine the appropriate standards for ADU’s.

The Planning Commission and City Council may consider the following issues related to ADUs as well as others determined to be reasonable and in compliance with the State requirement.

Type of Structure: SB 1051 requires local regulations to allow an ADU as a detached structure and as a space in the main single-family dwelling. Thus, ADU’s can be in garages and in separate detached buildings. When an ADU is in a garage, the black and white separation between ADU’s and accessory structures blurs, but the portion of the building with the ADU is the ADU and the portion of the building with the garage is the garage.

Manufactured Home: Allow or prohibit a manufactured home as an ADU.

ADU Size: The name “Accessory Dwelling Unit” indicates the dwelling unit is “accessory” and is secondary, ancillary or subordinate to the dwelling on the property. Thus, many cities require the ADU to be small. An absolute maximum size can be required or the size can be a percentage of the area of the main dwelling.

Parking: Where a detached single-family dwelling is required to have a minimum number of parking spaces, the issue is, should the same or a similar requirement apply to the ADU. An ADU can be occupied by two or more wage earners who each drive to their jobs. The requirement of off-street parking is an issue to address.

Garages: Where a detached single-family dwelling is required to have an attached or

detached garage, the issue is, should the ADU also be required to have an attached or detached garage.

Garage Conversions: Where a garage is converted to an ADU, it may result in the main building not having the required two parking spaces. In those cities that require a garage, it may result in having to construct a new garage.

Driveway: Where off-street parking is required for the ADU, should the ADU parking space area share the driveway with the main dwelling or should a separate driveway be required or allowed.

Entrances: To not deviate too far from the traditional elements of a detached single-family neighborhood, some cities require the ADU entrance to not face the street.

Design: To support typical single-family design elements, specific design elements could be required, for example, a roofed porch at the front door, a pitched roof, windows, roof and siding similar to or consistent with typical roof and siding materials used on single family dwellings. Some cities require they be 1 or more feet back from the front wall of the main dwelling to reduce their visibility.

Occupants: To not deviate too far from the traditional elements of a detached single-family neighborhood, some cities require the property owner to occupy the main dwelling or the ADU.

Building Coverage: Many cities have a lot coverage standard in their residential zones. ADU regulations should be clear whether an ADU must comply with the lot coverage standard.

Location: To maintain the appearance of a detached single-family neighborhood, typical ADU regulations require ADU's be located in a side and/or rear yard and not in the front yard and not in a side yard adjacent to a street.

Setbacks: To maintain the appearance of a detached single-family neighborhood, ADU regulations typically require compliance with the setbacks for the main dwelling.

Screening: Should a fence, wall or hedge be required to screen a new ADU from the side or rear of an abutting property?

Building Separation: Where the ADU is detached, should there be a minimum distance between the main dwelling and the ADU. The Oregon Residential Specialty Code does not specifically address ADU's, thus the separation standards for duplexes are used and they require a separation of at least 6 feet and no fire wall is required, or where the separation is less than 6 feet a 2-hour fire wall is required.

Height: Where the main detached single-family dwelling is 1-story, should the ADU be limited to 1-story.

Second Story Windows: Where an ADU is in a rear yard and is 2-stories, some cities require any 2nd story window to be privacy glass to prevent the ADU occupant from observing activities in the rear yard of the abutting property.

Vacation Rental Interface: The possibility of an ADU raises the issue of whether the ADU would be rented on a day to day or week to week basis and function as a vacation rental. Need a city adopt vacation rental regulations and prohibit an ADU from being a vacation rental or prohibit all dwellings in the city from being vacation rentals?

Objective versus Subjective Standards: It appears ADU's are "needed housing" in accordance with Oregon Revised Statute 197.303, and if that is the case, the standards applied to ADU's must be clear and objective, not subjective.

UTILITY FACILITIES

Although not a Dayton Development Code issue, the provision of water and sewer to an ADU is an issue to be resolved by the City Manager, Public Works Department and the City Council.

The basic issue is whether ADU's should be required to have water and sewer service separate from the main dwelling.

ADU's within a dwelling or attached to a dwelling could, presumably, obtain water and sewer from the pipes in the main dwelling. Detached ADU's may or may not easily be able to obtain water and sewer from the pipes in the main dwelling. Because a detached ADU is, physically, a separate dwelling the city may want to require it to have separate water and sewer laterals and a separate water meter.

SYSTEM DEVELOPMENT CHARGES

Although not a Dayton Development Code issue, the payment of system development charges is an issue to be resolved by the City Manager, Public Works Department and the City Council.

The basic issue is whether ADU's should be required to pay the city's sewer, water, transportation, storm drainage and parks system development charges. The ADU residents will use the sewer, water, street, storm drainage and park systems, therefore, one position is they should pay the SDC's just like all other residential uses.

RESIDENCES ON CHURCH PROPERTIES IN RESIDENTIAL DISTRICTS

During the 2017 Legislature, SB 1051 was passed. Section 8, amends Oregon Revised Statute 227, City Planning and Zoning.

SECTION 8 amends ORS 227.500 to read:

ORS 227.500. Use of Real Property for Religious Activity; City Regulation of Real Property Used for Religious Activity.

(1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a city shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including *[worship services, religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for prekindergarten through grade 12 or higher education.]*:

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

(f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

(g) Providing housing or space for housing in a building that is detached from the place of worship, provided:

(A) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;

(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and

(C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.

(2) A city may:

(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review and design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or regulate the use of real property by a place of worship described in subsection (1) of this section if the city finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

(3) Notwithstanding any other provision of this section, a city may allow a private or

parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.

(4) Housing and space for housing provided under subsection (1)(g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of the building or any residential unit contained in the building from selling or renting any residential unit described in subsection (1)(g)(A) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.

IV. AFFECTED CODE SECTIONS

1.203: Definitions.

“Church”: A permanently located building primarily used for religious worship, including accessory buildings for related religious activities and a residence.”

Change to:

“House of Worship” means a church, mosque, synagogue, temple, meeting house, or other nonresidential building used primarily for religious worship. A house of worship may include accessory buildings for related religious activities, but not kindergarten through grade 12 school facilities.

7.2.102: Single Family Residential (R-1)

7.2.203.02: Permitted Residential Accessory Structures and Uses

7.2.303: Off-Street Parking and Loading

7.2.309: Accessory Structures

7.2.402: Accessory Dwelling Units



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Date: August 11, 2017
To: City Managers/Administrators
From: Renata Wakeley, City Planner
Subject: Senate Bill 1051 and Accessory Dwelling Units

This memo is to inform you of a new Senate Bill that impacts zones that currently allow detached single-family dwellings and requires amendments to zones that allow religious activities/uses, such as churches, temples, mosques, meeting houses, etc.

Communities that allow religious activities/uses under a local zoning regulation *shall* (effective immediately):

- Allow the reasonable use of said property for activities customarily associated with the religious activities/uses such as worship services, religion classes, weddings and funerals, meal programs, child care, and detached housing for affordable housing units if residentially zoned.

Communities with populations over 2,500 *shall* (effective July 1, 2018):

- Properties that permit detached single-family dwellings must also allow the development of at least one accessory dwelling unit (ADU) in connection with or accessory to each detached single-family dwelling.
- This amendment *does* allow local jurisdictions to adopt their own ADU standards related to size, placement, design, parking requirements, etc. as part of the code amendments.

In addition, communities with population over 5,000 *shall* (effective July 1, 2018):

- Take final action within 100 days on any land use application for multi-family residential building containing five (5) or more residential units *IF* at least 50 percent of the residential units will be sold or rented as affordable housing for a period of not less than sixty (60) years.

A copy of Senate Bill 1051 in its entirety is attached for your reference.

As a courtesy, COG staff would like to advise you of these changes that you may wish to consider in regards to your land use applications and development code and we recommend local jurisdictions amend their development codes to comply with the rule change at the next available opportunity. Effective immediately, COG Planners will initiate/implement the rule change by verbally informing applicants for those jurisdictions that we provide contract planning services to.

If you have questions or concerns on this rule change or would like assistance on updating your development code, please feel free to contact me.

Regards,

Renata Wakeley, City Planner

Encl: SB-1051-A

Summary of SB1051 - includes dash 8 amendments

Topic	What the bill will do:	What the bill will NOT do:
<p>Permitting Timelines (Section 1)</p>	<p>(1) Requires local jurisdictions to review and make decisions on qualifying applications within 100 days.</p> <p>(a) Qualifying application is defined as:</p> <p>(i) A multifamily residential building containing five or more units,</p> <p>(ii) At least 50 percent of the units must be affordable to households with an income at or below 60 percent of Median Family Income,</p> <p>(iii) The units must be affordable for at least 60 years.</p> <p>(b) Small jurisdictions exempted from requirement: cities with a population below 5,000 and counties with a population below 25,000.</p>	<p>The bill will not:</p> <ul style="list-style-type: none"> • Allow cities or counties to delay the approval of non-qualifying applications. The bill simply reduces the review timeline from 120 to 100 days for qualifying affordable housing permit applications.
<p>Clear and Objective Permitting Standards (Sections 2 -5)</p>	<p>Current state law mandates that cities and counties have a set of clear and objective development standards for “needed housing”. This bill:</p> <p>(1) Strengthens existing state law by clarifying that jurisdictions must approve an application if it meets the clear and objective standards included in local land use regulations.</p> <p>(2) Expands the definition of “needed housing” to include affordable housing and housing on land zoned for residential use.</p> <p>(3) Maintains existing exemptions from requirement to have clear and objective standards (Central City Portland, regional centers as defined by Metro, and historic areas).</p> <p>(4) Maintains existing allowance for alternative (discretionary) path.</p> <p>(5) Makes it explicit, although it is implicit in current state law, that clear and objective standards may contain density and height limits.</p>	<p>The bill will not:</p> <ul style="list-style-type: none"> • Eliminate discretionary design review. The bill requires that when a developer goes down the clear and objective path, that the local jurisdiction evaluate the application against clear and objective standards. • Allow local jurisdictions to approve applications that do not meet all clear and objective standards. • Eliminate design review. Clear and objective standards currently include design standards. • Prevent local jurisdictions from having height and density limits in their clear and objective standards. • Prevent local jurisdictions from updating their clear and objective standards to include additional standards.
<p>Building to Authorized Density and Height (Sections 2 & 3)</p>	<p>Cities and counties:</p> <p>(1) May not require a developer to build below the density authorized in local zoning code, if 75% of the floor area ratio of the building is reserved for residential housing.</p> <p>(a) May require developer to reduce density for a health, safety, habitability reason or to comply with protection measures under statewide planning goals.</p> <p>(2) May not require a developer to build below the height authorized in the local land use regulations, if it has the effect of reducing density.</p> <p>(a) May require a developer to reduce height for a health, safety, habitability reason or to comply with protection measures under statewide planning goals.</p>	<p>The bill will not:</p> <ul style="list-style-type: none"> • Allow developers to achieve density or height above the maximum authorized in local land use regulations. • Prevent local jurisdictions from having “layered” density and height allowances on a single lot with different standards and criteria associated with each “layer”. • Allow developer to achieve the maximum height or density allowed in a “layer” unless they meet all of the standards or criteria associated with that “layer”. • Prevent local jurisdictions from requiring developers to go through discretionary review if building above a certain density or height. • Prevent local jurisdictions from reducing the height of an application as long as the reduction in height does not have the effect of reducing the density.

Topic	What the bill will do:	What the bill will NOT do:
Infill (ADUs) (Section 6)	Cities and counties: <ol style="list-style-type: none"> (a) Shall allow at least one ADU for every lot that allows a detached single-family dwelling. However, local jurisdictions may still impose reasonable regulations including but not limited to those relating to siting and design. (b) Small jurisdictions exempted from requirement to allows ADUs - cities with a population below 2,500 and counties with a population below 15,000. (c) This requirement is operative on July 1, 2018, so local governments have time to develop regulations related to the development of ADUs in single-family zones. 	The bill will not : <ul style="list-style-type: none"> • Prevent local jurisdictions from imposing regulations on the development of ADUs in single-family zones. • Preempt local jurisdictions from imposing development regulations that would normally apply to the site. For example, a site might be subject to overlay zones or other regulations that would apply to development of the site regardless of whether the development is for an ADU. • Limit reasonable regulations of ADUs exclusively to siting and design. • Authorize local jurisdictions to impose “unreasonable” regulations to development of ADUs.
Affordable Housing on Land Owned by Religious Organization (Sections 7 & 8)	Cities and Counties must: <ol style="list-style-type: none"> (1) Allow development of affordable housing on land owned by religious organizations in areas zoned for residential housing inside of an urban growth boundary. (2) “Affordable housing” is defined as a development with at least 50 percent of units affordable to households with income less than or equal to 60 percent of Median Family Income (MFI) for a period of at least 60 years. The housing development must: <ol style="list-style-type: none"> (1) Comply with applicable land use regulations and meet standards and criteria associated with the underlying zoning. 	The bill will not : <ul style="list-style-type: none"> • Permit development of multifamily housing in single-family zones. • Permit development of housing if it doesn’t meet local land use regulations, which include site review considerations like sewer, water etc.
Data Collection (Section 9)	Local governments with comprehensive plans must report the following information to DLCD, in addition to existing reporting requirements: <ol style="list-style-type: none"> (1) The number of complete applications received that contain units that are sold or rented below market rate as part of public subsidy program. (2) Of those complete applications: <ol style="list-style-type: none"> (a) The date that the application was approved or denied, (b) The total number of completely applications that include subsidized housing (below market rate). 	

Enrolled Senate Bill 1051

Sponsored by COMMITTEE ON BUSINESS AND TRANSPORTATION

CHAPTER

AN ACT

Relating to use of real property; creating new provisions; amending ORS 197.178, 197.303, 197.307, 197.312, 215.416, 215.427, 215.441, 227.175, 227.178 and 227.500; and declaring an emergency.

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

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

(a) "Affordable housing" means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater.

(b) "Multifamily residential building" means a building in which three or more residential units each have space for eating, living and sleeping and permanent provisions for cooking and sanitation.

(2) Notwithstanding ORS 215.427 (1) or ORS 227.178 (1), a city with a population greater than 5,000 or a county with a population greater than 25,000 shall take final action on an application qualifying under subsection (3) of this section, including resolution of all local appeals under ORS 215.422 or 227.180, within 100 days after the application is deemed complete.

(3) An application qualifies for final action within the timeline described in subsection (2) of this section if:

(a) The application is submitted to the city or the county under ORS 215.416 or 227.175;

(b) The application is for development of a multifamily residential building containing five or more residential units within the urban growth boundary;

(c) At least 50 percent of the residential units included in the development will be sold or rented as affordable housing; and

(d) The development is subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any residential unit described in paragraph (c) of this subsection as housing that is not affordable housing for a period of 60 years from the date of the certificate of occupancy.

(4) A city or a county shall take final action within the time allowed under ORS 215.427 or 227.178 on any application for a permit, limited land use decision or zone change that does not qualify for review and decision under subsection (3) of this section, including resolution of all appeals under ORS 215.422 or 227.180, as provided by ORS 215.427 and 215.435 or by ORS 227.178 and 227.181.

SECTION 2. ORS 215.416 is amended to read:

215.416. (1) When required or authorized by the ordinances, rules and regulations of a county, an owner of land may apply in writing to such persons as the governing body designates, for a permit, in the manner prescribed by the governing body. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service.

(2) The governing body shall establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure shall be subject to the time limitations set out in ORS 215.427. The consolidated procedure shall be available for use at the option of the applicant no later than the time of the first periodic review of the comprehensive plan and land use regulations.

(3) Except as provided in subsection (11) of this section, the hearings officer shall hold at least one public hearing on the application.

(4)(a) *[The application shall not be approved]* **A county may not approve an application** if the proposed use of land is found to be in conflict with the comprehensive plan of the county and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by statute or county legislation.

(b)(A) A county may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including but not limited to clear and objective design standards contained in the county comprehensive plan or land use regulations.

(B) This paragraph does not apply to:

(i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197.307 (6).

(c) A county may not reduce the density of an application for a housing development if:

(A) The density applied for is at or below the authorized density level under the local land use regulations; and

(B) At least 75 percent of the floor area applied for is reserved for housing.

(d) A county may not reduce the height of an application for a housing development if:

(A) The height applied for is at or below the authorized height level under the local land use regulations;

(B) At least 75 percent of the floor area applied for is reserved for housing; and

(C) Reducing the height has the effect of reducing the authorized density level under local land use regulations.

(e) Notwithstanding paragraphs (c) and (d) of this subsection, a county may reduce the density or height of an application for a housing development if the reduction is necessary to resolve a health, safety or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal.

(f) As used in this subsection:

(A) "Authorized density level" means the maximum number of lots or dwelling units or the maximum floor area ratio that is permitted under local land use regulations.

(B) "Authorized height level" means the maximum height of a structure that is permitted under local land use regulations.

(C) "Habitability" means being in compliance with the applicable provisions of the state building code under ORS chapter 455 and the rules adopted thereunder.

(5) Hearings under this section shall be held only after notice to the applicant and also notice to other persons as otherwise provided by law and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

(6) Notice of a public hearing on an application submitted under this section shall be provided to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport" if:

(a) The name and address of the airport owner has been provided by the Oregon Department of Aviation to the county planning authority; and

(b) The property subject to the land use hearing is:

(A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon Department of Aviation to be a “visual airport”; or

(B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon Department of Aviation to be an “instrument airport.”

(7) Notwithstanding the provisions of subsection (6) of this section, notice of a land use hearing need not be provided as set forth in subsection (6) of this section if the zoning permit would only allow a structure less than 35 feet in height and the property is located outside the runway “approach surface” as defined by the Oregon Department of Aviation.

(8)(a) Approval or denial of a permit application shall be based on standards and criteria which shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county and which shall relate approval or denial of a permit application to the zoning ordinance and comprehensive plan for the area in which the proposed use of land would occur and to the zoning ordinance and comprehensive plan for the county as a whole.

(b) When an ordinance establishing approval standards is required under ORS 197.307 to provide only clear and objective standards, the standards must be clear and objective on the face of the ordinance.

(9) Approval or denial of a permit or expedited land division shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

(10) Written notice of the approval or denial shall be given to all parties to the proceeding.

(11)(a)(A) The hearings officer or such other person as the governing body designates may approve or deny an application for a permit without a hearing if the hearings officer or other designated person gives notice of the decision and provides an opportunity for any person who is adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection, to file an appeal.

(B) Written notice of the decision shall be mailed to those persons described in paragraph (c) of this subsection.

(C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall describe the nature of the decision. In addition, the notice shall state that any person who is adversely affected or aggrieved or who is entitled to written notice under paragraph (c) of this subsection may appeal the decision by filing a written appeal in the manner and within the time period provided in the county’s land use regulations. A county may not establish an appeal period that is less than 12 days from the date the written notice of decision required by this subsection was mailed. The notice shall state that the decision will not become final until the period for filing a local appeal has expired. The notice also shall state that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

(D) An appeal from a hearings officer’s decision made without hearing under this subsection shall be to the planning commission or governing body of the county. An appeal from such other person as the governing body designates shall be to a hearings officer, the planning commission or the governing body. In either case, the appeal shall be to a de novo hearing.

(E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals. At the de novo hearing:

(i) The applicant and other parties shall have the same opportunity to present testimony, arguments and evidence as they would have had in a hearing under subsection (3) of this section before the decision;

(ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised in a notice of appeal; and

(iii) The decision maker shall consider all relevant testimony, arguments and evidence that are accepted at the hearing.

(b) If a local government provides only a notice of the opportunity to request a hearing, the local government may charge a fee for the initial hearing. The maximum fee for an initial hearing shall be the cost to the local government of preparing for and conducting the appeal, or \$250, whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made by neighborhood or community organizations recognized by the governing body and whose boundaries include the site.

(c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the applicant and to the owners of record of property on the most recent property tax assessment roll where such property is located:

(i) Within 100 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;

(ii) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(iii) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.

(B) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(C) At the discretion of the applicant, the local government also shall provide notice to the Department of Land Conservation and Development.

(12) A decision described in ORS 215.402 (4)(b) shall:

(a) Be entered in a registry available to the public setting forth:

(A) The street address or other easily understood geographic reference to the subject property;

(B) The date of the decision; and

(C) A description of the decision made.

(b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a limited land use decision.

(c) Be subject to the appeal period described in ORS 197.830 (5)(b).

(13) At the option of the applicant, the local government shall provide notice of the decision described in ORS 215.402 (4)(b) in the manner required by ORS 197.763 (2), in which case an appeal to the board shall be filed within 21 days of the decision. The notice shall include an explanation of appeal rights.

(14) Notwithstanding the requirements of this section, a limited land use decision shall be subject to the requirements set forth in ORS 197.195 and 197.828.

SECTION 3. ORS 227.175 is amended to read:

227.175. (1) When required or authorized by a city, an owner of land may apply in writing to the hearings officer, or such other person as the city council designates, for a permit or zone change, upon such forms and in such a manner as the city council prescribes. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service.

(2) The governing body of the city shall establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure shall be subject to the time limitations set out in ORS 227.178. The consolidated procedure shall be available for use at the option of the applicant no later than the time of the first periodic review of the comprehensive plan and land use regulations.

(3) Except as provided in subsection (10) of this section, the hearings officer shall hold at least one public hearing on the application.

(4)(a) *[The application shall not be approved]* **A city may not approve an application** unless the proposed development of land would be in compliance with the comprehensive plan for the city and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by ORS 227.215 or any city legislation.

(b)(A) A city may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including but not limited to clear and objective design standards contained in the city comprehensive plan or land use regulations.

(B) This paragraph does not apply to:

(i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197.307 (6).

(c) A city may not reduce the density of an application for a housing development if:

(A) The density applied for is at or below the authorized density level under the local land use regulations; and

(B) At least 75 percent of the floor area applied for is reserved for housing.

(d) A city may not reduce the height of an application for a housing development if:

(A) The height applied for is at or below the authorized height level under the local land use regulations;

(B) At least 75 percent of the floor area applied for is reserved for housing; and

(C) Reducing the height has the effect of reducing the authorized density level under local land use regulations.

(e) Notwithstanding paragraphs (c) and (d) of this subsection, a city may reduce the density or height of an application for a housing development if the reduction is necessary to resolve a health, safety or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal.

(f) As used in this subsection:

(A) "Authorized density level" means the maximum number of lots or dwelling units or the maximum floor area ratio that is permitted under local land use regulations.

(B) "Authorized height level" means the maximum height of a structure that is permitted under local land use regulations.

(C) "Habitability" means being in compliance with the applicable provisions of the state building code under ORS chapter 455 and the rules adopted thereunder.

(5) Hearings under this section may be held only after notice to the applicant and other interested persons and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

(6) Notice of a public hearing on a zone use application shall be provided to the owner of an airport, defined by the Oregon Department of Aviation as a "public use airport" if:

(a) The name and address of the airport owner has been provided by the Oregon Department of Aviation to the city planning authority; and

(b) The property subject to the zone use hearing is:

(A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon Department of Aviation to be a "visual airport"; or

(B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon Department of Aviation to be an "instrument airport."

(7) Notwithstanding the provisions of subsection (6) of this section, notice of a zone use hearing need only be provided as set forth in subsection (6) of this section if the permit or zone change would only allow a structure less than 35 feet in height and the property is located outside of the runway "approach surface" as defined by the Oregon Department of Aviation.

(8) If an application would change the zone of property that includes all or part of a mobile home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give written notice by first class mail to each existing mailing address for tenants of the mobile home

or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first hearing on the application. The governing body may require an applicant for such a zone change to pay the costs of such notice.

(9) The failure of a tenant or an airport owner to receive a notice which was mailed shall not invalidate any zone change.

(10)(a)(A) The hearings officer or such other person as the governing body designates may approve or deny an application for a permit without a hearing if the hearings officer or other designated person gives notice of the decision and provides an opportunity for any person who is adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection, to file an appeal.

(B) Written notice of the decision shall be mailed to those persons described in paragraph (c) of this subsection.

(C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall describe the nature of the decision. In addition, the notice shall state that any person who is adversely affected or aggrieved or who is entitled to written notice under paragraph (c) of this subsection may appeal the decision by filing a written appeal in the manner and within the time period provided in the city's land use regulations. A city may not establish an appeal period that is less than 12 days from the date the written notice of decision required by this subsection was mailed. The notice shall state that the decision will not become final until the period for filing a local appeal has expired. The notice also shall state that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

(D) An appeal from a hearings officer's decision made without hearing under this subsection shall be to the planning commission or governing body of the city. An appeal from such other person as the governing body designates shall be to a hearings officer, the planning commission or the governing body. In either case, the appeal shall be to a de novo hearing.

(E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals. At the de novo hearing:

(i) The applicant and other parties shall have the same opportunity to present testimony, arguments and evidence as they would have had in a hearing under subsection (3) of this section before the decision;

(ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised in a notice of appeal; and

(iii) The decision maker shall consider all relevant testimony, arguments and evidence that are accepted at the hearing.

(b) If a local government provides only a notice of the opportunity to request a hearing, the local government may charge a fee for the initial hearing. The maximum fee for an initial hearing shall be the cost to the local government of preparing for and conducting the appeal, or \$250, whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made by neighborhood or community organizations recognized by the governing body and whose boundaries include the site.

(c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the applicant and to the owners of record of property on the most recent property tax assessment roll where such property is located:

(i) Within 100 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;

(ii) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(iii) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.

(B) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(C) At the discretion of the applicant, the local government also shall provide notice to the Department of Land Conservation and Development.

(11) A decision described in ORS 227.160 (2)(b) shall:

(a) Be entered in a registry available to the public setting forth:

(A) The street address or other easily understood geographic reference to the subject property;

(B) The date of the decision; and

(C) A description of the decision made.

(b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a limited land use decision.

(c) Be subject to the appeal period described in ORS 197.830 (5)(b).

(12) At the option of the applicant, the local government shall provide notice of the decision described in ORS 227.160 (2)(b) in the manner required by ORS 197.763 (2), in which case an appeal to the board shall be filed within 21 days of the decision. The notice shall include an explanation of appeal rights.

(13) Notwithstanding other requirements of this section, limited land use decisions shall be subject to the requirements set forth in ORS 197.195 and 197.828.

SECTION 4. ORS 197.303 is amended to read:

197.303. (1) As used in ORS 197.307, “needed housing” means **all housing [types] 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 [particular] price ranges and rent levels[, including] **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 [at least]** 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) Subsection (1)(a) and (d) of this section [shall] **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) 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 5. ORS 197.307 is amended to read:

197.307. (1) The availability of affordable, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income, including housing for farmworkers, is a matter of state-wide concern.

(2) Many persons of lower, middle and fixed income depend on government assisted housing as a source of affordable, decent, safe and sanitary housing.

(3) When a need has been shown for housing within an urban growth boundary at particular price ranges and rent levels, needed housing shall be permitted in one or more zoning districts or in zones described by some comprehensive plans as overlay zones with sufficient buildable land to satisfy that need.

(4) Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of **hous-**

ing, including needed housing [on buildable land described in subsection (3) of this section]. The standards, conditions and procedures:

(a) May include, but are not limited to, one or more provisions regulating the density or height of a development.

(b) May not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

(5) The provisions of subsection (4) of this section do not apply to:

(a) An application or permit for residential development in an area identified in a formally adopted central city plan, or a regional center as defined by Metro, in a city with a population of 500,000 or more.

(b) An application or permit for residential development in historic areas designated for protection under a land use planning goal protecting historic areas.

(6) In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in subsection (4) of this section, a local government may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:

(a) The applicant retains the option of proceeding under the approval process that meets the requirements of subsection (4) of this section;

(b) The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and

(c) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in subsection (4) of this section.

(7) Subject to subsection (4) of this section, this section does not infringe on a local government's prerogative to:

(a) Set approval standards under which a particular housing type is permitted outright;

(b) Impose special conditions upon approval of a specific development proposal; or

(c) Establish approval procedures.

(8) In accordance with subsection (4) of this section and ORS 197.314, a jurisdiction may adopt any or all of the following placement standards, or any less restrictive standard, for the approval of manufactured homes located outside mobile home parks:

(a) The manufactured home shall be multisectional and enclose a space of not less than 1,000 square feet.

(b) The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade.

(c) The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.

(d) The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.

(e) The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 455.010.

(f) The manufactured home shall have a garage or carport constructed of like materials. A jurisdiction may require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings.

(g) In addition to the provisions in paragraphs (a) to (f) of this subsection, a city or county may subject a manufactured home and the lot upon which it is sited to any development standard, ar-

chitectural requirement and minimum size requirement to which a conventional single-family residential dwelling on the same lot would be subject.

SECTION 6. ORS 197.312 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 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, "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.

SECTION 7. ORS 215.441 is amended to read:

215.441. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a county shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including *[worship services, religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for prekindergarten through grade 12 or higher education.]*:

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

(f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

(g) Providing housing or space for housing in a building that is detached from the place of worship, provided:

(A) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;

(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and

(C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.

(2) A county may:

(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or restrict the use of real property by a place of worship described in subsection (1) of this section if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

(3) Notwithstanding any other provision of this section, a county may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.

(4) Housing and space for housing provided under subsection (1)(g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of the building or any residential unit contained in the building from selling or renting any residential unit described in subsection (1)(g)(A) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.

SECTION 8. ORS 227.500 is amended to read:

227.500. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a city shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including [*worship services, religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for prekindergarten through grade 12 or higher education.*]:

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

(f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

(g) Providing housing or space for housing in a building that is detached from the place of worship, provided:

(A) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;

(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and

(C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.

(2) A city may:

(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review and design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or regulate the use of real property by a place of worship described in subsection (1) of this section if the city finds that the level of service of public facilities, including transporta-

tion, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

(3) Notwithstanding any other provision of this section, a city may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.

(4) Housing and space for housing provided under subsection (1)(g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of the building or any residential unit contained in the building from selling or renting any residential unit described in subsection (1)(g)(A) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.

SECTION 9. ORS 197.178 is amended to read:

197.178. (1) Local governments with comprehensive plans or functional plans that are identified in ORS 197.296 (1) shall compile and report annually to the Department of Land Conservation and Development the following information for all applications received under ORS 227.175 for residential permits and residential zone changes:

(a) The **total number of complete applications received for residential development, [including the net residential density proposed in the application and the maximum allowed net residential density for the subject zone] and the number of applications approved;**

[(b) The number of applications approved, including the approved net density; and]

[(c) The date each application was received and the date it was approved or denied.]

(b) The total number of complete applications received for development of housing containing one or more housing units that are sold or rented below market rate as part of a local, state or federal housing assistance program, and the number of applications approved; and

(c) For each complete application received:

(A) The date the application was received;

(B) The date the application was approved or denied;

(C) The net residential density proposed in the application;

(D) The maximum allowed net residential density for the subject zone; and

(E) If approved, the approved net residential density.

(2) The report required by this section may be submitted electronically.

SECTION 10. ORS 215.427 is amended to read:

215.427. (1) Except as provided in subsections (3), (5) and (10) of this section, for land within an urban growth boundary and applications for mineral aggregate extraction, the governing body of a county or its designee shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 120 days after the application is deemed complete. The governing body of a county or its designee shall take final action on all other applications for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 150 days after the application is deemed complete, except as provided in subsections (3), (5) and (10) of this section.

(2) If an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section **and section 1 of this 2017 Act** upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(3)(a) If the application was complete when first submitted or the applicant submits additional information, as described in subsection (2) of this section, within 180 days of the date the application was first submitted and the county has a comprehensive plan and land use regulations acknowledged under ORS 197.251, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

(b) If the application is for industrial or traded sector development of a site identified under section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan, approval or denial of the application must be based upon the standards and criteria that were applicable at the time the application was first submitted, provided the application complies with paragraph (a) of this subsection.

(4) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

(a) All of the missing information;

(b) Some of the missing information and written notice that no other information will be provided; or

(c) Written notice that none of the missing information will be provided.

(5) The period set in subsection (1) of this section **or the 100-day period set in section 1 of this 2017 Act** may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in subsection (10) of this section for mediation, may not exceed 215 days.

(6) The period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the county; and

(b) Unless the parties have agreed to mediation as described in subsection (10) of this section or ORS 197.319 (2)(b).

(7) Notwithstanding subsection (6) of this section, the period set in subsection (1) of this section **and the 100-day period set in section 1 of this 2017 Act do** *[does]* not apply to a decision of the county making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610.

(8) Except when an applicant requests an extension under subsection (5) of this section, if the governing body of the county or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days or 150 days, as applicable, after the application is deemed complete, the county shall refund to the applicant either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9) A county may not compel an applicant to waive the period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS 215.429 **or section 1 of this 2017 Act** as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment.

(10) The periods set forth in *[subsection (1)]* **subsections (1) and (5)** of this section **and section 1 of this 2017 Act** *[and the period set forth in subsection (5) of this section]* may be extended by up to 90 additional days, if the applicant and the county agree that a dispute concerning the application will be mediated.

SECTION 11. ORS 227.178 is amended to read:

227.178. (1) Except as provided in subsections (3), (5) and (11) of this section, the governing body of a city or its designee shall take final action on an application for a permit, limited land use de-

cision or zone change, including resolution of all appeals under ORS 227.180, within 120 days after the application is deemed complete.

(2) If an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section **or section 1 of this 2017 Act** upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(3)(a) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted and the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

(b) If the application is for industrial or traded sector development of a site identified under section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan, approval or denial of the application must be based upon the standards and criteria that were applicable at the time the application was first submitted, provided the application complies with paragraph (a) of this subsection.

(4) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

(a) All of the missing information;

(b) Some of the missing information and written notice that no other information will be provided; or

(c) Written notice that none of the missing information will be provided.

(5) The 120-day period set in subsection (1) of this section **or the 100-day period set in section 1 of this 2017 Act** may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in subsection (11) of this section for mediation, may not exceed 245 days.

(6) The 120-day period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the city; and

(b) Unless the parties have agreed to mediation as described in subsection (11) of this section or ORS 197.319 (2)(b).

(7) Notwithstanding subsection (6) of this section, the 120-day period set in subsection (1) of this section **and the 100-day period set in section 1 of this 2017 Act do** [*does*] not apply to a decision of the city making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610.

(8) Except when an applicant requests an extension under subsection (5) of this section, if the governing body of the city or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days after the application is deemed complete, the city shall refund to the applicant, subject to the provisions of subsection (9) of this section, either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9)(a) To obtain a refund under subsection (8) of this section, the applicant may either:

(A) Submit a written request for payment, either by mail or in person, to the city or its designee;
or

(B) Include the amount claimed in a mandamus petition filed under ORS 227.179. The court shall award an amount owed under this section in its final order on the petition.

(b) Within seven calendar days of receiving a request for a refund, the city or its designee shall determine the amount of any refund owed. Payment, or notice that no payment is due, shall be made to the applicant within 30 calendar days of receiving the request. Any amount due and not paid within 30 calendar days of receipt of the request shall be subject to interest charges at the rate of one percent per month, or a portion thereof.

(c) If payment due under paragraph (b) of this subsection is not paid within 120 days after the city or its designee receives the refund request, the applicant may file an action for recovery of the unpaid refund. In an action brought by a person under this paragraph, the court shall award to a prevailing applicant, in addition to the relief provided in this section, reasonable attorney fees and costs at trial and on appeal. If the city or its designee prevails, the court shall award reasonable attorney fees and costs at trial and on appeal if the court finds the petition to be frivolous.

(10) A city may not compel an applicant to waive the 120-day period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS 227.179 **or section 1 of this 2017 Act** as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment.

(11) The *[period]* **periods** set forth in *[subsection (1)]* **subsections (1) and (5)** of this section **and section 1 of this 2017 Act** *[and the period set forth in subsection (5) of this section]* may be extended by up to 90 additional days, if the applicant and the city agree that a dispute concerning the application will be mediated.

SECTION 12. The amendments to ORS 197.312, 215.416 and 227.175 by sections 2, 3 and 6 of this 2017 Act become operative on July 1, 2018.

SECTION 13. (1) Section 1 of this 2017 Act and the amendments to ORS 197.178, 197.303, 197.307, 215.427, 215.441, 227.178 and 227.500 by sections 4, 5 and 7 to 11 of this 2017 Act apply to permit applications submitted for review on or after the effective date of this 2017 Act.

(2) The amendments to ORS 215.416 and 227.175 by sections 2 and 3 of this 2017 Act apply to applications for housing development submitted for review on or after July 1, 2018.

(3) The amendments to ORS 197.312 by section 6 of this 2017 Act apply to permit applications for accessory dwelling units submitted for review on or after July 1, 2018.

SECTION 14. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.

Passed by Senate April 19, 2017

Repassed by Senate July 7, 2017

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House July 6, 2017

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

.....
Dennis Richardson, Secretary of State

CITY OR COUNTY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Albany	Allowed as an addition to or within a primary residence, in a detached building built before 1998, or on a lot in a subdivision of over 10 lots approved after 2007	May not exceed 50% of the primary residence floor area or 750 sq. ft., whichever is less.	At least three off-street parking spaces must serve the primary residence and the ADU.		Either primary residence or ADU must be occupied by the owner	Lot must meet minimum lot area requirements for the applicable zoning district. Only allowed in Residential Two-family zoning district.
Ashland		Shall not exceed 50% of the floor area of the primary residence on the lot or 1000 sq. ft. whichever is less.	No off street parking required if 50 linear feet of uninterrupted curb in front of property. More than 500sqft unit requires 2 parking spaces.			Accessory Residential Units (ARU) in the Single-Family Residential Zones (R-1-5/R-1-7.5 & R-1-10) require a Conditional Use Permit.
Astoria	May only be crated through conversion of existing living area or areas over attached garages. Existing primary unit must have at least 1400 square feet prior to creation of accessory dwelling unit.	Not to exceed 40% of the size of primary dwelling or 800 square feet, whichever is smaller.	One additional off-street parking space.	No new entrances at the front of the house – only separate ADU entrance can be to side or rear.	Property owner must occupy either primary residence or ADU.	All basic utilities must remain combined with primary structure. Minimum lot size 5000 square feet. Is only allowed in homes at least 50 years old at the time of permit application.
Aurora	Conversion of existing living area or garage, adding floor area, or constructing a detached accessory dwelling unit	Maximum 50% of size of primary dwelling or 1000 sq. ft., whichever is less.	No additional parking required if abutting street is at least 18 feet wide, except if accessory unit is created at the same time as primary dwelling.	No separate entrance in front yard.	Either primary residence or ADU must be occupied by the owner	Must be located in side or rear yard. If detached must be set back at least 6 feet from front building line.
Baker City	Attached, detached, or attached to garage	Maximum size of 700 sq. ft.			Primary dwelling must be owner-occupied, or owner may appoint family member as caretaker.	May not be used as a short term vacation rental
Beaverton		The proposed ADU shall be no more than fifty percent (50%) of the gross floor area of the primary detached dwelling or 800 square feet, whichever is less.	One off street parking space must be provided.	The entrance to the ADU may not face the front property line.	Either the primary or accessory dwelling units shall be occupied by the property owner at any time the accessory dwelling unit is occupied	The primary dwelling shall be at least two-stories when the accessory dwelling unit is to be provided over a garage.

CITY OR COUNTY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Bend	Attached, separate structure, or above detached garage	Maximum 600 sq. ft. on a lot less than 6,000 sq. ft. Maximum 800 sq. ft. on a lot greater than 6,000 sq. ft.	One off-street parking space required. May be in a "tandem" arrangement with other required parking.	none	none	Overall floor-area ratio on lot no greater than .55. Height no greater than 25 feet or height of primary residence, whichever is less.
Boardman						Accessory dwelling units are permitted, but the code section referenced with regulations is missing.
Brownsville	May be attached or detached	The maximum size of any secondary residence shall be no greater than 800 square feet of interior floor space.	Two parking places shall be provided for the secondary residence. These spaces may be in tandem. Required parking shall not be located in the front yard.	none	One of the dwelling units on a property shall be occupied by one or more owners of the property as the owner's permanent and principal residence.	Maximum lot coverage for the principal residence and all accessory structures, including the secondary residence, is 30%.
Canby	Must be attached to the primary dwelling.	Maximum 800 sq. ft.	One off-street parking space for the ADU	None	Either primary residence or ADU must be occupied by the owner	
Cannon Beach	Any new structure, or addition to an existing structure, must go through design review.	Maximum 600 square feet.	One additional off-street parking space required	None	None	Must be rented for a term of 30 days or more. May not be a manufactured dwelling.
Central Point		No more than thirty-five percent of the gross floor area of the main dwelling in existence prior to the construction of the accessory dwelling unit or 800 sq. ft., whichever is less.	At least one off-street parking space shall be provided for each ADU in addition to the off-street parking spaces required for the single-family dwelling.	If a separate entrance door is provided, it must be located either off the rear or side of the single-family dwelling. All ADUs which are attached to a single-family dwelling shall have a separate entrance for the accessory dwelling unit.	The owner or of the primary dwelling shall reside either in the single-family dwelling or the ADU as a permanent place of residence	Permitted in single-family residential zoning districts.
Clackamas County	Varies by zoning district: in some it can be either attached or detached, in others only attached or above a garage.	Varies by zoning district and type, either 500 or 720 square feet maximum	none	Generally, if attached to main structure then entrance cannot face front property line.	The property owner must occupy the primary dwelling or the ADU as a principal residence.	

CITY OR COUNTY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Clatsop County	Attached, detached, or conversion of existing garage	75% of primary dwelling or 900 sq. ft., whichever is less	At least three off-street spaces total for primary dwelling and ADU	No new entrance in front of dwelling		Must be connected to public sewer. Allowed in Rural Community Residential zones.
Coburg	Attached to primary residence, separate structure, or above garage	Maximum floor area is 800 sq. ft.	None	None	Owner must occupy primary residence, or appoint a family member as resident caretaker.	
Columbia City	May only be created by converting existing floor area or adding floor area to an existing dwelling unit.	No greater than 50% of the size of the primary dwelling.	No off-street parking required if the street frontage is at least 18 feet wide, unless ADU is constructed at the same time as the primary dwelling.	No separate entrance from the front yard.	None	Not allowed in city R-1 zoning district. Must be located in either rear or side yard.
Coquille	The unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house;	Accessory dwellings shall not exceed 800 square feet of floor area if detached from the primary dwelling, or 40 percent of the primary unit, whichever is less.	None	None	The primary residence or accessory dwelling shall be owner-occupied, or owner may appoint a family member as a resident caretaker of one of the units and manager of the other unit;	
Cornelius		At least 250 SF of floor area for each occupant, with no more than two occupants, and less than 800 square feet, or 30 percent of the total floor area of the primary dwelling.	One additional off-street parking space shall be provided.	Only one door may face the street, either primary dwelling or ADU.	The owner(s) of the primary dwelling shall occupy at least one of the units.	Area occupied by the home, and all accessory buildings and structures on the lot shall not exceed 50 percent of the lot area. No more than two occupants of the ADU.
Corvallis	Attached or detached. Garage may be converted to ADU if off-street parking requirement for primary dwelling is met.	May not be greater than 40% of the floor area of primary structure or 480 sq. ft., whichever is greater. May in no case exceed 900 square feet.	No additional parking if parking requirement for the primary dwelling is met.	Entrance to detached ADU shall be located five feet or more toward the interior of the lot from the abutting side yard setback lines, screen is located between the ADU and the property line.	Either primary residence or ADU must be occupied by the owner.	Minimum lot sizes vary for each zoning district in which ADUs are allowed.

CITY OR COUNTY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Cottage Grove	Detached structure, above a garage, or attached to primary dwelling	Maximum 800 Sq. Ft.	none	none	Primary dwelling must be owner-occupied, or owner may appoint family member as caretaker.	
Creswell	Detached structure, above a garage, or attached to primary dwelling	Maximum of 800 Sq. Ft. or 40% of primary dwelling floor area, whichever is less.	none	none	Primary dwelling must be owner-occupied, or owner may appoint family member as caretaker.	
Dallas	Attached, separate structure, or above a detached garage	Cannot exceed 40% of primary dwelling area or 800 sq. ft., whichever is less	None	None	None	An ADU equals 0.5 units when calculating housing density.
Dayton	Must be located in a detached structure	No more than 25% of size of primary dwelling or 750 square feet, whichever is less.				Allowed only in R-2 zoning district. Must be located in side or rear yard.
Durham	Must be created within or share a common wall with the primary residence.	An ADU shall not be larger than 33 percent of the habitable area of the primary residence (excludes garage) or 600 square feet, whichever is less.		Primary entrance to the ADU may not be newly constructed on the façade of the primary residence that faces public right of way.	Primary residence must be owner occupied.	A garage may not be converted into an ADU unless replaced by a new garage. Maximum occupancy of ADU is two persons.
Eagle Point		The habitable gross floor area of any ADU shall contain no more than 50 percent of the total gross habitable floor area of the main dwelling unit or 900 square feet, whichever is the lesser.	A minimum of two ADU off-street parking spaces shall be provided in addition to the two spaces of off-street parking required for the single-family residence.	If a separate entrance door is provided, it must be located either off the rear or side of the single-family dwelling. All ADUs which are attached to a single-family dwelling shall have a separate entrance for the accessory dwelling unit.	The owner of the primary dwelling shall reside either in the single-family dwelling or the ADU as a permanent place of residence	The conversion of a garage to an ADU shall require the construction of a new garage, at a square footage equal to, or greater than, the area being converted from garage to habitable space.
Eugene		Dwelling unit shall not exceed 800 SF, unless occupying the full story of a multistory structure.	One off street parking space must be provided.		Owner shall occupy either the ADU or primary dwelling.	Except for flag lots, the lot shall be at least 6,000 SF. Flag lots shall contain at least 13,500 SF. The primary entrance to an ADU shall be defined by a roofed porch.

CITY OR COUNTY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Fairview	Can be a detached cottage, a unit attached to a garage, or in a portion of an existing house.	Size of ADU shall not exceed 800 square feet. On a lot less than one acre, an ADU may be constructed above a detached garage. However, the floor area of the ADU cannot exceed 800 square feet and the floor area of the detached garage, excluding the ADU, cannot exceed 1,000 square feet.	One additional on-site parking space is required if the primary dwelling has less than four on-site spaces available before construction of the ADU.		The primary residence or accessory dwelling shall be owner-occupied. Alternatively, the owner may appoint a family member as a resident caretaker of the principal house or of the accessory dwelling.	The number of accessory dwelling units is not to exceed 50 percent of the lots within any block
Forest Grove	May be allowed by conversion of an existing space, by means of an addition, or as an accessory structure.	The gross floor area of the ADU shall not exceed 30% of the primary dwelling's gross floor area, or 720 square feet, whichever is less	One additional off-street parking space shall be provided in addition to the required parking for the primary dwelling.		The owner(s) of the primary dwelling shall occupy at least one of the units;	Any addition shall not increase the gross floor area of the original dwelling by more than 10%;
Garibaldi	detached cottage, a unit attached to a garage, or in a portion of the existing house	The maximum floor area of the accessory dwelling shall not exceed 33 percent of the living area of the house or 600 square feet, whichever is less, and may not exceed 15 percent of the entire area of the site.	a minimum of one space shall be provided for the accessory dwelling.	None	The primary residence shall be owner-occupied. Alternatively, the owner may appoint a family member as a caretaker of the principal house and manager of the accessory dwelling.	
Gladstone	May be created as a detached structure or within, or as an addition to, a primary dwelling or accessory structure.	The floor area of an ADU shall not exceed 400 square feet or contain more than one bedroom	One off-street parking space shall be provided in addition to the off-street parking for the primary dwelling unit.	Only one entrance may be located on the street-facing façade of the structure containing the primary dwelling unit	Either the primary dwelling unit or the accessory dwelling unit shall be owner-occupied for as long as the other unit is being rented or otherwise occupied.	
Grants Pass						Only allowed in commercial zoning districts.

CITY OR COUNTY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Gresham	Must be within or added to the primary dwelling. No separate free-standing units allowed. May be attached to a garage or above a garage.	An accessory dwelling shall have a maximum floor area of 900 square feet.	One off-street parking space, in addition to that which is required by the Development Code for the primary dwelling unit, shall be provided.	No new door entrance on an exterior wall facing a front property line.	Either the ADU or the primary residence must be occupied by the owner.	
Happy Valley	The ADU may be created by converting existing living area or adding floor area, or construction of a new structure that is either attached or detached.	The maximum sq. ft. of an ADU involving the conversion of existing space within a primary dwelling shall not exceed 50% of the size of the primary residence. For a detached ADU, the size shall not exceed 50% of the size of the primary residence and shall not exceed a maximum of 1000 sq. ft., whichever is less.	The ADU shall provide an additional on-site parking space if the primary dwelling has less than four on-site spaces available before construction of the accessory unit	Only one entrance shall be located on the front of the primary dwelling or any portion of the primary dwelling abutting a street	Either the primary dwelling or the ADU must be owner occupied. Alternatively, the owner may appoint a family member as a resident caretaker of the primary dwelling or of the ADU.	
Hillsboro		The floor area of an accessory dwelling unit may be as large as 50% of the existing dwellings total floor area, and may not exceed 600sf.	At least one off-street parking space shall be provided for the accessory dwelling unit	The entrance to the ADU shall not face the front property line.	Either the primary or accessory dwelling units shall be occupied by the property owner at any time the accessory dwelling unit is occupied"	
Hood River	Attached or detached	ADU's shall contain 800 square feet or less.	One off-street parking space shall be provided in addition to the off-street parking that is required for the primary dwelling	none	The property owner must occupy the primary dwelling or the ADU as their principal residence for at least six months out of the year	Must provide proof that at least one ADU occupant is employed in the Gorge, a relative or on an assistance program for the rent. If a garage or detached building does not currently meet setbacks, no conversion to an ADU.

CITY OR COUNTY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Independence	Must be in same building as primary residence unless lot is at least 8,500 square feet.	May not be less than 300 square feet. May not be greater than 800 square feet. May not exceed 40% of the combined size of primary residence and ADU	One off-street parking space required.	Separate entrance for ADU must be located on side or rear of building.	Either primary residence or ADU must be occupied by the owner.	Total number of occupants on property cannot exceed maximum number defined by "family".
Jackson County	Attached or detached	50% of primary dwelling or 800 sq. ft., whichever is less	If not fronting on a street built to urban road standards, then one off-street parking space.			Allowed only in the White City unincorporated area.
Jefferson	None	The maximum floor area of the accessory dwelling shall not exceed seven hundred fifty (750) square feet.	None	None	None	Only in Mixed Use Zoning district
Junction City	May be a detached cottage, a unit attached to or above a garage, or in a portion of an existing house	The floor area of the accessory dwelling unit shall not exceed 800 square feet.	none	None	The primary residence or accessory dwelling shall be owner-occupied or occupied by a family member.	
Keizer	Must be in a separate structure	Maximum area 25% of primary residence floor area or 750 sq. ft., whichever is less.	None	None	None	Not allowed in any of the city's zoning districts?
King City	May be created by Converting existing living area, attic, basement or garage; Adding floor area; Constructing a detached ADU on site with an existing house or constructing a new house,...etc.	Size of attached or detached ADU shall not exceed 33% of the living area of the existing dwelling or 800 sq. ft., whichever is less.	Not required if ADU is created on a site with an existing primary residence and one abutting street has a paved width of at least twenty-eight feet; otherwise one parking space required.	Only one building entrance may be located on the façade for the two dwellings.	None	Lot size must be a minimum of 7500 square feet;
Lafayette	May be attached, detached, above garage, or conversion of portion of existing dwelling.	Maximum 800 sq. ft. or 40% of primary unit size, whichever is less	One off-street space, unless on-street space is available in front of lot, or driveway space is available for existing dwelling.	None	None	Only allowed in RC zoning district.

CITY OR COUNTY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
La Grande		May not exceed 33% of primary dwelling size, or 800 sq. ft., whichever is less	One off-street parking space is required if ADU is constructed at the same time as the primary residence, or an abutting street has pavement width less than 28 feet.	Only one total entrance is allowed along the front façade.	Owner must occupy the primary dwelling. Total number of occupants must not exceed definition of a "family" in the code.	Requires a conditional use permit. Minimum lot size is 7500 sq. ft.
Lake Oswego	Conversion of existing space, an addition, or as an accessory structure.	Max of one bedroom and an area of 800 sq. ft., or a total FAR of 0.4:1 for all buildings; Minimums: One person - 250 sq. ft.; Two persons - 500 sq. ft.	One off-street parking space for the secondary unit in addition to the required parking for the primary dwelling		One unit shall be occupied by the property owner.	No more than 2 persons in the secondary unit.
Lakeview	Attached, separate structure, or above detached garage	May not exceed 40% of primary dwelling size, or 800 sq. ft., whichever is less	none	none	Primary dwelling must be owner-occupied, or owner may appoint family member as caretaker.	
Lane County						Allowed in certain rural zones (FF-20, GR-10, AGT, AV) Approved unless: 1) incompatible with existing or permitted uses, 2) not consistent with the purpose of the zoning district; 3) interferes with accepted farming or forestry practices on surrounding lands.
Lebanon	Attached, separate structure, or above detached garage	Not to exceed smaller of 1000 sq. ft. or 40% of the primary unit,	None	none	none	May not reduce the floor area of the primary residence.
Lincoln City	Attached in all zones, detached if lot is at least 5,000 sq. ft.	Maximum of 750 square feet or 50% of the floor area of the primary dwelling, whichever is less	One additional off-street parking space	If separate entrance for ADU, must be "less visible" than primary entrance	Either primary residence or ADU must be occupied by the owner	No vacation rental use for either primary residence or ADU. No septic system.

CITY OR COUNTY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
McMinnville	Conversion of any portion of primary dwelling, adding floor area to primary dwelling, or construction of detached ADU	Square footage not greater than 40% of primary dwelling square footage or 800 sq. ft., whichever is less. Minimum area is 300 sq. ft.	One additional off street parking space required.	None	Primary residence must be occupied by the property owner.	Must have independent utilities. May not be a manufactured home.
Medford		No greater than 50% of the size of the primary dwelling on the lot, or 900 square feet, whichever is less.	A parcel containing a primary dwelling unit and an ADU shall provide a minimum of two off-street parking spaces	Only one entrance may be located on the front of the existing dwelling	none	
Milwaukie	Either conversion of existing space or by means of an addition.	Maximum unit size of 600 sf; and shall not exceed 40% of the gross floor area of the primary structure.	Off-street parking shall be provided. If new parking must be constructed to meet minimum required parking, it shall be located contiguous to existing parking.	Only one entrance to the residential structure may face the street.	Either the ADU or the primary residence must be occupied by the owner.	
Monmouth	Must be in same building as primary residence unless lot is at least 8,500 square feet.	May not be less than 300 square feet. May not be greater than 800 square feet. May not exceed 40% of the combined size of primary residence and ADU	One off-street parking space required.	Separate entrance for ADU must be located on side or rear of building.	Either primary residence or ADU must be occupied by the owner.	Total number of occupants on property cannot exceed maximum number defined by "family".
Mosier						Conditional Use Permit required.
Myrtle Point	Detached cottage, attached to a dwelling, or in a portion of an existing dwelling	Accessory dwellings shall not exceed 600 square feet of floor area if detached from the primary dwelling, or 40 percent of the primary unit, whichever is less.	A parcel containing a primary dwelling unit and an accessory dwelling shall provide a minimum of two off-street parking spaces.	None	None	Minimum lot size of 6000 square feet.
Newberg	An accessory dwelling unit may be created within or as an addition to a detached or attached single-family structure or as a freestanding accessory building.	An accessory dwelling unit may not exceed 50 percent of the size of the primary unit, up to a maximum of 1,000 square feet.	One on-site parking space shall be provided for the accessory dwelling unit. This parking space shall be paved and/or covered.	The front door of the accessory dwelling unit shall not be located on the front facade of the primary residence unless the door is already existing.	NONE	Second story windows 10 feet or less from the property line must be privacy glass. ADU is a conditional use in the R-1 zoning district, which is primary city residential district.

CITY OR COUNTY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
North Plains	None	Maximum floor area is 650 square feet.	None	None	Either primary residence or accessory dwelling must be owner occupied unless owner appoints family member as resident caretaker of primary residence.	Recessed behind or flush with front elevation of the primary dwelling.
Oregon City	May be attached or detached.	The ADU cannot be more than 40% of the primary dwelling unit's total floor area or be more than 800 sq. ft. or be less than 300 sq. ft.	No additional parking space is required for the ADU if it is created on a site with an existing primary dwelling unit and the roadway for at least one abutting street is at least twenty-eight feet wide.		The property owner must occupy either the primary dwelling unit or the ADU as their permanent residence, for at least seven months out of the year, and at no time receive rent for the owner-occupied unit.	May not have more than 2 sleeping areas. , Owner may at no time receive rent for the owner-occupied unit
Philomath	May be detached structure, attached to a garage, or a portion of existing dwelling.	May not exceed 600 sq. ft.	None	None	Either primary residence or ADU must be occupied by the owner, or owner may appoint a family member as a resident caretaker of the principal dwelling	Allowed use in R-2 and R-3 districts. Conditional use in R-1 district.
Phoenix	Attached to house, detached structure, or attached to garage	May not exceed 50% of primary dwelling size, or 800 sq. ft., whichever is less	One off-street paved parking space required	none	none	
Portland	Converting existing living area Finishing an existing basement or attic Building a new structure Making an addition to an existing structure Some existing attached or detached garages can be converted into an ADU	The ADU may be no more than 75% of the total living area of the house or a maximum of 800 square feet, whichever is less.	Additional parking is not required for an ADU. However, if parking is required for the existing dwelling unit, that parking must either be retained, or if eliminated in the creation of the ADU, replaced.	Only one entrance can be located on the facade facing a street.	NONE	Building coverage smaller than SFR and no more than 15% of lot. Detached ADUs set back 60 feet from street or 6 feet behind main SFR
Prineville	A detached cottage, a unit attached to a garage, or in a portion of an existing house.	The maximum floor area of the accessory dwelling shall not exceed 700 square feet.	An accessory dwelling shall provide at least one additional off-street parking space	none	none	

CITY OR COUNTY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Redmond		Minimum 300 sq. ft. Maximum 800 sq. ft. or 50% of primary dwelling size, whichever is less.	One off-street parking space required.	Must be separately accessible from exterior of the structure.	Owner shall occupy either the ADU or primary dwelling.	If ADU is above a garage, may not exceed the building footprint of the garage.
Reedsport	Detached or attached	Maximum 750 square feet.	One additional off-street parking space	None	Either the primary residence or the ADU must be owner-occupied	Detached ADU must be located in the side yard or rear yard.
Rivergrove	Either within the primary residence or above a garage.	?	Residential units less than 500 SF and 1 bedroom;(except for over the garage units) require 1 additional parking space			
Roseburg		Shall not exceed a maximum size of 1,000 square feet or no more than 50% of the gross floor area of the primary residence	Shall have one additional off-street parking space	None	Shall have at least one unit owner-occupied	Conditional Uses in single-family residential zoning districts. Primary heat source must be electric or gas. No separate utility meters
St. Helens	Converting existing living area, attic, basement or garage; Adding floor area; Constructing a detached auxiliary dwelling unit on a developed site; or Constructing a new house, attached house, or manufactured home with an internal or detached auxiliary dwelling unit.	Minimum is 220 square feet. Maximum may be no more than 30 percent of the living area of the primary dwelling or 1,000 square feet, whichever is less.	No off-street parking required if the street frontage is at least 20 feet wide, unless ADU is constructed at the same time as the primary dwelling.	No separate entrance from the front yard.	The owner of the property must occupy either the primary residence or the auxiliary dwelling unit	The detached auxiliary dwelling unit may not have a larger footprint than the footprint of the house
Sandy	May be detached or attached.	Maximum 600 sq, ft,	One off-street parking space for the ADU	Primary entrance may not be in front of the primary dwelling.	Either primary residence or ADU must be occupied by the owner	Maximum number of occupants in ADU is 3. May not be a single-wide manufactured unit.

CITY OR COUNTY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Scappoose	May be created by converting existing living area or adding floor area, or construction of a new structure that is either attached or detached. An attached garage may not be converted.	Floor area shall not exceed 50% of floor area of primary residence or 800 square feet, whichever is less.	One additional on-site parking space unless existing dwelling has four or more on-site spaces.	No separate entrance to ADU from the front yard.	Primary dwelling must be occupied by owner; however owner may appoint a family member or resident caretaker. In low density zone ADU must be occupied by a family member of owner-occupied primary dwelling.	
Sherwood	Converting existing living area, adding floor area, or constructing a detached ADU	The maximum floor area) of the ADU shall not exceed 40% of the floor area of the primary residence.			The property owner must occupy either the principal unit or the ADU as their permanent residence, but not both, for at least six months out of the year,	Property owner may not receive rent for the owner-occupied unit. Total occupants of both units may not exceed the number allowed for a household.
Silverton	Attached, Separate Cottage, or Above Detached Garage	Accessory dwellings shall not exceed 800 square feet of floor area if detached from the primary dwelling, or 40 percent of the primary unit, whichever is less.	A parcel containing a primary dwelling unit and an accessory dwelling shall provide a minimum of two off-street parking spaces.	None	Primary residence or accessory dwelling shall be owner-occupied, or owner may appoint a family member as a resident caretaker of one of the units and manager of the other unit;	
Sisters	Attached, detached, or attached to garage.	May not exceed 50% of primary dwelling size, or 800 sq. ft., whichever is less	One off-street parking space required.	none	Primary residence must be occupied by owner or member of owner's family.	Separate water and sewer service required.
Springfield		Minimum size is 300 sq. ft. Maximum size is 40% of main dwelling or 750 sq. ft., whichever is less.	One additional 9'x18' paved, off-street parking space must be provided	Only one entrance may be located on the front or street side of each residence.	Owner must occupy either primary dwelling or ADU.	
Sutherlin	Attached or detached or attached to garage	Maximum 600 sq. ft.	One off-street parking space required	none	none	
Sweet Home						Conditional use in the R-1 zoning district.

CITY OR COUNTY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Talent	May be either conversion of existing living space, new attached structure, or new detached structure.	Must be at least 300 square feet. If a detached structure, may be no more than 750 sq. ft.	Two off street parking spaces required.	Separate entrance must be less visible than entrance to primary dwelling.	none	Maximum of three occupants. Manufactured home ADUs are not allowed. If a garage is converted to an ADU, it must be replaced.
The Dalles		May not exceed 60% of primary dwelling size, or 600 sq. ft., whichever is less	none	none	The property owner must occupy the primary dwelling or the ADU as a principal residence	Minimum lot size requirement of the underlying zoning district must be met. If garage is converted then replacement off-street required.
Tigard	Must be within or attached to a primary dwelling.	May not exceed 50% of the size of the primary unit, up to a maximum of 800 square feet;	One parking space shall be provided for the accessory residential unit. This parking space shall be paved and/or covered;	The door to the ADU cannot open onto the front façade.	Either the primary or accessory residential unit must be owner-occupied;	Garage may not be converted to an ADU unless it is replaced.
Tillamook County	Attached or detached	Maximum 800 square feet				Allowed only in Neahkahnie community. Conditional Use Permit required
Toledo	Conversion of existing space, addition to dwelling, accessory structure.	Maximum of 650 square feet or 35% of the floor area of the primary dwelling, whichever is less	One additional off-street parking space	None	Owner must occupy either primary dwelling or accessory dwelling.	
Troutdale	Must be within or added to a detached primary dwelling.	Shall not exceed 750 square feet in area	One off-street parking space, in addition to that which is required for the primary dwelling, shall be provided for the ADU.	Only one entrance shall be located on any portion of the primary dwelling abutting a street.		Primary dwelling must be at least 1800 sq. ft. or in a subdivision recorded after 2000. Shall not have more than 1 bedroom.
Tualatin	Must be within a detached single-family dwelling or be an addition to the primary dwelling.	An ADU shall not exceed 50% of the gross floor area (house and garage) of the existing detached single-family dwelling up to a maximum of 800 square feet.	One paved onsite parking space shall be provided for the ADU.	ADU front door shall not be located on the same street frontage as the primary dwelling's front door.		

CITY OR COUNTY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Veneta		Maximum size 600 sq. ft. or 50% of primary dwelling size, whichever is smaller	A minimum of two combined spaces for primary dwelling and ADU, plus one additional space if no on-street parking abuts the property	none	none	
Vernonia	May be created by converting existing living area, finishing basement or attic, addition to an existing structure, new structure, or converting or adding to detached garage or shed.	Maximum size of 33% of primary dwelling living area or 880 square feet, whichever is less.	One additional off-street parking space provided for the ADU	Main entrance must open onto a porch or covered entry unless ADU is limited to interior remodeling of existing dwelling.	Primary residence must be owner occupied	Total number of individuals in both units may not exceed the number allowed for a "family." Separate water service may be required. SDC is 1/3 that of a single family residence.
Warrenton	a detached cottage, a unit attached to a garage, or in a portion of an existing house	The maximum floor area of the accessory dwelling shall not exceed 600 square feet.	No additional off-street parking is required if the lot already contains at least two off-street parking spaces; otherwise, one space is required.	None	The primary residence or accessory dwelling shall be owner-occupied. The owner may appoint a family member as resident caretaker.	May not be used as a rental unit or other income-producing unit. May not be used as servants' quarters or as lodging (temporary or permanent) for housekeepers, gardeners, etc.
Washington County	Attached, detached, or attached to garage	50% of main dwelling or 800 sq. ft., whichever is greater. 15% increase for units to meet ADA requirements.	One off-street parking space required.	Entrance cannot face front property line.	The property owner must occupy the primary dwelling or the ADU as a principal residence – exception for units owned by non-profits serving developmentally disabled.	Primary unit must be 2 stories if ADU is built over a garage. Minimum 450 sq. ft. side or rear outdoor area.
West Linn	Conversion of existing space inside the primary dwelling, addition to the existing dwelling, addition as an accessory structure, or converting or adding to an existing accessory structure	No more than one bedroom and between 250 and 1000 square feet. 500 square feet required for two person occupancy	One off-street parking space for the ADU	The main exterior entrance of the ADU shall be located on either the rear or side of the ADU.	None	The detached ADU shall be at least 10 feet behind the front building line of the primary dwelling. The only exception allowed shall be for an ADU which is located above a detached garage.

CITY OR COUNTY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Wilsonville	May be attached or detached.	No greater than 800 square feet with not more than two bedrooms.	Each ADU shall have one standard sized parking space on the same lot; Where an off-street parking space is not available to serve the ADU, onstreet parking is allowed if street parking exists along the frontage of the lot, or within 100' of the front lot line of the lot AND No more than 25% of the lots in a block will have ADUs.			
Winston		Maximum 1000 sq. ft. of 50% of the size of the primary dwelling, whichever is less	One off-street parking space required	none	Primary dwelling or ADU must be owner occupied	Primary heat source must be electric or gas, not wood
Wood Village	Converted existing living area or garage, adding floor area to primary dwelling or constructing a detached ADU.	The maximum floor area of the ADU shall not exceed 800 square feet.	One additional parking stall required for ADU.		The property owner must occupy either the principal unit or the ADU as their permanent residence for at least six months out of the year,	Owner may at no time receive rent for the owner-occupied unit. The total number of individuals that reside in both units may not exceed the number that is allowed for a household.

OREGON CITIES THAT DO NOT ALLOW ACCESSORY DWELLING UNITS

<p>North Coast</p> <p>Newport Depoe Bay Tillamook Bay City Rockaway Beach Wheeler Nehalem Manzanita Seaside Gearhart Clatskanie</p>	<p>Mid-Willamette Valley</p> <p>Yamhill Carlton Dundee Amity Sheridan Willamina Falls City Donald Hubbard Woodburn Mt. Angel Salem Sublimity Stayton Turner Aumsville</p>
<p>South Coast</p> <p>North Bend Coos Bay Gold Beach Brookings Port Orford Bandon Lakeside Florence Yachats Waldport</p>	<p>Eastern Oregon</p> <p>Pendleton Hermiston Umatilla Milton-Freewater Enterprise Joseph Elgin Ontario Nyssa Vale</p>
<p>West Portland Metro</p> <p>Banks</p>	<p>Central Oregon</p> <p>Klamath Falls Madras Cascade Locks</p>
<p>East Portland Metro</p> <p>Molalla Estacada</p>	<p>South Willamette Valley</p> <p>Scio Tangent Harrisburg Adair Village</p>
<p>Southern Oregon</p> <p>Rogue River Shady Cove</p>	

Oregon Counties that do not allow accessory dwelling units in urban districts

Columbia
Yamhill
Marion
Polk
Linn
Multnomah
Lincoln
Douglas
Coos
Curry
Josephine
Hood River
Wasco
Jefferson
Crook
Deschutes
Klamath
Lake
Harney
Union
Umatilla
Morrow



ACCESSORY DWELLING UNITS

Category: Residential Construction

Revised: June 22, 2016 *[Paul L. Scarlett]* , Director

Responsible Bureau Sections: Development Services Center
1900 SW Fourth Avenue
Portland, OR 97201
503-823-7310

Residential Inspections
1900 SW Fourth Avenue
Portland, OR 97201
503-823-7388

I. BACKGROUND

The Portland Zoning Code allows Accessory Dwelling Units (ADUs) to be added to a site accessory to a house, attached house, or manufactured home in all Residential zones, all Commercial zones, and the Central Employment (EX) zone as described in Chapter 33.205 of the City Zoning Code. ADUs provide additional housing units that are compatible with the look and scale of single dwelling development, make more efficient use of existing housing stock and infrastructure, and provide a mix of housing options. They can be created by converting part of an existing house, adding area to an existing house, converting an existing structure, or constructing a new building.

This program guide outlines the application and review procedures for obtaining a permit to create an ADU and provides a summary of key zoning and construction standards. This guide does not address the use of additional kitchen agreements which address additional kitchens that are not part of an ADU. For information regarding the use of additional kitchen agreements, please see City Code Guide CC/33/#2 at <http://www.portlandoregon.gov/bds/article/174914> .

II. ADU DEFINITION

The Zoning Code defines an Accessory Dwelling Unit as a smaller, auxiliary dwelling unit on the same lot or within a house, attached house or manufactured home. The unit includes its own independent living facilities with provisions for sleeping,

cooking, and sanitation, designed for residential occupancy independent of the primary dwelling unit. The unit may have a separate exterior entrance or an entrance to an internal common area accessible to the outside.

III. APPLICATION AND REVIEW PROCESS

A. Application Requirements.

- 1. Construction of a new building.** When an ADU is proposed in a new building, the permitting and inspection process is the same as that of new single family house construction. Please visit our website (<http://www.portlandonline.com/bds/index.cfm?c=36676>) and the Development Services Center (DSC) for additional information on how to submit an application for new construction of a detached ADU.
- 2. Conversion of an existing space or addition.** When an ADU is proposed in existing space, either through conversion of a garage or accessory structure, or within the house, or when an addition to an existing building is proposed, it may be helpful to make an initial visit to the DSC.

- a. Information required for DSC visit.** The initial DSC visit provides an opportunity to discuss the space, design and structural issues that may be associated with the development of an ADU. In order for the DSC staff to provide the best information possible, a simple single-line site and floor plan drawing is required. This drawing will be used to determine if it is possible to provide an ADU in the existing space, and should show:

- 1)** The approximate building square footage; and

- 2)** The existing ceiling heights of the attic, basement, structure or garage being converted.

Photos of the existing interior and exterior views of the building are not required, but may be useful in assisting with project assessment.

- b. Preliminary review.** At the initial DSC visit, those interested in creating an ADU can meet with a Life Safety Plans Examiner (Building Code) and a Land Use Services Planner (Zoning Code). The Plans Examiner and the Planner will review the simple drawing and discuss the project to determine any immediate concerns with the proposal. Please visit our

website to determine the hours for general questions.

(<http://www.portlandoregon.gov/bds/37988>)

To determine the costs associated with your permit, please use the online fee estimator at: <http://www.portlandoregon.gov/bds/59194>

B. Review Process.

- 1. Permit Applications.** Complete building permit applications with plans must be submitted for ADUs, whether they are created within an existing building or as a new building. Applications will be taken in for review prior to issuance; ADU permits are not typically issued “over the counter”.
 - a.** See Brochure #6, “What Plans Do I Need?” for more information on submittal requirements for converting a portion of an existing structure to an ADU or adding on to an existing structure.
<http://www.portlandoregon.gov/bds/article/93021>
 - b.** See “New Single Family Residence Application Packet” for submittal requirements for ADUs created as a new detached building.
<http://www.portlandonline.com/shared/cfm/image.cfm?id=184903>
- 2. Fees and System Development Charges (SDCs).** The development of an ADU requires building permit fees, water service fees and System Development Charges (SDCs). In some instances, fees or SDCs can be substantial. Fees and SDC charges are based on the information below.
 - a. Building Permit Fees.** Building permit fees are based on the value of the work to be done. Most permit fees are unique to a project and will be determined at the time of application.
 - b. System Development Charges.**

Please note: The construction of accessory dwelling units (ADUs) or the conversion of existing structures to ADUs is typically subject to System Development Charges (SDCs) that are levied by the Portland Parks, Environmental Services, Transportation, and Water Bureaus.

If you have any SDC questions, please contact the appropriate system development bureau listed at the end of this Program Guide.

The following SDC fees will be waived for ADU projects where a complete building permit application has been submitted on or before July 31, 2018, provided that the ADU receives approval of final inspection no later than June 30, 2019.

1) Transportation System Development Charges (SDC). The creation of an ADU will be exempt from the Transportation SDC if all of the following criteria are met:

- a) The ADU must be built within an existing detached single family residence (not an attached house or rowhouse);
- b) The primary unit must have at least 1,400 square feet of living space (unfinished basements, garages or attics are not included in this calculation); and
- c) The ADU must be created within the existing living area or by converting an unfinished basement or attic.

For all other ADUs (new buildings, additions, accessory structures), a Transportation SDC will be charged. The assessment for an ADU is $\frac{1}{2}$ of the SDC charged for a new single-family house. Please call the Bureau of Transportation for the current rate. (See "Contact Information" at the end of this Program Guide.)

2) Environmental Services SDC. The creation of an ADU requires the payment of an Environmental Services SDC. The amount of the SDC will be based on fees that were paid previously and the addition of an ADU based on the current sewer connection charge. Rates are effective from July 1 to June 30. Please call the Bureau of Environmental Services (BES) for the current charge. (See "Contact Information" at the end of this Program Guide.)

In some cases, it may be necessary to increase the size of the sewer or wastewater line or to provide the ADU with a separate connection to the sanitary sewer system. In these cases, additional fees will be required even if SDC charges are waived.

3) Parks SDC. Portland Parks and Recreation charges an SDC for the creation of any ADU. The fee changes annually on July 1. Please call Parks and Recreation for the current rate. (See "Contact Information" at the end of this Program Guide.)

4) Water Bureau SDC. The Water Bureau does not automatically charge or waive an SDC when an ADU is constructed. If the

ADU can be added without changing the size of the existing water service, there is no charge. (See “City Utility Connections,” Section A below.) Upon request, the Water Bureau can verify the existing water service size. If an increase in water service is required, then there is a charge for increasing the service along with the differential cost increase for the larger service. Please call the Water Bureau for more information. (See “Contact Information” at the end of this Program Guide.)

IV. SUMMARY OF ZONING STANDARDS

The base zones (Chapters 33.110, Single-Dwelling Zones, Chapter 33.120, Multi-dwelling Zones, Chapter 33.130, Commercial Zones, and Chapter 33.140, Employment and Industrial Zones) provide standards for all detached accessory structures, including detached ADUs. Chapter 33.205 of the Portland Zoning Code provides the additional requirements for all Accessory Dwelling Units (ADUs). The Portland Zoning Code can be found at www.portlandoregon.gov/zoningcode. Below is a summary of those standards. For more information, call the Zoning Information line (see “Contact Information” at the end of this Program Guide) or visit the Development Services Center.

A. General.

1. ADUs are allowed on sites that are zoned Residential, Commercial, and in the Central Employment (EX) zone and can be created accessory to a house (detached single family dwelling), an attached house (rowhouse) or a manufactured home. ADUs are not allowed with other development types (eg duplexes) and only one ADU is allowed per site. An ADU is also not allowed with an attached house using the provision for attached houses on corners in 33.110.240.E.
2. The total number of residents that can live in both units (the ADU and the primary house) is limited to the total allowed for a household. Under the Zoning Code, a household is defined as follows:

Household. *One or more persons related by blood, marriage, legal adoption or guardianship, plus not more than 5 additional persons, who live together in one dwelling unit; or one or more handicapped persons as defined in the Fair Housing Amendments Act of 1988, plus not more than 5 additional persons, who live together in one dwelling unit.*

3. Short Term Rentals and Home occupations.

- a. ADUs are allowed on sites with a Type A accessory short-term rental as described in Chapter 33.207 of the Portland Zoning Code. A Type A accessory short-term rental is where no more than 2 bedrooms are rented to overnight guests and the guest rents the bedroom(s) for fewer than 30 consecutive days.
- b. ADUs are allowed on sites with a Type B accessory short-term rental as described in Chapter 33.207 of the Portland Zoning Code, if the Type B accessory short-term rental meets the approval criteria for conditional uses in sub-section 33.815.040.B.1 of the Portland Zoning Code. A Type B accessory short-term rental is where 3 to 5 bedrooms are rented to overnight guests.
- c. ADUs are not allowed on sites with a Type B home occupation. A Type B home occupation is one in which the residents use their home as a place of work, and either one employee or customers come to the site. Examples are counseling, tutoring, and hair cutting and styling.

B. Size Allowances.

1. **General.** The maximum size of an ADU may be no more than 75% of the living area of the house or 800 square feet, whichever is less. Living area is calculated by *excluding* the following areas from the overall gross building area:
 - a. The thickness of the exterior walls;
 - b. Garage areas;
 - c. Basement areas where the ceiling height measured from the floor is less than 6 feet 8 inches; and
 - d. Any other building areas where the floor to ceiling height is either less than 5 feet, or areas not accessible by a stairway.

For example, if an existing house has 1,000 square feet of living area after subtracting all spaces described above, the ADU size is limited to 750 square feet. For a house that has 2,500 square feet of living area, 75% of the floor area would be 1,875 square feet. In this case, however, the ADU size is limited to no more than 800 square feet.

- 2. Additional requirements for detached ADUs.** In addition to the size limitations listed above, detached ADUs are limited by the following conditions:
- a. Height.** The maximum height for a detached ADU is 20 feet when located outside of the required setbacks for the zone. If a detached ADU is allowed to be located within the required setbacks for the zone, the maximum height for the ADU is 15 feet.
 - b. Building coverage.** The building coverage for a detached ADU may not be larger than the building coverage of the house, attached house or manufactured home. The combined building coverage for all detached accessory structures may not exceed 15% of the total site area.
 - c. Location.** Detached ADU must be set back 40 feet from a front lot line or behind the rear wall of the house, attached house or manufactured home.
 - d. Exterior details.** For detached ADUs that are more than 15 feet high, additional standards for the exterior of the ADU are required. Exterior finish materials, roof pitch, trim, eaves, window orientation and dimension must be the same or visually match those of the house, attached house or manufactured home in type, size and placement, OR must be made from wood, composite boards, vinyl or aluminum products composed in a shingle pattern, or in a horizontal clapboard or shiplap pattern with boards 6 inches or less in width. The detached ADU must also meet certain standards relating to roof pitch, trim, windows, and eaves. See Section 33.110.250 for Single-dwelling zones or 33.120.280 for Multi-dwelling, Commercial, or EX zones.

ADUs in "d" Design overlays (33.420), or some historic designations (33.445) may be subject to additional design requirements. These ADUs must meet the Community Design Standards (33.218), where allowed to use Community Design Standards, or be approved through Design review or Historic Resource review.

C. Entrances.

Only one main entrance may be located on the street-facing facade of the house, attached house or manufactured home unless the house, attached house or manufactured home contained additional entrances before the ADU was created. An exception to this regulation is an entrance that does not have access from the ground, such as an entrance from a balcony or deck. Detached ADUs are exempt from this standard.

D. Parking.

Additional on-site parking is not required for an ADU. However, if parking is required for the existing dwelling unit, that parking must either be retained or replaced on-site. Any replacement parking must meet the parking standards in Chapter 33.266 of the Portland Zoning Code.

E. Adjustments.

If any of the ADU development standards are not met, an Adjustment (variance) review is required, as outlined in Zoning Code Chapter 33.805. Adjustment requests will be approved or denied based on the approval criteria in Chapter 33.805.

V. CONSTRUCTION STANDARDS

Accessory Dwelling Units are regulated by the Oregon Residential Specialty Code (Residential Code) and this Program Guide. Residential building permit applications are required for the creation of an ADU. The Residential Code and the alternative standards listed in paragraph (B) below will also apply when an ADU is created within an existing detached or attached structure.

A. New Construction and Additions.

When an ADU is created at the same time as the primary home is constructed, or when the ADU is created by adding on to an existing building, the construction shall comply with all Residential Code requirements for two-family dwellings. When an ADU is created in a new building accessory to, and detached from the primary dwelling unit, it shall comply with all Residential Code requirements for single-family dwellings.

B. Conversions and Alterations.

Where an ADU is created by converting non-habitable space within an existing house or by dividing off part of existing living space, the conversion shall comply with the Residential Code, except as modified below:

1. Electrical System.

- a. ADU occupants must have ready access to the electrical panel with over-current devices that serve the ADU. The ADU occupants must also have ready access to service the over-current devices either directly or via a building manager. The building management's contact information should be provided to the ADU occupant.
- b. All new electrical work is to be conducted by a licensed electrical contractor. Exemptions that allow homeowners to do electrical work on

their own homes will not apply to work for the creation of an ADU. If a new service is installed for the ADU, or both the ADU and the main dwelling unit, an electrical contractor must perform such installation work.

2. Heating System.

- a. Ducted systems.** If the house has a ducted heating system, the ADU shall have a separate heating system (and air conditioning system, if provided). Existing ductwork in the ADU may be left in place, provided it is terminated at the point where the ductwork enters the unit. Occupants shall have direct access to their heating system for service and repair.
- b. Radiant systems.** When new radiant systems are installed, separate systems must be provided for both the ADU and the primary unit. Existing hot water radiant systems may be extended to the ADU provided both the ADU and the primary living space have separate climate controls. In such case, a single boiler may serve both the primary unit and the ADU.

3. Plumbing System.

- a.** The primary unit and an ADU may use a common water supply, provided each fixture in the ADU and the primary unit has a shut-off valve. The Water Bureau must also approve the use of a single supply line. (See “City Utility Connections,” Section A, below.)
- b.** ADUs may use a common building sewer. No more than three water closets (toilets) may be on a single 3-inch line.

4. Fire and Life Safety.

a. Separation between units.

1) Existing conditions.

- a) Walls.** A stud wall having either wood lath and plaster or a covering of 1/2 inch gypsum wallboard on both sides, in sound condition, is acceptable.
- b) Floor/Ceilings.** A single wood floor with a ceiling of either wood lath and plaster or 1/2 inch gypsum wallboard, in sound condition, is acceptable.
- c) Sound Insulation.** A sound separation is not required.

2) Construction of a new wall or floor ceiling assembly. Where a new wall or floor/ceiling is constructed to create the separation between the units, such new wall or floor/ceiling shall be constructed to the one-hour fire-resistive standards and sound insulation requirements for unit separations in new buildings.

3) Separation between shared space and dwelling units. When there is a shared interior space, such as a foyer or utility area, the walls and floor/ceiling must be constructed consistent with the provisions of paragraphs (1) and (2) of this section. Doors in the separation walls must be a minimum of 1 3/8 inch thick solid wood, honeycomb core steel, or 20-minute fire-rated construction.

b. Ceiling heights. In existing buildings, ceiling heights in habitable spaces of ADUs shall be as provided below. All ceiling heights shall be measured from the top of the finished floor surface to the bottom of the ceiling finish or projection. All projections must be located at least 3 feet away from any door leading into the room.

1) General.

a) Areas with flat ceilings. In areas with flat ceilings, the ceiling must be at least 6 feet 8 inches high. Beams, heating ducts, pipes etc. may project below 6 feet 8 inches as follows:

(i) Ceiling projections may be as low as 6 feet when they are located within 2 feet from the wall; or

(ii) Ceiling projections may be as low as 6 feet 2 inches when they do not take up more than 10% of the floor area in the room where they are located.

b) Areas with sloped ceilings. In areas with sloped ceilings, ceiling heights in a specific room may be a minimum of 6 feet 8 inches where the following conditions are met:

(i) The 6 feet 8 inch ceiling height is over an area comprising at least 50% of the minimum required room area; and

(ii) Portions of the room with a ceiling height less than 5 feet shall not be counted toward the overall room area.

- 2) **Hallways.** In existing hallways, the ceiling height shall be at least 6 feet 8 inches, except that hallways with a sloping ceiling may have a ceiling height of 6 feet 2 inches at the lowest side when the ceiling height at the center of the hallway is at least 6 feet 8 inches.
- 3) **Bathing or toilet rooms.** In bathing or toilet rooms with a sloped ceiling, the ceiling height shall comply with Chapter 3 of the Residential Specialty Code.

c. Doors.

- 1) **Unit entrance doors.** All interior and exterior doors serving as the primary entrance to an ADU shall be at least 6 feet 8 inches high and at least 30 inches wide.
- 2) **Other doors.** Doors leading to other converted spaces shall be at least 6 feet 4 inches high and shall be at least 30 inches wide.

d. Emergency escape (egress) windows. Basements or sleeping rooms that do not have a door leading directly to the outside must have a window large enough to allow escape or rescue in case of emergency.

- 1) **General.** Except as noted below, emergency egress windows must comply with Chapter 3 of the Residential Specialty Code.
- 2) **Sill height.** The windowsill height must be 44 inches or less above the floor. A single permanently installed step located below the window may be used to reduce the sill height to 44 inches, provided that all of the following conditions are met:
 - a) The step shall be no higher than 12 inches;
 - b) The run (depth) shall be no less than 12 inches;
 - c) The step shall be as wide as the window; and
 - d) There must be a minimum height of 6 feet from the top of the step to the underside of the finished ceiling.

e. Smoke alarms. The primary dwelling unit and the ADU shall be equipped with smoke alarms per Chapter 3 of the Residential Specialty Code.

f. Stairways.

- 1) **New.** New stairs being added to an existing building are required to meet current provisions of the Residential Specialty Code.
- 2) **Existing.** An existing stairway leading to a new living space may be narrower and may have lower headroom than the current Residential Code allows provided:
 - a) The stairway is at least 30 inches wide and has at least 6 feet 4 inches of headroom measured vertically from the edge of each tread nosing to the underside of the nearest projection;
 - b) The stairway has runs no smaller than 9 inches and risers no higher than 8 inches; and
 - c) The steps are relatively even. A difference of more than 3/8 of an inch between the biggest and smallest rise or run will not be approved.
- 3) **Existing winder stairs.** Existing “winder” stairs, which are triangular in shape, are allowed.

- g. Hallways.** Hallways shall be at least 2 feet 6 inches wide. For ceiling height see Section (b) (2) above.

5. Energy.

- a. In all instances where access to existing ceiling, floor or exterior wall space is possible without demolition, insulation shall be installed.
- b. New windows or doors must meet current Residential Code requirements for energy conservation. Existing double-glazed windows or storm windows placed over existing single glazed windows are acceptable.
- c. Where existing wallboard, lath and plaster or other finishes are removed from exterior walls or ceilings, the exposed cavities must be insulated.
- d. Existing concrete exterior walls must be furred out with 2 x 4 framing. Any wood in contact with concrete must be pressure-treated or “all-weather” wood. Existing 2 x 4 walls or 2 x 4 furred walls must be insulated with materials to achieve at least an R-15 rating.

- e. Attic and garage ceilings must be insulated to the current Residential Code standards. When the existing ceiling height prohibits insulation meeting current Residential Code requirements, a minimum R-15 insulation will be approved in spaces between existing 2 x 4 rafters.

6. Livability.

- a. For ceiling heights, see Construction Standards, Section B (4) (b) above.
- b. Every habitable room shall have at least one window facing directly to the outside. Except where an approved ventilation device is provided, the total openable window area in every habitable room shall meet the requirements of Chapter 3 of the Residential Specialty Code.

VI. CITY UTILITY CONNECTIONS

A. Water.

Water Bureau regulations require that each separate structure have a separate water service. Water Bureau staff will review each application on a case-by-case basis to see if a single service can be used. They will also determine if an existing service will need to be up-sized. This determination will depend on the total number of plumbing fixtures being served.

B. Sanitary and Stormwater Sewers.

Applicants have the option of connecting the ADU to the existing sanitary sewer system connection or having a separate connection for the ADU. If a separate connection is made, there will be additional permit and connection fees.

In most cases, stormwater from either attached or detached ADUs will be required to be disposed of on site. In most cases, installation of a stormwater treatment facility will be required when the ADU creates 500 or more square feet of impervious surface.

VII. OTHER

A. Septic Tanks or Cesspools.

If a septic tank or cesspool exists on site, it must be located. If it is within 10 feet of a new structure, it must be decommissioned.

B. Addresses.

Addresses for sites with an ADU will be assigned as a single street address (number) with A and B used to designate each separate unit.

C. Existing “Accessory Rental Units.”

Existing Accessory Rental Units (ARUs), which were created by permit under previous zoning regulations, will be considered ADUs under the new regulations. Because of the change in some standards, these pre-existing ADUs may be nonconforming to one or more Zoning Code standards. For additional information, please contact Planning and Zoning. (See “Contact Information” at the end of this Program Guide.)

D. Discontinuance of Accessory Dwelling Units or Accessory Rental Units.

To discontinue using an existing ADU or ARU as an independent living unit, a building permit is required. The purpose of the permit is to document that the accessory unit no longer exists as a separate legal living unit. The kitchen sink in the former ADU will need to be capped off or, if the unit was within the house, the owner will need to execute an additional kitchen agreement with the City.

E. “Illegal” Accessory Units.

Property owners may use the procedures and standards of this Program Guide to legalize existing ADUs that were constructed without a building permit.

F. County Assessment and Taxation.

Property taxes are not assessed or collected by the City of Portland. It is recommended that applicants consult their county assessment and taxation office to determine how property taxes may be affected by the addition of an ADU to the property.

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CONTACT INFORMATION:

Bureau of Development Services

Development Services Center:

503-823-7310

Residential Inspections:

503-823-7388

Planning and Zoning:

503-823-7526

Hours and General Questions:

503-823-7300

<https://www.portlandoregon.gov/bds/34154>

Bureau of Transportation

503-823-7002

Bureau of Environmental Services

503-823-7761

Portland Parks and Recreation

503-823-5105

Portland Water Bureau

503-823-7368

Updates January 4, 2016 edition

Updates February 20, 2013 edition

Updates April 15, 2010 edition

Updates September 1, 2007 edition

Updates February 1, 2006 edition

Updates March 1, 2004 edition

Updates July 1, 2000 edition, which superseded and replaced BDS (formerly Office of Planning and Development Review and Bureau of Buildings) Policy and Procedure D-81.

**TITLE 7: LAND USE AND DEVELOPMENT CODE - SECTION 7.2.3
GENERAL DEVELOPMENT STANDARDS**

7.2.309 ACCESSORY STRUCTURES

7.2.309.01 Single Family and Duplex

For single family residential and duplex uses on an individual lot:

- A. Height. The maximum height shall be 25 feet, provided, the structure shall not exceed the height of the primary building.
- B. Property Setbacks. When a wall adjacent to a property line or alley is nine feet or less in height, the minimum setback shall be two feet. For each one foot increase in the wall height above nine feet, the setback shall increase one additional foot.
- C. Building Separation. Accessory structure shall be separated from the primary buildings by a minimum of 6 feet. A covered walkway, which contains no habitable space, may connect the two buildings without violation of the separation requirement. Accessory structures less than 6 feet from the primary structure or connected by a fully enclosed walkway will be considered as part of the primary structure and subject to the setback requirements of the primary structure.
- D. Building Size and Lot Coverage. Accessory structure, in combination with the primary structure, shall not exceed the maximum lot coverage limitation of the underlying zone.
- E. Historic Structures - Accessory structures located on an individual lot or parcel adjacent to a significant historic resource identified in the Dayton Comprehensive Plan shall comply with the following: *(Added by Ordinance #510, 12/7/98 – Effective 12/7/98)*
 - 1. The exterior of the accessory structure shall be residential in appearance. No specific siding material is required, except that use of vertical metal siding shall be prohibited.
 - 2. The height of the accessory structure shall not exceed the height of the adjacent historical building. If the site of the historical resource does not contain a building, the accessory structure shall not exceed the height of the residence which the structure will be located.
 - 3. These provisions shall apply to all accessory structures regardless of whether a building permit is required.

**TITLE 7: LAND USE AND DEVELOPMENT CODE - SECTION 7.2.4
GENERAL DEVELOPMENT STANDARDS**

7.2.402 ACCESSORY DWELLING UNIT

Where permitted as a special use, an accessory dwelling unit shall meet the following use and development standards: *(Amended Effective 06/06/16, Ordinance 633)*

- A. Location. The accessory dwelling unit shall be located within the side or rear yard and physically separated from the primary residence by a minimum distance of 6 feet. A covered walkway, which contains no habitable space, may connect the two buildings without violation of the setback requirements.
- B. Design. The accessory dwelling unit must be residential in character with an exterior finish similar to the primary residence. A separate address shall be required for each residence.
- C. Area. The accessory dwelling unit shall contain the lesser of 25% of the floor area of the primary residence or 750 square feet.
- D. Setbacks. The minimum rear yard setback shall be 10 feet; the minimum side yard setback shall 5 feet.
- E. Height. The maximum height shall be 25 feet but in no case shall the height exceed the height of the primary residence.