BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1257

Amending MCC Chapters 11.15, 33, and 36 Relating to Affordable Housing Regulations on Unincorporated County Lands Inside the Urban Growth Boundary and Declaring an Emergency.

(Language ~~stricken~~ is deleted; underlined language is new.)

The Multnomah County Board of Commissioners Finds:

a. Periodically, there is a need to amend County land use policies or regulations to address a change in law or circumstance; to implement elements of the Multnomah County Comprehensive Plan; or to make technical corrections for, among other things, clarification and consistency (commonly referred to as "housekeeping amendments"). Having identified such need, the Multnomah County Planning Commission recommended the adoption of this ordinance to the Board of County Commissioners. The Planning Commission made such recommendation through adoption of the resolution described below and pursuant to its authority in MCC 33.0140, 36.0140, 37.0710, and in ORS 215.110.

b. Planning Commission Resolution No. PC 2018-9900 relates to affordable housing regulations on unincorporated lands inside the urban growth boundary for which Multnomah County provides planning services. Senate Bill 1051 (2017 Legislative Session) and a clarification to SB 1051 added through House Bill 4031 (2018 Legislative Session) mandate local governments to implement several practices with the intent of increasing affordable housing supply across the state. For counties, the majority of those practices apply only to unincorporated land inside the urban growth boundary. Some of the changes to state law became effective on August 15, 2017, and others become effective July 1, 2018.

c. Generally, the ordinance: (1) allows accessory dwelling units (ADUs) in residential zones within the urban growth boundary, subject to reasonable siting and design standards; (2) establishes those reasonable siting and design standards for ADUs; and (3) adds to county code provisions in state law allowing uses customarily associated with the practices of religious activity at a nonresidential place of worship, including housing in residential zones within the urban growth boundary.

d. The ordinance applies to roughly 600 properties, the majority of which are located in eastern Multnomah County in the vicinity of Pleasant Valley, Springwater, the western portion of Orient, and Interlachen Lane. The ordinance also applies to one property near Skyline Boulevard in western Multnomah County. The ordinance does not apply to properties within the urban growth boundary for which Multnomah County has contracted with another jurisdiction to provide planning services.

e. The ordinance does not allow ADUs in areas outside of the urban growth boundary. Such development is generally prohibited by state law and the County Comprehensive Plan.

f. The Planning Commission held a public hearing on April 2, 2018, during which all interested persons were given the opportunity to appear and be heard. Notice of the Planning Commission's hearing was published in the Oregonian newspaper and on the website of the Multnomah County Land Use Planning Program. Individual notice under ORS 215.503 (commonly referred to as "Ballot Measure 56 notice") was not required because this ordinance will not: amend any element of the county's comprehensive plan, enact a new comprehensive plan, change any base zoning classification, or limit or prohibit any land use previously allowed in any affected zone. However, as a courtesy, the County mailed notices of the Planning Commission hearing to individual property owners whose property would be impacted by the ordinance.

g. The Planning Commission's recommendation is sound and derives from the proper execution of its duties and authority.

Multnomah County Ordains as Follows:

Section 1. MCC 11.15.0010, 33.0005 and 36.0005 are amended as follows:

§ 11.15.0010 DEFINITIONS.
§ 33.0005 DEFINITIONS.
§ 36.0005 DEFINITIONS.

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

* * *

Accessory Dwelling Unit (ADU) – An interior, attached, or detached dwelling unit, the use of which is clearly accessory and incidental to that of a lawfully established single-family dwelling on the same Lot of Record. For purposes of this definition, interior means the ADU is located within a building that was not originally designed or used as an ADU. Attached means at least a portion of one wall or floor of the ADU is connected to a building. Detached means the ADU is not connected to any other building. A structure that qualifies as an apartment, duplex dwelling, two-unit dwelling, multiplex dwelling structure, an accessory building, or an accessory structure is not an ADU.

* * *

Section 2. MCC 11.15.2128 and 11.15.2208 are amended as follows:

§ 11.15.2128 PRIMARY USES.
§ 11.15.2208 PRIMARY USES.

(A) Farm uses, as defined in ORS 215.203(2)(a) for the following purposes only:

(1) Raising and harvesting crops;

* * *

(F) Accessory Dwelling Unit (ADU), subject to the following standards:

(1) The ADU is sited entirely inside the urban growth boundary.

(2) The ADU is not accessory to a health hardship dwelling or any other type of temporary dwelling.

(3) Transportation Impacts shall be mitigated per Multnomah County Road Rules. The ADU shall use the same lawfully established driveway entrance as the single-family dwelling, although the driveway may be extended to the ADU. No variance, adjustment, deviation or any other modification to this shared driveway provision is allowed.

(4) The floor area of the ADU shall not exceed either 800 square feet, or 75% of the floor area of the single-family dwelling to which the ADU is accessory, whichever is less.

(5) The ADU shall either be:

(a) Attached to or located within the interior of a lawfully established single-family dwelling;

(b) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building existed on June 7, 2018 (effective date of enacting ordinance);

(c) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building is located at least 7 feet and no more than 20 feet from the single family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed; or

(d) Detached, provided that the detached ADU is located at least 7 feet and no more than 20 feet from the single-family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed.

(6) An attached or interior ADU shall include at least one separate exterior doorway to the outside. Internal entrance(s) to the attached building are allowed.

(7) The following designs are not permitted for use as an ADU: Recreational vehicle, park model recreational vehicle, yurt or any other similar design not intended for permanent human occupancy or any structure unable to meet all applicable construction or installation standards.

(8) Short-term rental of the ADU is prohibited. For purposes of this subsection, short-term rental is defined as fee-based occupancy for a period less than 30 consecutive calendar days. Month-to-month rental agreements for long-term purposes are not short-term rental.

(9) The land owner shall sign and record with the county a covenant stating that the ADU cannot be used for short-term rental, as defined in this section. The covenant shall apply until such time the subject property is annexed into a city and no longer subject to county land use regulations.

Section 3. MCC 11.15.2386 is amended as follows:

§ 11.15.2386 PRIMARY USES.

(A) Residential use consisting of a single-family detached dwelling constructed on a lot;

* * *

(F) Accessory Dwelling Unit (ADU), subject to the following standards:

(2) The ADU is sited entirely inside the urban growth boundary.

(2) The ADU is not accessory to a health hardship dwelling or any other type of temporary dwelling.

(3) Transportation Impacts shall be mitigated per Multnomah County Road Rules. The ADU shall use the same lawfully established driveway entrance as the single-family dwelling, although the driveway may be extended to the ADU. No variance, adjustment, deviation or any other modification to this shared driveway provision is allowed.

(4) The floor area of the ADU shall not exceed either 800 square feet, or 75% of the floor area of the single-family dwelling to which the ADU is accessory, whichever is less.

(5) The ADU shall either be:

(a) Attached to or located within the interior of a lawfully established single-family dwelling;

(b) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building existed on June 7, 2018 (effective date of enacting ordinance);

(c) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building is located at least 7 feet and no more than 20 feet from the single family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed; or

(d) Detached, provided that the detached ADU is located at least 7 feet and no more than 20 feet from the single-family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed.

(6) An attached or interior ADU shall include at least one separate exterior doorway to the outside. Internal entrance(s) to the attached building are allowed.

(7) The following designs are not permitted for use as an ADU: Recreational vehicle, park model recreational vehicle, yurt or any other similar design not intended for permanent human occupancy or any structure unable to meet all applicable construction or installation standards.

(8) Short-term rental of the ADU is prohibited. For purposes of this subsection, short-term rental is defined as fee-based occupancy for a period less than 30 consecutive calendar days. Month-to-month rental agreements for long-term purposes are not short-term rental.

(9) The land owner shall sign and record with the county a covenant stating that the ADU cannot be used for short-term rental, as defined in this section. The covenant shall apply until such time the subject property is annexed into a city and no longer subject to county land use regulations.

Section 4. MCC 11.15.2566, 11.15.2606 and 11.15.2626 are amended as follows:

§ 11.15.2566 PRIMARY USES.
§ 11.15.2606 PRIMARY USES.
§ 11.15.2626 PRIMARY USES.

A. Single family detached dwelling.

For the purposes of this Section, more than one single family detached dwelling may be located on a lot provided that all of the applicable dimensional requirements of this district are met for each such dwelling and its accessory uses.

* * *

(D) Accessory Dwelling Unit (ADU), subject to the following standards:

(1) The ADU is sited entirely inside the urban growth boundary.

(2) The ADU is not accessory to a health hardship dwelling or any other type of temporary dwelling.

(3) Transportation Impacts shall be mitigated per Multnomah County Road Rules. The ADU shall use the same lawfully established driveway entrance as the single-family dwelling, although the driveway may be extended to the ADU. No variance, adjustment, deviation or any other modification to this shared driveway provision is allowed.

(4) The floor area of the ADU shall not exceed either 800 square feet, or 75% of the floor area of the single-family dwelling to which the ADU is accessory, whichever is less.

(5) The ADU shall either be:

(a) Attached to or located within the interior of a lawfully established single-family dwelling;

(b) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building existed on June 7, 2018 (effective date of enacting ordinance);

(c) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building is located at least 7 feet and no more than 20 feet from the single family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed; or

(d) Detached, provided that the detached ADU is located at least 7 feet and no more than 20 feet from the single-family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed.

(6) An attached or interior ADU shall include at least one separate exterior doorway to the outside. Internal entrance(s) to the attached building are allowed.

(7) The following designs are not permitted for use as an ADU: Recreational vehicle, park model recreational vehicle, yurt or any other similar design not intended for permanent human occupancy or any structure unable to meet all applicable construction or installation standards.

(8) Short-term rental of the ADU is prohibited. For purposes of this subsection, short-term rental is defined as fee-based occupancy for a period less than 30 consecutive calendar days. Month-to-month rental agreements for long-term purposes are not short-term rental.

(9) The land owner shall sign and record with the county a covenant stating that the ADU cannot be used for short-term rental, as defined in this section. The covenant shall apply until such time the subject property is annexed into a city and no longer subject to county land use regulations.

Section 5. MCC 33.3120, 36.2820, 36.3420 and 36.3520 are amended as follows:

§ 33.3120 ALLOWED USES.
§ 36.2820 ALLOWED USES.
§ 36.3420 ALLOWED USES.
§ 36.3520 ALLOWED USES.

(F) Accessory Structures subject to the following:

* * *

(6) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet and ~~T~~the combined footprints of all Accessory Buildings on a Lot of Record, including buildings accessory to an ADU, shall not exceed 2,500 square feet.

(7) An Accessory Structure exceeding any of the Allowed Use provisions above, except for the combined footprints allowed for all buildings accessory to an ADU, shall be considered through the Review Use provisions.

* * *

(L) Accessory Dwelling Unit (ADU), subject to the following standards:

(1) The ADU is sited entirely inside the urban growth boundary.

(2) The ADU is not accessory to a health hardship dwelling or any other type of temporary dwelling.

(3) Transportation Impacts shall be mitigated per Multnomah County Road Rules. The ADU shall use the same lawfully established driveway entrance as the single-family dwelling, although the driveway may be extended to the ADU. No variance, adjustment, deviation or any other modification to this shared driveway provision is allowed.

(4) The floor area of the ADU shall not exceed either 800 square feet, or 75% of the floor area of the single-family dwelling to which the ADU is accessory, whichever is less.

(5) The ADU shall either be:

(a) Attached to or located within the interior of a lawfully established single-family dwelling;

(b) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building existed on June 7, 2018 (effective date of enacting ordinance);

(c) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building is located at least 7 feet and no more than 20 feet from the single family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed; or

(d) Detached, provided that the detached ADU is located at least 7 feet and no more than 20 feet from the single-family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed.

(6) An attached or interior ADU shall include at least one separate exterior doorway to the outside. Internal entrance(s) to the attached building are allowed.

(7) The following designs are not permitted for use as an ADU: Recreational vehicle, park model recreational vehicle, yurt or any other similar design not intended for permanent human occupancy or any structure unable to meet all applicable construction or installation standards.

(8) Short-term rental of the ADU is prohibited. For purposes of this subsection, short-term rental is defined as fee-based occupancy for a period less than 30 consecutive

calendar days. Month-to-month rental agreements for long-term purposes are not short-term rental.

(9) The land owner shall sign and record with the county a covenant stating that the ADU cannot be used for short-term rental, as defined in this section. The covenant shall apply until such time the subject property is annexed into a city and no longer subject to county land use regulations.

Section 6. MCC 36.3120 is amended as follows:

§ 36.3120 ALLOWED USES.

(A) Residential use, consisting of a single family dwelling constructed off-site, including a mobile or modular home placed on a Lot of Record, subject to the following conditions:

(1) Construction shall comply with the standards of the Building Code or as prescribed in ORS 446.002 through 446.200, relating to mobile homes.

* * *

(G) Accessory Structures subject to the following:

* * *

(6) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet and ~~T~~the combined footprints of all Accessory Buildings on a Lot of Record, including buildings accessory to an ADU, shall not exceed 2,500 square feet.

(7) An Accessory Structure exceeding any of the Allowed Use provisions above, except for the combined footprints allowed for all buildings accessory to an ADU, shall be considered through the Review Use provisions.

* * *

(M) Accessory Dwelling Unit (ADU), subject to the following standards:

(1) The ADU is sited entirely inside the urban growth boundary.

(2) The ADU is not accessory to a health hardship dwelling or any other type of temporary dwelling.

(3) Transportation Impacts shall be mitigated per Multnomah County Road Rules. The ADU shall use the same lawfully established driveway entrance as the single-family dwelling, although the driveway may be extended to the ADU. No variance, adjustment, deviation or any other modification to this shared driveway provision is allowed.

(4) The floor area of the ADU shall not exceed either 800 square feet, or 75% of the floor area of the single-family dwelling to which the ADU is accessory, whichever is less.

(5) The ADU shall either be:

(a) Attached to or located within the interior of a lawfully established single-family dwelling;

(b) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building existed on June 7, 2018 (effective date of enacting ordinance);

(c) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building is located at least 7 feet and no more than 20 feet from the single family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed; or

(d) Detached, provided that the detached ADU is located at least 7 feet and no more than 20 feet from the single-family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed.

(6) An attached or interior ADU shall include at least one separate exterior doorway to the outside. Internal entrance(s) to the attached building are allowed.

(7) The following designs are not permitted for use as an ADU: Recreational vehicle, park model recreational vehicle, yurt or any other similar design not intended for permanent human occupancy or any structure unable to meet all applicable construction or installation standards.

(8) Short-term rental of the ADU is prohibited. For purposes of this subsection, short-term rental is defined as fee-based occupancy for a period less than 30 consecutive calendar days. Month-to-month rental agreements for long-term purposes are not short-term rental.

(9) The land owner shall sign and record with the county a covenant stating that the ADU cannot be used for short-term rental, as defined in this section. The covenant shall apply

until such time the subject property is annexed into a city and no longer subject to county land use regulations.

Section 7. MCC 11.15.2134 and 11.15.2214 are amended as follows:

§ 11.15.2134 ACCESSORY USES.
§ 11.15.2214 ACCESSORY USES.

(A) Signs, pursuant to the provisions of MCC 11.15.7902-.7982.

* * *

(D) Other structures or uses customarily accessory or incidental to any use permitted or approved in this district. The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet; and

(E) Family Day Care.

Section 8. MCC 11.15.2388 is amended as follows:

§ 11.15.2388 USES PERMITTED UNDER PRESCRIBED CONDITIONS.

The uses permitted subject to prescribed conditions for each use are:

(A) Residential use, consisting of a single-family dwelling constructed off-site, including a mobile or modular home, subject to the following conditions:

(1) Construction shall comply with the standards of the Uniform Building Code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;

* * *

(E) Other structures or uses customarily accessory or incidental to any use permitted or approved in this district. The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet; and

(F) Temporary uses under the provisions of MCC .8705-.8710.

* * *

Section 9. MCC 11.15.2568, 11.15.2608 and 11.15.2628 are amended as follows:

§ 11.15.2568 USES PERMITTED UNDER PRESCRIBED CONDITIONS.
§ 11.15.2608 USES PERMITTED UNDER PRESCRIBED CONDITIONS.
§ 11.15.2628 USES PERMITTED UNDER PRESCRIBED CONDITIONS.

The uses permitted subject to prescribed conditions for each use are:

(A) Accessory buildings such as garages, carports, studios, pergolas, private workshops, playhouses, private greenhouses or other similar structures related to the dwelling in design, whether attached or detached, provided:

(1) The height or total ground floor area of accessory buildings shall not exceed the height or ground floor area of the main building on the same lot.

* * *

(5) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet.

* * *

Section 10. MCC 11.15.7020 is amended as follows:

§ 11.15.7020 USES.

(A) Except as otherwise provided in MCC 11.15.2008 through .2012 and MCC 11.15.2048 through .2050, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority.

(1) Boat moorage, marina or boathouse moorage.

* * *

(4) Church, or other nonresidential place of worship, including the following activities customarily associated with the practices of the religious activity:

(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; and

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

(i) The subject property is located in a base zone that lists single-family dwelling as an Allowed Use, or where a single-family dwelling is permitted through a non-discretionary land use review process.

(ii) The subject property is located inside the urban growth boundary.

(iii) At least 50 percent of the residential units provided under this subsection (g) are affordable to households with incomes equal to or less than 60 percent of the median family income for Multnomah County.

(iv) 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, including the density standards for dwellings in the applicable zone.

(v) Housing and space for housing provided under subsection (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 (g)(iii) 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 Multnomah County for a period of 60 years from the date of the certificate of occupancy.

* * *

Section 11. MCC 33.6015 is amended as follows:

§ 33.6015 USES.

(A) Except as otherwise limited in the EFU, CFU-1, CFU-2, and CFU-5 districts, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority.

Allowed Community Service Uses in the EFU, CFU-1, CFU-2, and CFU-5 districts are limited to those uses listed in each respective district.

(1) Boat moorage, marina or boathouse moorage.

* * *

(4) Church, or other nonresidential place of worship, including the following activities customarily associated with the practices of the religious activity:

(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; and

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

(i) The subject property is located in a base zone that lists single-family dwelling as an Allowed Use, or where a single-family dwelling is permitted through a non-discretionary land use review process.

(ii) The subject property is located inside the urban growth boundary.

(iii) At least 50 percent of the residential units provided under this subsection (g) are affordable to households with incomes equal to or less than 60 percent of the median family income for Multnomah County.

(iv) 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, including the density standards for dwellings in the applicable zone.

(v) Housing and space for housing provided under subsection (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 (g)(iii) 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 Multnomah County for a period of 60 years from the date of the certificate of occupancy.

* * *

Section 12. MCC 36.6015 is amended as follows:

§ 36.6015 USES.

(A) Except as otherwise limited in the EFU, CFU and OR districts, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority.

Allowed Community Service Uses in the EFU, CFU and OR districts are limited to those uses listed in each respective district.

(1) Church, or other nonresidential place of worship, including the following activities customarily associated with the practices of the religious activity:

(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; and

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

(i) The subject property is located in a base zone that lists single-family dwelling as an Allowed Use, or where a single-family dwelling is permitted through a non-discretionary land use review process.

(ii) The subject property is located inside the urban growth boundary.

(iii) At least 50 percent of the residential units provided under this subsection (g) are affordable to households with incomes equal to or less than 60 percent of the median family income for Multnomah County.

(iv) 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, including the density standards for dwellings in the applicable zone.

(v) Housing and space for housing provided under subsection (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 (g)(iii) 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 Multnomah County for a period of 60 years from the date of the certificate of occupancy.

* * *

Section 13. MCC 33.0550 and 36.0550 are amended as follows:

§ 33.0550 TYPE B HOME OCCUPATION.
§ 36.0550 TYPE B HOME OCCUPATION.

(A) Type B home occupation is a lawful commercial activity that is conducted in a dwelling or accessory building, but not within or in association with an accessory dwelling unit, on a parcel by a business operator, is subordinate to the residential use of the premises, and complies with the following:

* * *

Section 14. MCC 11.15.7465 is amended as follows:

§ 11.15.7465 CRITERIA FOR APPROVAL.

The approval authority shall find that the following standards are met:

(A) The standards found in MCC 11.15.7120.

* * *

(K) The home occupation is not conducted within or in association with an accessory dwelling unit.

Section 15. MCC 33.6660 and 36.6660 are amended as follows:

§ 33.6660 CRITERIA FOR APPROVAL.
§ 36.6660 CRITERIA FOR APPROVAL.

(A) A Type C home occupation is a lawful commercial activity that is conducted in a dwelling or accessory building, but not within or in association with an accessory dwelling unit, on a parcel by a business operator, is subordinate to the residential use of the premises, and complies with the following:

* * *

Section 16. This ordinance being necessary for the health, safety, and general welfare of the people of Multnomah County, an emergency is declared, and the ordinance takes effect immediately upon being signed by the County Chair pursuant to Section 5.50 of the Multnomah County Home Rule Charter.

FIRST READING and ADOPTION: June 7, 2018

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury, Chair

REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Katherine Thomas, Assistant County Attorney

SUBMITTED BY: Kim Peoples, Director, Department of Community Services

BEFORE THE PLANNING COMMISSION
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. PC 2018-9900

Recommend to the Board of Commissioners the adoption of one or more ordinances amending the provisions for MCC Chapters 11.15, 33, and 36 related to affordable housing regulations inside the urban growth boundary.

The Planning Commission Finds:

a. The Planning Commission is authorized by Multnomah County Code Chapters 33.0140, 36.0140, 37.0710 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to amend the County Comprehensive Plan and land use regulations.

b. Senate Bill 1051 (2017 Legislative Session) and a clarification to SB 1051 added through House Bill 4031 (2018 Legislative Session) mandate local governments to implement several practices with the intent of increasing affordable housing supply across the state. Some of the changes to state law became effective on August 15, 2017, and others become effective July 1, 2018.

c. Generally, the ordinance will: (1) allow accessory dwelling units (ADUs) in zones within the urban growth boundary where a single-family dwelling is an Allowed Use or is otherwise permitted through a non-discretionary permit process; (2) establish reasonable siting and design standards for accessory dwelling units; and (3) add to county code provisions in state law allowing uses customarily associated with the practices of religious activity at a nonresidential place of worship, including housing in zones within the urban growth boundary where a single-family dwelling is an Allowed Use or is otherwise permitted through a non-discretionary permit process.

d. The ordinance will not allow accessory dwelling units in areas outside of the urban growth boundary. Such development is generally prohibited by state law and the County Comprehensive Plan.

e. Multnomah County mailed notices of the Planning Commission hearing to individual property owners inside the urban growth boundary whose property would be impacted by the proposed ordinance. In addition, notice was published in the Oregonian newspaper and on the Land Use Planning Program internet pages. The Planning Commission held a hearing on April 2, 2018 where all interested persons were given an opportunity to appear and be heard.

The Planning Commission resolves:

The proposed Ordinance(s) amending MCC Chapters 11.15, 33, and 36 is hereby recommended for adoption by the Board of County Commissioners in a form substantially similar to that approved by the Planning Commission.

ADOPTED this 2nd day of April, 2018

PLANNING COMMISSION
FOR MULTNOMAH COUNTY, OREGON

John Ingle, Chair

Department of Community Services
Land Use Planning Division
www.multco.us/landuse

1600 SE 190th Avenue, Portland Oregon 97233-**5910** • **PH. (503) 988-3043** • **Fax (503) 988**-3389

STAFF REPORT FOR THE PLANNING COMMISSION HEARING
APRIL 2, 2018

AMENDMENTS RELATING TO AFFORDABLE HOUSING IN THE URBAN GROWTH BOUNDARY (PC-2018-9900)

Staff Contact:
Adam Barber, Senior Planner
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SECTION 1.0 INTRODUCTION

This Proposal, PC-2018-9900, relates to the regulation of affordable housing within the Urban Growth Boundary (UGB) in unincorporated Multnomah County. A Planning Commission Work Session on this proposal occurred on February 5, 2018.

In general, this proposal implements state law passed in 2017 and amended in 2018 (cited below) mandating local governments to adopt several practices to increase the housing supply within the UGB. More specifically, this proposal will:

1. Allow accessory dwelling units (ADUs) in areas zoned for detached single-family residential use within the urban growth boundary. ADUs are secondary dwellings created on a property that already has a primary single-family home. This proposal will not allow ADUs outside of the urban growth boundary. Such development is generally prohibited outside of the urban growth boundary by state law and the County Comprehensive Plan (Exhibit G);

2. Develop reasonable siting and design standards for new ADUs inside the urban growth boundary; and

3. Add to county code uses currently listed in state law associated with a place of worship, including allowing housing associated with a non-residential place of worship located in an area zoned for residential use within the urban growth boundary.

Background

Senate Bill 1051 (2017 Legislative Session, Exhibit A) and a clarification to SB 1051 added through House Bill 4031 (2018 Legislative Session, Exhibit B) mandate local governments to implement several practices with the intent of increasing the housing supply across the state.

Sections of Senate Bill 1051 requiring county code amendments include:

- Section 6, Subsection 5 (amends ORS 197.312), *as amended by* HB 4031, Section 7 (2018) – County must allow "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," in areas zoned for detached single-family dwellings inside the urban growth boundary.[1] Effective July 1, 2018.

- Section 5, Subsection 4 (amends ORS 197.307) – County may adopt clear and objective standards for accessory dwelling units as long as regulations do not have the effect of discouraging needed housing through unreasonable cost or delay. Effective August 15, 2017.

- Section 7, Subsection 1 and Subsection 4 (amends ORS 215.441) – Presents existing ancillary uses associated with a place of worship in list form rather than paragraph form (text formatting change). Requires the county to allow housing or space for housing in a building detached from a place of worship as long as: (1) at least 50% of the units are affordable (as defined by statute); (2) the property is in an area zoned for residential use inside the urban growth boundary; (3) the housing or space for housing complies with all land use and development requirements in the underlying zone; and (4) there is a covenant to preserve the affordable housing units for that purpose for 60 years. Effective August 15, 2017.

Proposal

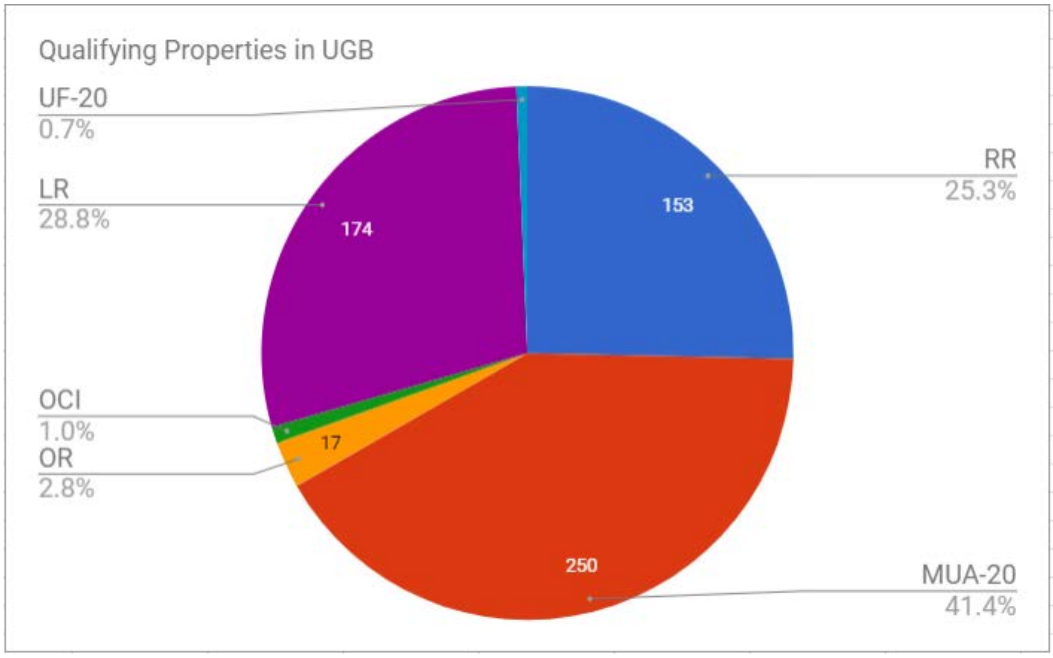
The intent of this Proposal is to increase the housing supply within the urban growth boundary subject to reasonable regulations that help ensure the new housing is consistent with current development standards. Additional design and siting standards for ADUs are proposed to help reduce construction costs by providing flexibility in construction methods and by establishing a limit on the size of an accessory building unit. Lower construction costs is expected to help with housing affordability.

As noted above, SB 1051 applies only to properties within the urban growth boundary, and specifically "in areas zones for detached single-family dwellings." Staff interprets the phrase "in areas zoned for detached single-family dwellings" to equate to county base zones listing a single-family dwelling as an Allowed Use, or where a single-family dwelling is permitted through a non-discretionary permit process. Qualifying county zones located within the UGB are listed

[1] The clarification that ADUs must be allowed in qualifying single-family zones inside the UGB was made in HB 4031 (2018) after the UGB reference was inadvertently omitted in the original 2017 SB 1051. HB 4031 has been signed by the Senate President and Speaker of the House and is awaiting the Governor's signature.

below, totaling 604 properties (Exhibit E). This could allow for as much as a 6.45% increase in the potential total number of households in unincorporated Multnomah County according to housing data provided on page 10-4 of the Multnomah County Comprehensive Plan showing 9,354 households existing in the county's rural jurisdiction (Exhibit G).

- RR (Rural Residential) – 153 properties
- MUA-20 (Multiple Use Agriculture-20) – 250 properties
- OR (Orient Rural Center Residential) – 17 properties
- OCI (Orient Commercial-Industrial) – 6 properties
- LR (Urban Low Density Residential LR-5, LR-7, LR-10) – 174 properties
- UF-20 (Urban Future-20) – 4 properties



SECTION 2.0 PROPOSED CODE AMENDMENTS

Code amendments are proposed to Chapters 33 (West Hills Plan Area), 36 (West of Sandy River Plan Area) and Chapter 11.15 (Urban unincorporated land). Zones in Chapters 34 (Sauvie Island / Multnomah Channel Plan Area), 35 (East of Sandy Plan Area), and 38 (Columbia River Gorge National Scenic Area) were not affected by the referenced legislation and are not being amended.

The following text is used within the proposed amendments:

Double Underline = Proposed new language
~~Strikethrough~~ = Language proposed for removal

* * * Indicates a minor gap in code for brevity, typically within the same section

Staff Contact: Adam Barber

-------- Indicates a larger gap, typically in code between different sections

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Amending the Definition Section

Amending the definition provisions of:

- MCC 33.0005
- MCC 36.0005
- MCC 11.15.0010

Accessory Building – A subordinate building, the use of which is clearly incidental to that of the main building on the same lot.

Accessory Dwelling Unit (ADU) – An interior, attached, or detached dwelling unit, the use of which is clearly accessory and incidental to that of a lawfully established single-family dwelling on the same Lot of Record. For purposes of this definition, interior means the ADU is located within a building that was not originally designed or used as an ADU. Attached means at least a portion of one wall or floor of the ADU is connected to a building. Detached means the ADU is not connected to any other building. A structure that qualifies as an apartment, duplex dwelling, two-unit dwelling, multi-plex dwelling structure, an accessory building, or an accessory structure is not an ADU.

Accessory Use – A lawful use that is customarily subordinate and incidental to a primary use on a lot.

* * *

Apartment – Any building or portion thereof used for or containing three or more dwelling units.

* * *

Dwelling Unit – A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Dwelling (Duplex or Two-Unit) – A detached building designed for two dwelling units, whether in separate or single ownership.

Dwelling (Single Family Detached) – A detached building designed for one dwelling unit including Mobile Homes under the provisions as specified within the base zone.

Dwelling (Multi-Plex Structure) – See Multi-plex Dwelling Structure.

* * *

Duplex Dwelling – See Dwelling (Duplex or Two Unit).

Family –

(a) Any one of the following shall be considered a family when living together as a single housekeeping unit within a dwelling unit (excluding servants):

1. An individual or two or more persons related by blood, marriage, legal adoption, foster care or guardianship; or,

2. A group of not more than five (5) unrelated persons; or,

3. Residential Home – A residence for (5) or fewer unrelated mentally or physically handicapped persons and staff persons who need not be related to each other or any other home resident. A residential home must be registered as an Adult Care Home with the Multnomah County Department of County Human Services pursuant to Chapter 23 of the Multnomah County Code.

(b) Each group described herein or portion thereof, shall be considered a separate family.

* * *

Floor Area – The area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.

* * *

Habitable Dwelling – An existing dwelling that:

(a) Has intact exterior walls and roof structure;

(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(c) Has interior wiring for interior lights;

(d) Has a heating system; and

(e) Was lawfully established.

* * *

Lawfully Established Dwelling – A dwelling that was constructed in compliance with the laws in effect at the time of establishment. The laws in effect shall include zoning, land division and building code requirements. Compliance with Building Code requirements shall mean that all permits necessary to qualify the structure as a dwelling unit were obtained and all qualifying permitted work completed.

* * *

Manufactured Home – See Mobile home.

Mobile Home – A structure transportable in one or more sections, which is designed to be used for permanent occupancy as a dwelling and which is not constructed to the standards of the uniform building code (the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations). Mobile homes include residential trailers and manufactured homes subject to the siting provisions as specified within the base zone:

(a) Residential Trailer – A mobile home which was not constructed in accordance with federal manufactured housing construction and safety standards (HUD), in effect after June 15, 1976. This definition includes the State definitions of Residential Trailers and Mobile Homes stated in the Oregon Revised Statutes (ORS) 446;

(b) Manufactured Home – A mobile home constructed in accordance with federal manufactured housing construction and safety standards (HUD code) in effect after June 15, 1976;

(c) For flood plain management purposes (MCC 39.5000 – 39.5055) only, the term Manufactured Home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

* * *

Multi-Plex Dwelling Structure – A row house or town house apartment structure.

* * *

Park-Model Recreational Vehicle – A recreational vehicle built on a single chassis, mounted on wheels, and designed to facilitate movement from time to time but not intended to be towed on a regular basis and that does not exceed 400 square feet when in the set-up mode and designed to provide recreational seasonal or temporary living quarters which may be connected to utilities necessary for the operation of installed fixtures and appliances.

Permitted Use – A use permitted in a base zone without the need for special administrative review and approval, upon satisfaction of the standards and requirements of this Chapter.

* * *

Primary Use – See Permitted Use.

* * *

Recreational Vehicle – A vehicle as defined in ORS 446.003 and specifically includes camping trailers, camping vehicles, motor homes, recreational park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers, combination vehicles which include a recreational vehicle use, and any vehicle converted for use or partial use as a recreational vehicle. Recreational Vehicles contain eating and sleeping facilities and are equipped with one or more of the following:

(a) Holding tank(s);

(b) Liquid petroleum gas; or

(c) A 110 to 240 volt electrical systems.

* * *

Residential Home – See Family.

Residential Trailer – See Mobile Home.

* * *

Travel Trailer – A non-motorized, towable recreational trailer which contains an Oregon Insignia of Compliance as a recreational vehicle. Motor homes, converted buses, van conversions, slide-in truck campers and folding camper trailers ("pop-up" campers) are not considered a travel trailer.

Two-Unit Dwelling – See Dwelling (Duplex or Two-Unit).

Amending the Uses Section of Applicable Zones

Amending the zoning use provisions of:

- *MUA-20 Allowed Use MCC 36.2820(L)*
- *MUA-20 Primary Uses MCC 11.15.2128(F)*
- *RR Allowed Use MCC 33.3120(L); 36.3120(M)*
- *RR Primary Uses MCC 11.15.2208(F)*
- *OR Allowed Use MCC 36.3420(L)*
- *OCI Allowed Use MCC 36.3520(L)*
- *UF-20 Primary Uses MCC 11.15.2386(F)*
- *LR-5 Primary Uses MCC 11.15.2626(D)*
- *LR-7 Primary Uses MCC 11.15.2606(D)*
- *LR-10 Primary Uses MCC 11.15.2566(D)*

> ***Staff Note:*** *The following uses and their accessory uses are allowed in each referenced zone, subject to all applicable supplementary regulations contained in Multnomah County Code.*

( ) Accessory Dwelling Unit (ADU), subject to the following standards:

(1) The ADU is sited entirely inside the urban growth boundary.

(2) The ADU is not accessory to a health hardship dwelling or any other type of temporary dwelling.

(3) Transportation Impacts shall be mitigated per Multnomah County Road Rules. The ADU shall use the same lawfully established driveway entrance as the single-family dwelling, although the driveway may be extended to the ADU. No variance, adjustment, deviation or any other modification to this shared driveway provision is allowed.

(4) The floor area of the ADU shall not exceed either 800 square feet, or 75% of the floor area of the single-family dwelling to which the ADU is accessory, whichever is less.

Staff note *- Staff's research suggests 3-bedrooms can fit in an 800 sf home and this size would allow use of a mobile home, which must be at least 600 sf by county code, as an ADU. The 75% floor area cap is proposed because the primary dwelling could be a 600 square foot mobile home and a 75% cap would allow a 450 square foot ADU.*

For comparison purposes, below is ADU size limitation information from a sampling of other jurisdictions:

- *Average Maximum ADU Size Allowed = 803 Square Feet*
- *Average Minimum ADU Size Required = 263 Square Feet*
- *Average Maximum ADU Size (%) Allowed in Comparison to Dwelling = 48 Percent*

For additional details on size limitations from other jurisdictions, see Exhibit H.

(5) The ADU shall either be:

(a) Attached to or located within the interior of a lawfully established single-family dwelling;

(b) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building existed on the effective date of this ordinance;

(c) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building is located at least 7 feet and no more than 20 feet from the single family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed; or

(d) Detached, provided that the detached ADU is located at least 7 feet and no more than 20 feet from the single family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed.

(6) An attached or interior ADU shall include at least one separate exterior doorway to the outside. Internal entrance(s) to the attached building are allowed.

(7) The following designs are not permitted for use as an ADU: Recreational vehicle, park model recreational vehicle, yurt or any other similar design not intended for permanent human occupancy or any structure unable to meet all applicable construction or installation standards.

Staff note *– The definition of Recreational Vehicle includes camping trailers, camping vehicles, motor homes, recreational park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers, and other similar vehicles.*

(8) Short-term rental of the ADU is prohibited. For purposes of this subsection, short-term rental is defined as fee-based occupancy for a period less than 30 consecutive calendar days. Month-to-month rental agreements for long-term purposes are not short-term rental.

(9) The land owner shall sign and record with the county a covenant stating that the ADU cannot be used for short-term rental, as defined in this section. The covenant shall apply until such time the subject property is annexed into a city and no longer subject to county land use regulations.

Amending Accessory Structure Regulations for Zones Qualifying for ADUs

Amending the accessory structure provisions of:

- *MUA-20 Allowed Uses – MCC 36.2820(F)*
- *RR Allowed Uses - MCC 33.3120(F); 36.3120(G)*
- *OR Allowed Uses - MCC 36.3420(F)*
- *OCI Allowed Uses - MCC 36.3520(F)*

Staff Note: *The following uses and their accessory uses are allowed in each referenced zone, subject to all applicable supplementary regulations contained in Multnomah County Code.*

( ) Accessory Structures subject to the following:

* * *

(6) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet and ~~T~~the combined footprints of all Accessory Buildings on a Lot of Record, including buildings accessory to an ADU, shall not exceed 2,500 square feet.

(7) An Accessory Structure exceeding any of the Allowed Use provisions above, except for the combined footprints allowed for all buildings accessory to an ADU, shall be considered through the Review Use provisions.

Amending the accessory structure provisions of:

- *MUA-20 Accessory Uses - MCC 11.15.2134(D)*
- *RR Accessory Uses - MCC 11.15.2214(D)*
- *UF-20 Uses Permitted Under Prescribed Conditions - MCC 11.15.2388(E)*

( ) Other structures or uses customarily accessory or incidental to any use permitted or approved in this district. The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet; and

Amending the accessory structure provisions of:

- *LR-5 Uses Permitted Under Prescribed Conditions - MCC 11.15.2628*
- *LR-7 Uses Permitted Under Prescribed Conditions - MCC 11.15.2608*
- *LR-10 Uses Permitted Under Prescribed Conditions - MCC 11.15.2568*

(A) Accessory buildings such as garages, carports, studios, pergolas, private workshops, playhouses, private greenhouses or other similar structures related to the dwelling in design, whether attached or detached, provided:

(1) The height or total ground floor area of accessory buildings shall not exceed the height or ground floor area of the main building on the same lot.

(2) If attached to the main building, an accessory building shall comply with the yard requirements of this base zone.

(3) If detached and located behind the rear-most line of the main building, or a minimum of 50 feet from the front lot line, whichever is greater, a one-story accessory building may be located adjacent to or on a rear and/or side lot line not abutting on a street.

(4) A detached accessory building shall occupy no more than 25 percent of a required yard.

(5) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet.

Amending Community Service Use Regulations

Amending the Community Service provisions of:

- MCC 33.6015(A)(4)
- MCC 36.6015(A)(1)
- MCC 11.15.7020(A)(4)

Staff note *– Ancillary uses in (a) – (f) above were provided within the body of sub (1) in ORS 215.441 prior to 2017 SB 1051 which re-organized the uses into list form. These ancillary uses had not yet been incorporated into county code, which is why sub(1) does not contain strikethrough language to be removed. A zoning assessment for church uses and map showing existing places of worship is included in Exhibit F.*

The following uses and their accessory uses are allowed in each referenced zone, subject to all applicable supplementary regulations contained in Multnomah County Code.

( ) Church, or other nonresidential place of worship, including the following activities customarily associated with the practices of the religious activity:~~.~~

(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; and

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

(i) The subject property is located in a base zone that lists single-family dwelling as an Allowed Use, or where a single-family dwelling is permitted through a non-discretionary land use review process.

(ii) The subject property is located inside the urban growth boundary.

(iii) At least 50 percent of the residential units provided under this subsection (g) are affordable to households with incomes equal to or less than 60 percent of the median family income for Multnomah County.

(iv) 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, including the density standards for dwellings in the applicable zone.

(v) Housing and space for housing provided under subsection (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 (g)(iii) 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 Multnomah County for a period of 60 years from the date of the certificate of occupancy.

Amending Home Occupation Regulations

Staff Note *- Multnomah County permits Type A, B and C Home Occupations with Type A being the least intensive. Chapter 11 does not list a Type C Home Occupation use.*

- *Type A Home Occupations allow up to one non-resident employee or two customers on the premises at one time and limit the home occupation to 20% of the gross floor area of the dwelling (including square footage of any attached garage), or 500 square feet, whichever is less. Must be conducted in the dwelling. No outdoor storage or signs allowed. No noise, lights, odor, dust, etc. detectable at property lines. Type A HO is a non-transferrable registration.*
- *Type B Home Occupations may be in the dwelling, or in an accessory structure. Allows 25% of total gross floor area of dwelling, attached garage and accessory buildings, or 1,000 square feet, whichever is less. Allows up to one non-resident employee and no more than two customers at one time. No noise, lights, odor, dust, etc. detectable at property lines. Permit expires in three years, with simplified path for renewal prior to expiration.*
- *Type C Home Occupations. Similar to Type B, but expands allowance to 35% of total gross floor area of dwelling, attached garage and any accessory buildings, or 1,500 square feet, whichever is less. Up to five employees allowed. No noise, lights, odor, dust, etc. detectable at property lines. Three-year permit, similar to Type B.*

The proposed code amendments would allow a Type A home occupation conducted in association with an ADU, but prohibit Type B and Type C home occupations. Allowing a Type A home occupation would provide for small-scale business opportunities in keeping with the low impact, incidental nature of the ADU.

Chapter 11.15 does not list a Type C Home Occupation use. Instead, any proposal exceeding the provisions of a Type A Home Occupation, is reviewed as a Type B Home Occupation in Chapter 11.15 zones.

Amending the Type B Home Occupation provisions of:

- MCC 33.0550
- MCC 36.0550

Staff Contact: Adam Barber

TYPE B HOME OCCUPATION

(A) Type B home occupation is a lawful commercial activity that is conducted in a dwelling or accessory building, but not within or in association with an accessory dwelling unit, on a parcel by a business operator, is subordinate to the residential use of the premises, and complies with the following:

(* * *)

Amending the Type B Home Occupation provisions of MCC 11.15.7465

Home Occupations CU

Criteria for Approval

The approval authority shall find that the following standards are met:

A. The standards found in MCC 11.15.7120.

B. The home occupation does not employ more than 5 employees.

C. The site has on-site parking as per MCC 11.15.6100 to accommodate the total number of employees and customers.

D. No deliveries other than those normally associated with a single family dwelling and between the hours of 7 a.m. – 6 p.m.

E. No outdoor storage or display.

F. No signage (including temporary signage and those exempted under MCC 11.15.7912) with the exception of those required under MCC 11.05.500 - .575.

G. No noise above 50 dba at the property lines.

H. No repair or assembly of any vehicles or motors.

I. The application has been noticed to and reviewed by the Small Business Section of the Department of Environmental Quality.

J. Each approval issued by a hearings officer shall be specific for the particular home occupation and reference the number of employees allowed, the hours of operation, frequency and type of deliveries, the type of business and any other specific information for the particular application.

K. The home occupation is not conducted within or in association with an accessory dwelling unit.

(* * *)

Amending the Type C Home Occupation provisions of:

- MCC 33.6660
- MCC 36.6660

Criteria for Approval

7.A.5 – TYPE C HOME OCCUPATION (CU)

(A) A Type C home occupation is a lawful commercial activity that is conducted in a dwelling or accessory building, but not within or in association with an accessory dwelling unit, on a parcel by a business operator, is subordinate to the residential use of the premises, and complies with the following:

SECTION 3.0 EXHIBITS

EXHIBIT A	ENROLLED VERSION OF SENATE BILL 1051 (2017 LEGISLATIVE SESSION)
EXHIBIT B	HOUSE BILL 4031 (2018 LEGISLATIVE SESSION)
EXHIBIT C	GUIDANCE ON IMPLEMENTING THE ACCESSORY DWELLING UNITS (ADU) REQUIREMENT UNDER OREGON SENATE BILL 1051, OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT, MARCH 2018
EXHBIT D	SEPTEMBER 2016 MAP OF THE PORTLAND METRO AREA UGB (WITH GENERAL AREAS OF INTERLACHEN LANE, PLEASANT VALLEY AND SPRINGWATER IDENTIFIED)
EXHIBIT E	DETAIL MAP OF PROJECT AREA INSIDE URBAN GROWTH BOUDNARY
EXHIBIT F	PLACES OF WORSHIP ZONING ASSESSMENT AND MAP
EXHIBIT G	MULTNOMAH COUNTY COMPREHENSIVE PLAN CHAPTER 10 – HOUSING
EXHIBIT H	COMPARISON OF ADU SIZE REGULATIONS IN OTHER JURISDICTIONS

79th OREGON LEGISLATIVE ASSEMBLY--2018 Regular Session

Enrolled
House Bill 4031

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of House Interim Committee on Agriculture and Natural Resources)

CHAPTER .....

AN ACT

Relating to the use of land; creating new provisions; amending ORS 197.312, 197A.405 and 197A.407 and sections 3 and 5, chapter 636, Oregon Laws 2009; and declaring an emergency.

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

SECTION 1. Sections 2 and 3 of this 2018 Act are added to and made a part of ORS chapter 215.

SECTION 2. (1) As used in this section and section 3 of this 2018 Act:

(a) "Guest lodging unit" means a guest room in a lodge, bunkhouse, cottage or cabin used only for transient overnight lodging and not for a permanent residence.

(b) "Guest ranch" means a facility for guest lodging units, passive recreational activities described in subsection (6) of this section and food services described in subsection (7) of this section that are incidental and accessory to an existing and continuing livestock operation that qualifies as a farm use.

(c) "Livestock" means cattle, sheep, horses and bison.

(2) Subject to the provisions of ORS 215.296 (1) and (2) and other approval or siting standards of a county, a guest ranch may be established in an area of eastern Oregon, as defined in ORS 321.805, that is zoned for exclusive farm use unless the proposed site of the guest ranch is within the boundaries of or surrounded by:

(a) A federally designated wilderness area or a wilderness study area;

(b) A federally designated wildlife refuge;

(c) A federally designated area of critical environmental concern; or

(d) An area established by an Act of Congress for the protection of scenic or ecological resources.

(3) The guest ranch must be located on a lawfully established unit of land that:

(a) Is at least 160 acres;

(b) Contains the dwelling of the individual conducting the livestock operation; and

(c) Is not high-value farmland, as described in ORS 215.710.

(4) Except as provided in subsection (5) of this section, the guest lodging units of the guest ranch cumulatively must:

(a) Include not fewer than four nor more than 10 overnight guest lodging units; and

(b) Not exceed a total of 12,000 square feet in floor area, not counting the floor area of a lodge that is dedicated to kitchen area, rest rooms, storage or other shared or common indoor space.

(5) For every increment of 160 acres that the lawfully established unit of land on which the guest ranch is located exceeds the minimum 160-acre requirement described in subsection (3) of this section, up to five additional overnight guest lodging units not exceeding a total of 6,000 square feet of floor area may be included in the guest ranch for a total of not more than 25 guest lodging units and 30,000 square feet of floor area.

(6) A guest ranch may provide passive recreational activities that can be provided in conjunction with the livestock operation's natural setting including, but not limited to, hunting, fishing, hiking, biking, horseback riding, camping and swimming. A guest ranch may not provide intensively developed recreational facilities, including golf courses as identified in ORS 215.283.

(7) A guest ranch may provide food services only for guests of the guest ranch, individuals accompanying the guests and individuals attending a special event at the guest ranch. The cost of meals, if any, may be included in the fee to visit or stay at the guest ranch. A guest ranch may not sell individual meals to an individual who is not a guest of the guest ranch, an individual accompanying a guest or an individual attending a special event at the guest ranch.

SECTION 3. (1) Notwithstanding ORS 215.283, the governing body of a county or its designee may not allow a guest ranch in conjunction with:

(a) A campground as described in ORS 215.283 (2).

(b) A golf course as described in ORS 215.283 (2).

(2) Notwithstanding ORS 215.263, the governing body of a county or its designee may not approve a proposed division of land in an exclusive farm use zone for a guest ranch.

(3) The governing body of a county or its designee may not approve a proposed division of land that separates the guest ranch from the dwelling of the individual conducting the livestock operation.

SECTION 4. A guest ranch approved and established under section 1, chapter 728, Oregon Laws 1997, as amended by section 1, chapter 216, Oregon Laws 1999, section 2, chapter 467, Oregon Laws 2001, section 5, chapter 544, Oregon Laws 2001, section 1, chapter 147, Oregon Laws 2003, section 107, chapter 621, Oregon Laws 2003, and section 1, chapter 258, Oregon Laws 2005, and made nonconforming by repeal of chapter 728, Oregon Laws 1997, by section 5, chapter 728, Oregon Laws 1997, as amended by section 3, chapter 467, Oregon Laws 2001, and section 3, chapter 258, Oregon Laws 2005, or approved and established under section 2, chapter 84, Oregon Laws 2010, as amended by section 1, chapter 451, Oregon Laws 2011, and made nonconforming by repeal of chapter 84, Oregon Laws 2010, by section 6, chapter 84, Oregon Laws 2010, as amended by section 2, chapter 451, Oregon Laws 2011, is deemed a conforming use under section 2 of this 2018 Act.

SECTION 5. A county shall amend its land use regulations to conform to the requirements of sections 2, 3 and 4 of this 2018 Act. Notwithstanding contrary provisions of state law or a county charter relating to public hearings on amendments to an ordinance, a county may adopt amendments to its land use regulations required by this section without holding a public hearing and without adopting findings if:

(1) The county has given notice to the Department of Land Conservation and Development of the proposed amendments in the manner provided by ORS 197.610; and

(2) The department has confirmed in writing that the only effect of the proposed amendments is to conform the county's land use regulations to the requirements of sections 2, 3 and 4 of this 2018 Act.

SECTION 6. Sections 1, 2, 3, 4 and 5 of this 2018 Act are repealed on April 15, 2020.

SECTION 7. 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 **within the urban growth boundary that are** zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design.

(b) As used in this subsection, "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 8. Section 3, chapter 636, Oregon Laws 2009, as amended by section 1, chapter 888, Oregon Laws 2009, section 1, chapter 404, Oregon Laws 2011, section 1, chapter 748, Oregon Laws 2015, and section 1, chapter 494, Oregon Laws 2017, is amended to read:

Sec. 3. (1) Notwithstanding ORS 215.700 to 215.780, one or two small-scale recreation communities may be established as specified in sections 2 to 5, chapter 636, Oregon Laws 2009.

(2) The owner of a Metolius resort site may apply to a county for approval of a small-scale recreation community within three years after [*the effective date of this 2017 Act*] **June 29, 2017,** if:

(a) Prior to June 29, 2010, the owner notified the Department of Land Conservation and Development that the owner elected to seek approval of a small-scale recreation community; and

(b) The owner renews the election described in paragraph (a) of this subsection within 30 days after [*the effective date of this 2017 Act*] **June 29, 2017**.

(3) A small-scale recreation community authorized under sections 2 to 5, chapter 636, Oregon Laws 2009, may be established only in conjunction with a transfer of development opportunity from a Metolius resort site. A transfer of development opportunity must be carried out through an agreement between the owner of a Metolius resort site and the owner of the site proposed for development of a small-scale recreation community. In the agreement, the owner of the Metolius resort site must:

(a) Agree to limit the use of the Metolius resort site, consistent with the management plan in consideration for the opportunity to participate in the development of the small-scale recreation community; and

(b) Agree to grant a conservation easement pursuant to ORS 271.715 to 271.795 that:

(A) Limits the use of the Metolius resort site to be consistent with the management plan;

(B) Allows public access to that portion of the site that is not developed; and

(C) Contains other provisions, as required by the Department of Land Conservation and Development, that are necessary to ensure that the conservation easement is enforceable.

(4)(a) A small-scale recreation community authorized under sections 2 to 5, chapter 636, Oregon Laws 2009, must be sited on land that is within a county described in paragraph (b) of this subsection and that is either **or both of the following**:

(A) Planned and zoned for forest use; or

(B) Rural and not subject to statewide land use planning goals relating to agricultural lands or forestlands.

(b) A small-scale recreation community may be established in:

(A) Baker County;

(B) Clatsop County;

(C) Columbia County;

(D) Coos County;

(E) Crook County;

(F) Curry County;

(G) Douglas County;

(H) Grant County;

(I) Harney County;

(J) Josephine County;

(K) Klamath County;

(L) Lake County;

(M) Lincoln County;

(N) Linn County;

(O) Malheur County;

(P) Morrow County;

(Q) Sherman County;

(R) Umatilla County;

(S) Wallowa County;

(T) Wasco County; or

(U) Wheeler County.

(5) A small-scale recreation community authorized under sections 2 to 5, chapter 636, Oregon Laws 2009, may not be sited on land that is:

(a) Within an area identified as "Area 1" or "Area 2" in the management plan.

(b) Within an area protected as a significant resource in an acknowledged comprehensive plan provision implementing statewide land use planning goals relating to:

(A) Open space and scenic and historic areas;

[*(B) Estuarine resources; or*]

(B) Natural or conservation management unit requirements for estuarine resources; or

(C) Beaches and dunes.

(6)(a) All land on which a small-scale recreation community authorized under sections 2 to 5, chapter 636, Oregon Laws 2009, is sited must be at least one-quarter mile from the nearest state park.

(b) Any buildings or other improvements developed within the boundaries of land on which a small-scale recreation community authorized under sections 2 to 5, chapter 636, Oregon Laws 2009, is sited must be located at least one mile from the nearest state park.

(7) If a county listed in subsection (4)(b)(B), (D), (F), (G) or (M) of this section approves an application for a small-scale recreation community that also requires a federal license or permit, that approval shall be deemed to constitute an acknowledged exception under ORS 197.732 to any applicable statewide land use planning goal with which the use would not otherwise comply.

SECTION 9. Section 5, chapter 636, Oregon Laws 2009, as amended by section 3, chapter 888, Oregon Laws 2009, is amended to read:

Sec. 5. (1) An application for a small-scale recreation community under sections 2 to 5, chapter 636, Oregon Laws 2009, may be filed only by the owner of a Metolius resort site and the

owner of the site on which development of the small-scale recreation community is proposed and must be filed jointly by the owners. The owners shall file a copy of the application with the Department of Land Conservation and Development at the same time that the owners file the application with the county having land use jurisdiction over the proposed development site.

(2) A county shall review an application for a small-scale recreation community under sections 2 to 5, chapter 636, Oregon Laws 2009, as a [*conditional use in a forest zone*] **use permitted under section 3 (4)(a), chapter 636, Oregon Laws 2009,** and as a land division under ORS chapter 92.

(3) In addition to the standards set forth in sections 2 to 5, chapter 636, Oregon Laws 2009, the **applicant for a** small-scale recreation community must [*meet the land division standards and other development standards of the county, including standards for streets, utilities and services, unless the standards conflict with sections 2 to 5, chapter 636, Oregon Laws 2009. If the development standards of the county are dependent on the zoning of the site, the county shall apply the development standards for the county's most dense rural residential zone*] **demonstrate to the county that streets, utilities and services adequate to serve the small-scale recreation community are available or will be made available prior to occupancy of the small-scale recreation community**.

(4) If more than two applications for a small-scale recreation community are filed under sections 2 to 5, chapter 636, Oregon Laws 2009, and a county has not yet approved an application, the department shall determine which of the applications may proceed, taking into consideration:

(a) The time at which each application was filed;

(b) The unemployment rate in the counties, if more than one county is involved; and

(c) The findings set forth in section 1, chapter 636, Oregon Laws 2009.

(5) When two applications for small-scale recreation communities have been approved, additional applications may not be considered.

(6) A county may charge a fee to cover the costs of processing an application.

SECTION 10. ORS 197A.405 is amended to read:

197A.405. (1) The Land Conservation and Development Commission shall establish and implement an economic development pilot program. Notwithstanding any statewide land use planning goal provisions specifying requirements for amending urban growth boundaries, the commission shall adopt rules to implement the pilot program. The pilot program is intended to:

(a) Promote economic development in a rural area; and

(b) Promote industry growth and job creation.

(2) Under the rules adopted under this section, the commission shall establish a site selection process by which the commission shall select one pilot program site from a city [*located not less than 100*]**:**

(a) Whose urban growth boundary is at least 78 air miles from [*a*] **the urban growth boundary of any** city with a population of 300,000 or more**;** and

(b) That is located in a county with at least [*eight*] **seven** percent unemployment over the preceding five-year period.

(3) A city may nominate a site adjacent to its urban growth boundary for participation in the pilot program.

(4) When nominating a pilot program site for the site selection process, a city shall:

(a) Submit a concept plan for the pilot program, including a list of goals for the master plan for economic development of the proposed site and any proposed amendments to the comprehensive plan or land use regulations required to implement the master plan; and

(b) Demonstrate that the proposed pilot program site meets the requirements described in subsection (5) of this section.

(5) The commission shall select a pilot program site that is:

(a) Adjacent to the city's existing urban growth boundary;

(b) Adjacent to an airport with an approved airport master plan;

(c) Near public facilities and services, including roadways; and

(d) Planned and zoned for commercial or industrial uses that are compatible with aviation uses, as determined by the commission.

SECTION 11. ORS 197A.407 is amended to read:

197A.407. (1) Notwithstanding ORS [*197.298*] **197A.320** and without regard to whether an urban growth boundary already contains a 20-year supply of buildable lands, the Land Conservation and Development Commission by rule may establish an expedited process for amending urban growth boundaries to include the pilot program site selected under ORS 197A.405.

(2) An amendment to an urban growth boundary pursuant to this section must identify the specific goal and rule requirements related to urban growth boundaries from which the city is exempt for the purpose of implementing the pilot program.

(3) A pilot program site included within an urban growth boundary amended pursuant to this section must:

(a) Be dedicated to economic development; and

(b) Remain planned and zoned for commercial or industrial uses that are compatible with aviation uses as otherwise provided in rules adopted pursuant to ORS 197A.405.

SECTION 12. The amendments to ORS 197.312 by section 7 of this 2018 Act become operative on July 1, 2018.

SECTION 13. This 2018 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect on its passage.

Passed by House February 19, 2018

Repassed by House March 1, 2018

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

.....
Tina Kotek, Speaker of House

Passed by Senate February 28, 2018

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2018

Approved:

.....M.,....., 2018

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2018

.....
Dennis Richardson, Secretary of State

Exhibit A

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 statewide 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

Exhibit C

GUIDANCE ON IMPLEMENTING

THE ACCESSORY DWELLING UNITS (ADU) REQUIREMENT

UNDER OREGON SENATE BILL 1051

M. Keplinger's backyard detached ADU, Richmond neighborhood, Portland, OR.
(Photo courtesy of Ellen Bassett and accessorydwellings.org.)

OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

MARCH 2018

Oregon Department of
Land Conservation
and Development

Introduction

As housing prices in Oregon go up, outpacing employment and wage growth, the availability of affordable housing is decreasing in cities throughout the state. While Oregon's population continues to expand, the supply of housing, already impacted by less building during the recession, has not kept up. To address the lack of housing supply, House Speaker Tina Kotek introduced House Bill 2007 during the 2017 legislative session to, as she stated, "remove barriers to development." Through the legislative process, legislators placed much of the content of House Bill 2007 into Senate Bill 1051, which then passed, and was signed into law by Governor Brown on August 15, 2017.

Among the provisions of SB 1051 is the requirement that cities and counties of a certain population allow accessory dwelling units (ADUs) as described below:

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.

This new requirement becomes effective on July 1, 2018 and subject cities and counties must accept applications for ADUs inside urban growth boundaries (UGBs)[1] starting July 1, 2018. Many local governments in Oregon already have ADU regulations that meet the requirements of SB 1051, however, some do not. Still others have regulations that, given the overall legislative direction to encourage the construction of ADUs to meet the housing needs of Oregon's cities, are not "reasonable." The Oregon Department of Land Conservation and Development (DLCD) is issuing this guidance and model code language to help local governments comply with the legislation. The model code language is included on its own page at the end of this document.

[1] *The passage of HB 4031 in 2018 limited the siting of ADUs within UGBs.*

Guidance by Topic

The purpose of the following guidance is to help cities and counties implement SB 1051 in a manner that meets the letter and spirit of the law: to create more housing in Oregon by removing barriers to development.

Number of Units

SB 1051 requires subject cities and counties to allow "at least one accessory dwelling unit for each detached single-family dwelling." While local governments must allow one ADU where required, DLCD encourages them to consider allowing two units. For example, a city or county could allow one detached ADU and allow another as an attached or interior unit (such as a basement conversion). Because ADUs blend in well with single-family neighborhoods, allowing two units can help increase housing supply while not having a significant visual impact. Vancouver, BC is a successful example of such an approach.

Siting Standards

In order to simplify standards and not create barriers to development of ADUs, DLCD recommends applying the same or less restrictive development standards to ADUs as those for other accessory buildings. Typically that would mean that an ADU could be developed on any legal lot or parcel as long as it met the required setbacks and lot coverage limits; local governments should not mandate a minimum lot size for ADUs. So that lot coverage requirements do not preclude ADUs from being built on smaller lots, local governments should review their lot coverage standards to make sure they don't create a barrier to development. To address storm water concerns, consider limits to impermeable surfaces rather than simply coverage by structures.

In addition, any legal nonconforming structure (such as a house or outbuilding that doesn't meet current setback requirements) should be allowed to contain, or be converted to, an ADU as long as the development does not increase the nonconformity.

Design Standards

Any design standards required of ADUs must be clear and objective (ORS 197.307[4]). Clear and objective standards do not contain words like "compatible" or "character." With the exception of ADUs that are in historic districts and must follow the historic district regulations, DLCD does not recommend any special design standards for ADUs. Requirements that ADUs match the materials, roof pitch, windows, etc. of the primary dwelling can create additional barriers to development and sometimes backfire if the design and materials of the proposed

ADU would have been of superior quality to those of the primary dwelling, had they been allowed.

Parking

Requiring off-street parking is one of the biggest barriers to developing ADUs and it is recommended that jurisdictions not include an off-street parking requirement in their ADU standards. Adding off-street parking on many properties, especially in older centrally-located areas where more housing should be encouraged, is often either very expensive or physically impossible. In addition, when adding an additional off-street parking space requires a new or widened curb cut, it removes existing on-street parking, resulting in no net gain of parking supply. As an alternative to requiring off-street parking for ADUs, local governments can implement a residential parking district if there is an on-street parking supply shortage. For more help on parking issues, visit www.oregon.gov/lcd/tgm/pages/parking.aspx or contact DLCD.

Owner Occupancy

Owner-occupancy requirements, in which the property owner is required to live on the property in either the primary or accessory dwelling unit, are difficult to enforce and not recommended. They may be a barrier to property owners constructing ADUs, but will more likely simply be ignored and constitute an on-going enforcement headache for local governments.

Public Utilities

Development codes that require ADUs to have separate sewer and water connections create barriers to building ADUs. In some cases, a property owner may want to provide separate connections, but in other cases doing so may be prohibitively expensive.

System Development Charges (SDCs)

While SDCs are not part of the development code and SB 1051 does not require them to be updated, local governments should consider revising their SDCs to match the true impact of ADUs in order to remove barriers to their development. ADUs are generally able to house fewer people than average single-family dwellings, so their fiscal impact would be expected to be less than a single-family dwelling. Accordingly, it makes sense that they should be charged lower SDCs than primary detached single-family dwellings.

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Accessory Dwellings (model code)

Note: ORS 197.312 requires that at least one accessory dwelling be allowed per detached single-family dwelling in every zone that allows detached single-family dwellings. Accessory dwellings are an economical way to provide additional housing choices, particularly in communities with high land prices or a lack of investment in affordable housing. They provide an opportunity to increase housing supply in developed neighborhoods and can blend in well with single-family detached dwellings. Accessory dwelling regulations can be difficult to enforce when local codes specify who can own or occupy the homes. Requirements that accessory dwellings have separate connections to and pay system development charges for water and sewer services can pose barriers to development. Concerns about neighborhood compatibility, parking, and other factors should be considered and balanced against the need to address Oregon's housing shortage by removing barriers to development.

The model development code language below provides recommended language for accessory dwellings. The italicized sections in brackets indicate options to be selected or suggested numerical standards that communities can adjust to meet their needs. Local housing providers should be consulted when drafting standards for accessory dwellings, and the following standards should be tailored to fit the needs of your community.

Accessory dwellings, where allowed, are subject to review and approval through a Type I procedure*[, pursuant to Section _____,]* and shall conform to all of the following standards:

[***A. One Unit.*** A *maximum of one Accessory Dwelling is allowed per legal single-family dwelling. The unit may be a detached building, in a portion of a detached accessory building (e.g., above a garage or workshop), or a unit attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor).*

/

A. Two Units. *A maximum of two Accessory Dwellings are allowed per legal single-family dwelling. One unit must be a detached Accessory Dwelling, or in a portion of a detached accessory building (e.g., above a garage or workshop), and one unit must be attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor).**]***

B. Floor Area.

1. A detached Accessory Dwelling shall not exceed *[800-900]* square feet of floor area, or *[75]* percent of the primary dwelling's floor area, whichever is smaller.

2. An attached or interior Accessory Dwelling shall not exceed *[800-900]* square feet of floor area, or *[75]* percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling would be more than *[800-900]* square feet.

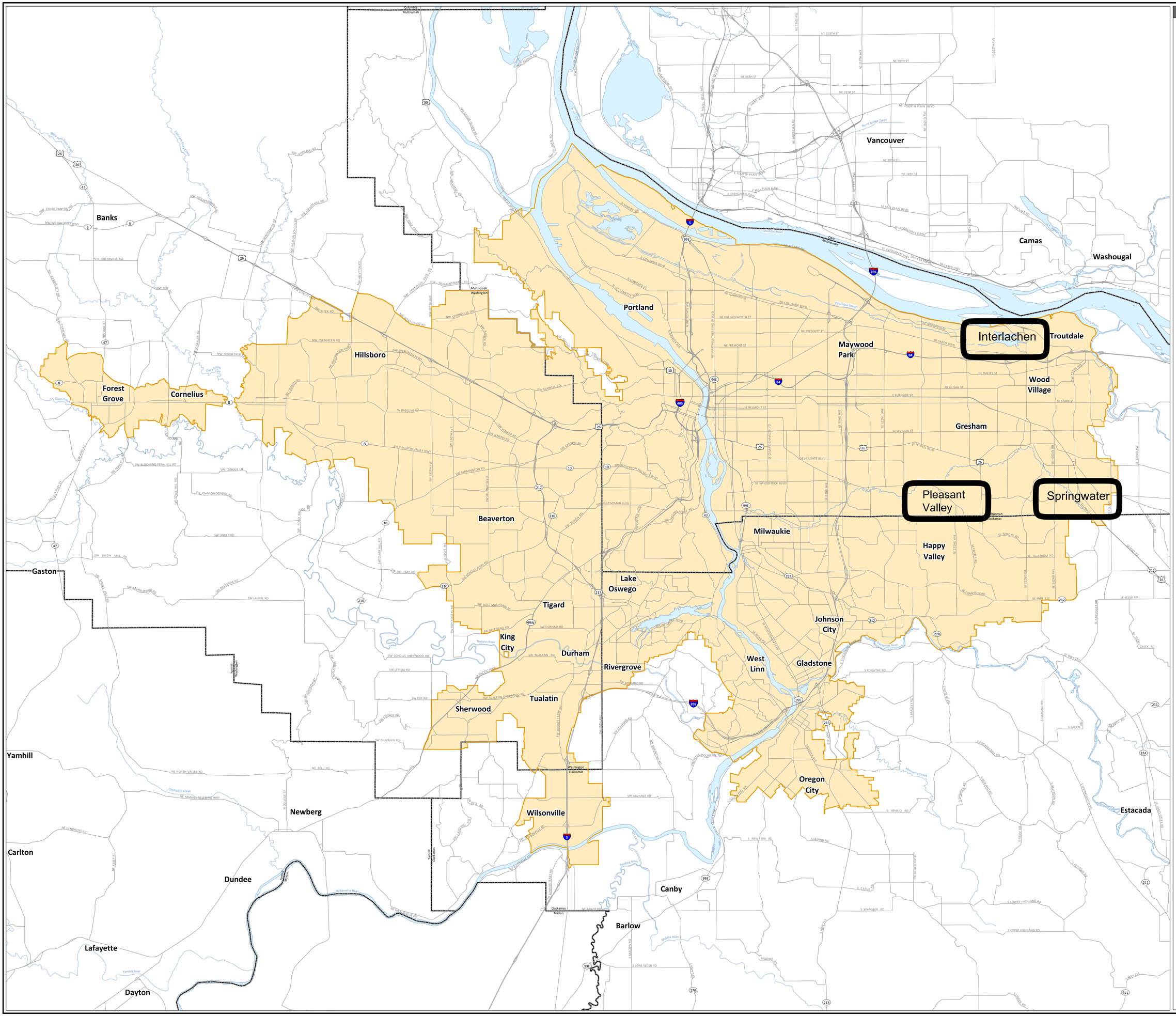
C. Other Development Standards. Accessory Dwellings shall meet all other development standards (e.g., height, setbacks, lot coverage, etc.) for buildings in the zoning district, except that:

1. Conversion of an existing legal non-conforming structure to an Accessory Dwelling is allowed, provided that the conversion does not increase the non-conformity; and

2. No off-street parking is required for an Accessory Dwelling.

Definition (This should be included in the "definitions" section of the zoning ordinance. It matches the definition for Accessory Dwelling found in ORS 197.312)

Accessory Dwelling – An interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling.



R L I S

REGIONAL LAND INFORMATION SYSTEM

Urban Growth Boundary

September 2016

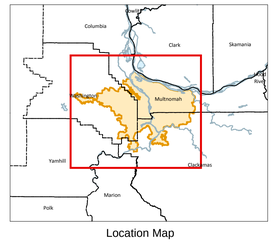
ATTACHMENT B1

Urban growth boundary
Arterial streets
Rivers and water bodies

Exhibit D

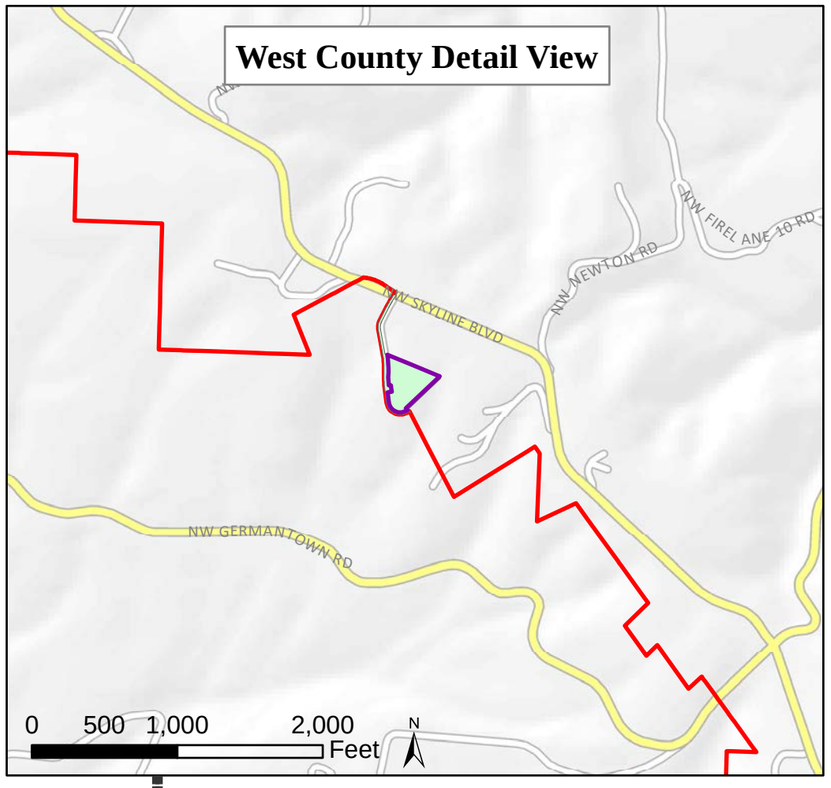
0 0.5 1 2 3 Miles

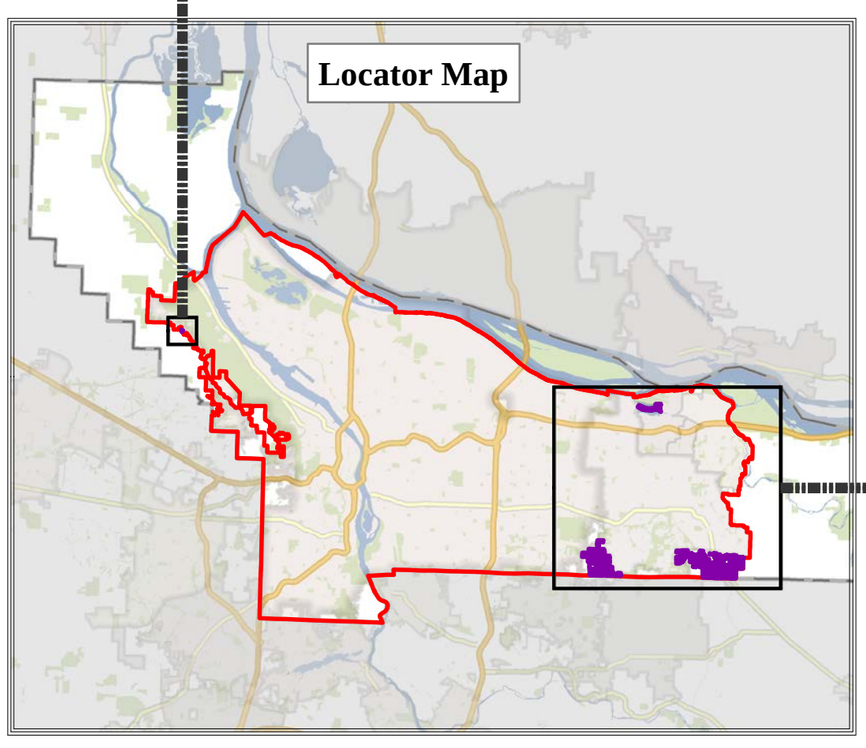
N

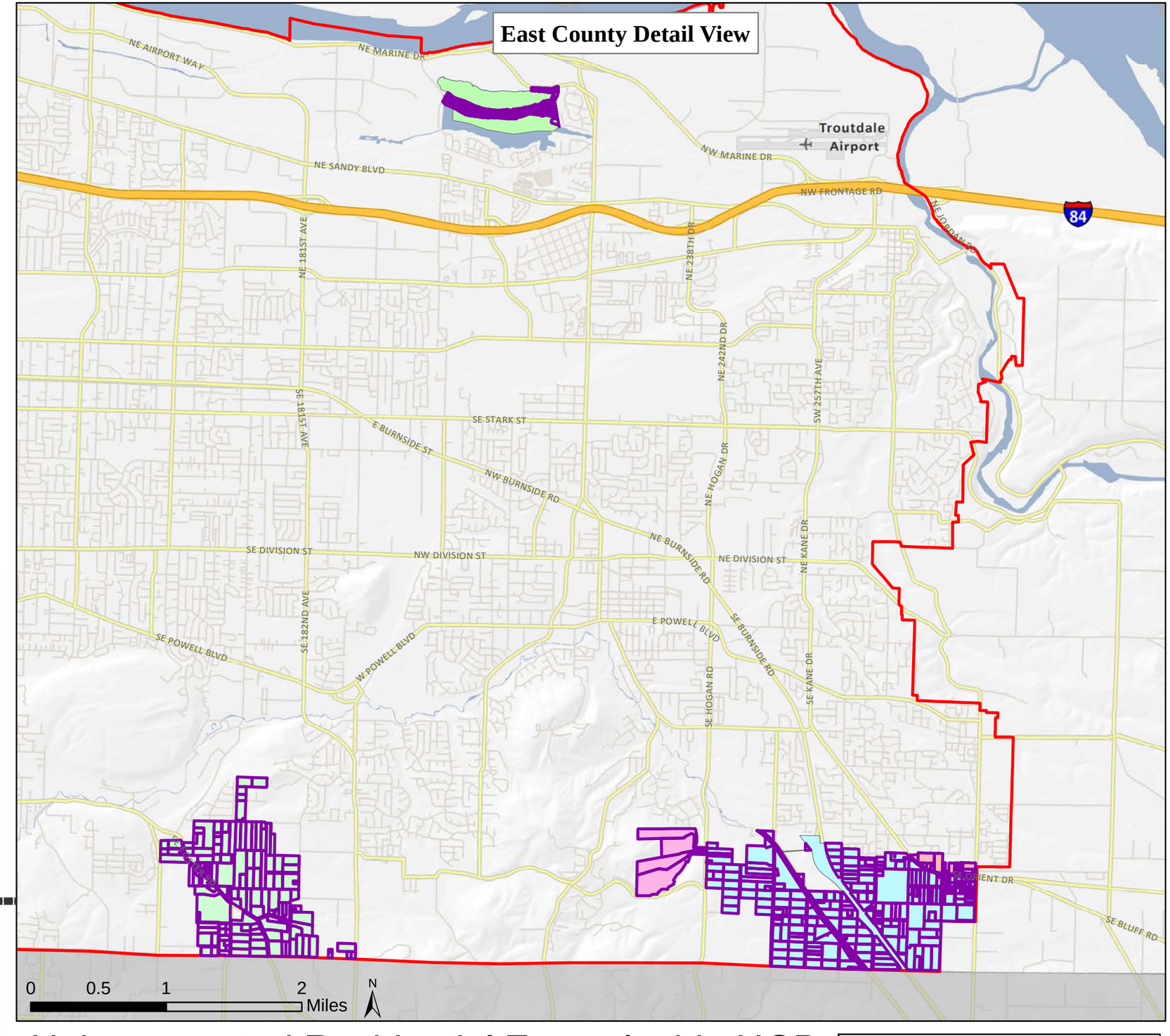


Location Map

Metro
DATA RESOURCE CENTER
600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2736
drc@oregonmetro.gov | gis.oregonmetro.gov
TEL (503) 797-1742 | FAX (503) 797-1909







Unincorporated Residential Zones Inside UGB

Map Created 3/12/2018
Detail View

Exhibit E

Legend

Properties
UGB

Zones

LR10
LR5
LR7
MUA20
OCI
OR
RR
UF20

Disclaimer: This map is for general reference purposes only and was not prepared for legal, engineering, or planning purposes.

Exhibit F

Places of Worship Zoning Assessment for Residential Zones Inside the UGB

RR	Church is a Listed Community Service Use	39.4370(A); 39.7520(A)(1)
MUA-20	Allowed Community Service Use	39.4320(A); 39.7520(A)(1)
OR	(Not A Listed Use)	
OCI	Church is a Listed Community Service Use	39.4675(A); 39.7520(A)(1)
LR-5	Church is a Listed Community Service Use	39.4826(A); 39.7520(A)(1)
LR-7	Church is a Listed Community Service Use	39.4856(A); 39.7520(A)(1)
LR-10	Church is a Listed Community Service Use	39.4876(A); 39.7520(A)(1)
UF	Church is a Listed Community Service Use	39.4753(A); 39.7520(A)(1)

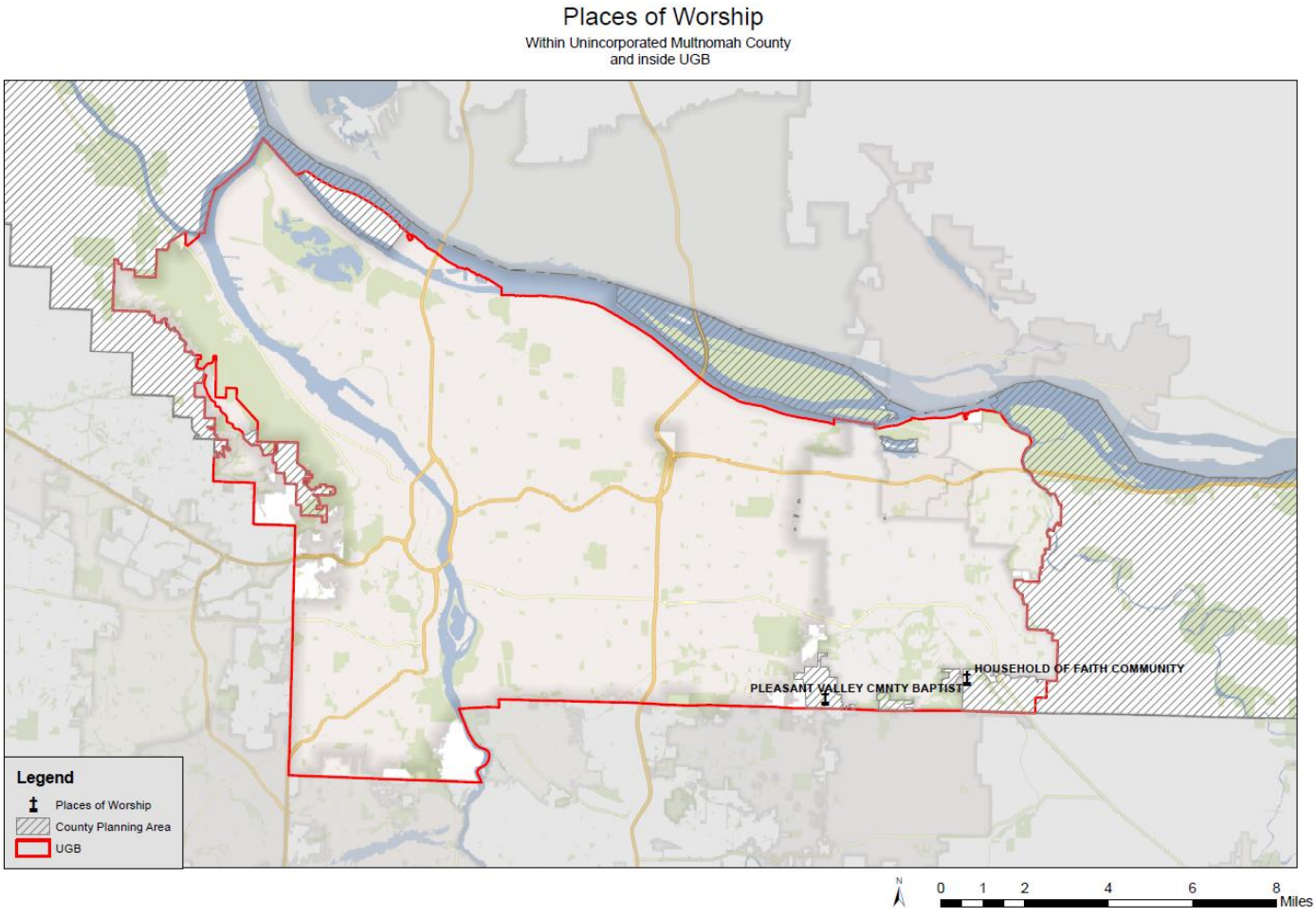


Exhibit G

Multnomah County

Comprehensive Plan





CHAPTER 10

HOUSING

INTRODUCTION/BACKGROUND INFORMATION

Goal 10 of Oregon's statewide planning goals requires cities and counties to plan for housing needed to support their residents, including providing for a variety of housing types at price levels that are affordable to residents with a range of incomes. For urban areas, the goal and its administrative rules call for local jurisdictions to identify projected future housing needs through preparation of a housing needs analysis and to ensure that adequate land is available to meet those future needs. For rural areas, counties are not required to undertake such analyses.

Under the statewide planning program, the vast majority of housing is expected to be located within the urban growth boundaries of cities. In this respect, residents have access to a wide variety of housing options in the urban parts of Multnomah County. However, due to state and regional policies, statutes, and administrative rules, as well as the lack of municipal water and sewer systems in most rural parts of the County, a limited number and range of housing types can be developed in those rural areas. In most areas, only single family homes, including manufactured homes are allowed. Farmworker housing also is allowed in exclusive farm use zones. More dense forms of housing such as apartments and duplexes are not allowed in the County's rural zones.

> ***"In order to maintain this vision, we recognize that the planned density for residential development must not increase."***
>
> ***- West of Sandy Community Vision***

This chapter provides an overview of conditions and planning issues associated with rural housing, along with Comprehensive Plan policies and strategies to address them.

Housing Conditions

In rural Multnomah County, there are generally more family households compared to the County as a whole and the rest of the state. Family Households are defined by the U.S. Census Bureau as “a group of two or more people related by birth, marriage, or adoption and residing together”. Housing is heavily owner-occupied in all parts of rural Multnomah County. Owner-occupied housing tends to have a larger average household size compared to renter-occupied households.

Households in rural areas of Multnomah County generally have higher incomes compared to the County as a whole. In particular, households in the West Hills have a significantly higher median income. Similarly, all parts of rural Multnomah County tend to have older household members as the median age in rural Multnomah County is higher.

The vast majority of housing in the rural areas of the County is made up of owner-occupied, single-family dwellings, including manufactured homes on individual lots. Housing is spread throughout the different rural planning areas in the County, including in farm and forest zones, mixed use agricultural zones, rural residential areas, and rural centers. On average, the amount and density of housing or residential development is fairly low in these areas but it is higher in the West Hills and West of Sandy areas. Those two areas have just under 4,000 households each and have higher densities of housing than the Sauvie Island/Multnomah Channel (SIMC) or East of Sandy areas although they are still well under one person per acre. Densities and concentrations of housing are higher in rural residential areas and rural centers than in farm and forest zones. Rural residential areas and rural centers tend to make up a relatively small proportion of land in rural areas but include a significant percentage of the housing in a given rural planning area.

Table 10-1 - Multnomah County Households

	EAST OF SANDY RIVER	WEST OF SANDY RIVER	WEST HILLS	SAUVIE ISLAND/ MULTNOMAH CHANNEL	MULTNOMAH COUNTY	STATE OF OREGON
NUMBER OF HOUSEHOLDS	1,433 (100%)	3,573 (100%)	3,938 (100%)	410 (100%)	304,540 (100%)	1,518,938 (100%)
FAMILY HOUSEHOLDS	1,063 (74.2%)	2,831 (79.2%)	2,832 (71.9%)	233 (56.8%)	163,539 (53.7%)	963,467 (63.4%)
NONFAMILY HOUSEHOLDS	370 (25.8%)	742 (20.8%)	1,106 (28.1%)	177 (43.2%)	141,001 (46.3%)	555,471 (33.6%)
MEAN HOUSEHOLD SIZE	2.65	2.85	2.56	2.14	2.35	2.47
MEDIAN AGE	44.8	40.1	43.9	50	35.7	38.4

Source: US Census Bureau 2008-2012 ACS Data

In the Sauvie Island/Multnomah Channel area, approximately 350 floating homes existed or had been approved on the Multnomah Channel (2014). Moorages and marinas where these homes are located are leased through the Oregon Department of State Lands which owns and manages "submerged and submersible" land within the state's navigable waterways. Floating homes are subject to state laws and County Zoning Code provisions. The subject of regulating floating homes and live-aboard boats was discussed extensively during the 2014-2015 Sauvie Island/Multnomah Channel rural area planning process and this Plan incorporates policies and strategies adopted as part of that Plan.

Figure 10-1 - Multnomah County Census Tracts

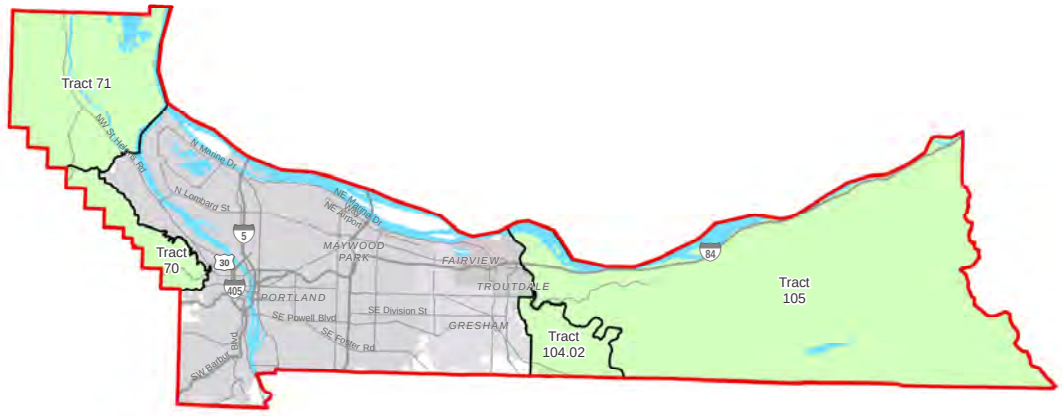


Table 10-2 - Housing Occupancy

	WEST MULTNOMAH COUNTY		EAST MULTNOMAH COUNTY	
	CENSUS TRACT 70	CENSUS TRACT 71	CENSUS TRACT 104.02	CENSUS TRACT 105
TOTAL HOUSING UNITS	3,260 (100%)	1,266 (100%)	2,098 (100%)	1,569 (100%)
OCCUPIED HOUSING UNITS	3,129 (96.0%)	1,190 (94.0%)	1,998 (95.2%)	1,471 (93.8%)
VACANT HOUSING UNITS	131 (4.0%)	76 (6.0%)	100 (4.8%)	98 (6.2%)

Source: US Census Bureau 2008-2012 ACS Data

Table 10-3 - Housing Tenure & Household Size

	WEST MULTNOMAH COUNTY		EAST MULTNOMAH COUNTY	
	CENSUS TRACT 70	CENSUS TRACT 71	CENSUS TRACT 104.02	CENSUS TRACT 105
OCCUPIED HOUSING UNITS	3,129 (100%)	1,190 (100%)	1,998 (100%)	1,471 (100%)
OWNER-OCCUPIED	2,708 (86.5%)	1,003 (84.3%)	1,568 (78.5%)	1,118 (76.1%)
RENTER-OCCUPIED	421 (13.5%)	187 (15.7%)	430 (21.5%)	352 (23.9%)
AVG. HOUSEHOLD SIZE OF OWNER-OCCUPIED UNITS	2.7	2.24	3.2	2.94
AVG HOUSEHOLD SIZE OF RENTER-OCCUPIED UNITS	2.37	2.36	2.57	2.18

Source: US Census Bureau 2008-2012 ACS Data

Relevant Studies and Planning Processes

A variety of state, regional, and local plans and policies are relevant to planning for housing in Multnomah County, including the following.

Oregon's **Statewide Planning Goal 10**, Housing, specifies that local jurisdictions must plan for the housing needs of their citizens. However, the majority of the Goal 10 and associated administrative rule and statutory provisions apply to land within urban growth boundaries, with relatively few requirements for meeting housing needs in rural areas.

The **regional Urban Growth Boundary (UGB)** separates existing urban and rural areas, with housing needs for the County primarily being met inside the UGB. In addition, Urban and Rural Reserves located outside of the urban growth boundary (UGB) limit and guide future urban expansion. Urban Reserves are intended to facilitate long-term planning for urbanization in the Portland metropolitan area and to provide greater certainty about the future expansion of the UGB. Rural Reserves are intended to provide long-term protection for large blocks of agricultural land and forest land, and for important natural landscape features that limit urban development. OAR 660-027 provides regulations to balance Urban and Rural Reserves that best achieves livable communities.

The **Rural Residential Rule** (OAR 660-04-0040) states that, "… a local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in rural residential areas".

Multnomah County's Zoning Code is organized by rural and urban subareas, overall administrative procedures, and general building regulations. The rural and urban subareas (Rural Zoning Code and Urban Zoning Code) contains detailed descriptions of zoning districts and specify what uses are allowed outright, or conditionally in each zone. In addition, the codes contain procedures for various land use issues, including design review, variances, and land divisions. The administrative procedures are the processes and procedures by which the County reviews and decides upon applications for all permits relating to the use of land. The building regulations, applicable to most unincorporated areas, include permit processes for electrical, plumbing, and grading, as well as street standards.

The state **Unincorporated Communities Rule** provides guidance for the development of residential and other uses within designated unincorporated communities. The County's designated unincorporated communities are zoned as Rural Centers and generally allow for denser development and a wider range of housing types in these areas, in comparison to other rural portions of a county.

Key Planning Issues and Supporting Information

A number of key planning issues affect housing policies and practices in the rural portions of Multnomah County:

- **Consistency with state requirements**. As mentioned above, state requirements are very prescriptive in terms of the types and amount of housing that can be allowed in farm, forest, rural residential, and rural center zones. Restrictions on public water and sewer service in rural areas can further constrain the types of housing that may be developed in these areas.

- **Accessory dwelling units**. Some community members have expressed a desire to allow for accessory dwelling units (ADUs) in rural areas of the County to help meet the needs for more affordable types of housing and to provide options for dependent family members. ADUs are secondary dwellings created on property that already has a primary home. The second unit is created auxiliary to, and is generally smaller than the primary dwelling. Despite this desire, a combination of state rules prevents the County from being able to allow these units in the future in most rural areas, with the exception of secondary dwellings as temporary health hardship dwellings, accessory farm dwellings, and farm help dwellings for a relative of the farm operator in selected zones. Beyond this, County staff identified only one opportunity for allowing additional ADUs – in the Springdale Rural Center. However, a majority of community members who commented on this issue as part of the Comprehensive Plan update process did not support allowing ADUs in that area.

- **Floating homes and live-aboard boats**. The subject of regulating floating homes and live-aboard boats was discussed extensively during the 2013-2015 Sauvie Island/Multnomah Channel rural area planning process. Specific planning issues included access problems to marinas and moorages caused by railroad crossings; state requirements associated with allowing for new floating homes or expansion of marinas or moorages; how rural character is defined for floating homes; and the need to address live-aboard boats as residences.

GOAL, POLICIES, AND STRATEGIES

Goal: To support housing opportunities for rural County residents (including lawfully authorized marinas and moorages and floating residential units), while meeting health and safety concerns, minimizing environmental and resource land impacts, and complying with state land use requirements.

Policies and Strategies Applicable County-wide

The policies in this section focus on general housing issues and needs, with an emphasis on helping to meet certain types of housing needs in the rural areas of the County. Other policies are associated with marinas, moorages, and floating homes in the Sauvie Island/Multnomah Channel area.

10.1 Encourage the provision of housing affordable to residents of all incomes and household types.

10.2 Maintain a non-exclusionary housing policy.

10.3 Support efforts to conserve existing housing stock, particularly housing that is affordable to community members with low and moderate incomes.

10.4 Accommodate innovative housing types which decrease development costs to improve housing affordability.

10.5 Encourage innovative housing construction techniques which increase energy efficiency and reduce carbon emissions.

10.6 Reevaluate regulations and, where possible, streamline or eliminate requirements to reduce development costs.

10.7 Support the provision of housing for the elderly, including low-maintenance, small units within existing communities.

10.8 Support the provision of housing in sizes and styles which suit the needs of smaller households, including single adults and couples without children.

10.9 Cooperate with the private sector to expand the supply of housing which is affordable to low and moderate income residents.

Strategy 10.9-1: *Work with the regional government to determine expected housing demand in the unincorporated County based upon demographic and housing trends, transportation improvements, and economic development in the region.*

Strategy 10.9-2: *Work with trade associations, community groups and other interested groups to reduce the cost of housing through the formulation of:*

1. Alternative road and improvement standards;
2. Legislative amendments to the Oregon Specialty Codes;
3. Expeditious design review, building permit, and land division processes;

10.10 Allow for manufactured homes on individual lots where single family dwellings are allowed, consistent with state law, and provide site development standards for such dwellings.

West Hills Policies and Strategies

There are no policies specific to this subarea.

Sauvie Island and Multnomah Channel Policies and Strategies

10.11 New floating residences shall only be located within the 17 approved marina and moorage facilities located within and along the Multnomah Channel subject to existing limits on the number of dwelling units approved at each facility.

Existing marina and moorage facilities may be reconfigured within their respective DSL lease areas. No new floating homes will be approved beyond the existing approved number of dwelling units.

1. Significant reconfigurations within existing marina and moorage facilities shall only occur through the Community Service and Conditional Use process subject to all applicable County zoning standards. A reconfiguration shall not create more than a single row of floating residential units.

2. Coordinate with the National Oceanic and Atmospheric Administration Fisheries Division (NOAA Fisheries) to amend the Willamette River Greenway overlay zone to include objective design standards that protect salmon habitat and fish passage within and along the Multnomah Channel. Coordinate with the Oregon Department of State Lands (DSL) to ensure compliance with the Endangered Species Act (ESA) through its in-water leasing program.

3. Adopt building, plumbing, electrical, and mechanical standards for floating structures.

4. As directed by Portland's Bureau of Environmental Services and/or Oregon's Department of Environmental Quality, marina and moorage owners must provide for safe and easy collection and disposal of sewage from marine uses in Multnomah Channel.

    a. Require marinas and moorages with floating structures to meet state standards for sewage collection and disposal similar to those standards that apply to dwellings on land.

    b. Boat slips serving boats with onboard cooking and/or sanitation facilities must be provided with an onsite mechanism for disposal of sewage, either through connections at each slip or through the availability of on-site alternative pump out facilities which are reasonably safe from accidental spillage.

5. The number of floating homes, combos, and live-aboards at a marina or moorage facility shall not in combination exceed the number of floating residential units for which the facility has obtained County land use approval. Where the number of existing floating residential units at a marina or moorage facility exceeds the number of floating residential units that the County has approved at that marina or moorage on the effective date of the 2015 Sauvie Island/Multnomah Channel Rural Area Plan (October 3, 2015), then within one year following that date the marina or moorage owner shall provide the County with a plan to bring the facility into compliance over the coming years.

10.12 Maintain a current inventory of all marinas and moorages. Include all dwellings, boat slips, floating structures, live-aboards and supporting infrastructure in the inventory. The County Transportation and Land Use Planning Department shall notify all moorage owners to submit the required inventory within 120 days of the effective date of the Sauvie Island/Multnomah Channel Rural Area Plan (October 3, 2015) and may require updates as needed.

10.13 Review consistency of definitions of floating home, houseboats, boathouses, live-aboards, combos, etc. used by agencies such as the Multnomah County Assessor, the City of Portland, and the State when amending the Zoning Ordinance. Adopt a definition that includes all of these in some category (such as floating residential units) to which all policies apply.

10.14 Allow live-aboards to be used as full time residences within a marina or moorage and count the live-aboard slip in the total number of residences approved for the marina or moorage. This live-aboard option requires Community Service (CS) approval and requires that boats meet health, safety, and environmental standards (i.e. electrical, water, and sanitation) for occupied boats docked in a marina or moorage.

10.15 Consider standards to allow temporary use of live-aboard boats within marinas and moorages. This option requires that boats meet health, safety, and environmental standards (i.e. electrical, water, and sanitation) for occupied boats docked in a marina or moorage.

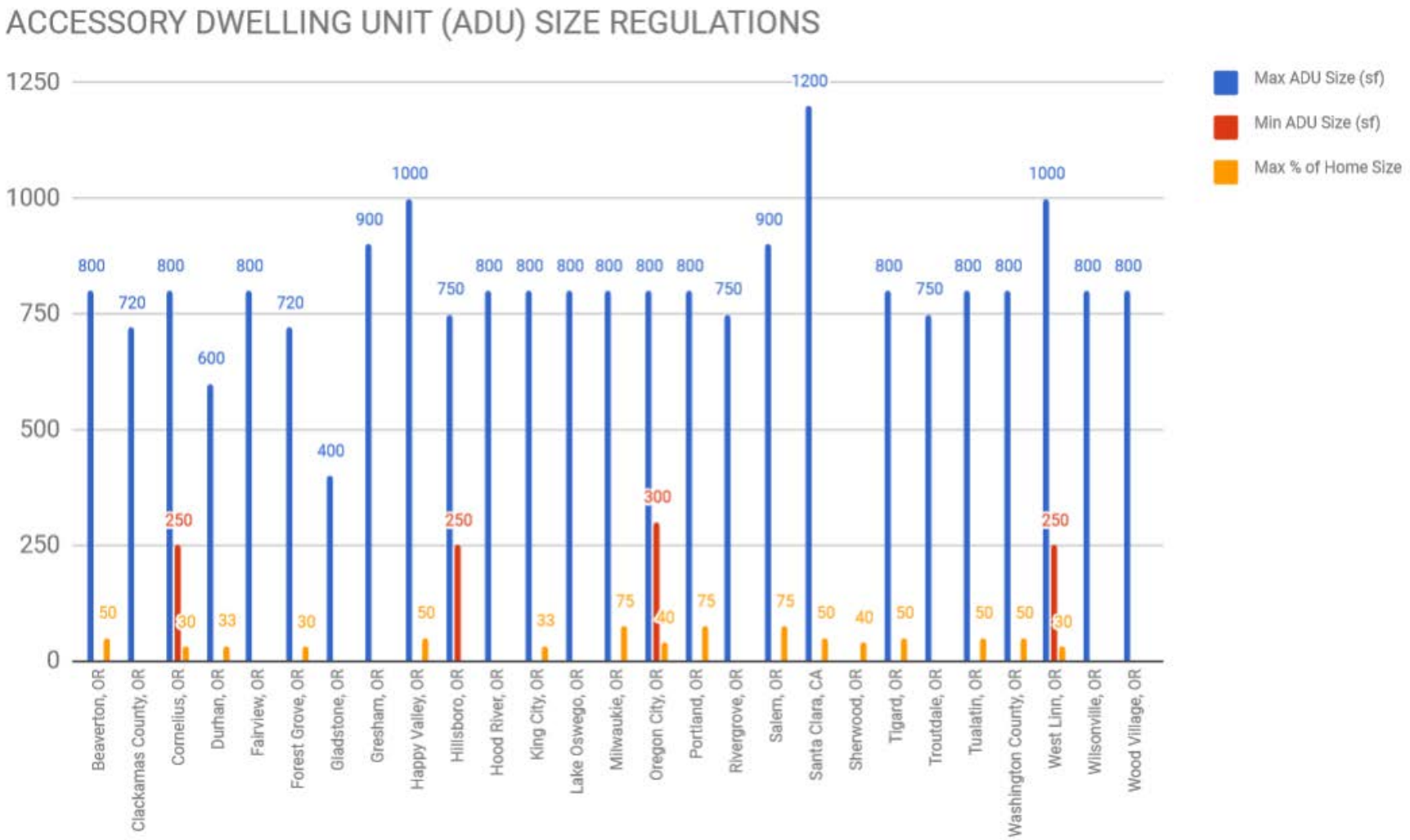
West of Sandy Policies and Strategies

There are no policies specific to this subarea.

East of Sandy Policies and Strategies

There are no policies specific to this subarea.

Exhibit H


ACCESSORY DWELLING UNIT (ADU) SIZE REGULATIONS
Max ADU Size (sf)
Min ADU Size (sf)
Max % of Home Size
1250
1000
750
500
250
0
Beaverton, OR
Clackamas County, OR
Cornelius, OR
Durhan, OR
Fairview, OR
Forest Grove, OR
Gladstone, OR
Gresham, OR
Happy Valley, OR
Hillsboro, OR
Hood River, OR
King City, OR
Lake Oswego, OR
Milwaukie, OR
Oregon City, OR
Portland, OR
Rivergrove, OR
Salem, OR
Santa Clara, CA
Sherwood, OR
Tigard, OR
Troutdale, OR
Tualatin, OR
Washington County, OR
West Linn, OR
Wilsonville, OR
Wood Village, OR

Adam BARBER <adam.t.barber@multco.us>

PC-2018-9900

Shawn Farrens <shawn.farrens@gmail.com> Fri, Mar 23, 2018 at 10:45 PM
To: adam.t.barber@multco.us

Hello Adam,

I reside at 27324 SE Carl St, Gresham, OR 97080. I am in support of the overall proposal, but would like to offer a suggestion. Many of the properties that are in unincorporated Multnomah county are like mine, at least 1 acre. In the current proposal part D on page 9 gives a maximum distance from exterior wall of the single family home to the exterior wall of the ADU as 20 ft. Given most properties in the area you are attempting to add housing to are at least an acre and many of us, I suspect like our space, it seems to be to limiting at 20 ft. Why not do a max of 50, 75, or 100 ft? This would allow the space that residents desire with the additional housing available that Multnomah county and the state desires.

Thank you for considering my request,

Shawn Farrens, EdD

Multnomah County

Adam BARBER <adam.t.barber@multco.us>

PC-2018-9900

Shawn Farrens <shawn.farrens@gmail.com> Sun, Mar 25, 2018 at 7:52 AM
To: Adam BARBER <adam.t.barber@multco.us>

Thanks for the feedback. Unfortunately, I am unable to make the public hearing. But, as an additional point of feedback if you could pass it on is we went from likely to build an adu
if the setback is at least 50 feet to a hard no. As previously mentioned people like myself choose to live in these areas because they want space.
Finally, if people on the committee want to speak with me in person or over the phone (503-676-4676) I am free this week.

Have a great week!

Shawn
[Quoted text hidden]

Multnomah County

Adam BARBER <adam.t.barber@multco.us>

PC-2018-9900

Susan Frashour <susanfrashour@yahoo.com> Thu, Mar 29, 2018 at 7:47 PM
To: Susan Frashour <susanfrashour@yahoo.com>, "adam.t.barber@multco.us" <adam.t.barber@multco.us>

Adam Barber,

Thank you for taking my call yesterday. I really appreciate the efforts that you have gone to inform myself and other land owners of the proposed amendments that will affect our community. Unfortunately, the short notice of the public hearing and my previous commitment to my daughter's school meeting makes me unable to attend the hearing. With the notice for the hearing arriving during Spring Break I hope you will not necessarily interpret the low attendance of homeowners at the hearing as an endorsement or apathy to the proposed changes to our community.

I would like to start by giving you a little history of myself and my family. My father immigrated to this country as a child and my grandparents and father both instilled in me a great desire to work hard to better my community and the future prospects of my family. I firmly believe that a strong work ethic is what is required to make the American Dream become a reality. My sister and I are the first generation in our family to earn college degrees. We both were required to take out loans and put in many hard hours of work to both complete our degrees and pay back the loans we took out. I am thankful for the doors that hard work has opened but am also very cognizant of the price it cost me. I am in the financial position I am in because I made sacrifices along the way to achieve my dreams. My husband worked full time and went to school full time to finish his degree.

My husband and I owned our previous home for 12 years. We watched as our once close knit community began to be surrounded by an increase in the development of more “affordable housing”. We saw that as the density of our neighborhood increased, crime increased. We also found that our enjoyment of the area decreased. We found that as the density of the neighborhood increased that there were more and more occasion where we heard our neighbors or where they heard us. Where broken down and stolen cars were abandoned on our street. Our loss of privacy and a feeling of security was significant.

When we purchased the home I felt comfortable running in our neighborhood. By the end I no longer felt safe. The increase in affordable housing brought a new unwanted element to our neighborhood. A number of people who were homeless had moved into the green spaces. Collecting cans and garbage from neighborhood homes. Tents and stolen shopping carts accumulated on the sidewalks. The City sent in crews a number of times to remove the refuse that accumulated as a result. In the end these two factors drove us to find a new home. It is very important to me to raise our children in a safe environment and we felt that change in the development of our area changed the safety.

When we made the decision to sell our home we found that the shift in our environment changed the value of our home. The value of our home was significantly different then the selling price of the same size and quality of home in more desirable areas of Gresham. We were very thoughtful in our decision to make a larger investment in a low density community because we value the attributes of such a community.

In November of 2016 we purchased 4.5 acres in unincorporated Multnomah County. We broke ground on our new dream home in September 2017 and are still in the process of building. I think it is very important for the Planning Commission to recognize that while this proposed amendment positively affects those in low-income it could very realistically cause an extreme hardship for myself and my family.

Our property is in unincorporated Multnomah County and as such does not have city water, sewer, or natural gas. The expense to develop our property has been significant but we felt it was worth it to live in a low density community. The permit from the City of Portland for our septic was $3,831. The cost to hire an engineer to evaluate our property for the Storm Water Certificate was $500. The well was $17,124. The water treatment system an additional $3,000 The septic system was $17,500. There are no fire hydrants near our home so the Fire Marshal required us to put an interior sprinkler system in our home at the cost of $8,000. The cost to install a propane tank and lines was $8,460. This is a total investment of $58,415. If density is increased in this area and public services like water and sewer are brought to our area will we be forced to install and access those utilities? If so will we be reimbursed for $58,415 of the value of our investment fees and utilities? Fees, permits, and utilities required by the county at this time. The additional cost of the mandatory fees to hook up to new city utility services would be something we could not afford.

As you so astutely pointed out during our conversation today, I can't sell my well or septic system on Craigslist. I can not express to you the extreme financial hardship this would create for our family. It is very possible that this lost investment and the increased expense would push us out of being able to keep our dream home. The desire to increase affordable housing for others not yet members of our community would make our home unaffordable for us. It is heartbreaking to me to fear losing our dream home before we have even finished building it.

I reflect on the fact that we purchased the land in November but didn't clear the permitting process until September. It took time because the hardworking people at Multnomah Land Use Department and City of Gresham took the time to evaluate and consider the current code requirements and the impact our project would have on the community. I appreciated that when we were first doing our due diligence when first considering to buy the property that the planner on duty took the time to inform us of the 2005 Springwater Plan to make the area industrial. My husband and I heavily considered what this change would mean for the property if it went into effect. We understand that nothing stays the same but felt that this was an evolution that our family could accept. Industrial zoning and affordable house are not the same.

When we were working with Multnomah County Land Use Division my eyes were opened to the effect that land development has on the environment around us. Jessica Berry and Eileen Cunningham of the transportation department educated me on the increase in traffic accidents if driveways are too close together and the demand that more families put on our roads. Chris Liu took the time to explain the erosion control measures needed during building and informed me of the concern for increased erosion that occurs with development. I also now have a better understanding that increased impervious surface areas cause erosion and increased polluted stormwater runoff. With Johnson Creek so close to our property it is a concern that needs to be considered. I'm also concerned about the decrease in wildlife habitat. We must consider that we are not the only ones who live on this land.

There have already been several brand new neighborhoods built in our area in the last year that have brought affordable housing and increased density. At 282nd / orient drive 23 homes are being built, Schafer’s view on orient drive is adding 11 homes, another high density neighborhood is going in on orient drive near chase road. 186 homes are currently being built on Palmquist/Hogan. These neighborhoods already create more traffic, more need for police, crowding in our schools, and more demand on our fire department. A demand that is already feeling the strain of the current population. We just don’t need already established lots to double their load. Our area can’t handle it.

The proposed amendment would allow for accessory dwelling units in areas zoned for detached residential use. What this says to me is that properties can not be subdivided but an additional dwellings being built would likely be used as rental properties. There are many articles arguing that an increase in affordable housing does not necessarily bring down property value but in each and every article this was stated with the caveat that the housing was "well designed, fit in the neighborhood and was well managed." Things that article after article cited as "well designed and well managed" were the ability to commute to work, to access shopping and dining by foot. The proximity of these feature decreased the need for multiple cars in the same family. This simply is not possible in the area you are considering. There is no industry of any kind within walking distance. The result will simply be twice as much traffic and congestion as we currently have.

If this amendment moves forward what safe guards would be put in place to insure the value of the surrounding homes and the general livability of the current homeowners? You mentioned that a permanent foundation would be required but there is so much difference between a mobile home and a stick built home in the long term quality of the home. Will there be standards for the energy efficiency of these homes as they create more demand on our environment? Will you allow short term rentals so that these homes become "party houses"? Will you have safeguards to keep garbage from accumulating around these dwellings? Will you require that landscaping meet certain standards to decrease erosion and keep property values up?

I can see a number of neighbors from my front porch. Without exception the homes that are single family owned homes are very well taken care of. They come in all shapes and sizes. Some are very elaborate, some of very humble but the pride of home ownership and the understanding of the importance of keeping of the investment is evident in the well maintained structures and yards. Across the street from me there are two mobile homes. They are both rental properties. Each home is in poor repair. The yards are littered with shipping crates, broken down cars, and the landscaping is poor. Why would this be? The answer is that these families don't have any skin in the game. They see these homes has something that is used and when it is used up they move on. There is no reason to keep up the homes or yards because they haven't sacrificed anything to earn them. The American Community Survey reports that areas that have a higher then average concentration of renters have lower property values compared to other properties in the county they are located in by an average of 14%. Like many Americans, my greatest investment of wealth is in the equity of my home. This amendment could decrease my greatest investment by 14%! What has taken my husband and I years to create could be taken away much more quickly.

Multnomah County authorities must recognize that they have to look out for the well being of ALL of its citizens. I fear that in the haste to create affordable housing measures by next month, very important things are not being considered. I implore you to not just think of those who would live in affordable housing but to consider the families that are already a part of this community. Those of us in low density did no arrive here by accident. It was not a simple bit of luck or birthright that allowed us to purchase our homes. The current residents are made up of women like me who have taken a second job. They are made up of men like my husband who have taken extra shifts to afford things for our families. This very weekend my husband will miss our Easter celebration so that he can work two extra shifts to help pay for our home. No one has made our dreams affordable. We have set goals and chased after them!! Please don't take away the very things about this area that drew us to it. Please don't create such a high density that we would be required to hook up to public utilities and lose our home.

Susan Frashour