



CURRY COUNTY COMMUNITY DEVELOPMENT
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MEMO

TO: Planning Commission

DATE: June 8, 2021

**FROM: Becky Crockett
Planning Director**

RE: Accessory Dwelling Units

Discussion Question: Should the County Allow ADUs Outside the UGB on lands zoned Rural Residential (RR)?

In 2018, Oregon Revised Statute (ORS 197.312) **required** that ADUs be allowed on residential zoned properties inside the Urban Growth Boundary (UGB). An ADU is a second dwelling unit that may be allowed in conjunction with a single family dwelling. There are conditions and limitations that apply to ADUs inside the UGB (see attached). It is estimated that approximately 50 ADU applications have been approved by the county since 2018.

The City of Brookings allows ADUs but prohibits them from being used as vacation rentals. Gold Beach allows ADUs with no prohibition regarding vacation rentals and Port Orford does not have zoning provisions for ADUs.

Senate Bill 391 (attached) is expected to pass in the current legislative session and be signed by the Governor. SB 391 **allows** counties to adopt zoning provisions for ADUs on rural residential properties outside the UGB with strict conditions for wildfire prevention and a prohibition of using such ADUs for vacation rentals. There are additional restrictions that will also apply including:

- Parcel has to be 2 acres in size
- ADU limited to 900 square feet
- ADU located within 100 feet from existing dwelling
- No violations on property
- Setbacks from resource land
- Water resources approved water source
- No land division

Some counties may decide not to allow ADUs outside the UGB due to difficulty with the enforcement of violations and meeting wildfire conditions. Both these issues are especially problematic on RR zoned properties along the Winchuck and Chetco. The wildfire conditions require close coordination with rural fire districts. There are 14 rural fire districts in Curry County.

cc: Curry County Housing Committee



Accessory Dwelling units in Curry County Oregon

As of July 1, 2018, Oregon Revised Statute 197.312 (5) requires that at least one accessory dwelling be allowed per detached single-family dwelling in every zone within an urban growth boundary that allows detached single-family dwellings. **Beginning July 2, 2018, Curry County will accept applications for Accessory Dwelling units inside Urban Growth boundaries and in unincorporated community areas in the County's Rural Community Residential zoning districts. (Agness, Langlois, Nesika Beach, Ophir).** See below for frequently asked questions about Accessory dwelling units. Other Questions? Call the Community Development Department at 541-247-3304.

Accessory Dwelling Unit (ADU) An ADU is a second dwelling unit that may be allowed in conjunction with a single family dwelling in the RCR, R-1 and R-2, R-3 zoning districts. **NOTE: ADU's are not permitted in the RR zoning district at this time.** ADUs may be permitted in the RC zone on each contiguous ownership or platted subdivision lot approved prior to August 12, 1986 or lot subsequently approved at the minimum lot size specified by the RC zone. ADUs are subordinate in size, location, and appearance to the primary single family dwelling. One ADU on one residential lot may be permitted subject to the following standards:

1. A location either within, attached to, or detached from the primary detached single family dwelling unit. With a building permit, an ADU may be added to or over an attached or detached garage, or constructed as a detached single story structure or as a part of a new single family dwelling.
2. An ADU must have its own outside entrance, kitchen and bathroom and sleeping area completely independent of the primary dwelling.
3. The ADU shall not exceed one thousand two hundred (1,200) square feet in floor area but shall be no smaller than two hundred forty (240) square feet.
4. An ADU may not be created through the conversion of a required main level garage space for living space. This standard does not include the conversion of the attic space above a garage.
5. An ADU that is attached to the primary dwelling shall share a common wall with firewall construction, roof and foundation.
6. A detached ADU shall be located a minimum of twenty (20) feet from the foundation of the primary dwelling.
7. The minimum front, rear and side yard setbacks for the Accessory dwelling shall be that of the underlying land use district.
8. One (1) off-street parking space shall be provided for the ADU.
9. Department of Environmental Quality authorization for septic services shall be provided prior to County authorization for an ADU.
10. Evidence of potable water availability shall be provided prior to County authorization of an ADU.
11. The primary residence that meets the standards of (a-k) may be converted to an accessory dwelling upon completion of permitted, larger residence.
12. A home occupation may be conducted from either primary or ADU.
13. Either the primary or ADU shall be occupied by the property owner.

Guest House. You can build a guest house in any single family residential zone, including the **RR zone**, subject to compliance with DEQ requirements, water service and County permits. A guest house is defined in the CCZO as "A detached accessory structure containing a sleeping facility and bathroom but without kitchen equipment or provisions for such which is used in conjunction with an existing dwelling and does not exceed 500 square feet in size." Contact the Community Development Department (541-247-3304) for additional information about guest houses.

B-Engrossed Senate Bill 391

Ordered by the House May 26
Including Senate Amendments dated April 12 and House Amendments
dated May 26

Sponsored by Senators DEMBROW, FINDLEY, KNOPP; Senators GOLDEN, HANSELL, KENNEMER, Representatives LEVY, ZIKA (Presession filed.)

SUMMARY

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

Authorizes county to allow owner of lot or parcel within rural residential zone to construct one accessory dwelling unit on lot or parcel, subject to certain restrictions. Specifies that single-family dwelling and accessory dwelling on same lot or parcel are considered single unit for purposes of calculating exemptions from ground water rights requirements.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to accessory dwelling units in rural residential areas; and declaring an emergency.

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

SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS chapter 215.

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

(a) "Accessory dwelling unit" has the meaning given that term in ORS 215.501.

(b) "Area zoned for rural residential use" has the meaning given that term in ORS 215.501.

(c) "Single-family dwelling" has the meaning given that term in ORS 215.501.

(2) Consistent with a county's comprehensive plan, a county may allow an owner of a lot or parcel within an area zoned for rural residential use to construct one accessory dwelling unit on the lot or parcel, provided:

(a) The lot or parcel is not located within an area designated as an urban reserve as defined in ORS 195.137;

(b) The lot or parcel is at least two acres in size;

(c) One single-family dwelling is sited on the lot or parcel;

(d) The existing single-family dwelling property on the lot or parcel is not subject to an order declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600;

(e) The accessory dwelling unit will comply with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment;

(f) The accessory dwelling unit will not include more than 900 square feet of useable floor area;

(g) The accessory dwelling unit will be located no farther than 100 feet from the existing single-family dwelling;

(h) If the water supply source for the accessory dwelling unit or associated lands or

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

gardens will be a well using water under ORS 537.545 (1)(b) or (d), no portion of the lot or parcel is within an area in which new or existing ground water uses under ORS 537.545 (1)(b) or (d) have been restricted by the Water Resources Commission;

(i) No portion of the lot or parcel is within a designated area of critical state concern;

(j) The lot or parcel is served by a fire protection service provider with professionals who have received training or certification described in ORS 181A.410;

(k) The lot or parcel and accessory dwelling unit comply with rules of the State Board of Forestry under ORS 477.015 to 477.061;

est. time (L) Statewide wildfire risk maps have been approved and the accessory dwelling unit complies with the Oregon residential specialty code relating to wildfire hazard mitigation for the mapped area; and

(m) The county has adopted land use regulations that ensure that:

(A) The accessory dwelling unit has adequate setbacks from adjacent lands zoned for resource use;

(B) The accessory dwelling unit has adequate access for firefighting equipment, safe evacuation and staged evacuation areas; and

(C) If the accessory dwelling unit is not subject to ORS 477.015 to 477.061, the accessory dwelling unit has defensible space and fuel break standards as developed in consultation with local fire protection service providers.

(3) A county may not allow an accessory dwelling unit allowed under this section to be used for vacation occupancy, as defined in ORS 90.100.

(4) A county that allows construction of an accessory dwelling unit under this section may not approve:

(a) A subdivision, partition or other division of the lot or parcel so that the existing single-family dwelling is situated on a different lot or parcel than the accessory dwelling unit.

(b) Construction of an additional accessory dwelling unit on the same lot or parcel.

(5) A county may require that an accessory dwelling unit constructed under this section be served by the same water supply source or water supply system as the existing single-family dwelling, provided such use is allowed for the accessory dwelling unit by an existing water right or a use under ORS 537.545. If the accessory dwelling unit is served by a well, the construction of the accessory dwelling unit shall maintain all setbacks from the well required by the Water Resources Commission or Water Resources Department.

(6) An existing single-family dwelling and an accessory dwelling unit allowed under this section are considered a single unit for the purposes of calculating exemptions under ORS 537.545 (1).

(7) Nothing in this section requires a county to allow any accessory dwelling units in areas zoned for rural residential use or prohibits a county from imposing any additional restrictions on accessory dwelling units in areas zoned for rural residential use, including restrictions on the construction of garages and outbuildings that support an accessory dwelling unit.

SECTION 3. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.