

**STAFF REPORT FOR THE PLANNING COMMISSION WORKSESSION
February 5, 2018**

**AFFORDABLE HOUSING AMENDMENTS
(PC-2018-9900)**

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SECTION 1.0 INTRODUCTION

This Proposal, PC-2018-9900, relates to the regulation of affordable housing in unincorporated Multnomah County. In general, this proposal implements state law passed in 2017 mandating local governments to adopt several practices to increase affordable housing supply. More specifically, this proposal will:

1. Allow accessory dwelling units in areas zoned for detached residential use within the urban growth boundary;
2. Develop reasonable siting and design standards for accessory dwelling units while avoiding regulations having the effect of discouraging needed housing through unreasonable cost or delay;
3. Allow affordable housing associated with a non-residential place of worship located in an area zoned for residential use within the urban growth boundary; and
4. Add to the list of activities customarily associated with religious activity uses to include worship services, religion classes, weddings, funerals, meal programs and certain childcare programs.

Background

Senate Bill 1051 (2017 Legislative Session, Attachment A) mandates local governments to implement several practices with the intent of increasing affordable housing supply across the state. These changes to state law become effective July 1, 2018.

Sections of the bill requiring code amendments include:

- Section 5, Subsection 4 (amends ORS 197.307) – County may adopt clear and objective restrictions, such as height, for accessory dwelling units as long as regulations do not have the effect of discouraging needed housing through unreasonable cost or delay.
- Section 6, Subsection 5 (amends ORS 197.312) – County must allow the development of at least one accessory dwelling unit (ADU) for each single family dwelling, subject to reasonable sighting and design regulations, in areas zoned for detached single-family dwellings. **Staff understands the intent of this provision was to limit ADU development to qualifying zones within the urban growth boundary (maps provided in Attachments B.1-B.4). However, a Scribner’s error prior to adoption by the legislature led to the inadvertent omission of the reference to the urban growth boundary. A technical correction to the omitted reference in the 2017 bill has been proposed for consideration for the 2018 legislative session. This staff report proceeds under the assumption this technical correction will be adopted in 2018.**

Staff note: ADUs are typically smaller than the primary dwelling resulting in lower maintenance, utility and rental costs. The goal of relaxing zoning regulations to allow ADUs in certain circumstances from a planning perspective is to increase housing options in a community, including lower cost long-term rental units.

- Section 7, Subsection 1 (amends ORS 215.441) – Adds ancillary uses allowed at places of worship. Requires the county to allow housing or space for housing in a building detached from a place of worship as long as 50% of the units are affordable, the property is in an area zoned for residential use inside the urban growth boundary, the housing complies with all underlying development requirements in the zone and requires a covenant to preserve affordable nature of housing for 60 years.

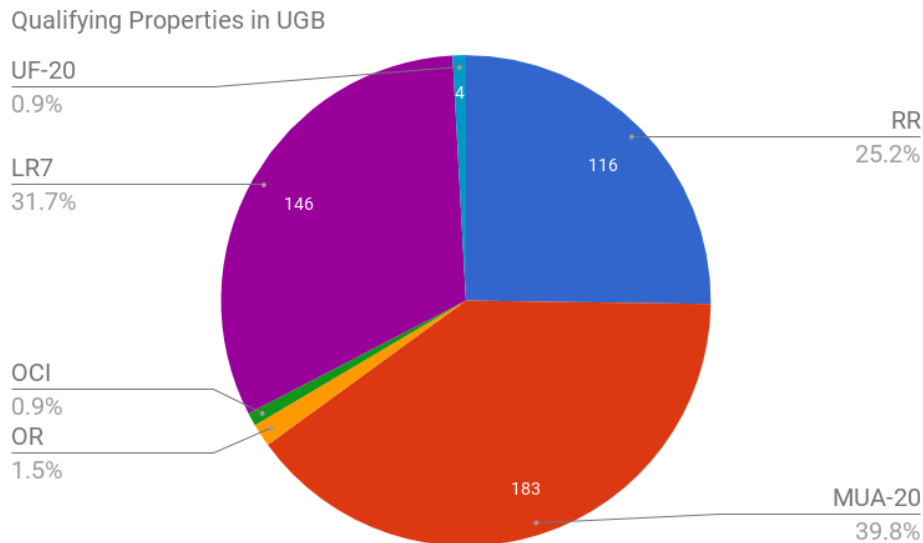
Proposal

The proposed amendments in Section 2.0 offer a starting point for the Planning Commission Worksession discussion. Staff would appreciate feedback on the concepts outlined in Section 2.0 before proceeding further with code amendments.

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Staff is interpreting the phrase ‘in areas zoned for detached single-family dwellings’ used within SB 1051 to equate to county base zoning districts listing a single-family dwelling as an Allowed Use, or any other descriptor of a non-discretionary permit process. Examples of qualifying county zones located within the UGB include the following, totaling 460 properties.

- RR (Rural Residential) – 116 properties
- MUA-20 (Multiple Use Agriculture-20) – 183 properties
- OR (Orient Rural Center Residential) – 7 properties
- OCI (Orient Commercial-Industrial) – 4 properties
- LR7 (Urban Low Density Residential-7) – 146 properties
- UF-20 (Urban Future) – 4 properties



Cumulatively, the qualifying properties above have an average width of 225-feet, an average property depth of 457-feet and an average size of 2.3 acres. An estimated 134 out of the 460 properties appear to be vacant according to tax assessment data resulting in a vacant to developed property ratio of 29%.

Alternatively, properties with the following county base zoning designations are located within the urban growth boundary that do not list single-family dwellings as an allowed use. Therefore, staff believes the county does not have authority to amend code allowing ADUs, or affordable housing associated with any religious institution in these zones.

- C3 (Retail Commercial)
- CFU (Commercial Forest Use)
- EFU (Exclusive Farm Use)
- GGR 2 (Gorge General Residential 2, *located within the Columbia River Gorge National Scenic Area*)

- GGC (Gorge General Commercial, *located within the Columbia River Gorge National Scenic Area*)
- GGO (Gorge General Open Space, *located within the Columbia River Gorge National Scenic Area*)
- GSO (Gorge Special Open Space, *located within the Columbia River Gorge National Scenic Area*)

Policy Considerations

1. How can ADU regulations be crafted to help preserve neighborhood character and reduce urban development complications as these lands become incorporated into city limits over time?
2. Should ADUs be required to be attached to the primary dwelling? If not, should clustering with the primary dwelling be required? What distance separation between buildings constitutes clustering? How might different options affect wildlife and risk of fire?
3. Should a floor area or footprint size limit be established to ensure the ADU retains an accessory relationship to the primary dwelling? Should a detached ADU be required to be shorter than the primary dwelling?
4. Should an ADU be required to connect to the septic drain field and well serving the primary dwelling for properties served by these on-site systems?

Staff Note: The Association of Oregon County Planning Directors (AOC PD) contemplated this question and recommended to the Association of Oregon Counties legislative liaison in 2017 that ADUs be required to hook to the existing septic system, which may require expanding the existing system. AOC PD also recommended sharing the well to avoid drilling a second well.

5. Do any concerns exist allowing an ADU to be constructed on the upper floor of a dwelling, or over a detached garage?
6. Should the county require either the primary dwelling or ADU be owner occupied?

Staff Note: The AOC PD recommended to AOC that either the primary dwelling or ADU be owner occupied.

7. How might home occupations affect the goal of increasing affordable housing? Should short-term rentals (AirBnB, VRBO, etc.) be prohibited to help contribute to the number of long-term rental units in the region?

Staff Note:

The AOC PD recommended to AOC that short-term rentals (less than 30-days) should be prohibited.

Multnomah County permits Type A, B and C Home Occupations with Type A being the least intensive.

- *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.*
- *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. 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. Three-year permit, similar to Type B.*

SECTION 2.0 PROPOSED CODE AMENDMENTS

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

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

Amending the Definition Section

§ 39.2000 DEFINITIONS.

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

Accessory Building (Accessory Structure) – A subordinate building, the use of which is clearly incidental to that of the main building on the same lot. An accessory dwelling unit is not an accessory building (accessory structure).

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

Accessory Dwelling Unit – A subordinate single-family dwelling unit, the use of which is clearly incidental to that of the primary dwelling on the same lot of record.

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.

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

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.~~ A residential structure divided into two dwelling units, with a separate entrance for each. This includes configurations such as side by side with a common wall, and a two-story structure having a dwelling unit on each floor. An accessory dwelling unit, whether attached to or detached from a primary single-family dwelling, is not a duplex or two-unit dwelling.

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.

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.

Multi-Plex Dwelling Structure – A row house or town house apartment structure. An accessory dwelling unit is not a multi-plex dwelling.

Amending RR, MUA-20, OR, OCI, LR7 and UF-20 Base Zoning Regulations

ALLOWED USES.

The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.

(A) Residential use consisting of a single family dwelling on a Lot of Record and one accessory dwelling unit per single family dwelling on a Lot of Record located within the urban growth boundary.

(1) An accessory dwelling unit (ADU) shall meet the following criteria:

(a) The subject property is located within the urban growth boundary.

(b) The subject property contains a single-family dwelling to which the ADU will be accessory.

(c) The ADU shall be located on the same Lot of Record as the primary dwelling.

(d) The ADU shall contain all components listed in the definition of dwelling unit.

(e) The total floor area of the ADU shall not exceed 800 square feet and shall not exceed 75% of the primary single family dwelling total floor area.

(f) The ADU shall provide separate entrance independent from the primary single family dwelling if attached to the primary dwelling or have at least one exterior wall located within 50-feet of the single family dwelling if not attached to the primary dwelling;

(g) The ADU shall be served by septic system and well for any property utilizing either on-site system for the primary dwelling.

(h) The ADU shall be attached to a permanent foundation.

(i) Rental of an ADU is permissible only for long-term purposes. For purposes of this provision, long-term rental is defined as a lease extending a minimum of one month. Short-term rental leases (less than one month in duration) are prohibited.

(j) A home occupation conducted in association with an ADU is prohibited.

(k) Prior to approval of an ADU, regardless of whether rental is proposed; the land owner shall sign and record a covenant with county deed records stating any rental lease for the accessory dwelling unit shall not be for a term less than one month in duration. The covenant shall also require owner occupancy of either the primary dwelling or accessory dwelling unit. This covenant will alert future buyers to the rental and occupancy limitations.

(***)

(T) Accessory Structures subject to the following:

(1) The accessory structure is customarily accessory or incidental to any use permitted or approved in this base zone and is a structure identified in the following list:

(a) Garages or carports;

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- (b) Pump houses;
- (c) Garden sheds;
- (d) Workshops;
- (e) Storage sheds, including shipping containers used for storage only;
- (f) Greenhouses;
- (g) Woodsheds;
- (h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;
- (i) Swimming pools, pool houses, hot tubs, saunas, and associated changing rooms;
- (j) Sport courts;
- (k) Gazebos, pergolas, and detached decks;
- (l) Fences, gates, or gate support structures; and
- (m) Mechanical equipment such as air conditioning unites, heat pumps and electrical boxes; and
- (n) Similar structures.

(2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(3) The Accessory Structure may contain one sink.

(4) The Accessory Structure shall not contain:

- (a) More than one story;
- (b) Cooking Facilities;
- (c) A toilet;
- (d) Bathing facilities such as a shower or bathing tub;
- (e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or

(f) A closet built into a wall.

(5) Compliance with MCC 39.8860 is required.

(6) The combined footprints of all Accessory Buildings on a Lot of Record shall not exceed 2,500 square feet.

(7) An Accessory Building exceeding any of the Allowed Use provisions above shall be considered through the Review Use provisions.

(8) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions. Such buildings shall be used for their allowed farm purposes only and, unless so authorized, shall not be used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(* * *)

REVIEW USES.

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

(I) Structures or uses customarily accessory or incidental to any use permitted or approved in this base zone, which do not meet the “accessory structures” standard in MCC 39.4360 Allowed Uses, but which meet the following provisions:

(1) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential unit.

(2) The Accessory Structure shall not contain a bathing tub.

(3) Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building.

(4) An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities.

(5) The Accessory Structure shall not contain a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage.

(6) The applicant must show that building features or combined building footprints exceeding the Allowed Use provisions are the minimum possible departure from the Allowed Use standards to accommodate the use.

(7) Compliance with MCC 39.8860 is required.

Amending Accessory Structure Regulations

§ 39.8860 CONDITION OF APPROVAL --ACCESSORY STRUCTURES

Prior to issuance of any development permit involving an Accessory Building, the property owner shall record a covenant with County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling or for any other form of permanent or temporary residential use. An accessory dwelling unit is not an accessory building (accessory structure).

Amending Community Service Use Regulations

§ 39.7520 Uses.

(A) Except as otherwise limited in the EFU, all CFU and OR base zones, the following Community Service Uses and those of a similar nature, may be permitted in any base zone when approved at a public hearing by the approval authority. Allowed Community Service Uses in the EFU, CFU and OR base zones are limited to those uses listed in each respective base zone.

(1) Church, including the following activities in conjunction with the religious institution:-

(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:

(A) The subject property is located in a base zone which lists single family dwelling as an Allowed Use, or any other title identifying a non-discretionary land use review process;

(B) The property is located inside the urban growth boundary;

(C) 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; and

(D) 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.

Amending Home Occupation Regulations

§ 39.8800 TYPE A HOME OCCUPATION

(A) Type A home occupation is a lawful commercial activity that is conducted within a dwelling unit by a business operator, is subordinate to the residential use of the dwelling unit, is registered with the Planning Director by completing and filing a form provided by the Planning Director, and complies with the following. A Type A home occupation is not allowed within or in association with an accessory dwelling unit:

(* * *)

§ 39.8850 TYPE B HOME OCCUPATION

(A) Type B home occupation is a lawful commercial activity that is conducted in a dwelling or accessory building on a parcel by a business operator, is subordinate to the residential use of the

premises, and complies with the following. A Type B home occupation is not allowed within or in association with an accessory dwelling unit:

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7.A.5 – TYPE C HOME OCCUPATION (CU)

§ 39.7405 Criteria for Approval

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

SECTION 3.0 ATTACHMENTS

ATTACHMENT A	ENROLLED VERSION OF SENATE BILL 1051 (2017 LEGISLATIVE SESSION)
ATTACHMENT B.1	URBAN GROWTH BOUNDARY MAP
ATTACHMENT B.2	AFFECTED AREA MAP 1
ATTACHMENT B.3	AFFECTED AREA MAP 2
ATTACHMENT B.4	AFFECTED AREA MAP 3