



AGENDA COVER MEMORANDUM

Memorandum Date: June 30, 2023
First Reading Date: July 18, 2023
Second Reading/Public Hearing: August 1, 2023

TO: Lane County Board of Commissioners

DEPARTMENT: Public Works, Land Management Division, Planning Department

PRESENTED BY: Rachel Serslev, Senior Planner

AGENDA TITLE: ORDINANCE NO. 23-05 / In the Matter of Amending Lane Code (LC) 16.290 to Incorporate an Allowance for Accessory Dwelling Units (ADU) in Rural Residential Zones as Allowed by Senate Bill 391 (2021) and Senate Bill 644 (2023), and an Allowance for Conversion of a Historic Dwelling to an ADU as Allowed by House Bill 3012 (2017); and Adopting a Savings and Severability Clause and Declaring an Emergency (File No. 509-PA22-05378).

I. MOTION:

1. July 18, 2023 (1st Reading):

MOVE TO APPROVE THE FIRST READING OF ORDINANCE NO. 23-05, AND TO SET THE SECOND READING AND PUBLIC HEARING FOR AUGUST 1, 2023 (AT 1:30 PM DATE AND TIME CERTAIN).

2. August 1, 2023 (2nd Reading/Public Hearing):

1) MOVE TO APPROVE THE SECOND READING AND ADOPT ORDINANCE NO. 23-05 AS PRESENTED;

OR

2) MOVE TO APPROVE THE SECOND READING, SET A THIRD READING, CLOSE THE PUBLIC HEARING, AND CONTINUE DELIBERATIONS TO A DATE CERTAIN;

OR

- 3) MOVE TO APPROVE THE SECOND READING, SET A THIRD READING AND CONTINUE THE PUBLIC HEARING TO A DATE CERTAIN AT 1:30 PM, AND DIRECT STAFF TO REVISE ORDINANCE NO. 23-05 AS DIRECTED BY THE BOARD (SUMMARIZE REVISIONS).

II. AGENDA ITEM SUMMARY:

The proposal before the Board of County Commissioners (the Board) is an amendment to Lane Code 16.290, initiated by the Land Management Division (LMD) in response to the passing of Senate Bill (SB) 391 and SB 644, which allows accessory dwelling units (ADU) in rural areas, subject to certain criteria. Staff also propose to implement an allowance for ADUs authorized by House Bill (HB) 3012 that allows conversion of a historic dwelling to an ADU.

III. BACKGROUND/IMPLICATIONS OF ACTION:

A. Board Action and Other History

Senate Bill 391, codified at Oregon Revised Statute (ORS) 215.495, allow ADUs in rural residential zoned areas, subject to certain conditions. While the bill included an emergency clause, meaning it went into effect on June 23, 2021, the day it was signed by the Governor, the bill includes several requirements for state action related to wildfire mitigation that prevent the allowance of ADUs countywide at this time.

On March 15, 2022, staff went before the Board to receive policy direction on implementation of the bill. At that work session, staff presented several policy questions regarding specific standards for allowing ADUs and sought direction for the future code amendment project. Specifically, provisions of SB 391 related to wildfire mitigation require that several state initiatives be complete prior to allowing ADUs. These wildfire mitigation initiatives, required by SB 762¹, task the State Board of Forestry with creating a statewide wildfire risk map, the State Fire Marshal with adopting minimum defensible space standards and with the Department of Consumer and Business Services adopting wildfire hazard building code standards. Implementation of SB 391 countywide is dependent on the completion of these tasks.

The Board directed staff to move forward with a code amendment project to allow ADUs where permissible under SB 762 and 391. In conjunction with the ADUs allowed by SB 391, staff is also incorporating an ADU allowance authorized by HB 3012 (2017) and codified at ORS 215.501, which allows the conversion of a historic dwelling to an ADU. Therefore, staff have initiated this code amendment project.

However, on August 4, 2022, staff received notice that the Oregon Department of Forestry had withdrawn the wildfire risk maps that were originally published on June 30, 2022, consistent with the timeline of Senate Bill 762, the wildfire mitigation bill. SB 391 directly references the adoption of the statewide wildfire risk maps, indicating that a county may allow ADUs provided the statewide wildfire risk maps have been approved. The SB 391 also contains

¹ [Enrolled Senate Bill 762 \(2021\)](#)

specific standards for development of ADUs in areas with certain wildfire risk classifications. Therefore, SB 391 could not be implemented without approved and published wildfire risk maps.

On October 11, 2022, staff provided an update to the Board on the status of these amendments and the statewide wildfire risk maps, indicating that staff would return to the Board with this item when possible considering state action regarding the wildfire risk maps.

Meanwhile, on January 9, 2023, SB 644 was introduced at the legislature. The purpose of this bill was to decouple SB 391 from development of the statewide wildfire risk maps. SB 644 was signed into law by the Governor on May 8, 2023. Specifically, the bill amended the language of ORS 215.495 to remove the reference to the development of the statewide wildfire risk maps. The specific changes to the language of ORS 215.495 are discussed further in section **III. F - Analysis**. Staff determined that the changes established by SB 644 allow the County to move forward with adopting code to allow ADUs. Therefore, staff has brought this Ordinance before the Board for consideration.

Below is a timeline of the outreach and noticing conducted for the proposed LC 16.290 amendments:

- On June 14, 2022, notice of the proposed change was provided to the Department of Land Conservation and Development (DLCD).
- On June 23, 2022, the ADU project webpage was updated and the proposed draft code was published.
- On June 28, 2022, a press release was published advertising the Lane County Planning Commission (LCPC) public hearing.
- On June 28, 2022, notice of the LCPC public hearing was published in the Register Guard and sent to interested parties.
- On July 19, 2022, a work session was held with the LCPC to provide background on SB 391 and HB 3012 and to provide an overview of the proposed code amendments.
- On July 19, 2022, the LCPC held a public hearing in a hybrid (in-person and Zoom) format. The Commission heard public testimony on the proposed amendments to Lane Code. The LCPC closed the public hearing and deliberated on the proposed code amendments, considering public testimony. In a motion, the Commission directed staff to make necessary revisions to the draft code to allow ADUs in as many areas of the county as possible. They passed a unanimous motion of 7-0-0 in support of the draft with a recommendation for approval by the Board. The specific revisions motioned by the LCPC are discussed in more detail under **III.F – Analysis** and the motion document is provided as **Attachment 2**.
- On June 1, 2023, the notice provided to DLCD on June 14, 2022, was updated with a current draft of the code, including changes to ORS 215.495 resulting from the passing of SB 644.

- On July 12, 2023, notice of the Board public hearing was published in the Register Guard and mailed to parties of record and interested parties 20 days prior to the hearing, in accordance with Lane Code Chapter 14.

B. Policy Issues

Any policy considerations are discussed below under **III. F - Analysis**.

C. Board Goals

Approval of Ordinance No. 23-05 amendments support Lane County's Strategic Priority number two, Vibrant Communities. Objective A, to increase housing affordability, diversity and supply serving Lane County's residents in order to address the housing crisis, is closely related to the ADU code amendments. By adopting the proposed Ordinance, the Board is authorizing the development of ADUs on qualifying parcels in Lane County. Allowing ADUs has the potential to increase housing options and affordability throughout the County. Notably, the bill specifies that the ADU may not be used for vacation occupancy, meaning the ADUs would be used as primary residences.

D. Financial and/or Resource Considerations

Sufficient resources have been made available as part of LMD's long range planning program to complete this effort in the timeliest manner possible.

E. Health Implications

Discussions regarding the need for accessory dwelling units are often related to housing shortages and affordability. Housing issues are closely linked to community health because of the positive effect that available and affordable housing has on human health and well-being. Rural ADUs have the potential to provide an additional type of available housing in Lane County, which could help address issues with housing stock. ADUs are also typically smaller homes (SB 391 limits the usable area of an ADU to 900 square feet), which could increase affordability.

In a previous work session with the Board on March 15, 2022, the Board directed staff to draft code in a way that takes full advantage of the allowances of SB 391 and make it as easy as allowable for property owners to establish ADUs. If the Board chooses to adopt the proposed Ordinance and allow ADUs in Lane County, the Board will be supporting housing availability, affordability and the health and well-being of Lane County residents.

E. Analysis

SB 391 (**Attachment 3**) defines ADUs as residential structures that are used in connection with or that are auxiliary to a single-family dwelling, and defines single-family dwelling as a residential structure designed as a residence for one family and sharing no common wall with another residence of any type.

SB 391 only authorizes ADUs on lands zoned for rural residential use. Areas zoned for rural residential use are defined by ORS 215.501 and means "*land that is not located inside an urban*

growth boundary as defined in ORS 195.060 (Definitions) and that is subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland and planned and zoned by the county to allow residential use as a primary use.” The zoning designation in Lane County for these lands is Rural Residential (RR1, RR2, RR5 and RR10), designated by the Rural Comprehensive Plan (RCP). Currently, the Rural Residential zone in Lane County does not have an allowance for permanent second dwellings or accessory dwellings.

In addition to only applying to lands zoned Rural Residential, SB 391 also contains minimum criteria that must be met for a lot or parcel to qualify for an ADU. The minimum criteria required by SB 391 have been incorporated into the proposed draft code, which amends LC Chapter 16.290. Furthermore, SB 644 has revised the criteria for establishing ADUs. The revisions outlined by SB 644 (**Attachment 4**) have been incorporated into the draft code. The proposed version of LC Chapter 16.290 is included as **Attachment 1** of this memo. The following section of this report discusses the specific criteria of SB 391 and associated policy question.

i. POLICY CONSIDERATIONS AND IMPLICATIONS

The following table describes the criteria of SB 391 and the policy considerations associated with each topic. Generally, the Board directed staff to draft code language to be as permissive as possible. Therefore, staff drafted code language to be verbatim or as consistent with the bill language as possible.

Topic	Description of SB 391 Requirement	Comment/Policy Question
<i>Urban Reserve Areas</i>	A lot or parcel within an urban reserves area cannot qualify for an ADU	Approximately 500 properties zoned rural residential exist within proposed urban reserve areas.
<i>Minimum Lot Size</i>	The subject lot or parcel must be at least two acres in size	A more restrictive standard could be adopted (e.g. a 5-acre or more lot or parcel minimum). The Board did not direct staff to draft code to be more restrictive.
<i>Single Family Dwelling</i>	One single family dwelling must be sited on the lot or parcel	Draft Lane Code language is consistent with bill language.

<i>Nuisance</i>	The single family dwelling is not subject to an order declaring a nuisance or any pending action for abatement of a nuisance	Draft Lane Code language is consistent with bill language.
<i>Sanitation and Wastewater</i>	The ADU will comply with applicable sanitation and wastewater regulations	Draft Lane Code language is consistent with bill language.
<i>ADU Size</i>	The ADU will not include more than 900 square feet of usable floor area	Draft Lane Code language is consistent with bill language, and "useable floor area" is defined by the draft code.
<i>Distance from Dwelling</i>	The ADU will be located no farther than 100 feet from the single family dwelling	The bill language is unclear if the entire ADU must be within 100 feet of the dwelling or just a portion of the ADU. Staff interpret this to mean that at least a portion of the ADU must be within 100 feet of the dwelling.
<i>Groundwater Use Restriction</i>	If the ADU is relying on a domestic well, no portion of the lot or parcel can be within a new or existing ground water use restricted area by the Water Resources Commission	Lane County does not contain any critical groundwater areas as defined by the Water Resources Commission. Draft Lane Code language is consistent with bill language.
<i>Areas of Critical State Concern</i>	No portion of the lot or parcel is within an area designated as having critical state concern	Lane County does not contain any areas of critical state concern. Draft Lane Code language is consistent with bill language.
<i>Fire Protection District Service</i>	The lot or parcel must be served by a fire protection service provider with professionals who received training or certification	The list of fire districts that comply with ORS 181A.410 is continuously updated by Department of Public Safety

	described in ORS 181A.410	Standards & Training (DPSST) as local fire districts complete their training. Compliance of the districts will be verified prior to approval of the ADU.
<i>Defensible Space Requirements</i>	If ADUs are on lots or parcels identified on the statewide wildfire risk map as being within high or extreme wildfire risk areas in the wildland urban interface (WUI), they must meet minimum defensible space requirements established by the State Fire Marshal and applicable local requirements	Statewide wildfire risk maps have not been established and the State Fire Marshal has not adopted minimum defensible space standards. Therefore, while this standard must be included in the draft code, ADUs are not subject to it at this time.
<i>Wildfire Mitigation Building Codes</i>	ADUs must comply with Oregon Residential Specialty Code (ORSC) R327, relating to fire hardening. Once the statewide wildfire risk map is adopted, only ADUs within areas identified as extreme or high wildfire risk must comply with R327	At this time, all ADUs must comply with ORSC R327 because statewide wildfire risk maps have not been adopted.
<i>Setbacks</i>	The ADU has adequate setbacks from adjacent lands zoned for resource use	The Board provided direction that current setbacks in the RR zone already provide for adequate setbacks from resource zoned lands.
<i>Access and Evacuation</i>	The ADU has adequate access for firefighting equipment and safe evacuation and staged evacuation areas	The draft code requires certification of the access by the applicable fire district, and requires the applicant provide an evacuation plan.

<i>Non-WUI Defensible Space Requirements</i>	ADUs on lots or parcels identified on the statewide wildfire risk map as not being within the wildland-urban interface must comply with any applicable local requirements for defensible space	Currently, no local regulations exist that require defensible space in the Rural Residential zone. The Board did not direct staff to draft defensible space standards for ADUs. Implementation of SB 762 and/or future Lane Code amendments may result in defensible space standards for lands outside of the forest zone.
<i>Vacation Occupancy</i>	The ADU must not be allowed to be used for vacation occupancy as defined by ORS 90.100	Applicant to record a restrictive covenant stating that the ADU will not be used for vacation occupancy.
<i>Land Division</i>	A land division that separates the single family dwelling from the ADU cannot be allowed	Draft Lane Code language is consistent with bill language.
<i>Additional ADU</i>	Only one ADU is allowed per lot or parcel	Draft Lane Code language is consistent with bill language.
<i>Water Supply</i>	The county may require that the ADU be served by the same water source or water supply system as the existing single family dwelling	Not a required criterion. The Board did not direct staff to make this a condition of establishing an ADU.

Several of the criteria discussed above have associated policy questions that the County can interpret for implementation of the bill. These policy questions were brought before the Board during a work session on March 15, 2022, and the Board provided policy direction. Staff drafted code based on that policy direction and presented it to the LCPC.

1. Water Supply

The bill provides an option for counties to require that the ADU be served by the same water source or water supply system as the existing single-family dwelling.

The law does not require this criterion. The Board provided policy direction to not include this additional standard.

However, staff have added a provision to ensure that the lot or parcel qualifying for the ADU has an adequate supply of water when the lot or parcel is located within the boundaries of an unincorporated community. Staff found that verifying adequate water supply is required for allowing ADUs within unincorporated communities due to OAR 660-002-0030(8)(B), which requires that zoning applied to lands within unincorporated communities must ensure that the cumulative development allowed will not exceed the carrying capacity of the soil, existing water supply resources, or sewer services.² Provided this requirement, staff have inserted language into the draft code that verifies water supply resources and sewer services will not be exceeded by allowing the ADU in compliance with the OAR. These provisions require that the applicant demonstrate adequate water supply and sanitation capability when seeking approval for an ADU.

The LCPC reviewed this additional provision but did not conduct any deliberations on its inclusion in the code.

2. Adequate Access for Fire Fighting Equipment, Safe Evacuation, and Staged Evacuation Areas

SB 391 requires that accessory dwelling units have adequate access for firefighting equipment, safe evacuation and staged evacuation areas. “Adequate access,” “safe evacuation” and “staged evacuation areas” are terms left undefined by SB 391 and left up to local jurisdictions to determine how these standards will be evaluated. In general, the Board has directed staff to draft the ADU code language to be as permissible as possible.

The proposed draft code includes provisions that requires the applicant provide a certification from the fire district serving the property with the ADU that access to the property is adequate for the district’s equipment. This language is similar to language that already exists in Lane Code Chapter 15 that contains standards for roads. The current Chapter 15 standards require that this same type of certification be provided for access to new development on vacant properties. This provision addresses the language of SB 391 that requires adequate access for firefighting equipment.

The language of SB 391 also requires that the ADU have safe evacuation and staged evacuation areas. Staff researched the legislative intent and possible existing regulations that relate to evacuation, but did not find any additional detail on the intent of these standards or any existing regulations regarding evacuation

² (8) Zoning applied to lands within unincorporated communities shall ensure that the cumulative development:
(B) Will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.

that might inform drafting code to implement SB 391. Staff consulted with the Office of the State Fire Marshall, the Lane County Building Official, other counties implementing SB 391 and legal counsel to draft the proposed language. The proposed language aims to define safe evacuation and staged evacuation areas, and requires the applicant to propose an evacuation plan. Staff and legal counsel were careful to draft language that removes liability from the County for certifying that the evacuation plan provides adequate safety measures. Staff found this provision necessary because of the lack of specificity in the bill regarding the adequacy of an evacuation plan. The bill is silent on what constitutes safe evacuation or staged evacuation area, and County planning staff do not have the expertise to determine what constitutes safe evacuation, nor are there existing agencies that could sign off on the adequacy of an evacuation plan. Therefore, staff find that the best solution is for the applicant/property owner to propose and certify the safety of the evacuation plan for their property.

The LCPC was presented with this draft code language and did not motion to make any changes to the proposed language.

3. WUI and Defensible Space

As originally authorized through SB 391, ADUs could only be established once three tasks outlined by SB 762 (the wildfire mitigation bill) were completed: 1. the statewide wildfire risk map showing the WUI and wildfire risk classifications is adopted; 2. the Oregon State Fire Marshal adopts defensible space standards for high and extreme wildfire risk areas within the WUI; and 3. The Department of Consumer and Business Services adopts wildfire hazard building code standards for dwellings and accessory structures within high and extreme wildfire risk areas within the WUI.

The statewide wildfire risk maps were adopted and published on June 30, 2022, consistent with the timelines set forth in SB 762. However, on August 4, 2022, staff received notice that the Oregon Department of Forestry had withdrawn the wildfire risk maps for further refinement. The link between SB 391 and the statewide wildfire risk maps prevented the ADU bill from being implemented.

On January 9, 2023, SB 644 was introduced at the legislature. The purpose of this bill was to decouple SB 391 from development of the statewide wildfire risk maps. SB 644 was signed into law by the Governor on May 8, 2023. Specifically, the bill amended the language of ORS 215.495 to remove the reference to the development of the statewide wildfire risk maps. SB 644 establishes that all ADUs comply with ORSC R327, which requires the structures to be fire hardened. ORSC R327 will apply to all ADUs until the statewide wildfire risk maps are re-adopted. At the time of re-adoption, ORSC R327 will only apply to ADUs located in high or extreme wildfire risk areas as designated on the statewide wildfire risk map.

This change in law occurred after these code amendments were reviewed by the LCPC, so the LCPC did not have an opportunity to review this exact language. However, staff is proposing adoption of the bill language verbatim and staff do not believe that there are any policy decisions to be made related to this provision. Therefore, in order to expedite the adoption of the ADU bill and allow ADUs in the county as soon as possible, staff is providing the draft code updated with the changes of SB 644 directly to the Board.

4. Limitations on ADUs, Guest Houses and Second Dwellings

Guest houses and lawfully established, pre-zoning second (or more) dwellings are uses allowed in the Rural Residential zone that have the potential to complicate the allowance for ADUs. Staff's understanding of SB 391 is that the intent of an ADU is to provide a second residence that is in conjunction with a single-family dwelling on a lot or parcel. This use is distinctly different from a guest house, which is a structure that is intended to provide detached, additional living space for non-paying guests or employees, accessory to a single family dwelling, but that does not contain a kitchen. Further, staff's understanding of the intent of the ADU allowances is that an ADU cannot be construed as a lawfully established second dwelling because an ADU must occur in conjunction with an existing single-family dwelling, while a second dwelling is not accessory to any other dwelling that may exist on the property.

Provided this understanding, staff have included language within the criteria for a guest house (LC 16.290(2)(u)) that the guest house standards do not apply to ADUs. The implications of this are that a guest house and an ADU could be allowed on the same lot or parcel if the criteria for each are met. The same holds true for a property with multiple lawfully established dwellings. However, the SB 391 criteria limit one ADU per lot or parcel. Therefore, a property with multiple dwellings could still only qualify for one ADU. This is staff's understanding of the legislation and the current code. The Planning Commission did not deliberate or provide any additional policy guidance on the topic.

5. House Bill 3012 (2017)

In conjunction with amending Lane Code to allow ADUs as authorized by SB 391, staff are also proposing amendments that implement an allowance for conversion of a historic dwelling to an ADU, authorized by HB 3012 (**Attachment 5**). This house bill was passed in 2017 and staff had planned to update Lane Code to implement allowances authorized by HB 3012 with other legislative housekeeping amendments. However, HB 3012 authorizes ADUs in the rural residential zone, similar to SB 391, so it is logical to combine the code amendments.

Some of the criteria specific to HB 3012 and ORS 215.501 for conversion of a historic dwelling to an ADU are the same criteria that apply to ADUs authorized

by SB 391, while some are specific to the allowance to the conversion of a dwelling to an ADU. Staff have drafted code language so that it matches the house bill language as much as possible.

One policy decision for implementing HB 3012 language is in regards to a provision of the bill that prohibits rebuilding of the ADU if the structure is lost to fire. To provide clarity on the bill language, staff interprets the meaning of “lost to fire” in the proposed draft code by referencing the definition of “dangerous building” in the Uniform Code for the Abatement of Dangerous Buildings (UCADB). The UCADB defines dangerous building as one that has been damaged by fire to the extent that the structural strength or stability is less than the minimum required by the building code. By including this reference to the UCADB, the bill language is “lost to fire” is more clear and objective. Furthermore, staff has included language that requires a covenant be recorded by the applicant that acknowledges that the ADU may not be rebuilt if it is deemed a dangerous building due to fire to help ensure that the applicant is aware of the requirement.

A policy consideration regarding both allowances for ADUs is that both bills specify that only one ADU is allowed per lot or parcel. Despite the two avenues to qualify for an ADU, staff’s understanding of the legislative intent is that only one ADU is authorized per lot or parcel regardless of if a lot or parcel could qualify for an ADU under SB 391 and HB 3012. Staff has provided the proposed draft code with both ADU paths as **Attachment 1** of this memo.

ii. APPLICABLE CRITERIA

The proposed amendments are subject to the applicable criteria identified in Lane Code 12.005, 12.050, and 16.252(2).

LC 12.005 Purpose.

(1) The board shall adopt a comprehensive plan. The general purpose of the comprehensive plan is the guiding of the social, economic, and physical development of the County to best promote public health, safety, order, convenience, prosperity and general welfare.

The proposed amendments do not impair the purpose of the Rural Comprehensive Plan as the guiding document for Lane County. The proposed amendments update implementing regulations and follow the laws determined by State of Oregon to best promote the will of the people. The amendments will not affect compliance of the Rural Comprehensive Plan and implementing regulations with the Statewide Planning Goals or other applicable State law.

LC 12.050 Method of Adoption and Amendment

(1) The adoption of the comprehensive plan or an amendment to such plan shall be by an ordinance.

The proposed amendments will be adopted by ordinance when enacted by the Board.

(2) The Board may amend or supplement the comprehensive plan upon a finding of:

(a) an error in the plan; or

(b) changed circumstances affecting or pertaining to the plan; or

(c) a change in public policy; or

(d) a change in public need based on a reevaluation of factors affecting the plan; provided, the amendment or supplement does not impair the purpose of the plan as established by LC 12.005 above.

The proposed amendments to Lane Code are the result of a change in public policy. On June 23, 2021, Senate Bill 391 was signed by the Governor and became effective on that day. The bill amended Oregon Revised Statute 215.495 to allow accessory dwelling units in rural residential zoned areas, subject to certain conditions. Furthermore, Senate Bill 644 was signed into law by the Governor on May 8, 2023 and further amended the language of ORS 215.495 to remove the reference to the development of the statewide wildfire risk maps. These changes to Oregon Revised Statute 215.495 enable counties to allow accessory dwelling units independent of statewide wildfire risk mapping. Therefore, these amendments to Lane Code are proposed to allow accessory dwelling units in Lane County as permissible by changes aforementioned changes in law.

LC 16.252 Procedures for Zoning, Re-zoning, and Amendments to Requirements.

(2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission. Any zoning or rezoning may be effected by Ordinance or Order of the Board of County Commissioners or the Hearings Official in accordance with the procedures in this section.

The proposed amendments do not establish zoning or rezoning of specific properties, but provides for additional permissible uses (accessory dwelling units) on properties already zoned rural residential. This allowance is authorized by Oregon Revised Statute 215.495.

G. Alternatives/Options

Option 1. Move to approve the second reading and adopt Ordinance No. 23-05 as presented.

Option 2. Move to approve the second reading, set a third reading, close the public hearing, and continue deliberations to a date certain.

Option 3. Move to approve the second reading, set a third reading and continue the public hearing to a date certain at 1:30 p.m. and direct staff to revise Ordinance No. 23-05 as directed by the Board (summarize revisions).

IV. RECOMMENDATION:

Staff recommends **Option 1** above.

V. TIMING/IMPLEMENTATION:

Ordinance 23-05 is understood to be a high priority for the Board, as it is for LMD. Accordingly, it was written to include an emergency clause, meaning that if the amendments are approved and not appealed, the code changes become effective immediately after enactment of the enabling ordinance.

VI. FOLLOW UP:

Should the Lane County Board of Commissioners choose **Option 2 or 3**, staff will revise Ordinance No. 23-05 as directed and return for deliberations on the revised Ordinance on a date certain set by the Board.

Should the Board choose **Option 1**, notice of the Lane County Board of Commissioners action will be provided to the Department of Land Conservation and Development and all interested parties as required by State law.

VII. ATTACHMENTS:

1. Ordinance No. 23-05 (2 page) with:
 - Exhibit A: Lane Code 16.290 Amendments* (25 pages)
 - Exhibit B: Findings of Fact (2 pages)
 - *Legislative version of code amendments provided after Exhibit A*
2. LCPC Motion document, d. July 19, 2022 (2 pgs.)
3. Senate Bill 391 (3 pgs.)
4. Senate Bill 644 (3 pgs.)
5. House Bill 3012 (2 pgs.)

To conserve paper, copies of the Planning Commission Packets are not included. Copies are available at the following links:

[July 19, 2022 Public Hearing Materials](#) (26 pages)

Ordinance No. 23-05
File No. 509-PA22-05378
Lane Code Ch. 16.290 ADUs

Memorandum Date: June 30, 2023
1st Reading: July 18, 2023
2nd Reading and Public Hearing: August 1, 2023

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO: 23-05

ORDINANCE NO. 23-05 / IN THE MATTER OF AMENDING LANE CODE (LC) 16.290 TO INCORPORATE AN ALLOWANCE FOR ACCESSORY DWELLING UNITS (ADU) IN RURAL RESIDENTIAL ZONES AS ALLOWED BY SENATE BILL 391 (2021) AND SENATE BILL 644 (2023), AND AN ALLOWANCE FOR CONVERSION OF A HISTORIC DWELLING TO AN ADU AS ALLOWED BY HOUSE BILL 3012 (2017); AND ADOPTING A SAVINGS AND SEVERABILITY CLAUSE AND DECLARING AN EMERGENCY (FILE NO. 509-PA22-05378).

WHEREAS, amendments to Lane Code 16.290 are desired to incorporate an allowance for ADUs as a use in Rural Residential zones; and

WHEREAS, on June 23, 2021, Senate Bill 391, which allows ADUs in Rural Residential zoned areas, became effective and was codified at Oregon Revised Statute (ORS) 215.495; and

WHEREAS, on May 8, 2023, Senate Bill 644 was signed into law and amended the language of ORS 215.495 to remove reference to the statewide wildfire risk map so that ADUs could be allowed without adoption of the wildfire risk maps; and

WHEREAS, on January 1, 2018, House Bill 3012 became effective, which allows conversion of a historic dwelling to an ADU in Rural Residential zones; and

WHEREAS, on June 14, 2022, initial notice of the proposed changes to Lane Code 16.290 was provided to the Department of Land Conservation and Development (DLCD) and on June 28, 2022, notice of a Lane County Planning Commission public hearing was mailed and published; and

WHEREAS, the Lane County Planning Commission reviewed and deliberated on the proposal in a public hearing held on July 19, 2022 and made a recommendation for approval to the Board of County Commissioners (the Board); and

WHEREAS, on June 1, 2023, DLCD notice was updated with a current draft code and on July 12, 2023, notice of a Lane County Board of Commissioners public hearing was mailed and published; and

WHEREAS, the Board held a duly noticed public hearing on August 1, 2023, and after considering the public comments, testimony, and staff report, the Board is now ready to take action.

NOW, THEREFORE, the Board of County Commissioners of Lane County **ORDAINS** as follows:

1. Lane Code 16.290 is amended according to **Exhibit A**, attached hereto and incorporated herein by reference.

2. The Findings of Fact, attached as **Exhibit B** and incorporated herein by reference, and the above recitals are adopted in support of this amendment.
3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion constitutes a separate, distinct and independent provision, and such holding does not affect the validity of the remaining portions hereof.
4. Nothing herein is intended to, nor acts to amend, replace, or otherwise conflict with any other ordinances of Lane County or any other Code or statutory provisions unless expressly so stated.
5. Ordinances, Lane Code sections, and regulations amended by this Ordinance remain in force to authorize a punishment, penalty or forfeiture incurred, or a suit, prosecution, or proceeding pending when the amendment takes effect, for an offense or violation committed under the amended Ordinance, code section, or regulation prior to the effective date of this Ordinance.
6. An emergency is hereby declared to exist and this Ordinance, being enacted by the Board in exercise of its police power for the purpose of meeting such emergency and for the immediate preservation of the public peace, health and safety, takes effect upon execution by the Chair of the Board of Commissioners.

ENACTED this ____ day of _____ 2023.

Pat Farr, Chair
Lane County Board of Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date _____ Lane County

OFFICE OF LEGAL COUNSEL

**RURAL RESIDENTIAL ZONE (RR) RURAL
COMPREHENSIVE PLAN****16.290 Residential Zone (RR).**

(1) Purpose. The purposes of the Rural Residential Zone (RR) are:

(a) To implement the policies of the Lane County Rural Comprehensive Plan (RCP) pertaining to developed and committed lands. LC 16.290 does not apply to lands designated by the RCP as non-resource lands;

(b) To promote a compatible and safe rural residential living environment by limiting allowed uses and development to primary and accessory rural residential uses and to other rural uses compatible with rural residential uses and the uses of nearby lands;

(c) To provide protective measures for riparian vegetation along Class I streams designated as significant in the RCP; and

(d) To provide that LC 16.290 shall not be retroactive and that the Director shall not have authority to initiate compliance with LC 16.290 for uses and development lawfully existing (per LC Chapter 16) on the effective date that LC 16.290 was applied to the subject property.

(2) Permitted Uses. The following uses and activities are allowed subject to the general provisions and exceptions specified by this chapter of Lane Code:

(a) The placement, alteration, and maintenance of not more than one permanent single-family dwelling or manufactured dwelling on a lot or parcel of any size.

(b) When there are two or more lawfully (not in violation of LC Chapter 16) existing dwellings or manufactured dwellings on a lot or parcel, then the alteration, restoration, or replacement of these dwellings or manufactured dwellings shall be allowed subject to compliance with these requirements:

(i) The property owner shall submit to the Director building permit records from the Lane County Land Management Division indicating that the existing dwellings or manufactured dwellings were lawfully constructed or placed on the subject property pursuant to a building permit and the required building inspection approvals; or

(ii) The property owner shall submit to the Director a verification of replacement rights application containing records from the Lane County Assessment and Taxation Office indicating that the dwelling or manufactured dwelling has existed on the property and has been taxed on a continuous annual basis from a date that predates zoning that would restrict or regulate the establishment of a dwelling on the subject property. The Director shall determine when restrictive zoning was enacted based upon the official zoning records on file with the Department.

(iii) Replacement dwellings or manufactured dwellings shall be located on the same foundation footprint as the removed or destroyed dwelling or manufactured dwelling, or shall be located in compliance with LC 16.290(7)(a) through (d) below.

(iv) In the case of replacement, the dwelling or manufactured dwelling to be replaced shall be removed, demolished, or converted to an allowable use within three months of the completion of the replacement dwelling.

(c) Not more than one duplex on a lot or parcel that:

(i) Is located within the boundaries of an area designated by the Rural Comprehensive Plan as an unincorporated community;

(ii) Does not have a dwelling, manufactured dwelling or duplex on it; and

(iii) Contains at least the minimum area required by LC 16.290(6)(b) below.

(d) Not more than one manufactured home or recreational vehicle on a lot or parcel, in addition to an existing dwelling, manufactured home or duplex allowed by LC 16.290(2)(a) through (c) above, as a temporary use for the term of a medical hardship suffered by a resident of the existing dwelling, manufactured home or duplex, or a relative of the resident, subject to compliance with these requirements:

(i) The property owner or authorized representative of the property owner shall submit to the Director an application on the form provided by the Director.

(ii) A resident of the existing dwelling, manufactured home or duplex has a medical hardship and needs care for daily living from a resident of the temporary manufactured home or recreational vehicle; or

(iii) A resident of the temporary manufactured home or recreational vehicle is a relative of a resident of the existing dwelling, manufactured home or duplex, has a medical hardship and needs care for daily living which will be provided by a relative living in the existing dwelling, manufactured dwelling or duplex. 'Relative' means grandparent, step grandparent, grandchild, parent, stepparent, child, brother, sister, step sibling, aunt, uncle, niece or nephew or first cousin of a resident of the existing dwelling, manufactured dwelling or duplex.

(iv) Evidence of the medical hardship and a description of the family relationship and assistance with the daily living that will be provided shall be furnished and shall consist of:

(aa) A written statement from a medical physician disclosing the existence of and need for the medical hardship;

(bb) Any family relationship between the person with the hardship and the person who will provide care; and

(cc) The general nature of the care that will be provided.

(v) The temporary manufactured home or recreational vehicle shall be located on the same lot or parcel as the existing dwelling, manufactured home or duplex.

(vi) The temporary manufactured home or recreational vehicle shall be connected to the same on-site sewage disposal system serving the existing dwelling, manufactured home or duplex. If that sewage disposal system is not adequate for the connection, as determined by the Lane County Sanitarian, to accommodate the addition of the temporary dwelling, then that sewage disposal system shall be improved to meet the Oregon Department of Environmental Quality (DEQ) requirements in order to accommodate the addition of the temporary dwelling. A separate on-site sewage disposal system meeting DEQ requirements for the temporary manufactured home or recreational vehicle may be used, when in the opinion of the Lane County Sanitarian, connecting the temporary dwelling to the existing sewage disposal system would be impracticable because of the physical conditions of the subject property. The use of the separate sewage disposal system by the temporary dwelling shall be discontinued when the hardship ceases and shall not be used for other purposes unless in compliance with LC Chapter 16.

(vii) The temporary manufactured home or recreational vehicle shall comply with applicable Oregon Department of Environmental Quality review and removal requirements.

(viii) The temporary manufactured home or recreational vehicle shall not be allowed if there is an accessory living structure, as defined by LC 16.290(2)(t)(i) through (vi) below, on the same lot or parcel.

(ix) Except as provided in LC 16.290(2)(d)(x) below, approval of a temporary manufactured home or recreational vehicle permit shall be valid until December 31 of the year following the year of original permit approval and may be renewed once every two years until the hardship situation ceases or unless in the opinion of the Lane County Sanitarian the on-site sewage disposal system no longer meets DEQ requirements.

(x) Within 90 days of the expiration date of the temporary hardship permit, the end of the hardship, or the care provider no longer residing in the temporary manufactured home or recreational vehicle, the manufactured home or recreational vehicle shall be removed from the property, converted to an allowable nonresidential use or demolished.

(e) Not more than one bed and breakfast accommodation on a lot or parcel and in a dwelling, manufactured dwelling or duplex allowed by LC 16.290(2)(a) through (c) above. A bed and breakfast accommodation shall have no more than five sleeping rooms provided on a daily or weekly period, not to exceed 29 consecutive days, for the use of travelers or transients for a charge or fee. Provision of a morning meal is customary as implied by title.

(f) Not more than one residential home on a lot or parcel and in a dwelling, manufactured dwelling or duplex allowed by LC 16.290(2)(a) through (c) above. "Residential home" means a residential treatment or training or an adult foster home licensed by or under the authority of the Department of Human

Resources (DHR) under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 which provides residential care alone or in conjunction with treatment or training, or a combination thereof, for five or fewer individuals who need not be related. Staff persons required to meet DHR licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the home.

(g) Not more than one child care facility (for a maximum of ten children younger than 13 years of age) that is registered with the State Child Care Division in compliance with ORS 657A.330, or not more than one group child care home (for seven or more children and not more than twelve children) that is certified by the State Child Care Division in compliance with ORS 657A.280, on a lot or parcel and in a dwelling, manufactured dwelling or duplex allowed by LC 16.290(2)(a) through (c) above.

(h) A minor home occupation and/or a home office that comply with these conditions:

(i) No more than five persons shall work in the minor home occupation and/or home office, including the operator. With the following exception, these persons shall reside on the lot or parcel where the minor home occupation and/or home office are located: one of these persons may reside off the lot or parcel where the minor home occupation and/or home office are located.

(ii) The minor home occupation and/or home office shall be conducted substantially in the dwelling or in an attached or detached structure and shall not exceed 1,000 square feet in floor area. "Operated substantially in" means indoors except for accessory minor home occupation uses that are normally located outdoors such as: roads or driveways for ingress and egress; areas for loading or unloading business vehicles; parking for vehicles operated as part of the home occupation; screened storage areas and maintenance of minor home occupation vehicles.

(iii) Customers, not including business or delivery vehicles, shall not come for the conduct of business to the property where the minor home occupation and/or home office are located.

(iv) No more than two trips per day shall be made by one or any combination of business delivery vehicles coming to the subject property in conjunction with the minor home occupation and/or home office. This does not include US Postal Service delivery vehicles.

(v) The operation of sound producing tools, machinery and devices shall comply with LC 6.225 PROHIBITED NOISE, and shall comply with this more restrictive requirement. The operation of sound producing tools, machinery and devices as part of the minor home occupation, other than the vehicles of the owner, shall not produce "Plainly Audible Sound," as defined by LC 6.225.005, from any boundary of the subject property before 7:30 A.M. or after 5:30 P.M. on Monday through Friday, or before 11 A.M. or after 1 P.M. on Saturday through Sunday.

(vi) The operation of the minor home occupation shall comply with LC 9.570 NUISANCE, and shall comply with this more restrictive requirement. Odors from the home occupation shall not be plainly detectable from any boundary of the subject property before 7:30 A.M. or after 5:30 P.M. on Monday through Friday or before 11 A.M. or after 1 P.M. on Saturday through Sunday.

(vii) Advertising signs for the minor home occupation and/or home office shall not be displayed on the subject property or structures on the subject property.

(viii) Outdoor parking of vehicles used with the minor home occupation and/or home office shall not exceed a maximum of two motorized vehicles and two non-motorized vehicles such as trailers or flatbeds. The operation of these vehicles on the minor home occupation and/or home office property shall be limited to persons who qualify as workers of the minor home occupation and/or home office under LC 16.290(2)(h)(i) above and shall not involve more than three trips per day from and to the minor home occupation and/or home office property.

(ix) Use of buildings or structures for the minor home occupation shall not involve the manufacturing, processing, generation or storage of materials that constitute a high fire, explosion or health hazard as defined by Section 307 of the Oregon Structural Specialty Code.

(x) The Building Official shall determine if a building plan review application is necessary and shall issue a report with the determination. Any required building permits and certificates of occupancy shall be obtained by the operator prior to operation of the minor home occupation.

(i) Raising and harvesting crops or the feeding, breeding and management of livestock, poultry or fur bearing animals, including structures for these uses. Animals and bees shall not exceed the following numbers per each acre of the subject RR zoned property:

(i) One horse, cow or swine per acre not including offspring younger than 6 months old from one of the female animals being counted; or

(ii) One goat, sheep, llama or alpaca per half acre not including offspring younger than 6 months old from one of the female animals being counted. The number of llamas or alpacas per acre may be increased to 4 llamas or alpacas per acre for every acre in the lot or parcel above 2 acres; or

(iii) 85 chickens, other fowl or rabbits per acre.

(iv) The number of colonies of bees allowed on a property shall be limited to one colony for each 10,000 square feet of lot area and shall be located no closer than 50 feet from any property line.

(j) No more than eight dogs over six months in age on any tract subject to compliance with the following conditions:

(i) No more than two dogs shall be used for breeding.

(ii) The tract where the dogs are located shall not be used as a place of business where dogs are boarded, or where dogs are bred or sold, or where dogs receive medical care.

(k) Fish and wildlife habitat management.

(l) Forest uses, including the propagation and harvesting of forest products grown on the property or a primary processing facility. The "primary processing of a forest product" means the use of a portable chipper, stud mill or other similar equipment for the initial treatment of a forest product, to facilitate its shipment for further processing or its use on the subject property. "Forest products" means timber and other resources grown upon the land or contiguous units of RR zoned land where the primary processing facility is located.

(m) Roadside stand for the sale of any agricultural produce where more than one half of the gross receipts result from the sale of produce grown on the tract where the roadside stand is located.

(n) Public and semipublic buildings, structures and uses rendering direct service to the public in local areas, such as fire stations, utility substations, pump stations and wells.

(o) Maintenance, repair, or replacement of lawfully (per LC Chapter 16) existing uses and development not authorized elsewhere by LC 16.290.

(p) The outdoor operation of motorized vehicles, motorized recreational devices or the discharging of firearms when performed primarily by persons who reside in the dwelling, or relatives of the persons who reside in the dwelling, and located on the tract where the uses occur. 'Relative' means grandparent, grandchild, parent, child, brother, sister, aunt, uncle, niece or nephew. These outdoor recreational uses shall comply with LC 6.225 PROHIBITED NOISE for prohibited noise.

(q) Transportation facilities and uses as specified in LC 16.265(3)(a) through (m).

(r) The conversion of a lawfully existing dwelling to an accessory residential guesthouse that complies with these requirements:

(i) The dwelling for the conversion shall be a lawful dwelling existing on the date of the adoption of this requirement;

(ii) The kitchen sink and cooking facilities shall be removed from the existing dwelling and not replaced. When the kitchen sink is removed, the plumbing shall be capped-off at the wall, and the kitchen sink shall not be replaced. When the cooking facilities are removed, the power source shall be removed. Any 220 circuits used for the cooking facilities shall be disconnected at the circuit box and approval of any required electrical permits for the disconnection shall be obtained, and the electrical circuit and cooking facilities shall not be replaced. Except for a bathroom and/or a laundry sink, a sink or cooking facilities shall not be located elsewhere in the guest house structure;

(iii) The address shall be removed from the guesthouse and not replaced;

(iv) The property owner shall record a covenant with the Lane County Clerk disclosing that a kitchen sink or cooking facilities cannot be placed in the guest house and that it is an

accessory residential use that cannot be separated from the remainder of the parcel that contains the dwelling; and

(s) Rock, sand, gravel or loam excavation or extraction if the materials excavated or extracted are used solely on the subject property and are not offered for sale or remuneration

(t) Residential Accessory Structures and Uses. Uses and development that are accessory to uses and development allowed by LC 16.290(2) above or (3) through (4) below such as, but not limited to: outdoor recreation, garages, storerooms and utility spaces, sheds, playhouses, greenhouses, hobby shop, and animal or pet shelters

(u) Guest House or Accessory Residential Structure. A structure that contains area for residential use or occupancy, that includes a toilet or bathroom, and that complies with these requirements:

(i) The total floor area of the structure is no more than 850 square feet;

(ii) The structure does not contain a kitchen.

(iii) The structure is located on a lot or parcel that has a lawfully existing dwelling or duplex on it and that does not have two or more permanent dwellings, a guest house or another accessory residential structure on it;

(iv) Sewage disposal for the structure is connected to the same onsite sewage disposal system, or community or public sewer connection, and the same electrical meter as the existing dwelling on the same lot or parcel; and

(v) The structure shall not have an address.

(v) Not more than one (1) accessory dwelling unit on a lot or parcel, consisting of at least 2 acres and meeting the standards of LC 16.290(8). The provisions of LC 16.290(2)(u) above do not apply to accessory dwelling units, as allowed by this subsection and LC 16.290(8).

(3) Home Occupation. A home occupation is allowed subject to: prior submittal and approval of a land use application pursuant to Type II procedures of LC Chapter 14; and compliance of the home occupation with the requirements of LC 16.290(3)(b) through (f) below and where applicable elsewhere in LC Chapter 16.

(a) The purposes of LC 16.290(3) are:

(i) To provide rural property owners with opportunities to work at home and to operate home occupation on their Rural Residential zoned land;

(ii) To assure that the operation of home occupation will be compatible with nearby uses;

(iii) To recognize the uniqueness of each home occupation including its nature and scope, the characteristics of the development site and nearby property, and the impacts that it may have on the development site and nearby properties; and

(iv) To comply with Statewide Planning Goal 14 by requiring more intensive commercial and industrial uses to locate in areas appropriately planned and zoned for these uses.

(b) It shall be operated by a resident of the subject property.

(c) It shall employ or contract on the subject property no more than five full or part-time persons. The operator shall be considered as one of the five employees.

(d) It shall be operated substantially in the dwelling or other buildings normally associated with uses allowed by LC 16.290(2) above. Any structure that would not otherwise be allowed by LC 16.290(2) above shall not be allowed for use as a home occupation. LC 16.290(3)(d) above shall be implemented, in part, through compliance with these requirements:

(i) "Operated substantially in" means indoors except accessory home occupation uses that are normally located outdoors such as: advertising signs for the home occupation; roads or driveways for ingress and egress; areas for loading or unloading business vehicles; customer or employee parking spaces; parking for vehicles operated as part of the home occupation; screened storage areas; and outdoor accessory uses similar to the above as determined by the Approval Authority.

(ii) To determine if a structure is one that would not otherwise be permitted by LC 16.290(2) above, the external and internal structure shall be examined. If a home occupation requires a

special structure within which to operate that is not useable, without significant alteration, for other uses allowed by LC 16.290(2), then the home occupation shall not be allowed.

(iii) The amount of building floor area of home occupation shall not exceed:

(aa) 3,000 square feet for any parcel or lot located outside an unincorporated community; or

(bb) 4,000 square feet for any parcel or lot located inside an unincorporated community.

(e) It shall not interfere with existing uses permitted by LC Chapter 16 on nearby land or with other uses allowed by LC 16.290(2) above on nearby parcels without residences. Compliance with LC 16.290(3)(e) above shall include, but shall not necessarily be limited to, addressing the compatibility of these home occupation operation concerns:

(i) The number of business, service and customer vehicles and the adequacy of roads, driveways and parking for these vehicles;

(ii) Buffering or screening of outdoor storage allowed under LC 16.290(3)(d)(i) above;

(iii) Fire safety;

(iv) The hours of operation;

(v) Any noise or odors;

(vi) Outdoor lighting; and

(vii) Appropriate handling of chemicals or substances that may be dangerous or harmful to the environment.

(f) Approval of applications for home occupations are valid until December 31 of the year following the year that the application was initially approved. Prior to the expiration of the December 31 approval date, the property owner or applicant who received the approval shall provide the Director with written request for renewal of approval for the home occupation and written information. The Director shall determine if the home occupation has been operated in compliance with the conditions of approval. Home occupations that continue to be operated in compliance with the conditions of approval will receive a two-year extension of the approval. Home occupations for which a request for renewal of approval has not been received or which do not comply with the conditions of approval shall not be renewed by the Director. The Director shall provide the applicant with written notice of a decision to not renew the approval in accordance with Type II notice of decision procedures of LC Chapter 14. The applicant may appeal the Director's decision to the Hearings Official in accordance with LC 14.080.

(4) Uses and Development Subject to Approval by the Director. The uses and developments in LC 16.290(4)(a) through (s) and (u) below are allowed subject to: prior submittal and approval of a land use application pursuant to Type II procedures of LC Chapter 14; and compliance with the applicable requirements of LC 16.290(5) below and elsewhere in LC Chapter 16.

(a) Feeding, breeding and management of livestock, poultry, or fur bearing animals in excess of the standards in LC 16.290(2)(i) above.

(b) Not more than one group care home on a lot or parcel and in a dwelling, manufactured dwelling or duplex allowed by LC 16.290(2)(a) through (c) above. A "group care home" is any home or institution maintained and operated for the care, boarding, housing or training of six or more physically, mentally or socially handicapped persons or delinquent or dependent persons by any person who is not the parent or guardian of and who is not related by blood, marriage or legal adoption to such persons. The occupancy of the dwelling for a group care home shall comply with the requirements of the building code as defined in ORS 455.010(8) and administered in ORS 455.150 and .153.

(c) Not more than one nursing home on a lot or parcel and in a dwelling, manufactured dwelling or duplex allowed by LC 16.290(2)(a) through (c) above. A "nursing home" is any home, place or institution which operates and maintains facilities providing convalescent or chronic care, or both, which exceeds that permitted for a residential home by LC 16.290(2)(f) above. The occupancy of the dwelling for a nursing home shall comply with the requirements of the building code as defined in ORS 455.010(8) and administered in ORS 455.150 and .153.

(d) Telecommunication facilities, including towers, antennas, and ancillary facilities as allowed pursuant to LC 16.264.

(e) Radio and television transmission facilities.

(f) Dams, water storage facilities; power generation or transmission facilities; electric transmission lines which require a right-of-way of 25 feet in width or wider; canals, flumes and pipelines; flood control facilities and irrigation projects.

(g) An onsite sewage disposal system for a non-residential use on a nearby property in a rural zone.

(h) A replacement of a lawfully existing (per LC Chapter 16) dwelling, manufactured dwelling or duplex that relies on evidence of its lawfully existing nature other than required by LC 16.290(2)(b) above, or a replacement dwelling, manufactured dwelling or duplex that shall comply with the following requirements:

(i) The dwelling, manufactured dwelling or duplex was removed or destroyed within 12 months of the date that the Director received the special use permit application for its replacement;

(ii) Prior to the removal of the dwelling, manufactured dwelling or duplex, it was a lawfully existing dwelling, manufactured dwelling or duplex; and

(iii) The replacement dwelling, manufactured dwelling or duplex shall be located on the same foundation footprint as the removed or destroyed dwelling, manufactured dwelling or duplex or shall be located in compliance with LC 16.290(7) below.

(i) Animal hospitals. An "animal hospital" is a place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to hospital use. The square foot floor area of an animal hospital shall not exceed 4,000 square feet for any parcel located in an unincorporated community or 3,000 square feet for any parcel located outside of an unincorporated community.

(j) Commercial breeding kennel or commercial kennel. A "commercial breeding kennel" is a place of business for the breeding and/or selling of dogs. A "commercial kennel" is a place of business where dogs are boarded. No more than two dogs shall be used for breeding. These terms are not intended to include an animal hospital or a noncommercial kennel.

(k) Campgrounds and camping vehicle parks. A "campground" is an area designed for short-term recreational purposes and where facilities, except commercial activities such as grocery stores and laundromats, are provided to accommodate that use. Space for tents, campers, recreational vehicles and motor homes are allowed and permanent open-air shelters (Adirondacks) may be provided on the site by the owner of the development. A "camping vehicle park" is a development designed primarily for transient service on which travel trailers, pickup campers, tent trailers and self-propelled motorized vehicles are parked and used for the purpose of supplying to the public a temporary location while traveling, vacationing or recreating. Campgrounds and camping vehicle parks:

(i) Shall be located at least:

(aa) 10 miles from the urban growth boundary of any city adjacent to Interstate Highway 5, or

(bb) 3 miles from any other urban growth boundary unless they are contiguous to or located on lands with an accessible park or other outdoor amenity; and

(ii) Shall not allow overnight temporary use in the same campground by a camper or camper's vehicle exceeding a total of 30 days during any consecutive 6 month period; and

(iii) Shall not exceed the carrying capacity of the soil or existing water supply resources or result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.

(l) Cemeteries. A "cemetery" is land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums and mausoleums when operated in conjunction with and within the boundary of such cemetery but not including crematoriums or mortuaries,

(m) Churches. A "church" is a building, together with its accessory buildings and uses, where persons regularly assemble for worship, and which building, together with its accessory buildings

and uses, is maintained and controlled by a religious body organized to sustain public worship. A church does not include a school.

- (n) Golf courses.
- (o) Lodges and grange halls that:
 - (i) are owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural area; or
 - (ii) do not contain more than 4,000 square feet if located in an unincorporated community or not more than 3,000 square feet if located outside an unincorporated community.
- (p) Parks, playgrounds, community centers.
- (q) Public and private schools. A "school" is a place or institution for learning and teaching in which regularly scheduled and suitable instruction meeting the standards of the Oregon State Board of education is provided.
- (r) Storage facilities for boats and recreational vehicles.
- (s) Uses and development similar to uses and development allowed by LC16.290(2) or (4) above if found by the Planning Director to be clearly similar to the uses and development allowed by LC 16.290(2) through (4) above. Such a finding shall be made by the Director and shall comply with the following criteria:

- (i) The proposed use and development shall be consistent with the purpose in LC 16.290(1).
- (ii) When compared with the uses and development permitted by LC 16.290(2) or (4) above, the proposed use and development is similar to one or more of these uses and development. A comparison shall include an analysis of the:
 - (aa) Goods or services traded from the site;
 - (bb) Bulk, size, and operating characteristics of the proposed use;
 - (cc) Parking demand, customer types and traffic generation; and
 - (dd) Intensity of land use of the site.
- (iii) The proposed use and development shall not exceed the carrying capacity of the soil or of the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available.
- (iv) The proposed use and development shall not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.
- (v) It shall be the applicant's responsibility to provide sufficient information to allow the Director to make the above determination.
- (t) Transportation facilities and uses as specified in LC 16.265(3)(n) through (q).
- (u) Stables, riding academies or commercial riding.

(5) Approval Criteria. Uses and development in LC 16.290(4)(a) through (s) and (u) above, except for telecommunication facilities allowed in LC 16.290(4)(d) above, shall comply with the requirements in LC 16.290(5) below. Telecommunications facilities allowed by LC 16.290(4)(d) above shall comply with the requirements in LC 16.264.

- (a) Shall not create significant adverse impacts on existing uses on adjacent and nearby lands or on uses permitted by the zoning of adjacent or nearby undeveloped lands;
- (b) Where necessary, measures are taken to minimize potential negative impacts on adjacent and nearby lands;
- (c) The proposed use and development shall not exceed the carrying capacity of the soil or of the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available; and

(d) The proposed use and development shall not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.

(6) Area. The creation of new lots and parcels shall comply with LC Chapter 13 and with the following requirements:

(a) For RR zoned areas that are located inside developed and committed areas and outside the boundaries of areas designated by the RCP as unincorporated communities, the minimum area requirement for the creation of lots or parcels for residential purposes shall be 2, 5 or 10 acres as indicated by the Lane County Zoning Maps; provided, however, that the minimum area requirement for the creation of lots or parcels for residential purposes on land zoned RR-1 shall be two acres as long as required by LCDC rules. An exception to this area requirement may be made pursuant to LC 16.290(6)(c) below.

(b) For RR zoned areas that are located inside the boundaries of areas designated by the RCP as unincorporated communities, the minimum area requirement for the creation of lots or parcels for residential purposes shall be 1, 2, 5 acres, or one acre additions to these acre minimums as required by the Lane County Zoning Maps. An exception to this area requirement may be pursuant to LC 16.290(6)(c) below.

(c) The creation of new parcels smaller than the minimum area required by LC 16.290(6)(a) and (b) above may be allowed if all of these conditions exist:

(i) The parcel to be divided contains less than the minimum area needed by LC 16.290(6)(a) or (b) above to divide it and, after October 4, 2000, was not reduced in area by a boundary line adjustment to below the area needed to divide it;

(ii) The parcel to be divided has two or more lawful (not in violation of LC Chapter 16) and permanent habitable dwellings or manufactured dwellings or duplexes on it;

(iii) The permanent habitable dwellings, manufactured dwellings on the parcel were established before October 4, 2000;

(iv) Each new parcel created by the partition would have at least one of those permanent habitable dwellings or manufactured dwellings on it;

(v) The partition would not create any vacant parcels where a new dwelling or manufactured dwelling could be established; and

(vi) "Habitable dwelling" means a dwelling, that:

(aa) Has intact exterior walls and roof structure;

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

(cc) Has interior wiring for interior lights; and

(dd) Has a heating system.

(7) Property Development Standards. All uses or development permitted by LC 16.290(2) through (4) above, except as may be provided therein, shall comply with the following development standards:

(a) Property Line Setbacks. Structures other than a fence or sign shall be located:

(i) At least 20 feet from the right-of-way of a State road, County road or a local access public road specified in LC Chapter 15;

(ii) At least 10 feet from all other property lines; and

(ii) Notwithstanding LC 16.290(7)(a)(ii) above, a structure that contains less than 120 square feet of floor area and that is located more than 10 feet from other structures may be located in the 10 foot setback otherwise required by LC 16.290(7)(a)(ii) above provided it complies with LC 16.290(7)(d) below.

(b) The setback for property lines other than front-yard shall be five feet, except as provided below, for any lot or parcel containing less than 1 acre and created prior to March 30, 1984.

(c) For mobile homes to be located in lawfully existing mobile home parks, the setbacks from a projected or existing right-of-way of a County or local-access public road shall be the same as required above, and lesser setbacks from all other mobile home lot lines are permitted if in compliance with Oregon Administrative Rules, Chapters 918-600 =.

(d) **Riparian Setback Area.** Except for property located between the Eugene-Springfield Metropolitan Area General Plan Boundary and the Eugene and Springfield Urban Growth Boundaries, where setbacks are provided for in LC 16.253(6), the riparian setback area shall be the area between a line 50 feet above and parallel to the ordinary high water of a Class I stream designated for riparian vegetation protection in the Rural Comprehensive Plan. No structure other than a fence shall be located closer than 50 feet from the ordinary high water of a Class I stream designated for riparian vegetation protection by the Rural Comprehensive Plan. A modification to the riparian setback standard for a structure may be allowed provided the requirements of LC 16.253(3) or LC 16.253(6), as applicable, are met.

(e) **Maintenance, Removal and Replacement of Indigenous Vegetation within the Riparian Setback Area.** Maintenance, removal and replacement of indigenous vegetation within the riparian setback area designated for riparian vegetation protection by the comprehensive plan must comply with the provisions of LC 16.253(2) or LC 16.253(6), as applicable.

(f) **Height.** None.

(g) **Signs.**

(i) Signs shall not extend over a public right-of-way or project beyond the property line.

(ii) Signs shall not be illuminated or capable of movement

(iii) Signs shall be limited to 200 square feet in area.

(h) **Parking.** Off street parking shall be provided in accordance with LC 16.250.

(8) **Rural Accessory Dwelling Units.**

(a) **Purpose.** The provisions of this section are intended to implement state law authorizing the development of accessory dwelling units (ADUs) to provide additional housing opportunities on rural lands and to encourage the preservation of historic housing stock.

(b) **Definitions.** For the purposes of LC 16.290(8), unless otherwise specifically provided, certain words, terms, and phrases are defined as follows:

(i) “Accessory dwelling unit” (ADU) means a residential structure that is used in connection with or that is auxiliary to a single-family dwelling.

(ii) “Area zoned for rural residential use” means lands that are zoned Rural Residential (RR, RCP), not located inside an urban growth boundary as defined in ORS 195.060, and that are subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland and planned and zoned by the county to allow residential use as a primary use.

(iii) “Historic home” means a single-family dwelling constructed between 1850 and 1945.

(iv) “New” means that the dwelling being constructed did not previously exist in residential or nonresidential form. “New” does not include the acquisition, alteration, renovation or remodeling of an existing structure.

(v) “Single-family dwelling” means a residential structure designated as a residence for one family and sharing no common wall with another residence of any type.

(vi) “Usable floor area” means the area included within the surrounding insulated exterior walls of a structure, exclusive of attached garages, carports, decks, stairs, porch covers, or similar appurtenances.

(vii) “Vacation occupancy” means occupancy in a dwelling unit, not including transient occupancy in a hotel or motel, that has all of the following characteristics:

(aa) The occupant rents the unit for vacation purposes only, not as a principal residence;

(bb) The occupant has a principal residence other than at the unit; and

(cc) The period of authorized occupancy does not exceed 45 days.

(c) **Criteria for ADUs.** A lot or parcel may qualify for one (1) ADU pursuant to the criteria under either subsection (xi) or (xii) below and provided:

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

(ii) At least one single-family dwelling is sited on the lot or parcel;

(iii) The lot or parcel is not located within an urban reserve area, consistent with ORS 195.137;

(iv) The ADU complies with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment; and,

(v) The ADU must comply with the property development standards of LC 16.290(7).

(vi) 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 ADU may not be approved.

(vii) Only one ADU as defined by LC 16.290(8)(b)(i) and allowed by LC 16.290(2)(v) is allowed on a qualifying lot or parcel.

(viii) ADUs may be allowed subject to submittal of a Type I application pursuant to the procedures of LC Chapter 14.

(ix) The provisions of LC 16.290(8) do not apply to guest houses or accessory residential structures, as allowed by LC 16.290(2)(u).

(x) ADUs located on lots or parcels within the boundaries of an area designated by the Rural Comprehensive Plan as being an unincorporated community must have an adequate supply of water. If the lot or parcel is served by an individual water supply system, the system must meet the standards of Lane Manual 9.005.160, or if served by a public or community water system, the applicant must submit evidence that the service agency is mutually bound and able to serve the development.

(xi) An ADU in the rural residential zone is allowed subject to LC 16.290(8)(c)(i) through (x) and must meet all of the following standards.

(aa) The ADU will be located no farther than 100 feet from the existing single-family dwelling, measured from a wall of the single-family dwelling to the nearest part of the usable floor area of the ADU.

(bb) The ADU will not include more than 900 square feet of usable floor area as defined by LC 16.290(8)(b)(vi).

(cc) The existing single-family dwelling 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.

(dd) The lot or parcel on which the ADU is located is served by a fire protection district that complies with ORS 181A.410.

(ee) The applicant provides written certification from the applicable fire district, on a form prepared by Lane County, that access to the property meets minimum fire district requirements to provide emergency services to the property.

(ff) The applicant provides an evacuation plan that arranges for safe evacuation and identifies staged evacuation areas. As used in this section, "safe evacuation" means an identified route for evacuation from the ADU to the staged evacuation area. "Staged evacuation area" means a public or private location that occupants of the ADU may evacuate to.

(A) The applicant must provide written authorization from the owner of the staged evacuation area that the occupants of the ADU may evacuate to that location.

(B) A determination by the County that an evacuation plan meets the requirements of LC 16.290(8)(c)(xi)(ff) above is not a certification that the plan provides for safe evacuation and is not a certification of the safety of the identified staged evacuation areas. The County does not warrant or guarantee the effectiveness of any proposed evacuation plan and cannot be held liable in the event of property damage, injury, or death that may occur when an evacuation plan is used or followed.

(gg) No portion of the lot or parcel is within a designated area of critical state concern as defined in Oregon Administrative Rule 660-043.

(hh) If the water supply source for the ADU or associated lands or 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.

(ii) The applicant signs and records a restrictive covenant with Lane County Deeds and Records stating that the ADU allowed under this section will not be used for vacation occupancy, as defined by LC 16.290(8)(b)(vii).

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

(kk) The accessory dwelling unit complies with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:

(A) The lot or parcel is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or

(B) No statewide map of wildfire risk has been adopted.

(ll) If the lot or parcel is in an area identified on the statewide map of wildfire risk described in ORS 477.490 as within the wildland urban interface, the lot or parcel and ADU must comply with the defensible space requirements for wildfire risk reduction established by the State Fire Marshal under ORS 476.392 and any applicable local requirements for defensible space established by the local government pursuant to ORS 476.392.

(xii) Conversion of a historic home to an ADU in the rural residential zone is allowed subject to LC 16.290(8)(c)(i) through (x) and provided:

(aa) The owner of a lot or parcel within an area zoned for rural residential use constructs a new single-family dwelling;

(bb) A historic home, as defined by LC 16.290(8)(b)(iii), is sited on the lot or parcel;

(cc) The owner converts the historic home to an ADU upon completion of the new single-family dwelling; and,

(dd) ADUs established pursuant to LC 16.290(8)(c)(xii) may not be:

(A) Altered, renovated, or remodeled so that the usable floor area of the ADU is more than 120 percent of the historic home's usable floor area at the time construction of the new single-family dwelling commenced.

(B) Rebuilt if the structure is deemed a dangerous building due to fire, pursuant to the Uniform Code for the Abatement of Dangerous Buildings, which defines "dangerous building" as "Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location." The applicant must sign and record with Lane County Deeds and Records a restrictive covenant stating that an ADU allowed under this section cannot be rebuilt if deemed a dangerous building as described in this section. *(Revised by Ordinance No. 6-02, Effective 5.16.02; 10-04, 6.4.04; 5-04, 7.1.04; 6-10, 9.18.10; 7-12, 12.28.12; 14-09, 12.16.14; 15-03, 04.17.15; 20-05, 6.16.20)*

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RURAL RESIDENTIAL ZONE (RR) RURAL COMPREHENSIVE PLAN

16.290 Residential Zone (RR).

- (1) Purpose. The purposes of the Rural Residential Zone (RR) are:
 - (a) To implement the policies of the Lane County Rural Comprehensive Plan (RCP) pertaining to developed and committed lands. LC 16.290 does not apply to lands designated by the RCP as non-resource lands;
 - (b) To promote a compatible and safe rural residential living environment by limiting allowed uses and development to primary and accessory rural residential uses and to other rural uses compatible with rural residential uses and the uses of nearby lands;
 - (c) To provide protective measures for riparian vegetation along Class I streams designated as significant in the RCP; and
 - (d) To provide that LC 16.290 shall not be retroactive and that the Director shall not have authority to initiate compliance with LC 16.290 for uses and development lawfully existing (per LC Chapter 16) on the effective date that LC 16.290 was applied to the subject property.
- (2) Permitted Uses. The following uses and activities are allowed subject to the general provisions and exceptions specified by this chapter of Lane Code:
 - (a) The placement, alteration, and maintenance of not more than one permanent single-family dwelling or manufactured dwelling on a lot or parcel of any size.
 - (b) When there are two or more lawfully (not in violation of LC Chapter 16) existing dwellings or manufactured dwellings on a lot or parcel, then the alteration, restoration, or replacement of these dwellings or manufactured dwellings shall be allowed subject to compliance with these requirements:
 - (i) The property owner shall submit to the Director building permit records from the Lane County Land Management Division indicating that the existing dwellings or manufactured dwellings were lawfully constructed or placed on the subject property pursuant to a building permit and the required building inspection approvals; or
 - (ii) The property owner shall submit to the Director a verification of replacement rights application containing records from the Lane County Assessment and Taxation Office indicating that the dwelling or manufactured dwelling has existed on the property and has been taxed on a continuous annual basis from a date that predates zoning that would restrict or regulate the establishment of a dwelling on the subject property. The Director shall determine when restrictive zoning was enacted based upon the official zoning records on file with the Department.
 - (iii) Replacement dwellings or manufactured dwellings shall be located on the same foundation footprint as the removed or destroyed dwelling or manufactured dwelling, or shall be located in compliance with LC 16.290(7)(a) through (d) below.
 - (iv) In the case of replacement, the dwelling or manufactured dwelling to be replaced shall be removed, demolished, or converted to an allowable use within three months of the completion of the replacement dwelling.
 - (c) Not more than one duplex on a lot or parcel that:
 - (i) Is located within the boundaries of an area designated by the Rural Comprehensive Plan as an unincorporated community;
 - (ii) Does not have a dwelling, manufactured dwelling or duplex on it; and
 - (iii) Contains at least the minimum area required by LC 16.290(6)(b) below.
 - (d) Not more than one manufactured home or recreational vehicle on a lot or parcel, in addition to an existing dwelling, manufactured home or duplex allowed by LC 16.290(2)(a) through (c)

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above, as a temporary use for the term of a medical hardship suffered by a resident of the existing dwelling, manufactured home or duplex, or a relative of the resident, subject to compliance with these requirements:

(i) The property owner or authorized representative of the property owner shall submit to the Director an application on the form provided by the Director.

(ii) A resident of the existing dwelling, manufactured home or duplex has a medical hardship and needs care for daily living from a resident of the temporary manufactured home or recreational vehicle; or

(iii) A resident of the temporary manufactured home or recreational vehicle is a relative of a resident of the existing dwelling, manufactured home or duplex, has a medical hardship and needs care for daily living which will be provided by a relative living in the existing dwelling, manufactured dwelling or duplex. 'Relative' means grandparent, step grandparent, grandchild, parent, stepparent, child, brother, sister, step sibling, aunt, uncle, niece or nephew or first cousin of a resident of the existing dwelling, manufactured dwelling or duplex.

(iv) Evidence of the medical hardship and a description of the family relationship and assistance with the daily living that will be provided shall be furnished and shall consist of:

(aa) A written statement from a medical physician disclosing the existence of and need for the medical hardship;

(bb) Any family relationship between the person with the hardship and the person who will provide care; and

(cc) The general nature of the care that will be provided.

(v) The temporary manufactured home or recreational vehicle shall be located on the same lot or parcel as the existing dwelling, manufactured home or duplex.

(vi) The temporary manufactured home or recreational vehicle shall be connected to the same on-site sewage disposal system serving the existing dwelling, manufactured home or duplex. If that sewage disposal system is not adequate for the connection, as determined by the Lane County Sanitarian, to accommodate the addition of the temporary dwelling, then that sewage disposal system shall be improved to meet the Oregon Department of Environmental Quality (DEQ) requirements in order to accommodate the addition of the temporary dwelling. A separate on-site sewage disposal system meeting DEQ requirements for the temporary manufactured home or recreational vehicle may be used, when in the opinion of the Lane County Sanitarian, connecting the temporary dwelling to the existing sewage disposal system would be impracticable because of the physical conditions of the subject property. The use of the separate sewage disposal system by the temporary dwelling shall be discontinued when the hardship ceases and shall not be used for other purposes unless in compliance with LC Chapter 16.

(vii) The temporary manufactured home or recreational vehicle shall comply with applicable Oregon Department of Environmental Quality review and removal requirements.

(viii) The temporary manufactured home or recreational vehicle shall not be allowed if there is an accessory living structure, as defined by LC 16.290(2)(t)(i) through (vi) below, on the same lot or parcel.

(ix) Except as provided in LC 16.290(2)(d)(x) below, approval of a temporary manufactured home or recreational vehicle permit shall be valid until December 31 of the year following the year of original permit approval and may be renewed once every two years until the hardship situation ceases or unless in the opinion of the Lane County Sanitarian the on-site sewage disposal system no longer meets DEQ requirements.

(x) Within 90 days of the expiration date of the temporary hardship permit, the end of the hardship, or the care provider no longer residing in the temporary manufactured home or recreational vehicle, the manufactured home or recreational vehicle shall be removed from the property, converted to an allowable nonresidential use or demolished.

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(e) Not more than one bed and breakfast accommodation on a lot or parcel and in a dwelling, manufactured dwelling or duplex allowed by LC 16.290(2)(a) through (c) above. A bed and breakfast accommodation shall have no more than five sleeping rooms provided on a daily or weekly period, not to exceed 29 consecutive days, for the use of travelers or transients for a charge or fee. Provision of a morning meal is customary as implied by title.

(f) Not more than one residential home on a lot or parcel and in a dwelling, manufactured dwelling or duplex allowed by LC 16.290(2)(a) through (c) above. "Residential home" means a residential treatment or training or an adult foster home licensed by or under the authority of the Department of Human Resources (DHR) under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 which provides residential care alone or in conjunction with treatment or training, or a combination thereof, for five or fewer individuals who need not be related. Staff persons required to meet DHR licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the home.

(g) Not more than one child care facility (for a maximum of ten children younger than 13 years of age) that is registered with the State Child Care Division in compliance with ORS 657A.330, or not more than one group child care home (for seven or more children and not more than twelve children) that is certified by the State Child Care Division in compliance with ORS 657A.280, on a lot or parcel and in a dwelling, manufactured dwelling or duplex allowed by LC 16.290(2)(a) through (c) above.

(h) A minor home occupation and/or a home office that comply with these conditions:

(i) No more than five persons shall work in the minor home occupation and/or home office, including the operator. With the following exception, these persons shall reside on the lot or parcel where the minor home occupation and/or home office are located: one of these persons may reside off the lot or parcel where the minor home occupation and/or home office are located.

(ii) The minor home occupation and/or home office shall be conducted substantially in the dwelling or in an attached or detached structure and shall not exceed 1,000 square feet in floor area. "Operated substantially in" means indoors except for accessory minor home occupation uses that are normally located outdoors such as: roads or driveways for ingress and egress; areas for loading or unloading business vehicles; parking for vehicles operated as part of the home occupation; screened storage areas and maintenance of minor home occupation vehicles.

(iii) Customers, not including business or delivery vehicles, shall not come for the conduct of business to the property where the minor home occupation and/or home office are located.

(iv) No more than two trips per day shall be made by one or any combination of business delivery vehicles coming to the subject property in conjunction with the minor home occupation and/or home office. This does not include US Postal Service delivery vehicles.

(v) The operation of sound producing tools, machinery and devices shall comply with LC 6.225 PROHIBITED NOISE, and shall comply with this more restrictive requirement. The operation of sound producing tools, machinery and devices as part of the minor home occupation, other than the vehicles of the owner, shall not produce "Plainly Audible Sound," as defined by LC 6.225.005, from any boundary of the subject property before 7:30 A.M. or after 5:30 P.M. on Monday through Friday, or before 11 A.M. or after 1 P.M. on Saturday through Sunday.

(vi) The operation of the minor home occupation shall comply with LC 9.570 NUISANCE, and shall comply with this more restrictive requirement. Odors from the home occupation shall not be plainly detectable from any boundary of the subject property before 7:30 A.M. or after 5:30 P.M. on Monday through Friday or before 11 A.M. or after 1 P.M. on Saturday through Sunday.

(vii) Advertising signs for the minor home occupation and/or home office shall not be displayed on the subject property or structures on the subject property.

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(viii) Outdoor parking of vehicles used with the minor home occupation and/or home office shall not exceed a maximum of two motorized vehicles and two non-motorized vehicles such as trailers or flatbeds. The operation of these vehicles on the minor home occupation and/or home office property shall be limited to persons who qualify as workers of the minor home occupation and/or home office under LC 16.290(2)(h)(i) above and shall not involve more than three trips per day from and to the minor home occupation and/or home office property.

(ix) Use of buildings or structures for the minor home occupation shall not involve the manufacturing, processing, generation or storage of materials that constitute a high fire, explosion or health hazard as defined by Section 307 of the Oregon Structural Specialty Code.

(x) The Building Official shall determine if a building plan review application is necessary and shall issue a report with the determination. Any required building permits and certificates of occupancy shall be obtained by the operator prior to operation of the minor home occupation.

(i) Raising and harvesting crops or the feeding, breeding and management of livestock, poultry or fur bearing animals, including structures for these uses. Animals and bees shall not exceed the following numbers per each acre of the subject RR zoned property:

(i) One horse, cow or swine per acre not including offspring younger than 6 months old from one of the female animals being counted; or

(ii) One goat, sheep, llama or alpaca per half acre not including offspring younger than 6 months old from one of the female animals being counted. The number of llamas or alpacas per acre may be increased to 4 llamas or alpacas per acre for every acre in the lot or parcel above 2 acres; or

(iii) 85 chickens, other fowl or rabbits per acre.

(iv) The number of colonies of bees allowed on a property shall be limited to one colony for each 10,000 square feet of lot area and shall be located no closer than 50 feet from any property line.

(j) No more than eight dogs over six months in age on any tract subject to compliance with the following conditions:

(i) No more than two dogs shall be used for breeding.

(ii) The tract where the dogs are located shall not be used as a place of business where dogs are boarded, or where dogs are bred or sold, or where dogs receive medical care.

(k) Fish and wildlife habitat management.

(l) Forest uses, including the propagation and harvesting of forest products grown on the property or a primary processing facility. The "primary processing of a forest product" means the use of a portable chipper, stud mill or other similar equipment for the initial treatment of a forest product, to facilitate its shipment for further processing or its use on the subject property. "Forest products" means timber and other resources grown upon the land or contiguous units of RR zoned land where the primary processing facility is located.

(m) Roadside stand for the sale of any agricultural produce where more than one half of the gross receipts result from the sale of produce grown on the tract where the roadside stand is located.

(n) Public and semipublic buildings, structures and uses rendering direct service to the public in local areas, such as fire stations, utility substations, pump stations and wells.

(o) Maintenance, repair, or replacement of lawfully (per LC Chapter 16) existing uses and development not authorized elsewhere by LC 16.290.

(p) The outdoor operation of motorized vehicles, motorized recreational devices or the discharging of firearms when performed primarily by persons who reside in the dwelling, or relatives of the persons who reside in the dwelling, and located on the tract where the uses occur. 'Relative' means grandparent, grandchild, parent, child, brother, sister, aunt, uncle, niece or nephew. These outdoor recreational uses shall comply with LC 6.225 PROHIBITED NOISE for prohibited noise.

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- (q) Transportation facilities and uses as specified in LC 16.265(3)(a) through (m).
- (r) The conversion of a lawfully existing dwelling to an accessory residential guesthouse that complies with these requirements:
 - (i) The dwelling for the conversion shall be a lawful dwelling existing on the date of the adoption of this requirement;
 - (ii) The kitchen sink and cooking facilities shall be removed from the existing dwelling and not replaced. When, the kitchen sink is removed, the plumbing shall be capped-off at the wall, and the kitchen sink shall not be replaced. When the cooking facilities are removed, the power source shall be removed. Any 220 circuits used for the cooking facilities shall be disconnected at the circuit box and approval of any required electrical permits for the disconnection shall be obtained, and the electrical circuit and cooking facilities shall not be replaced. Except for a bathroom and/or a laundry sink, a sink or cooking facilities shall not be located elsewhere in the guest house structure;
 - (iii) The address shall be removed from the guesthouse and not replaced;
 - (iv) The property owner shall record a covenant with the Lane County Clerk disclosing that a kitchen sink or cooking facilities cannot be placed in the guest house and that it is an accessory residential use that cannot be separated from the remainder of the parcel that contains the dwelling; and
- (s) Rock, sand, gravel or loam excavation or extraction if the materials excavated or extracted are used solely on the subject property and are not offered for sale or remuneration
- (t) Residential Accessory Structures and Uses. Uses and development that are accessory to uses and development allowed by LC 16.290(2) above or (3) through (4) below such as, but not limited to: outdoor recreation, garages, storerooms and utility spaces, sheds, playhouses, greenhouses, hobby shop, and animal or pet shelters
- (u) Guest House or Accessory Residential Structure. A structure that contains area for residential use or occupancy, that includes a toilet or bathroom, and that complies with these requirements:
 - (i) The total floor area of the structure is no more than 850 square feet;
 - (ii) The structure does not contain a kitchen.
 - (iii) The structure is located on a lot or parcel that has a lawfully existing dwelling or duplex on it and that does not have two or more permanent dwellings, a guest house or another accessory residential structure on it;
 - (iv) Sewage disposal for the structure is connected to the same onsite sewage disposal system, or community or public sewer connection, and the same electrical meter as the existing dwelling on the same lot or parcel; and
 - (v) The structure shall not have an address.
- (v) Not more than one (1) accessory dwelling unit on a lot or parcel, consisting of at least 2 acres and meeting the standards of LC 16.290(8). The provisions of LC 16.290(2)(u) above do not apply to accessory dwelling units, as allowed by this subsection and LC 16.290(8).
- (3) Home Occupation. A home occupation is allowed subject to: prior submittal and approval of a land use application pursuant to Type II procedures of LC Chapter 14; and compliance of the home occupation with the requirements of LC 16.290(3)(b) through (f) below and where applicable elsewhere in LC Chapter 16.
 - (a) The purposes of LC 16.290(3) are:
 - (i) To provide rural property owners with opportunities to work at home and to operate home occupation on their Rural Residential zoned land;
 - (ii) To assure that the operation of home occupation will be compatible with nearby uses;

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(iii) To recognize the uniqueness of each home occupation including its nature and scope, the characteristics of the development site and nearby property, and the impacts that it may have on the development site and nearby properties; and

(iv) To comply with Statewide Planning Goal 14 by requiring more intensive commercial and industrial uses to locate in areas appropriately planned and zoned for these uses.

(b) It shall be operated by a resident of the subject property.

(c) It shall employ or contract on the subject property no more than five full or part-time persons. The operator shall be considered as one of the five employees.

(d) It shall be operated substantially in the dwelling or other buildings normally associated with uses allowed by LC 16.290(2) above. Any structure that would not otherwise be allowed by LC 16.290(2) above shall not be allowed for use as a home occupation. LC 16.290(3)(d) above shall be implemented, in part, through compliance with these requirements:

(i) "Operated substantially in" means indoors except accessory home occupation uses that are normally located outdoors such as: advertising signs for the home occupation; roads or driveways for ingress and egress; areas for loading or unloading business vehicles; customer or employee parking spaces; parking for vehicles operated as part of the home occupation; screened storage areas; and outdoor accessory uses similar to the above as determined by the Approval Authority.

(ii) To determine if a structure is one that would not otherwise be permitted by LC 16.290(2) above, the external and internal structure shall be examined. If a home occupation requires a special structure within which to operate that is not useable, without significant alteration, for other uses allowed by LC 16.290(2), then the home occupation shall not be allowed.

(iii) The amount of building floor area of home occupation shall not exceed:

(aa) 3,000 square feet for any parcel or lot located outside an unincorporated community; or

(bb) 4,000 square feet for any parcel or lot located inside an unincorporated community.

(e) It shall not interfere with existing uses permitted by LC Chapter 16 on nearby land or with other uses allowed by LC 16.290(2) above on nearby parcels without residences. Compliance with LC 16.290(3)(e) above shall include, but shall not necessarily be limited to, addressing the compatibility of these home occupation operation concerns:

(i) The number of business, service and customer vehicles and the adequacy of roads, driveways and parking for these vehicles;

(ii) Buffering or screening of outdoor storage allowed under LC 16.290(3)(d)(i) above;

(iii) Fire safety;

(iv) The hours of operation;

(v) Any noise or odors;

(vi) Outdoor lighting; and

(vii) Appropriate handling of chemicals or substances that may be dangerous or harmful to the environment.

(f) Approval of applications for home occupations are valid until December 31 of the year following the year that the application was initially approved. Prior to the expiration of the December 31 approval date, the property owner or applicant who received the approval shall provide the Director with written request for renewal of approval for the home occupation and written information. The Director shall determine if the home occupation has been operated in compliance with the conditions of approval. Home occupations that continue to be operated in compliance with the conditions of approval will receive a two-year extension of the approval. Home occupations for which a request for renewal of approval has

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not been received or which do not comply with the conditions of approval shall not be renewed by the Director. The Director shall provide the applicant with written notice of a decision to not renew the approval in accordance with Type II notice of decision procedures of LC Chapter 14. The applicant may appeal the Director's decision to the Hearings Official in accordance with LC 14.080.

(4) Uses and Development Subject to Approval by the Director. The uses and developments in LC 16.290(4)(a) through (s) and (u) below are allowed subject to: prior submittal and approval of a land use application pursuant to Type II procedures of LC Chapter 14; and compliance with the applicable requirements of LC 16.290(5) below and elsewhere in LC Chapter 16.

(a) Feeding, breeding and management of livestock, poultry, or fur bearing animals in excess of the standards in LC 16.290(2)(i) above.

(b) Not more than one group care home on a lot or parcel and in a dwelling, manufactured dwelling or duplex allowed by LC 16.290(2)(a) through (c) above. A "group care home" is any home or institution maintained and operated for the care, boarding, housing or training of six or more physically, mentally or socially handicapped persons or delinquent or dependent persons by any person who is not the parent or guardian of and who is not related by blood, marriage or legal adoption to such persons. The occupancy of the dwelling for a group care home shall comply with the requirements of the building code as defined in ORS 455.010(8) and administered in ORS 455.150 and .153.

(c) Not more than one nursing home on a lot or parcel and in a dwelling, manufactured dwelling or duplex allowed by LC 16.290(2)(a) through (c) above. A "nursing home" is any home, place or institution which operates and maintains facilities providing convalescent or chronic care, or both, which exceeds that permitted for a residential home by LC 16.290(2)(f) above. The occupancy of the dwelling for a nursing home shall comply with the requirements of the building code as defined in ORS 455.010(8) and administered in ORS 455.150 and .153.

(d) Telecommunication facilities, including towers, antennas, and ancillary facilities as allowed pursuant to LC 16.264.

(e) Radio and television transmission facilities.

(f) Dams, water storage facilities; power generation or transmission facilities; electric transmission lines which require a right-of-way of 25 feet in width or wider; canals, flumes and pipelines; flood control facilities and irrigation projects.

(g) An onsite sewage disposal system for a non-residential use on a nearby property in a rural zone.

(h) A replacement of a lawfully existing (per LC Chapter 16) dwelling, manufactured dwelling or duplex that relies on evidence of its lawfully existing nature other than required by LC 16.290(2)(b) above, or a replacement dwelling, manufactured dwelling or duplex that shall comply with the following requirements:

(i) The dwelling, manufactured dwelling or duplex was removed or destroyed within 12 months of the date that the Director received the special use permit application for its replacement;

(ii) Prior to the removal of the dwelling, manufactured dwelling or duplex, it was a lawfully existing dwelling, manufactured dwelling or duplex; and

(iii) The replacement dwelling, manufactured dwelling or duplex shall be located on the same foundation footprint as the removed or destroyed dwelling, manufactured dwelling or duplex or shall be located in compliance with LC 16.290(7) below.

(i) Animal hospitals. An "animal hospital" is a place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to hospital use. The square foot floor area of an animal hospital shall not exceed 4,000 square feet for any parcel located in an unincorporated community or 3,000 square feet for any parcel located outside of an unincorporated community.

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(j) Commercial breeding kennel or commercial kennel. A "commercial breeding kennel" is a place of business for the breeding and/or selling of dogs. A "commercial kennel" is a place of business where dogs are boarded. No more than two dogs shall be used for breeding. These terms are not intended to include an animal hospital or a noncommercial kennel.

(k) Campgrounds and camping vehicle parks. A "campground" is an area designed for short-term recreational purposes and where facilities, except commercial activities such as grocery stores and laundromats, are provided to accommodate that use. Space for tents, campers, recreational vehicles and motor homes are allowed and permanent open-air shelters (Adirondacks) may be provided on the site by the owner of the development. A "camping vehicle park" is a development designed primarily for transient service on which travel trailers, pickup campers, tent trailers and self-propelled motorized vehicles are parked and used for the purpose of supplying to the public a temporary location while traveling, vacationing or recreating. Campgrounds and camping vehicle parks:

(i) Shall be located at least:

(aa) 10 miles from the urban growth boundary of any city adjacent to Interstate Highway 5, or

(bb) 3 miles from any other urban growth boundary unless they are contiguous to or located on lands with an accessible park or other outdoor amenity; and

(ii) Shall not allow overnight temporary use in the same campground by a camper or camper's vehicle exceeding a total of 30 days during any consecutive 6 month period; and

(iii) Shall not exceed the carrying capacity of the soil or existing water supply resources or result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.

(l) Cemeteries. A "cemetery" is land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums and mausoleums when operated in conjunction with and within the boundary of such cemetery but not including crematoriums or mortuaries,

(m) Churches. A "church" is a building, together with its accessory buildings and uses, where persons regularly assemble for worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship. A church does not include a school.

(n) Golf courses.

(o) Lodges and grange halls that:

(i) are owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural area; or

(ii) do not contain more than 4,000 square feet if located in an unincorporated community or not more than 3,000 square feet if located outside an unincorporated community.

(p) Parks, playgrounds, community centers.

(q) Public and private schools. A "school" is a place or institution for learning and teaching in which regularly scheduled and suitable instruction meeting the standards of the Oregon State Board of education is provided.

(r) Storage facilities for boats and recreational vehicles.

(s) Uses and development similar to uses and development allowed by LC16.290(2) or (4) above if found by the Planning Director to be clearly similar to the uses and development allowed by LC 16.290(2) through (4) above. Such a finding shall be made by the Director and shall comply with the following criteria:

(i) The proposed use and development shall be consistent with the purpose in LC 16.290(1).

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(ii) When compared with the uses and development permitted by LC 16.290(2) or (4) above, the proposed use and development is similar to one or more of these uses and development. A comparison shall include an analysis of the:

- (aa) Goods or services traded from the site;
- (bb) Bulk, size, and operating characteristics of the proposed use;
- (cc) Parking demand, customer types and traffic generation; and
- (dd) Intensity of land use of the site.

(iii) The proposed use and development shall not exceed the carrying capacity of the soil or of the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available.

(iv) The proposed use and development shall not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.

(v) It shall be the applicant's responsibility to provide sufficient information to allow the Director to make the above determination.

(t) Transportation facilities and uses as specified in LC 16.265(3)(n) through (q).

(u) Stables, riding academies or commercial riding.

(5) Approval Criteria. Uses and development in LC 16.290(4)(a) through (s) and (u) above, except for telecommunication facilities allowed in LC 16.290(4)(d) above, shall comply with the requirements in LC 16.290(5) below. Telecommunications facilities allowed by LC 16.290(4)(d) above shall comply with the requirements in LC 16.264.

(a) Shall not create significant adverse impacts on existing uses on adjacent and nearby lands or on uses permitted by the zoning of adjacent or nearby undeveloped lands;

(b) Where necessary, measures are taken to minimize potential negative impacts on adjacent and nearby lands;

(c) The proposed use and development shall not exceed the carrying capacity of the soil or of the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available; and

(d) The proposed use and development shall not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.

(6) Area. The creation of new lots and parcels shall comply with LC Chapter 13 and with the following requirements:

(a) For RR zoned areas that are located inside developed and committed areas and outside the boundaries of areas designated by the RCP as unincorporated communities, the minimum area requirement for the creation of lots or parcels for residential purposes shall be 2, 5 or 10 acres as indicated by the Lane County Zoning Maps; provided, however, that the minimum area requirement for the creation of lots or parcels for residential purposes on land zoned RR-1 shall be two acres as long as required by LCDC rules. An exception to this area requirement may be made pursuant to LC 16.290(6)(c) below.

(b) For RR zoned areas that are located inside the boundaries of areas designated by the RCP as unincorporated communities, the minimum area requirement for the creation of lots or parcels for residential purposes shall be 1, 2, 5 acres, or one acre additions to these acre minimums as required by the Lane County Zoning Maps. An exception to this area requirement may be pursuant to LC 16.290(6)(c) below.

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(c) The creation of new parcels smaller than the minimum area required by LC 16.290(6)(a) and (b) above may be allowed if all of these conditions exist:

(i) The parcel to be divided contains less than the minimum area needed by LC 16.290(6)(a) or (b) above to divide it and, after October 4, 2000, was not reduced in area by a boundary line adjustment to below the area needed to divide it;

(ii) The parcel to be divided has two or more lawful (not in violation of LC Chapter 16) and permanent habitable dwellings or manufactured dwellings or duplexes on it;

(iii) The permanent habitable dwellings, manufactured dwellings on the parcel were established before October 4, 2000;

(iv) Each new parcel created by the partition would have at least one of those permanent habitable dwellings or manufactured dwellings on it;

(v) The partition would not create any vacant parcels where a new dwelling or manufactured dwelling could be established; and

(vi) "Habitable dwelling" means a dwelling, that:

(aa) Has intact exterior walls and roof structure;

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

(cc) Has interior wiring for interior lights; and

(dd) Has a heating system.

(7) Property Development Standards. All uses or development permitted by LC 16.290(2) through (4) above, except as may be provided therein, shall comply with the following development standards:

(a) Property Line Setbacks. Structures other than a fence or sign shall be located:

(i) At least 20 feet from the right-of-way of a State road, County road or a local access public road specified in LC Chapter 15;

(ii) At least 10 feet from all other property lines; and

(ii) Notwithstanding LC 16.290(7)(a)(ii) above, a structure that contains less than 120 square feet of floor area and that is located more than 10 feet from other structures may be located in the 10 foot setback otherwise required by LC 16.290(7)(a)(ii) above provided it complies with LC 16.290(7)(d) below.

(b) The setback for property lines other than front-yard shall be five feet, except as provided below, for any lot or parcel containing less than 1 acre and created prior to March 30, 1984.

(c) For mobile homes to be located in lawfully existing mobile home parks, the setbacks from a projected or existing right-of-way of a County or local-access public road shall be the same as required above, and lesser setbacks from all other mobile home lot lines are permitted if in compliance with Oregon Administrative Rules, Chapters 918-600 =.

(d) Riparian Setback Area. Except for property located between the Eugene-Springfield Metropolitan Area General Plan Boundary and the Eugene and Springfield Urban Growth Boundaries, where setbacks are provided for in LC 16.253(6), the riparian setback area shall be the area between a line 50 feet above and parallel to the ordinary high water of a Class I stream designated for riparian vegetation protection in the Rural Comprehensive Plan. No structure other than a fence shall be located closer than 50 feet from the ordinary high water of a Class I stream designated for riparian vegetation protection by the Rural Comprehensive Plan. A modification to the riparian setback standard for a structure may be allowed provided the requirements of LC 16.253(3) or LC 16.253(6), as applicable, are met.

(e) Maintenance, Removal and Replacement of Indigenous Vegetation within the Riparian Setback Area. Maintenance, removal and replacement of indigenous vegetation within the riparian setback

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area designated for riparian vegetation protection by the comprehensive plan must comply with the provisions of LC 16.253(2) or LC 16.253(6), as applicable.

(f)- Height. None.

(g) Signs.

(i) Signs shall not extend over a public right-of-way or project beyond the property line.

(ii) Signs shall not be illuminated or capable of movement

(iii) Signs shall be limited to 200 square feet in area.

(h)-) Parking. Off street parking shall be provided in accordance with LC 16.250.

(8) Rural Accessory Dwelling Units.

(a) Purpose. The provisions of this section are intended to implement state law authorizing the development of accessory dwelling units (ADUs) to provide additional housing opportunities on rural lands and to encourage the preservation of historic housing stock.

(b) Definitions. For the purposes of LC 16.290(8), unless otherwise specifically provided, certain words, terms, and phrases are defined as follows:

(i) "Accessory dwelling unit" (ADU) means a residential structure that is used in connection with or that is auxiliary to a single-family dwelling.

(ii) "Area zoned for rural residential use" means lands that are zoned Rural Residential (RR, RCP), not located inside an urban growth boundary as defined in ORS 195.060, and that are subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland and planned and zoned by the county to allow residential use as a primary use.

(iii) "Historic home" means a single-family dwelling constructed between 1850 and 1945.

(iv) "New" means that the dwelling being constructed did not previously exist in residential or nonresidential form. "New" does not include the acquisition, alteration, renovation or remodeling of an existing structure.

(v) "Single-family dwelling" means a residential structure designated as a residence for one family and sharing no common wall with another residence of any type.

(vi) "Usable floor area" means the area included within the surrounding insulated exterior walls of a structure, exclusive of attached garages, carports, decks, stairs, porch covers, or similar appurtenances.

(vii) "Vacation occupancy" means occupancy in a dwelling unit, not including transient occupancy in a hotel or motel, that has all of the following characteristics:

(aa) The occupant rents the unit for vacation purposes only, not as a principal residence;

(bb) The occupant has a principal residence other than at the unit; and

(cc) The period of authorized occupancy does not exceed 45 days.

(c) Criteria for ADUs. A lot or parcel may qualify for one (1) ADU pursuant to the criteria under either subsection (xi) or (xii) below and provided:

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

(ii) At least one single-family dwelling is sited on the lot or parcel;

(iii) The lot or parcel is not located within an urban reserve area, consistent with ORS 195.137;

(iv) The ADU complies with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment; and,

(v) The ADU must comply with the property development standards of LC 16.290(7).

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~~(vi) 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 ADU may not be approved.~~

~~(vii) Only one ADU as defined by LC 16.290(8)(b)(i) and allowed by LC 16.290(2)(v) is allowed on a qualifying lot or parcel.~~

~~(viii) ADUs may be allowed subject to submittal of a Type I application pursuant to the procedures of LC Chapter 14.~~

~~(ix) The provisions of LC 16.290(8) do not apply to guest houses or accessory residential structures, as allowed by LC 16.290(2)(u).~~

~~(x) ADUs located on lots or parcels within the boundaries of an area designated by the Rural Comprehensive Plan as being an unincorporated community must have an adequate supply of water. If the lot or parcel is served by an individual water supply system, the system must meet the standards of Lane Manual 9.005.160, or if served by a public or community water system, the applicant must submit evidence that the service agency is mutually bound and able to serve the development.~~

~~(xi) An ADU in the rural residential zone is allowed subject to LC 16.290(8)(c)(i) through (x) and must meet all of the following standards.~~

~~(aa) The ADU will be located no farther than 100 feet from the existing single-family dwelling, measured from a wall of the single-family dwelling to the nearest part of the usable floor area of the ADU.~~

~~(bb) The ADU will not include more than 900 square feet of usable floor area as defined by LC 16.290(8)(b)(vi).~~

~~(cc) The existing single-family dwelling 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.~~

~~(dd) The lot or parcel on which the ADU is located is served by a fire protection district that complies with ORS 181A.410.~~

~~(ee) The applicant provides written certification from the applicable fire district, on a form prepared by Lane County, that access to the property meets minimum fire district requirements to provide emergency services to the property.~~

~~(ff) The applicant provides an evacuation plan that arranges for safe evacuation and identifies staged evacuation areas. As used in this section, "safe evacuation" means an identified route for evacuation from the ADU to the staged evacuation area. "Staged evacuation area" means a public or private location that occupants of the ADU may evacuate to.~~

~~(A) The applicant must provide written authorization from the owner of the staged evacuation area that the occupants of the ADU may evacuate to that location.~~

~~(B) A determination by the County that an evacuation plan meets the requirements of LC 16.290(8)(c)(xi)(ff) above is not a certification that the plan provides for safe evacuation and is not a certification of the safety of the identified staged evacuation areas. The County does not warrant or guarantee the effectiveness of any proposed evacuation plan and cannot be held liable in the event of property damage, injury, or death that may occur when an evacuation plan is used or followed.~~

~~(gg) No portion of the lot or parcel is within a designated area of critical state concern as defined in Oregon Administrative Rule 660-043.~~

~~(hh) If the water supply source for the ADU or associated lands or 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.~~

~~(ii) The applicant signs and records a restrictive covenant with Lane County Deeds and Records stating that the ADU allowed under this section will not be used for vacation occupancy, as defined by LC 16.290(8)(b)(vii).~~

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

~~(kk) The accessory dwelling unit complies with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:~~

~~(A) The lot or parcel is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or~~

~~(B) No statewide map of wildfire risk has been adopted.~~

~~(ll) If the lot or parcel is in an area identified on the statewide map of wildfire risk described in ORS 477.490 as within the wildland urban interface, the lot or parcel and ADU must comply with the defensible space requirements for wildfire risk reduction established by the State Fire Marshal under ORS 476.392 and any applicable local requirements for defensible space established by the local government pursuant to ORS 476.392.~~

~~(xii) Conversion of a historic home to an ADU in the rural residential zone is allowed subject to LC 16.290(8)(c)(i) through (x) and provided:~~

~~(aa) The owner of a lot or parcel within an area zoned for rural residential use constructs a new single-family dwelling;~~

~~(bb) A historic home, as defined by LC 16.290(8)(b)(iii), is sited on the lot or parcel;~~

~~(cc) The owner converts the historic home to an ADU upon completion of the new single-family dwelling; and,~~

~~(dd) ADUs established pursuant to LC 16.290(8)(c)(xii) may not be:~~

~~(A) Altered, renovated, or remodeled so that the usable floor area of the ADU is more than 120 percent of the historic home's usable floor area at the time construction of the new single-family dwelling commenced.~~

~~(B) Rebuilt if the structure is deemed a dangerous building due to fire, pursuant to the Uniform Code for the Abatement of Dangerous Buildings, which defines "dangerous building" as "Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location." The applicant must sign and record with Lane County Deeds and Records a restrictive covenant stating that an ADU allowed under this section cannot be rebuilt if deemed a dangerous building as described in this section. -(Revised by Ordinance No. 6-02, Effective 5.16.02; 10-04, 6.4.04; 5-04, 7.1.04; 6-10, 9.18.10; 7-12, 12.28.12; 14-09, 12.16.14; 15-03, 04.17.15; 20-05, 6.16.20)~~

Ordinance No. 23-05
Findings of Fact & Conclusions

LC 12.005 Purpose.

(1) The board shall adopt a comprehensive plan. The general purpose of the comprehensive plan is the guiding of the social, economic, and physical development of the County to best promote public health, safety, order, convenience, prosperity and general welfare.

The proposed amendments do not impair the purpose of the Rural Comprehensive Plan as the guiding document for Lane County. The proposed amendments update implementing regulations and follow the laws determined by State of Oregon to best promote the will of the people. The amendments will not affect compliance of the Rural Comprehensive Plan and implementing regulations with the Statewide Planning Goals or other applicable State law.

LC 12.050 Method of Adoption and Amendment

(1) The adoption of the comprehensive plan or an amendment to such plan shall be by an ordinance.

The proposed amendments will be adopted by ordinance when enacted by the Board.

(2) The Board may amend or supplement the comprehensive plan upon a finding of:

- (a) an error in the plan; or***
- (b) changed circumstances affecting or pertaining to the plan; or***
- (c) a change in public policy; or***
- (d) a change in public need based on a reevaluation of factors affecting the plan; provided, the amendment or supplement does not impair the purpose of the plan as established by LC 12.005 above.***

The proposed amendments to Lane Code are the result of a change in public policy. On June 23, 2021, Senate Bill 391 was signed by the Governor and became effective on that day. The bill amended Oregon Revised Statute 215.495 to allow accessory dwelling units in rural residential zoned areas, subject to certain conditions. Furthermore, Senate Bill 644 was signed into law by the Governor on May 8, 2023 and further amended the language of ORS 215.495 to remove the reference to the development of the statewide wildfire risk maps. These changes to Oregon Revised Statute 215.495 enable counties to allow accessory dwelling units independent of statewide wildfire risk mapping. Therefore, these amendments to Lane Code are proposed to allow accessory dwelling units in Lane County as permissible by changes aforementioned changes in law.

LC 16.252 Procedures for Zoning, Re-zoning, and Amendments to Requirements.

(2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County

Ordinance No. 23-05
Findings of Fact & Conclusions

which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission. Any zoning or rezoning may be effected by Ordinance or Order of the Board of County Commissioners or the Hearings Official in accordance with the procedures in this section.

The proposed amendments do not establish zoning or rezoning of specific properties, but provides for additional permissible uses (accessory dwelling units) on properties already zoned rural residential. This allowance is authorized by Oregon Revised Statute 215.495.

MOTIONS AND VOTE RESULTS

LANE COUNTY PLANNING COMMISSION

DATE: TUESDAY, JULY 19, 2022

TIMES: 6:00 P.M. Work Session and 7:00 P.M. Public Hearing



Item(s)	
<p>Planning Action File No. 509-PA22-05378 / Amendments to Lane Code (LC) 16.290 to incorporate an allowance for accessory dwelling units (ADU) in rural residential zones as allowed by Senate Bill 391 and ORS 215.495, and an allowance for conversion of a historic dwelling to an ADU as allowed by House Bill 3012 and ORs 215.501</p>	
<p>Motion Language: Move to forward a recommendation that the Board of Commissioners adopt the proposed amendments with revisions. Specifically, revisions that make the proposed ADU code applicable within the no, low and moderate risk wildland urban interface areas.</p>	<p>Motion By: Kashinsky</p>
<p>Amendments to the Motion: None</p>	<p>Second By: Wihtol</p>
<p>In Favor: Dignam, Kaylor, Wihtol, Hadley, Kashinsky, Peacock, Snider</p>	
<p>Opposed: None</p>	
<p>Abstained: None</p>	
<p>Number of people who provided testimony at the Public Hearing: 6</p>	

Item(s)	
<p>Plan Amendment No. PA1386, and Planning Action File No. 509-PA22-05191: In the matter of amending the Lane County Rural Comprehensive Plan to amend the Lane County Transportation System Plan; and adopting saving and severability clauses.</p>	

Lane County Planning Commission Members: Stephen Dignam, Chair; Betsy Schultz, Vice Chair; Charlcie Kaylor; Kathy Smith; Christian Wihtol; Bruce Hadley; Eliza Kashinsky; Jonnie Peacock; Stephen Snider.

Motion Language: Move to forward a recommendation to the Board of County Commissioners to approve and adopt the Ordinance and Amendments to the Lane County Transportation Systems Plan as proposed.	Motion By: Snider ATTACHMENT 2
Amendments to the Motion: None.	Second By: Kaylor
In Favor: Dignam, Kaylor, Wihtol, Hadley, Kashinsky, Peacock, Snider	
Opposed: None	
Abstained: None	
Number of people who provided testimony at the Public Hearing: 4	

LCPC Attendance:
Present: Dignam, Kaylor, Wihtol, Hadley, Kashinsky, Peacock, Snider
Absent: Smith, Schultz

Lane County Planning Commission Members: Stephen Dignam, Chair; Betsy Schultz, Vice Chair; Charlcie Kaylor; Kathy Smith; Christian Wihtol; Bruce Hadley; Eliza Kashinsky; Jonnie Peacock; Stephen Snider.

81st OREGON LEGISLATIVE ASSEMBLY--2021 Regular Session

Enrolled

Senate Bill 391

Sponsored by Senators DEMBROW, FINDLEY, KNOPP; Senators GOLDEN, HANSELL, JAMA, KENNEMER, Representatives BYNUM, LEVY, MORGAN, SMITH DB, ZIKA (Presession filed.)

CHAPTER

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 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;

(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.

Passed by Senate April 15, 2021

Repassed by Senate June 9, 2021

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 7, 2021

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State

82nd OREGON LEGISLATIVE ASSEMBLY--2023 Regular Session

Enrolled Senate Bill 644

Sponsored by Senators KNOPP, FINDLEY; Senators DEMBROW, HAYDEN, SMITH DB, Representative HIEB (Presession filed.)

CHAPTER

AN ACT

Relating to accessory dwelling units on lands zoned for rural residential use; amending ORS 215.495; and declaring an emergency.

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

SECTION 1. ORS 215.495, as amended by section 5, chapter 85, Oregon Laws 2022, is amended to read:

215.495. (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 usable 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 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) If the lot or parcel is in an area identified on the statewide map of wildfire risk described in ORS 477.490 as within the wildland-urban interface, the lot or parcel and accessory dwelling unit comply with any applicable minimum defensible space requirements for wildfire risk reduction es-

tablished by the State Fire Marshal under ORS 476.392 and any applicable local requirements for defensible space established by a local government pursuant to ORS 476.392;

(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]* **The accessory dwelling unit complies with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:**

(A) The lot or parcel is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or

(B) No statewide map of wildfire risk has been adopted; 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 in an area identified on the statewide map of wildfire risk described in ORS 477.490 as within the wildland-urban interface, the accessory dwelling unit complies with the provisions of this section and any applicable local requirements for defensible space established by a local government pursuant to ORS 476.392.

(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 2. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

Passed by Senate March 28, 2023

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Lori L. Bocker, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House April 26, 2023

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Dan Rayfield, Speaker of House

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

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Shemia Fagan, Secretary of State

79th OREGON LEGISLATIVE ASSEMBLY--2017 Regular Session

Enrolled House Bill 3012

Sponsored by Representatives LININGER, MEEK, SMITH DB; Representatives NEARMAN, STARK

CHAPTER

AN ACT

Relating to siting of residential structures on land zoned for certain uses.

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

SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 215.

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

(a) "Accessory dwelling unit" means a residential structure that is used in connection with or that is auxiliary to a single-family dwelling.

(b) "Area zoned for rural residential use" means land that is not located inside an urban growth boundary as defined in ORS 195.060 and that is subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland and planned and zoned by the county to allow residential use as a primary use.

(c) "Historic home" means a single-family dwelling constructed between 1850 and 1945.

(d) "New" means that the dwelling being constructed did not previously exist in residential or nonresidential form. "New" does not include the acquisition, alteration, renovation or remodeling of an existing structure.

(e) "Single-family dwelling" means a residential structure designed as a residence for one family and sharing no common wall with another residence of any type.

(2) Notwithstanding any local zoning or local regulation or ordinance pertaining to the siting of accessory dwelling units in areas zoned for rural residential use, a county may allow an owner of a lot or parcel within an area zoned for rural residential use to construct a new single-family dwelling on the lot or parcel, provided:

(a) The lot or parcel is not located in 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) A historic home is sited on the lot or parcel;

(d) The owner converts the historic home to an accessory dwelling unit upon completion of the new single-family dwelling; and

(e) The accessory dwelling unit complies with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment.

(3) An owner that constructs a new single-family dwelling under subsection (2) of this section may not:

(a) Subdivide, partition or otherwise divide the lot or parcel so that the new single-family dwelling is situated on a different lot or parcel from the accessory dwelling unit.

(b) Alter, renovate or remodel the accessory dwelling unit so that the square footage of the accessory dwelling unit is more than 120 percent of the historic home's square footage at the time construction of the new single-family dwelling commenced.

(c) Rebuild the accessory dwelling unit if the structure is lost to fire.

(d) Construct an additional accessory dwelling unit on the same lot or parcel.

(4) A county may require that a new single-family dwelling constructed under this section be served by the same water supply source as the accessory dwelling unit.

(5) A county may impose additional conditions of approval for construction of a new single-family dwelling or conversion of a historic home to an accessory dwelling unit under this section.

Passed by House April 27, 2017

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 6, 2017

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Peter Courtney, President of Senate

Received by Governor:

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

Approved:

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

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Kate Brown, Governor

Filed in Office of Secretary of State:

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

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Dennis Richardson, Secretary of State