

D R A F T

SUMMARY

Allows counties to authorize construction of accessory dwelling units on lands zoned for rural residential use. Establishes conditions of approval for accessory dwelling units. Updates requirements to comply with wildfire risk categories identified by Department of Consumer and Business Services maps upon completion of maps by department.

Requires Department of Consumer and Business Services to develop maps of statewide wildfire risk in consultation with Oregon State University College of Forestry. Requires department to establish within Oregon residential specialty code relating to wildfire hazard mitigation fire protection standards for accessory dwelling units based on risk.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to accessory dwelling units; and declaring an emergency.

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

4 **SECTION 1. Section 2 of this 2019 Act is added to and made a part**
5 **of ORS chapter 215.**

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

7 (a) “Accessory dwelling unit” has the meaning given that term in
8 **ORS 215.501.**

9 (b) “Area zoned for rural residential use” has the meaning given
10 **that term in ORS 215.501.**

11 (c) “Single-family dwelling” has the meaning given that term in
12 **ORS 215.501.**

13 (d) “Vacation occupancy” has the meaning given that term in ORS
14 **90.100.**

15 **(2) Consistent with its comprehensive plan, a county may allow an**

1 owner of a lot or parcel within an area zoned for rural residential use
2 to construct one accessory dwelling unit on the lot or parcel, provided:

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

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

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

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

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

13 (f) The accessory dwelling unit will have a floor area of no greater
14 than 900 square feet;

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

17 (h) If the water supply source for the accessory dwelling unit or
18 associated lands or gardens will be a well using water under ORS
19 537.545 (1)(b) or (d), no portion of the lot or parcel is within an area
20 in which new or existing ground water uses under ORS 537.545 (1)(b)
21 or (d) have been restricted by the Water Resources Commission;

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

24 (j) The lot or parcel is within a rural fire protection district organ-
25 ized under ORS chapter 478;

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

28 (L) The accessory dwelling unit complies with the Oregon residen-
29 tial specialty code relating to wildfire hazard mitigation.

30 (3) A county may not permit both the existing single-family dwell-
31 ing and the accessory dwelling unit to be used for vacation occupancy

1 **during more than one week per year. A county may prohibit outright**
2 **or impose conditions on the use of an accessory dwelling unit for va-**
3 **cation occupancy. A county may condition the use of an accessory**
4 **dwelling unit for vacation occupancy on conditions including:**

5 (a) **Whether the owner uses the existing single-family dwelling as**
6 **a primary residence.**

7 (b) **Requiring neighbor notification.**

8 (c) **Requiring a local point of contact for vacation occupants and**
9 **neighbors.**

10 (4) **A county that allows construction of an accessory dwelling unit**
11 **under subsection (2) of this section may not approve:**

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

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

17 (5) **A county may require that an accessory dwelling unit con-**
18 **structed under this section be served by the same water supply source**
19 **or water supply system as the existing single-family dwelling. If the**
20 **accessory dwelling unit is served by a well, the construction of the**
21 **accessory dwelling unit shall maintain all setbacks from the well re-**
22 **quired by the Water Resources Commission or Water Resources De-**
23 **partment.**

24 (6) **An existing single-family dwelling and an accessory dwelling**
25 **unit allowed under subsection (2) of this section are considered a sin-**
26 **gle unit for the purposes of calculating exemptions under ORS 537.545**
27 **(1).**

28 (7) **Nothing in this section requires a county to allow any accessory**
29 **dwelling units in areas zoned for rural residential use or prohibits a**
30 **county from imposing any additional restrictions on accessory dwell-**
31 **ing units in areas zoned for rural residential use.**

1 **SECTION 3. Section 4 of this 2019 Act is added to and made a part**
2 **of ORS chapter 455.**

3 **SECTION 4. (1) The Department of Consumer and Business Services**
4 **shall develop and maintain statewide maps identifying categories of**
5 **wildfire risk.**

6 **(2) In developing and maintaining the maps required under this**
7 **section, the department shall engage the Oregon State University**
8 **College of Forestry.**

9 **(3) The department shall update the state building code to require**
10 **appropriate fire protection standards for accessory dwelling units**
11 **based on the fire risk identified by the maps developed and maintained**
12 **under this section.**

13 **SECTION 5. Section 2 of this 2019 Act is amended to read:**

14 **Sec. 2.** (1) As used in this section:

15 (a) “Accessory dwelling unit” has the meaning given that term in ORS
16 215.501.

17 (b) “Area zoned for rural residential use” has the meaning given that term
18 in ORS 215.501.

19 (c) “Single-family dwelling” has the meaning given that term in ORS
20 215.501.

21 (d) “Vacation occupancy” has the meaning given that term in ORS 90.100.

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

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

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

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

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

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

3 (f) The accessory dwelling unit will have a floor area of no greater than
4 900 square feet;

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

7 (h) If the water supply source for the accessory dwelling unit or associ-
8 ated lands or gardens will be a well using water under ORS 537.545 (1)(b)
9 or (d), no portion of the lot or parcel is within an area in which new or ex-
10 isting ground water uses under ORS 537.545 (1)(b) or (d) have been restricted
11 by the Water Resources Commission;

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

14 (j) The lot or parcel is within a rural fire protection district organized
15 under ORS chapter 478;

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

18 (L) The accessory dwelling unit complies with the [*Oregon residential*
19 *specialty code relating to wildfire hazard mitigation*] **state building code for**
20 **fire protection standards based on the fire risk identified by maps**
21 **produced by the Department of Consumer and Business Services under**
22 **section 4 of this 2019 Act.**

23 (3) A county may not permit both the existing single-family dwelling and
24 the accessory dwelling unit to be used for a vacation occupancy. A county
25 may prohibit outright or impose conditions on the use of an accessory
26 dwelling unit for vacation occupancy. A county may condition the use of an
27 accessory dwelling unit for a vacation occupancy on conditions including:

28 (a) Whether the owner uses the existing single-family dwelling as a pri-
29 mary residence.

30 (b) Requiring neighbor notification; or

31 (c) Requiring a occupant and neighbor local point of contact.

1 (4) A county that allows construction of an accessory dwelling unit under
2 subsection (2) of this section may not approve:

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

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

8 (5) A county may require that an accessory dwelling unit constructed
9 under this section be served by the same water supply source or water supply
10 system as the existing single-family dwelling. If the accessory dwelling unit
11 is served by a well, the construction of the accessory dwelling unit shall
12 maintain all setbacks from the well required by the Water Resources Com-
13 mission or Water Resources Department.

14 (6) An existing single-family dwelling and an accessory dwelling unit al-
15 lowed under subsection (2) of this section are considered a single unit for the
16 purposes of calculating exemptions under ORS 537.545 (1).

17 (7) Nothing in this section requires a county to allow any accessory
18 dwelling units in areas zoned for rural residential use or prohibits a county
19 from imposing any additional restrictions on accessory dwelling units in
20 areas zoned for rural residential use.

21 **SECTION 6. No later than September 15, 2020, the Department of**
22 **Consumer and Business Services and the Oregon State University**
23 **College of Forestry shall report to an appropriate interim committee**
24 **of the Legislative Assembly in the manner provided under ORS 192.245**
25 **on the maps and updates to the state building code required under**
26 **section 4 of this 2019 Act.**

27 **SECTION 7. (1) Section 4 of this 2019 Act and the amendments to**
28 **section 2 of this 2019 Act by section 5 of this 2019 Act become operative**
29 **on January 1, 2021.**

30 **(2) The Department of Consumer and Business Services may take**
31 **any actions before the operative date specified in subsection (1) of this**

1 **section necessary to enable the department to exercise, on and after**
2 **the operative date specified in subsection (1) of this section, the duties,**
3 **functions and powers required under section 4 of this 2019 Act and the**
4 **amendments to section 2 of this 2019 Act by section 5 of this 2019 Act.**

5 **SECTION 8. This 2019 Act being necessary for the immediate pres-**
6 **ervation of the public peace, health and safety, an emergency is de-**
7 **clared to exist, and this 2019 Act takes effect on its passage.**

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