

# House Bill 2705

Sponsored by Representatives ZIKA, SMITH DB; Representatives BREESE-IVERSON, LEIF (Pre-session filed.)

## SUMMARY

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

Allows counties to authorize construction of accessory dwelling units on lands zoned for rural residential use. Establishes conditions of approval for accessory dwelling units.

Requires Department of Consumer and Business Services to map wildfire risk and to develop appropriate fire protection standards within state building code for accessory dwelling units based on fire risk identified in maps. Requires department and Oregon State University College of Forestry to report to interim committee of Legislative Assembly on updates to maps and state building code no later than September 15, 2022.

## A BILL FOR AN ACT

1  
2 Relating to accessory dwelling units.

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

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

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

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

7 (b) "Area zoned for rural residential use" has the meaning given that term in ORS  
8 215.501.

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

10 (d) "Vacation occupancy" has the meaning given that term in ORS 90.100.

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

14 (a) The lot or parcel is not located within an area designated as an urban reserve as de-  
15 fined in ORS 195.137;

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

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

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

20 (e) The accessory dwelling unit will comply with all applicable laws and regulations re-  
21 lating to sanitation and wastewater disposal and treatment;

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

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

26 (h) If the water supply source for the accessory dwelling unit or associated lands or  
27 gardens will be a well using water under ORS 537.545 (1)(b) or (d), no portion of the lot or  
28 parcel is within an area in which new or existing ground water uses under ORS 537.545 (1)(b)

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

1 or (d) have been restricted by the Water Resources Commission;

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

3 (j) The lot or parcel is within a rural fire protection district organized under ORS chapter  
4 478;

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

7 (L) The accessory dwelling unit complies with the Oregon residential specialty code re-  
8 lating to wildfire hazard mitigation.

9 (3)(a) A county may not permit both the existing single-family dwelling and the accessory  
10 dwelling unit allowed under this section to be used simultaneously for vacation occupancy:

11 (A) During more than one week per year; and

12 (B) Unless the county has been notified in advance.

13 (b) If a county allows the use of an accessory dwelling unit for vacation occupancy, the  
14 county may impose conditions including:

15 (A) Requiring the owner to use the existing single-family dwelling as a primary residence.

16 (B) Requiring neighbor notification.

17 (C) Requiring a local point of contact for vacation occupants and neighbors.

18 (D) Registration with the county.

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

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

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

24 (5) A county may require that an accessory dwelling unit constructed under this section  
25 be served by the same water supply source or water supply system as the existing single-  
26 family dwelling. If the accessory dwelling unit is served by a well, the construction of the  
27 accessory dwelling unit shall maintain all setbacks from the well required by the Water Re-  
28 sources Commission or Water Resources Department.

29 (6) An existing single-family dwelling and an accessory dwelling unit allowed under this  
30 section are considered a single unit for the purposes of calculating exemptions under ORS  
31 537.545 (1).

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

37 **SECTION 3.** Section 4 of this 2021 Act is added to and made a part of ORS chapter 455.

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

40 (2) In developing and maintaining the maps required under this section, the department  
41 shall engage the Oregon State University College of Forestry. Engagement under this sub-  
42 section is not subject to ORS 291.047.

43 (3) The department shall update the state building code to require appropriate fire pro-  
44 tection standards for accessory dwelling units based on the fire risk identified by the maps  
45 developed and maintained under this section.

**SECTION 5.** Section 2 of this 2021 Act is amended to read:

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

(2) Consistent with its 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 or 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 within a rural fire protection district organized under ORS chapter 478;

(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; and

(L) The accessory dwelling unit complies with the *[Oregon residential specialty code relating to wildfire hazard mitigation]* **state building code for fire protection standards based on the fire risk identified by maps produced by the Department of Consumer and Business Services under section 4 of this 2021 Act.**

(3)(a) A county may not permit both the existing single-family dwelling and the accessory dwelling unit allowed under this section to be used simultaneously for vacation occupancy:

(A) During more than one week per year; and

(B) Unless the county has been notified in advance.

(b) If a county allows the use of an accessory dwelling unit for vacation occupancy, the county may impose conditions including:

(A) Requiring the owner to use the existing single-family dwelling as a primary residence.

(B) Requiring neighbor notification.

(C) Requiring a local point of contact for vacation occupants and neighbors.

(D) Registration with the county.

(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

1 dwelling is situated on a different lot or parcel than the accessory dwelling unit.

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

3 (5) A county may require that an accessory dwelling unit constructed under this section be  
4 served by the same water supply source or water supply system as the existing single-family dwell-  
5 ing. If the accessory dwelling unit is served by a well, the construction of the accessory dwelling  
6 unit shall maintain all setbacks from the well required by the Water Resources Commission or Wa-  
7 ter Resources Department.

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

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

14 **SECTION 6. No later than September 15, 2022, the Department of Consumer and Business**  
15 **Services and the Oregon State University College of Forestry shall report to an appropriate**  
16 **interim committee of the Legislative Assembly in the manner provided under ORS 192.245**  
17 **on the maps and updates to the state building code required under section 4 of this 2021 Act.**

18 **SECTION 7. The amendments to section 2 of this 2021 Act by section 5 of this 2021 Act**  
19 **become operative on January 1, 2023.**

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