

B-Engrossed
Senate Bill 391

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

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

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

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to accessory dwelling units in rural residential areas; and declaring an emergency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (6) An existing single-family dwelling and an accessory dwelling unit allowed under this
34 section are considered a single unit for the purposes of calculating exemptions under ORS
35 537.545 (1).

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

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