



Eugene City Council

125 E. 8th Ave., 2nd Floor
Eugene, OR 97401-2793
541-682-5010 • 541-682-5414 Fax
www.eugene-or.gov

EUGENE CITY COUNCIL AGENDA

February 20, 2019

12:00 p.m. CITY COUNCIL WORK SESSION
Harris Hall, 125 East 8th Avenue
Eugene, Oregon 97401

Meeting of February 20, 2019;
Her Honor Mayor Lucy Vinis Presiding

Councilors

Betty Taylor, President
Mike Clark
Chris Pryor
Jennifer Yeh

Emily Semple, Vice President
Greg Evans
Claire Syrett
Alan Zelenka

12:00 p.m. EUGENE CITY COUNCIL WORK SESSION
Harris Hall, 125 East 8th Avenue
Eugene, Oregon 97401

- 1. WORK SESSION: Regulation of Secondary (Accessory) Dwelling Units and Consideration of Remand Issues (Ordinance Nos. 20594 and 20595)**

For the hearing impaired, an interpreter can be provided with 48 hours' notice prior to the meeting. Spanish-language interpretation will also be provided with 48 hours' notice. To arrange for these services, contact the receptionist at 541-682-5010. City Council meetings are telecast live on Metro Television, Comcast channel 21, and rebroadcast later in the week.

El consejo de la Ciudad de Eugene agradece su interés en estos asuntos de la agenda. El lugar de la reunión tiene acceso para sillas de ruedas. Se puede proveer a un intérprete para las personas con discapacidad auditiva si avisa con 48 horas de anticipación. También se puede proveer interpretación para español si avisa con 48 horas de anticipación. Para reservar estos servicios llame al 541-682-5010. Las reuniones del consejo de la ciudad se transmiten en vivo por Metro Television, Canal 21 de Comcast y son retransmitidas durante la semana.

For more information, contact the Council Coordinator at 541-682-5010
or visit us online at www.eugene-or.gov.

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Work Session: Regulation of Secondary (Accessory) Dwelling Units and Consideration of Remand Issues (Ordinance Nos. 20594 and 20595)

Meeting Date: February 20, 2019
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 1
Staff Contact: Alissa Hansen
Contact Telephone Number: 541-682-5508

ISSUE STATEMENT

This work session is an opportunity to provide direction regarding the City's response to a State Land Use Board of Appeals remand of Ordinance Nos. 20594 and 20595 that were adopted by City Council in June 2018 as the first phase of the City's response to the accessory dwelling unit requirements of Senate Bill 1051. The remand nullifies the ordinances and refers the matter back to the City Council with instructions for re-adopting the ordinances. In response to LUBA's remand, the City Council is asked to consider the existing land use code's secondary dwelling regulations as directed by LUBA. Council's discussion at this work session will assist in staff's preparation of an ordinance that can be addressed by the community at a public hearing.

BACKGROUND

In 2017, the Oregon Legislature adopted a new law, Senate Bill 1051,¹ as part of its efforts to promote housing affordability statewide. Pertinent to this work session is the portion of the new law that addresses "accessory dwelling units." The new law defines "accessory dwelling unit" as an "interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling."² It requires:

"A city with a population greater than 2,500 . . . shall allow in areas zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design."

In January 2018, the City Council initiated a two-phased approach for land use code changes to implement this new law. Phase 1 would address the new law's requirement that the City allow accessory dwelling units in more areas of the City (the "where" phase). The intent was to address,

¹ The relevant sections of Senate Bill 1051 are now codified at §197.312(5) of the Oregon Revised Statutes.

² Eugene's code does not refer to accessory dwelling units. Under Eugene's code, there are two different types of accessory dwelling units. Depending on the applicable zone, an accessory dwelling unit might be allowed as simply another one-family dwelling on a lot, and/or it might be allowed as a "secondary dwelling." A "secondary dwelling" is defined as "a dwelling unit that is located on the same lot as a primary one-family dwelling that is clearly subordinate to the primary one-family dwelling, whether a part of the same structure as the primary one-family dwelling or a detached dwelling unit on the same lot. Either the secondary dwelling or the primary dwelling must be occupied by the property owner."

as a later Phase 2, the new law's requirement that accessory dwelling units be subject to only "reasonable local regulations relating to siting and design." The two-phase approach was intended to allow emerging conversations around housing affordability to evolve, and to consider potential changes to those regulations in the context of a broader planning effort (the "how" phase).

In June 2018, City Council adopted Phase 1 ordinances that revised the land use code to allow accessory dwelling units in additional zones (R-2 Medium Density Residential, R-3 Limited High Density Residential, R-4 High Density Residential, AG Agricultural, S-E Elmira Road Special Area Zone, and S-HB Historic Blair Special Area Zone). The Phase 1 ordinances also adopted the new law's "accessory dwelling" terminology. Notably, the Phase 1 ordinances made the accessory dwelling units in these additional zones subject to development standards that were already set out in the land use code for secondary dwellings in the R-1 zone.

The Phase 1 ordinances were appealed to LUBA by numerous parties. LUBA sent the Phase 1 ordinances back to the City Council for additional work. LUBA found that the Phase 1 ordinances were inconsistent with the new law because, even though the ordinances did not change any of the development standards for secondary dwellings in the R-1 zone, the ordinances did extend the applicability of those development standards to the additional zones. To do so, LUBA found that the City needed to determine that the existing development standards are "reasonable local regulations relating to siting and design," as the new law requires. This means that Eugene will not be able to take a two-phased approach like the one originally proposed.³

Until the City Council takes the actions ordered by LUBA, when someone applies to build an accessory dwelling unit, City staff must apply the development standards applicable in the zone and attempt to justify the development standards as "reasonable regulations relating to siting and design" without the benefit of any City Council direction. Based on the range of legal challenges already being presented, the City should expect more legal challenges in the coming months. The City's action on the LUBA remand is a chance to examine—and potentially change—development standards that the appeals and public input have suggested may be inconsistent with the new law.

Work Session

The key outcome of the work session is council's input as to how the accessory dwelling unit development standards should be treated in the remand ordinance to be prepared for public hearing. To help council efficiently address the development standards, staff have organized the standards into three groups that are identified on Attachment A to this AIS:



Group 1: Denoted with a green symbol on Attachment A, staff believes these regulations comply with the law requiring "reasonable regulations relating to siting and design" and should be retained in the proposed ordinance. The proposed ordinance will include no reference to the regulations that are retained, except that an exhibit to the ordinance will include findings explaining the basis for their consistency with the new law.

³ Per council direction, the 2018 ordinances did not make any changes to the allowed uses in the S-JW Jefferson Westside or the S-C Chambers Special Area Zones, where accessory dwellings could be sited through code provisions that permit two single-family homes on a lot. Since the ordinances did not make any changes in those zones, LUBA's rules prohibited it from considering challenges to the development standards in those two zones.



Group 2: Denoted with a yellow symbol on Attachment A, staff requests City Council discussion of these regulations due to uncertainty of the regulations' relationship to siting or design, or its reasonableness. While staff attempted to identify the relationship of each to siting or design, council should weigh in on that question. Staff is seeking council direction as to whether the regulation should be moved into the green group or into the red group for purposes of preparing the remand ordinance for public hearing.



Group 3: Denoted with a red symbol on Attachment A, staff believes these regulations will be found by a court to be unrelated to siting or design, or to be an unreasonable regulation. For that reason, staff recommends that the regulation be shown as eliminated from the code in the proposed ordinance and recommend City Council carefully consider public testimony addressing the regulation for its final decision.

The intended process for the work session is to first discuss, if needed, any items council wishes to specifically address from Group 1, then to discuss each regulation from Groups 2 and 3 with a straw poll to clarify council's intent with respect to each of those regulations.

The attached matrix (Attachment A) addresses the regulations raised in the LUBA appeal and includes a brief summary of each regulation, applicable Eugene Code sections, and an initial staff evaluation as to whether it relates to siting or to design, and the City's policy reason for the regulation. The policy reason for the regulation is intended to assist council in considering whether the regulation is reasonable.

The terms "reasonable," "siting" and "design" are not defined in state law or in the Eugene Code, nor is there any useful textual, contextual or legislative history of the terms associated with Senate Bill 1051. In these circumstances, the City Attorney's office recommends the council use the same definitions a court would use, those from the Webster's Third New International Dictionary (2002). Based on that advice, staff suggest council use the following definitions.

"Site" ("siting" is not defined) is defined as relevant here to mean "the local position of building, town, monument or similar work either constructed or to be constructed, esp. in connection with its surroundings;" "a space of ground occupied by or to be occupied by a building;" and "land made suitable for building purposes by dividing into lots, laying out streets and providing facilities (as water, sewers, power supply)." Given this definition and the new law's explicit grant of local regulation, it would be reasonable to find that "regulations relating to siting" include both: (1) regulations that specify the necessary lot characteristics for the siting of an accessory dwelling; and (2) regulations that specify where, on such a lot, an accessory dwelling may be sited.

"Design" is defined as "a scheme for the construction, finish, and ornamentation of a building as embodied in the plans, elevations, and other architectural drawings pertaining to it." It would be reasonable, for example, to find that "regulations relating to design" include regulations that address height and size.

"Reasonable" is defined as "being or remaining within the bounds of reason; not extreme; not excessive ***; not demanding too much." While it there is no way to know how a court will apply this definition (e.g. "reasonable" from whose perspective?), staff suggest the council incorporate it into the analysis by considering whether a regulation is so important for addressing a legitimate government concern that it justifies the limitation it may place on the number of accessory dwelling units that may be established in the City.

To help inform council's next steps, staff have compiled a few other important pieces of information:

- A wide range of community input was shared with the Planning Commission and City Council during the Phase 1 adoption process. This input exhibits a full range of viewpoints on secondary dwelling regulations, from keeping regulations as-is to removing or amending a number of existing regulations. Community input was also gathered through the Housing Tools and Strategies work, the umbrella under which the Phase 2 work was supposed to be considered. This input includes suggestions for how to amend existing regulations as well as clearly highlighting concerns and possible impacts. See Attachment B for a complete summary, organized by the lists addressed above. Of course, the council will receive more input at the public hearing.
- Other cities have adopted ordinances that may be of interest. A brief summary of regulations that apply to accessory dwelling units in other Oregon cities is included in Attachment C.
- The Oregon Department of Land Conservation and Development issued guidelines in March 2018 for how it believes cities should consider local regulations in response to SB 1051 (Attachment D).
- An excerpt from the Housing Tools and Strategies Evaluation prepared by Strategic Economics (January 2019) pertaining to their research and analysis on accessory dwelling units. (Attachment E).

With the City Council's initial direction regarding the development standards, City staff can prepare a proposed ordinance that will also re-instate all the provisions from the remanded June 2018 Phase 1 ordinances.

Next Steps

The Council will be asked to take three steps to complete action on the LUBA remand. First, direct the City Manager to prepare findings and/or land use code amendments to address the "reasonable regulations relating to siting and design" requirement of the new law. Second, hold a public hearing on an ordinance that includes the findings and/or amendments and that would reinstate the June 2018 provisions. Third, deliberate and adopt the ordinance.

PREVIOUS COUNCIL DIRECTION

[January 17, 2018 Work Session](#)

[January 22, 2018 Work Session](#)

Move to initiate land use code changes for a phased approach to implementation of Senate Bill 1051 related to secondary dwellings. (*Motion Passed*)

[April 16, 2018 Public Hearing](#)

[May 23, 2018 Work Session](#)

[June 11, 2018 Work Session](#)

Move to substitute Attachment B to the AIS, which is labeled "Ordinance 1 / Substitute Ordinance," in place of the Ordinance #1 now on the table.

Move to adopt Ordinance #2, Attachment C to the AIS. (*Motions Passed*)

COUNCIL OPTIONS

The City Council may consider the following options:

1. Direct the City Manager to prepare a proposed ordinance consistent with the council's direction on accessory dwelling units, and to schedule a public hearing on the proposed ordinance in response to LUBA's remand.
2. Take no action at this time.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends preparation of an ordinance consistent with the council's direction on accessory dwelling units, and to schedule a public hearing on the proposed ordinance in response to LUBA's remand.

SUGGESTED MOTION

Move to direct the City Manager to prepare a proposed ordinance consistent with the council's direction on accessory dwelling units, and to schedule a public hearing on the proposed ordinance in response to LUBA's remand.

ATTACHMENTS

- A. Summary and Initial Analysis of Accessory Dwelling Regulations Matrix
- B. Community Input Summary
- C. Summary of Accessory Dwelling Regulations in Other Cities
- D. [DLCD Guidance on Implementing the Accessory Dwelling Units \(ADU\) Requirement](#)
- E. Housing Tools and Strategies Evaluation prepared by Strategic Economics (excerpt)

FOR MORE INFORMATION

Staff Contact: Alissa Hansen
Telephone: 541-682-5508
Staff E-Mail: ahansen@eugene-or.gov

Summary and Initial Analysis of Accessory Dwelling Regulations

ATTACHMENT A

No.	Topic	Summary of Requirement and Applicability	Eugene Code (EC) Section(s)	Staff's Initial Evaluation			
				Relates to Siting	Relates to Design	Basis for Regulation	Recommendation for Discussion
1	Maximum Lot Coverage	<i>University Area:</i> The lot shall meet the lot coverage requirements for R-1, except that all roofed areas shall be included as part of the calculation of lot coverage. <i>All Other Lots:</i> In R-1 and R-2, coverage of building footprints is limited 50% of lot	9.0500 9.2751(17)(c)3. Table 9.2750	✓	✓	Addresses overcrowding concerns & desire for yard/open space	
2	Outdoor Living Area	<i>All Lots:</i> In R-2, R-3 & R-4, a minimum of 20 percent of the development site is required to be open space.	Table 9.2750	✓	✓	Addresses overcrowding concerns & desire for yard/open space	
3	Building Size	<i>University Area:</i> For lots at least 7,500 square feet and less than 9,000 square feet in area, the SDU shall not exceed 600 square feet. For lots at least 9,000 square feet in area, the SDU shall not exceed 800 square feet. <i>All Other Lots:</i> Building square footage is limited to 10 percent of the total lot area or 800 square feet, whichever is smaller. In addition, for detached SDUs, up to 300 square feet of un-heated garage or storage space attached to the SDU is allowed and is not counted in the allowable building square footage.	9.2751(17)(c)5. 9.2751(17)(a)2. 9.2751(17)(b)1.		✓	Demonstrates accessory nature	
4	Outdoor Storage/Trash	<i>All Lots:</i> Outdoor storage and garbage areas are required to be screened from view from adjacent properties and those across the street or alley with a minimum 42-inch tall 100-percent site obscuring fence or enclosure on at least three sides.	9.2751(17)(b)4. 9.2751(17)(c)19.		✓	Addresses livability	
5	Pedestrian Access	<i>University Area:</i> For attached and detached SDUs, same as for all other lots, except that if the primary vehicle access for the required parking is from an alley, the path must be provided from the alley. <i>All Other Lots:</i> Detached SDUs are required to provide a pedestrian walkway from the street or alley to the primary entrance of the secondary dwelling. The pedestrian walkway shall be a hard surface (concrete, asphalt or pavers) and shall be a minimum of 3 feet in width.	9.2751(17)(b)2. 9.2751(17)(c)17.		✓	Addresses accessibility	
6	Minimum Attachment	<i>All Lots:</i> To be considered attached, requires the SDU and the primary dwellings must share a common wall or ceiling for a minimum of 8 feet.	9.2751(17)(a)4.		✓	Clarity as to what constitutes attached	
7	Prohibition on Alley Access Lots	<i>All Lots:</i> SDUs are prohibited on alley access lots. (An alley access lot is a lot that abutting an alley and not abutting a street and created from the rear portion of an existing lot or parcel.)	9.2741(2) 9.2751(18)(a)2.	✓		Addresses traffic and overcrowding concerns	
1	Minimums Lot Size	Minimum lot size required for a secondary dwelling unit (SDU): <i>University Area:</i> 7,500 square feet <i>Flag Lots:</i> 12,500 square feet <i>All Other Lots:</i> 6,100 square feet	9.2571(17)(c)1. 9.2775(4)(b) 9.2751(17)(a)1.	✓		Addresses overcrowding concerns	
2	Maximum Density	<i>All Lots:</i> Minimum and Maximum net density per acre is as follows: R-1: No minimum to 14 units R-2: 13 to 28 units R-3: 20 to 56 units R-4: 20 to 112 units	Table 9.2740 Table 9.2750	✓		Addresses overcrowding concerns	
3	Lot Dimensions	<i>University Area:</i> To allow for an SDU, requires that the boundaries of the lot be sufficient to fully encompass an area with minimum dimensions of 45 feet by 45 feet.	9.2571(17)(c)2.	✓		Addresses overcrowding concerns	



Retain/justify in findings



Request Council Direction



Eliminate from Land Use Code

No.	Topic	Summary of Requirement and Applicability	Eugene Code (EC) Section(s)	Staff's Initial Evaluation			
				Relates to Siting	Relates to Design	Basis for Regulation	Recommendation for Discussion
4	Parking Requirement	<p><i>University Area:</i> Limits the primary dwelling to a minimum of one and a maximum of two parking spaces on the lot and requires one additional parking space on the lot for the SDU.</p> <p><i>All Other Lots:</i> Requires one additional space for the SDU.</p>	9.2751(17)(c)15. Table 9.6410	✓		Addresses traffic concerns	
5	Alley Access Parking/Driveway	<p><i>University Area:</i> Where primary vehicle access for the required parking for the SDU is from an alley, the following standards apply:</p> <ul style="list-style-type: none"> Only one covered or enclosed parking space may be provided (carport or garage). The covered or enclosed parking space shall be counted towards the total number of parking spaces. The maximum dimensions for a garage shall be 16 feet by 24 feet, with a maximum garage door width of 9 feet. The minimum setback for a garage shall be 5 feet from the alley. If the garage is setback greater than 5 feet from the alley, it must be setback a minimum of 15 feet and the area between the garage and the alley shall be counted towards one parking space. The maximum width for a driveway accessing a garage or carport shall be 12 feet. The maximum dimensions for one parking space located perpendicular to the alley shall be 12 feet in width by 20 feet in depth. The maximum dimensions for two side by side parking spaces perpendicular to the alley shall be 20 feet in width by 20 feet in depth. The maximum dimensions for tandem parking spaces shall be 12 feet in width by 33 feet in depth. Only one parking space parallel to the alley shall be allowed, and such space shall not exceed 10 feet in width and 20 feet in length along the length of alley. The total vehicle use area, including but not limited to driveways and on-site parking, but not including parking space in garage, shall not exceed 400 square feet. No parking shall occur outside of the vehicle use area. 	9.2751(17)(c)16. 9.2751(18)(a)11.	✓		Addresses traffic concerns	
6	Building Height/Sloped Setback	<p><i>University Area:</i> For detached secondary dwellings, the interior yard setback shall be at least 5 feet from the interior lot line. In addition, at a point that is 8 feet above grade, the setback shall slope at the rate of 10 inches vertically for every 12 inches horizontally (approximately 40 degrees from horizontal) away from the lot line until a point not to exceed a maximum building height of 18 feet. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback, except that eaves, chimneys and gables are allowed to project into this setback no more than 2 feet.</p> <p><i>Flag Lots:</i> Interior yard setbacks shall be at least 10 feet. In addition, at a point that is 8 feet above finished grade, the setback shall slope at the rate of 10 inches vertically for every 12 inches horizontally away from the property line until a point not to exceed a maximum building height of 18 feet for detached secondary dwellings and the maximum building height of the primary dwelling for attached secondary dwellings. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback, except that eaves and chimneys are allowed to project into this setback no more than 2 feet. This standard may be adjusted to allow for a secondary dwelling over an accessory building in accordance with EC 9.8030(34).</p> <p><i>All Other Lots:</i> For attached secondary dwellings located within 60 feet of a front lot line, interior yard setbacks shall be at least 5 feet, and maximum building height shall be limited to that of the main building as per Table 9.2750.</p>	9.2751(17)(c)9. 9.2775(5)3. 9.2751(17)(a)3. 9.2751(17)(b)5.		✓	Demonstrates accessory nature/addresses livability	

No.	Topic	Summary of Requirement and Applicability	Eugene Code (EC) Section(s)	Staff's Initial Evaluation			
				Relates to Siting	Relates to Design	Basis for Regulation	Recommendation for Discussion
		<p>For attached secondary dwellings located greater than 60 feet of a front lot line, interior yard setbacks shall be at least 5 feet. In addition, at a point that is 8 feet above finished grade, the setback shall slope at the rate of 10 inches vertically for every 12 inches horizontally away from the property line to a maximum building height of 18 feet. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback, except that eaves and chimneys are allowed to project into this setback no more than 2 feet.</p> <p>For detached: Interior yard setbacks shall be at least 5 feet. In addition, at a point that is 8 feet above finished grade, the setback shall slope at the rate of 10 inches vertically for every 12 inches horizontally away from the property line until a point not to exceed a maximum building height of 18 feet. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback, except that eaves and chimneys are allowed to project into this setback no more than 2 feet. This standard may be adjusted to allow for a secondary dwelling over an accessory building in accordance with EC 9.8030(34).</p>					
1	Prohibition on New Flag Lots	<i>All Lots:</i> SDUs are not allowed on flag lots that did not exist or were not approved prior to August 29, 2014.	9.2775(4)	✓		Addresses overcrowding concerns	
2	Vehicle Use Area	<i>University Area:</i> Limits the maximum area covered by paved and unpaved vehicle use areas including but not limited to driveways, on-site parking and turnarounds, to 20 percent of the total lot area.	9.2751(17)(c)4.	✓		Desire for yards/open space	
3	Owner/Occupancy Requirement	<i>All Lots:</i> Requires that either the SDU or the primary dwelling be occupied by the owner of the property. Includes requirement for deed restriction and verification, and allowance for temporary one-year leave.	9.0500 9.2751(17)(a)7. - 10. 9.2751(17)(c)11. - 14.	✓		Demonstrate accessory nature/landlord accountability	
4	Maximum Bedroom	<i>University Area:</i> For lots with a primary dwelling containing 3 or fewer bedrooms, the SDU is limited to 2 bedrooms. For lots with a primary dwelling containing 4 or more bedrooms, the SDU is limited to 1 bedroom. <i>All Other Lots:</i> Limits the SDU to no more than 2 bedrooms.	9.2751(17)(c)7. 9.2751(17)(a)5.		✓	Demonstrates accessory nature/addresses overcrowding concerns	
5	Maximum Occupancy	<i>University Area:</i> For lots with a primary dwelling containing 3 or fewer bedrooms, limits the SDU to 3 occupants. For lots with a primary dwelling containing 4 or more bedrooms, limits the SDU to 2 occupants.	9.2751(17)(c)8.	For Council Discussion			
6	Dog Keeping	<i>All Lots:</i> Limits properties with an SDU to no more than 3 dogs on the lot.	9.2751(17)(a)6. 9.2751(17)(c)10.	For Council Discussion			

No.	Topic	Comments: Support Existing Code	Source	Source Group	Comments: Support Revising Code	Source	Source Group
1	Maximum Lot Coverage	There are good reasons for maintaining the qualities that make neighborhoods desirable, such as site coverage, and other issues of concern to most residents of the residentially-zoned areas of Eugene.	Ron Bevirt email 4-13-18	Written Testimony-Phase 1	Lot coverage is restrictive. Maximum coverage in R-1 Low Density Residential is 50 percent.	Barriers to Missing Middle Housing	Eugene Planning Past Research/Interviews
		There are good reasons for maintaining the qualities that make neighborhoods desirable, such as site coverage, and other issues of concern to most residents of the residentially-zoned areas of Eugene.	Ron Bevirt testimony	City Council Public Hearing April 16, 2018	Amend to match baseline R-1 lot coverage requirements. This penalizes the allowed size of secondary dwelling, which in not related to design or siting. See definition of "Lot Coverage " in EC 9.0500, which does not count area under roof eaves in lot coverage.	Home Builders Association Comments in Bill Kloos Email 2-23-18	Written Testimony-Phase 1
					Allow 40 to 50 percent lot coverage, and at least 0.5 FAR if used, preferably higher, to provide greater flexibility for adding ADUs to existing developed lots. Alternatively, consider a small lot coverage and/or FAR bonus for ADUs such as 5-10 percent to mitigate concerns about large primary dwellings.	Accessory dwelling unit zoning code audit report - Portland Metro region	Eugene Planning Past Research/Interviews
2	Outdoor Living Area	There are good reasons for maintaining the qualities that make neighborhoods desirable, such as gardens, flowers, trees, and other issues of concern to most residents of the residentially-zoned areas of Eugene.	Ron Bevirt email 4-13-18	Written Testimony-Phase 1			
		We as a community might like to see green space as a reasonable requirement to protect neighborhood livability.	Carlis Nixon testimony	City Council Public Hearing April 16, 2018			
		There are good reasons for maintaining the qualities that make neighborhoods desirable, such as gardens, flowers, trees, and other issues of concern to most residents of the residentially-zoned areas of Eugene.	Ron Bevirt testimony	City Council Public Hearing April 16, 2018			
3	Building Size	The maximum square footage policy, on its own, helps ensure that ADUs have low environmental impact, and offer “affordable-by-design” units in Eugene.	Strategic Economics - Eugene Housing Tools and Strategies Evaluation	Housing Tools and Strategies	Recommend to improve site design flexibility: The maximum square footage and bedroom count regulations are not context-sensitive and can be overly restrictive depending on the lot size.	Strategic Economics - Eugene Housing Tools and Strategies Evaluation	Housing Tools and Strategies
		Building size is sufficient [not minimum lot size requirements].	Seth Sadofsky testimony	City Council Public Hearing April 16, 2018	Sightline Institute and Oregon DEQ study identified overly-restrictive building size limits as a code barrier.	Code Barriers Affecting SDU Development	Eugene Planning Past Research/Interviews
					Limiting Code- cap ADUs at very small sizes e.g. ADU limited to 600 sf (Durham, OR); Supportive Code - Allow a flexible range of ADU sizes, e.g., ranging from small, micro-ADUs of 160 sf (Novato, CA) to detached ADUs up to 80% FAR of the main house (Portland, OR)	Character-compatible, space-efficient housing options for single-dwelling neighborhoods.	Eugene Planning Past Research/Interviews

No.	Topic	Comments: Support Existing Code	Source	Source Group	Comments: Support Revising Code	Source	Source Group
	Building Size Continued				Significant barrier is size limits below 600 SF; Recommend approximately 800 SF size limit provides sufficient space for ADU development at a scale consistent with most single-family dwellings and surrounding neighborhoods. Promote equity by utilizing a uniform size limit in lieu of a percentage to avoid disproportionately restricting ADU potential of smaller homes typically owned by lower income and disadvantaged households. If a percentage limit is desired, allow ADUs to be at least 50 percent and preferably 75 percent of the size of the primary dwelling.	Accessory dwelling unit zoning code audit report - Portland Metro region	Eugene Planning Past Research/Interviews
					Amend to drop this limitation. Square footage limitation on structure unrelated to siting or design.	Home Builders Association Comments in Bill Kloos Email 2-23-18 (reiterated in Bill Kloos email 4-9-18 and 4-19-18)	Written Testimony-Phase 1
					Remove the minimum size requirement of 300 square feet for an ADU. Remove the ratio requirement (an ADU could not exceed 40 percent of the primary dwelling unit), while maintaining the maximum ADU size of 800 square feet.	1000 Friends Email 3-13-18 (reiterated in 1000 Friends Alexis Biddle email 4-9-18 and 4-13-18)	Written Testimony-Phase 1
					The barriers that remain include: Building size minimums related to lot size that place additional restrictions on the construction of SDUs irrespective of their impact on others.	Democratic Party of Lane County - Chris Wig email 4-9-18	Written Testimony-Phase 1
					Standards in the existing code that could preclude development of ADUs on any lot with a single-family dwelling include but are not limited to: Building size – 10% of total lot area may effectively preclude building attached ADUs on smaller lots. A flat building maximum would avoid this problem. Allow an existing small dwelling to become an ADU (if it is less than 800 square feet) and build a primary dwelling unit.	1000 Friends - Alexis Biddle email 4-9-18 (reiterated in 1000 Friends Alexis Biddle email 4-13-18)	Written Testimony-Phase 1
					ADU's as small as 250 square feet can create a home for a single person. Do consider lowering the square footage requirements.	Jean Tate email 4-17-18	Written Testimony-Phase 1
					Building size prevented from building SDU.	Deborah Jeffries testimony	City Council Public Hearing April 16, 2018
4	Outdoor Storage / Trash				Amend to delete. Unrelated to siting or design; could prevent SDU.	Home Builders Association Comments in Bill Kloos Email 2-23-18	Written Testimony-Phase 1

No.	Topic	Comments: Support Existing Code	Source	Source Group	Comments: Support Revising Code	Source	Source Group
5	Pedestrian Access				Amend to delete. Unrelated to siting or design; could prevent SDU.	Home Builders Association Comments in Bill Kloos Email 2-23-18	Written Testimony- Phase 1
6	Minimum Attachment				Amend to drop higher standard for "minimum attachment." "Attached" has a state law meaning; no basis for the city to restrict based on its own local "minimum attachment" standards. Boosting the degree of attachment defeats the right to an SDU.	Home Builders Association Comments in Bill Kloos Email 2-23-18	Written Testimony- Phase 1
					City code prevented from building SDU because garage did not meet definition for minimum attachment.	Deborah Jeffries testimony	City Council Public Hearing April 16, 2018
7	Prohibition on Alley Access Lots				identified this as a barrier.	Barriers to Missing Middle Housing	Eugene Planning Past Research/Interviews
					Drop standard. Statute allows secondary dwellings on alley access lots.	Home Builders Association Comments in Bill Kloos Email 2-23-18	Written Testimony- Phase 1
1	Minimum Lot Size	The minimum and maximum densities for each zone are defined by the metro plan and Eugene's code. The 2014 SDU changes were made to bring the city into compliance with density requirements defined for the R1 zone. Before these changes the City was approving SDUs on under sized lots, effectively up-zoning without a public process. If the intention is to up-zone R1 areas, a much more robust community conversation is needed, and is separate from SB 1051 compliance.	Bill Aspegren email 3-13-18	Written Testimony- Phase 1	Minimum lot size requirements preclude the addition of an ADU on approximately 17 percent of single-family lots throughout Eugene. Single-family lots in most residential areas must be larger than 6,100 square feet to be eligible for an ADU. Approximately 15 percent of single-family lots in most areas are smaller and would be ineligible for ADUs under current regulations. In the Amazon, Fairmount, and South University neighborhoods lots must be at minimum 7,500 square feet. In these three neighborhoods, ADUs are currently prohibited on one-half of single-family lots.	Strategic Economics - Eugene Housing Tools and Strategies Evaluation	Housing Tools and Strategies
		In addition to congestion, the issue of privacy would be impacted if constraints about lot size were removed - again decreasing livability in this University neighborhood.	Nancy Meyer email 3-13-18	Written Testimony- Phase 1	Lot minimums are too high – at 4,500 sq. ft. it is not possible to achieve the maximum density allowed in R-1 Low Density Residential (14 dwelling units an acre) without going through a planned unit development, or potentially cluster subdivision (which requires 25 percent of site in open space).	Barriers to Missing Middle Housing	Eugene Planning Past Research/Interviews
		In Phase 2, Eugene City Planning is working on incentives to encourage the building of ADUs. Many of the proposed changes to Eugene City Code regarding ADUs are potentially of significant concern to residential neighborhoods: such as reduced lot sizes. There are good reasons for maintaining the qualities that make neighborhoods desirable, such as lot size.	Ron Bevirt email 4-13-18	Written Testimony- Phase 1	Large lot size minimums (e.g., 6,100 sf or more) are "limiting" code. Supportive code would be low lot size minimums (e.g. 4,000 sf or less)	Character-compatible, space-efficient housing options for single-dwelling neighborhoods.	Eugene Planning Past Research/Interviews

No.	Topic	Comments: Support Existing Code	Source	Source Group	Comments: Support Revising Code	Source	Source Group
	Minimum Lot Size Continued	There are good reasons for maintaining the qualities that make neighborhoods desirable, such as lot size	Ron Bevirt testimony	City Council Public Hearing April 16, 2018	Survey results identified minimum lot size as challenge to building an ADU for Eugene only.	Accessory Dwelling Unit Survey for Portland, Eugene, and Ashland, Oregon Final Methodology and Data Report	Eugene Planning Past Research/Interviews
		Lot size was studied in 2014 around the university area and it is important to keep this requirement.	Janet Bevirt testimony	City Council Public Hearing April 16, 2018	Amend to drop minimum lot size. Lot shape and lot size are not related to design and siting.	Home Builders Association Comments in Bill Kloos Email 2-23-18 (reiterated in Bill Kloos email 4-9-18 and 4-19-18)	Written Testimony-Phase 1
					The City should remove the lot size minimum for, at a minimum, attached ADUs, so that each owner of a single-family home is permitted to create a legal ADU if they so desire, as SB 1051 states.	WECAN Email 3-5-18	Written Testimony-Phase 1
					One of the primary roadblocks for single-family homeowners creating SDUs is lot-size minimums. Eugene currently disallows SDUs in R-1 on lots smaller than 6,100 square feet. This prohibits nearly 5,000 single-family homeowners from developing either an attached or detached SDU. The DLCD specifically addressed this issue in its March 2018 guidance document (attached), recommending that “an ADU could be developed on any legal lot or parcel as long as it met the required setbacks and lot coverage limits; local governments should not mandate a minimum lot size for ADUs.” Eugene should follow DLCD’s recommendation and remove lot size minimums for SDUs. Restriction adds time, cost and complexity to construction.	WECAN Email 4-2-18	Written Testimony-Phase 1
					My husband and I recently bought a home in the Jefferson Westside Special Area Zone. Eventually we'd like to build an addition that could be an SDU. Unfortunately, the special area zone and our minimum lot size requirements make this impossible. It seems like the restrictions created by the special area zone will be taken away soon and I hope that you will choose to take DLCD's recommendations and eliminate minimum lots size requirements.	Anya Dobrowolski email 4-4-18	Written Testimony-Phase 1
					We recommend the removal of lot size minimums for attached ADUs.	Eugene Housing Policy Board - Norton Cabell email 4-9-18	Written Testimony-Phase 1
					The current lot size requirements are absurd.	Eli Nafziger email 4-9-18	Written Testimony-Phase 1

No.	Topic	Comments: Support Existing Code	Source	Source Group	Comments: Support Revising Code	Source	Source Group
	Minimum Lot Size Continued				The barriers that remain include: Restrictive lot-size minimums that prohibit many properties from developing SDUs.	Democratic Party of Lane County - Chris Wig email 4-9-18	Written Testimony-Phase 1
					While R-1 regulation allows 14 dwelling units per acre on the surface, when you consider minimum lot size requirements and street frontage requirements, what is allowed by right on a typical lot drops to around 6 units per acre (and allows nothing but single-detached homes). A serious response to this crisis would recognize and remove such a choke-hold on our housing supply.	Dylan Lyman email 4-9-18	Written Testimony-Phase 1
					Standards in the existing code that could preclude development of ADUs on any lot with a single-family dwelling include but are not limited to: Lot area – many lots that allow single family dwellings are smaller than the minimum area required under EC 9.2751(17).	1000 Friends - Alexis Biddle email 4-9-18 (reiterated in 1000 Friends Alexis Biddle email 4-13-18)	Written Testimony-Phase 1
					My husband and I did convert two single family corner houses (with lots sizes 5,000 or more) into duplexes but could not do so on a third because it was just under 5,000 square feet.	Jean Tate email 4-17-18	Written Testimony-Phase 1
					I think that state law SB 1051 is clear and leaves no room for lot size options.	John Fischer email 4-19-2018	Written Testimony-Phase 1
					Remove lot size minimums.	Margaret Boutell email 4-21-18	Written Testimony-Phase 1
					7500 sq ft minimum lot size is preventing development.	Todd Boyle testimony	City Council Public Hearing April 16, 2018
					Reference DLCD guidance on removing minimum lot size.	Sue Walling testimony	City Council Public Hearing April 16, 2018
					Minimum lot size should be removed.	Eliza Kashinsky testimony	City Council Public Hearing April 16, 2018
					Minimum lot size is not a design and siting requirement.	Seth Sadofsky testimony	City Council Public Hearing April 16, 2018
					Minimum lot size requirement is not a siting and design issue.	Matt McRae testimony	City Council Public Hearing April 16, 2018
					Minimum lot size is not reasonable siting and design.	Josh Newman testimony	City Council Public Hearing April 16, 2018
2	Maximum Density	In Phase 2, Eugene City Planning is working on incentives to encourage the building of ADUs. Many of the proposed changes to Eugene City Code regarding ADUs are potentially of significant concern to residential neighborhoods: such as building more than one ADU per housing site.	Ron Bevirt email 4-13-18	Written Testimony-Phase 1	Limiting code - only allow attached SDUs in single-family zones; Supportive code - Allow attached and detached options; Allow up to two ADUs per lot, one internal and one detached	Character-compatible, space-efficient housing options for single-dwelling neighborhoods.	Eugene Planning Past Research/Interviews

No.	Topic	Comments: Support Existing Code	Source	Source Group	Comments: Support Revising Code	Source	Source Group
		Must comply with Low Density Residential maximum density.	Housing Tools and Strategies Working Group Comments	Housing Tools and Strategies	SDUs can be subject to reasonable local regulations relating to design. “Design” includes height, roof pitch, and exterior articulation. Design should not include size, density, interior use of space (e.g. number of bedrooms), ownership or occupancy. If there is to be any limit on size, it should allow floor space up to the limit of lot coverage allowed in the R-1 zone.	Home Builders Association Comments in Bill Kloos Email 2-23-18 (reiterated in Bill Kloos email 4-9-18)	Written Testimony-Phase 1
3	Lot Dimensions				Amend to drop prescribed lot dimensions. Lot dimension is not related to design or siting.	Home Builders Association Comments in Bill Kloos Email 2-23-18 (reiterated in Bill Kloos email 4-9-18)	Written Testimony-Phase 1
					Standards in the existing code that could preclude development of ADUs on any lot with a single-family dwelling include but are not limited to: Lot dimension – the area specific lot dimension requirements of EC 9.2751(17) will not allow development of ADUs on some lots.	1000 Friends - Alexis Biddle email 4-9-18 (reiterated in 1000 Friends Alexis Biddle 4-13-18 email)	Written Testimony-Phase 1
4	Parking Requirement	Removing off street parking requirement would lead to need for special parking zone where residents must pay to park on street.	Housing Tools and Strategies Working Group Comments	Housing Tools and Strategies	The minimum off-street parking requirement for ADUs adds to site development cost and constrains site design possibilities. Current regulations require that single-family homes with ADUs have a minimum of two off-street parking spaces, or one space per unit. Property owners, developers and city staff said this requirement can be challenging to meet from both a site design and financial feasibility perspective for certain lots. Eliminating this regulation would likely have a relatively small impact on the on-street parking supply since developers satisfying this regulation may need to widen or add curb cuts, which reduces on-street parking supply. Recommend to improve site design flexibility: The requirement that ADUs have a minimum of one off-street parking space can impede site design possibilities and may make lots that could easily accommodate ADUs otherwise ineligible from doing so.	Strategic Economics - Eugene Housing Tools and Strategies Evaluation	Housing Tools and Strategies
		In Phase 2, Eugene City Planning is working on incentives to encourage the building of ADUs. Many of the proposed changes to Eugene City Code regarding ADUs are potentially of significant concern to residential neighborhoods: such as on- street parking for ADUs.	Ron Bevirt email 4-13-18	Written Testimony-Phase 1	Revise off street parking requirements to promote less driving and allow more green space.	Housing Tools and Strategies Working Group Comments	Housing Tools and Strategies
		Concerns about parking - talk to police, fire, street cleaners, garbage services etc.	Janet Bevirt testimony	City Council Public Hearing April 16, 2018	Study identified off-street parking requirements as a code barrier.	Code Barriers Affecting SDU Development	Eugene Planning Past Research/Interviews

No.	Topic	Comments: Support Existing Code	Source	Source Group	Comments: Support Revising Code	Source	Source Group
	Parking Requirement Continued	Eugene development code gives flexibility in parking placement (parking spaces for the SDU and main house are both accommodated in the main garage).	Character-compatible, space-efficient housing options for single-dwelling neighborhoods.	Eugene Planning Past Research/Interviews	R-1 Low Density Residential requires one off-street parking space per unit. Although relatively low, this can be difficult on smaller infill lots. To yield the best, most neighborhood compatible site designs, parking requirements need to be reconsidered (further limited or not required when on-street parking exists).	Barriers to Missing Middle Housing	Eugene Planning Past Research/Interviews
					Limiting Code- Require one or more additional on-site parking spaces per ADU; Supportive Code- Require no on-site parking beyond what's required for the primary house; Waive on-site parking requirement for ADU if site is near transit	Character-compatible, space-efficient housing options for single-dwelling neighborhoods.	Eugene Planning Past Research/Interviews
					Survey results identified parking requirements as challenge to building an ADU for Eugene and Ashland only.	Accessory Dwelling Unit Survey for Portland, Eugene, and Ashland, Oregon Final Methodology and Data Report	Eugene Planning Past Research/Interviews
					Significant barrier is off-street parking requirements particularly if separate access is required and tandem parking is not permitted. Recommend to avoid requirements for off-street parking for ADUs. If parking is a significant political or neighborhood concern, consider a low parking standard of one space per ADU that can be located on-street if available or off-street.	Accessory dwelling unit zoning code audit report - Portland Metro region	Eugene Planning Past Research/Interviews
					Amend to delete parking requirements. Parking is unrelated to siting and design.	Home Builders Association Comments in Bill Kloos Email 2-23-18 (reiterated in Bill Kloos email 4-9-18 and 4-19-18)	Written Testimony-Phase 1
					Waive the off-street parking requirement if there is on-street parking available (and there are no adopted plans to remove the on-street parking). Allow an unpaved parking space on-site in certain situations.	1000 Friends Email 3-13-18 (reiterated in 1000 Friends Alexis Biddle email 4-9-18 and 4-13-18)	Written Testimony-Phase 1
					We recommend the removal of language pertaining to parking requirements as part of ADU development.	Eugene Housing Policy Board - Norton Cabell email 4-9-18	Written Testimony-Phase 1
					Reference DLCD guidance on parking requirements.	Sue Walling testimony	City Council Public Hearing April 16, 2018

No.	Topic	Comments: Support Existing Code	Source	Source Group	Comments: Support Revising Code	Source	Source Group
5	Alley Access Parking / Driveway				Alley paving/gravel costs were significant.	Developer Interview by staff	Housing Tools and Strategies
					Amend to delete. Parking and access are unrelated to siting and design.	Home Builders Association Comments in Bill Kloos Email 2-23-18 (reiterated in Bill Kloos email 4-9-18)	Written Testimony-Phase 1
6	Building Height/Sloped Setback	In addition to congestion, the issue of privacy would be impacted if constraints about height were removed - again decreasing livability in this University neighborhood.	Nancy Meyer email 3-13-18	Written Testimony-Phase 1	Design requirements do not take into account constraints on sloped lots, making it very difficult from a design perspective to make an ADU work on a slope. ADUs cannot be taller than 15 feet, which makes it difficult to add a loft or second story. Recommend to improve site design flexibility: Building height requirements do not translate well to sloped lots, making it very cumbersome for homeowners of these lots to incorporate ADUs.	Strategic Economics - Eugene Housing Tools and Strategies Evaluation	Housing Tools and Strategies
		There are good reasons for maintaining the qualities that make neighborhoods desirable, such as set-backs and other issues of concern to most residents of the residentially-zoned areas of Eugene.	Ron Bevirt email 4-13-18	Written Testimony-Phase 1	Height limit not measured from alley grade = drainage issues. Would have preferred to build floor at alley grade and not sacrifice interior ceiling height.	Developer Interview by staff	Housing Tools and Strategies
		We as a community might like to see height as a reasonable requirement to protect neighborhood livability.	Carlis Nixon testimony	City Council Public Hearing April 16, 2018	Limiting code - cap ADU height at 1 story; Supportive code - allow 1.5-2 story ADUs; If the code allows garages in side or rear setbacks, allow small, 1-story ADUs there too	Character-compatible, space-efficient housing options for single-dwelling neighborhoods.	Eugene Planning Past Research/Interviews
		There are good reasons for maintaining the qualities that make neighborhoods desirable, such as set-backs and other issues of concern to most residents of the residentially-zoned areas of Eugene.	Ron Bevirt testimony	City Council Public Hearing April 16, 2018	Survey results identified lot setbacks and height limits as challenges to building an ADU for all cities in study.	Accessory Dwelling Unit Survey for Portland, Eugene, and Ashland, Oregon Final Methodology and Data Report	Eugene Planning Past Research/Interviews
					Significant barriers are property line setback requirements (20 foot rear yard) and restrictions such as one-story height limits. Recommend to reduce side and rear setbacks for detached ADUs to 5 to 10 feet, either by reducing standards specific for ADUs and accessory structures or reducing setbacks for the base zones. Allow at least 20 to 25-foot maximum height for detached ADUs depending on whether height is measured as the average or the top of a sloped roof, and up to 35 feet or the base zone maximum height for attached ADUs, to permit two-story ADUs for additional flexibility, such as ADUs over a garage.	Accessory dwelling unit zoning code audit report - Portland Metro region	Eugene Planning Past Research/Interviews

No.	Topic	Comments: Support Existing Code	Source	Source Group	Comments: Support Revising Code	Source	Source Group
	Building Height/Sloped Setback Continued				Delete siting and design standards that would prevent an existing single-family dwelling from conversion to include an attached SDU. Delete any provisions that would prevent turning an existing floor level into a SDU. Siting and design standards that would prevent an existing single-family dwelling from being converted to include an attached SDU are not reasonable.	Home Builders Association Comments in Bill Kloos Email 2-23-18 (reiterated in Bill Kloos email 4-9-18)	Written Testimony-Phase 1
					We have a detached garage with a flat roof that would be ideal for an accessory dwelling unit. Our property is about 15,000 sq. ft. and we have at least two off street parking spaces. We seem to meet all the guidelines in the City's handout, but when I spoke with someone in land use, they told me that the height restriction had been lowered from 25 feet to 18 feet. Since we are on a slope, the measurements would be from the downhill side. That would give us only 8 feet to build a one story unit. The only building that would work would have a very low ceiling and a flat roof and look horrible. Please change the height restriction back to 25 feet.	Tim Verkler email 3-15-18	Written Testimony-Phase 1
					Restriction adds time, cost and complexity to construction.	WECAN email 4-2-18	Written Testimony-Phase 1
					The current height requirements are absurd.	Eli Nafziger email 4-9-18	Written Testimony-Phase 1
					I live in the Cal Young Neighborhood and would love an SDU on my property, but because of setbacks, slopes, SDC's and host of other barriers am unable to put an SDU up based on the current codes.	Angie Marzano email 4-18-2018	Written Testimony-Phase 1
1	Prohibition on New Flag Lots				Amend to remove restrictions on secondary dwellings on flag lots. No basis in the statute for denying owners of flag lots right to secondary dwelling unit.	Home Builders Association Comments in Bill Kloos Email 2-23-18	Written Testimony-Phase 1
2	Vehicle Use Area				Paving /impervious surface limits would trigger need for expensive bioswale if paved sidewalk or parking added at time of occupancy- could do later without permit. Process does not inspire compliance.	Developer Interview by staff	Housing Tools and Strategies

No.	Topic	Comments: Support Existing Code	Source	Source Group	Comments: Support Revising Code	Source	Source Group
					Amend to delete this limitation. This is unrelated to siting and design of the secondary dwelling. Paved/unpaved vehicle use areas do not count toward lot coverage limits. See definition of "Lot Coverage " in EC 9.0500. This standard will preclude secondary dwellings on some lots that would qualify under the statute.	Home Builders Association Comments in Bill Kloos Email 2-23-18	Written Testimony- Phase 1
3	Owner/ Occupancy Requirement	Secondary Dwelling Units are intended to help with aging relatives or supplement income to help pay the mortgage or supply some retirement income. These uses imply the owners live on site. The purpose of the owner occupancy is a design requirement to support this concept. Eliminating the owner occupancy requirement changes the intention of SDUs. Absentee landlords with R1 rental houses will add SDUs to their properties, which they cannot currently do legally. There is potential for five unrelated people in the single-family home and another five in the SDU. Cars, congestion, and loss of privacy will be problems, leading to people leaving the area. This is not only a problem around the university. It will extend to all neighborhoods. Oversight of rental property is often poor and can quickly degrade the neighborhood. Eliminating the owner occupancy requirement for SDUs will be damaging to R1 neighborhoods.	Bill Aspegren email 3-13-18	Written Testimony Phase 1	ADUs can only be constructed if the property owner intends to occupy either the primary unit or the ADU. This was viewed as both arbitrary and discriminatory against renters.	Strategic Economics - Eugene Housing Tools and Strategies Evaluation	Housing Tools and Strategies
		I urge you to leave the owner occupancy ruling in the SDU standards in Eugene Code 9.2751(17) in place for R-1 Zones, including the ownership/occupancy requirements. The City and neighborhood associations worked together to create this reasonable regulation. This section is consistent with ORS 197.312(5)(a) and the goals of this process.	Helen Beardsworth email 3-13-18	Written Testimony- Phase 1	The requirement that owners must occupy either the primary or accessory unit precludes owners of approximately one-fourth of single-family homes in Eugene from adding ADUs. Of the 37,400 "1-unit detached" units in Eugene as of 2016, approximately 9,100 were renter-occupied. In other words, 24 percent of single-family detached units are not occupied by the property owner, and therefore those property owners would be unable to add ADUs to their lots under current regulations unless they desire to live on-site.	Strategic Economics - Eugene Housing Tools and Strategies Evaluation	Housing Tools and Strategies
		Must include owner occupancy	Housing Tools and Strategies Working Group Comments	Housing Tools and Strategies	Remove owner-occupancy requirement	Housing Tools and Strategies Working Group Comments	Housing Tools and Strategies
		In SUNA, we have huge concerns about the potential elimination of the owner occupancy ruling- since all rentals would then be allowed to rent additional buildings - increasingly impacting the density of this neighborhood away from a tenuous balance with owner occupants	Nancy Meyer email 3-13-18	Written Testimony- Phase 1	Sightline Institute and Oregon DEQ study identified owner-occupancy requirement as a code barrier.	Code Barriers Affecting SDU Development	Eugene Planning Past Research/Interviews

No.	Topic	Comments: Support Existing Code	Source	Source Group	Comments: Support Revising Code	Source	Source Group
	Owner/ Occupancy Requirement Continued	In Phase 2, Eugene City Planning is working on incentives to encourage the building of ADUs. Many of the proposed changes to Eugene City Code regarding ADUs are potentially of significant concern to residential neighborhoods: such as removing the requirement that one house on an ADU site be owner-occupied	Ron Bevirt email 4-13-18	Written Testimony-Phase 1	Identified as a "limiting" code. Recommendation to avoid this requirement. Such requirements limit financing options for ADUs. If rental of both the primary home and ADU is allowed, lenders can treat it as a duplex for financing purposes. This allows an appraiser to use an income-based valuation, which often comes in higher than a sales comparison approach.	Character-compatible, space-efficient housing options for single-dwelling neighborhoods.	Eugene Planning Past Research/Interviews
		Since "Phase 1" of the process to comply with HB 1051 was not stated as changing fundamental SDU policies, I recommend that for this phase, the Council simply retain the current requirement for a property owner to be resident, which is the only "connection" required between the primary and secondary dwellings other than being on the same lot.	Paul Conte email 4-28-18	Written Testimony-Phase 1	Significant barrier is owner-occupancy requirements; Recommend to avoid any owner-occupancy requirements for ADUs or primary dwellings, which limit the normalization of ADUs as a mainstream residential option and often create financing limitations for ADUs. Eliminating owner-occupancy requirements also minimizes code enforcement concerns about tenant residency status, which is not regulated for any other type of residence.	Accessory dwelling unit zoning code audit report - Portland Metro region	Eugene Planning Past Research/Interviews
		Removing owner-occupancy requirement everywhere would be a Trojan Horse blanket elimination of R1 with likely unfavorable results without much gain.	Pam Woodell email 4-30-18	Written Testimony-Phase 1	Owner occupancy requirement unnecessary. Prefers home size limits to limit impacts of more residents.	Developer Interview by staff	Housing Tools and Strategies
		We as a community might like to see owner-occupancy as a reasonable requirement to protect neighborhood livability.	Carlis Nixon testimony	City Council Public Hearing April 16, 2018	Amend to drop owner occupancy limitation and enforcement scheme. Ownership is unrelated to siting or design. This standard discourages owners of multiple residential lots from building secondary dwellings. Regulating tenancy is a poor attempt at addressing other perceived social problems such as a fear that a single-family home rented is less cared for and creates more problems than a home lived in by the owner. A home that is rented is actually subject to more legal requirements concerning the habitability of the dwelling.	Home Builders Association Comments in Bill Kloos Email 2-23-18 (reiterated in Bill Kloos email 4-9-18 and 4-19-18)	Written Testimony-Phase 1

No.	Topic	Comments: Support Existing Code	Source	Source Group	Comments: Support Revising Code	Source	Source Group
	Owner/ Occupancy Requirement Continued	Owner occupancy requirement is important. Without it developers will tear down existing affordable housing to build 2 new units. Renters don't care about the outside of property.	Janet Bevirt testimony	City Council Public Hearing April 16, 2018	Delete all existing and proposed regulations not relating to siting and design as criteria or conditions of approval for accessory units in all areas of the City zoned for detached single-family dwellings. Such regulations include, but are not limited to, all existing and proposed requirements for owner occupancy and the documentation, monitoring, and enforcement thereof. Have aptly been described by the Seattle-based Sightline Institute as a common "poison pill" for accessory dwelling units ("ADU"). As explained in Sightline's ADU Do's and Don'ts, submitted herewith: Another poison pill that many localities drop into their ADU rules is a requirement of owner occupancy: property owners must live on ADU sites, either in the primary or secondary unit. This rule gives bankers the jitters, which prevents many homeowners from securing home loans to finance the ADU construction. Owner-occupancy sharply limits the value appraisers can assign to a house and ADU and makes the property less valuable as loan collateral. If a bank forecloses on a house and suite covered by an owner-occupancy rule, it cannot rent out both units.	Housing Land Advocates email 3-5-18 (reiterated in Housing Land Advocates email 4-11-18)	Written Testimony-Phase 1
					Design and siting regulations are understood to mean regulations about the structure itself, not characteristics of the property owner such as their place of residence. If the City of Eugene denied a property owner a permit to develop an ADU based solely on the lack of a deed restriction related to owner-occupancy, it seems that this would be counter to SB 1051 allowance for each single-family homeowner to develop an ADU.	WECAN Email 3-5-18	Written Testimony-Phase 1
					Remove requirement for the property owner to live on site.	1000 Friends Email 3-13-18 (reiterated in 1000 Friends Alexis Biddle email 4-9-18 and 4-13-18)	Written Testimony-Phase 1

No.	Topic	Comments: Support Existing Code	Source	Source Group	Comments: Support Revising Code	Source	Source Group
	Owner/ Occupancy Requirement Continued				WE CAN strongly believes that owner-occupancy requirements are not design or siting requirements, and thus not permitted under SB 1051. Owner-occupancy requirements regulate not the building, but rather who lives in the building. There is no clear guidance available as to whether owner-occupancy could be allowed as a “reasonable siting and design regulation”. In all likelihood, this will ultimately be determined in the Land Use Board of Appeals. The DLCDD has recommended against owner-occupancy requirements simply because they are difficult to enforce and will “likely simply be ignored and constitute an on-going enforcement headache for local governments.” WE CAN has additional concerns about the equity of owner-occupancy requirements. Since enforcement will inevitably be selective and complaint-based, the requirement invites discriminatory actions in which a neighbor who objects to what a resident looks like, who s/he lives with, or what his/her income level is, could file a complaint based on owner-occupancy and force that resident to move to some other neighborhood. Eugene has nuisance codes to address property maintenance and resident behavior, and these are more appropriate mechanisms than owner occupancy to neighborhood livability.	WECAN Email 4-2-18	Written Testimony-Phase 1
					Restriction adds time, cost and complexity to construction.	WECAN email 4-2-18	Written Testimony-Phase 1
					I support having Secondary Dwelling Units in the R-1 zone with affordable fees and no owner residency requirement. Residential housing infill is an important part of Eugene's future compact urban growth. Many R-1 properties would make excellent sites for small secondary dwellings that could have minimal fees and no residency requirement for the owner to also occupy the property. This restrictive requirement would discourage many projects from happening and would be difficult to enforce as individual's circumstances change over time.	Bob Hibsichman email 4-6-18	Written Testimony-Phase 1

No.	Topic	Comments: Support Existing Code	Source	Source Group	Comments: Support Revising Code	Source	Source Group
	Owner/ Occupancy Requirement Continued				I am a longtime homeowner and I support allowing SDU's in R1 (low density residential) zones and eliminating the owner occupancy requirement. The greatest responsibility for an elected official is to represent and advocate for the community's needs not just respond to the loudest, the most connected or the most affluent. Decisions are almost always influenced and made by those of us who are homeowners yet half of our community members are renters. The requirement for an owner occupant in order to construct an SDU is based on a false notion that renters are second class citizens and not responsible. I can't think of another explanation for such discrimination. It certainly isn't based on a scientific study. LCDC has sent out a directive to eliminate this discriminatory practice. Please allow SDU's in R1, drop the discriminatory owner occupant requirement, and then do what it takes to make them affordable and accessible.	Richie Weinman email 4-7-18	Written Testimony-Phase 1
					Dropping the requirement that people have to live in their home is another barrier with no purpose.	Kaya Singer email 4-7-18	Written Testimony-Phase 1
					I am a homeowner and I support allowing SDU's in R1 (low density residential) zones and eliminating the owner occupancy requirement.	Linda Wylie email 4-8-18	Written Testimony-Phase 1
					We urge the removal of owner occupancy requirements, in which the property owner is required to live on the property in either the primary or the accessory dwelling unit.	Eugene Housing Policy Board - Norton Cabell email 4-9-18	Written Testimony-Phase 1
					The current owner residency requirements are absurd.	Eli Nafziger email 4-9-18	Written Testimony-Phase 1
					The barriers that remain include: Owner-occupancy requirements that create logistical barriers for potential SDU owners and treat renters as second-class citizens;	Democratic Party of Lane County - Chris Wig email 4-9-18	Written Testimony-Phase 1
					I think that state law SB 1051 is clear and leaves no room for owner occupancy options.	John Fischer email 4-19-2018	Written Testimony-Phase 1
					Do not require owner-occupancy (just like any other rental)	Margaret Boutell email 4-21-18	Written Testimony-Phase 1
					Reference DLCD guidance on removing owner occupancy requirements.	Sue Walling testimony	City Council Public Hearing April 16, 2018
					Owner occupancy should be removed.	Eliza Kashinsky testimony	City Council Public Hearing April 16, 2018

No.	Topic	Comments: Support Existing Code	Source	Source Group	Comments: Support Revising Code	Source	Source Group
	Owner/ Occupancy Requirement Continued				Eliminate owner occupancy requirement.	Laurie Hauber testimony	City Council Public Hearing April 16, 2018
					Owner occupancy not a design and siting requirement. Renters are good neighbors and have rights.	Seth Sadofsky testimony	City Council Public Hearing April 16, 2018
					Eliminate discriminatory owner occupancy requirement.	Richie Weinman testimony	City Council Public Hearing April 16, 2018
					Address owner occupancy requirement as it is not serving our community.	Matt McRae testimony	City Council Public Hearing April 16, 2018
					Owner occupancy is not reasonable siting and design.	Josh Newman testimony	City Council Public Hearing April 16, 2018
4	Maximum Bedroom				Recommend to improve site design flexibility: The maximum square footage and bedroom count regulations are not context-sensitive and can be overly restrictive depending on the lot size.	Strategic Economics - Eugene Housing Tools and Strategies Evaluation	Housing Tools and Strategies
					Amend to drop bedroom count limitation. Bedroom limitation unrelated to siting or design.	Home Builders Association Comments in Bill Kloos Email 2-23-18 (reiterated in Bill Kloos email 4-9-18)	Written Testimony-Phase 1
5	Maximum Occupancy				Study identified occupancy limits as a code barrier.	Code Barriers Affecting SDU Development	Eugene Planning Past Research/Interviews
					Amend to drop occupancy limitation. Occupancy limitation unrelated to siting or design.	Home Builders Association Comments in Bill Kloos Email 2-23-18	Written Testimony-Phase 1
					Define an ADU as a dwelling that may be occupied by a 'household' or 'family,' same as any other dwelling ranging from studio apartments to detached single-family dwellings, which provides maximum flexibility for ADU use and requires minimum ongoing oversight by code enforcement to monitor number of occupants.	Accessory dwelling unit zoning code audit report - Portland Metro region	Eugene Planning Past Research/Interviews
6	Dog Keeping				Amend to drop dog limitation. Dog keeping is unrelated to siting or design. "Equal rights for SDU dogs." If the City wants to regulate the number of dogs permitted on a single-family lot it should do so without regard as to whether there is a secondary dwelling.	Home Builders Association Comments in Bill Kloos Email 2-23-18	Written Testimony-Phase 1

Accessory Dwelling Regulations in Other Oregon Cities

ATTACHMENT C

City	2018 Population Estimate	Requirements					Updated
		Minimum Lot Size	Density	Parking Spaces	Owner Occupancy	Maximum Building Square Footage	
Portland	648,740	No	Exempt in SF	0	No	800 sq.ft. or 75% of primary dwelling, whichever is less	
Salem	165,265	No	Exempt	0	No	900 sq.ft or 75% of primary dwelling, whichever is less	2017
Gresham	110,505	No	Exempt	1	No	Attached: 900 sq.ft. Detached: 750 sq.ft.	2018
Hillsboro	101,920	Minimum lot area requirements of zone	Unclear	1	No	750 sq. ft.	Unclear
Beaverton	97,000	No	Silent	1	No	800 sq.ft or 50% of primary dwelling, whichever is less.	(update in progress)
Bend	89,505	No	Exempt	1 (can be on- street)	No	600 sq ft. or 800 sq.ft. based on lot size	2018
Medford	80,375	No	Exempt	0	No	900 sq.ft. or 75% of primary dwelling, whichever is less	2018
Springfield	60,865	Minimum lot area requirements of zone	Silent	1 (can be on- street)	No	800 sq. ft. or size of primary dwelling, whichever is less	2018
Corvallis	59,280	No	Silent	0	Yes	480 sq.ft. or 40% of primary dwelling, whichever is greater; not to exceed 900 sq.ft.	2018
Albany	53,145	Minimum lot area requirements of zone	Silent	Current: 3 total Proposed: on- street waiver	Current: Yes Proposed: No	Current: 750 sq.ft. or 50% of primary; whichever is less Proposed: 900 sq.ft.	2007
Tigard	52,785	No	Silent	1 or 0 if within ½ mile from transit or with street parking	No	800 sq.ft. (not to exceed primary dwelling)	2019
Lake Oswego	38,215	No	Silent	1	Yes	800 sq.ft.	2018

**GUIDANCE ON IMPLEMENTING
THE ACCESSORY DWELLING UNITS (ADU) REQUIREMENT
UNDER OREGON SENATE BILL 1051**



*M. Klepinger's backyard detached ADU, Richmond neighborhood, Portland, OR.
(Photo courtesy of Ellen Bassett and accessorydwellings.org.)*

OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

MARCH 2018



Oregon Department of
Land Conservation
and Development

Introduction

As housing prices in Oregon go up, outpacing employment and wage growth, the availability of affordable housing is decreasing in cities throughout the state. While Oregon's population continues to expand, the supply of housing, already impacted by less building during the recession, has not kept up. To address the lack of housing supply, House Speaker Tina Kotek introduced House Bill 2007 during the 2017 legislative session to, as she stated, "remove barriers to development." Through the legislative process, legislators placed much of the content of House Bill 2007 into Senate Bill 1051, which then passed, and was signed into law by Governor Brown on August 15, 2017. In addition, a scrivener's error¹ was corrected through the passage of HB 4031 in 2018.

Among the provisions of SB 1051 and HB 4031 is the requirement that cities and counties of a certain population allow accessory dwelling units (ADUs) as described below:

- a) A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas within the urban growth boundary that are zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design.*
- b) As used in this subsection, "accessory dwelling unit" means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.*

This new requirement becomes effective on July 1, 2018 and subject cities and counties must accept applications for ADUs inside urban growth boundaries (UGBs) starting July 1, 2018. Many local governments in Oregon already have ADU regulations that meet the requirements of SB 1051, however, some do not. Still others have regulations that, given the overall legislative direction to encourage the construction of ADUs to meet the housing needs of Oregon's cities, are not "reasonable." The Oregon Department of Land Conservation and Development (DLCD) is issuing this guidance and model code language to help local governments comply with the legislation. The model code language is included on its own page at the end of this document.

¹ *The scrivener's error in SB 1051 removed the words "within the urban growth boundary." HB 4031 added the words into statute and thus limited the siting of ADUs to within UGBs.*

Guidance by Topic

The purpose of the following guidance is to help cities and counties implement the ADU requirement in a manner that meets the letter and spirit of the law: to create more housing in Oregon by removing barriers to development.

Number of Units

The law requires subject cities and counties to allow “at least one accessory dwelling unit for each detached single-family dwelling.” While local governments must allow one ADU where required, DLCD encourages them to consider allowing two units. For example, a city or county could allow one detached ADU and allow another as an attached or interior unit (such as a basement conversion). Because ADUs blend in well with single-family neighborhoods, allowing two units can help increase housing supply while not having a significant visual impact. Vancouver, BC is a successful example of such an approach.

Siting Standards

In order to simplify standards and not create barriers to development of ADUs, DLCD recommends applying the same or less restrictive development standards to ADUs as those for other accessory buildings. Typically that would mean that an ADU could be developed on any legal lot or parcel as long as it met the required setbacks and lot coverage limits; local governments should not mandate a minimum lot size for ADUs. So that lot coverage requirements do not preclude ADUs from being built on smaller lots, local governments should review their lot coverage standards to make sure they don’t create a barrier to development. To address storm water concerns, consider limits to impermeable surfaces rather than simply coverage by structures.

In addition, any legal nonconforming structure (such as a house or outbuilding that doesn’t meet current setback requirements) should be allowed to contain, or be converted to, an ADU as long as the development does not increase the nonconformity.

Design Standards

Any design standards required of ADUs must be clear and objective (ORS 197.307[4]). Clear and objective standards do not contain words like “compatible” or “character.” With the exception of ADUs that are in historic districts and must follow the historic district regulations, DLCD does not recommend any special design standards for ADUs. Requirements that ADUs match the materials, roof pitch, windows, etc. of the primary dwelling can create additional barriers to development and sometimes backfire if the design and materials of the proposed

ADU would have been of superior quality to those of the primary dwelling, had they been allowed.

Parking

Requiring off-street parking is one of the biggest barriers to developing ADUs and it is recommended that jurisdictions not include an off-street parking requirement in their ADU standards. Adding off-street parking on many properties, especially in older centrally-located areas where more housing should be encouraged, is often either very expensive or physically impossible. In addition, when adding an additional off-street parking space requires a new or widened curb cut, it removes existing on-street parking, resulting in no net gain of parking supply. As an alternative to requiring off-street parking for ADUs, local governments can implement a residential parking district if there is an on-street parking supply shortage. For more help on parking issues, visit www.oregon.gov/lcd/tgm/pages/parking.aspx or contact DLCD.

Owner Occupancy

Owner-occupancy requirements, in which the property owner is required to live on the property in either the primary or accessory dwelling unit, are difficult to enforce and not recommended. They may be a barrier to property owners constructing ADUs, but will more likely simply be ignored and constitute an on-going enforcement headache for local governments.

Public Utilities

Development codes that require ADUs to have separate sewer and water connections create barriers to building ADUs. In some cases, a property owner may want to provide separate connections, but in other cases doing so may be prohibitively expensive.

System Development Charges (SDCs)

While SDCs are not part of the development code and SB 1051 does not require them to be updated, local governments should consider revising their SDCs to match the true impact of ADUs in order to remove barriers to their development. ADUs are generally able to house fewer people than average single-family dwellings, so their fiscal impact would be expected to be less than a single-family dwelling. Accordingly, it makes sense that they should be charged lower SDCs than primary detached single-family dwellings.

This page intentionally left blank.

Accessory Dwellings (model code)

Note: ORS 197.312 requires that at least one accessory dwelling be allowed per detached single-family dwelling in every zone within an urban growth boundary that allows detached single-family dwellings. Accessory dwellings are an economical way to provide additional housing choices, particularly in communities with high land prices or a lack of investment in affordable housing. They provide an opportunity to increase housing supply in developed neighborhoods and can blend in well with single-family detached dwellings. Accessory dwelling regulations can be difficult to enforce when local codes specify who can own or occupy the homes. Requirements that accessory dwellings have separate connections to and pay system development charges for water and sewer services can pose barriers to development. Concerns about neighborhood compatibility, parking, and other factors should be considered and balanced against the need to address Oregon's housing shortage by removing barriers to development.

The model development code language below provides recommended language for accessory dwellings. The italicized sections in brackets indicate options to be selected or suggested numerical standards that communities can adjust to meet their needs. Local housing providers should be consulted when drafting standards for accessory dwellings, and the following standards should be tailored to fit the needs of your community.

Accessory dwellings, where allowed, are subject to review and approval through a Type I procedure[, pursuant to Section _____.] and shall conform to all of the following standards:

[A. One Unit. *A maximum of one Accessory Dwelling is allowed per legal single-family dwelling. The unit may be a detached building, in a portion of a detached accessory building (e.g., above a garage or workshop), or a unit attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor).*

/

A. Two Units. *A maximum of two Accessory Dwellings are allowed per legal single-family dwelling. One unit must be a detached Accessory Dwelling, or in a portion of a detached accessory building (e.g., above a garage or workshop), and one unit must be attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor).]*

B. Floor Area.

1. A detached Accessory Dwelling shall not exceed [800-900] square feet of floor area, or [75] percent of the primary dwelling's floor area, whichever is smaller.
2. An attached or interior Accessory Dwelling shall not exceed [800-900] square feet of floor area, or [75] percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling would be more than [800-900] square feet.

C. Other Development Standards. Accessory Dwellings shall meet all other development standards (e.g., height, setbacks, lot coverage, etc.) for buildings in the zoning district, except that:

1. Conversion of an existing legal non-conforming structure to an Accessory Dwelling is allowed, provided that the conversion does not increase the non-conformity; and

2. No off-street parking is required for an Accessory Dwelling.

Definition (This should be included in the “definitions” section of the zoning ordinance. It matches the definition for Accessory Dwelling found in ORS 197.312)

Accessory Dwelling – An interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling.



EUGENE HOUSING TOOLS & STRATEGIES EVALUATION

Prepared for:

City of Eugene, OR



January 2019

TABLE OF CONTENTS

I. Executive Summary	2
Introduction	2
Report Organization	2
Background Information.....	2
Accessory Dwelling Unit Evaluation	5
Construction Excise Tax Evaluation	7
II. Introduction.....	10
Purpose of Study.....	10
Overview of Affordable Housing and Housing Affordability in Eugene	11
III. Background information	12
Population and household characteristics.....	12
Home Values and Rents	21
IV. Accessory Dwelling Units.....	26
Who Lives in ADUs?	26
Benefits and Opportunities Associated with ADUs	26
Barriers to ADUs.....	27
ADU Feasibility.....	30
Recommendations on ADUs.....	33
V. Construction Excise Tax	34
Revenue Potential.....	34
Financial Feasibility Evaluation.....	35
Recommendations on CET	41
Appendix I: Housing Tools & Strategies Inventory	42
Appendix II: Best Practices Resources	47

II. INTRODUCTION

Purpose of Study

Enabling quality housing at a range of price points is a high priority for the City of Eugene. In May 2018, the Eugene City Council passed a motion to have staff implement a process to identify barriers to housing affordability, availability, and diversity, and to suggest, evaluate, and recommend possible strategies and tools to address the barriers.

The process included the establishment of the Housing Tools and Strategies Working Group, a citizen committee formed to make recommendations to City Council on options to improve housing affordability, availability and diversity in Eugene. In support of all these efforts the City of Eugene hired Strategic Economics to conduct research and analysis on housing policies and tools. This report is not intended as a comprehensive affordable housing strategy or housing action plan, but rather provides findings from a series of tasks coordinated with the work of the Housing Tools and Strategies Working Group. For the process, Strategic Economics conducted the following tasks:

- **Evaluated data on demographics and housing.** Strategic Economics analyzed a wide variety of quantitative data, relying on U.S. Census and American Community Survey estimates for demographic data, and on sources such as Costar and Redfin for housing market data. The City of Eugene also provided Strategic Economics with housing unit building permit trend data.
- **Evaluated Accessory Dwelling Units.** Strategic Economics performed multiple analyses concerning Accessory Dwelling Units (ADUs) in Eugene. Strategic Economics analyzed: 1) parcel data to consider how current ADU policies may be limiting ADU production and the overall potential of ADUs as a tool to increase Eugene's housing stock; 2) the Eugene land use code to identify areas of conflicting interpretation on ADU policy; 3) existing literature on ADU production in other cities; and 4) the financial feasibility of building an ADU under various scenarios.
- **Evaluated the Construction Excise Tax (CET).** Strategic Economics relied on building valuation data from the City of Eugene to estimate the potential revenue of a Construction Excise Tax (CET), and considered the impacts of a CET on the financial feasibility of development projects.
- **Conducted financial feasibility evaluation.** Strategic Economics considered the feasibility of various housing development types, including large-lot single family, townhome, multifamily, cottage cluster, and accessory dwelling unit projects. Feasibility was analyzed under various scenarios including the status quo, with reduced system development charges (SDCs), and with a CET.
- **Interviewed homeowners, property owners, renters, developers, and city staff.** Strategic Economics contacted a variety of stakeholders and conducted interviews with city staff, community members, and with individuals involved in the development community, including professional real estate developers, architects, homebuilders, contractors, and homeowners building ADUs.
- **Prepared summary descriptions of housing tools and strategies (Appendix I).** Strategic Economics researched and assembled a matrix of housing-focused tools typically used by municipalities. The matrix includes tools on zoning strategies for market-rate housing production, as well as developer incentives and local funding strategies for affordable housing production.

IV. ACCESSORY DWELLING UNITS

This chapter summarizes the evaluation of Accessory Dwelling Unit (ADU) policy in Eugene. Strategic Economics conducted several analyses to evaluate the potential to increase ADU production, including: 1) conducting a parcel analysis to consider how current ADU policies may be limiting ADU production and the overall potential of ADUs as a tool to increase Eugene's housing stock and the overall potential of ADUs as a tool to increase Eugene's housing stock; 2) reviewing the Eugene land use code to identify areas of conflicting interpretation on ADU policy; 3) reviewing existing literature on ADU production in other cities; and 4) conducting an analysis of the financial feasibility of building an ADU under various scenarios.

An ADU, also sometimes referred to as a “granny flat,” “in-law unit,” or “backyard cottage,” is a housing unit of modest size, typically ranging from studios to two bedrooms, added to the lot of single-family home. ADUs come in many forms. They can be detached from or incorporated into the primary dwelling. They can be newly constructed or converted from existing structures, such as garages. ADUs are considered a type of “gentle density” in which building them increases the housing supply while minimally impacting their neighborhoods.

Who Lives in ADUs?

ADUs have been promoted in high-cost cities to meet the needs of aging homeowners. An ADU could provide retirees with both an additional income source, and a means to “age in place.” A 2014 survey of over 200 Portland homeowners with ADUs found that owners are typically older than ADU tenants. The median age of ADU owners in Portland was estimated to be 53, while that of tenants was 36.²⁵

The vernacular nicknames for ADUs suggest that they are inhabited primarily by family members, be it an elderly parent or an adult son or daughter. However, in regions with high housing costs, homeowners are increasingly building ADUs as units on the general rental market. A study that surveyed homeowners that had recently built ADUs in Seattle, and Portland, and Vancouver, BC, found that over half of the 414 respondents' ADUs were occupied by “arm's length renters,” or those with no previous relationship with the owner. Friends and family occupied approximately 30 percent of ADUs, and the remaining respondents reported their ADUs were either unoccupied or occupied by homeowners.²⁶

Benefits and Opportunities Associated with ADUs

An effective ADU policy can contribute to achieving or maintaining affordability while accommodating growth because ADUs are a relatively low cost housing type since there are no land costs and because they capitalize on existing infrastructure. Other benefits of ADUs include:

ADUs do not require the demolition of existing buildings, and therefore have a significantly smaller displacement impact, compared to larger-scale development.

²⁵ Brown, Martin and Jordan Palmeri, “Accessory dwelling units in Portland, Oregon: evaluation and interpretation of a survey of ADU owners,” *Oregon Department of Environmental Quality*, 2014.

²⁶ Chapple, Karen, Jake Wegmann, Farzad Mashhood, and Rebecca Coleman. “Jumpstarting the Market for ADUs: Lessons Learned from Portland, Seattle, and Vancouver.” *The Turner Center for Housing Innovation*, 2018.

ADUs can be regulated in a manner that allows them to be visually compatible with their neighborhood's existing fabric. Municipalities' typical ADU site design regulations tend to require that ADUs be smaller than the primary unit and set back from the primary street. With these policies in place, ADUs have a minimal impact on the urban design characteristics of their neighborhoods.

Building ADUs can be relatively straightforward. The barrier to entry for homeowners wanting to build an ADU is very low, compared to other, more complex housing products. In this sense, ADU-supportive policies can open up the real estate development arena to a larger swath of the population, which increases the rate at which new housing can be delivered. Homeowners building ADUs do not have land acquisition and assembly requirements typical of larger development, (including other Missing Middle development types). Additionally, ADU development, when guided by sound policy, can bypass administrative hurdles that more complex developments tend to require, such as site plan reviews, zoning changes, or subdivision applications.

In tight housing markets, ADUs provide property owners with supplemental income, and renters with an “affordable-by-design” housing option. In a balanced housing market, ADUs' efficient size and less expensive construction cost can translate to housing cost savings for renters. They also provide an opportunity for seniors to “age in place,” in which a senior homeowner could reside in an ADU while earning rental income on their primary property.

Barriers to ADUs

Barriers to ADUs include zoning and permitting issues as well as lack of capital or other financing issues. This section summarizes nationwide financing issues and barriers arising from Eugene's existing ADU policies.

NATIONWIDE ADU FINANCING ISSUES

Homeowners frequently are required to take on substantial personal financial risk when building an ADU. A comparable amount of upfront development costs per unit are likely to be completely reasonable for professional developers to absorb, who benefit from greater access to financing products and more experience navigating the real estate development process. However, for homeowners, these costs can impede ADU development, and the threshold at which per unit development cost can kill an ADU project is likely to be considerably lower than for larger developments that traditional developers oversee. A study that surveyed ADU owners in Portland, Vancouver, and Seattle, for instance, found that monetary challenges, including obtaining a loan and paying for construction costs, were the largest challenges that homeowners building ADUs faced.²⁷

Larger-scale developers typically rely on construction loans to finance development projects, through which they borrow against expected future equity following the project's completion. However, this type of loan product is typically not available to homeowners adding ADUs. Rather, homeowners rely on their own savings, or borrow against existing equity in their primary dwelling. A 2014 study that surveyed over 200 Portland ADU owners found that 62 percent of respondents financed their ADU (either partially or in-full) with cash, while a sizeable share also relied on their existing home equity,

²⁷ Chapple, Karen, et al.. “Jumpstarting the Market for ADUs: Lessons Learned from Portland, Seattle, and Vancouver.” *The Turner Center for Housing Innovation*, 2018.

either through a home equity line of credit (29 percent), or cash-out refinancing based on the primary home's value (12 percent). Meanwhile, very few (2 percent) relied on a construction loan, and no respondents paid with cash-out refinancing based on the property's future value.²⁸ National lending institutions do not have an established definition for ADUs, and therefore they improperly categorize them as non-income generating properties, which largely accounts for these financing issues. Fannie Mae and Freddie Mac underwriting guidelines, for instance, treat properties with ADUs differently than they would a duplex or other small multiplex, which they consider as "mortgage-helper" units. A prospective homebuyer of a triplex, for instance, can partially rely on their expected rental income to qualify for a mortgage. In contrast, a homebuyer purchasing a property with a detached ADU would likely not be able to use expected rental income to qualify.²⁹

The solution to circumventing nation-wide ADU financing issues rests in collaborating with local banks and credit unions, who may be more willing to invest in ADU projects and to craft innovative financing solutions that can support them. Umpqua Bank in particular already offers construction loans for ADUs and other investment properties (see Appendix II for more information on Umpqua Bank's programs).

BARRIERS CREATED FROM EXISTING EUGENE ADU POLICIES

While the City of Eugene currently allows ADUs in all traditional residential zones (R-1, R-2, R-3, and R-4), and the majority of Special Zones by right, very few ADUs have been permitted and built. From 2008 to 2014, approximately nine ADUs were permitted per year, representing 1.5 percent of total permitted units during this timeframe. However, after the City of Eugene adopted more restrictive ADU requirements in July 2014, the annual number of ADU permitted units declined significantly. From 2015 to 2017, only seven ADUs were permitted in total, about two per year, representing just 0.3 percent of housing units permitted in those three years.

System Development Charges (SDCs) discourage people from building ADUs and from engaging in the existing permitting process required to legally build them. Eugene ties SDCs to a building's unit count rather than to unit size. Developers of ADUs and other small-footprint housing units, such as cottage clusters, pay comparable SDCs to developers of large, single-family homes. Homebuilders estimated that there are potentially 50 to 60 ADUs being built per year in Eugene that are not permitted as ADUs, but rather as "additions with two-bedrooms and a wet bar." Because incorporating a full range into an addition triggers ADU review, contractors frequently build "*de facto*" ADUs omitting that feature. Since such units are unpermitted and therefore not subject to City review it would be very difficult for the City of Eugene to confirm this estimate. However, the City was able to provide data for "not an ADU" deed restrictions and for code compliance issues related to illegal dwelling space. In 2018 the City processed 22 permits that required "not an ADU" deed restrictions, which are required when a proposed project includes space that could be used as a separate dwelling but an ADU is not being permitted. Again for 2018, the City found 19 code compliance cases related to illegal dwelling space. Many of the cases appeared to be related to people living in unconverted garage or shed space. Staff also noted that they have many more inquiries on ADUs than actual permitted units.

²⁸ Brown, Martin and Jordan Palmeri, "Accessory dwelling units in Portland, Oregon: evaluation and interpretation of a survey of ADU owners," *Oregon Department of Environmental Quality*, 2014.

²⁹ Wegmann, Jake. "Financing Ancillary Apartments on Residential Properties: Challenges and Solutions," *UC-Berkeley Institute of Governmental Studies*, 2015.

Minimum lot size requirements preclude approximately 17 percent of residential lots with single-family homes throughout Eugene from adding ADUs. Single-family lots in most residential areas must be larger than 6,100 square feet to be eligible for an ADU. Approximately 15 percent of lots with single-family homes are smaller than the minimum and would be ineligible for ADUs under current regulations. In the Amazon, Fairmount, and South University neighborhoods lots must be at minimum 7,500 square feet.³⁰ In these three neighborhoods, ADUs are currently prohibited on one-half of single-family lots.

The requirement that owners must occupy either the primary or accessory unit precludes up to one-fourth of owners of single-family homes in Eugene from adding ADUs. Census data estimates that of the 37,400 “1-unit detached” units in Eugene, approximately 9,100 are renter-occupied.³¹ In other words, 24 percent of single-family detached units are not occupied by the property owner, and therefore those property owners would be ineligible to add ADUs to their lots unless they intended to occupy one of the units. Multiple property owners and developers interviewed for this study viewed this requirement as arbitrary and discriminatory against renter households, which make up over half of all households in Eugene.

Site design requirements are highly prescriptive to a point of being potentially capricious. Both developers and city staff mentioned that site design requirements do not allow for variations in topography, or flexible standards for attached ADUs in existing buildings. For example, most existing homes do not meet the building standards that the City of Eugene established for ADUs in 2014. Therefore, many proposals for attached ADU units incorporated into existing homes are deemed ineligible, according to city staff, because the existing homes themselves are incompatible with the requirements. In addition, height standards for ADUs are inflexible on sloped lots. According to city staff, ADU proposals on sloped lots typically do not move forward because applicants have difficulty meeting the standards. Eugene requires adjustment review for ADU proposals requesting variances from these standards, which opens the project up to public review and delays the project’s timeline, which further adds to project cost.

The minimum off-street parking requirement for ADUs adds to site development cost and constrains site design possibilities. Current regulations require that single-family homes with ADUs have a minimum of two off-street parking spaces, or one space per unit. Developers and city staff said this requirement can be challenging to meet from both a site design and financial feasibility perspective for certain lots. Eliminating this regulation would likely have minimal impact on on-street parking supply since developers satisfying this regulation may need to widen or add curb cuts, which reduces parking supply.

Most SDC rates that apply to newly constructed single-family homes and duplexes also apply to ADUs. While the Stormwater SDC rate is lower for buildings under 1,000 square feet, the other SDCs apply at the same rate regardless of unit size or bedroom count. **In effect, Eugene’s current SDC policies disincentivize the development of both ADUs and of small footprint housing more generally.** The City of Eugene also currently restricts the number of bedrooms and square footage of ADUs, the only housing type regulated in this manner. ADUs may be up to 800 square feet and can have two bedrooms or fewer. The maximum square footage policy, on its own, helps ensure that ADUs have low environmental impact, and offer “affordable-by-design” units in Eugene. However, a homeowner’s

³⁰ Flag lots must be at minimum 12,500 square feet, excluding the “pole” portion of the lot. Flag lots were not considered in the minimum lot size requirement geospatial analysis, due to the complex nature of identifying flag lots in the city’s parcel data.

³¹ American Community Survey, 5-year estimates, 2012-2016.

rental income for an ADU is informed by the size of the unit. Therefore, the combination of the SDC policy and size restrictions on ADUs likely negatively impacts ADU feasibility.

ADU Feasibility

The factors that impact financial feasibility of ADUs vary from those of larger-scale developments because they are built under different circumstances than projects from professional developers. While additional income can be a driving factor, motivations among homeowners adding ADUs are typically multilayered. For instance, they may be providing housing for a family member, or creating a way for themselves to “age in place.” This is in contrast to professional developers who make decisions based on their financial bottom line. Homeowners may also have to take on a substantial amount of personal debt to build an ADU, meaning they typically view the endeavor as very financially risky to take on, substantially more so than a traditional developer managing a comparable project. With this in mind, ADU feasibility is less about short-term profitability and more about the perceived risk and time commitment associated with breaking even. Additionally, professional developers are likely to plan for selling their projects after a certain period has passed, and they may make their decisions based on information from a shorter time span. In contrast, homeowners adding ADUs are likely to think of them as a long-term investment into their own property or home.

Therefore, while a larger projects’ feasibility is typically measured by its “yield on cost” or “return on cost” (depending on if they are rentals or for-sale product), a potential ADU’s long-term cash flow better informs whether it will or will not be built.

This evaluation of ADU feasibility tested four scenarios: Scenario 1 represents current circumstances for building ADUs. Scenario 2 reflects if SDCs were waived, which is roughly equivalent to Portland’s ADU policy. Scenario 3 incorporates waived SDCs, and a larger building size. Scenario 4 is modelled after the Alley Flat Initiative, a program in Austin, Texas that aims to increase the production of designated affordable housing units by assisting with the development of ADUs (see Appendix II for more information on the Alley Flat Initiative). Figure 23 shows assumptions held constant for each scenario.

FIGURE 23. ASSUMPTIONS FOR ALL SCENARIOS IN ADU CASH FLOW ANALYSIS

Metric	Amount
Operating Cost as Share of Rent Income	30%
Vacancy Cost as Share of Rent	5%
Interest Rate for 30-Year Fixed Rate Cash-Out Refinance	4.50%
Down Payment as Share of Total Project Cost	20%
Rent Per Sq. Ft.	\$2.00
Time from Financing Approval to Certificate of Occupancy	1 Year

Source: Strategic Economics, 2018.

Figure 24 shows a summary of feasibility results for the four scenarios. Among the first three scenarios, which assume the ADU is rented at market-rate, the current status quo is the least favorable to the homeowner, requiring 14 years before the ADU project turns a profit. Waiving SDCs completely, and

relaxing site design standards to easily allow for a 900 square foot ADU moves that up by four years. This shows that combining incentives, such as waiving SDCs, with ADU-friendly design regulations can significantly improve the financial outlook for homeowner. Scenario 4 demonstrates that requiring that homeowners charge “affordable” rents impacts financial feasibility for ADUs. However, there are potentially additional incentives that the City of Eugene could layer on top of those incorporated into Scenario 4, to incentivize homeowners to participate.

FIGURE 24. FEASIBILITY RESULTS SUMMARY FOR FOUR ADU SCENARIOS

Scenario	SDCs	Building Sq. Ft.	Net Operating Income	Total Mortgage Cost	Homeowner Sees Profit
Scenario 1: Status Quo	\$7,515	750	\$11,700	\$139,219	Year 14
Scenario 2: Waived SDCs	\$0	750	\$11,700	\$133,207	Year 12
Scenario 3: Waived SDCs and Larger Sq. Ft. (a)	\$0	900	\$14,040	\$150,607	Year 10
Scenario 4: "Alley Flat Initiative" Affordable Housing (b)	\$0	900	First 5 Years: \$5,216; Year 6 and After: \$14,040	\$142,378	Year 17

Source: City of Eugene, 2018; Strategic Economics, 2018

Notes:

(a) While Scenarios 1 and 2 incorporate a direct per square foot cost of \$175, Scenarios 3 and 4 are informed by a slightly discounted direct per square foot cost of \$170, as it is assumed the added square footage would be more efficiently built.

(b) In Scenario 4, the development overhead and A&E fees are discounted by 50%, while city permit fees are also waived. The homeowner is required to rent their unit for the first five years at 80% AMI.

Recommendations on ADUs

The factors limiting ADU production in Eugene are multi-faceted, and there is no one silver bullet that alone would better support their development. To encourage ADU production, the City of Eugene would need to take a number of steps, depending on the political appetite for increasing their supply. Options include adjusting the land use code and the structure of SDCs and other city fees as they apply to ADUs, increasing community outreach and education efforts regarding ADUs, and exploring ways to support applicants trying to build ADUs, who typically are preempted from taking advantage of traditional financing mechanisms available to professional developers. Specific options include:

- **Adjust Lot Size Requirements:** The median lot size for a single-family home in Eugene is approximately one-fifth of an acre, or 8,430 square feet, which is considered well-suited to accommodate an ADU. After eliminating the 1,470 single-family lots that may be too small to incorporate an ADU, and the 73 ADUs that have been permitted since 2008, crafting policies to encourage ADUs on all single-family lots could potentially add 43,344 units to Eugene's housing stock.³² While it is unlikely, of course, that every homeowner that is able would choose to build an ADU, the sheer number of potential ADUs points to the great impact ADU-supportive policy could have. If owners of just five percent of potential ADU lots were to build one, the number of units added would be 2,150, which is equivalent to about one-third of all dwelling units permitted in Eugene from 2008 through 2017.
- **Reduce Costs:** The City of Eugene should consider scaling or reducing SDCs for ADUs. Reduced SDCs would reflect the fact that ADUs typically have lower occupancy than single family detached homes and that small-scale infill development capitalizes on existing infrastructure rather than requiring system expansions.
- **Improve Site Design Flexibility:** In cities like Eugene where a majority of residential lots are occupied by detached single-family homes, ADU-supportive policy can substantially increase the housing stock if there is a clear path to build them. If Eugene wants to see more ADUs developed, then ADU requirements need to be more flexible. For example, under current requirements it's very difficult to convert a portion of an existing building into an accessory unit, because it's typical that the existing building does not follow the requirements and there is no grandfathering of existing conditions or flexibility with this. Also, building height requirements do not translate well to sloped lots, making it very cumbersome for homeowners of these lots to incorporate ADUs. The requirement that ADUs have a minimum of one off-street parking space can impede site design possibilities and may make lots that could easily accommodate ADUs otherwise ineligible from doing so. The maximum square footage and bedroom count regulations are not context-sensitive and can be overly restrictive depending on the lot size.
- **Eliminate Owner Occupancy Requirement:** The owner occupancy requirement should be eliminated. Almost one-quarter of single-family detached units are not occupied by the property owner. This requirement is burdensome and discriminatory against renter households, which make up over half of all households in Eugene.

³² While ADU development standards vary between municipalities, there are examples of well-designed ADUs on lots as small as 4,000 square feet. There are 1,470 lots that are smaller than 4,000 square feet, which may be considered too small to accommodate an ADU.