City Council
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EUGENE CITY COUNCIL AGENDA

July 12, 2021

5:30 p.m. CITY COUNCIL WORK SESSION

Due to Governor Brown's Stay Home, Save Lives Executive Order to combat the spread of Covid-19, this meeting will be held remotely using virtual meeting technology. Information about online or other options for access and participation will be available at https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials

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Meeting of July 12, 2021;
Her Honor Mayor Lucy Vinis Presiding

Councilors

Jennifer Yeh, President	Claire Syrett, Vice President
Mike Clark	Greg Evans
Randy Groves	Matt Keating
Emily Semple	Alan Zelenka

5:30 p.m. CITY COUNCIL WORK SESSION

1. **WORK SESSION: Program Review and Proposed Use of Affordable Housing Trust Fund Resources**

2. **WORK SESSION and POSSIBLE ACTION: An Ordinance Concerning Accessory Dwellings; Replacing the Term "Secondary Dwelling" with "Accessory Dwelling" Throughout the Eugene Code 1971; Making Additional Amendments to Sections 9.0500, 9.2010, 9.2011, 9.2740, 9.2741, 9.2750, 9.2751, 9.2775, 9.3060, 9.3065, 9.3115, 9.3125, 9.3126, 9.3210, 9.3215, 9.3310, 9.3510, 9.3615, 9.3625, 9.3626, 9.3810, 9.3811, 9.3815, 9.3910, 9.3915, 9.3970, 9.6410 And 9.8030 of that Code; Addressing the Oregon Land Use Board of Appeals' Remand of Ordinance Nos. 20594, 20595, and 20625; and Providing an Effective Date**

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EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Work Session: Program Review and Proposed Use of Affordable Housing Trust Fund Resources

Meeting Date: July 12, 2021 | Agenda Item Number: 1
Department: Planning & Development | Staff Contact: Ellen Meyi-Galloway
www.eugene-or.gov | Contact Telephone Number: 541-682-5532

ISSUE STATEMENT

Ordinance 20609 established the Construction Excise Tax (CET) to contribute to the Affordable Housing Trust Fund (AHTF) and required that in 2021 and every two years thereafter, staff would present a program review to Council. During this work session, staff will provide the program review of the activities to date since the ordinance was adopted in 2019. Staff will also present a recommended allocation for the use of AHTF in FY22 for Council's consideration and action.

BACKGROUND

In 2016, the Oregon Legislature passed Senate Bill 1533 authorizing Oregon cities and counties to establish a CET. The law authorizes a city or county to tax new residential and commercial buildings, additions, and alterations. A CET is a one-time tax imposed on new construction where an established tax rate (percentage) is multiplied by the permit valuation of the construction permit. The CET is assessed at the time building permits are issued. A portion of residential CET (15%) is remitted to the State and returned to the local community through the local homeownership assistance provider (DevNW is the provider for Lane County) to provide homebuyer assistance to low and moderate-income households.

On April 8, 2019, City Council passed an ordinance establishing a local CET. Attachment A provides Frequently Asked Questions related to the CET. The amount remitted to the State for homebuyer assistance in FY20 was approximately $35,700. The net revenue generated in FY20 through the CET accrued in the City's Affordable Housing Trust Fund (AHTF) to support programs, incentives and services in FY21 related to the housing of households earning 100% of area medium income and below. In addition, Council approved $500,000 of general funds for the AHTF in the December 2019 Supplemental Budget. The total amount of CET and general funds accrued in the AHTF in FY20 was $800,000.

On July 24, 2019, City Council held a work session to discuss implementation of the AHTF including a proposed timeline, advisory committee structure, and potential uses for AHTF resources.

The City Manager selected the nine members of the AHTF Advisory Committee (Advisory Committee) in October 2019. Attachment B has a list of the Advisory Committee members. The Advisory Committee makes recommendations to staff related to how trust fund resources should be allocated.

On July 27, 2020, Council approved the FY21 uses (the FY21 AHTF allocation): $500,000 for direct assistance to renters and homeowners, and $300,000 for development projects to be offered through a Request for Proposals (RFP) process.

2021 Program Review
The City has collected CET for two years and implemented the AHTF for one year. Attachment C has details of the work since 2019. A summary is provided below.

- *Collection of CET.* The CET is collected by Building and Permit Services (BPS) staff at the time of permit issuance. On the effective date of July 1, 2019, the CET was assessed as 0.33% of permitted improvements for new structures, additional square footage to existing structures, and additional living space to existing structures. The percentage increased to 0.5% on July 1, 2020 and currently remains at 0.5%. During these two years, the actual cost of the CET for building permit applicants was offset by a reduction in System Development Charge fees (SDCs) equal to the CET assessment and supplemented by other City funds if the SDC costs were lower than the CET assessment. As a result, building permit holders were not charged for CET costs through June 30, 2021. At the start of this fiscal year (FY22), the CET offsets expired as per the Ordinance, so the CET costs are now paid by permit holders. While BPS has historically increased permit fees by a small percentage each year, this year BPS did not propose a fee increase because the cost to permit holders had increased due to the sunset of the CET offset.

- *Work of Advisory Committee*. Since 2019, the Advisory Committee formed and became oriented to the needs of the community with input from affordable housing providers and advocates. They made recommendations for the FY21 allocation, the 2021 RFP criteria, the funding award for the 2021 RFP, and the FY22 allocation. The Advisory Committee also created a charter for their work and elected leadership.

- *FY21 AHTF Implementation.* The summary of the first year of implementation (FY21) is as follows:
    - $150,000 of direct mortgage assistance for foreclosure prevention administered by DevNW. Due to the State's foreclosure moratorium, the funding will be fully disbursed by DevNW by the end of the calendar year (2021).
    - $350,000 of direct rent assistance through Lane County and its partner agencies. In May, approximately $262,000 in AHTF rent assistance had been disbursed so far. As a result of the pandemic, Lane County has disbursed a significant amount of rent assistance from other sources ($12.4 million has been disbursed through mid-June) and will receive significantly more rent assistance to be disbursed through FY25 ($34 million).
    - $300,000 in development funds were offered through the City RFP. Council approved funds for Cornerstone Community Housing's 'The Grove on Garden Way' proposal at the May 24, 2021 Council meeting.

Allocation of AHTF for FY22
According to the ordinance, AHTF may be used for programs, incentives, and services related to the housing of households earning 100% of the area median income and below.

- *Direct Assistance.* With the influx in rental assistance resources through Federal and State programs, the County reported that the amount of assistance is expected to be sufficient

through FY25 ($34 million). County funds serve households that earn up to 80% of area median income (AMI). DevNW reported that in the current housing market, approximately $30,000 in down payment assistance may be needed per household to create homebuyer opportunities for households with limited incomes. As of May 31, 2021, approximately $89,300 in CET revenue was remitted to the State since 2019 to be used in Eugene as down payment assistance. DevNW also receives State funding to provide homebuyer and foreclosure counseling, and down payment assistance to low income homebuyers.

- *Housing Development.* The demand for affordable housing development resources was most recently demonstrated in FY21 when two affordable housing proposals were not awarded resources through the Fall 2020 Housing RFP, and one proposal was not awarded resources through the 2021 AHTF RFP. The demand for assistance with Systems Development Charges continues as developers require subsidies to help lower rents enough to be affordable for households with lower incomes. Because AHTF resources are more flexible than federal development funds, they can be used for different types of projects that have fewer available resources such as development of homeownership housing, housing for middle income households earning 60% to 100% AMI, or adaptive re-use of non-residential buildings for housing people with special needs. The subsidies provided by the AHTF can leverage private, State, and Federal resources. AHTF resources allocated for housing development will be awarded through an RFP process, and Council will make final funding decisions each Spring.

The Construction Excise Tax generated approximately $978,000 in FY21.[1] In addition, Council approved $500,000 in general funds for AHTF in December 2020 through the Supplemental Budget. The total estimated AHTF that can be allocated for FY22 is $1,478,000.

Project delivery administrative costs are estimated to be approximately 10% of the AHTF. As the program continues to be launched and depending how Council chooses to allocate the funds, the actual spending may vary. The goal is to spend no more than 10% on project delivery administration and to preserve as much AHTF resources for projects and services.

Advisory Committee Recommendation

The Advisory Committee discussed the FY22 allocation at their meeting March 17, 2021. The Advisory Committee considered the direct assistance to renters in the context of the resources available in the community due to the pandemic response.

The Advisory Committee recommended that that a minimum of 75% of the net FY22 AHTF be allocated to housing development, and that if the Council directs a portion to direct assistance to renters and homeowners, they consider all other forms of rental assistance available through Federal, State and local agencies (the draft allocation showing 75% of the available funds for development and the remaining funds for direct assistance is in Attachment D). The Advisory Committee also recommended that the 25% of the allocation for direct assistance be prioritized for Black, Indigenous, and People of Color (BIPOC) individuals and households.

[1] The estimate for FY21 CET a) was developed by adding an approximate calculation of CET to be collected in June and b) is after the 15% of residential CET collected is remitted to the State for homebuyer assistance.

Next Steps
Following Council direction on the FY22 allocation, staff will administer the FY22 direct assistance through existing service providers. Staff will work with the Advisory Committee to complete the 2022 RFP process for development resources. Project proposals will be considered by Council in Spring 2022.

Council will meet in the Fall of 2021 to review a draft of the Housing Implementation Pipeline (HIP), which will lay out a 5-year implementation plan for housing policy and programs across the housing continuum. As part of the HIP work session, Council will have an opportunity to discuss and set a 5-year allocation strategy for using the AHTF.

PREVIOUS COUNCIL DIRECTION
April 8, 2019 Council Meeting – City Council adopted an Ordinance Concerning Imposition of a Construction Excise Tax on Commercial and Residential Improvements.

July 24, 2019 Work Session – City Council voted to use the vast majority of the CET funds on direct assistance to renters and homeowners (not including the 15 % of the residential CET revenue automatically remitted to the State for local down payment assistance.)

July 27, 2020 Work Session – City Council allocated AHTF for FY21 and identified $500,000 for direct assistance to renters and homeowners and $300,000 for development projects to be awarded through a Request for Proposals process.

May 24, 2021 – City Council approved $300,000 for Cornerstone Community Housing's the Grove on Garden Way development proposal through the 2021 AHTF RFP.

COUNCIL OPTIONS
The City Council has three options:
1. Approve the allocation of FY22 Affordable Housing Trust Funds consistent with the Advisory Committee recommendation and as outlined in Attachment D.
2. Propose an alternative funding allocation.
3. Take no action at this time and direct staff to return with additional information or options.

CITY MANAGER'S RECOMMENDATION
Considering the amount of rental assistance in the community, the demand for development resources to create affordable housing, and the Advisory Committee recommendation, the City Manager recommends approval of the allocation in Attachment D.

Because of the racial wealth gap that was created by decades of discriminatory practices barring BIPOC individuals and households from homeownership in Oregon, access to the AHTF homebuyer resources would be affirmatively marketed directly to BIPOC individuals and households.

SUGGESTED MOTION

Move to direct the City Manager to allocate Affordable Housing Trust Fund resources consistent with the Advisory Committee recommendation and as outlined in Attachment D.

ATTACHMENTS

A. Construction Excise Tax Frequently Asked Questions
B. Membership of Affordable Housing Trust Fund Advisory Committee
C. 2021 Program Review for CET/AHTF
D. FY22 AHTF Proposed Allocation with 75% for Development

FOR MORE INFORMATION

Staff Contact: Ellen Meyi-Galloway, Housing Finance Analyst
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Staff E-Mail: EMeyi-Galloway@eugene-or.gov

Eugene Building & Permit Services

Construction Excise Tax

What Is the Construction Excise Tax?

In 2016, Oregon Legislature passed Senate Bill 1533 authorizing Oregon cities and counties to establish a construction excise tax (CET). In May of 2019, the Eugene City Council passed Ordinance 20609 establishing the tax in Eugene. The tax will create a dedicated source of funding for affordable housing. The law authorizes a city or county to tax new residential and commercial buildings, additions, and alterations. Specifically, it applies to all improvements which result in a new structure, additional square footage to an existing structure, or addition of living space to an existing structure.

Why is this tax needed?

Eugene City Council and State Legislature both recognize traditional funding sources for affordable housing – especially federal sources- have declined. Because of this decline, our community has fallen far behind in meeting the housing needs of Eugene residents with limited incomes. The money collected from the CET will be put into the Affordable Housing Trust Fund. This fund will provide critical funding and is one part of a larger effort to help address the housing challenge.

What does the CET pay for?

Money collected from the CET will go into the Affordable Housing Fund, which will pay for projects and programs that increase availability and access to owner- and renter-occupied housing that is affordable to lower income community members. Examples of how these funds may be used include:

- Gap financing for the development of new affordable housing
- Acquisition of existing housing that will become affordable
- Acquisition of land for future affordable housing development
- Down payment assistance for home buyers
- Rental or security deposit assistance forpeople who rent their homes.

CET resources will be used to supplement the limited federal resources that support the City's existing federal affordable housing programs. Revenues will be allocated to fund projects, programs, incentives, and services related to the housing of households earning 100% of area medium income and below, and in accordance with state law.

The Affordable Housing Trust Fund Advisory Committee advises staff on the use of Affordable Housing Trust Funds resources. The CET went into effect July 1, 2019. Funds were allocated to housing programs and projects starting in 2020.

Who needs to pay and when?

The CET is required to be paid by the developer or property owner who is developing property within Eugene city limits. The CET applies to certain improvements to property that result in additional square footage or improvements which create additional living space. The CET is paid when the permit is issued.

Who is exempt from paying the CET?

The following are exempt from the CET:

- Private school improvements
- Public improvements as defined in ORS 279A.010
- Residential housing that is guaranteed to be affordable to households that earn no more than 80% of the median household income for a period of at least 60 years following the date of construction
- Public or private hospital improvements
- Improvements to religious facilities

Construction Excise Tax

primarily used for worship or education associated with worship
- Agricultural building as defined by ORS 455.315
- Long term care facilities operated by a not-for- profit corporation, as defined in ORS 442.015
- Residential care facilities operated by a not- for-profit corporation, as defined in ORS 443.400
- Continuing care retirement communities operated by a not-for-profit corporation, as defined in ORS 101.020
- Residential dwellings sold for $250,000 or less
- Housing for low-income persons that is exempt from systems development charges (SDCs) pursuant to section 7.725c
- Projects granted a multi-unit property tax exemption (MUPTE) by the city.

To demonstrate a project is exempt from the CET a Construction Excise Tax Exemption Form must be completed, signed, and submitted with the building permit application identifying what exemptions are applicable to the project.

How much is the CET?

The CET is 0.5% of the value of permitted work for improvements which result in a new structure, additional square footage to an existing structure, or addition of living space to an existing structure.

How long is the CET active?

Based on legislation adopted in 2016, the City can continue levying the tax for an indefinite amount of time. Eugene City Council will review the overall management and outcomes of the program every two years.

Whom can I contact for more information?

If you have additional questions, you may contact the City of Eugene's Building and Permit Services by phone: (541) 682-5086.

Additional information on the affordable housing programs and the advisory committee can be found at: eugene-or.gov/affordablehousingtrustfund

What is "affordable housing" and how can I learn more about City affordable housing programs and resources?

Across the United States, housing costs are considered "affordable" if the monthly rent or mortgage, plus utilities, add up to no more than one-third (or 30%) of gross household earnings. Affordable housing developments receive public subsidies in exchange for a commitment to provide homes with limited rents for people with limited incomes.

The City of Eugene has supported the creation of affordable housing using both federal and local funds for over 40 years.

Affordable Housing Trust Fund Advisory Committee Membership

John Barofsky

Dane Butler ^

Paula Farquhar-Stout

Isaac Judd

Pete Knox

Kaarin Knudson

Sarah Pishioneri (Co-Chair)

Scott Rogers (Co-Chair)

Carmel Snyder

^ Not present at the meeting March 17, 2021.

Recommendation to staff on March 17, 2021:

The Affordable Housing Trust Fund Advisory Committee recommends that after deducting the cost of project delivery and administration, a minimum of 75% of the FY22 Affordable Housing Trust Fund dollars be allocated to housing development and that if the Council directs a portion to rental assistance they consider all other forms of rental assistance available through Federal, State and local agencies.

2021Program Review for Construction Excise Tax / Affordable Housing Trust Fund

Background
In 2019, City Council passed Ordinance 20609, establishing a Construction Excise Tax (CET) as a dedicated revenue source for the Affordable Housing Trust Fund (AHTF). The CET taxes new residential and commercial buildings, additions, and alterations. Specifically, it applies to all improvements which result in a new structure, additional square footage to an existing structure, or addition of living space to an existing structure.

Section 3.748 of the ordinance says that beginning in 2021, and every two years thereafter, the City Council shall review the overall management and outcomes of the CET and the resulting AHTF program. Staff will provide the first program review to Council in a work session on July 12, 2021. The following is a review of the outcomes of CET and AHTF to date.

Collection of Construction Excise Tax
Staff started collecting CET on July 1, 2019 at the beginning of fiscal year 2020 (FY20). In the first year, the tax was 0.33% of the value of permitted improvements which result in a new structure, additional square footage to an existing structure, or addition of living space to an existing structure. Starting the second year (FY21), the tax was 0.5% of value of permitted work. For the first two years of the program, the amount collected was offset by a reduction in Systems Development Charges (SDCs) equal to the amount of the CET so there was no additional cost to development, and the City did not have a net increase in revenue.

The State collects 15% of residential CET to use for local homebuyer assistance programs. The amount remitted to the State for homebuyer assistance in FY20 was approximately $35,700 and in FY21 is approximately $53,600 for a total of approximately $89,300 (as of May 31, 2021). The amount that the State collects for homebuyer assistance goes to the State-designated local organization for distributing homebuyer assistance. The Lane County organization for homebuyer assistance is DevNW. CET funds are designated by DevNW to serve Eugene households. No homebuyer assistance has been provided by DevNW with these resources yet because of the timing of the transfer from the State.

The rest of the CET collected in FY20 was deposited into the AHTF for implementation in FY21. Approximately $300,000 in CET was collected for the AHTF in FY20 (after the 15% of residential CET collected was remitted to the state for homebuyer assistance). Approximately $950,000 in CET was collected in FY21 between July 2020 and May 2021 (after the 15% of residential CET collected is remitted to the State for homebuyer assistance). When adding an estimate for CET collection in June, approximately $978,000 will be available for implementation in FY22.

In addition to CET, Council approved $500,000 of general funds for the AHTF through the Supplemental Budget in FY20 that increased the total AHTF available for implementation in FY21. Council approved $500,000 of general funds for the AHTF through the Supplemental Budget in FY21 that will be available for implementation in FY22.

Advisory Committee
The City Manager appointed nine members to an Affordable Housing Trust Fund Advisory Committee (Advisory Committee) in Fall of 2019. The main responsibilities of the Advisory Committee are to make recommendations to staff about the allocation of AHTF into categories (such as housing development and direct assistance to renters and homeowners), the Request for Proposals (RFP) criteria, and the

development projects to be funded with AHTF. In FY20, the Advisory Committee analyzed community needs with input from affordable housing providers, community groups, advocates, and the public. In FY21, the Advisory Committee recommended RFP criteria for the first annual RFP that was released in 2021. A subcommittee of the Advisory Committee scored and ranked the proposals received through the RFP. The full Advisory Committee recommended the top scored proposal for funding (The Grove on Garden Way). The Advisory Committee recommended that the FY22 allocation include a minimum of 75% of AHTF should be used for housing development and that direct assistance should prioritize Black, Indigenous, and People of Color (BIPOC) individuals and households.

Staff developed a committee charter with input from the Advisory Committee to formalize the responsibilities of the committee. The annual Advisory Committee schedule was determined to include two meetings in the Fall, and two meetings in the Spring plus a meeting of the Advisory Committee evaluation subcommittee to score and rank housing development project proposals received through the RFP.

Allocation of AHTF for FY21

The first year of CET collection in FY20 made resources available for use in FY21. In addition to the $300,000 in CET collected in FY20, City Council approved $500,000 in general funds for the AHTF. The total to allocate for "programs, incentives, and services related to the housing of households earning 100% of area median income and below" in FY21 was $800,000.

In July 2019 at a Council work session, Council made a motion that the vast majority of the AHTF allocation would be used for direct assistance to renters and homeowners. This could include rent assistance, security deposits, and other assistance for renters; and down payment assistance for homebuyers or mortgage assistance to help homeowners prevent foreclosure. However, Councilors welcomed the work of the Advisory Committee to present a recommendation to staff related to the use of AHTF.

In July 2020 amid the COVID-19 pandemic, City Council considered the FY21 AHTF allocation. The Advisory Committee had recommended to use all available FY21 AHTF for housing development and no resources for direct assistance. Council decided to pursue their original guidance for the FY21 AHTF allocation, with the majority of funds ($500,000) used for direct assistance to renters and homeowners, and $300,000 for housing development.

Direct Assistance for Renters

Council directed the City Manager to distribute FY21 direct assistance to renters immediately through existing channels. The Lane County Human Services Commission organizes rental assistance programs in the area. AHTF direct rent assistance in the amount of $350,000 is being distributed through Lane County with the following partner agencies: Catholic Community Services, Centro Latino Americano, ShelterCare, St. Vincent de Paul Lindholm Center, St. Vincent de Paul First Place Family Center, and The Relief Nursery. Lane County has expended about $262,000 of the AHTF rent assistance as of May 2021.

Lane County has also distributed other sources of rental assistance funds for a total of $12.4 million since the beginning of the pandemic as reported June 21, 2021. There were 2,682 households assisted throughout the County, and of those 1,640 households were assisted in Eugene. Lane County is expected to receive an additional $34 million in rent assistance through the Department of Treasury and American Rescue Plan Act that will be available through 2025.

Direct Assistance for Homeowners

Council directed the City Manager to distribute FY21 direct assistance to homeowners immediately through existing channels. DevNW is the region's provider of homeowner and homebuyer counseling,

financial and credit counseling, individual development savings accounts, and homeowner and homebuyer assistance. DevNW received $150,000 in AHTF to provide homeowners with direct mortgage assistance to prevent foreclosure. Because of the State moratorium on foreclosure, the funds have only now started to be utilized to help homeowners with missed mortgage payments. One homeowner has used $5,150 in AHTF as of June 2021.

DevNW has been providing foreclosure counseling and are seeing clients with 6-12 months of arrears owed to the bank. The agency expects to expend the AHTF by the end of calendar year 2021. There are additional funds coming from the State to also assist with housing stability for existing homeowners.

Housing Development Request for Proposals

Council allocated $300,000 of the FY21 resources for the development of affordable housing. The Advisory Committee recommended criteria for the 2021 AHTF Request for Proposals (RFP) in December 2020, and the RFP was released in January 2021. Three proposals were received, but one withdrew from consideration. An evaluation sub-committee of the Advisory Committee scored the proposals in April 2021, and the Advisory Committee provided a recommendation to staff to fund the Cornerstone Community Housing (CCH) proposal, The Grove on Garden Way. City Council approved the funds for the recommended project on May 24, 2021.

The Grove on Garden Way proposal is to acquire a property at 158 Garden Way, demolish three existing structures, and develop a four-story apartment building with 122 units of one, two, three, and four-bedroom affordable housing targeted to households earning no more than 60% of area median income (AMI). The total number of bedrooms would be 252. CCH would work with Centro Latino Americano and NAACP to serve people of color, and would also seek to assist families with children, seniors, and survivors of domestic violence, working with WomenSpace as a referral agency. CCH would provide on-site resident services in partnership with local service providers. The site would include a play area, community gardens, outdoor open space, and indoor community space.

Allocation of AHTF for FY22

The Construction Excise Tax generated approximately $950,000 in FY21 between July 2020 and May 2021 (after the 15% of residential CET collected is remitted to the State for homebuyer assistance). An estimate for the total FY21 CET generated was developed by adding an approximate calculation of CET collected in June. In addition, Council approved $500,000 in general funds for AHTF in December 2020 through the Supplemental Budget. The total estimated AHTF to be allocated for FY22 is approximately $1,478,000. Up to 10 % of the resources would be used for administration of the program and project delivery.

At their March 17, 2021 meeting, the Advisory Committee made a recommendation that after deducting funds for project delivery administration, a minimum of 75% of the available funds be used for housing development projects. The development resources would be offered through the 2022 RFP. For the remaining AHTF, the Advisory Committee recommended direct assistance to renters and homeowners with prioritization of Black, Indigenous and People of Color (BIPOC) individuals and households. The program would be affirmatively marketed directly to BIPOC individuals and households. Staff is evaluating whether the direct assistance can legally be prioritized for BIPOC individuals and households.

City Council will consider the FY22 AHTF allocation at a work session July 12, 2021.

FY22 AHTF Proposed Allocation with 75% for Development

Sources	
FY22 New AHTF Funds (Estimated)[1]	$1,478,000
TOTAL	**$1,478,000**
Uses	
Housing Development [2]	$998,000
Direct Assistance for Renters and Homeowners[3]	$333,000
Project Delivery Administration[4]	$147,000
TOTAL	**1,478,000**

[1] Annualized Estimate of AHTF based on CET collection July 1, 2020 - May 31, 2021 from AHTF At a Glance report 5-31-21. Includes $500k General Funds allocated for AHTF through SB in December 2020. (The 15% of residential CET remitted to the State for local homeownership assistance is already deducted.)

[2] 75% based on the Advisory Committee recommendation in March 2021 that a minimum of 75% of AHTF be used for housing development.

[3] Direct assistance was recommended by the Advisory Committee to be prioritized for BIPOC households.

[4] Project Delivery Administration is an estimate. As the program continues to be launched and depending on how Council directs allocation of the funds, the actual spending may vary. The goal is to spend no more than 10% of the available funds on Project Delivery Administration so as to preserve Trust Fund resources for projects and services.

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Work Session and Possible Action: An Ordinance Concerning Accessory Dwellings; Replacing the Term "Secondary Dwelling" with "Accessory Dwelling" Throughout the Eugene Code 1971; Making Additional Amendments to Sections 9.0500, 9.2010, 9.2011, 9.2740, 9.2741, 9.2750, 9.2751, 9.2775, 9.3060, 9.3065, 9.3115, 9.3125, 9.3126, 9.3210, 9.3215, 9.3310, 9.3510, 9.3615, 9.3625, 9.3626, 9.3810, 9.3811, 9.3815, 9.3910, 9.3915, 9.3970, 9.6410 And 9.8030 of that Code; Addressing the Oregon Land Use Board of Appeals' Remand of Ordinance Nos. 20594, 20595, and 20625; and Providing an Effective Date

Meeting Date: July 12, 2021 | Agenda Item Number: 2
Department: Planning and Development | Staff Contact: Jeff Gepper
www.eugene-or.gov | Contact Telephone Number: 541-682-5282

ISSUE STATEMENT
The City Council is scheduled to hold a work session and possibly take action on a proposed ordinance to finalize the adoption of land use code amendments that implement a state law that governs the development of accessory dwelling units, Oregon Revised Statute (ORS) 197.312(5).

BACKGROUND
Housing availability and affordability have been a growing problem across Oregon for several years. In response to this ongoing housing shortage, the Oregon Legislature adopted a new law in 2017, now codified under ORS 197.312(5), with specific requirements for accessory dwelling units (ADUs). The 2017 law defined accessory dwelling units and required cities, including Eugene, to allow at least one accessory dwelling unit for each detached single-family dwelling in areas zoned for detached single-family dwellings, subject to reasonable local regulations relating to siting and design.

A detailed history of Eugene's efforts to comply with ORS 197.312(5) pertaining to accessory dwellings is provided in Attachment A. These efforts began in 2018 and resulted in two appeals to Oregon's Land Use Board of Appeals (LUBA), who sent the ordinances back ("remanded") to the City Council for additional work. In addition, both LUBA and the Oregon Court of Appeals issued decisions that added some clarity to the state law and the Oregon Legislature passed another law that explicitly prohibited regulations that require owner-occupancy or on-site parking for ADUs. In January 2020, the City Council adopted an ordinance to address these changes and comply with state law, which was also appealed.

Since the City Council adopted the ADU ordinance in January 2020, LUBA and the Oregon Court of Appeals have issued decisions that dictate how cities must interpret the 2017 law. These decisions were issued in a property-specific appeal filed against the City of Eugene (the Kamps-Hughes appeal) and in the appeal of the City's 2020 Ordinance, itself. LUBA's and the Court's interpretations of the law clarify which types of regulations can, and cannot, be applied to ADUs. Their interpretations, and their remand of the City's 2020 Ordinance require the City Council to eliminate specific ADU regulations from the Eugene Code.

Based on LUBA's remand, the City Council is scheduled to consider proposed changes to the 2020 ordinance that would address these remaining issues and finalize compliance with state law. This is important because, although Eugene's land use code does not presently comply with state law, the provisions of ORS 197.312(5) apply directly. This means that currently the City must apply the statute directly at the time of a building permit submittal for an accessory dwelling, and certain accessory dwelling standards in Eugene's land use code can no longer be enforced.

City Council Public Hearing/Testimony

At the May 17, 2020 public hearing on the draft ordinance, City Council heard verbal testimony from five interested parties, of which three were in favor and two were concerned or opposed to the changes.

As of June 28, 2021, staff has received 83 pieces of written testimony from 57 interested parties (IPs). Fifteen IPs provided written testimony supporting the proposed changes or advocated for ADUs throughout Eugene. Five IPs provided written testimony expressing concern or opposed the draft ordinance. Thirty-three IPs provided written testimony and were specifically concerned with the effect of the draft changes in the Jefferson Westside Neighborhood and opposed the changes. Four IPs provided written testimony concerning the Jefferson Westside Neighborhood and expressed support for ADUs. Links to the written testimony are provided in Attachment B. In response to the number of comments regarding the Jefferson Westside Neighborhood, staff has proposed an alternative option for that area, which is discussed in more detail below.

During the May 12, 2021 work session and the May 17, 2021 public hearing, Councilors asked specific questions of staff, which have been responded to in the memorandums included as Attachments C, D, and E. The topics discussed in the memo include: ADU building heights and public notice procedures (Attachment C); city discretion (Attachment D); and project history in the Jefferson Westside (Attachment E).

Draft Ordinance

The proposed ordinance is drafted to explicitly address the remaining issues necessary to finalize compliance with state law. Using the interpretations issued by LUBA and the Court, we now know that the 2017 law imposes the following requirements on the City's regulation of ADUs:

1. On every lot in the City where the City's code allows a single-family dwelling, the code must also allow at least one ADU per single-family dwelling.
2. The only development standards the City can impose on ADUs are standards that either:

a. Relate to where the ADU can be placed on an individual lot that has a single-family dwelling ("siting"); or
b. Relate to the layout of the ADU or the materials used in the ADU's fabrication ("design").

3. The development standards described at 2. a. and b. must be "moderate," they cannot be "extreme," "absurd" or "excessive."

To draft the ordinance responding to these developments, staff started with the Council's 2020 ordinance (Ordinance No. 20625) and made changes necessary to address LUBA's remand order and comply with the state law. A detailed summary of the proposed amendments to comply with ORS 197.312(5) is provided as Attachment F. Changes since Council's 2020 ordinance include amendments that:

- Allow, where not addressed in the 2020 ordinance, an accessory dwelling for each single-family dwelling allowed by the code, including on alley access lots and flag lots
- Remove regulations that include accessory dwellings in maximum density calculations
- Remove regulations that prohibit accessory dwellings based on lot area or lot dimensions
- Remove regulations that limit the number of people that can occupy an accessory dwelling or a property that includes an accessory dwelling
- Remove, where not addressed in 2020 ordinance, regulations that require on-site parking for accessory dwellings

The draft ordinance is provided in Attachments G. A draft ordinance highlighting text to clearly identify which amendments are substantive changes from the ordinance that Council adopted in January 2020 was provided at the May 12, 2021 City Council Work Session.

Draft Ordinance – Option B

After the publication of the draft ordinance on April 16, 2021, staff began receiving written testimony, mostly from residents and interested parties in the Jefferson Westside Neighborhood. Testimony received was focused on the density impacts of the draft ordinance and public outreach. Public notice and outreach are discussed in detail in Attachment C.

The draft ordinance considered at the public hearing on May 17, 2021 (Attachment G to this AIS), would allow one ADU for each of the currently-allowed one-family detached dwelling in the Jefferson Westside (S-JW) and Chambers (S-C/R-2 Subarea) Special Area Zones. On lots that currently allow two such dwellings, the draft ordinance would allow two ADUs (one ADU for each one-family dwelling). Staff believes this approach is what the state law intends. The draft ordinance applies this "one ADU per currently allowed detached on-family dwelling" approach throughout the City's residential zones. For example, in the R-2 Medium Density Residential zone, a lot that is 3,112 square feet or larger is currently allowed to have 2 detached one-family homes. A lot that is 4,668 square feet can have 3 dwellings, and so on. Therefore, in the R-2 zone, the draft ordinance would allow 2 detached homes and 2 ADUs on a lot that is 3,112 square feet or larger, and 3 detached homes and 3 ADUs on a lot that is 4,668 square feet or larger. The ADUs in the R-2 zone would be required to comply with the development standards for accessory dwellings at 9.2751(17).

Because of Council's past direction to staff, the draft ordinance's allowance of an ADU in the S-JW and S-C/R-2 zones would allow one "additional one-family dwelling" (rather than an "accessory dwelling") for each detached one-family dwelling. That additional one-family dwelling would be subject to the S-JW or S-C/R-2 development regulations for one-family homes. The result would be that the ADUs in S-JW and S-C/R-2 would have none of the size limits, setbacks, height limits, and other standards that are applied to ADUs in most other zones. Therefore, on lots between 4,500 and 8,999 square feet, the draft ordinance would allow 4 "standard sized" detached homes. As a reminder, these areas are designated for medium density residential use.

An "Option B" ordinance is provided as Attachment H to this AIS to respond to neighborhood concerns about this issue within the bounds of (what staff believes to be) the ADU law's mandate. Like the draft ordinance considered at the public hearing, the Option B ordinance would allow one ADU for each of the currently allowed single-family detached dwellings in the S-JW and S-C/R-2 zones. However, it would make those ADUs "accessory dwellings" that must comply with the development standards for accessory dwelling at EC 9.2751(17), and specifically with the set of standards that otherwise apply only within the City's university neighborhoods, starting at EC 9.2751(17)(c). This would treat ADUs in the S-JW and S-C special area zones similar to other portions of the City, where ADUs are limited in bulk and scale. Further, through the remand process, there is clear guidance to ensure the university area ADU standards will comply with state law.

Draft Ordinance – Option B is included as Attachment H and includes highlighted text to clearly identify how it differs from the draft ordinance presented to Council for the May 17, 2021 public hearing. The Option B Ordinance was published on the City website on June 25, 2021 and an email was sent to the Jefferson Westside Neighborhood leader to inform them it had been made available for their review.

Record of Materials for the City Council's Consideration

Because the City's consideration of the draft ordinance is a continuation of the process started in 2018, all of the materials that were compiled for the 2018 and 2020 process continue to be a part of the record for the Council's consideration. A link to all record materials and written testimony received as part of the remand process, since January 21, 2020, is provided as Attachment B.

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*)

February 20, 2019 Work Session

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. *(Motion Passed)*

May 20, 2019 Public Hearing

September 16, 2019 Work Session

Move to not take action on the ordinance at the work session. *(Motion Passed)*

Move to direct the City Manager to come back with a memo addressing a 10-year property tax exemption for any additional property value attained from an ADU, an SDC discount or credit for ADUs, and other financial incentives identified by staff. *(Motion Passed)*

Move to direct the City Manager to revise the draft ordinance to eliminate the ADU standards for the AG, R-1, R-2, R-3, R-4 and S-E zones that apply only to flag lots, making ADUs on flag lots in those zones subject to the same flag lot standards that apply on regular (non-flag lot) lots in the same zone. (*Motion Tabled*)

Move moved to table the motion on flag lots. *(Motion Passed)*

October 23, 2019 Work Session

Move to direct the City Manager to revise the draft ordinance to remove the barriers to above-garage ADUs in the AG, R-1, R-2, R-3, R-4 and S-E zones by adjusting the standards for ADU building height and interior setback. *(Motion Passed)*

Move to direct the City Manager to revise the draft ordinance to remove barriers to ADUs on sloped lots in the AG, R-1, R-2, R-3, R-4 and S-E zones by adjusting the standards for ADU building height and interior setback. *(Motion Passed)*

January 21, 2020 Work Session

Move to adopt an Ordinance Concerning Accessory Dwellings; Replacing the Term "Secondary Dwelling" with "Accessory Dwelling" Throughout the Eugene Code 1971; Making Additional Amendments to Sections 9.0500, 9.2010, 9.2011, 9.2740, 9.2741, 9.2750, 9.2751, 9.2775, 9.3060, 9.3115, 9.3125, 9.3210, 9.3215, 9.3310, 9.3510, 9.3615, 9.3625, 9.3810, 9.3811, 9.3815, 9.3910, 9.3915, 9.3970, 9.6410, and 9.8030 of that Code; and Addressing the Oregon Land Use Board Of Appeals' Remand of Ordinance Nos. 20594 And 20595. *(Motion Passed with numerous amendments noted in January 21, 2020 Minutes)*

May 12, 2021 Work Session

May 17, 2021 Public Hearing

COUNCIL OPTIONS

The City Council may:

1. Adopt the ordinance as proposed in Attachment G to this AIS.
2. Adopt the ordinance as proposed in Attachment H (Option B) to this AIS.
3. Adopt the ordinance in Attachment G or H with specific modifications.
4. Direct the City Manager to schedule another work session on the proposed ordinance.
5. Direct the City Manager to modify the proposed ordinance as directed by the Council and to schedule another work session on the proposed ordinance.

CITY MANAGER'S RECOMMENDATION
The City Manager recommends adoption of the ordinance as provided in Attachment H.

SUGGESTED MOTION
Move to adopt the ordinance at Attachment H, An Ordinance Concerning Accessory Dwellings; Replacing the Term "Secondary Dwelling" with "Accessory Dwelling" Throughout the Eugene Code 1971; Making Additional Amendments to Sections 9.0500, 9.2010, 9.2011, 9.2740, 9.2741, 9.2750, 9.2751, 9.2775, 9.3065, 9.3115, 9.3125, 9.3126, 9.3210, 9.3215, 9.3310, 9.3510, 9.3625, 9.3626, 9.3810, 9.3811, 9.3815, 9.3910, 9.3915, 9.3970, 9.6410 and 9.8030 of that Code; Addressing the Oregon Land Use Board of Appeals' Remand of Ordinance Nos. 20594, 20595, and 20625; and Providing an Effective Date.

ATTACHMENTS
A. Land Use Code Amendment History for Accessory Dwelling Units (CA 18-1)
B. Links to Record Materials and Public Testimony
C. Memorandum to City Council: Building Height and Public Notice
D. Memorandum to City Council: Discretion
E. Memorandum to City Council: History of JWN
F. Summary of Land Use Code Amendments
G. Draft Ordinance
H. Option B Draft Ordinance

FOR MORE INFORMATION
Staff Contact: Jeff Gepper
Staff Telephone: 541.682.5282
Staff e-mail: JGepper@eugene-or.gov

Land Use Code Amendment History

Accessory Dwellings Land Use Code Amendment – City File: CA 18-1

2017 - Adoption of Senate Bill 2051
In 2017, the Oregon Legislature adopted a new law, Senate Bill 1051 ("2017 law") as part of its efforts to promote housing affordability statewide. Pertinent to this work session is the portion of the 2017 law that addresses "accessory dwelling units." The 2017 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." 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."

2018 - City Council Process
To implement Senate Bill 1051, the City Council initiated a two-phased approach for land use code changes to implement the 2017 law. Phase 1 would address the 2017 law's requirement that the City allow accessory dwelling units in more areas of the City (the "where" phase). The intent was to address, as a later Phase 2, the 2017 law's requirement that accessory dwelling units be subject to only "reasonable local regulations relating to siting and design."

In June 2018, the Council adopted ordinances (Ordinance Nos. 20594 and 20595) that revised the land use code to allow accessory dwellings in additional zones. The ordinances also adopted the 2017 law's "accessory dwelling" terminology. Notably, these ordinances made the accessory dwelling units in these additional zones subject to the development standards that were already set out in the land use code for secondary dwellings in the R-1 zone.

Ordinances Nos. 20594 and 20595 were appealed to The Oregon Land Use Board of Appeals (LUBA) by numerous parties. LUBA sent the ordinances back ("remanded") to the City Council for additional work on November 29, 2018, meaning they are no longer in effect. LUBA's 2018 decision is available here. LUBA found that the ordinances were inconsistent with the 2017 law because they extended the applicability of the code's R-1 zone development standards for secondary dwellings to the additional zones without addressing the part of the 2017 law that requires such development standards to be "reasonable local regulations relating to siting and design."

2019/2020 - City Council Process
In 2019, staff provided the City Council with a list of the land use code standards that were raised / challenged in the 2018 LUBA appeal. Staff provided recommendations for each standard's retention or elimination, based on the "reasonable regulation relating to siting

and design" requirement in the 2017 law, but the meaning of those terms was unclear. For each of the standards raised in the LUBA appeal, Council provided preliminary input and a draft ordinance was prepared to re-adopt the allowances for accessory dwellings and to eliminate from the land use code those development standards that, in this initial review, were found to not be "reasonable regulations relating to siting and design."

On May 20, 2019, the City Council held a public hearing on the draft ordinance, hearing from 33 people. A majority of those who provided testimony (20 people) expressed support for removing barriers to accessory dwellings and for the provision of more affordable housing. Support was also expressed for eliminating even more of the standards that now apply to accessory dwellings and concern was expressed by some that Eugene is not doing enough to comply with the intent of the 2017 law. Testimony from others expressed concern that the actions could reduce the livability of existing neighborhoods.

In addition, before the City adopted the ordinance, LUBA issued an order in a different appeal that added *some* clarity to the statutory definition of "accessory dwelling unit." Additionally, the Oregon Legislature adopted House Bill (HB) 2001 ("2019 law") that explicitly prohibited regulations that require owner-occupancy or on-site parking.

Based on the testimony and new state-level developments, the City Council made numerous changes to the draft ordinance. In January 2020, the City adopted Ordinance No. 20625 based on these changes. However, the ordinance process was difficult due to some lack of clarity within State's ADU law requirements. The City's ordinance was appealed to LUBA by the Homebuilders Association and two groups of individuals.

2020/2021 - Court of Appeal Decision and LUBA Remand

Since the City Council adopted the ADU ordinance in January 2020, LUBA and the Oregon Court of Appeals have issued decisions that dictate how cities must interpret the 2017 law. These decisions were issued in a property-specific appeal filed against the City of Eugene (the Kamps-Hughes appeal) and in the appeal of the City's 2020 Ordinance, itself. LUBA's and the Court's interpretations of the law clarify which types of regulations can, and cannot, be applied to ADUs. Their interpretations, and their remand of the City's 2020 Ordinance require the City Council to eliminate specific ADU regulations from the Eugene Code. LUBA's decision providing clear direction on the remaining issues is available here.

Using the interpretations issued by LUBA and the Court, we now know that the 2017 law imposes the following requirements on the City's regulation of ADUs:

1. On every lot in the City where the City's code allows a single-family dwelling, the code must also allow at least one ADU per single-family dwelling.
2. The only development standards the City can impose on ADUs are standards that either:
    a. Relate to where the ADU can be placed on an individual lot that has a single family dwelling ("siting") ; or

b. The layout of the ADU or the materials used in the ADU's fabrication ("design").

3. The development standards described at 2. a. and b. must be "moderate," they cannot be "extreme," "absurd" or "excessive."

Proposed changes to the 2020 ordinance that respond to these clear direction will be presented to the City Council for their consideration in 2021.

CA 18-1: Finalizing Compliance with ORS 197.312(5)

Record Materials

January 21-2020 through June 28, 2021

- Public Testimony:
  - January 21, 2020 through May 5, 2021: https://www.eugene-or.gov/DocumentCenter/View/61481/CA-18-1_Testimony_2020-01-21-to-2021-05-05?bidId
  - May 6, 2021 through May 12, 2021 at 12:00pm: https://www.eugene-or.gov/DocumentCenter/View/61554/CA-18-1_Testimony_2021-05-06-to-2021-05-12_1200?bidId
  - May12, 2021 at 12:01 to May 16, 2021: https://www.eugene-or.gov/DocumentCenter/View/61659/CA-18-1_Testimony_2021-05-12_1200-to-2021-05-16-updated?bidId
  - May 17, 2021 to May 17, 2021 at 12:00pm: https://www.eugene-or.gov/DocumentCenter/View/61657/CA-18-1_Testimony_2021-05-17-to-2021-05-17_1200?bidId
  - May 17, 2021 at 12:01pm to May 18, 2021: https://www.eugene-or.gov/DocumentCenter/View/61658/CA-18-1_Testimony_2021-05-17_1200-to-05-18-2021?bidId
  - May 19, 2021 to June 28, 2021: https://www.eugene-or.gov/DocumentCenter/View/62173/CA-18-1_Testimony_2021-05-19-to-2021-06-28
  - An updated list and links to testimony can be found here: https://www.eugene-or.gov/764/Land-Use-Code-Amendments
- LUBA Final Order, No. 2020-015 from 11/24/2020:
  - https://www.eugene-or.gov/DocumentCenter/View/60571/ADU-LUBA-Decision-112420?bidId
- Doc 13. Intervenor-Respondent's Cross Petition:
  - https://www.eugene-or.gov/DocumentCenter/View/61473/Doc-13-Intervenor-Respondents-Cross-Petition?bidId

- Doc 17. Intervenor-Petitioner's Cross-Petition:
    - https://www.eugene-or.gov/DocumentCenter/View/61474/Doc-17-Intervenor-Petitioners-Cross-Petition?bidId
- Doc 18. Petition of Home Builders Association:
    - https://www.eugene-or.gov/DocumentCenter/View/61475/Doc-18-Petition-of-Home-Builders-Association?bidId
- Doc 20. Brief of Respondent (LUBA 2020-015):
    - https://www.eugene-or.gov/DocumentCenter/View/61469/Doc-20-Brief-of-Respondent?bidId
- Doc 22. Reply of Home Builders Association to City's Brief:
    - https://www.eugene-or.gov/DocumentCenter/View/61470/Doc-22-Reply-of-Home-Builders-Association-to-Citys-Brief?bidId
- Court of Appeals Final Order from 7/1/2020 (Kamps-Hughes):
    - https://www.eugene-or.gov/DocumentCenter/View/61471/Kamps-Hughes-COA-July-1-2020?bidId
- LUBA Final Order, No. 2019-115 from 02/26/2020 (Kamps-Hughes):
    - https://www.eugene-or.gov/DocumentCenter/View/61472/Kamps-Hughes-LUBA-decision?bidId

Eugene Planning

Memorandum

Date: For July 12, 2021 City Council Work Session

To: Mayor and City Council

From: Emily Jerome, Deputy City Attorney
Jeff Gepper, Senior Planner

Subject: Response to City Council Requests Regarding Proposed ADU Ordinance for ADU Building Height, Public Notice Procedures, and DLCD Notice Procedures

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On May 12, 2021 the City Council held a work session on a proposed ordinance to finalize the adoption of land use code amendments that implement a state law that governs the development of accessory dwelling units, Oregon Revised Statute (ORS) 197.312(5). On May 17, 2021, the City Council held a Public Hearing on the subject, hearing from interested parties and receiving written testimony. We received the following requests for further information from City Councilors, which are discussed in greater detail below:

Topic 1. ADU Building Height: Can the building height for Accessory Dwelling Units be increased and where is that located within the Code? (Page 2)

Topic 2. Public Notice Procedure (Page 3)

Topic 3. Notice to Department of Land Conservation and Development (DLCD) (Page 4)

Additionally, links to the public testimony received as part of this 2021 process for the ADU Code Amendment remand are provided below. Due to the file size, these have been broken up into different date ranges. Testimony and other relevant information is also available on the City website here: www.eugene-or.gov/764/Land-Use-Code-Amendments

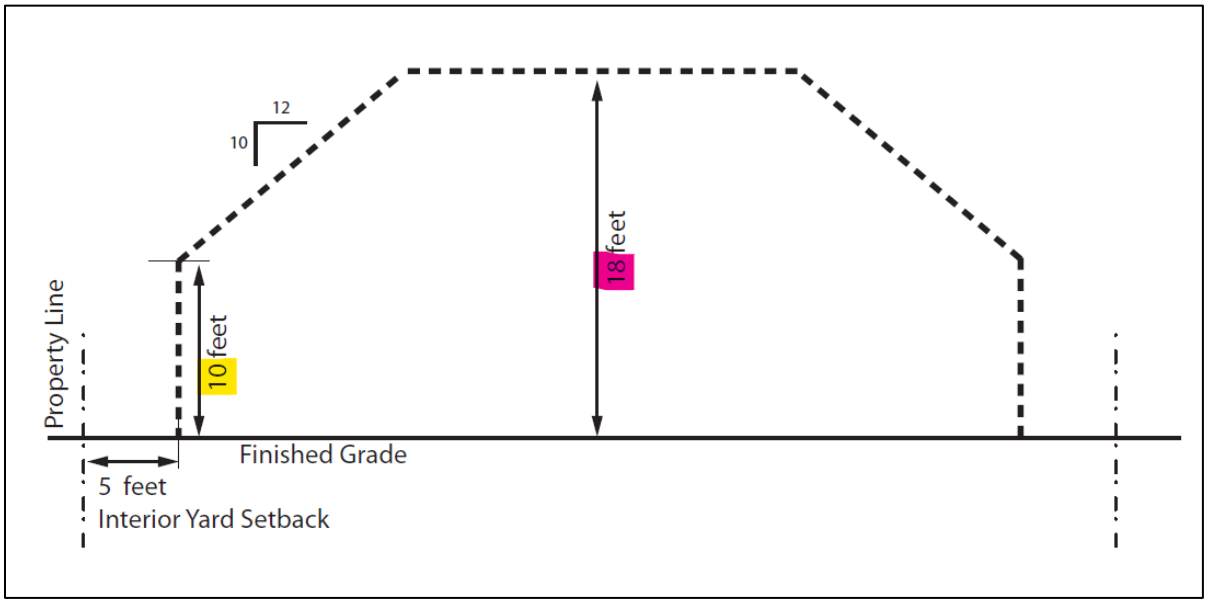
Topic 1: ADU Building Height
Request: Information on whether the building height for Accessory Dwelling Units can be increased and where is that located within the Code

Within the draft ordinance, the height regulations are included at the citations provided below. As the building heights are included in the draft ordinance, an increase in the height measurements would require a motion to be passed by City Council as part of action on these amendments. Any numerical height changes would need to be made within the code provisions cited in the table below.

The table below shows the proposed building heights for ADUs in all residential zones. Generally, height measurements for ADUs can be broken into two categories. The first are traditional attached and detached ADUs. The second are detached ADUs on sloped lots or above a garage. The ADUs on sloped lots and above garages have a higher height measurement to account for construction feasibility.

Type of ADU	**Height Measurement**	**Code Citation in Draft Ord.**
Attached and Detached ADUs	Height at Setback: 10 feet Maximum Height: 18 feet	9.2751(17)(a)2.b.(1) 9.2751(17)(b)5.a. 9.2775(5)(e)1.a. Figure 9.2751(16)(b)3.
ADUs on sloped lots or above a garage	Height at Setback: 18 feet Maximum Height: 25 feet	9.2751(17)(a)2.b.(2)(B) Figure 9.2751(17)(a)2.b.(2)(A) Figure 9.2751(17)(a)2.b.(2)(B)

As an example, see the figure below, which is a snapshot of Figure 9.2751(16)(b)3 that is included in the draft ordinance. There are two different types of building height measurements within the ADU draft ordinance. One is the maximum building height for ADUs, shown below at 18 feet highlighted in pink. The other is the starting height for the slope setback, highlighted below in yellow.



Topic 2: Public Notice

Request: Information on when was notice provided to interested parties and when was the proposed draft ordinance available. Also, information regarding assertions that only 15 people in the Jefferson Westside Neighborhood received mailed notice.

Relevant dates for the availability of materials and public notice are provided in the table below. As a reminder, this process is part of a remand from the Oregon Land Use Board of Appeals (LUBA), and as such, there is not local land use procedural requirements for noticing. However, in this instance, staff thought it prudent to offer ample opportunity for interested parties to review the materials leading up to the public hearing and provided notice of the hearing and made materials available more than a month in advance of the public hearing.

Public Notice submitted to DLCD	April 12, 2021
Public Notice mailed to interested parties*	April 13, 2021
Draft Ordinance Published on City Website	April 16, 2021
Draft Ordinance Updated on City Website**	May 4, 2021
Legal Notice posted in Register Guard	May 2, 2021
Ordinance Posted for Public View at City Location	May 3, 2021

*Interested parties are those individuals who have requested to be included in any further notices related to this Code Amendment process (CA 18-1).

**Updates to the ordinance included an omission that was intended to be in the first draft published, as well as typographical errors and structural corrections.

Testimony asserts that only 15 members of the Jefferson Westside Neighborhood (JWN) received mailed notice of the draft ordinance and remand process. Staff does not contest that this number is correct. However, it is missing context regarding noticing policies and procedures. For all land use applications, including land use code amendments, notice is provided by procedural requirements in Eugene's land use code. For legislative land use code amendments, there is no requirement for a notice to be sent to every community member in a neighborhood or the city. Rather, notices are sent to various agencies, neighborhood groups, and interested parties. Notice is also posted in the Register Guard. These procedures are outlined in EC 9.7520, 9.7545, and 9.7560. For example, ADU regulations are changing in all residential zones as part of this process, but a notice was not mailed to every residential parcel throughout the City.

As part of our practices and procedures, when a land use process is started, an "interested parties (IP) list" is created. An IP list includes those people who have submitted testimony and requested to receive notice on the land use process. Based on the practice, we can ascertain that those 15 persons in the JWN that received a mailed notice were on our IP list. Considering the information provided above, staff is abiding by procedural requirements and providing notice equitably across the City.

Topic 3: Notice to the Department of Land Conservation and Development (DLCD)

Paul Conte has asserted that the City did not provide a required notice to DLCD when the proposed ADU ordinance was revised (in response to LUBA's remand) to allow an accessory dwelling for each detached single-family dwelling in the S-JW Jefferson Westside zone. Contrary to those assertions, the City provided DLCD with the required notice.

Throughout this process, the City has kept DLCD apprised of proposed code changes as required by State law and above what is required. The dates and nature of the City's notices to DLCD are summarized on the screenshot, below, from DLCD's web site. The City has used DLCD's on-line process for providing DLCD with notice from the time the original proposal was submitted in January 2018, and as revisions have been made and adopted.

Uploaded	Name	User
1/30/2018	Proposal 2018-01-30	
2/1/2018	Revision_Revised Draft SB 1051 Phase 1 Proposed Code Changes_2018-02-01_06-22-13.pdf	
2/16/2018	Bill Kloos Adoption Notice Request Ltr 2018-02-16	
3/27/2018	Revision_Planning Commisison Recommendation_SB 1051 Implementation_2018-03-27_01-20-01.pdf	
5/18/2018	Adopted_Notice of Adoption of Ordinance re Affordable Housing on Church Property_2018-05-18_08-44-20.pdf	
5/18/2018	Adopted_Ordinance No. 20592_2018-05-18_08-44-45.pdf	
6/15/2018	Adoption 2018-06-15	
5/3/2019	Revision_Notice for May 20 CC Public Hearing_ADU remand_2019-05-03_10-07-16.pdf	
5/3/2019	Revision_Attachments A thorugh E_2019-05-03_10-07-37.pdf	
5/3/2019	Revision_agenda_packet_2-20-19_work_session_-_post_2019-05-03_10-09-24.pdf	
5/3/2019	Revision_18063-064 LUBA REMAND_2019-05-03_10-10-41.pdf	
1/30/2020	Adopted_Notice_2020-01-30_08-24-27.pdf	
1/30/2020	Adopted_agenda_packet_1-21-20_work_session_-_post_2020-01-30_08-24-39.pdf	
1/30/2020	Adopted_Ord. 20625_2020-01-30_08-25-40.pdf	
4/12/2021	Revision_CA 18-1_05-17-2021 notice for CC hearing_2021-04-12_04-34-08.pdf	

As is shown above, the City uploaded a notice materials through DLCD's site on April 12, 2021. That notice informed DLCD that the proposed code change had been revised. The notice materials, a copy of which is included in the record, informed DLCD of a public hearing to be held on April 17th, provided DLCD with a link to the full text of the proposed code changes, a summary, a copy of the draft ordinance with highlighting to direct DLCD to the specific sections that had been revised since the previously-provided DLCD notice, and to the page where the staff report was posted, along with testimony and other material related to the proposed code change.

Eugene Planning

Notice of Eugene City Council Public Hearing
Monday, May 17, 2021, at 7:30 p.m.
Virtual Meeting* (Via Zoom)

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*Due to Governor Kate Brown's Stay Home, Save Lives Executive Order to combat the spread of Covid-19, online or other remote options for participation are being identified and information will be available at https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials. Please refer to the reverse side of this page for instructions on how to submit testimony.

This is to notice to inform you that the Eugene City Council will hold a public hearing to consider an Ordinance amending the Eugene Land Use Code (Chapter 9). Below is a brief description of the City-initiated land use code amendments:

> **Secondary/Accessory Dwellings (City File # CA 18-1):** The proposed land use code amendments would revise the code to comply with the requirements of Oregon Revised Statute (ORS) 197.312(5). This state law requires that "accessory dwellings" be explicitly allowed in areas of the City where single family homes can be located and that accessory dwellings may only be "subject to reasonable local regulations relating to siting and design." Consistent with state law, the proposed amendments would allow for accessory dwellings in more areas of the city and remove some development standards that are currently applied to the establishment of an "accessory dwelling."

This Ordinance will re-adopt numerous changes that were affirmed by the Oregon Land Use Board of Appeals (LUBA) when the City's initial ordinance (adopted in 2018) was appealed for LUBA's review. As part of its review, LUBA also identified additional code amendments that are necessary to ensure compliance with ORS 197.312(5) and this Ordinance includes those changes as well. For a more detailed synopsis of the the ADU code amendment history and process, please visit: https://www.eugene-or.gov/764/Land-Use-Code-Amendments

Applicable Criteria
The Eugene City Council will address the relevant approval criteria from Chapter 9 of the Eugene Code at 9.8065. The criteria are available at: https://eugene.municipal.codes/EC/9.8065 Testimony and evidence of those testifying should be directed toward the applicable criteria, or other criteria or land use regulations that the person testifying believes to apply to the decision. Following the public hearing, the Eugene City Council will deliberate and possibly take action at a separate meeting scheduled for May 24, 2021.

Staff Contact: Jeff Gepper, Senior Planner, at 541-682-5282, JGepper@eugene-or.gov

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www.eugene-or.gov/planning

What is the Decision Making Process?

The proposed amendments are intended to implement a new state law that governs the development of "accessory dwelling units." The City began implementing the new law with the adoption of two ordinance in 2018. Those ordinances were appealed to the Oregon Land Use Board of Appeals ("LUBA") and LUBA remanded the ordinances back to the City for additional work to fully implement the new State law. Subsequently, the City adopted an ordinance in 2020 to implement the state law, which was also remanded by LUBA. The Eugene Code does not prescribe a process for City consideration of a proposed ordinance that has been remanded.

Therefore, the City Council's process will be a continuation of the 2018 and 2020 processes. City staff will provide the City Council with all testimony and material received by the Planning Commission or City Council as part of the 2018 and 2020 actions, to be considered along with new testimony and material received (see below for how to provide testimony). Following the public hearing, the City Council will deliberate and possibly take action on May 24, 2021.

Additional Information

The proposed ordinance and related project materials are available for inspection at the Eugene Planning and Development Department. *IMPORTANT NOTE: To take preventative measures for community members and staff safety against the spread of COVID-19, please contact the listed staff representative about alternatives for reviewing materials. Copies may be obtained at a cost. As a courtesy, application materials and general information about the land use code amendment process and criteria may also be accessed by visiting: https://www.eugene-or.gov/764/ Land-Use-Code-Amendments

How to Submit Testimony

1. **Send a written statement before the public hearing.** Written statements received prior to the public hearing will be provided to the City Council. Please address your written statement to: c/o Jeff Gepper, Senior Planner, 99 West 10th Avenue, Eugene, Oregon 97401; or by e-mail at: JGepper@eugene-or.gov

2. **Attend the virtual public hearing on May 17, 2021 and submit written testimony.** Written testimony may be sent to: mayorcouncilandcitymanager@eugene-or.gov and JGepper@eugene-or.gov

3. **Attend the virtual public hearing on May 17, 2021 and verbally state your support or concerns.** Due to Governor Kate Brown's Stay Home, Save Lives Executive Order to combat the spread of Covid-19, the online option and instructions for participation will be available at https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials. Given the online/virtual format for this hearing, you are strongly encouraged to submit written testimony in advance. Send written testimony to the contacts listed above.

Please note: Your written comments must include your mailing address if you wish to be included on the mailing list for any future notices, including notice of decision, on this application.

For more information or questions about attending the hearing, please contact Jeff Gepper, Senior Planner at 541-682-5282 or via e-mail at JGepper@eugene-or.gov

Eugene City Attorney's Office

Date: **For July 12, 2021 City Council Work Session**

To: **Mayor and City Council**

From: **Emily Jerome, Deputy City Attorney**

Subject: **Response to Council Requests Regarding Council Discretion in Regulating ADUs**

This memo responds to Council requests made after the public hearing on the City's most recent (third) attempt at an ordinance to bring the land use code into compliance with Oregon's ADU law. After that hearing, a few Councilors asked staff to provide the Council with a summary of the Council's limited discretionary authority as it implements the ADU law. This memorandum sets out that summary.

ADU Allowance

- *The Council may adopt code amendments to allow multiple ADUs per single-family dwelling.* To comply with the ADU law, the Council must revise the code to allow *at least* one ADU for each detached single-family dwelling it allows. The Court of Appeals has described this as a required "one-to-one" ratio. It is clear that this could be a one-to-two or one-to-three ratio.

- *The Council may adopt code amendments that allow one or several different types of ADUs.* While this has not been tested in an appeal, it appears that the Council could amend the code to specify that an ADU must be located within the primary dwelling or completely detached from it.

- *The Council may adopt code amendments that "call" an ADU whatever it wants.* The City is not required to "call" its ADUs "accessory dwelling units." So long as the code allows, for each detached single-family dwelling, a second dwelling to be located on the same lot, the City will meet the law's requirement for that ADU, regardless of what the second dwelling is "called" in the code.

ADU Regulation

There are only two types of regulations the Council can include in the code.

1) *The Council may adopt reasonable regulations relating to siting*. This means that the Council can adopt ADU regulations that dictate where an ADU can be placed on a lot, but not which lots can have an ADU. Permissible regulations in this category include things like required setbacks, a required spatial relationship with the other dwelling, lot coverage limitations.

2) *The Council may adopt reasonable regulations relating to design.* This means that the Council can adopt ADU regulations that dictate the layout of the ADU or the materials used in the ADU's fabrication. Permissible regulations in this category include things like size limitations, roof pitch, height limitations, window / façade requirements.

- *To comply with the ADU law, the Council must eliminate any ADU regulations that do not fall within one of these two categories*. At this point in the Courts' interpretation of the ADU law, is clear that the Council must eliminate any ADU regulations that:

- prohibit an ADU on a particular type of lot (i.e., an alley access lot or flag lot) that allows a detached single-family dwelling

- prohibit ADUs based on lot area or lot dimensions

- limit the number of people that can occupy an ADU or a property that includes an ADU

- require on-site parking for an ADU

- Any *regulations that are applied to an ADU must be "clear and objective."* This means that the City's ADU approval process cannot involve City discretion. The ADU regulations must be specific enough that an applicant is able to plan and design its ADU proposal to meet the City's regulations, knowing that the City will approve.

- *the City Council cannot, without substantial re-noticing and legal consideration, revise the code in a way that would limit or prohibit uses that are currently allowed on a lot.*

- *The City Council cannot revise the code in a way that would cause the allowable density in a zone to fall below the minimum density required for its area, as set out in the Metro Plan.*

Eugene City Attorney's Office

Date: **For July 12, 2021 City Council Work Session**

To: **Mayor and City Council**

From: **Emily Jerome, Deputy City Attorney**
Jeff Gepper, Senior Planner

Subject: **Response to Council Requests Regarding ADUs in the Jefferson Westside Special Area Zone (History of Changes in Proposed ADU Regulations in the JW Zone / Basis for Contradictions Between 2018 and 2021 Proposals)**

This memo responds to two Council requests made after the public hearing on the City's most recent (third) attempt to bring the land use code into compliance with Oregon's ADU law. At the 5/17/21 hearing, some participants asserted that the now-proposed ordinance would change the uses allowed in the S-JW Jefferson Westside Special Area Zone ("JW zone") in a way that is inconsistent with the Council's 2018 direction regarding the allowance of ADUs in the JW zone. Specifically, those participants asserted that the now-proposed ordinance would allow twice the number of dwellings on some lots in the JW zone, even though (at least some members of) the 2018 Council explicitly attempted to preclude such a doubling of dwellings. Several Councilors asked questions about these assertions. Staff confirmed that the proposed ordinance would result in the increase in dwelling units that some Councilors sought to avoid in 2018.

A few Councilors asked staff to provide the Council with a memorandum that explains the history (2018-present) of Council's proposals for ADUs in the JW zone and explains. Other Councilors asked staff to explain why City staff and Council are now contradicting statements made in 2018. This memorandum sets out that history and explanation. It presents only the legislative history pertaining to the allowance of ADUs in the JW zone.[1]

Oregon's ADU Law

Oregon's ADU law, at ORS 197.312(5), in its entirety, states:

> (a) A city with a population greater than 2,500 . . . 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:
> (A) "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.[2]

(B) "Reasonable local regulations relating to siting and design" does not include owner-occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street[3]

Current JW Zone Provisions

Table 9.3625 S-JW Jefferson Westside Special Area Zone Development Standards (See EC 9.3626 Special Development Standards for Table 9.3625.)	
Density(1)	
Maximum Dwellings Per Lot(1)	
Alley Access Only Lot	1 dwelling per lot
Lots less than 2,250 square feet	No additional dwellings after December 14, 2009
Lots between 2,250 and 4,499 square feet	1 dwelling per lot
Lots between 4,500 and 8,999 square feet	2 dwellings per lot
Lots 9,000 square feet and larger	1 dwelling per lot for every 4,500 square feet (fractional values are rounded down to the nearest whole number)

The Table's references to "(1)" refer to a set of complicated development regulations, unique to the JW zone, for counting "dwellings" in the calculation of density.[4]

2018 City Action

1/17/2018 Work Session – Staff recommended, and the Council approved, a two-phase strategy for bringing the City's land use code into compliance with the ADU law:

Phase 1: Adopt an initial ordinance to address "where" statutory ADUs are allowed. Revise the land use code so that, in each zone where detached one-family homes are allowed, at least some lots in that zone are allowed to have both a detached one-family home and a statutory ADU.

Phase 2: Address "how" statutory ADUs are regulated. Revise the land use code as needed so that, when considering whether to allow a statutory ADU, the City applies only "reasonable regulations related to siting and design."

4/16/2018 Public Hearing on Proposed Phase 1 Ordinance – The proposed ordinances would have replaced the code's definition of a "secondary dwelling" with the state's definition of "accessory dwelling unit" and allowed these "secondary dwellings" in every zone that allows a detached one-family dwelling but that does not allow any "secondary dwellings" (including the JW zone) if the secondary dwelling meets the R-1 development regulations for secondary dwellings.

5/23/2018 Work Session on Proposed Phase 1 Ordinance – Council discussion included a concern about the effect the proposed ordinance would have in the JW zone, with respect to the density / number of units allowed on lots in those zones. Some Councilors were concerned that, by allowing "secondary dwellings" in those zones, a lot that is between 4500 and 8999 square feet could be developed with 4 residential buildings: the already-allowed 2 detached one-family dwellings per lot AND 2 "secondary dwellings" (one secondary dwelling for each one-family dwelling).

PDD staff explained that the proposed ordinance would not result in more dwellings on a lot in the JW zone because the zone's restrictive maximum density regulations were not being eliminated. Staff explained that *the City currently counts "secondary dwellings" when it determines density*. Therefore, *so long as the City applies the JW zone's maximum density regulations when considering an application for a secondary dwelling*, development would be limited to the same number of dwellings as are allowed under the current code. *On a lot that is between 4500 and 8999 square feet, the code would not allow 4 dwellings.* Staff reminded the Council that the proposed (phase 1) ordinance did not make any changes to the *regulations* that apply to secondary dwellings, including density regulations. (Council would be examining ADU regulations in the, later, phase 2 ordinance).

Council discussed the concern that a future City Council could decide to stop applying density regulations to secondary dwellings (i.e. could stop counting secondary dwellings when determining allowable densities). There was also a concern that, when the ADU law goes into effect, it could be interpreted as prohibiting the City from applying maximum density regulations to an application for a secondary dwelling.

Some Councilors asked why staff had proposed to allow "secondary dwellings" in the JW zone (and other medium density zones) where the code already allows two dwellings on some (larger) lots. Doesn't the additional dwelling meet the statutory definition of an "accessory dwelling unit"? Planning staff explained that they recommended "secondary dwellings" be allowed because "secondary dwellings" are a more quintessential type of accessory dwelling unit. (In fact, the proposed ordinance would replace the code's definition of a "secondary dwelling" with the ADU law's definition of an "accessory dwelling unit.") Planning staff also explained that the City does not count, in its statistics and record-keeping, an additional one-family dwelling located on a medium-density zone's lot as an ADU. By allowing "secondary dwellings" in the JW zone, the ordinance would clearly be allowing ADUs. Legal staff clarified that, if Council chooses to change the proposed ordinance so that "secondary dwellings" are not added in the JW zone, the City could reasonably argue that the JW zone allows accessory dwellings because it allows an additional dwelling that meets the ADU law's definition of an accessory dwelling unit.

Motions passed:

- Revise the proposed ordinance to replace the term "secondary dwelling" with the term "accessory dwelling" throughout the land use code, so the Eugene code uses the term "accessory dwelling" and defines that term using the ADU law's definition.

- Revise the proposed ordinance so that "secondary (accessory) dwellings" are not added, in JW and Chambers zones and, instead, rely on those zones' current allowance of an "additional one-family dwelling" to comply with the ADU law and add a clarifying statement that, in the JW zone "any additional (interior, attached or detached) residential structure that is used in connection with or that is accessory to a single family dwelling may be permitted on a lot only as an additional 'One-Family Dwelling' and not as an 'Accessory Dwelling.'"

6/11/2018 Council Adoption of Phase 1 Ordinance

LUBA Remand of City's 2018 Action

11/29/2018 LUBA Order -- Appellants argued that the 2018 ordinance failed to allow accessory dwellings in the JW zone as required by the ADU law. LUBA agreed with the City's argument that, on a lot where the code already allows a property owner to establish a detached one-family dwelling and a second one-family dwelling, the code meets the ADU law's requirement that the City allow at least one accessory dwelling unit for each detached single-family dwelling. Contrary to much of the testimony submitted, LUBA did not find that the JW zone had complied with the ADU law's requirement to allow the development of at least one accessory dwelling unit for each detached single-family dwelling. LUBA merely agreed that any residential structure that is allowed on the same lot as a detached one-family dwelling is a statutory ADU – regardless of what that dwelling is called by a city's code. Therefore, a zone that allows such structures (i.e. the JW zone) has not completely prohibited ADUs as the appellants had argued.

Appellants also challenged several of the code's development regulations, arguing that those regulations apply to an accessory dwelling but are not "reasonable regulations relating to siting and design." Appellants challenged some of the JW zone's regulations (e.g. allowing only one dwelling on a lot of less than 4500 sq ft) and numerous regulations from the R-1 zone. In response, the City argued that LUBA's rules did not give it the authority to scrutinize any of the code's development regulations because the ordinance being challenged did not include any changes to those development regulations or make any attempt to conform the code to the part of the ADU law that requires "reasonable regulations relating to siting and design." The City explained it would be doing that work in "phase 2" of the City's work.

LUBA agreed with the City that LUBA did not have the authority to review regulations that were not amended by the ordinance. Therefore, the S-JW regulations could not be reviewed. LUBA did not make any judgment as to whether the JW's development regulations are valid under the ADU law. In other words, LUBA's decision did not consider the JW zone's density regulations that prohibit any kind of ADU on lots that are smaller than 4500 sq ft and on alley lots of any size. LUBA simply agreed that its procedural rules precluded it from examining those regulations at that time.

LUBA determined that it did have authority to review the R-1 development regulations because the ordinance incorporated the R-1 secondary dwellings regulations into several zones where

secondary dwellings were added as an allowed use. Despite its authority to then evaluate the R-1 regulations, LUBA chose to return the ordinance to the City with instructions that required the City to first conduct its own evaluation of the challenged R-1 development regulations for their compliance with the "siting and design" aspect of the ADU law. Then, if appealed again, LUBA would determine whether it agreed with the City's findings.

City Action in response to LUBA's Remand of the 2018 Ordinance

2/20/2019 Work Session – Based on LUBA's instructions, to re-adopt the 2018 (Phase 1) ordinance provisions, the City Council needed to evaluate the nineteen types of R-1 development regulations challenged in the 2018 appeal. For each type of regulation, the Council needed to either: make findings to demonstrate that it is a reasonable regulation that is related to siting or design, or revise the code to make that regulation inapplicable to ADUs. With respect to this process, City legal counsel explained to the Council that "[t]his is not a comprehensive review of all the regulations that apply to an ADU. That work will still need to be done. This is basically just what we do on remand. . . what it would take to put what you tried to do [in the 2018 ordinance] back in place."

While no JW zone regulations were specifically addressed at that time, the nineteen types of R-1 development regulations being evaluated included four regulations that are also applied to ADUs (additional one-family dwellings) in the JW zone:

- prohibiting an ADU on alley access lots
- prohibiting an ADU based on the size of the lot
- prohibiting an ADU based on a maximum allowable density
- requiring on-site parking for an ADU

6/30/2019 Legislature Revises ADU Law – Before the Council began its deliberations, the State legislature changed the ADU law to specify that development requirements that apply to an ADU:

- CANNOT REQUIRE A PROPERTY OWNER TO LIVE ON AN ADU PROPERTY
- CANNOT REQUIRE OFF-STREET PARKING FOR AN ADU

9/16/2019 Work Session on Ordinance to Respond to the 2018 Remand (and the 6/30/2019 Law) – The proposed ordinance brought back for Council's post-hearing discussion included changes to remove from the code every ADU development regulation that would violate the 6/30/2019 change in the ADU law. This included a code revision to make the off-street parking requirements for the JW zone inapplicable to that zone's ADUs (additional one-family homes).

1/21/2020 Adoption of 2019 Ordinance to Respond to the 2018 Remand -- Council's direction was to defend almost all of the challenged R-1 development regulations as "reasonable regulations relating to siting and design," including the four types of regulations that are also applied in the JW zone. Council adopted the 2020 ordinance and it was appealed to LUBA.

2020 Court Orders in Related Appeal

2/26/2020 & 7/1/2020 LUBA & Court of Appeals Orders in *Kamps-Hughes* – An applicant challenged a Eugene Planning Director decision applying Eugene's R-1 development regulations to a proposed ADU. LUBA and the Court of Appeals (collectively referred to as "the Courts") set out their interpretation of "reasonable regulations relating to siting and design" (which is now binding throughout the State). Applying their interpretation of the ADU law to the ADU regulations challenged in that appeal, the Courts determined that four types of Eugene's ADU regulations violated the ADU law because they do not relate to siting or design. As relevant to this memo, the Courts determined that the City's development regulations:

- CANNOT PROHIBIT AN ADU ON ALLEY ACCESS LOTS
- CANNOT PROHIBIT AN ADU BASED ON THE SIZE OF THE LOT

Most relevant to this memo, the Courts agreed that:

- "Additional traffic and increased density are not relevant to the 'siting' of [an ADU and] are also not related to the design of the ADU." (LUBA)
- The ADU law "focuses on individual single-family dwellings" and sets out an "express imposition of a one-to-one allowance ratio" that requires the City to allow one ADU per single-family dwelling and "leaves to cities and counties the task of regulating (reasonably) where ADUs may be sited on individual lots and how they are designed." (Court of Appeals)
- "[I]n enacting ORS 197.312(5)(a), the legislature made a statewide policy decision that, in cities and counties over a certain size, it is desirable as a matter of urban planning to allow one ADU per single-family dwelling in areas within a UGB that are zoned for detached single-family dwellings, thus increasing the density of housing development in those areas. The considerations underlying the four Eugene Code standards at issue in this appeal—minimizing density and thereby limiting traffic, increasing livability, and preserving neighborhood character—are essentially policy arguments against ADU development in existing residential neighborhoods. The city's proposed construction of ORS 197.312(5)(a) would effectively disregard the legislature's own statewide policy determination in the guise of 'siting' regulations." (Court of Appeals)

LUBA Remand of City's 2020 Action

11/24/2020 LUBA Order – In the appeal of the City's 2020 ordinance, LUBA was bound by the interpretations and determinations made by the Courts, discussed above. As most relevant to this memo, LUBA's holdings include:

- "[T]HE CITY MUST ALLOW AT LEAST ONE ACCESSORY DWELLING PER SINGLE-FAMILY DWELLING IN ALL ZONES THAT ALLOW DETACHED SINGLE-FAMILY DWELLINGS."

LUBA also determined that:

- THE JW ZONE'S PARKING REQUIREMENTS NEED TO BE FURTHER REVISED BECAUSE THEY DID NOT CLEARLY EXEMPT ALL ADUS FROM THE OFF-STREET PARKING REQUIREMENTS

In addition, the City conceded that the Courts' orders in the Kamps-Hughes case invalidated some types of ADU regulations that appear in Eugene's code. For purposes of this memo, LUBA's holding included an invalidation of the City's ADU regulations that impose minimum lot size standards and density limitations and that prohibit ADUs on alley access lots. LUBA remanded the ordinance back to the City for this additional work.

Current Process – Proposed Final Action to Implement the ADU Law that Contradicts Some 2018 Intentions

5/12/2021 City Council Work Session – Staff returned to the City Council with a draft ordinance for Council's consideration. The proposed ordinance is intended to finalize the City's legislative actions to implement the ADU law throughout all the City's zones, now that the City is equipped with an understanding of the ADU law's requirements. The draft ordinance would:

- Allow ADUs on the one-to-one basis required by the Courts
- Eliminate the ADU regulations that are invalid based on the legislature's 6/30/2019 change in the ADU law
- Eliminate the ADU regulations that are invalid based on the LUBA and Court decisions

With respect to the JW zone, the proposed ordinance includes the following revisions:

- A clearer elimination of off-street parking requirements (to comply with the legislature's 6/30/2019 change in the ADU law and LUBA's 2020 order)
- An allowance of 1 ADU per detached one-family dwelling on alley access lots (to comply with the Courts' 2020 orders)
- An allowance of 1 ADU per detached one-family dwelling on every lot, regardless of lot size or resulting density (to comply with the Court's 2020 determination in Kamps-Hughes)

To remain consistent with the City Council's 5/23/2018 motion that directed staff to not allow "secondary dwellings" in the JW and Chambers zones, staff drafted the ADU allowances described above as allowing "additional one-family dwellings," not "secondary dwellings." This resulted in a staff proposal as follows:

Table 9.3625 S-JW Jefferson Westside Special Area Zone Development Standards (See EC 9.3626 Special Development Standards for Table 9.3625.)	
Density(1)	
Minimum Dwellings Per Lot	
Lots less than 13,500 Square Feet	--
Lots 13,500 square feet and larger	1 dwelling per lot for every 6,750 square feet (fractional values are rounded down to the nearest whole number)
Maximum Dwellings Per Lot(1)	
Alley Access Only Lot	1 dwelling ***and 1 additional one-family dwelling as described in 9.3615(2)*** per lot
Lots [~~less than 2,250~~] ***up to 4,499*** square feet	[~~No additional dwellings after December 14, 2009~~] ***1 dwelling and 1 additional one-family dwelling as described in 9.3615(2) per lot***
[~~Lots between 2,250 and 4,499 square feet~~]	[~~1 dwelling per lot~~]
Lots between 4,500 and 8,999 square feet	2 dwellings ***and, for each detached one family dwelling, 1 additional one-family dwelling as described in 9.3615(2)*** per lot
Lots 9,000 square feet and larger	1 per lot for every 4,500 square feet (fractional values are rounded down to the nearest whole number) ***and, for each such detached one family dwelling, 1 additional one-family dwelling as described in 9.3615(2)***

The testimony giving rise to this memo is correct that, contrary to staff and Council statements in 2018, the draft ordinance now before the City Council would allow one ADU for each of the currently allowed detached one-family dwellings, even if the ADU would result in more dwellings than a zone's density regulations allow. This means that the proposed ordinance would allow a lot that is between 4500 and 8999 square feet to have 4 residential buildings: the already-allowed 2 detached one-family dwellings per lot AND 2 ADUs (one ADU for each one-family dwelling). This is precisely the scenario that some Councilors explicitly sought to avoid in 2018. The reasons for these proposed changes are post-2018 factors discussed above.

[1] Although this memo refers only to the JW zone, almost identical issues are present in the Chambers Special Area Zone ("Chambers zone") and some of the issues are also present in the R-2 Medium-Density Residential zone.
[2] Dwellings that meet this definition are called "statutory ADUs" for purposes of this memo.
[3] As referenced later in this memo, section (b)(B) was not a part of the ADU law until 6/30/2019.
[4] As relevant to this memo, the JW zone density regulations provide:
(1) **Density.** For purposes of determining the maximum allowable dwellings on a lot:
(a) A dwelling with five or fewer bedrooms that is the only dwelling on a street-abutting lot that is at least 4,500 square feet shall be counted as one dwelling.
(b) Two dwellings that together have a total of six or fewer bedrooms, and that are the only

dwellings located on a street-fronting lot that is at least 4,500 square feet, and where at least one residential building on the lot has a front facade that faces a street and is within the street maximum setback, shall be counted as two dwellings.

(c) For cases not covered by sections (a) and (b), above, the dwelling count shall be the sum of the dwelling counts calculated under the following subsections:
   1. The total dwelling count for all dwellings with three or fewer bedrooms shall be the number of dwellings,
   2. The total dwelling count for all dwellings with four or more bedrooms shall be the total number of bedrooms in these dwellings divided by three. Fractional dwelling counts resulting from this calculation shall be rounded up to the next whole number, e.g. a total of seven bedrooms counts as three dwellings.

(d) Dwelling counts shall be recalculated as part of the City's consideration of any new development proposing to increase the number of dwellings or bedrooms on a lot. The proposed change shall not be permitted unless the new dwelling count will comply with all applicable standards in this section.

(e) In addition to the Maximum Dwellings Per Lot allowed by Table 9.3625, one additional dwelling may be established on a lot that is between 9,000 square feet and 12,499 square feet, and up to two additional dwellings may be established on a lot that is 13,500 square feet or larger, so long as:
   1. No residential building on the lot has more than two dwellings;
   2. No dwelling on the lot has more than three bedrooms; and
   3. No dwelling added to the lot after December 14, 2009, or that is on a lot that has more than the number of dwellings allowed on the lot by Table 9.3625 has more than 800 square feet of living area or any point (other than chimney) higher than 18 feet.

Summary of Land Use Code Amendments
For July 12, 2021 Work Session

The ordinance for public hearing includes the re-adoption of those changes approved by the City Council in 2020 that have been subsequently affirmed (or otherwise validated) through the legal appeal process and adoption of additional code changes that are required due to orders of the Land Use Board of Appeals or the Oregon Court of Appeals since the City Council's 2020 action.

(1) Re-adoption of all the code changes that were included in the 2020 ordinance (which is no longer in effect) as follows:

A. Changes the term "secondary dwelling" to "accessory dwelling" throughout the code

B. Clarifies that an "accessory dwelling" is regulated differently than an "accessory building"

C. Replaces the City's definition of "secondary dwelling" with the State law's definition of "accessory dwelling" provided at ORS 197.312(5)

D. Adds "Accessory Dwellings" use category as an explicitly permitted use in the following zones:
   - AG Agricultural
   - R-2 Medium Density Residential
   - R-3 Limited High-Density Residential
   - R-4 High Density Residential
   - S-E Elmira Road Special Area Zone
   - S-HB Blair Boulevard Historic Commercial Special Area Zone

E. Adds language to the S-JW Jefferson Westside Special Area Zone and S-C Chambers (R-2 Subarea) Special Area Zone to clarify that, in the code provisions for these zones, any dwelling that meets the definition of "accessory dwelling" will continue to be referred to as a "one-family dwelling"

F. Applies the R-1 Low Density Residential zone standards for accessory dwellings to accessory dwellings in the following zones:
   - AG Agricultural
   - R-2 Medium Density Residential
   - R-3 Limited High-Density Residential
   - R-4 High Density Residential
   - S-E Elmira Road Special Area Zone

G. Removes regulations that require either the primary dwelling or the accessory dwelling to be the principal residence of the property owner

H. Removes regulations that regulate dog keeping differently for lots with accessory dwellings

I. Removes, from some zones, regulations that require on-site parking for accessory dwellings and removes or revises regulations that regulate the development of required parking for accessory dwellings

J. Increases building height/sloped setback inflection point from 8 feet to 10 feet (meaning the accessory dwelling can now be 10 feet in height at the interior yard setback, before sloping up to the maximum height)

K. Removes barriers to above-garage accessory dwellings and accessory dwellings on sloped lots by adjusting standards to building height and interior setback

L. Removes some prohibitions on accessory dwellings on flag lots

(2) Adoption of additional code changes (that were not included in the 2020 ordinance) to amend to amend or remove code provisions that were invalidated by rulings of the Oregon Court of Appeals in *Kamps-Hughes v. City of Eugene* as follows:

A. Allows, where not addressed in the 2020 ordinance, an accessory dwelling for each single-family dwelling allowed by the code, including on alley access lots and flag lots

B. Removes regulations that include accessory dwellings in maximum density calculations

C. Removes regulations that prohibit ADUs based on lot area or lot dimensions

D. Removes regulations that limit the number of people that can occupy an accessory dwelling or a property that includes an accessory dwelling

E. Removes, where not addressed in 2020 ordinance, regulations that require on-site parking for accessory dwellings

ORDINANCE NO. _____

AN ORDINANCE CONCERNING ACCESSORY DWELLINGS; REPLACING THE TERM "SECONDARY DWELLING" WITH "ACCESSORY DWELLING" THROUGHOUT THE EUGENE CODE 1971; MAKING ADDITIONAL AMENDMENTS TO SECTIONS 9.0500, 9.2010, 9.2011, 9.2740, 9.2741, 9.2750, 9.2751, 9.2775, 9.3060, 9.3065, 9.3115, 9.3125, 9.3126, 9.3210, 9.3215, 9.3310, 9.3510, 9.3615, 9.3625, 9.3626, 9.3810, 9.3811, 9.3815, 9.3910, 9.3915, 9.3970, 9.6410 AND 9.8030 OF THAT CODE; ADDRESSING THE OREGON LAND USE BOARD OF APPEALS' REMAND OF ORDINANCE NOS. 20594, 20595, AND 20625; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. The term "secondary dwelling" is replaced with "accessory dwelling" (including grammatical revisions for plural and a/an agreement) throughout the Eugene Code, 1971. Where this change occurs in the Code sections further amended by this Ordinance, this change is also shown.

Section 2. The following definitions in Section 9.0500 of the Eugene Code, 1971, are amended to provide as follows:

9.0500 **Definitions**. As used in this land use code, unless the context requires otherwise, the following words and phrases mean:

Accessory Building. Any authorized, detached building subordinate to the main building on the same development site. In addition, for the purposes of EC 9.2700 through 9.2751, in the R-1 zone, an accessory building that shares a common wall with the primary dwelling for less than 8 feet is considered a detached accessory building. ***An accessory dwelling is not an accessory building.***

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

Kennel. An establishment or premises on which 4 or more dogs over 6 months of age are kept or maintained, whether by owners of the dogs or by persons providing facilities and care, and whether or not for compensation, not including the temporary keeping of one additional dog for up to 6 months in any 12-month period. For purposes of this definition, if the "premises" consists of a lot that contains a main dwelling and a***n*** [~~secondary~~] ***accessory*** dwelling [~~unit~~], the "premises" means the lot. [**~~(See EC 9.2751(17)(a)6. and (c)10.)~~**]

Section 3. The "Dwellings" subsection in the "Residential" section in Table 9.2010 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.2010 Agricultural Zone Uses and Permit Requirements	
	AG
Residential	
Dwellings	
One-Family Dwelling, 1 Per Lot	P
Accessory Dwelling (1 Per Detached One-Family Dwelling on Same Lot)	***P(2)***

Section 4. Section 9.2011 of the Eugene Code, 1971, is amended to provide as follows:

9.2011 Special Use Limitations for Table 9.2010.

(1) Permitted in the AG zone, subject to the PRO zone standards in EC 9.2640.

(2) Permitted in the AG zone, subject to the standards for accessory dwellings at EC 9.2751(17).

Section 5. The following entries under the "Residential" section in Table 9.2740 of the Eugene Code, 1971, are amended to provide as follows:

Table 9.2740 Residential Zone Land Uses and Permit Requirements					
	R-1	**R-1.5**	**R-2**	**R-3**	**R-4**
Residential					
Dwellings. (All dwellings[~~, including secondary dwellings,~~] shall meet minimum and maximum density requirements in accordance with Table 9.2750 Residential Zone Development Standards unless specifically exempted elsewhere in this land use code. All dwelling types are permitted if approved through the Planned Unit Development process.)					
[~~Secondary~~] ***Accessory*** Dwelling [~~(Either Attached or Detached from Primary One-Family Dwelling on Same Lot)~~]	P(2)		***P(2)***	***P(2)***	***P(2)***

Section 6. Subsection (2) of Section 9.2741 of the Eugene Code, 1971, is amended to provide as follows:

9.2741 Special Use Limitations for Table 9.2740.

(2) [~~**Secondary**~~] ***Accessory*** **Dwellings.** [~~Secondary~~] ***One accessory*** dwelling[~~s are only permitted in R-1 and~~] ***is allowed for each detached one-family dwelling on the same lot,*** subject to the standards [~~beginning~~] at EC 9.2750 ***and EC 9.2751***[~~, except that new [secondary] **accessory** dwellings are prohibited on alley access lots~~].

Section 7. The following entries under the "Maximum Building Height," "Minimum Building Setbacks," "Maximum Lot Coverage" and "Secondary Dwellings" sections in Table 9.2750 of the Eugene Code, 1971, are amended to provide as follows:

Table 9.2750 Residential Zone Development Standards (See EC 9.2751 Special Development Standards for Table 9.2750.)					
	R-1	**R-1.5**	**R-2**	**R-3**	**R-4**
Maximum Building Height (2), (3), (4), (5), (16), (17), (18)					
[~~Secondary~~]***Accessory*** Dwelling	See (17)	--	[~~--~~]***See (17)***	[~~--~~]***See (17)***	[~~--~~]***See (17)***
Minimum Building Setbacks (2), (4), (6), (9), (10), (11), (16), (17), (18)					
Interior Yard Setback for [~~Secondary~~]***Accessory*** Dwellings	See (17)	--	[~~--~~]***See (17)***	[~~--~~]***See (17)***	[~~--~~]***See (17)***
Maximum Lot Coverage (17), (18)					
Lots with [~~Secondary~~] ***Accessory*** Dwellings (Area-Specific)	See (17)(c)	--	--	--	--
[~~**Secondary**~~] ***Accessory*** **Dwellings (17)**					
General Standards	See (17)(a) and (b)	--	[~~--~~]***See (17)(a) and (b)***	[~~--~~]***See (17)(a) and (b)***	[~~--~~]***See (17)(a) and (b)***
Area-Specific	See (17)(c)	--	--	--	--

Section 8. Figure 9.2751(16)(b)(3) is amended as shown in Exhibit A attached to this Ordinance; Figure 9.2751(17)(a)3.b.(2)(A), Figure 9.2751(17)(a)3.b.(2)(B) and Figure 9.2751(17)(a)3.c.(2), attached to this Ordinance at Exhibit A, are added; and Subsections (1), (17) and (18) of Section 9.2751 of the Eugene Code, 1971, are amended to provide as follows:

9.2751 Special Development Standards for Table 9.2750.

(1) Density.

(a) The minimum residential density requirements set forth in Table 9.2750 do not apply to*:*

1. [~~Attached secondary~~]***Accessory*** dwellings [~~in R-1~~]*;*
2. Lots zoned R-2 that are less than a half-acre (21,780 square feet) and that were created before August 24, 2017;
3. Lots or development sites in the R-3 or R-4 zones that are developed and are 13,500 square feet or less in size;
4. Lots within a /# overlay zone as described in EC 9.4050 to EC 9.4065; or
5. Dwellings exclusively for low income individuals and/or families where all units are subsidized. For this purpose, low income means having income at or below 80 percent of the area median income as defined by the U.S. Department of Housing and Urban

Development. For these types of dwellings the minimum density is 10 units per net acre.

(Refer to Table 9.2750 Residential Zone Development Standards for the required net area per dwelling unit.)

(b) The maximum residential density requirements set forth in Table 9.2750 do not apply to accessory dwellings.

(~~b~~***c***) For purposes of this section, "net density" is the number of dwelling units per acre of land in actual residential use and reserved for the exclusive use of the residents in the development, such as common open space or recreation facilities.

(~~c~~***d***) For purposes of calculating net density:

1. The acreage of land considered part of the residential use shall exclude public and private streets and alleys, public parks, and other public facilities.
2. In calculating the minimum net density required for a specific lot or development site, the planning director shall round down to the previous whole number.
3. In calculating the maximum net density allowed for a specific lot or development site the planning director shall round up to the next whole number only for:
   a. A lot or development site that is 13,500 square feet or more in area;
   b. A lot or development site that is not abutting the boundary of, or directly across an alley from land zoned R-1; and
   c. Fractions of .75 or above.

   In all other circumstances, the planning director shall round down to the previous whole number.
4. At the request of the developer, the acreage described in 1., above, also may exclude natural or historic resources. For purposes of this section, natural resources include those designated for protection in an adopted plan and the area within natural resources protection or conservation setbacks that have been applied to the development site. For purposes of this section, historic resources include historic property and resources identified in an official local inventory as “primary” or “secondary.” It may also include additional natural or historic resources upon approval of the planning director.

(~~d~~***e***) Legally established buildings and uses conforming to the residential net density requirements in the R-2, R-3 and R-4 zones on December 7, 1994 are exempt from EC 9.1210 to 9.1230 Legal Nonconforming Situations, pertaining to nonconforming uses. This exemption is limited to development sites in the R-2, R-3, and R-4 zones on which residential buildings and uses existed, or in which a development permit or land use application was pending, on December 7, 1994. If such a building which is nonconforming as to minimum density is destroyed by fire or other causes beyond the control of the owner, the development site may be redeveloped with the previous number of dwelling unit(s) if completely rebuilt within 5 years. If not completely rebuilt within 5 years, the development site is subject to the density standards of this section.

(~~e~~***f***) Provided the number of dwelling units are not reduced below the number present at the time of historic landmark designation, changes in the

number of dwelling units within the historic property are exempt from the residential net density minimums.

* * *

(17) [~~Secondary~~] *Accessory* Dwellings[~~ in R-1~~].

(a) General Standards for Attached [~~Secondary~~] ***Accessory*** Dwellings. Except as provided in subsection (c) below, [~~secondary~~] ***attached accessory*** dwellings [~~that are within the same building as the primary dwelling~~] shall comply with all of the following:

[~~1. Lot Area. To allow a secondary dwelling, flag lots shall contain at least 12,500 square feet, excluding the pole portion of the lot, and shall have a minimum pole width as required under EC 9.2775(5)(e). All other lots shall contain at least 6,100 square feet.~~]

~~2~~***1***. Building Size. The total building square footage of a***n*** [~~secondary~~] ***accessory*** dwelling shall not exceed 10 percent of the total lot area or 800 square feet, whichever is smaller. Total building square footage is measured at the exterior perimeter walls and is defined as all square footage inside of the dwelling, including, but not limited to hallways, entries, closets, utility rooms, stairways and bathrooms.

~~3~~***2***. Building Height/Interior Setback. Except for [~~secondary~~] ***accessory*** dwellings on flag lots (see EC 9.2775), the following standards apply:

a. For ***any portion of an*** attached [~~secondary~~] ***accessory*** dwelling[~~s~~] 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.

b. For ***any portion of an*** attached [~~secondary~~] ***accessory*** dwelling[~~s~~] located greater than 60 feet [~~of~~] ***from*** 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.~~ ~~**(See Figure 9.2751(16)(b)3.)**~~] ***the following standards apply:***

(1) Except as provided in subsection (2) below, interior yard setbacks shall be at least 5 feet. In addition, at a point that is 10 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. (See Figure 9.2751(16)(b)3. Building Height/Interior Setbacks)

(2) For an accessory dwelling located above a garage or located where there is a grade change of 5 feet or more when measured from lowest finished grade to highest finished grade at points within a 5-foot horizontal distance of the exterior walls of the accessory dwelling (See Figure 9.2751(17)(a)2.b.(2)(A) Building Height Calculation

& Sloped Setback for Sloped Lots), the following standards apply:

(A) For an interior lot line that is not addressed in (2)(B) below or an interior lot line that abuts an alley, the minimum interior yard setback from that lot line is 5 feet and the maximum building height is 25 feet.

(B) Where an interior lot line abuts property that is zoned R-1, R-1.5, S-C/R-1 or S-RN/LDR, the interior yard setbacks shall be at least 5 feet. In addition, at a point that is 18 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 25 feet. If the building is setback a minimum of 20 feet from an interior property line, the sloped portion of the setback does not apply along that property line. (See Figure 9.2751(17)(a)2.b.(2)(B) Accessory Dwelling Above Garage)

c. <u>Exceptions</u>. If the accessory dwelling is above a garage or on a slope as described in EC 9.2751(17)(a)2.b.(2) above, the following exceptions apply:

(1) An accessory dwelling may intrude into the 5-foot interior yard if a 10-foot separation exists between the accessory dwelling and buildings on the abutting lot and if the owner of the accessory dwelling has secured and recorded in the office of the Lane County Recorder a maintenance access easement adjacent to the intruding side of the building. The easement shall provide a 5-foot wide access the entire length of the building and 5 feet beyond both ends and require the continuation of a 10-foot separation between buildings on the separate lots. The easement shall be on a form provided by the city and be subject to payment of a fee set by the city manager.

(2) An accessory dwelling's dormers may intrude into the sloped portion of any interior yard setback if:

(A) The total width of all dormers does not exceed fifty percent of the width of the roof on which the dormers are located (for hipped roofs, the width of the roof shall be measured at the eave); and

(B) The walls of the dormer(s) are set back a minimum of 2 feet from the face of all exterior building walls of the accessory dwelling.

(See Figure 9.2751(17)(a)2.c.(2) Dormer Placement & Size Calculation)

~~c~~***d***. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in

subsections a. and b. above, except that eaves and chimneys are allowed to project into this setback no more than 2 feet.

~~4~~***3***. Minimum Attachment. The [~~secondary~~] ***accessory*** dwelling and the primary dwelling must share a common wall or ceiling for a minimum length of 8 feet to be considered attached.

[~~5. Maximum Bedrooms. The secondary dwelling shall contain no more than 2 bedrooms.~~

~~6. Dog Keeping. No more than 3 dogs shall be permitted on the lot, not including the temporary keeping of one additional dog for up to 6 months in any 12-month period.~~

~~7. Ownership/Occupancy Requirements. Either the primary dwelling or the secondary dwelling shall be the principal residence of the property owner. The principal residence must be occupied for a minimum of 6 months of each calendar year by a property owner who is the majority owner of the property as shown in the most recent Lane County Assessor's roll. If there is more than one property owner of record, the owner with the majority interest in the property shall be deemed the property owner. Any property owner of record holding an equal share in the property may be deemed the majority owner if no other owner owns a greater interest. The principal residence cannot be leased or rented when not occupied by the property owner. Prior to the city's issuance of the building permit for the secondary dwelling (or the primary dwelling if it is constructed later) the property owner must provide the city with a copy of the property deed to verify ownership and two forms of documentation to verify occupancy of the primary residence. Acceptable documentation for this purpose includes voter's registration, driver's license, homeowner's insurance, income tax filing, and/or utility bill. When both the primary and secondary dwelling are constructed at the same time, such documentation must be provided prior to final occupancy.~~

~~8. Temporary Leave. Notwithstanding subsection 7. above, a property owner may temporarily vacate the principal residence for up to one year due to a temporary leave of absence for an employment, educational, volunteer opportunity, or medical need. The property owner must provide the city proof of temporary leave status from the property owner's employer, educational facility, volunteer organization or medical provider, and a notarized statement that the property owner intends to resume occupancy of the principal residence after the one year limit. During the temporary leave, the property owner may rent or lease both units on the property. Leaves in which property owner is temporarily absent shall not be consecutive and shall not occur more than once every 5 years. This standard may be adjusted in accordance with EC 9.8030(34).~~

~~9. Deed Restriction. Prior to issuance of a building permit for the secondary dwelling (or the primary dwelling if it is constructed later), the owner shall provide the city with a copy of a deed restriction on a form approved by the city that has been recorded with the Lane County Clerk. The deed restriction must include a~~

~~reference to the deed under which the property was acquired by the present owner and include the following provisions:~~

~~a. One of the dwellings must be the principal residence of a property owner who is the majority owner of the property. Requirements for occupancy shall be determined according to the applicable provisions of the Eugene Code.~~

~~b. The deed restriction runs with the land and binds the property owner(s), heirs, successors and assigns.~~

~~c. The deed restriction may be terminated, upon approval by the city, when one of the dwellings is removed, or at such time as the city code no longer requires principal occupancy of one of the dwellings by the owner.~~

~~10. Verification. At least once every two years, the property owner shall provide to the city documentation of compliance with the ownership and occupancy requirements of subsection 7. above. The property owner must provide a copy of the current property deed to verify ownership and two forms of documentation to verify occupancy of the principal residence. Acceptable documentation for this purpose includes voter's registration, driver's license, homeowner's insurance, income tax filing, and/or utility bill.~~]

~~11~~***4***. Additional Standards for [~~Secondary~~] ***Accessory*** Dwellings on Flag Lots. [~~Secondary~~] ***Accessory*** dwellings on flag lots are also subject to the standards at EC 9.2775(5)(e).

(b) General Standards for Detached [~~Secondary~~] ***Accessory*** Dwellings. In addition to the standards in subsection (a) of this section, detached [~~secondary~~] ***accessory*** dwellings shall comply with the following, except as provided in subsection (c) below:

1. Building Size. ***For an accessory dwelling located above a garage, up to 800 square feet of unheated garage or other unheated storage space attached to the accessory dwelling is allowed and is not counted in the total building square footage for the accessory dwelling. For other accessory dwellings,*** [~~U~~]***u***p to 300 square feet of un[~~-~~]heated garage or ***other unheated*** storage space attached to the [~~secondary~~] ***accessory*** dwelling [~~unit~~] is allowed and is not counted in the allowable total building square footage ***for the accessory dwelling***.
2. Pedestrian Access. A pedestrian walkway shall be provided from the street or alley to the primary entrance of the [~~secondary~~] ***accessory*** dwelling. The pedestrian walkway shall be a hard surface (concrete, asphalt or pavers) and shall be a minimum of 3 feet in width.
3. Primary Entrance. The primary entry to a***n*** [~~secondary~~] ***accessory*** dwelling shall be defined by a covered or roofed entrance with a minimum roof depth and width of no less than 3 feet.
4. Outdoor Storage/Trash. Outdoor storage and garbage areas shall 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.
5. Building Height/Interior Setback. Except for [~~secondary~~]

accessory dwellings on flag lots (see EC 9.2775), the following standards apply:

a. ***Except as provided in subsection b. below,*** [~~I~~]***i***nterior yard setbacks shall be at least 5 feet. In addition, at a point that is [~~8~~] ***10*** 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. ***(See Figure 9.2751(16)(b)3. Building Height/Interior Setbacks)***

b. For an accessory dwelling located above a garage or located where there is a grade change of 5 feet or more when measured from lowest finished grade to highest finished grade at points within a 5-foot horizontal distance of the exterior walls of the accessory dwelling (see Figure 9.2751(17)(a)2.b.(2)(A) Building Height Calculation & Sloped Setback for Sloped Lots), the standards at EC 9.2751(17)(a)2.b.(2) and EC 9.2751(17)(a)2.c. apply.

~~b~~***c***. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in a. ***or b.*** above, except that eaves and chimneys are allowed to project into this setback no more than 2 feet. [~~**(See Figure 9.2751(16)(b)3.)**~~

~~c. This standard may be adjusted to allow for a secondary dwelling over an accessory building in accordance with EC 9.8030(34).~~]

6. Maximum Wall Length. Along the vertical face of the dwelling, offsets shall occur at a minimum of every 25 feet by providing at least one of following: recesses or extensions, including entrances, a minimum depth of 2 feet and a minimum width of 5 feet for the full height of the wall. Full height is intended to mean from floor to ceiling (allowing for cantilever floor joists).

(c) Area-Specific [~~Secondary~~] ***Accessory*** Dwelling Standards. ***Except as provided in this subsection (c), the standards at (a) and (b) do not apply to accessory dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association.*** The following standards apply to all new attached or detached [~~secondary~~] ***accessory*** dwellings in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association:

[~~1. Lot Area. To allow for a secondary dwelling, the lot shall contain at least 7,500 square feet.~~

~~2. Lot Dimension. The boundaries of the lot must be sufficient to fully encompass an area with minimum dimensions of 45 feet by 45 feet.~~]

~~3~~***1***. Lot Coverage. 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.

[~~4. Vehicle Use Area. The maximum area covered by paved and unpaved vehicle use areas including but not limited to driveways, on-site parking and turnarounds, shall be limited to 20 percent of~~

~~the total lot area.~~]

~~5~~***2***. Building Size. For lots [~~at least 7,500 square feet and~~] less than 9,000 square feet in area, the [~~secondary~~] ***accessory*** dwelling shall not exceed 600 square feet of total building square footage. For lots at least 9,000 square feet in area, the [~~secondary~~] ***accessory*** dwelling shall not exceed 800 square feet of total building square footage. Total building square footage is defined as all square footage inside of the dwelling, including, but not limited to hallways, entries, closets, utility rooms, stairways and bathrooms. ***For an accessory dwelling located above a garage, up to 800 square feet of unheated garage or other unheated storage space is allowed and is not counted in the total building square footage for the accessory dwelling.***

~~6~~***3***. Minimum Attachment. The standards at EC 9.2751(17)(a)~~4~~***3***. are applicable.

~~7~~***4***. Maximum Bedrooms. For lots with a primary dwelling containing 3 or fewer bedrooms, the [~~secondary~~] ***accessory*** dwelling shall be limited to 2 bedrooms. For lots with a primary dwelling containing 4 or more bedrooms, the [~~secondary~~] ***accessory*** dwelling shall be limited to 1 bedroom.

~~[8. Maximum Occupancy. For lots with a primary dwelling containing 3 or fewer bedrooms, the secondary dwelling shall be limited to 3 occupants. For lots with a primary dwelling containing 4 or more bedrooms, the secondary dwelling shall be limited to 2 occupants.]~~

~~9~~***5***. Building Height/Interior Setback. [~~For detached secondary dwellings:~~]

a. [~~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 standards at EC 9.2751(17)(b)5.a. and b. are applicable to detached accessory dwellings.***

b. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in [~~1~~]***a***. above, except that eaves, chimneys and gables are allowed to project into this setback no more than 2 feet.

[~~**(See Figure 9.2751(16)(b)3.)**~~

~~10. Dog Keeping. The standards at EC 9.2751(17)(a)6. are applicable.~~

~~11. Ownership/Occupancy Requirements. The standards at EC 9.2751(17)(a)7. are applicable.~~

~~12. Temporary Leave. The standards at EC 9.2751(17)(a)8. are applicable.~~

~~13. Deed Restriction. The standards at EC 9.2751(17)(a)9. are applicable.~~

~~14. Verification. The standards at EC 9.2751(17)(a)10. are applicable.~~

~~15. Parking. For the primary dwelling, there shall be a minimum of one and a maximum of two parking spaces on the lot. There shall~~

~~be one additional parking space on the lot for the exclusive use for the occupants and guests of the secondary dwelling.~~

~~16. Alley Access Parking and Driveway. The standards at EC 9.2751(18)(a)11. are applicable to attached and detached secondary dwellings where primary vehicle access for the required parking is from an alley.~~]

~~17~~***6***. Pedestrian Access. The standards at EC 9.2751(17)(b)2. are applicable to attached and detached [~~secondary~~] ***accessory*** dwellings[~~, except that if primary vehicle access for the required parking is from an alley, the path must be provided from the alley~~].

~~18~~***7***. Primary Entrance. The standards at EC 9.2751(17)(b)3. are applicable to detached [~~secondary~~] ***accessory*** dwellings only.

~~19~~***8***. Outdoor Storage/Trash. The standards at EC 9.2751(17)(b)4. are applicable to detached [~~secondary~~] ***accessory*** dwellings only.

~~20~~***9***. Maximum Wall Length. The standards at EC 9.2751(17)(b)6. are applicable to detached [~~secondary~~] ***accessory*** dwellings only.

(d) Adjustment Review. [~~The standards at [EC 9.2751(17)(a)8. regarding temporary leave and at EC 9.2751(17)(b)5. regarding building height (to allow for a secondary dwelling over an accessory building) may be adjusted in accordance with EC 9.8030(34). Additionally, a~~]***A***n adjustment may be requested to convert an existing building into a***n*** [~~secondary~~] ***accessory*** dwelling in accordance with EC 9.8030(34) if the existing building does not meet the standards under EC 9.2751(17)(a) or (b). For [~~secondary~~] ***accessory*** dwellings, these are the only standards that may be adjusted. [~~With the exception of EC]9.2751(17)(a)8. regarding temporary leave, t~~]***T***hese standards are not adjustable for [~~secondary~~] ***accessory*** dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association.

(e) Enforcement. Failure to adhere to the standards required under this section shall constitute a violation subject to the enforcement provisions of section 9.0010 through 9.0280 General Administration.

(18) Alley Access Lots in R-1.

(a) General Standards.

1. Applicability. Except as provided in (b) ***and (c)*** below, the following standards apply to development on alley access lots in R-1.
2. Use Regulations. Alley access lots have the same land use regulations as the base zone [~~except that there is no allowance for an accessory dwelling~~].
3. Building Size. The total building square footage of a dwelling shall not exceed 10 percent of the total lot area or 800 square feet, whichever is smaller. Total building square footage is measured at the exterior perimeter walls and is defined as all square footage inside of the dwelling, including, but not limited to hallways, entries, closets, utility rooms, stairways and bathrooms.
4. Lot Coverage. Alley access lots 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.
5. Building Height/Interior Setback.
   a. Interior yard setbacks shall be at least 5 feet, including along

the alley frontage. 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 perpendicular to the alley until a point not to exceed a maximum building height of 18 feet.

b. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in a. above, except that eaves and chimneys are allowed to project into this setback no more than 2 feet. (See Figure 9.2751(16)(b)3.)

c. These standards may be adjusted in accordance with EC 9.8030(35).

6. Windows, Dormers and Balconies.
   a. Any window on the upper story must be located a minimum of 10 feet from any property line.
   b. Up to two dormers are allowed on the side of the dwelling facing the alley. Dormers are limited to a maximum width of 10 feet. Dormers are not allowed on the remaining sides of the dwelling.
   c. Balconies and other second floor outdoor areas are only allowed on the side of the dwelling facing the alley[,] and shall be setback at least 10 feet from the alley.
   d. Notwithstanding b. and c. above, dormers and balconies are not allowed on the second floor of a dwelling on any non-alley facing property line unless the affected adjacent property owner consents in writing on a form approved by the city.
7. Bedrooms. The dwelling shall contain no more than 3 bedrooms.
8. Primary Entrance. The primary entry to the dwelling shall be defined by a covered or roofed entrance with a minimum roof depth and width of no less than 3 feet.
9. Pedestrian Access. The dwelling shall be served by a minimum three foot wide hard-surfaced/hard-scaped (paved, concrete or pavers) pedestrian walkway from the alley, or from the front street via an easement. The pedestrian walkway must be recognizable and distinct (different color, materials and/or texture) from the driveway and parking area, but is not required to be separated from the driveway or parking area.
10. Parking Spaces. There shall be a minimum of 1 and a maximum of 2 parking spaces on the lot.
11. Parking and Driveway.
    a. 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.
    b. The maximum dimensions for a garage shall be 16 feet by 24 feet, with a maximum garage door width of 9 feet.
    c. 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.

d. The maximum width for a driveway accessing a garage or carport shall be 12 feet.

e. The maximum dimensions for one parking space located perpendicular to the alley shall be 12 feet in width by 20 feet in depth.

f. 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.

g. The maximum dimensions for tandem parking spaces shall be 12 feet in width by 33 feet in depth.

h. 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.

i. 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.

j. No parking shall occur outside of the vehicle use area. (See Figure 9.2751(18)(a)11.)

12. Distance from Street/Fire Safety. If any portion of the exterior walls of the first story of the dwelling is greater than 150 feet from the centerline of the alley where it intersects with the curb of the street, as measured by a route approved by the fire code official, the dwelling shall be equipped throughout with multi-purpose residential sprinklers as defined in National Fire Protection Association Standard 13D.

13. Trash and Recycling. Outdoor storage and garbage areas shall be screened from view from adjacent properties and those across the alley with a minimum 42-inch tall 100-percent site obscuring fence or enclosure on at least three sides.

14. Accessory Buildings. Detached accessory buildings are allowed subject to the standards at EC 9.2751(16), except that the total square footage of all accessory buildings on an alley access lot is limited to 400 square feet.

15. Adjustment Review. For alley access lots, EC 9.2751(18)(a)(5) is the only standard that may be adjusted. This standard is not adjustable for dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association.

(b) Area – Specific Alley Access Lot Standards in R-1. Except as provided below, the standards in subsection (a) of this section apply to alley access lots existing as of April 12, 2014, in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association. In lieu of EC 9.2751(18)(a)(3) Building Size, the following applies:

1. Building Size. An alley access lot dwelling shall not exceed 1,000 square feet of total building square footage, measured at the exterior perimeter walls. For alley access lots, total building square footage is defined as all square footage inside of the dwelling, including, but not limited to hallways, entries, closets, utility rooms, stairways and bathrooms.

2. This standard may not be adjusted.

(c) The standards in (a) and (b) do not apply to accessory dwellings. Accessory dwellings on alley access lots in R-1 shall comply with the standards at EC 9.2751(17).

Section 9. Subsections (4) and (5)(e) of Section 9.2775 of the Eugene Code, 1971, are amended to provide as follows:

9.2775 Residential Flag Lot Standards for R-1, R-2, R-3 and R-4.

(4) Use Regulations. Residential flag lots have the same land use regulations as the base zone except[:]***that***

[~~(a)~~ ~~H~~]***h***ome occupations are not allowed on residential flag lots ***of*** less than 13,500 square feet[~~;~~]***.***

[~~(b) Secondary dwellings are not allowed on flag lots less than 12,500 square feet.~~; ~~and~~

~~(c) Secondary dwellings are not allowed on flag lots that did not exist or were not approved prior to August 29, 2014.~~]

(5) Development Standards.

(e) Additional Standards for [~~Secondary~~] ***Accessory*** Dwellings on Flag Lots.

[~~1. Access Pole Width. To allow for a secondary dwelling on flag lots existing or approved prior to August 29, 2014, that do not have legal access other than the individual or combined pole, the minimum width of the individual or combined pole shall be 25 feet.~~

~~2. Access. No more than four dwellings (including primary and secondary dwellings) may take access off an individual pole or combined poles.~~]

~~3~~***1***. Building Height/Interior Setback.

a. ***Except as provided in subsection b. below,*** [~~I~~]***i***nterior yard setbacks shall be at least 10 feet. In addition, at a point that is [~~8~~] ***10*** 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~~] ***accessory*** dwellings and the maximum building height of the primary dwelling for attached [~~secondary~~] ***accessory*** dwellings.

b. For an accessory dwelling located above a garage or located where there is a grade change of 5 feet or more when measured from lowest finished grade to highest finished grade at points within a 5-foot horizontal distance of the exterior walls of the accessory dwelling (See Figure 9.2751(17)(a)2.b.(2)(A) Building Height Calculation & Sloped Setback for Sloped Lots),the following standards apply:

(1) For an interior lot line that is not addressed in b.(2) below, the minimum interior yard setback from that lot line is 10 feet and the maximum building height is 25 feet.

(2) Where an interior lot line abuts property that is zoned R-1, R-1.5, S-C/R-1 or S-RN/LDR,, the interior yard setbacks shall be at least 10 feet. In addition, at a point that is 18 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 25 feet. If the building is setback a minimum of 20 feet from an interior property line, the sloped portion of the setback does not apply along that property line. (See Figure 9.2751(17)(a)2.b.(2)(B) Accessory Dwelling Above Garage)

c. Exceptions. If the accessory dwelling is above a garage or on a slope as described in EC 9.2775(5)(e)1.b. above, an accessory dwelling's dormers may intrude into the sloped portion of any interior yard setback if:

(1) The total width of all dormers does not exceed fifty percent of the width of the roof on which the dormers are located (for hipped roofs, the width of the roof shall be measured at the eave); and

(2) The walls of the dormer(s) are set back a minimum of 2 feet from the face of all exterior building walls of the accessory dwelling.

(See Figure 9.2751(17)(a)2.c.(2) Dormer Placement & Size Calculation)

~~b~~***d***. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in a. above, except that eaves and chimneys are allowed to project into this setback no more than 2 feet.

[~~c. This standard may be adjusted to allow for a secondary dwelling over an accessory building in accordance with EC 9.8030(34).~~]

~~4~~***2***. Driveway Standards.

a. Paving. The driveway paving width shall be as follows:

(1) For flag lots served by an individual pole, the minimum driveway width shall be 12 feet, and the maximum driveway paving width shall be 20 feet.

(2) For flag lots served by a combined pole, the driveway width shall be 20 feet or a lesser width as approved by the fire code official.

b. Driveway Setbacks. The driveway paving shall be setback from the edge of the pole as follows:

(1) For flag lots that are served by an individual pole, the driveway paving shall be setback a minimum of six feet.

(2) For flag lots that are served by a combined pole, the driveway paving shall be setback a minimum of 2.5 feet.

c. Driveway Use. Parking is not allowed on any portion of the pole.

d. Landscaping. The entire length of both sides of the pole, within the area between the driveway paving and the edge of the pole, shall be landscaped to meet the Low Screen Landscape Standard (L-2) in EC 9.6210(2)(a), except as follows:

(1) The shrubs required for continuous screen at EC 9.6210(2)(a)1. shall be at least 45 inches high within three years and maintained at a height not to exceed 60 inches, with the intent to minimize headlight glare;

(2) The canopy tree requirement at EC 9.6210(2)(a)2., is not applicable; and

(3) In lieu of a masonry wall or berm, a solid wood fence may be permitted where the bottom of the fence is no higher than 12 inches above grade and the top of the fence is at least 45 inches above grade.

~~5~~***3***. Exceptions. Exceptions to driveway setback and landscaping standards are allowed where the affected adjacent property owners consent in writing on a form approved by the city.

~~6~~***4***. Adjustments. The standards at EC 9.2775(5)(e)~~4~~***2***.b. and d. regarding driveway setbacks and landscaping may be adjusted in accordance with EC 9.8030(34)[~~(d)~~]***(b)***.

Section 10. Subsection (2) of Section 9.3060 of the Eugene Code, 1971, is amended to provide as follows:

9.3060 S-C Chambers Special Area Zone – Land Use and Permit Requirements and Special Use Limitations. Except where the standards in EC 9.3065 S-C Chambers Special Area Zone Development Standards specifically provide otherwise:

(2) The land use and permit requirements and special use limitations applicable in the S-C/R-2 subarea shall be those set out at EC 9.2740 and EC 9.2741 for uses in the R-2 zone***, except that any additional (interior, attached or detached) residential structure that is used in connection with or that is accessory to a single family dwelling may be permitted on a lot only as an additional "One-Family Dwelling" and not as an "Accessory Dwelling."***

Section 11. Subsections (2)(a) and (3)(a) of Section 9.3065 of the Eugene Code, 1971, are amended to provide as follows:

9.3065 S-C Chambers Special Area Zone – Development Standards.

(2) Development Standards Applicable in the S-C/R-1 Subarea. Except as provided in this subsection, the development standards applicable in the S-C/R-1 Subarea shall be those set forth in EC 9.2750 to EC 9.2777 for the R-1 zone, Special Development Standards for Certain Uses in EC 9.5000 through EC 9.5850, and the General Standards for all Development in EC 9.6000 through 9.6885.

(a) Lot Size Minimums for Flag Lots. In lieu of any conflicting provisions in EC 9.2750 to 9.2777 for flag lots in the R-1 zone, the following standards apply for flag lots in the S-C/R-1 subarea:

1. Single dwellings [~~and attached secondary dwellings~~]: minimum lot size 4,500 square feet.

[~~2. Detached secondary dwellings: minimum lot size 6,000 square feet.~~]

~~3~~**2.** The original lot, prior to creation of the flag lot, is not subject to a minimum lot size of 13,500 square feet.

In calculating the lot area, only the flag portion of the lot (exclusive of the pole) is counted.

* * *

(3) Development Standards Applicable in S-C/R-2 Subarea. Except as provided in this subsection, the development standards applicable in the S-C/R-2 subarea shall be those set out in EC 9.2750 to 9.2777 for the R-2 zone, Special Development Standards for Certain Uses in EC 9.5000 through EC 9.5850, and the General Standards for all Development in EC 9.6000 through 9.6885.

(a) Density Standards. In lieu of the density standards for the R-2 zone in Table 9.2750 and EC 9.2750(1), there is no minimum density requirement regardless of lot size, and the following maximum density standards apply:

1. For lots with street access:
   a. One dwelling unit ***and one additional one-family dwelling as described in 9.3060(2) per lot*** if the lot area is less than or equal to 4,500 square feet.
   b. Two dwelling units ***and for each detached one-family dwelling, one additional one-family dwelling as described in 9.3060(2)*** if the lot area is greater than 4,500 square feet and less than or equal to 9,200 square feet.
   c. Three dwelling units ***and for each detached one-family dwelling, one additional one-family dwelling as described in 9.3060(2)*** if the lot area is greater than 9,200 square feet.
2. For alley access lots: One dwelling unit ***and one additional one-family dwelling as described in 9.3060(2)*** regardless of lot size.

* * *

Section 12. The "Dwellings" subsection in the "Residential" section in Table 9.3115 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.3115 S-CN Chase Node Special Area Zone Land Uses and Permit Requirements			
Land Use Type	**C**	**HDR/MU**	**HDR**
Residential			

Table 9.3115 S-CN Chase Node Special Area Zone Land Uses and Permit Requirements			
Land Use Type	**C**	**HDR/MU**	**HDR**
Dwellings [***~~(All dwellings shall meet minimum and maximum density requirements for development within the Chase Gardens Plan area.)~~***]			
One Family Dwelling per lot (Includes zero lot line dwellings)		P	P
Accessory Dwelling (1 Per Detached One-Family Dwelling on Same Lot)		***P***	***P***
Controlled Income and Rent Housing where density is above that normally required in the zoning district but does not exceed 150% of the maximum permitted density. (Shall comply with multiple-family standards in EC 9.5500.		S	S
Rowhouse (One-family on own lot attached to adjacent residence on separate lot)	P(3)(4)	P(3)(4)	P(3)(4)
Duplex (Two-family attached on the same lot)		P	P
Tri-plex (Three family attached on the same lot) (See EC 9.5500)		P	P
Four-plex (Four-family attached on the same lot) (See EC 9.5500)		S	S
Multiple Family (3 or more dwellings on the same lot) (See 9.5500)	S	S	S
Manufactured Home Park (See 9.5400)			P(5)

Section 13. In Table 9.3125(3)(g) of the Eugene Code, 1971, a "Density" heading is added and the row thereunder for "Minimum Net Density per Acre" is amended; and the row for "Accessory Building" under the "Maximum Building Height" heading is amended, to provide as follows:

Table 9.3125(3)(g) S-CN Chase Garden Node Special Zone Development Standards (See EC 9.3126 Special Development Standards for Table 9.3125(3)(g).)			
	C	**HDR/MU**	**HDR**
Density (1)(2)			
Minimum Net Density per Acre [~~(1)~~]	20 units/acre if all residential in a single building	20 units [~~(2)(b)~~]	20 units [~~(2)(a)~~]
Maximum Next Density	112	112	112

Table 9.3125(3)(g) S-CN Chase Garden Node Special Zone Development Standards (See EC 9.3126 Special Development Standards for Table 9.3125(3)(g).)			
	C	**HDR/MU**	**HDR**
Minimum Building Height	At least 2 functional floors if located along Garden Way		
Maximum Building Height (3)			
Main Building	50' commercial, 120' residential or residential above commercial	120' except (3); 35' or 2 stories within 50' of Garden Way	120'
Accessory Building. [~~Includes Secondary Dwellings Detached from Main Building~~]		30'	30'
Accessory Dwellings Detached from Main Building		***30'***	***30'***

Section 14. Subsection (2) of Section 9.3126 of the Eugene Code, 1971, is amended to provide as follows:

9.3126 Special Development Standards for Table 9.3125(3)(g).

(2) [~~Minimum~~]Density.

(a) HDR Subarea. ***Minimum density a***[~~A~~]pplies to new residential development except rowhouses ***and Accessory Dwelling Units***.

(b) HDR/MU Subarea. ***Minimum density a***[~~A~~]pplies to new development except rowhouses ***and Accessory Dwelling Units***.

(c) Maximum density applies to all new residential development except Accessory Dwelling Units.

Section 15. The "Dwellings" subsection in the "Residential" section in Table 9.3210 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.3210 S-DW Downtown Westside Special Area Zone Uses and Permit Requirements	
	S-DW
Residential	
Dwellings (All dwellings types are permitted if approved through the Planned Unit Development process.)	
One-Family Dwelling (1 Per Lot)	P
[~~Secondary~~] ***Accessory*** Dwelling ([~~Either Attached or Detached from Primary One-Family Dwelling~~] ***1 Per Detached One-Family Dwelling*** on Same Lot)	P
Rowhouse (One-Family on Own Lot Attached to Adjacent Residence on Separate Lot with Garage or Carport Access to the Rear of the Lot)	P
Duplex	P
Tri-plex (Three-Family Attached on Same Lot)	P
Four-plex (Four Family Attached on Same Lot)	P
Multiple-Family (3 or More Dwellings on Same Lot) (See EC 9.5500)	P

Section 16. Subsection (2) of Section 9.3215 of the Eugene Code, 1971, is amended to provide as follows:

9.3215 S-DW Downtown Westside Special Area Zone Development Standards.

(2) Residential Standards. Except as provided in this section or EC 9.3216 Special Development Standards for Table 9.3215, all residential development shall be subject to the standards established for the R-4 zone. ***Accessory dwellings shall be subject to the R-4 standards, except EC 9.2751(17).***

Section 17. The "Dwellings" subsection in the "Residential" section in Table 9.3310 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.3310 S-E Elmira Road Special Area Zone Uses and Permit Requirements

	S-E
Residential	
Dwellings	
One-Family Dwelling (1 Per Lot)	P
Accessory Dwelling (1 Per Detached One-Family Dwelling on Same Lot)	***P***
Rowhouse (One-Family on Own Lot Attached to Adjacent Residence on Separate Lot with Garage or Carport Access to the Rear of the Lot)	P
Duplex (Two-Family Attached on Same Lot)	P
Multiple Family (3 or More Dwellings on Same Lot) (See EC 9.5500)	PUD

Section 18. Subsection (1) of Section 9.3510 of the Eugene Code, 1971, is amended to provide as follows:

9.3510 S-HB Blair Boulevard Historic Commercial Special Area Zone Uses. The S-HB zone designation is based on the area's association with the city's working class and the mix of residential, commercial and light industrial uses within the zone. The S-HB zone is the commercial core of the residential districts located to the east and west of the zone. The Whiteaker Plan Land Use Diagram reflects four underlying land use designations for this zone of residential, commercial, mixed use, and parks. Uses permitted within the S-HB zone are as follows:

(1) Areas Designated for Low and Medium Density Residential. Allowable uses are:

(a) One-family dwellings.

(b) Accessory Dwellings (1 Per Detached One-Family Dwelling on Same Lot).

(~~b~~***c***) Duplexes.

(~~c~~***d***) Triplexes.

(~~d~~***e***) Four-plexes.

(~~e~~***f***) Multiple-family dwellings.

(~~f~~***g***) Home occupations.

(~~g~~*h*) Bed and breakfast facilities.

Section 19. Section 9.3615 of the Eugene Code, 1971, is amended to provide as follows:

9.3615 **S-JW Jefferson Westside Special Area Zone Land Use and Permit Requirements and Special Use Limitations**. The land use and permit requirements and special use limitations applicable in the S-JW Jefferson Westside Special Area Zone shall be those set out at EC 9.2740 and EC 9.2741 for uses in the R-2 zone, except*:*

(1) [~~t~~]***T***he following uses listed on Table EC 9.2740 are prohibited in the S-JW Jefferson Westside Special Area Zone:

(~~1~~*a*) Correctional Facilities.

(~~2~~b) C-1 Neighborhood Commercial Zone permitted uses, unless such a use is specifically listed in another row on Table 9.2740 as an allowable use under the "R-2" column.

(2) ***Any* additional *(interior, attached or detached) residential structure that is used in connection with or that is accessory to a single family dwelling may be permitted on a lot only as an additional "One-Family Dwelling" and not as an "Accessory Dwelling."***

Section 20. Subsections (3), (7) and (8) of Section 9.3625 of the Eugene Code, 1971, are amended to provide as follows:

9.3625 **S-JW Jefferson Westside Special Area Zone Development Standards.**

(3) Alley development standards.

(a) Primary Vehicle Access. For the purposes of this section, "primary vehicle access" means the primary means by which inhabitants take vehicular access to a dwelling or on-site parking space(s) provided for a dwelling. Primary vehicle access is determined as follows:

1. On an alley access only lot, every dwelling's primary vehicle access is the alley.
2. On a lot that is not an alley access only lot and that, consistent with access standards in the EC, could take vehicular access from an alley, a dwelling's primary vehicle access is:
   a. The street, when there is only one dwelling on the lot.
   b. When there are multiple dwellings on the lot, for each on-site parking space that complies with the standards applicable in the S-JW special area zone and that can only be accessed and exited via a street (i.e., cannot use the alley for entry or exit), one dwelling is considered to take primary vehicle access from the street. The remainder of the dwellings shall be considered to take primary vehicle access from the alley.

   If there are one or more dwellings with the alley as primary vehicle access, the dwelling(s) closest to the alley shall be considered to have primary access from the alley. In cases where multiple dwellings are equidistant from the alley and not all of them take primary access from the alley, the

property owner may designate which dwellings take primary access from the alley. The provisions in this subsection (3)(a)2.b. may be adjusted based on the criteria of EC 9.8030(26)(2).

3. On all lots not addressed in 1. or 2., above, all dwellings' primary vehicle access is the street.

(b) No more than one dwelling on the same development site may take primary vehicle access from an alley unless the site also abuts a street that the alley intersects.

(c) On any lot that contains one or more dwellings whose primary vehicle access is an alley, there must be at least an undivided 400 square-foot open space area (not including buildings, parking or driveways) abutting the alley. Except as provided in 4., below, the open space area:

1. shall abut the alley for at least 25% of the length of the lot line abutting the alley;
2. shall be a minimum of 10 feet in depth for the entire extent that the open space area abuts the alley; and
3. may include areas that are within setbacks.
4. The open space required in this subsection (c) may be placed behind parallel parking abutting the alley.

(d) For a dwelling whose primary vehicle access is an alley:

1. The dwelling may not have more than three bedrooms.
2. If the dwelling is in the residential building closest to the alley, then the dwelling shall include a main entrance that is visible from the alley (see Figure 9.3625(3)(d)2.) and meets one of the following conditions:
   a. Faces the alley;
   b. Faces the side of the lot and meets all the following conditions:
      (1) The entrance opening is not more than 8 feet from the building façade facing the alley and nearest the alley;
      (2) The entrance includes a covered porch of at least 30 square feet;
      (3) The porch abuts both the façade containing the entrance and a façade facing the alley; or
   c. Faces the side of the lot and meets all the following conditions:
      (1) The entrance opening is no more than 8 feet from the building façade facing the alley and nearest the alley.
      (2) The entrance provides direct resident access to a head-in parking area on the same side of building.
      (3) The entrance includes a covered porch of at least 20 square feet.
      (4) The façade facing the alley includes windows that total at least 8 feet wide when measured at 5' above the floor of the first story and that have a minimum area of at least 20 square feet.
3. One on-site parking space, accessible from the alley, per dwelling is required. ***This parking requirement does not apply to an additional one-family dwelling, as described at EC 9.3615(2).***

*** * ***

(7) Parking Standards.

(a) Except as provided in (3)(d)3. above ***and (7)(b) below***, each dwelling shall have one on-street or on-site vehicle parking space for every three bedrooms, rounded up to the next whole number (i.e. a four-bedroom dwelling must have at least two parking spaces). For purposes of this subsection, each uninterrupted twenty feet of lot line that abuts a street right-of-away where parking is legal within the entirety of that twenty feet shall count as one on-street parking space. The twenty feet may not include any portion of a curb cut.

(b) The parking space requirement in (a), above, does not apply:

1. To an additional one-family dwelling, as described in 9.3615(2); or

2. To one dwelling that has primary vehicle access from the street and no more than three bedrooms, when there are two or more dwellings and there is no on-street parking space as defined in subsection (7)(a) above.

(~~b~~***c***) No portion of a vehicle parking area may be located in the area defined by the Street Setback minimum standard (i.e., from which structures, other than permitted intrusions, are excluded) or between the street and the residential building façade that faces, and is closest to, the street. **(See Figure 9.3625(7)(b) *Vehicular (No) Parking Areas*)**.

(8) The following Table 9.3625 sets forth the S-JW Special Area Zone development standards, subject to the special development standards in EC 9.3626.

Table 9.3625 S-JW Jefferson Westside Special Area Zone Development Standards (See EC 9.3626 Special Development Standards for Table 9.3625.)	
Density(1)	
Minimum Dwellings Per Lot	
Lots less than 13,500 Square Feet	--
Lots 13,500 square feet and larger	1 dwelling per lot for every 6,750 square feet (fractional values are rounded down to the nearest whole number)
Maximum Dwellings Per Lot(1)	
Alley Access Only Lot	1 dwelling ***and 1 additional one-family dwelling as described in 9.3615(2)*** per lot
Lots [~~less than 2,250~~] ***up to 4,499*** square feet	[~~No additional dwellings after December 14, 2009~~] ***1 dwelling and 1 additional one-family dwelling as described in 9.3615(2) per lot***
[~~Lots between 2,250 and 4,499 square feet~~]	[~~1 dwelling per lot~~]
Lots between 4,500 and 8,999 square feet	2 dwellings ***and, for each detached one family dwelling, 1 additional one-family dwelling as described in 9.3615(2)*** per lot

Table 9.3625 S-JW Jefferson Westside Special Area Zone Development Standards (See EC 9.3626 Special Development Standards for Table 9.3625.)	
Lots 9,000 square feet and larger	1 per lot for every 4,500 square feet (fractional values are rounded down to the nearest whole number) ***and, for each such detached one family dwelling, 1 additional one-family dwelling as described in 9.3615(2)***
Maximum Building Height (2) (9)	
Minimum Building Setbacks (3) (4) (5) (9)	
Maximum Lot Coverage (6) (7)	**50%**
Maximum Vehicle Use Area (6)	**20%**
Common and Private Open Space (7)	
Fences (8)	
(Maximum Height Within Interior Yard Setbacks) (Maximum Height within Front Yard Setbacks)	6 feet 42 inches

Section 21. Subsection (g) is added to subsection (1) of Section 9.3625 of the Eugene Code, 1971, to provide as follows:

9.3626 Special Development Standards for Table 9.3625.

(1) Density. For purposes of determining the maximum allowable dwellings on a lot:

(g) Additional one-family dwellings as described in 9.3615(2) are not subject to the provisions of (1) and shall not be considered within the calculations of dwellings or bedrooms.

Section 22. The "Dwellings" subsection in the "Residential" section in Table 9.3810 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.3810 S-RN Royal Node Special Area Zone Land Uses and Permit Requirements	LDR	MDR	RMU	CMU	MSC
Residential					
Dwellings. (All dwellings shall meet minimum and maximum density requirements for development within the Royal Specific Plan area. All dwelling types are permitted.)					
One-Family Dwelling (1 Per Lot, includes zero lot line dwellings)	P	P	P		
[~~Secondary~~] ***Accessory*** Dwelling ([~~Either Attached or Detached from Primary One-Family Dwelling~~] ***1 Per Detached One-Family Dwelling*** on Same Lot)	P(1)	P(1)	P(1)		

Table 9.3810 S-RN Royal Node Special Area Zone Land Uses and Permit Requirements					
	LDR	**MDR**	**RMU**	**CMU**	**MSC**
Rowhouse (One-Family on Own Lot Attached to Adjacent Residence on Separate Lot with Garage or Carport Access to the Rear of the Lot)	P(2) (3)	P(2) (3)	P(2) (3)	P(2) (3)	P(2) (3)
Duplex (Two-Family Attached on Same Lot)	P	P	P		
Tri-plex (Three family attached on the same lot) See EC 9.5500	P	P	P	P	
Four-plex (Four-Family Attached on Same Lot) See EC 9.5500	P	P	P		
Multiple-Family (3 or More Dwellings on Same Lot) See EC 9.5500	S(3) (9)	S(3) (9)	S(3) (9)	S(3) (9)	S(3) (9)
Manufactured Home Park. Shall comply with EC 9.5400 or site review.	S - SR (4)	S - SR (4)			
Controlled Income and Rent Housing where density is above that normally permitted in the zoning district but does not exceed 150% of the maximum permitted density. (Shall comply with multiple-family standards in EC 9.5500.)	S (9)	S (9)			

Section 23. Subsection (1) of Section 9.3811 of the Eugene Code, 1971, is amended to provide as follows:

9.3811 Special Use Limitations for Table 9.3810.

(1) [~~Secondary~~] *Accessory* Dwellings. [~~Secondary~~] ***Accessory*** dwellings shall conform to all of the following:

(a) The dwelling shall not exceed 800 square feet unless occupying the full story of a multi-story structure with ground floor residential use.

~~[(b) Either the primary dwelling or the secondary dwelling shall be occupied by the property owner.~~

~~(c) There shall be at least 1 off-street parking space on the property.~~

~~(d) The dwelling shall be located on a lot that is not a flag lot.]~~

(~~c~~***b***) Detached [~~secondary~~] ***accessory*** dwellings shall:

[~~1. Comply with the residential density limitations in Table 9.3815(3)(n) Royal Node Special Area Zone Development Standards.~~]

~~2~~***1***. Provide a pedestrian walkway from the street or alley to the primary entrance of the [~~secondary~~] ***accessory*** dwelling.

~~3~~***2***. The primary entrance to a***n*** [~~secondary~~] ***accessory*** dwelling shall be defined by a roofed porch.

~~4~~***3***. Outdoor storage and garbage areas shall be screened from view from adjacent properties and those across the street or alley.

[~~Prior to issuance of a final occupancy permit for the secondary dwelling, the owner shall provide the city with a copy of a notice that has been recorded with the Lane County Clerk that documents the secondary dwelling or primary dwelling is owner/occupied.~~]

Section 24. The "Maximum Building Height" section in Table 9.3815(3)(n) of the Eugene Code, 1971, is amended to provide as follows:

Table 9.3815(3)(n) S-RN Royal Node Special Zone Development Standards (See EC 9.3816 Special Development Standards for Table 9.3815(3)(n).)					
	LDR	**MDR**	**RMU**	**CMU**	**MSC**
Maximum Building Height					
Main Building	35 feet	35 feet	50'	50'	50'
Accessory Building[~~. Includes Secondary Dwellings Detached from Main Building~~]	25 feet	25 feet	50'	50'	50'
Accessory Dwellings Detached from Main Building	***25 feet***	***25 feet***	***25 feet***		

Section 25. The "Accessory Uses" section, and the "Dwellings" subsection of the "Residential" section in Table 9.3910 of the Eugene Code, 1971, are amended to provide as follows:

Table 9.3910 S-W Whiteaker Special Area Zone Uses and Permit Requirements	
	S-W
Accessory Uses	
Accessory Uses. Examples related to residential uses include a garage, storage shed, bed and breakfast facility (see EC 9.5100)[~~,~~] ***and*** home occupations (see EC 9.5350)[~~, and secondary dwellings (see EC 9.2741(2))~~]. Examples relating to commercial and employment and industrial uses include security work, administration activity and sales related to industrial uses manufactured on the same development site, and storage and distribution incidental to the primary use of the site.	P
Residential	
Dwellings	
One-Family Dwelling	P(2)
Accessory Dwelling (1 Per Detached One-Family Dwelling on Same Lot)	***P***
Rowhouse (One-Family on Own Lot Attached to Adjacent Residence on Separate Lot with Garage or Carport Access to the Rear of the Lot)	P(2)
Duplex (Two-Family Attached on Same Lot)	P(2)
Tri-plex (Three-Family Attached on Same Lot)	P(2)
Multiple Family (3 or More Dwellings on Same Lot) (See EC 9.5500)	P(2)

Section 26. The first paragraph and subsection (1) of Section 9.3915 of the Eugene Code, 1971, are amended, and a new subsection (13) is added, to provide as follows:

9.3915 S-W Whiteaker Special Area Zone Development and Lot Standards. Except as provided in subsections (5) to [~~(12)~~] ***(13)*** of this section, sections 9.6000 to 9.6885 General Standards for All Development in this land use code shall apply within this S-W zone. In the event of a conflict between the general development standards of this land use code and the standards set forth in this section, the specific provisions of this section shall control.

(1) Residential Standards. Except as provided in subsections (5) to [~~(12)~~] ***(13)*** of this section, all residential development shall be subject to the standards established for the C-2 zone.

*** * ***

(13) Accessory dwellings shall be subject to the standards established at EC 9.2750 and EC 9.2751(17).

Section 27. Subsection (4)(a) of Section 9.3970 of the Eugene Code, 1971, is amended to provide as follows:

9.3970 S-WS Walnut Station Special Area Zone Development Standards Applicable to All Properties in the Walnut Station Special Area Zone.

(4) Parking Requirements.

(a) Required off-street motor vehicle parking. The following minimum and maximum parking standards apply instead of the standards in Table 9.6410. The provisions in EC 9.6410(1)(a) through (c), EC 9.6415 (1) through (3), EC 9.6420(1), (2), (3)(a), (b), and (e), (4), (5), and (6), apply to the siting and design of parking and loading facilities in the Walnut Station area. Uses not listed do not have a parking requirement.

Use	Minimum Number of Off-street Parking Spaces	Maximum Number of Off-Street Parking Spaces
Residential	***No off-street parking spaces are required for accessory dwellings.*** Except as provided in an adjustment pursuant to EC 9.8030(29), the minimum number of required parking spaces ***for all other residential uses*** shall be .5 parking spaces per dwelling unit.	Except for required parking spaces for persons with disabilities, a maximum of 2.25 parking spaces are allowed per dwelling unit.
Non-Residential Uses	Except as provided in an adjustment pursuant to EC 9.8030(29), the minimum number of required parking spaces shall be 1 parking space for every 660 square feet of gross floor area.	Except for required parking spaces for persons with disabilities, spaces provided in park and ride lots operated by a public transit agency, and spaces within structured parking with two or more levels, the maximum number of parking spaces is 1 parking space per every 250 square feet of gross floor area.

Section 28. The following entry in the "Dwellings" subsection of the "Residential" section in Table 9.6410 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.6410 Required Off-Street Motor Vehicle Parking	
Uses	**Minimum Number of Required Off-Street Parking Spaces**
Residential	
Dwelling	
[~~Secondary~~] ***Accessory*** Dwelling (Either attached or detached from primary one-family dwelling on same lot) ***/ Additional one-family dwelling in the R-2 subarea of the S-C Chambers Special Area Zone***	[~~1 per dwelling.~~] ***0***

Section 29. Subsection (34) of Section 9.8030 of the Eugene Code, 1971, is amended to provide as follows:

9.8030 Adjustment Review - Approval Criteria. The planning director shall approve, conditionally approve, or deny an adjustment review application. Approval or conditional approval shall be based on compliance with the following applicable criteria.

(34) [~~Secondary~~] ***Accessory*** Dwellings. Where this land use code provides that the standards for [~~secondary~~] ***accessory*** dwellings may be adjusted, the standards may be adjusted upon demonstration by the applicant that the applicable corresponding criteria are met.

[~~(a) Temporary Leave. A property owner may exceed the temporary leave provisions by one additional consecutive year if the property owner submits proof of temporary leave status from the property owner's employer, educational facility, volunteer organization or medical provider.~~]

(~~b~~***a***) Conversion of Existing Building. A legally established building existing as of August 29, 2014, may be converted to a***n*** [~~secondary~~] ***accessory*** dwelling if it complies with all of the following:

1. The existing structure satisfies all [~~secondary~~] ***accessory*** dwelling standards except the applicable sloped setback under Building Height/Interior Setback at EC 9.2571(17)(a)~~3~~***2***. or EC 9.2751(17)(b)5.
2. The [~~secondary~~] ***accessory*** dwelling is limited to 600 square feet in total building square footage[~~, and 15 feet in height~~].
3. If the existing structure is closer than 5 feet to an interior property line, [~~the adjacent property owner must provide written consent pursuant to EC 9.2751(7)~~] ***there must be a 10-foot separation between the accessory dwelling and buildings on the abutting lot and the owner of the accessory dwelling must secure and record in the office of the Lane County Recorder a maintenance access easement adjacent to the intruding side of the building. The easement shall provide a 5-foot wide access the entire length of the building and 5 feet beyond both ends and require the continuation of a 10-foot separation between buildings on the separate lots. The easement shall be on a form provided by the city and be***

subject to payment of a fee set by the city manager.

[~~(c) Building Height. A secondary dwelling may have a maximum building height of up to 24 feet if all of the structure that would fall within the scope of the "Building Height/Sloped Setback" standard is at least 20 feet from all interior property lines and within the sloped setback.~~]

(~~d~~***b***) [~~Secondary~~] ***Accessory*** Dwellings on Flag Lots. Where natural features or other physical conditions make it impracticable to comply with the driveway setback and landscape screening requirements, the following adjustments are allowed:

1. Except as provided in 2. below, the driveway setback may be reduced to no less than four feet; however, in no event shall the setback be reduced more than is necessary to enable the driveway to meet the minimum driveway width, or
2. The driveway setback may be reduced to no less than one foot, and screening requirements may be reduced or eliminated, where
   a. The zoning of the adjacent property does not allow for residential uses; and
   b. The impacts of the adjacent uses would not be significantly worse under the reduced setback or lessened screening.

Section 30. The findings in support of this Ordinance are included in the records compiled for this Ordinance and Ordinances 20594, 20595, and 20625, including the final orders issued by the Oregon Land Use Board of Appeals and the Court of Appeals.

Section 31. The City Recorder, at the request of, or with the concurrence of the City Attorney, is authorized to administratively correct any reference errors contained herein or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Section 32. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof. Further, if this Ordinance is remanded back to the City Council for further action by the Oregon Land Use Board of Appeals or the Oregon Court of Appeals, those sections, subsections, sentences, clauses, phrases or portions of this Ordinance that are not the subject of the remand shall be deemed separate, distinct and independent provisions and such remand shall not affect their validity or effect.

Section 33. The code amendments made by this Ordinance are required for compliance with ORS 197.312(5), which is now in effect. Therefore, pursuant to the provisions of Section 32(2) of the Eugene Charter of 2002, with the affirmative vote of two-thirds of the members of the City Council, this Ordinance shall become effective upon adoption by the Council and approval by the Mayor, or passage over the Mayor's veto.

Passed by the City Council this

_____ day of _____, 2021

_____
City Recorder

Approved by the Mayor this

____ day of _____, 2021

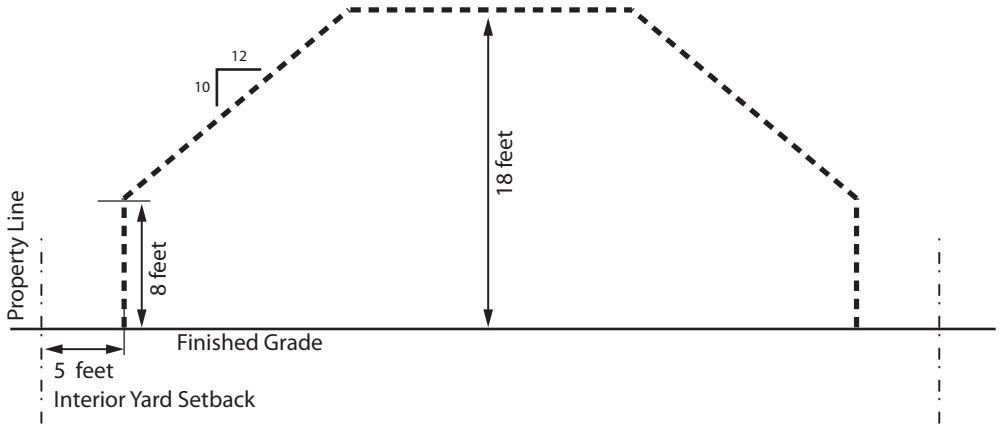
_____
Mayor

Figure 9.2751(16)(b)3.

Building Height /Interior Setbacks for:

- Accessory Buildings (Area-Specific)
- Alley Access Lots (General and Area-Specific)
- Accessory Dwellings (General and Area-Specific)

Accessory Buildings and Alley Access Lots



Accessory Dwellings

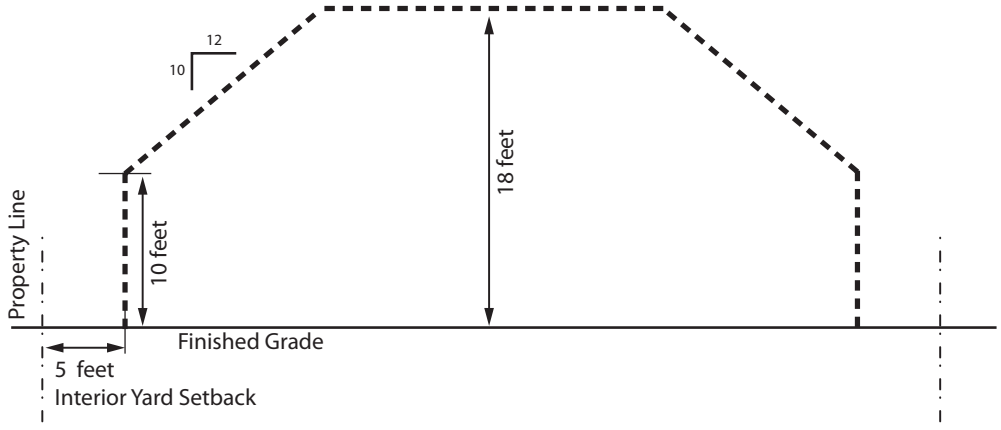


Figure
9.2751(17)(a)2.b.(2)(A)

Building Height Calculation & Sloped Setback for Sloped Lots

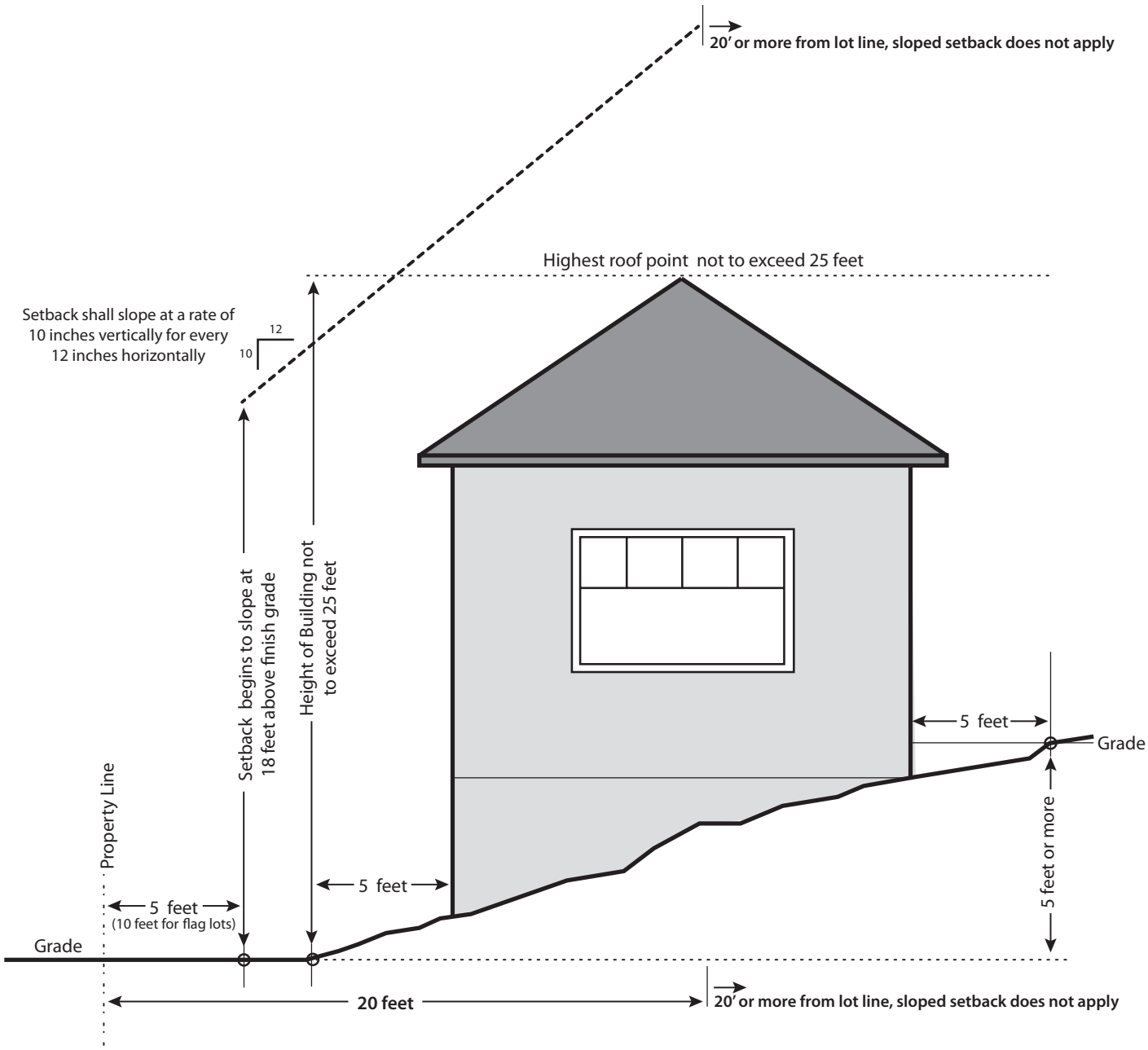


Figure
9.2751(17)(a)2.b.(2)(B)

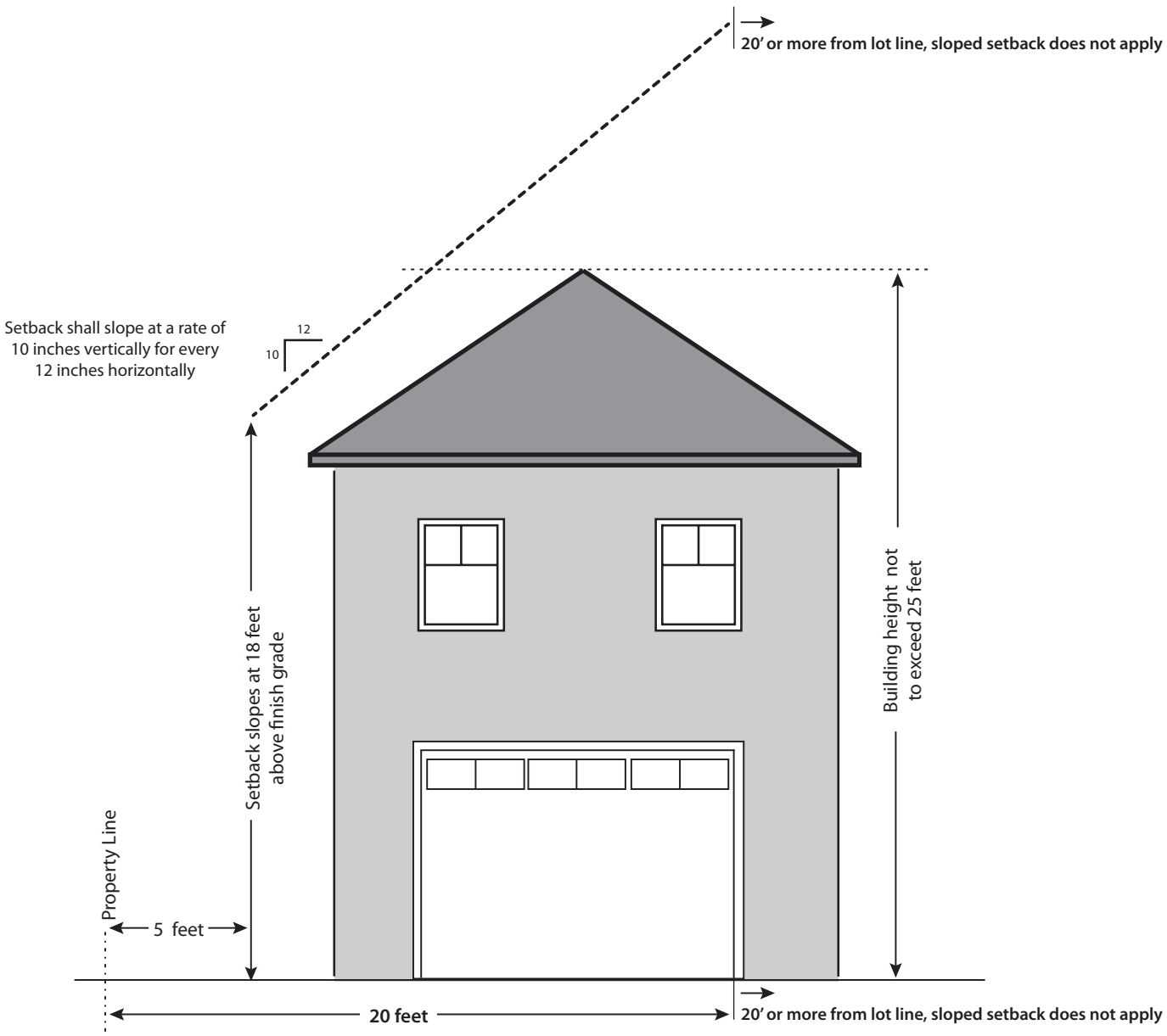


Figure
9.2751(17)(a)2.c.(2)

Dormer Placement & Size Calculation

ORDINANCE NO. _____

AN ORDINANCE CONCERNING ACCESSORY DWELLINGS; REPLACING THE TERM "SECONDARY DWELLING" WITH "ACCESSORY DWELLING" THROUGHOUT THE EUGENE CODE 1971; MAKING ADDITIONAL AMENDMENTS TO SECTIONS 9.0500, 9.2010, 9.2011, 9.2740, 9.2741, 9.2750, 9.2751, 9.2775, 9.3065, 9.3115, 9.3125, 9.3126, 9.3210, 9.3215, 9.3310, 9.3510, 9.3625, 9.3626, 9.3810, 9.3811, 9.3815, 9.3910, 9.3915, 9.3970, 9.6410 AND 9.8030 OF THAT CODE; ADDRESSING THE OREGON LAND USE BOARD OF APPEALS' REMAND OF ORDINANCE NOS. 20594, 20595, AND 20625; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. The term "secondary dwelling" is replaced with "accessory dwelling" (including grammatical revisions for plural and a/an agreement) throughout the Eugene Code, 1971. Where this change occurs in the Code sections further amended by this Ordinance, this change is also shown.

Section 2. The following definitions in Section 9.0500 of the Eugene Code, 1971, are amended to provide as follows:

9.0500 **Definitions**. As used in this land use code, unless the context requires otherwise, the following words and phrases mean:

Accessory Building. Any authorized, detached building subordinate to the main building on the same development site. In addition, for the purposes of EC 9.2700 through 9.2751, in the R-1 zone, an accessory building that shares a common wall with the primary dwelling for less than 8 feet is considered a detached accessory building. ***An accessory dwelling is not an accessory building.***

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

Kennel. An establishment or premises on which 4 or more dogs over 6 months of age are kept or maintained, whether by owners of the dogs or by persons providing facilities and care, and whether or not for compensation, not including the temporary keeping of one additional dog for up to 6 months in any 12-month period. For purposes of this definition, if the "premises" consists of a lot that contains a main dwelling and a***n*** [~~secondary~~] ***accessory*** dwelling [~~unit~~], the "premises" means the lot. [**~~(See EC 9.2751(17)(a)6. and (c)10.)~~**]

Section 3. The "Dwellings" subsection in the "Residential" section in Table 9.2010 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.2010 Agricultural Zone Uses and Permit Requirements	
	AG
Residential	
Dwellings	
One-Family Dwelling, 1 Per Lot	P
Accessory Dwelling (1 Per Detached One-Family Dwelling on Same Lot)	***P(2)***

Section 4. Section 9.2011 of the Eugene Code, 1971, is amended to provide as follows:

9.2011 Special Use Limitations for Table 9.2010.

(1) Permitted in the AG zone, subject to the PRO zone standards in EC 9.2640.

(2) Permitted in the AG zone, subject to the standards for accessory dwellings at EC 9.2751(17).

Section 5. The following entries under the "Residential" section in Table 9.2740 of the Eugene Code, 1971, are amended to provide as follows:

Table 9.2740 Residential Zone Land Uses and Permit Requirements					
	R-1	**R-1.5**	**R-2**	**R-3**	**R-4**
Residential					
Dwellings. (All dwellings[~~, including secondary dwellings,~~] shall meet minimum and maximum density requirements in accordance with Table 9.2750 Residential Zone Development Standards unless specifically exempted elsewhere in this land use code. All dwelling types are permitted if approved through the Planned Unit Development process.)					
[~~Secondary~~] ***Accessory*** Dwelling [(~~Either Attached or Detached from Primary One-Family Dwelling on Same Lot~~)]	P(2)		***P(2)***	***P(2)***	***P(2)***

Section 6. Subsection (2) of Section 9.2741 of the Eugene Code, 1971, is amended to provide as follows:

9.2741 Special Use Limitations for Table 9.2740.

(2) [~~**Secondary**~~] ***Accessory*** **Dwellings.** [~~Secondary~~] ***One accessory*** dwelling[~~s are only permitted in R-1 and~~] ***is allowed for each detached one-family dwelling on the same lot,*** subject to the standards [~~beginning~~] at EC 9.2750 ***and EC 9.2751***[~~, except that new [secondary] **accessory** dwellings are prohibited on alley access lots~~].

Section 7. The following entries under the "Maximum Building Height," "Minimum Building Setbacks," "Maximum Lot Coverage" and "Secondary Dwellings" sections in Table 9.2750 of the Eugene Code, 1971, are amended to provide as follows:

Table 9.2750 Residential Zone Development Standards (See EC 9.2751 Special Development Standards for Table 9.2750.)					
	R-1	**R-1.5**	**R-2**	**R-3**	**R-4**
Maximum Building Height (2), (3), (4), (5), (16), (17), (18)					
[~~Secondary~~]***Accessory*** Dwelling	See (17)	--	[~~]***See (17)***	[~~]***See (17)***	[~~]***See (17)***
Minimum Building Setbacks (2), (4), (6), (9), (10), (11), (16), (17), (18)					
Interior Yard Setback for [~~Secondary~~]***Accessory*** Dwellings	See (17)	--	[~~]***See (17)***	[~~]***See (17)***	[~~]***See (17)***
Maximum Lot Coverage (17), (18)					
Lots with [~~Secondary~~] ***Accessory*** Dwellings (Area-Specific)	See (17)(c)	--	--	--	--
[~~**Secondary**~~] ***Accessory*** **Dwellings (17)**					
General Standards	See (17)(a) and (b)	--	[~~]***See (17)(a) and (b)***	[~~]***See (17)(a) and (b)***	[~~]***See (17)(a) and (b)***
Area-Specific	See (17)(c)	--	--	--	--

Section 8. Figure 9.2751(16)(b)(3) is amended as shown in Exhibit A attached to this Ordinance; Figure 9.2751(17)(a)3.b.(2)(A), Figure 9.2751(17)(a)3.b.(2)(B) and Figure 9.2751(17)(a)3.c.(2), attached to this Ordinance at Exhibit A, are added; and Subsections (1), (17) and (18) of Section 9.2751 of the Eugene Code, 1971, are amended to provide as follows:

9.2751 Special Development Standards for Table 9.2750.

(1) Density.

(a) The minimum residential density requirements set forth in Table 9.2750 do not apply to*:*

1. [~~Attached secondary~~]***Accessory*** dwellings [~~in R-1~~]*;*
2. Lots zoned R-2 that are less than a half-acre (21,780 square feet) and that were created before August 24, 2017;
3. Lots or development sites in the R-3 or R-4 zones that are developed and are 13,500 square feet or less in size;
4. Lots within a /# overlay zone as described in EC 9.4050 to EC 9.4065; or
5. Dwellings exclusively for low income individuals and/or families where all units are subsidized. For this purpose, low income means having income at or below 80 percent of the area median income as defined by the U.S. Department of Housing and Urban

Development. For these types of dwellings the minimum density is 10 units per net acre.

(Refer to Table 9.2750 Residential Zone Development Standards for the required net area per dwelling unit.)

(b) The maximum residential density requirements set forth in Table 9.2750 do not apply to accessory dwellings.

(~~b~~***c***) For purposes of this section, "net density" is the number of dwelling units per acre of land in actual residential use and reserved for the exclusive use of the residents in the development, such as common open space or recreation facilities.

(~~c~~***d***) For purposes of calculating net density:

1. The acreage of land considered part of the residential use shall exclude public and private streets and alleys, public parks, and other public facilities.
2. In calculating the minimum net density required for a specific lot or development site, the planning director shall round down to the previous whole number.
3. In calculating the maximum net density allowed for a specific lot or development site the planning director shall round up to the next whole number only for:
   a. A lot or development site that is 13,500 square feet or more in area;
   b. A lot or development site that is not abutting the boundary of, or directly across an alley from land zoned R-1; and
   c. Fractions of .75 or above.

   In all other circumstances, the planning director shall round down to the previous whole number.
4. At the request of the developer, the acreage described in 1., above, also may exclude natural or historic resources. For purposes of this section, natural resources include those designated for protection in an adopted plan and the area within natural resources protection or conservation setbacks that have been applied to the development site. For purposes of this section, historic resources include historic property and resources identified in an official local inventory as “primary” or “secondary.” It may also include additional natural or historic resources upon approval of the planning director.

(~~d~~***e***) Legally established buildings and uses conforming to the residential net density requirements in the R-2, R-3 and R-4 zones on December 7, 1994 are exempt from EC 9.1210 to 9.1230 Legal Nonconforming Situations, pertaining to nonconforming uses. This exemption is limited to development sites in the R-2, R-3, and R-4 zones on which residential buildings and uses existed, or in which a development permit or land use application was pending, on December 7, 1994. If such a building which is nonconforming as to minimum density is destroyed by fire or other causes beyond the control of the owner, the development site may be redeveloped with the previous number of dwelling unit(s) if completely rebuilt within 5 years. If not completely rebuilt within 5 years, the development site is subject to the density standards of this section.

(~~e~~***f***) Provided the number of dwelling units are not reduced below the number present at the time of historic landmark designation, changes in the

number of dwelling units within the historic property are exempt from the residential net density minimums.

* * *

(17) [~~Secondary~~] *Accessory* Dwellings[~~ in R-1~~].

(a) General Standards for Attached [~~Secondary~~] ***Accessory*** Dwellings. Except as provided in subsection (c) below, [~~secondary~~] ***attached accessory*** dwellings [~~that are within the same building as the primary dwelling~~] shall comply with all of the following:

[~~1. Lot Area. To allow a secondary dwelling, flag lots shall contain at least 12,500 square feet, excluding the pole portion of the lot, and shall have a minimum pole width as required under EC 9.2775(5)(e). All other lots shall contain at least 6,100 square feet.~~]

~~2~~***1***. Building Size. The total building square footage of a***n*** [~~secondary~~] ***accessory*** dwelling shall not exceed 10 percent of the total lot area or 800 square feet, whichever is smaller. Total building square footage is measured at the exterior perimeter walls and is defined as all square footage inside of the dwelling, including, but not limited to hallways, entries, closets, utility rooms, stairways and bathrooms.

~~3~~***2***. Building Height/Interior Setback. Except for [~~secondary~~] ***accessory*** dwellings on flag lots (see EC 9.2775), the following standards apply:

a. For ***any portion of an*** attached [~~secondary~~] ***accessory*** dwelling[~~s~~] 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.

b. For ***any portion of an*** attached [~~secondary~~] ***accessory*** dwelling[~~s~~] located greater than 60 feet [~~of~~] ***from*** 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. **(See Figure 9.2751(16)(b)3.)**~~] ***the following standards apply:***

(1) Except as provided in subsection (2) below, interior yard setbacks shall be at least 5 feet. In addition, at a point that is 10 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. (See Figure 9.2751(16)(b)3. Building Height/Interior Setbacks)

(2) For an accessory dwelling located above a garage or located where there is a grade change of 5 feet or more when measured from lowest finished grade to highest finished grade at points within a 5-foot horizontal distance of the exterior walls of the accessory dwelling (See Figure 9.2751(17)(a)2.b.(2)(A) Building Height Calculation

& Sloped Setback for Sloped Lots), the following standards apply:

(A) For an interior lot line that is not addressed in (2)(B) below or an interior lot line that abuts an alley, the minimum interior yard setback from that lot line is 5 feet and the maximum building height is 25 feet.

(B) Where an interior lot line abuts property that is zoned R-1, R-1.5, S-C/R-1 or S-RN/LDR, the interior yard setbacks shall be at least 5 feet. In addition, at a point that is 18 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 25 feet. If the building is setback a minimum of 20 feet from an interior property line, the sloped portion of the setback does not apply along that property line. (See Figure 9.2751(17)(a)2.b.(2)(B) Accessory Dwelling Above Garage)

c. <u>Exceptions</u>. If the accessory dwelling is above a garage or on a slope as described in EC 9.2751(17)(a)2.b.(2) above, the following exceptions apply:

(1) An accessory dwelling may intrude into the 5-foot interior yard if a 10-foot separation exists between the accessory dwelling and buildings on the abutting lot and if the owner of the accessory dwelling has secured and recorded in the office of the Lane County Recorder a maintenance access easement adjacent to the intruding side of the building. The easement shall provide a 5-foot wide access the entire length of the building and 5 feet beyond both ends and require the continuation of a 10-foot separation between buildings on the separate lots. The easement shall be on a form provided by the city and be subject to payment of a fee set by the city manager.

(2) An accessory dwelling's dormers may intrude into the sloped portion of any interior yard setback if:

(A) The total width of all dormers does not exceed fifty percent of the width of the roof on which the dormers are located (for hipped roofs, the width of the roof shall be measured at the eave); and

(B) The walls of the dormer(s) are set back a minimum of 2 feet from the face of all exterior building walls of the accessory dwelling.

(See Figure 9.2751(17)(a)2.c.(2) Dormer Placement & Size Calculation)

~~c~~***d***. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in

subsections a. and b. above, except that eaves and chimneys are allowed to project into this setback no more than 2 feet.

~~4~~***3***. Minimum Attachment. The [~~secondary~~] ***accessory*** dwelling and the primary dwelling must share a common wall or ceiling for a minimum length of 8 feet to be considered attached.

[~~5. Maximum Bedrooms. The secondary dwelling shall contain no more than 2 bedrooms.~~

~~6. Dog Keeping. No more than 3 dogs shall be permitted on the lot, not including the temporary keeping of one additional dog for up to 6 months in any 12-month period.~~

~~7. Ownership/Occupancy Requirements. Either the primary dwelling or the secondary dwelling shall be the principal residence of the property owner. The principal residence must be occupied for a minimum of 6 months of each calendar year by a property owner who is the majority owner of the property as shown in the most recent Lane County Assessor's roll. If there is more than one property owner of record, the owner with the majority interest in the property shall be deemed the property owner. Any property owner of record holding an equal share in the property may be deemed the majority owner if no other owner owns a greater interest. The principal residence cannot be leased or rented when not occupied by the property owner. Prior to the city's issuance of the building permit for the secondary dwelling (or the primary dwelling if it is constructed later) the property owner must provide the city with a copy of the property deed to verify ownership and two forms of documentation to verify occupancy of the primary residence. Acceptable documentation for this purpose includes voter's registration, driver's license, homeowner's insurance, income tax filing, and/or utility bill. When both the primary and secondary dwelling are constructed at the same time, such documentation must be provided prior to final occupancy.~~

~~8. Temporary Leave. Notwithstanding subsection 7. above, a property owner may temporarily vacate the principal residence for up to one year due to a temporary leave of absence for an employment, educational, volunteer opportunity, or medical need. The property owner must provide the city proof of temporary leave status from the property owner's employer, educational facility, volunteer organization or medical provider, and a notarized statement that the property owner intends to resume occupancy of the principal residence after the one year limit. During the temporary leave, the property owner may rent or lease both units on the property. Leaves in which property owner is temporarily absent shall not be consecutive and shall not occur more than once every 5 years. This standard may be adjusted in accordance with EC 9.8030(34).~~

~~9. Deed Restriction. Prior to issuance of a building permit for the secondary dwelling (or the primary dwelling if it is constructed later), the owner shall provide the city with a copy of a deed restriction on a form approved by the city that has been recorded with the Lane County Clerk. The deed restriction must include a~~

~~reference to the deed under which the property was acquired by the present owner and include the following provisions:~~

~~a. One of the dwellings must be the principal residence of a property owner who is the majority owner of the property. Requirements for occupancy shall be determined according to the applicable provisions of the Eugene Code.~~

~~b. The deed restriction runs with the land and binds the property owner(s), heirs, successors and assigns.~~

~~c. The deed restriction may be terminated, upon approval by the city, when one of the dwellings is removed, or at such time as the city code no longer requires principal occupancy of one of the dwellings by the owner.~~

~~10. Verification. At least once every two years, the property owner shall provide to the city documentation of compliance with the ownership and occupancy requirements of subsection 7. above. The property owner must provide a copy of the current property deed to verify ownership and two forms of documentation to verify occupancy of the principal residence. Acceptable documentation for this purpose includes voter's registration, driver's license, homeowner's insurance, income tax filing, and/or utility bill.]~~

~~11~~***4***. Additional Standards for [~~Secondary~~] ***Accessory*** Dwellings on Flag Lots. [~~Secondary~~] ***Accessory*** dwellings on flag lots are also subject to the standards at EC 9.2775(5)(e).

(b) General Standards for Detached [~~Secondary~~] ***Accessory*** Dwellings. In addition to the standards in subsection (a) of this section, detached [~~secondary~~] ***accessory*** dwellings shall comply with the following, except as provided in subsection (c) below:

1. Building Size. ***For an accessory dwelling located above a garage, up to 800 square feet of unheated garage or other unheated storage space attached to the accessory dwelling is allowed and is not counted in the total building square footage for the accessory dwelling. For other accessory dwellings,*** [~~U~~]***u***p to 300 square feet of un[-]heated garage or ***other unheated*** storage space attached to the [~~secondary~~] ***accessory*** dwelling [~~unit~~] is allowed and is not counted in the allowable total building square footage ***for the accessory dwelling***.
2. Pedestrian Access. A pedestrian walkway shall be provided from the street or alley to the primary entrance of the [~~secondary~~] ***accessory*** dwelling. The pedestrian walkway shall be a hard surface (concrete, asphalt or pavers) and shall be a minimum of 3 feet in width.
3. Primary Entrance. The primary entry to a***n*** [~~secondary~~] ***accessory*** dwelling shall be defined by a covered or roofed entrance with a minimum roof depth and width of no less than 3 feet.
4. Outdoor Storage/Trash. Outdoor storage and garbage areas shall 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.
5. Building Height/Interior Setback. Except for [~~secondary~~]

accessory dwellings on flag lots (see EC 9.2775), the following standards apply:

a. ***Except as provided in subsection b. below,*** [~~I~~]*i*nterior yard setbacks shall be at least 5 feet. In addition, at a point that is [~~8~~] ***10*** 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. ***(See Figure 9.2751(16)(b)3. Building Height/Interior Setbacks)***

b. For an accessory dwelling located above a garage or located where there is a grade change of 5 feet or more when measured from lowest finished grade to highest finished grade at points within a 5-foot horizontal distance of the exterior walls of the accessory dwelling (see Figure 9.2751(17)(a)2.b.(2)(A) Building Height Calculation & Sloped Setback for Sloped Lots), the standards at EC 9.2751(17)(a)2.b.(2) and EC 9.2751(17)(a)2.c. apply.

~~b~~***c***. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in a. ***or b.*** above, except that eaves and chimneys are allowed to project into this setback no more than 2 feet. [~~**(See Figure 9.2751(16)(b)3.)**~~

~~c. This standard may be adjusted to allow for a secondary dwelling over an accessory building in accordance with EC 9.8030(34).~~]

6. Maximum Wall Length. Along the vertical face of the dwelling, offsets shall occur at a minimum of every 25 feet by providing at least one of following: recesses or extensions, including entrances, a minimum depth of 2 feet and a minimum width of 5 feet for the full height of the wall. Full height is intended to mean from floor to ceiling (allowing for cantilever floor joists).

(c) Area-Specific [~~Secondary~~] ***Accessory*** Dwelling Standards. ***Except as provided in this subsection (c), the standards at (a) and (b) do not apply to accessory dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association.*** The following standards apply to all new attached or detached [~~secondary~~] ***accessory*** dwellings in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association:

[~~1. Lot Area. To allow for a secondary dwelling, the lot shall contain at least 7,500 square feet.~~

~~2. Lot Dimension. The boundaries of the lot must be sufficient to fully encompass an area with minimum dimensions of 45 feet by 45 feet.~~]

~~3~~***1***. Lot Coverage. 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.

[~~4. Vehicle Use Area. The maximum area covered by paved and unpaved vehicle use areas including but not limited to driveways, on-site parking and turnarounds, shall be limited to 20 percent of~~

~~the total lot area.~~]

~~5~~***2***. Building Size. For lots [~~at least 7,500 square feet and~~] less than 9,000 square feet in area, the [~~secondary~~] ***accessory*** dwelling shall not exceed 600 square feet of total building square footage. For lots at least 9,000 square feet in area, the [~~secondary~~] ***accessory*** dwelling shall not exceed 800 square feet of total building square footage. Total building square footage is defined as all square footage inside of the dwelling, including, but not limited to hallways, entries, closets, utility rooms, stairways and bathrooms. ***For an accessory dwelling located above a garage, up to 800 square feet of unheated garage or other unheated storage space is allowed and is not counted in the total building square footage for the accessory dwelling.***

~~6~~***3***. Minimum Attachment. The standards at EC 9.2751(17)(a)~~4~~***3***. are applicable.

~~7~~***4***. Maximum Bedrooms. For lots with a primary dwelling containing 3 or fewer bedrooms, the [~~secondary~~] ***accessory*** dwelling shall be limited to 2 bedrooms. For lots with a primary dwelling containing 4 or more bedrooms, the [~~secondary~~] ***accessory*** dwelling shall be limited to 1 bedroom.

~~[8. Maximum Occupancy. For lots with a primary dwelling containing 3 or fewer bedrooms, the secondary dwelling shall be limited to 3 occupants. For lots with a primary dwelling containing 4 or more bedrooms, the secondary dwelling shall be limited to 2 occupants.]~~

~~9~~***5***. Building Height/Interior Setback. [~~For detached secondary dwellings:~~]

a. [~~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 standards at EC 9.2751(17)(b)5.a. and b. are applicable to detached accessory dwellings.***

b. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in [~~1~~]***a***. above, except that eaves, chimneys and gables are allowed to project into this setback no more than 2 feet.

[~~**(See Figure 9.2751(16)(b)3.)**~~

~~10. Dog Keeping. The standards at EC 9.2751(17)(a)6. are applicable.~~

~~11. Ownership/Occupancy Requirements. The standards at EC 9.2751(17)(a)7. are applicable.~~

~~12. Temporary Leave. The standards at EC 9.2751(17)(a)8. are applicable.~~

~~13. Deed Restriction. The standards at EC 9.2751(17)(a)9. are applicable.~~

~~14. Verification. The standards at EC 9.2751(17)(a)10. are applicable.~~

~~15. Parking. For the primary dwelling, there shall be a minimum of one and a maximum of two parking spaces on the lot. There shall~~

~~be one additional parking space on the lot for the exclusive use for the occupants and guests of the secondary dwelling.~~

~~16. Alley Access Parking and Driveway. The standards at EC 9.2751(18)(a)11. are applicable to attached and detached secondary dwellings where primary vehicle access for the required parking is from an alley.~~]

~~17~~***6***. Pedestrian Access. The standards at EC 9.2751(17)(b)2. are applicable to attached and detached [~~secondary~~] ***accessory*** dwellings[~~, except that if primary vehicle access for the required parking is from an alley, the path must be provided from the alley~~].

~~18~~***7***. Primary Entrance. The standards at EC 9.2751(17)(b)3. are applicable to detached [~~secondary~~] ***accessory*** dwellings only.

~~19~~***8***. Outdoor Storage/Trash. The standards at EC 9.2751(17)(b)4. are applicable to detached [~~secondary~~] ***accessory*** dwellings only.

~~20~~***9***. Maximum Wall Length. The standards at EC 9.2751(17)(b)6. are applicable to detached [~~secondary~~] ***accessory*** dwellings only.

(d) Adjustment Review. [~~The standards at [EC 9.2751(17)(a)8. regarding temporary leave and at EC 9.2751(17)(b)5. regarding building height (to allow for a secondary dwelling over an accessory building) may be adjusted in accordance with EC 9.8030(34). Additionally, a~~]***A***n adjustment may be requested to convert an existing building into a***n*** [~~secondary~~] ***accessory*** dwelling in accordance with EC 9.8030(34) if the existing building does not meet the standards under EC 9.2751(17)(a) or (b). For [~~secondary~~] ***accessory*** dwellings, these are the only standards that may be adjusted. [~~With the exception of EC]9.2751(17)(a)8. regarding temporary leave, t~~]***T***hese standards are not adjustable for [~~secondary~~] ***accessory*** dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association.

(e) Enforcement. Failure to adhere to the standards required under this section shall constitute a violation subject to the enforcement provisions of section 9.0010 through 9.0280 General Administration.

(18) Alley Access Lots in R-1.

(a) General Standards.

1. Applicability. Except as provided in (b) ***and (c)*** below, the following standards apply to development on alley access lots in R-1.
2. Use Regulations. Alley access lots have the same land use regulations as the base zone [~~except that there is no allowance for an accessory dwelling~~].
3. Building Size. The total building square footage of a dwelling shall not exceed 10 percent of the total lot area or 800 square feet, whichever is smaller. Total building square footage is measured at the exterior perimeter walls and is defined as all square footage inside of the dwelling, including, but not limited to hallways, entries, closets, utility rooms, stairways and bathrooms.
4. Lot Coverage. Alley access lots 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.
5. Building Height/Interior Setback.
   a. Interior yard setbacks shall be at least 5 feet, including along

the alley frontage. 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 perpendicular to the alley until a point not to exceed a maximum building height of 18 feet.

b. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in a. above, except that eaves and chimneys are allowed to project into this setback no more than 2 feet. (See Figure 9.2751(16)(b)3.)

c. These standards may be adjusted in accordance with EC 9.8030(35).

6. Windows, Dormers and Balconies.
   a. Any window on the upper story must be located a minimum of 10 feet from any property line.
   b. Up to two dormers are allowed on the side of the dwelling facing the alley. Dormers are limited to a maximum width of 10 feet. Dormers are not allowed on the remaining sides of the dwelling.
   c. Balconies and other second floor outdoor areas are only allowed on the side of the dwelling facing the alley[,] and shall be setback at least 10 feet from the alley.
   d. Notwithstanding b. and c. above, dormers and balconies are not allowed on the second floor of a dwelling on any non-alley facing property line unless the affected adjacent property owner consents in writing on a form approved by the city.
7. Bedrooms. The dwelling shall contain no more than 3 bedrooms.
8. Primary Entrance. The primary entry to the dwelling shall be defined by a covered or roofed entrance with a minimum roof depth and width of no less than 3 feet.
9. Pedestrian Access. The dwelling shall be served by a minimum three foot wide hard-surfaced/hard-scaped (paved, concrete or pavers) pedestrian walkway from the alley, or from the front street via an easement. The pedestrian walkway must be recognizable and distinct (different color, materials and/or texture) from the driveway and parking area, but is not required to be separated from the driveway or parking area.
10. Parking Spaces. There shall be a minimum of 1 and a maximum of 2 parking spaces on the lot.
11. Parking and Driveway.
    a. 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.
    b. The maximum dimensions for a garage shall be 16 feet by 24 feet, with a maximum garage door width of 9 feet.
    c. 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.

d. The maximum width for a driveway accessing a garage or carport shall be 12 feet.

e. The maximum dimensions for one parking space located perpendicular to the alley shall be 12 feet in width by 20 feet in depth.

f. 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.

g. The maximum dimensions for tandem parking spaces shall be 12 feet in width by 33 feet in depth.

h. 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.

i. 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.

j. No parking shall occur outside of the vehicle use area. (See Figure 9.2751(18)(a)11.)

12. Distance from Street/Fire Safety. If any portion of the exterior walls of the first story of the dwelling is greater than 150 feet from the centerline of the alley where it intersects with the curb of the street, as measured by a route approved by the fire code official, the dwelling shall be equipped throughout with multi-purpose residential sprinklers as defined in National Fire Protection Association Standard 13D.

13. Trash and Recycling. Outdoor storage and garbage areas shall be screened from view from adjacent properties and those across the alley with a minimum 42-inch tall 100-percent site obscuring fence or enclosure on at least three sides.

14. Accessory Buildings. Detached accessory buildings are allowed subject to the standards at EC 9.2751(16), except that the total square footage of all accessory buildings on an alley access lot is limited to 400 square feet.

15. Adjustment Review. For alley access lots, EC 9.2751(18)(a)(5) is the only standard that may be adjusted. This standard is not adjustable for dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association.

(b) Area – Specific Alley Access Lot Standards in R-1. Except as provided below, the standards in subsection (a) of this section apply to alley access lots existing as of April 12, 2014, in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association. In lieu of EC 9.2751(18)(a)(3) Building Size, the following applies:

1. Building Size. An alley access lot dwelling shall not exceed 1,000 square feet of total building square footage, measured at the exterior perimeter walls. For alley access lots, total building square footage is defined as all square footage inside of the dwelling, including, but not limited to hallways, entries, closets, utility rooms, stairways and bathrooms.

2. This standard may not be adjusted.

(c) The standards in (a) and (b) do not apply to accessory dwellings. Accessory dwellings on alley access lots in R-1 shall comply with the standards at EC 9.2751(17).

Section 9. Subsections (4) and (5)(e) of Section 9.2775 of the Eugene Code, 1971, are amended to provide as follows:

9.2775 Residential Flag Lot Standards for R-1, R-2, R-3 and R-4.

(4) Use Regulations. Residential flag lots have the same land use regulations as the base zone except[:]***that***

[~~(a)~~ ~~H~~]***h***ome occupations are not allowed on residential flag lots ***of*** less than 13,500 square feet[;]***.***

[~~(b) Secondary dwellings are not allowed on flag lots less than 12,500 square feet.; and~~

~~(c) Secondary dwellings are not allowed on flag lots that did not exist or were not approved prior to August 29, 2014.~~]

(5) Development Standards.

(e) Additional Standards for [~~Secondary~~] ***Accessory*** Dwellings on Flag Lots.

[~~1. Access Pole Width. To allow for a secondary dwelling on flag lots existing or approved prior to August 29, 2014, that do not have legal access other than the individual or combined pole, the minimum width of the individual or combined pole shall be 25 feet.~~

~~2. Access. No more than four dwellings (including primary and secondary dwellings) may take access off an individual pole or combined poles.~~]

~~3~~***1***. Building Height/Interior Setback.

a. ***Except as provided in subsection b. below,*** [~~I~~]***i***nterior yard setbacks shall be at least 10 feet. In addition, at a point that is [~~8~~] ***10*** 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~~] ***accessory*** dwellings and the maximum building height of the primary dwelling for attached [~~secondary~~] ***accessory*** dwellings.

b. For an accessory dwelling located above a garage or located where there is a grade change of 5 feet or more when measured from lowest finished grade to highest finished grade at points within a 5-foot horizontal distance of the exterior walls of the accessory dwelling (See Figure 9.2751(17)(a)2.b.(2)(A) Building Height Calculation & Sloped Setback for Sloped Lots),the following standards apply:

(1) For an interior lot line that is not addressed in b.(2) below, the minimum interior yard setback from that lot line is 10 feet and the maximum building height is 25 feet.

(2) Where an interior lot line abuts property that is zoned R-1, R-1.5, S-C/R-1 or S-RN/LDR,, the interior yard setbacks shall be at least 10 feet. In addition, at a point that is 18 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 25 feet. If the building is setback a minimum of 20 feet from an interior property line, the sloped portion of the setback does not apply along that property line. (See Figure 9.2751(17)(a)2.b.(2)(B) Accessory Dwelling Above Garage)

c. Exceptions. If the accessory dwelling is above a garage or on a slope as described in EC 9.2775(5)(e)1.b. above, an accessory dwelling's dormers may intrude into the sloped portion of any interior yard setback if:

(1) The total width of all dormers does not exceed fifty percent of the width of the roof on which the dormers are located (for hipped roofs, the width of the roof shall be measured at the eave); and

(2) The walls of the dormer(s) are set back a minimum of 2 feet from the face of all exterior building walls of the accessory dwelling.

(See Figure 9.2751(17)(a)2.c.(2) Dormer Placement & Size Calculation)

~~b~~***d***. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in a. above, except that eaves and chimneys are allowed to project into this setback no more than 2 feet.

[~~c. This standard may be adjusted to allow for a secondary dwelling over an accessory building in accordance with EC 9.8030(34).~~]

~~4~~***2***. Driveway Standards.

a. Paving. The driveway paving width shall be as follows:
   (1) For flag lots served by an individual pole, the minimum driveway width shall be 12 feet, and the maximum driveway paving width shall be 20 feet.
   (2) For flag lots served by a combined pole, the driveway width shall be 20 feet or a lesser width as approved by the fire code official.

b. Driveway Setbacks. The driveway paving shall be setback from the edge of the pole as follows:
   (1) For flag lots that are served by an individual pole, the driveway paving shall be setback a minimum of six feet.
   (2) For flag lots that are served by a combined pole, the driveway paving shall be setback a minimum of 2.5 feet.

c. Driveway Use. Parking is not allowed on any portion of the pole.

d. Landscaping. The entire length of both sides of the pole, within the area between the driveway paving and the edge of the pole, shall be landscaped to meet the Low Screen Landscape Standard (L-2) in EC 9.6210(2)(a), except as follows:
   (1) The shrubs required for continuous screen at EC 9.6210(2)(a)1. shall be at least 45 inches high within three years and maintained at a height not to exceed 60 inches, with the intent to minimize headlight glare;
   (2) The canopy tree requirement at EC 9.6210(2)(a)2., is not applicable; and
   (3) In lieu of a masonry wall or berm, a solid wood fence may be permitted where the bottom of the fence is no higher than 12 inches above grade and the top of the fence is at least 45 inches above grade.

~~5~~***3***. Exceptions. Exceptions to driveway setback and landscaping standards are allowed where the affected adjacent property owners consent in writing on a form approved by the city.

~~6~~***4***. Adjustments. The standards at EC 9.2775(5)(e)~~4~~***2***.b. and d. regarding driveway setbacks and landscaping may be adjusted in accordance with EC 9.8030(34)[~~(d)~~]***(b)***.

Section 10. Subsections (2)(a) and (3)(a) of Section 9.3065 of the Eugene Code, 1971, are amended and (3)(k) is added to provide as follows:

9.3065 S-C Chambers Special Area Zone – Development Standards.

(2) Development Standards Applicable in the S-C/R-1 Subarea. Except as provided in this subsection, the development standards applicable in the S-C/R-1 Subarea shall be those set forth in EC 9.2750 to EC 9.2777 for the R-1 zone, Special Development Standards for Certain Uses in EC 9.5000 through EC 9.5850, and the General Standards for all Development in EC 9.6000 through 9.6885.

(a) Lot Size Minimums for Flag Lots. In lieu of any conflicting provisions in EC 9.2750 to 9.2777 for flag lots in the R-1 zone, the following standards apply for flag lots in the S-C/R-1 subarea:
   1. Single dwellings [~~and attached secondary dwellings~~]: minimum lot size 4,500 square feet.
   [~~2. Detached secondary dwellings: minimum lot size 6,000 square feet.~~]
   ~~3~~**2.** The original lot, prior to creation of the flag lot, is not subject to a minimum lot size of 13,500 square feet.

   In calculating the lot area, only the flag portion of the lot (exclusive of the pole) is counted.

* * *

(3) Development Standards Applicable in S-C/R-2 Subarea. Except as provided in this subsection, the development standards applicable in the S-C/R-2 subarea shall be those set out in EC 9.2750 to 9.2777 for the R-2 zone, Special Development Standards for Certain Uses in EC 9.5000 through EC

9.5850, and the General Standards for all Development in EC 9.6000 through 9.6885.

(a) Density Standards. In lieu of the density standards for the R-2 zone in Table 9.2750 and EC 9.2750(1), there is no minimum density requirement regardless of lot size, and the following maximum density standards apply:

1. For lots with street access:
   a. ***If the lot area is less than or equal to 4500 square feet:*** One dwelling unit ***and, if the dwelling is a detached one-family dwelling, one accessory dwelling*** [~~if the lot area is less than or equal to 4,500 square feet~~].
   b. ***If the lot area is greater than 4,500 square feet and less than or equal to 9,200 square feet:*** Two dwelling units ***and one accessory dwelling for each detached one-family dwelling*** [~~if the lot area is greater than 4,500 square feet and less than or equal to 9,200 square feet~~].
   c. ***If the lot area is greater than 9,200 square feet:*** Three dwelling units ***and one accessory dwelling for each detached one-family dwelling*** [~~if the lot area is greater than 9,200 square feet~~].
2. For ***an*** alley access lot[~~s~~] ***of any size***: One dwelling unit ***and, if the dwelling is a detached one-family dwelling, one accessory dwelling***[~~regardless of lot size~~].

* * *

(k) Accessory Dwellings. The development standards in subsections (b) through (j), above do not apply to accessory dwellings in the S-C/R-2 subarea. The development standards applicable to accessory dwellings in the S-C/R-2 subarea shall be those set out in EC 9.2751(17)(c) and the General Standards for all Development in EC 9.6000 through 9.6885.

Section 11. The "Dwellings" subsection in the "Residential" section in Table 9.3115 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.3115 S-CN Chase Node Special Area Zone
Land Uses and Permit Requirements

Land Use Type	C	HDR/MU	HDR
Residential			
Dwellings [~~***(All dwellings shall meet minimum and maximum density requirements for development within the Chase Gardens Plan area.)***~~]			
One Family Dwelling per lot (Includes zero lot line dwellings)		P	P
Accessory Dwelling (1 Per Detached One-Family Dwelling on Same Lot)		***P***	***P***

Table 9.3115 S-CN Chase Node Special Area Zone Land Uses and Permit Requirements			
Land Use Type	**C**	**HDR/MU**	**HDR**
Controlled Income and Rent Housing where density is above that normally required in the zoning district but does not exceed 150% of the maximum permitted density. (Shall comply with multiple-family standards in EC 9.5500.		S	S
Rowhouse (One-family on own lot attached to adjacent residence on separate lot)	P(3)(4)	P(3)(4)	P(3)(4)
Duplex (Two-family attached on the same lot)		P	P
Tri-plex (Three family attached on the same lot) (See EC 9.5500)		P	P
Four-plex (Four-family attached on the same lot) (See EC 9.5500)		S	S
Multiple Family (3 or more dwellings on the same lot) (See 9.5500)	S	S	S
Manufactured Home Park (See 9.5400)			P(5)

Section 12. In Table 9.3125(3)(g) of the Eugene Code, 1971, a "Density" heading is added and the row thereunder for "Minimum Net Density per Acre" is amended; and the row for "Accessory Building" under the "Maximum Building Height" heading is amended, to provide as follows:

Table 9.3125(3)(g) S-CN Chase Garden Node Special Zone Development Standards (See EC 9.3126 Special Development Standards for Table 9.3125(3)(g).)			
	C	**HDR/MU**	**HDR**
Density (1)(2)			
Minimum Net Density per Acre [~~(1)~~]	20 units/acre if all residential in a single building	20 units [~~(2)(b)~~]	20 units [~~(2)(a)~~]
Maximum Next Density	112	112	112
Minimum Building Height	At least 2 functional floors if located along Garden Way		
Maximum Building Height (3)			
Main Building	50' commercial, 120' residential or residential above commercial	120' except (3); 35' or 2 stories within 50' of Garden Way	120'

Table 9.3125(3)(g) S-CN Chase Garden Node Special Zone Development Standards (See EC 9.3126 Special Development Standards for Table 9.3125(3)(g).)			
	C	**HDR/MU**	**HDR**
Accessory Building. [~~Includes Secondary Dwellings Detached from Main Building~~]		30'	30'
Accessory Dwellings Detached from Main Building		***30'***	***30'***

Section 13. Subsection (2) of Section 9.3126 of the Eugene Code, 1971, is amended to provide as follows:

9.3126 Special Development Standards for Table 9.3125(3)(g).

(2) [~~Minimum~~]Density.

(a) HDR Subarea. ***Minimum density a***[~~A~~]pplies to new residential development except rowhouses ***and Accessory Dwelling Units***.

(b) HDR/MU Subarea. ***Minimum density a***[~~A~~]pplies to new development except rowhouses ***and Accessory Dwelling Units***.

(c) Maximum density applies to all new residential development except Accessory Dwelling Units.

Section 14. The "Dwellings" subsection in the "Residential" section in Table 9.3210 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.3210 S-DW Downtown Westside Special Area Zone Uses and Permit Requirements	
	S-DW
Residential	
Dwellings (All dwellings types are permitted if approved through the Planned Unit Development process.)	
One-Family Dwelling (1 Per Lot)	P
[~~Secondary~~] ***Accessory*** Dwelling ([~~Either Attached or Detached from Primary One-Family Dwelling~~] ***1 Per Detached One-Family Dwelling*** on Same Lot)	P
Rowhouse (One-Family on Own Lot Attached to Adjacent Residence on Separate Lot with Garage or Carport Access to the Rear of the Lot)	P
Duplex	P
Tri-plex (Three-Family Attached on Same Lot)	P
Four-plex (Four Family Attached on Same Lot)	P
Multiple-Family (3 or More Dwellings on Same Lot) (See EC 9.5500)	P

Section 15. Subsection (2) of Section 9.3215 of the Eugene Code, 1971, is amended to provide as follows:

9.3215 S-DW Downtown Westside Special Area Zone Development Standards.

(2) Residential Standards. Except as provided in this section or EC 9.3216 Special Development Standards for Table 9.3215, all residential development shall be subject to the standards established for the R-4 zone. ***Accessory***

dwellings shall be subject to the R-4 standards, except EC 9.2751(17).

Section 16. The "Dwellings" subsection in the "Residential" section in Table 9.3310 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.3310 S-E Elmira Road Special Area Zone Uses and Permit Requirements	
	S-E
Residential	
Dwellings	
One-Family Dwelling (1 Per Lot)	P
Accessory Dwelling (1 Per Detached One-Family Dwelling on Same Lot)	***P***
Rowhouse (One-Family on Own Lot Attached to Adjacent Residence on Separate Lot with Garage or Carport Access to the Rear of the Lot)	P
Duplex (Two-Family Attached on Same Lot)	P
Multiple Family (3 or More Dwellings on Same Lot) (See EC 9.5500)	PUD

Section 17. Subsection (1) of Section 9.3510 of the Eugene Code, 1971, is amended to provide as follows:

9.3510 S-HB Blair Boulevard Historic Commercial Special Area Zone Uses. The S-HB zone designation is based on the area's association with the city's working class and the mix of residential, commercial and light industrial uses within the zone. The S-HB zone is the commercial core of the residential districts located to the east and west of the zone. The Whiteaker Plan Land Use Diagram reflects four underlying land use designations for this zone of residential, commercial, mixed use, and parks. Uses permitted within the S-HB zone are as follows:

(1) Areas Designated for Low and Medium Density Residential. Allowable uses are:

(a) One-family dwellings.

(b) Accessory Dwellings (1 Per Detached One-Family Dwelling on Same Lot).

(~~b~~***c***) Duplexes.

(~~c~~***d***) Triplexes.

(~~d~~***e***) Four-plexes.

(~~e~~***f***) Multiple-family dwellings.

(~~f~~***g***) Home occupations.

(~~g~~***h***) Bed and breakfast facilities.

Section 18. Subsections (1), (3) and (8) of Section 9.3625 of the Eugene Code, 1971, are amended to provide as follows:

9.3625 S-JW Jefferson Westside Special Area Zone Development Standards.

(1) Application of Standards and Adjustment.

(a) Application of Standards. ***Except as provided in (b) below,*** ~~[]~~*i*n addition to the special use limitations in EC 9.3615 and the development standards in EC 9.3625 to 9.3640 and EC 9.5000 to 9.5850, the General Standards for All Development in EC 9.6000 through 9.6885 apply within this zone. In the event of a conflict between those general development standards and the development standards in EC 9.3625 to 9.3640, the provisions of EC 9.3625 to 9.3640 shall control.

(b) Development Standards for Accessory Dwellings. The development standards applicable to accessory dwellings in the S-JW zone shall be those set out in EC 9.2751(17)(c) and the General Standards for all Development in EC 9.6000 through 9.6885.

(~~b~~***c***) Adjustment. The development standards in subsections EC 9.3625(6) regarding driveway width and EC 9.3625(3)(a)2.b regarding primary vehicle access may be adjusted in accordance with EC 9.8030(26). For sites zoned S-JW Special Area Zone, these are the only standards that may be adjusted.

*** * ***

(3) Alley development standards.

(a) Primary Vehicle Access. For the purposes of this section, "primary vehicle access" means the primary means by which inhabitants take vehicular access to a dwelling or on-site parking space(s) provided for a dwelling. Primary vehicle access is determined as follows:

1. On an alley access only lot, every dwelling's primary vehicle access is the alley.
2. On a lot that is not an alley access only lot and that, consistent with access standards in the EC, could take vehicular access from an alley, a dwelling's primary vehicle access is:
   a. The street, when there is only one dwelling on the lot.
   b. When there are multiple dwellings on the lot, for each on-site parking space that complies with the standards applicable in the S-JW special area zone and that can only be accessed and exited via a street (i.e., cannot use the alley for entry or exit), one dwelling is considered to take primary vehicle access from the street. The remainder of the dwellings shall be considered to take primary vehicle access from the alley.
   If there are one or more dwellings with the alley as primary vehicle access, the dwelling(s) closest to the alley shall be considered to have primary access from the alley. In cases where multiple dwellings are equidistant from the alley and not all of them take primary access from the alley, the property owner may designate which dwellings take primary access from the alley. The provisions in this subsection (3)(a)2.b. may be adjusted based on the criteria of EC 9.8030(26)(2).
3. On all lots not addressed in 1. or 2., above, all dwellings' primary vehicle access is the street.

(b) No more than one dwelling on the same development site may take primary vehicle access from an alley unless the site also abuts a street that the alley intersects.

(c) On any lot that contains one or more dwellings whose primary vehicle access is an alley, there must be at least an undivided 400 square-foot open space area (not including buildings, parking or driveways) abutting the alley. Except as provided in 4., below, the open space area:
1. shall abut the alley for at least 25% of the length of the lot line abutting the alley;
2. shall be a minimum of 10 feet in depth for the entire extent that the open space area abuts the alley; and
3. may include areas that are within setbacks.
4. The open space required in this subsection (c) may be placed behind parallel parking abutting the alley.

(d) For a dwelling whose primary vehicle access is an alley:
1. The dwelling may not have more than three bedrooms.
2. If the dwelling is in the residential building closest to the alley, then the dwelling shall include a main entrance that is visible from the alley (see Figure 9.3625(3)(d)2.) and meets one of the following conditions:
   a. Faces the alley;
   b. Faces the side of the lot and meets all the following conditions:
      (1) The entrance opening is not more than 8 feet from the building façade facing the alley and nearest the alley;
      (2) The entrance includes a covered porch of at least 30 square feet;
      (3) The porch abuts both the façade containing the entrance and a façade facing the alley; or
   c. Faces the side of the lot and meets all the following conditions:
      (1) The entrance opening is no more than 8 feet from the building façade facing the alley and nearest the alley.
      (2) The entrance provides direct resident access to a head-in parking area on the same side of building.
      (3) The entrance includes a covered porch of at least 20 square feet.
      (4) The façade facing the alley includes windows that total at least 8 feet wide when measured at 5' above the floor of the first story and that have a minimum area of at least 20 square feet.
3. One on-site parking space, accessible from the alley, per dwelling is required. ***This parking requirement does not apply to an additional one-family dwelling, as described at EC 9.3615(2).***

* * *

(8) The following Table 9.3625 sets forth the S-JW Special Area Zone development standards, subject to the special development standards in EC 9.3626.

Table 9.3625 S-JW Jefferson Westside Special Area Zone Development Standards (See EC 9.3626 Special Development Standards for Table 9.3625.)
Density(1)
Minimum Dwellings Per Lot

Table 9.3625 S-JW Jefferson Westside Special Area Zone Development Standards (See EC 9.3626 Special Development Standards for Table 9.3625.)	
Lots less than 13,500 Square Feet	--
Lots 13,500 square feet and larger	1 dwelling per lot for every 6,750 square feet (fractional values are rounded down to the nearest whole number)
Maximum Dwellings Per Lot(1)	
Alley Access Only Lot	1 dwelling ***and, if the dwelling is a detached one-family dwelling, 1 accessory dwelling*** per lot
Lots [~~less than 2,250~~] ***up to 4,499*** square feet	[~~No additional dwellings after December 14, 2009~~] ***1 dwelling and, if the dwelling is a detached one-family dwelling, 1 accessory dwelling per lot***
[~~Lots between 2,250 and 4,499 square feet~~]	[~~1 dwelling per lot~~]
Lots between 4,500 and 8,999 square feet	2 dwellings per lot ***and*** ***1 accessory dwelling for each detached one family dwelling***
Lots 9,000 square feet and larger	1 dwelling per lot for every 4,500 square feet (fractional values are rounded down to the nearest whole number) ***and*** ***1 accessory dwelling for each detached one family dwelling***
Maximum Building Height (2) (9)	
Minimum Building Setbacks (3) (4) (5) (9)	
Maximum Lot Coverage (6) (7)	**50%**
Maximum Vehicle Use Area (6)	**20%**
Common and Private Open Space (7)	
Fences (8)	
(Maximum Height Within Interior Yard Setbacks) (Maximum Height within Front Yard Setbacks)	6 feet 42 inches

Section 19. Subsection (g) is added to subsection (1) of Section 9.3626 of the Eugene Code, 1971, to provide as follows:

9.3626 Special Development Standards for Table 9.3625.

(1) Density. For purposes of determining the maximum allowable dwellings on a lot:

(g) Accessory dwellings are not subject to the provisions of (1) and shall not be considered within the calculations of dwellings or bedrooms in subsections (1)(a) through (f) above.

Section 22. The "Dwellings" subsection in the "Residential" section in Table 9.3810 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.3810 S-RN Royal Node Special Area Zone Land Uses and Permit Requirements	LDR	MDR	RMU	CMU	MSC
Residential					
Dwellings. (All dwellings shall meet minimum and maximum density requirements for development within the Royal Specific Plan area. All dwelling types are permitted.)					
One-Family Dwelling (1 Per Lot, includes zero lot line dwellings)	P	P	P		
[~~Secondary~~] ***Accessory*** Dwelling ([~~Either Attached or Detached from Primary One-Family Dwelling~~] ***1 Per Detached One-Family Dwelling*** on Same Lot)	P(1)	P(1)	P(1)		
Rowhouse (One-Family on Own Lot Attached to Adjacent Residence on Separate Lot with Garage or Carport Access to the Rear of the Lot)	P(2) (3)	P(2) (3)	P(2) (3)	P(2) (3)	P(2) (3)
Duplex (Two-Family Attached on Same Lot)	P	P	P		
Tri-plex (Three family attached on the same lot) See EC 9.5500	P	P	P	P	
Four-plex (Four-Family Attached on Same Lot) See EC 9.5500	P	P	P		
Multiple-Family (3 or More Dwellings on Same Lot) See EC 9.5500	S(3) (9)	S(3) (9)	S(3) (9)	S(3) (9)	S(3) (9)
Manufactured Home Park. Shall comply with EC 9.5400 or site review.	S - SR (4)	S - SR (4)			
Controlled Income and Rent Housing where density is above that normally permitted in the zoning district but does not exceed 150% of the maximum permitted density. (Shall comply with multiple-family standards in EC 9.5500.)	S (9)	S (9)			

Section 20. Subsection (1) of Section 9.3811 of the Eugene Code, 1971, is amended to provide as follows:

9.3811 Special Use Limitations for Table 9.3810.

(1) [~~Secondary~~] *Accessory* Dwellings. [~~Secondary~~] ***Accessory*** dwellings shall conform to all of the following:

(a) The dwelling shall not exceed 800 square feet unless occupying the full story of a multi-story structure with ground floor residential use.

~~[(b) Either the primary dwelling or the secondary dwelling shall be occupied by the property owner.~~

~~(c) There shall be at least 1 off-street parking space on the property.~~

~~(d) The dwelling shall be located on a lot that is not a flag lot.]~~

(~~e~~***b***) Detached [~~secondary~~] ***accessory*** dwellings shall:

~~[1. Comply with the residential density limitations in Table~~

~~9.3815(3)(n) Royal Node Special Area Zone Development Standards.~~]

~~2~~***1***. Provide a pedestrian walkway from the street or alley to the primary entrance of the [~~secondary~~] ***accessory*** dwelling.

~~3~~***2***. The primary entrance to a***n*** [~~secondary~~] ***accessory*** dwelling shall be defined by a roofed porch.

~~4~~***3***. Outdoor storage and garbage areas shall be screened from view from adjacent properties and those across the street or alley.

[~~Prior to issuance of a final occupancy permit for the secondary dwelling, the owner shall provide the city with a copy of a notice that has been recorded with the Lane County Clerk that documents the secondary dwelling or primary dwelling is owner/occupied.~~]

Section 21. The "Maximum Building Height" section in Table 9.3815(3)(n) of the Eugene Code, 1971, is amended to provide as follows:

Table 9.3815(3)(n) S-RN Royal Node Special Zone Development Standards (See EC 9.3816 Special Development Standards for Table 9.3815(3)(n).)

	LDR	MDR	RMU	CMU	MSC
Maximum Building Height					
Main Building	35 feet	35 feet	50'	50'	50'
Accessory Building[~~. Includes Secondary Dwellings Detached from Main Building~~]	25 feet	25 feet	50'	50'	50'
Accessory Dwellings Detached from Main Building	***25 feet***	***25 feet***	***25 feet***		

Section 22. The "Accessory Uses" section, and the "Dwellings" subsection of the "Residential" section in Table 9.3910 of the Eugene Code, 1971, are amended to provide as follows:

Table 9.3910 S-W Whiteaker Special Area Zone Uses and Permit Requirements

	S-W
Accessory Uses	
Accessory Uses. Examples related to residential uses include a garage, storage shed, bed and breakfast facility (see EC 9.5100)[~~,~~] ***and*** home occupations (see EC 9.5350)[~~, and secondary dwellings (see EC 9.2741(2))~~]. Examples relating to commercial and employment and industrial uses include security work, administration activity and sales related to industrial uses manufactured on the same development site, and storage and distribution incidental to the primary use of the site.	P
Residential	
Dwellings	
One-Family Dwelling	P(2)
Accessory Dwelling (1 Per Detached One-Family Dwelling on Same Lot)	***P***
Rowhouse (One-Family on Own Lot Attached to Adjacent Residence on Separate Lot with Garage or Carport Access to the Rear of the Lot)	P(2)
Duplex (Two-Family Attached on Same Lot)	P(2)

Table 9.3910 S-W Whiteaker Special Area Zone Uses and Permit Requirements	
	S-W
Tri-plex (Three-Family Attached on Same Lot)	P(2)
Multiple Family (3 or More Dwellings on Same Lot) (See EC 9.5500)	P(2)

Section 23. The first paragraph and subsection (1) of Section 9.3915 of the Eugene Code, 1971, are amended, and a new subsection (13) is added, to provide as follows:

9.3915 S-W Whiteaker Special Area Zone Development and Lot Standards. Except as provided in subsections (5) to [~~(12)~~] ***(13)*** of this section, sections 9.6000 to 9.6885 General Standards for All Development in this land use code shall apply within this S-W zone. In the event of a conflict between the general development standards of this land use code and the standards set forth in this section, the specific provisions of this section shall control.

(1) Residential Standards. Except as provided in subsections (5) to [~~(12)~~] ***(13)*** of this section, all residential development shall be subject to the standards established for the C-2 zone.

* * *

(13) Accessory dwellings shall be subject to the standards established at EC 9.2750 and EC 9.2751(17).

Section 24. Subsection (4)(a) of Section 9.3970 of the Eugene Code, 1971, is amended to provide as follows:

9.3970 S-WS Walnut Station Special Area Zone Development Standards Applicable to All Properties in the Walnut Station Special Area Zone.

(4) Parking Requirements.

(a) Required off-street motor vehicle parking. The following minimum and maximum parking standards apply instead of the standards in Table 9.6410. The provisions in EC 9.6410(1)(a) through (c), EC 9.6415 (1) through (3), EC 9.6420(1), (2), (3)(a), (b), and (e), (4), (5), and (6), apply to the siting and design of parking and loading facilities in the Walnut Station area. Uses not listed do not have a parking requirement.

Use	Minimum Number of Off-street Parking Spaces	Maximum Number of Off-Street Parking Spaces
Residential	***No off-street parking spaces are required for accessory dwellings.*** Except as provided in an adjustment pursuant to EC 9.8030(29), the minimum number of required parking spaces ***for all***	Except for required parking spaces for persons with disabilities, a maximum of 2.25 parking spaces are allowed per dwelling unit.

	other residential uses shall be .5 parking spaces per dwelling unit.	
Non-Residential Uses	Except as provided in an adjustment pursuant to EC 9.8030(29), the minimum number of required parking spaces shall be 1 parking space for every 660 square feet of gross floor area.	Except for required parking spaces for persons with disabilities, spaces provided in park and ride lots operated by a public transit agency, and spaces within structured parking with two or more levels, the maximum number of parking spaces is 1 parking space per every 250 square feet of gross floor area.

Section 25. The following entry in the "Dwellings" subsection of the "Residential" section in Table 9.6410 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.6410 Required Off-Street Motor Vehicle Parking	
Uses	**Minimum Number of Required Off-Street Parking Spaces**
Residential	
Dwelling	
[~~Secondary~~] ***Accessory*** Dwelling (Either attached or detached from primary one-family dwelling on same lot) ***/ Additional one-family dwelling in the R-2 subarea of the S-C Chambers Special Area Zone***	[~~1 per dwelling.~~] ***0***

Section 26. Subsection (34) of Section 9.8030 of the Eugene Code, 1971, is amended to provide as follows:

9.8030 **Adjustment Review - Approval Criteria.** The planning director shall approve, conditionally approve, or deny an adjustment review application. Approval or conditional approval shall be based on compliance with the following applicable criteria.

(34) [~~Secondary~~] ***Accessory*** Dwellings. Where this land use code provides that the standards for [~~secondary~~] ***accessory*** dwellings may be adjusted, the standards may be adjusted upon demonstration by the applicant that the applicable corresponding criteria are met.

[~~(a) Temporary Leave. A property owner may exceed the temporary leave provisions by one additional consecutive year if the property owner submits proof of temporary leave status from the property owner's employer, educational facility, volunteer organization or medical provider.~~]

(~~b~~***a***) Conversion of Existing Building. A legally established building existing as of August 29, 2014, may be converted to a***n*** [~~secondary~~] ***accessory*** dwelling if it complies with all of the following:

1. The existing structure satisfies all [~~secondary~~] ***accessory*** dwelling standards except the applicable sloped setback under Building Height/Interior Setback at EC 9.2571(17)(a)~~3~~***2***. or EC 9.2751(17)(b)5.
2. The [~~secondary~~] ***accessory*** dwelling is limited to 600 square feet in total building square footage[~~, and 15 feet in height~~].
3. If the existing structure is closer than 5 feet to an interior property line, [~~the adjacent property owner must provide written consent pursuant to EC 9.2751(7)~~] ***there must be a 10-foot separation between the accessory dwelling and buildings on the abutting lot and the owner of the accessory dwelling must secure and record in the office of the Lane County Recorder a maintenance access easement adjacent to the intruding side of the building. The easement shall provide a 5-foot wide access the entire length of the building and 5 feet beyond both ends and require the continuation of a 10-foot separation between buildings on the separate lots. The easement shall be on a form provided by the city and be subject to payment of a fee set by the city manager***.

[~~(c) Building Height. A secondary dwelling may have a maximum building height of up to 24 feet if all of the structure that would fall within the scope of the "Building Height/Sloped Setback" standard is at least 20 feet from all interior property lines and within the sloped setback.~~]

(~~d~~***b***) [~~Secondary~~] ***Accessory*** Dwellings on Flag Lots. Where natural features or other physical conditions make it impracticable to comply with the driveway setback and landscape screening requirements, the following adjustments are allowed:

1. Except as provided in 2. below, the driveway setback may be reduced to no less than four feet; however, in no event shall the setback be reduced more than is necessary to enable the driveway to meet the minimum driveway width, or
2. The driveway setback may be reduced to no less than one foot, and screening requirements may be reduced or eliminated, where
   a. The zoning of the adjacent property does not allow for residential uses; and
   b. The impacts of the adjacent uses would not be significantly worse under the reduced setback or lessened screening.

Section 27. The findings in support of this Ordinance are included in the records compiled for this Ordinance and Ordinances 20594, 20595, and 20625, including the final orders issued by the Oregon Land Use Board of Appeals and the Court of Appeals.

Section 28. The City Recorder, at the request of, or with the concurrence of the City Attorney, is authorized to administratively correct any reference errors contained herein or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Section 29. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof. Further, if this Ordinance is remanded back to the City Council for further action by the Oregon Land Use Board of Appeals or the Oregon Court of Appeals, those sections, subsections, sentences, clauses, phrases or portions of this Ordinance that are not the subject of the remand shall be deemed separate, distinct and independent provisions and such remand shall not affect their validity or effect.

Section 30. The code amendments made by this Ordinance are required for compliance with ORS 197.312(5), which is now in effect. Therefore, pursuant to the provisions of Section 32(2) of the Eugene Charter of 2002, with the affirmative vote of two-thirds of the members of the City Council, this Ordinance shall become effective upon adoption by the Council and approval by the Mayor, or passage over the Mayor's veto.

Passed by the City Council this

_____ day of _____, 2021

_____

City Recorder

Approved by the Mayor this

____ day of _____, 2021

_____

Mayor