



Eugene City Council

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EUGENE CITY COUNCIL AGENDA

September 16, 2019

5:30 p.m. CITY COUNCIL WORK SESSION
Harris Hall, 125 East 8th Avenue
Eugene, Oregon 97401

Meeting of September 16, 2019;
Her Honor Mayor Lucy Vinis Presiding

Councilors

Betty Taylor, President
Mike Clark
Chris Pryor
Jennifer Yeh

Emily Semple, Vice President
Greg Evans
Claire Syrett
Alan Zelenka

5:30 p.m. CITY COUNCIL WORK SESSION
Harris Hall, 125 East 8th Avenue
Eugene, Oregon 97401

- 1. 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, 9.3115, 9.3125, 9.3210, 9.3215, 9.3310, 9.3510, 9.3615, 9.3810, 9.3811, 9.3815, 9.3910, 9.3915, 9.6410, and 9.8030 of that Code; and Addressing the Oregon Land Use Board Of Appeals’ Remand of Ordinance Nos. 20594 And 20595.**

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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, 9.3115, 9.3125, 9.3210, 9.3215, 9.3310, 9.3510, 9.3615, 9.3810, 9.3811, 9.3815, 9.3910, 9.3915, 9.6410, and 9.8030 of that Code; and Addressing the Oregon Land Use Board Of Appeals’ Remand of Ordinance Nos. 20594 And 20595.

Meeting Date: September 16, 2019
Department: Planning and Development
www.eugene-or.gov

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

ISSUE STATEMENT

The City Council will hold a work session and consider taking action on an ordinance concerning secondary/accessory dwelling in response to the Land Use Board of Appeals’ remand. The remand concerns Ordinances Nos. 20594 and 20595 adopted by council in June 2018 as the first phase of the City’s response to the accessory dwelling requirements of Senate Bill 1051.

BACKGROUND

In 2017, the Oregon Legislature adopted a new law, Senate Bill 1051 (“2017 law”)¹ 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.”² It requires:

“A city with a population greater than 2,500 . . . shall allow in areas zoned for detached single-family dwellings the development of at least one accessory

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

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

dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design.”

Initial City Council Process

In January 2018, 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.” The two-phase approach was intended to allow emerging conversations around housing affordability to evolve, and to consider potential changes to those regulations in the context of a broader planning effort (the “how” phase).

In June 2018, City Council adopted Phase 1 ordinances (Ordinance Nos. 20594 and 20595) that revised the land use code to allow accessory dwellings in additional zones. The Phase 1 ordinances also adopted the 2017 law’s “accessory dwelling” terminology. Notably, the Phase 1 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.

Land Use Board of Appeals Remand

The Phase 1 ordinances were appealed to the Oregon Land Use Board of Appeals by numerous parties. LUBA sent the Phase 1 ordinances back (“remanded”) to the City Council for additional work. LUBA found that the Phase 1 ordinances were inconsistent with the 2017 law because, even though the ordinances did not change any of the existing development standards for secondary dwellings in the R-1 zone, the ordinances effectively extended the applicability of those existing development standards to the additional zones. To do so, LUBA found that the City needed to first make a determination that the existing development standards are “reasonable local regulations relating to siting and design,” as the 2017 law requires. This means that Eugene cannot take a two-phased approach like the one originally proposed.

City Council Post-Remand Work Session

At the February 20, 2019, work session, staff provided the City Council with a list of the existing land use code standards that were raised/challenged in the 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. For each of the standards raised in the LUBA appeal, council provided preliminary input (through straw polls) as to whether each standard is a “reasonable regulation relating to siting and design.” Based on this preliminary input from council, a draft ordinance was prepared that proposed to eliminate from the land use code those standards that, in this initial review, were found to not be “reasonable regulations relating to siting and design.” The draft ordinance also included a re-adoption of all the Phase 1 code amendments the City Council attempted to adopt in 2018 ordinances that were remanded by LUBA.

City Council Public Hearing

At the May 20, 2019, public hearing on the draft ordinance, City Council heard 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 existing neighborhood protections. A link to the written testimony is provided at Attachment F to this AIS.

Council action on the draft ordinance was originally scheduled for June 2019; however, the work session was postponed to allow two pending actions regarding accessory dwellings to be resolved at the State level. On June 6, 2019, the Oregon Land Use Board of Appeals issued an Order in another case challenging the City's standards. On June 30, 2019, the Oregon Legislature adopted House Bill (HB) 2001 ("2019 law") which amended the 2017 law. These actions and their impact on the draft ordinance are discussed below.

LUBA Order (June 6, 2019)

For purposes of the council's work session, it is sufficient to summarize LUBA's order in LUBA No. 2019-028 as follows: a proposal to build a second rental dwelling on the same lot as an existing rental dwelling meets the 2017 law's definition of an "accessory dwelling unit" because location on the same lot is sufficient to show the second dwelling will be "used in connection with" the first. The City's land use code must be revised as necessary to apply only reasonable regulations relating to siting and design to such a proposal.

In this case, LUBA rejected the City's interpretation of the 2017 law's definition of "accessory dwelling unit." The City's decision (a Zone Verification) found the applicant's proposal to build a second house did not meet the definition because the second house would not be "accessory to or used in connection with" the existing rental house on the site, as the law's definition requires. The City pointed out that the houses would be rented separately without their shared landlord on-site, that there would be no physical connection between the two rental houses, and no shared facilities. LUBA imposed a different interpretation of the law's definition. LUBA found that a second rental houses' *location on the same lot* as the existing dwelling is enough of a "connection" to satisfy the state law's "very low threshold for establishing a connection." No additional "connection" is necessary for the law to apply. LUBA took particular issue with the City's notion that owner-occupancy could establish the required connection. LUBA made it clear that "neither residence must be occupied by the owner in order for the residential use of the two structures to be in connection with each other."

The City appealed LUBA's decision to the Oregon Court of Appeals. However, after the legislature passed HB 2001 on June 30, 2019, the City voluntarily dismissed the appeal because the 2019 law makes it even clearer that the legislature intends to prohibit cities from requiring owner-occupancy. (see discussion of the 2019 law, below).

In light of LUBA's Order, staff recommends elimination of all owner occupancy requirements pertaining to location of a second dwelling on a lot. Based on the council's pre-hearing straw poll, this change was already incorporated into the draft ordinance. See draft ordinance at Attachment A to this AIS.

2019 Law / House Bill 2001 (June 30, 2019)

The 2019 legislature revised the 2017 law in two ways. First, it adds an explicit prohibition on city regulations that require owner-occupancy. Second, it adds an explicit prohibition on city regulations that require on-site parking. This portion of HB 2001 specifies:

“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 parking.

These provisions of HB 2001 take effect on January 1, 2020. Staff recommends that they be implemented by the City Council in the ordinance attached.

As noted above, elimination of owner-occupancy requirements was already included in the draft ordinance considered at the public hearing. See draft ordinance at Attachment A to this AIS. Council’s initial straw poll did not propose elimination of the land use code’s on-site parking requirements (although they were discussed by council prior to the public hearing and were addressed in the ordinance’s findings). In light of the 2019 legislation, the draft ordinance has been revised to eliminate off-street (on-site) parking requirements.

HB 2001 also states that any regulation added to a city code is:

...void and unenforceable to the extent that the provision would prohibit or have the effect or unreasonably restricting the development of housing that is otherwise allowable under the maximum density of the zoning for the land.

This means that any accessory dwelling regulation must not only be “reasonable” and “related to siting and design,” the regulation must also not “unreasonably restrict” the development of accessory dwellings if they would otherwise be allowed under the maximum density for the zone.

Revised Ordinance/Findings

In response to City Council’s direction, LUBA’s Order and the 2019 law, Planning and legal staff have prepared the following documents. They have been revised since the May 20, 2019, public hearing as necessary to eliminate code requirements related to off-street parking and related standards that regulate how the required off-street parking is to be developed (a few non-substantive changes have also been made to correct reference errors):

A Summary of Amendments is provided in Attachment A.

A Draft Ordinance is provided in Attachment B.

Draft Findings to justify the retention of the standards council found to be “reasonable regulations relating to siting and design” are provided in Attachment C.

Draft Findings addressing Eugene Code criteria/policies and statewide planning goals are provided in Attachment D.

Alternative Draft Findings that could be used if council decides to retain certain accessory dwelling standards that were initially identified for removal (provided per

council's request) or are proposed for removal are provided in Attachment E. These were revised to address the previously described actions by removing the findings pertaining to owner/occupancy and including two standards related to parking requirements.

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 process continue to be a part of the record for City Council's consideration. A link to all testimony received as part of the remand process, through August 27, 2019, is provided as Attachment F. A complete set of record materials are available for review in a binder located at the City Council Office or at the Planning and Development Department, located at 99 West 10th Avenue.

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 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](#)

COUNCIL OPTIONS

The City Council may consider the following options:

1. Approve the ordinance and findings as provided in Attachments B, C and D.
2. Approve the ordinance with specific modifications as determined by the City Council.
3. Take no action.

Note that even if City Council does not act on the ordinance, the owner/occupancy requirement in the City's current definition of "secondary dwelling" is unenforceable as a result of the LUBA decision mentioned above; and as of January 1, 2020, owner-occupancy and off-street parking regulations for accessory dwelling will be unenforceable.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends approval of the ordinance and findings as provided in Attachments B, C and D.

SUGGESTED MOTION

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, 9.3810, 9.3811, 9.3815, 9.3910, 9.3915, 9.6410, and 9.8030 of that Code; and Addressing the Oregon Land Use Board Of Appeals' Remand of Ordinance Nos. 20594 And 20595.

ATTACHMENTS

- A. Summary of Proposed Amendments
- B. Draft Ordinance
- C. Draft Findings Addressing Oregon Revised Statutes 197.312(5)
- D. Draft Findings Addressing Eugene Code 9.8065
- E. Alternative Draft Findings
- F. Link to Public Testimony (Received Through August 27, 2019)

FOR MORE INFORMATION

Staff Contact: Alissa Hansen
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Staff E-Mail: AHansen@eugene-or.gov

Summary of Proposed Amendments

Accessory Dwellings

The proposed ordinance includes the following amendments:

- Replaces all references to “secondary dwelling” with “accessory dwelling”
- Clarifies that accessory dwellings are not accessory buildings
- Aligns the definition of accessory dwelling with that provided in ORS 197.312(5).
- Adds an accessory dwelling 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
- Clarifies that uses allowed in the S-JW Jefferson Westside Special Area Zone and S-C Chambers Special Area zone include what the State defines as an “accessory dwelling unit,” but the two zones refer to the use as an additional “one-family dwelling”
- 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
- Based on ORS 197.312(5), which requires the city to have “reasonable local regulations relating to siting and design” for accessory dwellings, removes regulations that:
 - Prohibit accessory dwellings on new flag lots
 - Require owner/occupancy of either the accessory or primary dwelling
 - Limit the maximum number of bedrooms in an accessory dwelling
 - Limit the maximum number of occupants in an accessory dwelling based on the number of occupants in the primary dwelling for properties within the boundaries of the Amazon, Fairmount and South University neighborhood associations.
 - Regulate dog keeping on properties with an accessory dwelling
 - Require or regulate off-street parking for an accessory dwelling *

**This is the only change from the draft ordinance provided for the May 20, 2019 City Council public hearing. See AIS section entitled “2019 Law / HB 2001.”*

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, 9.3115, 9.3125, 9.3210, 9.3215, 9.3310, 9.3510, 9.3615, 9.3810, 9.3811, 9.3815, 9.3910, 9.3915, 9.6410, AND 9.8030 OF THAT CODE; AND ADDRESSING THE OREGON LAND USE BOARD OF APPEALS’ REMAND OF ORDINANCE NOS. 20594 AND 20595.

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 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, 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 ~~an [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
<i>Accessory Dwelling (1 Per Detached One-Family Dwelling on Same Lot)</i>	<i>P(2)</i>

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, is 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] accessory 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) 1 Per Detached One-Family Dwelling on Same Lot)	P(2)		<i>P(2)</i>	<i>P(2)</i>	<i>P(2)</i>

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]~~ **Accessory** dwellings are ~~[only permitted in R-1 and]~~ 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. Subsection (17) of Section 9.2751 of the Eugene Code, 1971, is amended to provide as follows:

9.2751 Special Development Standards for Table 9.2750.

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

- (a) General Standards for Attached [Secondary] Accessory Dwellings. Except as provided in subsection (c) below, [secondary] **accessory** dwellings that are within the same building as the primary dwelling shall comply with all of the following:
 1. Lot Area. To allow an [secondary] **accessory** 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. Building Size. The total building square footage of an [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. Building Height/Interior Setback. Except for [secondary] **accessory** dwellings on flag lots (see EC 9.2775), the following standards apply:

- a. For attached ~~[secondary]~~ **accessory** dwellings located within 60 feet of a front lot line, interior yard setbacks shall be at least 5 feet, and maximum building height shall be limited to that of the main building as per Table 9.2750
 - b. For attached ~~[secondary]~~ **accessory** dwellings located greater than 60 feet of a front lot line, interior yard setbacks shall be at least 5 feet. In addition, at a point that is 8 feet above finished grade, the setback shall slope at the rate of 10 inches vertically for every 12 inches horizontally away from the property line to a maximum building height of 18 feet. **(See Figure 9.2751(16)(b)3.)**
 - c. 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. 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.]
- 11.5. 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. Up to 300 square feet of un-heated garage or storage space attached to the [secondary] **accessory** dwelling [unit] is allowed and is not counted in the allowable total building square footage.
 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 an [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. Interior yard setbacks shall be at least 5 feet. In addition, at a point that is 8 feet above finished grade, the setback shall slope at the rate of 10 inches vertically for every 12 inches horizontally away from the property line until a point not to exceed a maximum building height of 18 feet.
 - 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. This standard may be adjusted to allow for an [secondary] **accessory** 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. 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 an [secondary] **accessory** 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. 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.]~~
 54. 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.

65. Minimum Attachment. The standards at EC 9.2751(17)(a)4. are applicable.
- ~~[7. Maximum Bedrooms. For lots with a primary dwelling containing 3 or fewer bedrooms, the secondary dwelling shall be limited to 2 bedrooms. For lots with a primary dwelling containing 4 or more bedrooms, the secondary 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.]~~
96. Building Height/Interior Setback. For detached [~~secondary~~] **accessory** 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.
 - b. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in 1. 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.]~~
- ~~177. 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].~~
- ~~188. Primary Entrance. The standards at EC 9.2751(17)(b)3. are applicable to detached [~~secondary~~] **accessory** dwellings only.~~
- ~~199. Outdoor Storage/Trash. The standards at EC 9.2751(17)(b)4. are~~

- applicable to detached ~~[secondary]~~ **accessory** dwellings only.
- ~~2010. 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 ~~an~~ **[secondary] accessory** dwelling over an accessory building) may be adjusted in accordance with EC 9.8030(34). Additionally, an adjustment may be requested to convert an existing building into ~~an~~ **[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]~~ These 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.

Section 9. Subsection (4) of Section 9.2775 of the Eugene Code, 1971, is 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:
- (a) Home occupations are not allowed on residential flag lots less than 13,500 square feet; **and**
 - (b) ~~[Secondary]~~ **Accessory** 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.]~~

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. 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
<i>Accessory Dwelling (1 Per Detached One-Family Dwelling on Same Lot)</i>		<i>P</i>	<i>P</i>
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. The “Maximum Building Height” section in Table 9.3125(3)(g) of the Eugene Code, 1971, 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
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'
<i>Accessory Dwellings Detached from Main Building</i>		30'	30'

Section 13. 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 14. 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 15. 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
<i>Accessory Dwelling (1 Per Detached One-Family Dwelling on Same Lot)</i>	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

Table 9.3310 S-E Elmira Road Special Area Zone Uses and Permit Requirements	
	S-E
Duplex (Two-Family Attached on Same Lot)	P
Multiple Family (3 or More Dwellings on Same Lot) (See EC 9.5500)	PUD

Section 16. 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 Dwelling (1 Per Detached One-Family Dwelling on Same Lot).**
 - ~~(b)~~ Duplexes.
 - ~~(c)~~ Triplexes.
 - ~~(d)~~ Four-plexes.
 - ~~(e)~~ Multiple-family dwellings.
 - ~~(f)~~ Home occupations.
 - ~~(g)~~ Bed and breakfast facilities.

Section 17. 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)** ~~The following uses listed on Table EC 9.2740 are prohibited in the S-JW Jefferson Westside Special Area Zone:~~
 - ~~(1a)~~ Correctional Facilities.
 - (2b) 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 18. 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 19. 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.~~
 - (eb) There shall be at least 1 off-street parking space on the property.
 - (dc) The dwelling shall be located on a lot that is not a flag lot.
 - (ed) 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. Provide a pedestrian walkway from the street or alley to the primary entrance of the **[secondary] accessory** dwelling.
 3. The primary entrance to a **[secondary] accessory** dwelling shall

- be defined by a roofed porch.
4. 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 20. 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'
<i>Accessory Dwellings Detached from Main Building</i>	<i>25 feet</i>	<i>25 feet</i>	<i>25 feet</i>		

Section 21. 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)
<i>Accessory Dwelling (1 Per Detached One-Family Dwelling on Same Lot)</i>	<i>P(2)</i>
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 22. 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 23. The following entry in the “Dwellings” subsection of the “Residential” section in Table 9.6410 of the Eugene Code, 1971, are 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 S-JW Jefferson-Westside Special Area Zone or the R-2 subarea of the S-C Chambers Special Area Zone	[1 per dwelling.] 0

Section 24. 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.]~~
- (ba) Conversion of Existing Building. A legally established building existing as of August 29, 2014, may be converted to an ~~[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. 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).
 - (eb) Building Height. An ~~[secondary]~~ **accessory** 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.
 - (ec) ~~[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 25. The findings set forth in Exhibit A attached to this Ordinance are adopted as findings in support of this Ordinance.

Section 26. 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 27. 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.

Passed by the City Council this

_____ day of _____, 2019

City Recorder

Approved by the Mayor this

_____ day of _____, 2019

Mayor

FINDINGS ADDRESSING ORS 197.312(5)

Secondary /Accessory Dwellings

(City File CA 18-1)

Background

In 2017, the Oregon Legislature adopted a new law, Senate Bill 1051 as part of its efforts to promote housing affordability statewide. Pertinent is the portion of the law that addresses “accessory dwelling units” codified in the Oregon Revised Statutes at ORS 197.312(5). In 2019, the legislature amended ORS 197.312(5).

At ORS 197.312(5)(b)(A), the 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.

At ORS 197.312(5)(a), the law 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.

The 2019 legislature added, at ORS 197.312(5)(b)(B), the following text:

Reasonable local regulations relating to siting and design” does not include owner-occupancy requirements of either the primary of accessory structure or requirements to construct additional off-street parking.

The City set out to address the new law in two phases. In the first phase, the City amended the code to adopt the “accessory dwelling unit” term, and its statutory definition, in place of the City code’s similar but not identical “secondary dwelling” term and definition. This first phase also amended the code to add the explicit allowance for “accessory dwelling units” in most zones the City Council found to be “areas zoned for detached single-family dwellings.” In some ways, this was an exercise in semantics, because the City already allowed an additional dwelling on lots that meet development standards within the City’s residential zones. Prior to these amendments, the City’s code referred to the additional dwelling as either a “secondary dwelling” or simply as an additional one-family dwelling on a lot. The City Council approved the “phase 1” amendments to the land use code on June 11, 2018. The second phase of amendments was intended to ensure the code’s development standards for these additional dwellings are “reasonable local regulations relating to siting and design” as required by ORS.312(5)(a).

The first phase amendments were appealed to the Oregon Land Use Board of Appeals (LUBA). LUBA issued a decision remanding the City Council’s ordinances on November 29, 2018. Consistent with LUBA’s Order, the City is now reconsidering its phase one work, including the required review of the

identified development standards to ensure they are subject only to “reasonable local regulations relating to siting and design.”

City Council held a work session on February 20, 2019 to begin addressing the remand. At that meeting, Council reviewed the accessory dwelling regulations raised in the LUBA appeal to provide initial direction for staff work on code amendments. Essentially, the Council provided staff with an initial “hit” as to whether the identified code provisions are “reasonable regulations relating to siting and design” consistent with ORS 197.312(5)(a). Council provided direction for staff to return with a proposed ordinance that, if passed, would eliminate some of the regulations identified in the LUBA appeal. Council also asked that staff provide findings to explain how the retained regulations are consistent with ORS 197.312(5)(a).

The findings in this document pertain to the regulations identified in LUBA’s remand that the City Council has determined to be consistent with ORS 197.312(5) and is retaining in the City Code.

The terms “used in connection with,” “accessory to,” “reasonable,” “siting” and “design” are not defined in state law or in the Eugene Code, nor is there any useful textual, contextual or legislative history of the terms associated with Senate Bill 1051. The definitions from the Webster’s Third New International Dictionary (2002) were consulted by Council, as described below and as directed in a related LUBA Order (LUBA No. 2019-028).

“Connection” (“in connection with” is not defined) is defined as relevant here to mean: **1 a** the act of connecting: a coming into or being put in contact * * * **2** : the state of being connected or linked.” *“Connect”* **“1 : to join, fasten, or link together usu. By means of something intervening * * * 2 : to place or establish in any of various intangible relationships (* * * a relationship of things similar in purpose * * *)”**.

“Accessory” (“accessory to” is not defined) is defined as relevant here to mean: **1 of a thing a** : aiding or contributing in a secondary or subordinate way * * * : supplementary or secondary to something of greater primary importance * * * .”

“Site” (“siting” is not defined) is defined as relevant here to mean “the local position of building, town, monument or similar work either constructed or to be constructed, esp. in connection with its surroundings;” “a space of ground occupied by or to be occupied by a building;” and “land made suitable for building purposes by dividing into lots, laying out streets and providing facilities (as water, sewers, power supply).”

Given this definition of “site” and the new law’s explicit grant of some local regulatory authority over siting, it would be reasonable to find that “regulations relating to siting” include both: (1) regulations that specify the necessary lot characteristics for the siting of an accessory dwelling; and (2) regulations that specify where, on such a lot, an accessory dwelling may be sited.

“Design” is defined as “a scheme for the construction, finish, and ornamentation of a building as embodied in the plans, elevations, and other architectural drawings pertaining to it.”

It would be reasonable, for example, to find that “regulations relating to design” include regulations that address height and size.

“Reasonable” is defined as “being or remaining within the bounds of reason; not extreme; not excessive ***; not demanding too much.”

The City Council incorporates this into the analysis by considering whether a regulation is so important for addressing a legitimate government concern that it justifies the limitation it may place on the number of accessory dwelling units that may be established in the City.

Findings

For the City Council’s convenience, the Eugene Code regulations addressed below are presented in the same order as the list of topics that was provided in Attachment A to the agenda item summary for the February 20, 2019 City Council work session.

Maximum Lot Coverage

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

Lot Coverage. That portion of a lot which, when viewed directly from above, would be covered by a building or structure, or any part thereof, except that the following structures or parts of structures shall themselves not be included in calculating lot coverage:

- (A) Any part of a structure without a roof.
- (B) Roof eaves.
- (C) Carports, porches, and balconies that are open at least 50 percent of their respective perimeter. The percentage calculation for adjacent carports, porches, and balconies that are separated by a common wall shall be determined individually for each carport, porch, or balcony.

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 Lot Coverage (17), (18)					
All Lots, except where specifically addressed below	50% of Lot	--	50% of Lot	--	--
Lots with Accessory Dwellings (Area-Specific)	See (17)(c)	--	--	--	--

9.2751 **Special Development Standards for Table 9.2750.**

(17) Accessory Dwellings.

- (c) Area-Specific Accessory Dwelling Standards. The following standards apply to all new attached or detached accessory dwellings in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association:
 - 3. 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.

Findings: Maximum lot coverage standards are related to both siting and design. In terms of “relating to siting,” the standard relates to the “space of ground occupied by or to be occupied by a building.” In terms of “relating to design,” the standard influences the construction plans for the dwelling such that the building is designed to strike the required balance between buildings and open lot area.

Regarding Table 9.2750, the maximum lot coverage requirement of 50 percent that applies in most of the R-1 zone and in R-2 is a reasonable standard because it is an effective way to ensure that the added density will not overtake residents’ need for yard/open space (and possibly parking). It is also reasonable because it helps ensure that the increased densities do not create unnecessary “livability” concerns that residential neighborhoods are becoming overcrowded. This standard is also reasonable because the City must carefully manage the creation of impermeable surface area in the City based on the effect it has on the stormwater system. Compliance with the City’s NPDES permit is extremely important and is dependent in substantial part on the City’s ability to limit the quantity of stormwater that leaves development sites and that must be conveyed and treated before entering the State’s waterways.

The University area neighborhood specific standard at EC 9.2751(17)(c)3. requires that all roofed areas be included as part of the maximum 50 percent lot coverage, whereas the standard that applies to the rest of the city does not include roof eaves, or carports, porches, and balconies that are open at least 50 percent of their respective perimeter in the calculation. It is reasonable that accessory dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association (“the university area neighborhoods”) are subject to specialized area-specific standards. The standards contained in EC 9.2751(17)(c) were adopted as interim protection measures for the existing single-family neighborhoods surrounding the University of Oregon (Amazon, Fairmount and South University), which have in recent years experienced a substantial increase in unforeseen housing development associated with the skyrocketing demand for student housing in the proximity of the university. Residents of those neighborhoods supported this regulation as a way to help make the new development less impactful on the livability of the neighborhood. Livability is an important Statewide Planning Goal 14 concept, along with accommodating the need for compact development.

As part of Envision Eugene, the city is committed to completing area planning for the university area neighborhoods, including consideration of specific design standards for housing to addresses impacts from proximity to the University of Oregon. The interim protection measures are intended to limit further negative impacts until the area planning process is completed. It is expected that these interim measures will be replaced by a more comprehensive set of development and design standards established as part of the area planning effort. Until such that occurs, it is reasonable to limit overall building coverage on a lot in those areas.

Outdoor Living Area

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
Outdoor Living Area (13)					
<i>Minimum Total Open Space</i>	–	--	<i>20% of dev. site</i>	<i>20% of dev. site</i>	<i>20% of dev. site</i>

Findings: A minimum requirements for outdoor living area/open space on a development site is related to both siting and design because it requires the accessory dwelling to be designed (building size) and located on the lot in such a way to ensure at least 20 percent of the development site is in open space.

This 20 percent requirement for accessory dwelling lots in the R-2, R-3 and R-4 zones is reasonable because it addresses overcrowding concerns and the livability needs that are satisfied by a yard or open space. It applies universally to all dwelling types and uses in the R-2, R-3 and R-4 zones, which are higher density zones. For the R-2 zone, the outdoor living area/open space can be included as part of the 50 percent of the lot not covered by building (lot coverage).

Building Size

9.2751 Special Development Standards for Table 9.2750.

(17) **Accessory Dwellings.**

- (a) General Standards for Attached Accessory Dwellings. Except as provided in subsection (c) below, accessory dwellings that are within the same building as the primary dwelling shall comply with all of the following:
 - 2. Building Size. The total building square footage of an 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.
- (b) General Standards for Detached Accessory Dwellings. In addition to the standards in subsection (a) of this section, detached accessory dwellings shall comply with the following, except as provided in subsection (c) below:
 - 1. Building Size. Up to 300 square feet of un-heated garage or storage space attached to the accessory dwelling is allowed and is not counted in the allowable total building square footage.
- (c) Area-Specific Accessory Dwelling Standards. The following standards apply to all new attached or detached accessory dwellings in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association:
 - 4. Building Size. For lots at least 7,500 square feet and less than 9,000 square feet in area, the accessory dwelling shall not exceed 600 square feet of total building square footage. For lots at least 9,000 square feet in area, the 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.

Findings: Building size is related to design as it affects the layout and plan (the “scheme” for the

construction”) of the building.

Regarding EC 9.2751(17)(a)2. for attached and detached accessory dwellings (except within the university area neighborhoods), limiting building square footage to 10 percent of the total lot area or 800 square feet, whichever is smaller, is reasonable because accessory dwellings, by definition (ORS 197.312(5)(a)) must be “used in connection with” or “accessory to” the main dwelling. While not a sufficient factor on its own, the size differential contributes to the accessory relationship between the two dwellings, consistent with the statutory definition. Limiting the accessory dwelling size based on the lot size is also reasonable, because development on smaller lots can have a greater impact on overcrowding and neighborhood livability.

Regarding EC 9.2751(17)(b)1. for detached accessory dwellings (except within the university area neighborhoods), providing a limit of up to 300 square feet of un-heated garage or storage space is reasonable because it provides for a reasonable amount of storage or garage space in connection with the accessory dwelling while keeping the accessory dwelling a subordinate use on the lot, consistent with the definition of “accessory dwelling” at ORS 197.312(5)(b).

Regarding EC 9.2751(17)(c)5., which applies to all accessory dwellings in the university area neighborhoods, limiting building square footage to 600 square or 800 square feet (depending on the lot size) for accessory dwellings in the university area neighborhoods is reasonable because accessory dwellings, by definition (ORS 197.312(5)(a)) must be “used in connection with” or “accessory to” the main dwelling. While not a sufficient factor on its own, the size differential contributes to the accessory nature of the relationship between the two dwellings. This building size limitation in the university area neighborhoods is similar to the standard that applies to the remainder of the City. In all areas of the city, 800 square feet in the maximum building size for accessory dwellings.

It is reasonable that accessory dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association are subject to specialized area-specific standards. The standards contained in EC 9.2751(17)(c) were adopted as interim protection measures for the existing single-family neighborhoods surrounding the University of Oregon (Amazon, Fairmount and South University), which have in recent years experienced a substantial increase in unforeseen housing development associated with the skyrocketing demand for private student housing in the proximity of the university. Residents of those neighborhoods supported this regulation as a way to help make the new development less impactful on the livability of the neighborhood. Livability is an important Statewide Planning Goal 14 concept, along with accommodating the need for compact development.

As part of Envision Eugene, the city is committed to completing area planning for the university area neighborhoods, including consideration of specific design standards for housing to addresses impacts from proximity to the University of Oregon. The interim protection measures are intended to limit further negative impacts until the area planning process is completed. It is expected that these interim measures will be replaced by a more comprehensive set of development and design standards established as part of the area planning effort.

Outdoor Storage/Trash

9.2751 Special Development Standards for Table 9.2750.

(17) Accessory Dwellings.

- (b) General Standards for Detached Accessory Dwellings. In addition to the standards in subsection (a) of this section, detached accessory dwellings shall comply with the following, except as provided in subsection (c) below:
 - 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.
- (c) Area-Specific Accessory Dwelling Standards. The following standards apply to all new attached or detached accessory dwellings in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association:
 - 9. Outdoor Storage/Trash. The standards at EC 9.2751(17)(b)4. are applicable to detached accessory dwellings only.

Findings: The requirement that outdoor storage and garbage areas associated with detached accessory dwellings be screened from view from adjacent properties and those across the street or alley is related to both siting and design. It relates to siting because it impacts the position of the outdoor storage/trash area in relation to the accessory dwelling to ensure that outdoor storage and trash can be adequately screened. It relates to design because the requirement impacts the scheme for the construction and finish of the building to ensure that outdoor storage and trash is adequately screened.

Because accessory dwellings can be impactful to surrounding properties, due to an increase in residents, this standard is a reasonable way to ensure that anything stored outside, or the additional trash produced from the resident(s) of the accessory dwelling does not negatively impact surrounding properties.

Pedestrian Access

9.2751 Special Development Standards for Table 9.2750.

(17) Accessory Dwellings.

- (b) General Standards for Detached Accessory Dwellings. In addition to the standards in subsection (a) of this section, detached accessory dwellings shall comply with the following, except as provided in subsection (c) below:
 - 2. Pedestrian Access. A pedestrian walkway shall be provided from the street or alley to the primary entrance of the accessory dwelling. The pedestrian walkway shall be a hard surface (concrete, asphalt or pavers) and shall be a minimum of 3 feet in width.

- (c) Area-Specific Accessory Dwelling Standards. *The following standards apply to all new attached or detached accessory dwellings in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association:*
7. Pedestrian Access. *The standards at EC 9.2751(17)(b)2. are applicable to attached and detached accessory dwellings.*

Findings: The requirement for a minimum 3-foot wide pedestrian walkway for all accessory dwellings in the university area neighborhoods and for all detached accessory dwellings in the remainder of the city is related to design. It relates to design because it is part the scheme for construction and finish of the accessory dwelling.

It is reasonable to require a specific hardscaped path from the street or alley to the entrance of the accessory dwelling to provide an accessible route for residents and guests to the accessory dwelling, and to clearly identify the entrance.

it is reasonable that the accessory dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association are subject to specialized area-specific standards. The standards contained in EC 9.2751(17)(c) were adopted as interim protection measures for the existing single-family neighborhoods surrounding the University of Oregon (Amazon, Fairmount and South University), which have in recent years experienced a substantial increase in unforeseen housing development associated with the skyrocketing demand for private student housing in the proximity of the university. Residents of those neighborhoods supported this regulation as a way to help make the new development less impactful on the livability of the neighborhood. Livability is an important Statewide Planning Goal 14 concept, along with accommodating the need for compact development.

As part of Envision Eugene, the city is committed to completing area planning for the university area neighborhoods, including consideration of specific design standards for housing to addresses impacts from proximity to the University of Oregon. The interim protection measures are intended to limit further negative impacts until the area planning process is completed. It is expected that these interim measures will be replaced by a more comprehensive set of development and design standards established as part of the area planning effort.

Minimum Attachment

9.2751 **Special Development Standards for Table 9.2750.**

(17) Accessory Dwellings.

- (a) General Standards for Attached Accessory Dwellings. *Except as provided in subsection (c) below, accessory dwellings that are within the same building as the primary dwelling shall comply with all of the following:*
4. Minimum Attachment. *The accessory dwelling and the primary dwelling must share a common wall or ceiling for a minimum length of 8 feet to be considered attached.*
- (c) Area-Specific Accessory Dwelling Standards. *The following standards*

apply to all new attached or detached accessory dwellings in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association:

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

Findings: The requirement for a minimum attachment between an accessory dwelling and the primary dwelling to be considered “attached” is related to design because it relates to the plan or scheme for construction of the accessory dwelling.

It is reasonable to provide clarification as to what constitutes attachment to avoid someone from claiming that a 2” by 4” board is sufficient to “attach” the accessory dwelling to the primary dwelling, and only be subject to the standards that apply to “attached accessory dwellings.” Typically, attached accessory dwellings have less external impacts, because they are a part of the primary dwelling, and therefore have a lessor set of standards than detached accessory dwellings.

Prohibition on Alley Access Lots

9.2741 **Special Use Limitations for Table 9.2740.**

(2) **Accessory Dwellings.** *Accessory dwellings are subject to the standards beginning at EC 9.2750 and EC 9.2751, except that new accessory dwellings are prohibited on alley access lots.*

9.2751 **Special Development Standards for Table 9.2750.**

(18) **Alley Access Lots in R-1.**

(a) **General Standards.**

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.*

Findings: The prohibition on siting an accessory dwelling on an R-1 lot if the lot does not have street frontage and can be accessed only from an alley is a regulation relating to siting. It relates to the location of buildings, specifically those that are proposed for location on an alley; it relates to the ground that may be occupied by an accessory dwelling.

ORS 197.312(5)(b) specifically makes the allowance of accessory dwellings *subject to* local regulations. Although this regulation does make an accessory dwelling a prohibited use on some lots, it is reasonable because it is necessary to address the impacts of a potential doubling of the number of vehicular trips on city alleys that are not typically improved to a level to support such traffic. It also helps ensure that the increased densities on these inherently small lots do not create “livability” issues that arise when residential neighborhoods become overcrowded with unregulated infill. Livability issues must be balanced with growth for the welfare of a community’s members. Goal 14 is “[t]o provide for an orderly and efficient transition from rural to urban land, to accommodate urban populations and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.” Development on alley access lots can be more impactful to surrounding properties because they are generally small lots surrounded by homes on three sides. The existing alleys are within the older neighborhoods where there is a traditional grid pattern of blocks and streets along with older homes that limits the location and overall size of alley access lots. The regulation is an effective way to

limit traffic on the city's alleys, many of which are unimproved, and to address livability concerns associated with overcrowding.

Minimum Lot Size

9.2751 Special Development Standards for Table 9.2750.

(17) **Accessory Dwellings.**

- (a) General Standards for Attached Accessory Dwellings. Except as provided in subsection (c) below, accessory dwellings that are within the same building as the primary dwelling shall comply with all of the following:
 - 1. Lot Area. To allow an accessory 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.
- (c) Area-Specific Accessory Dwelling Standards. The following standards apply to all new attached or detached 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 an accessory dwelling, the lot shall contain at least 7,500 square feet.

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:
 - (b) Accessory dwellings are not allowed on flag lots less than 12,500 square feet.

Findings: Lot area minimum standards are regulations relating to siting because they set out the necessary specifications for sites on which an accessory dwelling can (and cannot) be placed (identifying “the local position of a building to be constructed” or “the space of ground to be occupied by a building”).

Regarding EC 9.2751(17)(a)1. and EC 9.2775(4)(b), requiring that a flag lot be at least 12,500 square feet to allow for an accessory dwelling is reasonable because flag lots are already serving as a form of infill in a neighborhood, and a potential for doubling that impact again with an accessory dwelling raises concerns about impacts on surrounding properties and Goal 14 livability. Similar to alley access lots, flag lots are typically created out of what was the backyard of a single-family dwelling. Limiting the size of lot area where accessory dwellings are permitted potentially lessens impacts on surrounding properties. The provision that all other lots contain at least 6,100 square feet is reasonable because it provides for little more than adequate room for a primary and accessory dwelling with a reasonable amount of yard/open space (and possibly parking) without causing overcrowding. The City has a responsibility to balance the need for affordable housing and the efficient use of land with the need for communities to be livable.

Regarding EC 9.2751(17)(c)5. which applies to all accessory dwellings in the university area neighborhoods, requiring a minimum lot size of at least 7,500 square feet in the university area neighborhoods to site an accessory dwelling is reasonable because it provides for little more than adequate room for both a primary and an accessory dwelling with a bit of yard/open space (and possibly parking) in a way that could successfully blend with these established neighborhoods. The City has a responsibility to balance the need for affordable housing and the efficient use of land with the need for communities to be livable. Statewide Planning Goal 14 requires all of these things.

It is reasonable that the accessory dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association are subject to specialized area-specific standards. The standards contained in EC 9.2751(17)(c) were adopted as interim protection measures for the existing single-family neighborhoods surrounding the University of Oregon (Amazon, Fairmount and South University), which have in recent years experienced a substantial increase in unforeseen housing development associated with the skyrocketing demand for private student housing in the proximity of the university. Residents of those neighborhoods supported this regulation as a way to help make the new development less impactful on the livability of the neighborhood. Livability is an important Statewide Planning Goal 14 concept, along with accommodating the need for compact development.

As part of Envision Eugene, the city is committed to completing area planning for the university area neighborhoods, including consideration of specific design standards for housing to addresses impacts from proximity to the University of Oregon. The interim protection measures are intended to limit further negative impacts until the area planning process is completed. It is expected that these interim measures will be replaced by a more comprehensive set of development and design standards established as part of the area planning effort.

Density

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 accessory 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.)					
One-Family Dwelling (1 Per Lot in R-1)	P		P	P	P
Accessory Dwelling (1 Per Detached One-Family Dwelling on Same Lot)	P(2)				

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
Density (1)					
Minimum Net Density per Acre	No Minimum	--	13 units	20 units	20 units
Maximum Net Density per Acre	14 units	--	28 units	56 units	112 units

Findings: Minimum and maximum density relate to siting because they set out the necessary specifications for sites on which an accessory dwelling can (and cannot) be placed (identifying “the local position of a building to be constructed” or “the space of ground to be occupied by a building”).

It is reasonable that accessory dwellings be subject to minimum and maximum density requirements to address overcrowding and livability. These requirements provide for little more than adequate room for a primary and accessory dwelling with a reasonable amount of yard/open space (and possibly parking) without causing overcrowding. The City has a responsibility to balance the need for affordable housing and the efficient use of land with the need for communities to be livable.

Lot Dimensions (University Area Specific)

9.2751 Special Development Standards for Table 9.2750.

(17) Accessory Dwellings.

- (c) Area-Specific Accessory Dwelling Standards. *The following standards apply to all new attached or detached accessory dwellings in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association:*
 - 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.*

Findings: Lot dimension standards are related to siting because they set out the necessary specifications for sites on which an accessory dwelling can be placed (identifying “the local position of a building to be constructed” or “the space of ground to be occupied by a building”).

It is reasonable to limit the siting of accessory dwellings to lots with dimensions that includes a space sufficient to encompass a 45 foot by 45 foot area because it ensures that an extremely narrow lot, already with a single-family home, will not also have an accessory dwelling. Such a narrow or odd-shaped lot will already be an anomaly in the neighborhood, with its existing home inherently located close to its neighbors. The City has a responsibility to balance the need for affordable housing and the efficient use of land with the need for these densely populated university area R-1 neighborhoods to remain livable for all residents, not just the transitory student population. Livability is an important statewide Planning Goal 14 concept, along with accommodating the need for compact development.

It is reasonable that accessory dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association are subject to specialized area-specific standards. The standards contained in EC 9.2751(17)(c) were adopted as interim protection

measures for the existing single-family neighborhoods surrounding the University of Oregon (Amazon, Fairmount and South University), which have in recent years experienced a substantial increase in unforeseen housing development associated with the skyrocketing demand for private student housing in the proximity of the university. Residents of those neighborhoods supported this regulation as a way to help make the new development less impactful on the livability of the neighborhood. Livability is an important Statewide Planning Goal 14 concept, along with accommodating the need for compact development.

As part of Envision Eugene, the city is committed to completing area planning for the university area neighborhoods, including consideration of specific design standards for housing to addresses impacts from proximity to the University of Oregon. The interim protection measures are intended to limit further negative impacts until the area planning process is completed. It is expected that these interim measures will be replaced by a more comprehensive set of development and design standards established as part of the area planning effort.

Building Height/Sloped Setback

9.2751 Special Development Standards for Table 9.2750.

(3) Building Height.

- (d) *An additional 7 feet of building height is allowed for roof slopes of 6:12 or steeper in the R-1, R-2, R-3 and R-4 zones, except that this additional building height allowance is not permitted in the R-1 zone for accessory dwellings, accessory buildings or development on alley access lots.*

(17) Accessory Dwellings.

- (a) General Standards for Attached Accessory Dwellings. *Except as provided in subsection (c) below, accessory dwellings that are within the same building as the primary dwelling shall comply with all of the following:*
 - 3. Building Height/Interior Setback. *Except for accessory dwellings on flag lots (see EC 9.2775), the following standards apply:*
 - a. *For attached accessory dwellings located within 60 feet of a front lot line, interior yard setbacks shall be at least 5 feet, and maximum building height shall be limited to that of the main building as per Table 9.2750*
 - b. *For attached accessory dwellings located greater than 60 feet of a front lot line, interior yard setbacks shall be at least 5 feet. In addition, at a point that is 8 feet above finished grade, the setback shall slope at the rate of 10 inches vertically for every 12 inches horizontally away from the property line to a maximum building height of 18 feet. (See **Figure 9.2751(16)(b)3.**)*
 - c. *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.*

- (b) General Standards for Detached Accessory Dwellings. *In addition to*

the standards in subsection (a) of this section, detached accessory dwellings shall comply with the following, except as provided in subsection (c) below:

5. **Building Height/Interior Setback.** Except for accessory dwellings on flag lots (see EC 9.2775), the following standards apply:
 - a. Interior yard setbacks shall be at least 5 feet. In addition, at a point that is 8 feet above finished grade, the setback shall slope at the rate of 10 inches vertically for every 12 inches horizontally away from the property line until a point not to exceed a maximum building height of 18 feet.
 - 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. This standard may be adjusted to allow for an accessory dwelling over an accessory building in accordance with EC 9.8030(34).

(c) **Area-Specific Accessory Dwelling Standards.** The following standards apply to all new attached or detached accessory dwellings in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association:

6. **Building Height/Interior Setback.** For detached accessory 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.
 - b. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in 1. 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.)**

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

(5) Development Standards.

(e) **Additional Standards for Accessory Dwellings on Flag Lots.**

3. **Building Height/Interior Setback.**
 - a. Interior yard setbacks shall be at least 10 feet. In addition, at a point that is 8 feet above finished grade, the setback shall slope at the rate of 10 inches vertically for every 12 inches horizontally away from the property line until a point not to exceed a maximum building height of 18 feet for detached accessory dwellings and the maximum building height of the primary dwelling for attached accessory dwellings.

- 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.*
- c. *This standard may be adjusted to allow for an accessory dwelling over an accessory building in accordance with EC 9.8030(34).*

Findings: Building height standards are related to design as they affect the plan or “scheme” for the construction and finish of the accessory building. Building setbacks standards are related to siting because they impact the position or location of the accessory dwelling on the lot.

Regarding EC 9.2751(3)(d), which applies in the R-1 zone and clarifies that the additional 7 feet of height granted to buildings with steeper roof pitches does not apply to accessory dwellings, is reasonable because this also applies to accessory buildings (such as garages and sheds) and development on alley access lots, both of which building types are similar in size to accessory dwellings. By definition, accessory dwellings are intended to be used in connection with or accessory to the primary one-family dwelling. Not granting a height bonus in R-1 is a reasonable method to ensure that the accessory dwelling is “accessory” to the primary dwelling.

Regarding EC 9.2751(17)(a)3., which requires attached accessory dwellings (except within the university area neighborhoods) located within 60 feet of a front lot line have interior yard setbacks of at least 5 feet, and a maximum building height limited to that of the main building as per Table 9.2750 is reasonable because it applies the minimum setback and maximum building height of the main building (primary dwelling) to the accessory dwelling that is attached to the main building. Presumably, if the attached accessory dwelling is within 60 feet of the front lot line, it will have less of an impact on adjacent properties than if located in the back yard. The standards in subsection b. that prescribe a sloped setback and maximum building height of 18 feet for attached accessory dwellings located greater than 60 feet from a front lot line is reasonable because there are greater impacts to surrounding properties when an accessory dwelling is located more than 60 feet from the front lot line. The standard in subsection c. that limits intrusions into setbacks beyond the standard instructions at EC 9.6745(3) are reasonable because accessory dwellings can have a greater impact on overcrowding, solar access and neighborhood livability.

Regarding EC 9.2751(17)(b)5., which applies to detached accessory dwellings (except in the university area neighborhoods) is reasonable because accessory dwellings are intended to be accessory to the primary dwelling, and limiting their size is one way to ensure they are accessory. Limiting the building height and setbacks of detached accessory dwelling is also reasonable because development on the rear portion of lots can have a greater impact on overcrowding, solar access and neighborhood livability.

Regarding EC 9.2751(17)(c)9., which applies to detached accessory dwellings in the university area neighborhoods, these standards are same as the standards that apply to detached accessory dwellings in the remainder of the city (see EC 9.2751(17)(b)5.), except that there is no provision for an adjustment review to allow for an accessory dwelling over an accessory building, such as a detached garage.

It is reasonable that accessory dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association (“the university area

neighborhoods”) are subject to specialized area-specific standards. The standards contained in EC 9.2751(17)(c) were adopted as interim protection measures for the existing single-family neighborhoods surrounding the University of Oregon (Amazon, Fairmount and South University), which have in recent years experienced a substantial increase in unforeseen housing development associated with the skyrocketing demand for private student housing in the proximity of the university. Residents of those neighborhoods supported this regulation as a way to help make the new development less impactful on the livability of the neighborhood. Livability is an important Statewide Planning Goal 14 concept, along with accommodating the need for compact development.

As part of Envision Eugene, the city is committed to completing area planning for the university area neighborhoods, including consideration of specific design standards for housing to addresses impacts from proximity to the University of Oregon. The interim protection measures are intended to limit further negative impacts until the area planning process is completed. It is expected that these interim measures will be replaced by a more comprehensive set of development and design standards established as part of the area planning effort. Until such that occurs, it is reasonable to have specific building height/setback standards for accessory dwellings in those areas.

Regarding EC 9.2775(5)(e) which applies to accessory dwellings on flag lots, it is reasonable to require 10- foot setbacks for accessory dwellings because all new buildings on flag lots are required to be setback 10 feet to limit impacts on surrounding properties. As mentioned previously, flag lots are a form of infill that can be impactful to surrounding properties. Similar to alley access lots, flag lots are typically created out of what was the backyard of a single-family dwelling. Requiring accessory dwellings to be setback 10 feet on a flag lot potentially lessens impacts on surrounding properties. The remaining building height/sloped setback standards for accessory dwellings on flag lots are the same as those in EC 9.2751(17)(b)5. above.

Findings Addressing Eugene Code 9.8065

Secondary /Accessory Dwellings (City File CA 18-1)

Findings

Eugene Code Section 9.8065 requires that the following approval criteria (in ***bold italics***) be applied to a land use code amendment:

- (1) The amendment is consistent with applicable statewide planning goals adopted by the Land Conservation and Development Commission.***

Goal 1 - Citizen Involvement. *To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

The City has acknowledged provisions for community involvement which insure the opportunity for citizens to be involved in all phases of the planning process and set out requirements for such involvement. These land use code amendments do not amend the citizen involvement program. The process for adopting these amendments complied with Goal 1 because the process is consistent with the City's acknowledged citizen involvement provisions for code amendments, as codified in the City's land use code.

For the initial adoption, a Notice of Proposed Amendment was filed with the Oregon Department of Land Conservation and Development on January 30, 2018. A public hearing was held by the Planning Commission on March 6, 2018. Consistent with land use code requirements, the Planning Commission public hearing on the proposal was duly noticed to all neighborhood organizations in Eugene, as well as community groups and individuals who requested notice. On March 26, 2018, the Planning Commission recommended that the City Council approve the proposed the amendments. On March 27, 2018, a Revised Notice of Proposed Amendment was filed with the Oregon Department of Land Conservation and Development, incorporating the Planning Commission's recommendations to the amendments. A public hearing before the City Council was held April 16, 2018. Prior to the hearing, notice of the public hearing was mailed to those who provided oral or written testimony during the planning commission hearing procedures, and those who requested notice of the planning commission's decision, and published in the Register Guard, consistent with land use code requirements. Information concerning the proposed amendments, including the dates of the public hearings and meeting materials, was posted on the City of Eugene website. <https://www.eugene-or.gov/764/Land-Use-Code-Amendments>

Upon adoption, the ordinances were subsequently appealed to the Land Use Board of Appeals (LUBA) by several parties. Following the LUBA decision on November 29, 2018 remanding the ordinances, the City Council held a work session on February 20, 2019 to begin addressing the remand. At the

meeting, Council reviewed the regulations raised in the LUBA appeal to provide an initial determination if they are “reasonable regulations relating to siting and design” consistent with ORS 197.312(5). Council provided direction for staff to return with a proposed ordinance to eliminate some regulations along with findings to justify how the remaining regulations raised in the LUBA appeal are consistent with ORS 197.312(5). For the remand, a Revised Notice of Proposed Amendment was filed with the Oregon Department of Land Conservation and Development on May 3, 2019. A public hearing before the City Council was held May 20, 2019. The City Council public hearing on the proposal was noticed to all neighborhood organizations in Eugene, as well as community groups and individuals who requested notice, including interested parties from the initial adoption. Notice of the public hearing was published in the Register Guard. Information concerning the proposed amendments, including the dates of the public hearings, were posted on the City of Eugene website. In addition, an interested parties email list was maintained, and email updates were provided at each step.

These processes afford ample opportunity for citizen involvement consistent with Goal 1. Therefore, the ordinance is consistent with Statewide Planning Goal 1.

Goal 2 - Land Use Planning. *To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual basis for such decisions and actions.*

Eugene’s land use code specifies the procedure and criteria that were used in considering these amendments. The record shows that there is an adequate factual basis for the amendments. The Goal 2 coordination requirement is met when the City engages in an exchange, or invites such an exchange, between the City and any affected governmental unit and when the City uses the information obtained in the exchange to balance the needs of the citizens.

To comply with the Goal 2 coordination requirement, the City engaged in an exchange about the subject of these amendments with all of the affected governmental units. Specifically, the City provided notice of the proposed action and opportunity to comment to the Oregon Department of Land Conservation and Development, as well as to Lane County and the City of Springfield. There are no exceptions to Statewide Planning Goal 2 required for these amendments. Therefore, the amendments are consistent with Statewide Planning Goal 2.

Goal 3 - Agricultural Lands. *To preserve agricultural lands.*

The amendments are for property located within the urban growth boundary and do not affect any land designated for agricultural use. Therefore, Statewide Planning Goal 3 does not apply.

Goal 4 - Forest Lands. *To conserve forest lands.*

The amendments are for property located within the urban growth boundary and do not affect any land designated for forest use. Therefore, Statewide Planning Goal 4 does not apply.

Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources. To conserve open space and protect natural and scenic resources.

OAR 660-023-0250(3) provides: Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

- (a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;
- (b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or
- (c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.

These amendments do not create or amend the City's list of Goal 5 resources, do not amend a code provision adopted to protect a significant Goal 5 resource or to address specific requirements of Goal 5, do not allow new uses that could be conflicting uses with a significant Goal 5 resource site and do not amend the acknowledged urban growth boundary. Therefore, Statewide Planning Goal 5 does not apply.

Goal 6 - Air, Water and Land Resource Quality. To maintain and improve the quality of the air, water and land resources of the state.

Goal 6 addresses waste and process discharges from development, and is aimed at protecting air, water and land from impacts from those discharges. The amendments do not affect the City's ability to provide for clean air, water or land resources. Therefore, Statewide Planning Goal 6 does not apply.

Goal 7 - Areas Subject to Natural Disasters and Hazards. To protect life and property from natural disasters and hazards.

Goal 7 requires that local government planning programs include provisions to protect people and property from natural hazards such as floods, landslides, earthquakes and related hazards, tsunamis and wildfires. The Goal prohibits a development in natural hazard areas without appropriate safeguards. The amendments do not affect the City's restrictions on development in areas subject to natural disasters and hazards. Further, the amendments do not allow for new development that could result in a natural hazard. Therefore, Statewide Planning Goal 7 does not apply.

Goal 8 - Recreational Needs. To satisfy the recreational needs of the citizens of the state and visitors, and where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Goal 8 ensures the provision of recreational facilities to Oregon citizens and is primarily concerned with the provision of those facilities in non-urban areas of the state. The amendments do not affect the City's provisions for or access to recreation areas, recreational facilities or recreational

opportunities. Therefore, Statewide Planning Goal 8 does not apply.

Goal 9 - Economic Development. *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

Goal 9 requires cities to evaluate the supply and demand of commercial land relative to community economic objectives. The amendments do not impact the supply of industrial or commercial lands. Therefore, the amendments are consistent with Statewide Planning Goal 9.

Goal 10 - Housing. *To provide for the housing needs of citizens of the state.*

Goal 10 requires communities to provide an adequate supply of residential buildable land to accommodate estimated housing needs for a 20-year planning period. The Residential Lands Supply Study (2017) was adopted by the City of Eugene as a refinement of the Envision Eugene Comprehensive Plan and complies with the requirements of Goal 10 and the corresponding Administrative Rule. According to the Residential Lands Supply Study, there is sufficient buildable residential land to meet the identified land need.

The amendments do not impact the supply of residential buildable land. No land is being re-designated from residential use to a nonresidential use, and the amendments do not otherwise diminish the amount of lands available for residential use. Rather, the amendments increase the capacity of existing residential land, by increasing the potential number of dwelling units that could be built without adversely impacting the residential land inventory.

The provisions specific to the S-JW Jefferson Westside and the S-C Chambers Special Area Zones recognize that those zones already allow for a second one-family dwellings that can be an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling, and are therefore already in compliance with state law.

Findings demonstrating consistency with ORS 197.312(5) are provided as a separate attachment.

Accordingly, the amendments do not impact the supply or availability of residential lands included in the documented supply of "buildable land" that is available for residential development as inventoried in the acknowledged Residential Lands Supply Study. Therefore, the amendments are consistent with Statewide Planning Goal 10.

Goal 11- Public Facilities and Services. *To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

The amendments do not affect the City's provision of public facilities and services. Therefore, Statewide Planning Goal 11 does not apply.

Goal 12- Transportation. To provide and encourage a safe, convenient and economic transportation system.

The Transportation Planning Rule (OAR 660-012-0060) contains the following requirement:

- (1) *If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
- (a) *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
 - (b) *Change standards implementing a functional classification system; or*
 - (c) *Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*
 - (A) *Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - (B) *Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
 - (C) *Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

The amendments do not change the functional classification of a transportation facility, change the standards implementing a functional classification system or degrade the performance of a facility otherwise projected to not meet performance standards. As such, the amendments do not have a significant effect under (a), (b) or (c). Therefore, the amendments do not significantly affect any existing or future transportation facilities. Based on the above findings, the amendments are consistent with Statewide Planning Goal 12.

Goal 13 - Energy Conservation. To conserve energy.

The amendments do not impact energy conservation. Therefore, Statewide Planning Goal 13 does not apply.

Goal 14 - Urbanization. *To provide for an orderly and efficient transition from rural to urban land use.*

The amendments do not affect the City's provisions regarding the transition of land from rural to urban uses. Therefore, Statewide Planning Goal 14 does not apply.

Goal 15 - Willamette River Greenway. *To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.*

The amendments do not contain any changes that affect the Willamette River Greenway regulations. Therefore, Statewide Planning Goal 15 does not apply.

Goal 16 through 19 - Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.

There are no coastal, ocean, estuarine, or beach and dune resources related to the property affected by these amendments. Therefore, these goals are not relevant, and the amendments will not affect compliance with Statewide Planning Goals 16 through 19.

(2) *The amendment is consistent with applicable provisions of the comprehensive plan and applicable adopted refinement plans.*

Applicable Metro Plan Policies

The following policies from the Metro Plan's Metropolitan Residential Land Use and Housing Element (identified below in *italics*) are applicable to these amendments. To the extent that the following policies constitute mandatory approval criteria, based on the findings provided below, the amendments are consistent with and supported by the applicable provisions of the Metro Plan.

Residential Density

A.10 *Promote higher residential density inside the UGB that utilizes existing infrastructure, improves the efficiency of public services and facilities, and conserves rural resource lands outside the UGB.*

Consistent with this policy, the amendments create more opportunities citywide for accessory dwellings by allowing them in additional zones and by removing several standards. Since accessory dwellings are a second smaller dwelling on a lot that contains a primary dwelling, there are efficiencies because the existing infrastructure, public facilities and services can be utilized for the accessory dwelling.

A.13 *Increase overall residential density in the metropolitan area by creating more opportunities for effectively designed in-fill, redevelopment, and mixed use while considering impacts of increased residential density on historic, existing and future neighborhoods.*

Consistent with this policy, the amendments create more opportunities citywide for accessory dwellings in areas designed for residential use by increasing the number of zones where accessory dwellings are allowed, and by removing several standards that are not reasonable regulations related

to siting and design. The remaining standards, such as building height, setbacks and building size ensure that accessory dwellings have minimal impact on surrounding properties in existing and future neighborhoods.

A. 14 Review local zoning and development regulations periodically to remove barriers to higher density housing and to make provision for a full range of housing options.

Consistent with this policy, the amendments provide for more opportunities for accessory dwellings by increasing the number of zones where accessory dwellings are allowed, and by removing several standards that are barriers because they are not reasonable regulations related to siting and design. The amendments attempt to strike a balance between maintaining livability within existing neighborhoods and providing housing for all income levels.

Housing Type and Tenure Policies

A.17 Provide opportunities for a full range of choice in housing type, density, size, cost, and location.

A.18 Encourage a mix of structure types and densities within residential designations by reviewing and, if necessary, amending local zoning and development regulations.

Consistent with these policies, the amendments provide for more opportunities for smaller housing types within residential areas by increasing the number of zones where accessory dwellings are allowed, and by removing several standards that are unreasonable regulations related to siting and design.

Affordable, Special Need, and Fair Housing

A.31 Consider the unique housing problems experienced by special needs populations, including the homeless, through review of local zoning and development regulations, other codes and public safety regulations to accommodate these special needs.

A.33 Consider local zoning and development regulations impact on the cost of housing.

Consistent with these policies, the City considered all potential users of accessory dwellings, including special needs populations. By increasing the number of zones where accessory dwellings are permitted, there will be more opportunities for this housing type, which can serve as home for a variety of populations. In addition, the removal of several standards increases the opportunities for this housing type and removes barriers to their development, which can effectively reduce costs.

Envision Eugene Comprehensive Plan

The Envision Eugene Comprehensive Plan does not contain any policies relevant to these amendments.

Applicable Refinement Plans

Given the broad applicability of these amendments, all adopted refinement plans were reviewed for consistency. No relevant policies were found in the following adopted refinement plans:

- Bethel-Danebo Refinement Plan (1982)
- Bethel-Danebo Refinement Plan Phase II (1977)

- Eugene Downtown Plan (2004)
- Fairmount/U of O Special Area Study (1982)
- Laurel Hill Neighborhood Plan (1982)
- 19th and Agate Special Area Study (1988)
- South Hills Study (1974)
- South Willamette Subarea Study (1987)
- Walnut Station Specific Area Plan (2010)
- Westside Neighborhood Plan (1987)
- West University Refinement Plan (1982)
- Whiteaker Plan (1994)
- Willow Creek Special Area Study (1982)

Findings addressing relevant provisions of applicable refinement plans are provided below.

Jefferson Far West Refinement Plan (1983)

The following residential policies in the Land Use Element of the plan lend general support for the amendments:

- 3.0 Encourage a mixture of housing densities and types to allow a diverse population group to live in the area.*

The amendments are consistent with these policies in that they will continue to provide the opportunity for smaller single-family housing types.

River Road-Santa Clara Urban Facilities Plan (1987)

The following policies from the Residential Land Use section are relevant:

- 1.0 Recognize and maintain the predominately low-density residential character of the area consistent with the Metro Plan.*
- 2.0 Provide a diversity of housing types in the area. Available techniques include encouraging reinvestment and rehabilitation of existing housing stock and the use of development standards that provide for clustering or planned unit development.*

Consistent with these policies, the amendments allow for accessory dwellings (a smaller type of single-family housing) in additional areas within these neighborhoods.

Willakenzie Area Plan (1992)

Although there are no policies in this refinement plan that directly address the amendments or constitute mandatory approval criteria, the following land use policies lends general support for the amendments:

Residential Policies

- 1. Maintain the existing low-density residential character of existing Willakenzie neighborhoods, while recognizing the need to provide housing for all income groups in the city.*

4. *Encourage a mixture of housing densities and types to address the housing needs of a diverse population.*

The amendments to allow for accessory dwellings in additional residential areas strike a balance between maintaining the character of existing low-density neighborhoods and providing housing for all income levels, consistent with this policy.

Based on the above findings, the proposal is consistent with and supported by the applicable provisions of these adopted plans.

Based on the above finding, this criterion is met.

- (3) *The amendment is consistent with EC 9.3020 Criteria for Establishment of an S Special Area Zone, in the case of establishment of a special area zone.***

The amendments do not establish a special area zone. Therefore, this criterion does not apply.

ALTERNATIVE DRAFT FINDINGS

Background

The City Council held a work session on February 20, 2019 to begin addressing the remand. At that meeting, Council reviewed the accessory dwelling regulations raised in the LUBA appeal to provide an initial determination if they are “reasonable regulations relating to siting and design” consistent with ORS 197.312(5). Council provided direction for staff to return with a proposed ordinance that, if approved by the Council, would retain most of the regulations and would remove five regulations. A subsequent change to state law (passed in June 2019) required that off-street parking requirements for accessory dwellings be removed. Because the removal of those requirements is mandated by the 2019 law, there are no findings that could provide an adequate legal justification for their retention. For this reason, those requirements are not addressed here.

Some Councilors asked City staff to also provide possible findings relating to the regulations proposed for removal. Since the statutory term “reasonable regulation relating to siting and design” is somewhat vague, these City Councilors wished to carefully consider whether the regulations could be rationally justified, allowing Council to retain all of the City’s current regulations. Alternative findings, explaining how the regulations listed below (that are proposed for removal) might be consistent with ORS 197.312(5)(a), are provided here.

The regulations addressed in these findings are:

- Prohibition on New Flag Lots
- Vehicle Use Area (University Area Specific)¹
- Maximum Bedroom
- Maximum Occupancy
- Alley Access Parking/Driveway (University Area Specific)²
- Dog Keeping

The ordinance that strikes the regulations listed above is provided under separate cover. Findings addressing how the retained regulations are “reasonable regulations relating to siting and design” consistent with ORS 197.312(5) are also provided under separate cover.

¹ The proposed ordinance includes removal of off-street (on-site) parking requirements as required by the 2019 law. The proposed ordinance also includes removal of the standards that pertained to the required off-street parking (e.g., dimensions of vehicle use areas). Without the requirement for off-street parking, strict standards for the location of off-site parking are likely to result in very little voluntary provision of such parking. In case Council believes the standards should be retained, to apply to voluntary development of off-street parking, staff has included the standards d in the findings below.

² See previous footnote.

Possible Alternative Findings

The findings below are provided in the event City Council finds, based on public testimony, that any of the above regulations listed above are “reasonable regulations relating to siting and design” consistent with ORS 197.312(5).

Prohibition on New Flag Lots

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:*
- (c) *Accessory dwellings are not allowed on flag lots that did not exist or were not approved prior to August 29, 2014.*

Findings: The prohibition of accessory dwellings on flag lots created after August 29, 2014 is related to siting because it affects the location in the city and the type of lots where accessory dwellings can be sited. This standard is reasonable because development on flag lots can be more impactful to surrounding properties. Similar to alley access lots, flag lots are typically created out of what was the backyard of a single-family dwelling. Limiting the location of accessory dwellings to existing flag lots will potentially lessens impacts on surrounding properties and is one way to limit overcrowding, and limit traffic.

Vehicle Use Area (University Area Specific)

9.2751 Special Development Standards for Table 9.2750.

(17) **Accessory Dwellings.**

- (c) Area-Specific Accessory Dwelling Standards. *The following standards apply to all new attached or detached accessory dwellings in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association:*
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.*

Findings:

This standard applies only when a developer chooses to include on-site parking. Limiting the on-site area that is dedicated to driveways, parking, turnarounds and other vehicle-use areas is a regulation related to both siting and design because it impacts the way in which an accessory dwelling is constructed (to accommodate vehicle use area) and/or the location of the accessory dwelling on the lot; it assists in determining the ground that may (or may not) be occupied by the building.

Limiting vehicle use area to 20 percent of the total lot area is a reasonable standard because, similar to lot coverage, it an effective way to ensure an adequate amount of area for yard/open space and parking, limit overcrowding, and limit impermeable surfaces and/or surfaces that contribute to stormwater flow and quality issues.

It is reasonable that accessory dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association (“the university area neighborhoods”) are subject to specialized area-specific standards. The standards contained in EC

9.2751(17)(c) were adopted as interim protection measures for the existing single-family neighborhoods surrounding the University of Oregon (Amazon, Fairmount and South University), which have in recent years experienced a substantial increase in unforeseen housing development associated with the skyrocketing demand for private student housing in the proximity of the university. Residents of those neighborhoods supported this regulation as a way to help make the new development less impactful on the livability of the neighborhood. Livability is an important Statewide Planning Goal 14 concept, along with accommodating the need for compact development.

As part of Envision Eugene, the city is committed to completing area planning for the university area neighborhoods, including consideration of specific design standards for housing to addresses impacts from proximity to the University of Oregon. The interim protection measures are intended to limit further negative impacts until the area planning process is completed. It is expected that these interim measures will be replaced by a more comprehensive set of development and design standards established as part of the area planning effort. Until such that occurs, it is reasonable to limit overall vehicle use areas in those areas.

Maximum Bedroom Count

9.2751 Special Development Standards for Table 9.2750.

(17) Accessory Dwellings.

- (a) General Standards for Attached Accessory Dwellings. Except as provided in subsection (c) below, accessory dwellings that are within the same building as the primary dwelling shall comply with all of the following:
 - 5. Maximum Bedrooms. The accessory dwelling shall contain no more than 2 bedrooms.
- (c) Area-Specific Accessory Dwelling Standards. The following standards apply to all new attached or detached accessory dwellings in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association:
 - 5. Maximum Bedrooms. For lots with a primary dwelling containing 3 or fewer bedrooms, the accessory dwelling shall be limited to 2 bedrooms. For lots with a primary dwelling containing 4 or more bedrooms, the accessory dwelling shall be limited to 1 bedroom.

Findings: The requirement to limit the number of bedrooms in an attached accessory dwelling is a related to design because it affects the layout and plan of the building.

Regarding EC 9.2751(17)(a)5., which applies to accessory dwellings in areas except the university area neighborhoods, is reasonable because accessory dwellings are intended to be used in connection with or accessory to the primary dwelling, and limiting their size is one way to ensure they are accessory. Additionally, because accessory dwellings are limited to a maximum building size of between 610 and 800 square feet is area, it is reasonable to limit the number of bedrooms to not more than 2 to ensure that the accessory dwelling has adequate living area and to limit overcrowding.

Regarding EC 9.2751(17)(c)4., which applies to all accessory dwellings in the university area neighborhoods, it is reasonable that the accessory dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association are subject to

area-specific standards. The standards contained in EC 9.2751(17)(c) were adopted as interim protection measures for the existing single-family neighborhoods surrounding the University of Oregon (Amazon, Fairmount and South University), which have experienced a substantial increase in unintended housing development associated with the demand for student housing and the proximity of the university.

As part of Envision Eugene, the city is committed to completing area planning for the university area neighborhoods, including consideration of specific design standards for housing to addresses impacts from proximity to the University of Oregon. The interim protection measures are intended to limit further negative impacts until the area planning process is completed. It is expected that these interim measures will be replaced by a more comprehensive set of development and design standards established as part of the area planning effort.

Limiting the number of bedrooms in the accessory dwelling based on the number of bedrooms in the primary dwelling in the university area neighborhoods is reasonable because accessory dwellings are intended to be used in connection with or accessory to the primary dwelling, and limiting the number of bedrooms is one way to ensure they are accessory in nature.

Maximum Occupancy Limits (University Area Specific)

9.2751 Special Development Standards for Table 9.2750.

(17) Accessory Dwellings.

- (c) Area-Specific Accessory Dwelling Standards. *The following standards apply to all new attached or detached accessory dwellings in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association:*
8. Maximum Occupancy. *For lots with a primary dwelling containing 3 or fewer bedrooms, the accessory dwelling shall be limited to 3 occupants. For lots with a primary dwelling containing 4 or more bedrooms, the accessory dwelling shall be limited to 2 occupants.*

Findings: Maximum occupancy limits are related to both siting and design because it is based on the number of bedrooms in the primary dwelling on the lot and it affects the layout and plan of the building

It is reasonable that the accessory dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association are subject to area-specific standards. The standards contained in EC 9.2751(17)(c) were adopted as interim protection measures for the existing single-family neighborhoods surrounding the University of Oregon (Amazon, Fairmount and South University), which have experienced a substantial increase in unintended housing development associated with the demand for student housing and the proximity of the university.

As part of Envision Eugene, the city is committed to completing area planning for the university area neighborhoods, including consideration of specific design standards for housing to addresses impacts from proximity to the University of Oregon. The interim protection measures are intended to limit further negative impacts until the area planning process is completed. It is expected that these interim measures will be replaced by a more comprehensive set of development and design standards established as part of the area planning effort.

Limiting the maximum number of occupants in the accessory dwelling based on the number of

bedrooms in primary dwelling is reasonable because accessory dwellings are intended to be used in connection with or accessory to the main dwelling and limiting the number of occupants is one way to ensure they are accessory.

Alley Access Parking/Driveway (University Area Specific)

9.2751 Special Development Standards for Table 9.2750.

(17) Accessory Dwellings.

- (c) Area-Specific Accessory Dwelling Standards. *The following standards apply to all new attached or detached accessory dwellings in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association:*

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

(18) Alley Access Lots in R-1.

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.*

Findings: These standards apply only when a developer chooses to include on-site parking. Standards

pertaining specifically to accessory dwelling parking and driveways where the primary vehicle access for the parking is from an alley are related to both siting and design because they impact the way in which an accessory dwelling is constructed (to accommodate parking area) and/or the location of the accessory dwelling on the lot; they assist in determining the ground that may or may not be occupied by the accessory dwelling.

These standards are reasonable because they limit the traffic on alleys while still ensuring an adequate amount of area for parking for the accessory dwelling. It is necessary to address the impacts of a potential doubling of the number of vehicular trips on city alleys that are not typically improved to a level to support such traffic.

It is reasonable that accessory dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association (“the university area neighborhoods”) are subject to specialized area-specific standards. The standards contained in EC 9.2751(17)(c) were adopted as interim protection measures for the existing single-family neighborhoods surrounding the University of Oregon (Amazon, Fairmount and South University), which have in recent years experienced a substantial increase in unforeseen housing development associated with the skyrocketing demand for private student housing in the proximity of the university. Residents of those neighborhoods supported this regulation as a way to help make the new development less impactful on the livability of the neighborhood. Livability is an important Statewide Planning Goal 14 concept, along with accommodating the need for compact development.

As part of Envision Eugene, the city is committed to completing area planning for the university area neighborhoods, including consideration of specific design standards for housing to address impacts from proximity to the University of Oregon. The interim protection measures are intended to limit further negative impacts until the area planning process is completed. It is expected that these interim measures will be replaced by a more comprehensive set of development and design standards established as part of the area planning effort. Until such that occurs, it is reasonable to apply specific parking and driveway standards.

Dog Keeping

9.2751 Special Development Standards for Table 9.2750.

(17) Accessory Dwellings.

- (a) General Standards for Attached Accessory Dwellings. Except as provided in subsection (c) below, accessory dwellings that are within the same building as the primary dwelling shall comply with all of the following:
 - 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.
- (c) Area-Specific Accessory Dwelling Standards. The following standards apply to all new attached or detached accessory dwellings in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association:
 - 10. Dog Keeping. The standards at EC 9.2751(17)(a)6. are applicable.

Findings: The standard related to dog keeping is related to siting because it limits the number of dogs on a lot where an accessory dwelling is located. Given that the keeping of four or more dogs on a premise is classified as a kennel (see definition of kennel at EC 9.0500), and a kennel is not an allowed use in the R-1 zone, this standard is reasonable (and somewhat redundant).

Testimony received during the remand process (through August 27, 2019) is available via the following links:

<https://www.eugene-or.gov/DocumentCenter/View/46239/Testimony-through-May-6-2019>

<https://www.eugene-or.gov/DocumentCenter/View/46837/Testimony-May-7-through-June-16>

A complete set of record materials, including the testimony link above, are available for review in a binder located at the City Council Office, or at Planning and Development Department at 99 W. 10th Avenue.