

# City of Bandon

<b>CITY COUNCIL AGENDA DOCUMENTATION</b>	<b>DATE:</b> December 3, 2018
<b>SUBJECT:</b> Public Hearing -Accessory Dwelling Unit Ordinance	<b>ITEM NO:</b> 4.2

**BACKGROUND:** In the last session, the Oregon legislature passed a bill mandating that all cities in Oregon with a population greater than 2,500 shall allow the development of at least one accessory dwelling unit (ADU) for each single-family dwelling in areas that are zoned for detached, single-family dwellings subject to local siting and design standards. The state goal is to increase the variety and types of housing available and to reduce regulatory barriers to the creation of ADU's.

The Planning Commission held an initial workshop to outline the parameters of a new accessory dwelling unit ordinance on August 23, 2018. A second workshop was held on September 27, 2018 where they reviewed a draft ordinance, and accepted comments from the public in attendance. A public hearing on the proposed ordinance was held on October 25, 2018, at which time they accepted public testimony and made revisions to the ordinance. The Commission continued their deliberations to November 15, 2018 when then recommended adoption of the attached ordinance.

The key features of the ordinance are that only one ADU be allowed on property in connection with a single-family dwelling. The unit may be attached or incorporated into the existing dwelling or may be a stand-alone detached structure. The maximum size of the ADU shall not exceed 650 sq. ft. or 40% of the primary dwelling's floor area, whichever is less. However, if an entire floor of an existing building (such as the second floor of a home, or a basement) is converted to an ADU, the ADU may occupy the entire floor even if it would be more than 650 sq. ft. One additional parking space beyond the two required for a single-family dwelling is required.

The Commission considered other factors in regulating ADU's, such as requiring one of the dwellings on the property to be occupied by the owner but chose not to include this due to difficulty with future sales of property, family trusts, etc., as well as recognizing that no similar rules exist for other rental properties in the City. They also discussed design requirements, but chose to rely on the existing setback, height, and other requirements in the underlying zone. Their discussion indicated that efforts should be made to respect neighborhood concerns (size, parking, etc.) but that other barriers to development should not be included to encourage this additional form of housing.

The Council is required to hold a public hearing. After the hearing, under Item 5.4.2 on the agenda, the Council can move to adopt the ordinance as presented. Should the Council wish to make modifications to the ordinance, or continue the hearing for additional comment, they can direct staff to take the appropriate actions.

The record for this item is attached, including draft ordinances, staff reports, and minutes of the previous meetings.

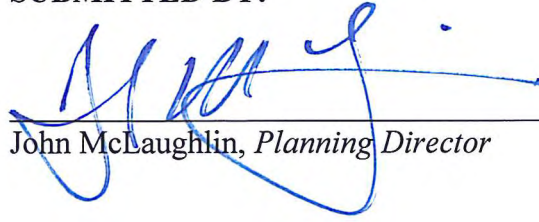
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**RECOMMENDATION:** Staff recommends adoption of the ordinance as presented by the Planning Commission. If the Council chooses to adopt the ordinance, it is listed for action later in the meeting under Item 5.4.2 on the agenda and no specific action need be taken until that time.

However, the Council may also choose to modify the ordinance and direct staff to bring back an amended version for adoption at the next meeting. The Council may also choose to continue the hearing to allow for additional information to be submitted.

**SUBMITTED BY:**

A handwritten signature in blue ink, appearing to read 'J. McLaughlin', is written over a horizontal line.

John McLaughlin, *Planning Director*

## ORDINANCE NO. 1629

### AN ORDINANCE AMENDING BANDON MUNICIPAL CODE TO ALLOW FOR ACCESSORY DWELLING UNITS, SPECIFICALLY AMENDING TITLE 16.42 – DEFINITIONS, AND TITLE 17 – ZONING.

WHEREAS, the Oregon State Legislature passed a bill mandating that all cities with a population greater than 2,500 shall allow the development of at least one accessory dwelling unit for each single-family dwelling in areas that are zoned for detached, single-family dwellings, subject to local siting and design standards; and

WHEREAS, the Planning Commission held a public hearing on October 25, 2018 on this matter in accordance with legal notice requirements and procedures; and

WHEREAS, the Planning Commission found the proposed ordinance amendment serves the public interest and is consistent with the Bandon Comprehensive Plan, and forwarded a recommendation of approval to the City Council; and

WHEREAS, the City Council did hold a public hearing on December 3, 2018 on this matter in accordance with legal notice requirements and procedures and directed that an ordinance be prepared to adopt the requested zoning code text amendment.

NOW, THEREFORE, THE CITY OF BANDON ORDAINS AS FOLLOWS:

**Section 1.** The Bandon Municipal Code Section 16.42.010 - Definitions - is modified as follows:

The definition for “**Accessory dwelling (attached separate cottage, or above detached garage)**” is deleted in its entirety and replaced with the following:

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

**Section 2.** Accessory Dwelling Units shall be listed as permitted uses, subject to the requirements of Chapter 17.104.020, in the following sections of the Bandon Municipal Code:

*17.12.020 Residential 1 (R-1) Zone*

*17.16.020 Residential 2 (R-2) Zone*

*17.20.020 Controlled Development 1 (CD-1) Zone*

17.24.020 Controlled Development 2 (CD-2) Zone

17.28.020 Controlled Development 3 (CD-3) Zone

17.32.020 Controlled Development Residential 1 (CD-R1) Zone

17.36.020 Controlled Development Residential 2 (CD-R2) Zone

**Section 3.** The Bandon Municipal Code Section 17.104 – SUPPLEMENTARY PROVISIONS - is modified as follows (deletions in ~~strikeout~~, new language in **bold**):

**17.104.020 General provisions regarding accessory uses**

- A. **Accessory Uses:** Accessory uses shall comply with all requirements of the ~~principal~~**primary** use except where specifically modified by this title and shall comply with the following limitations:
- ~~A. 1.~~ **1.** No sales shall be made from a greenhouse or hothouse maintained as accessory to a dwelling.
  - ~~B. A guest house may be maintained accessory to a dwelling, provided the parcel has adequate square footage to meet requirements of this title for two dwellings on a lot.~~
  - ~~C. 2.~~ **2.** A home occupation, when conducted as an accessory use to a dwelling in a residential zone, shall be subject to the following limitations:
    - ~~1.a.~~ **a.** No exterior display shall be permitted.
    - ~~2.b.~~ **b.** Exterior signs shall be restricted to those generally permitted in the zoning district in which the home occupation is located.
    - ~~3.c.~~ **c.** No exterior storage of materials shall be permitted.
    - ~~4.d.~~ **d.** There shall be no other exterior indication of the home occupation or variation from the residential character of the principal building.
- B. **Accessory Dwellings:** Accessory Dwellings are allowed as permitted uses in the following zones: R-1, R-2, CD-1, CD-2, CD-3, CD-R1, CD-R2, or anywhere single-family dwellings are outright permitted. Accessory dwellings shall comply with all requirements of the primary use except where specifically modified by the title and shall comply with the following limitations:
- 1. Accessory Dwelling Units are prohibited from use as a Vacation Rental Dwelling in all zones. Accessory Dwelling Units are also prohibited on properties designated as Vacation Rental Dwellings.**
  - 2. A detached Accessory Dwelling shall not exceed 650 square feet of floor area, or 40 percent of the primary dwelling's floor area, whichever is smaller.**
  - 3. An attached or interior Accessory Dwelling shall not exceed 650 square feet of floor area, or 40 percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling would be more than 650 square feet.**

4. *One additional off-street parking space, beyond the two required for a single-family dwelling, is required for an Accessory Dwelling.*

PASSED to a second reading this 3rd day of December, 2018 on a roll call vote,

\_\_\_\_\_.

ADOPTED by the City Council this 3rd day of December, 2018 on a roll call vote,

\_\_\_\_\_.

\_\_\_\_\_  
Mary Schamehorn, Mayor

*Attest:*

\_\_\_\_\_  
Denise Russell, City Recorder



Megan Lawrence &lt;mlawrence@ci.bandon.or.us&gt;

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**Hearing on Accessory Dwelling Units Scheduled for the December 3 Council Meeting**1 message

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Judy Smilan &lt;jsmilan@yahoo.com&gt;

Wed, Nov 28, 2018 at 7:53 AM

To: "planning@cityofbandon.org" <planning@cityofbandon.org>, Robert Mawson <citymanager@cityofbandon.org>, Brian Vick <bvick@harborside.com>, Chris Powell <bandonbakingco@aol.com>, Geri Procetto <geri@mycomspan.com>, Claudine Hundhausen <grammyandpapa1@msn.com>, Mary Schamehorn <marys@coosnet.com>, Peter Braun <councilmanbraun@gmail.com>, Madeline Seymour <councilormadeline@gmail.com>

**RE: Hearing on Accessory Dwelling Units Scheduled for the December 3 Council Meeting**

It is the morning of Wednesday, November 28, 2018.

A Hearing on Accessory Dwelling Units (ADUs) is scheduled for the December 3, 2018 meeting of the Bandon City Council.

As of this date (November 28, 2018) there is no Accessory Dwelling Unit (ADU) Public Notice with supporting documentation available to the public.

We are only five days away.

The people are uninformed and will not have enough time to study the documents if/when they come out and they will not have the time needed to reply with informed testimony.

They will not even know when the documents come out as that has never been explained and the rules are rarely followed.

The Bandon Municipal Code says that this Hearing notice with supporting documents must be made available to the public ten days prior to the Hearing.

The public needs to be informed with articles in the Bandon Western World. There needs to be information on what ADUs are and where and how they will be used. Just quoting Oregon state law and saying that they must be allowed is not informing the public.

The public needs to be informed of the process. They do not even know this is going on. They do not know of the hearing coming up. They need to be informed at the council meetings, planning commission meetings, etc. The process first needs to be explained in the papers.

First inform them when a topic like the ADUs comes up. Explain what they are and how they will be used. Explain that there will be a hearing at the planning commission or at the council meeting but let them know well in advance that this will be happening.

Next, continue to talk about this and have articles in the paper. Sticking the agenda in with the ads in the newspaper is just a sneaky way to keep us unaware. Make it public and get the public involved.

We are only five days prior right now.  
This situation needs to be remedied.

In order to give the public enough time to be informed and enough time to study and reply with informed testimony, I think that the ADU Hearing should be continued to the February Bandon City Council Meeting.

***I, Judy Smilan, request that the time for public comment for the December 3, 2018 Hearing on Accessory Dwelling Units (ADUs) be extended until the February meeting of the Bandon City Council.***

Sincerely,

Judy Smilan  
761 12th St SW  
Bandon, Oregon



Megan Lawrence &lt;mlawrence@ci.bandon.or.us&gt;

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**Comments to City Council concerning ADU**

1 message

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johnny@truesecretogolf.com <johnny@truesecretogolf.com>  
To: mlawrence@cityofbandon.org

Mon, Nov 26, 2018 at 10:46 PM

I grew up in Bandon, graduating from Bandon High in 1966 and own our families house at 425 Oregon Avenue. I live in Hope, Alaska. Our property is described as Lot 11 & 12 Block 1, Belle View Addition. It is 100 ft. by 140 ft. double lot which is 1/3 of an acre with a 1,035 SF house we advertised for rent as a "Beach Cottage." I have had the same renters, a couple with 2 dogs for the last 3 or 4 years. Before that I rented the house to a caddie named Chris Gentlecore. I asked the Planning Department several years ago if I could build an accessory dwelling on the property but the answer was NO! Building an accessory living area in Bandon would enable me and my wife to visit for a longer period of time. In September we spent 3 nights in the Yurts at Bullards Beach, one night at Bandon Inn and two weeks in Bend, Oregon.

I have a plan to build an accessory dwelling unit 20 ft. x 16 ft. tiny house/cabin in the back area of my lot in Bandon. My neighbor in Hope just completed building a 20 x 16 so I would copy his design except make a flatter roof slope. (See attached photos) I would also have a patio of tiles and landscaping to separate the ADU from the main house. The ADU would use a macerator pump such as the "Little Giant" that is available at Home Depot. Basically it is a 20 gallon sewage tank which grinds the waste and pumps it through a small diameter pipe to my regular house sewer connecting to the clean-out. I would also bring buried power from the original house to the cabin, probably two 15 amp electrical circuits. My neighbor's cabin had a separate electrical service because he has an electric oven but we would eat out or barbecue outside. For a water supply I would bring water from the original house, buried 18 inches. The whole idea would be to reduce costs by constructing something simple. My neighbors cabin uses a "Little Giant" to pump to his homes septic tank. The total cost of his cabin was about \$12,000 using his own labor.

I have reviewed the Planning Department recommendations for accessory dwellings. If I understand it correctly, Planning is recommending the ADU have a separate utility hook up for both electricity and water, perhaps sewer. There is no engineering or public concern to support their recommendation. Electrical supply from the main house would be according to code and inspected. A water supply from the main house would be an underground 3/4 inch line or could even be a garden hose from an existing faucet. Having different utility hook ups for an ADU would make a project like mine more complex, cost much more and have no public benefit. A separate water or sewer would require tying into the existing main for no purpose. A separate electrical wouldn't have a purpose either if I am only using 3600 watts. I believe the planning department must be thinking that an owner needs to have individual accounts of water and electrical for the owner to bill the renter, but that is not the case. The rent, utility costs, and who mows the lawn can all be agreed between the renter and the owner. The March 2018 Guidance in Implementing ADU states, "Development codes that require ADUs to have separate sewer and water connections create barriers to building ADUs. In some cases, a property owner may want to provide separate connections, but in other cases doing so may be prohibitively expensive." In my case, separate connects would be costly and wasteful of money that I have worked hard to earn.

Planning also recommends the Impact FEE of \$13,750 for a full house be reduced to \$5,000 for an ADU. I don't see any justification for this high of a fee. In reality, what I have proposed to build will have no impact. If we really want to provide affordable housing, it is not reasonable that a \$500,000 dollar house pays 3% impact fees but a \$12,000 ADU is charged 40% impact fees. The impact in my case would not be much different than if your relatives come from Arizona to visit and stay with you for a couple weeks in the summer.

Please consider these comments as I would like to construct an ADU for my use as a landowner.

Johnny Sorenson  
P. O. Box 109  
Hope, Alaska 99605

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3 attachments

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1825K



11/27/2018

City of Bandon Mail - Comments to City Council concerning ADU



IMG\_20181119\_134754.jpg  
1825K



IMG\_20181119\_134754.jpg  
1825K



11/27/2018

IMG\_20181119\_134859.jpg



TO: Planning department, City Council, Mayor

RE: Proposed Ordinance for Accessible Dwelling Units

FROM: Judy Smilan 761 12<sup>th</sup> St. SW Bandon, Oregon

At the time I am writing this letter on 11-26-18 at noon Bandon time, the latest version of the Proposed Ordinance for the Accessory Dwelling Units is the one dated 11-15-18. I will use this version to get this letter in before any deadline. I think this will still be relevant, though I hope the planning department will have added the restrictions that the Planning Commission had requested. I will not count on that.

This proposed ordinance has basically no restrictions other than size. We definitely need some restrictions.

At the November 15 Planning Commission Meeting, some of the commissioners, after looking at this version of the ordinance, asked where the changes they requested were. No answer was given. You can watch the meeting online.

I thought the way things are supposed to work is that the planning department comes up with a proposal and then presents it to the Planning Commission. The Planning Commissioners then go over and discuss and make changes or additions where they think they are needed. It seems things are working the other way around here in Bandon. The Planning Commissioners come up with the changes and the planning department ignores their requests and comes back with what the planning department wants them to be. That is what has happened for the last 3+ months that they have been talking about ADUs. I hope the final proposal will have some needed restrictions.

I have copied the commission agenda document for the November 15, 2018 Planning Commission meeting and you can see what I mean. Read the whole document but pay attention to what I have made bold. I think this says it all. Keep in mind that this is the document the planning department came up with to explain the situation. The only restriction in the proposed ordinance is the size that is mentioned in the document below. Everything else mentioned was ignored and that is alluded to in the document. The document is on the next 2 pages but you can find the proposed ordinance on the Bandon City website.



SUBJECT: ADU Ordinance – Continuation of Deliberation ITEM NO: 4.2

The Planning Commission held a public hearing on the proposed Accessory Dwelling Unit (ADU) ordinance at the October 25, 2018 meeting. **General agreement was reached among the commissioners regarding the new ordinance but directed staff to prepare a final version for review, and to also clarify recommendations regarding utilities and System Development Charges (SDC's).**

Attached, please find a final ordinance version prepared for adoption by the City Council. The key components are that ADU's are allowed as permitted uses in all zones where single-family dwellings are allowed.

The maximum size, per Commission direction, was established as 650 sq. ft. or 40% of the size of the primary dwelling, whichever is smaller. However, if the ADU is proposed to convert an existing level of a home (such as a second story), then the ADU may occupy the entire level, even if it exceeds 650 sq. ft.

**The Commission discussed several different options for the ordinance, including different sizes, as well as occupancy and design requirements.** In the end, the Commission settled on an ordinance that sets clear and objective standards similar to those associated with the development of single family homes.

**Regarding utilities, the Commission recommended that if the ADU is a separate structure, that separate utilities (water and electric, with options for sewer) be installed to service this dwelling. If the ADU is incorporated as part of the existing home, then the ADU would be allowed to utilize the existing utilities.**

**Regarding System Development Charges, the Commission recommended that a SDC be charged for the ADU, but that it be a lesser amount than for a single family home. Staff *is recommending* that an SDC equal to 40% of the standard single family home SDC be charged, and that this issue be specifically addressed in a future update of the SDC methodology and calculations. The SDC for a regular home is \$13,750. 40% of that amount would equal \$5,500.**

POTENTIAL MOTION: I move to recommend that the City Council adopt the Accessory Dwelling Unit ordinance as presented in the attachment, and that recommended policies for utilities be adopted requiring separate utilities for ADU's located in separate structures from the primary dwelling, and that a recommended policy for SDC's be adopted requiring that an SDC be established for ADU's at 40% of the amount for single family dwellings.

Judy Smilan

761 12<sup>th</sup> St SW

Bandon, Oregon



Megan Lawrence &lt;mlawrence@ci.bandon.or.us&gt;

## WORDING IN PROPOSED ADU ORDINANCE IS NOT CORRECT

Judy Smilan &lt;jsmilan@yahoo.com&gt;

Sun, Nov 25, 2018 at 8:45 AM

To: "planning@cityofbandon.org" &lt;planning@cityofbandon.org&gt;

Cc: Robert Mawson &lt;citymanager@cityofbandon.org&gt;, Brian Vick &lt;bvick@harborside.com&gt;, Chris Powell &lt;bandonbakingco@aol.com&gt;, Geri Procetto &lt;geri@mycomspan.com&gt;, Claudine Hundhausen &lt;grammyandpapa1@msn.com&gt;, Mary Schamehorn &lt;marys@coosnet.com&gt;, Peter Braun &lt;councilmanbraun@gmail.com&gt;, Madeline Seymour &lt;councilormadeline@gmail.com&gt;

### WORDING IN PROPOSED ADU ORDINANCE IS NOT CORRECT

The planning department is refusing to put the proper wording in *the* City of Bandon's Proposed Ordinance on ADUs. The wording they have used is incomplete and, therefore, not accurate.

I have been going back and forth with them since July and the replies they give have nothing to do with the question I ask.

My question is simple:

Why are they refusing to use the proper wording in the proposed ordinance?

What is relevant right now is that we get the proper wording in the ordinance before it is passed by the council.

I have attached the *Guidance on Implementing the ADU Requirements* and

*The City of Bandon's Proposed Ordinance on ADUs* at the bottom of this email.

*Please open and read the first page of text in the Guidance info. It is very clear, and I have highlighted the pertinent parts. There is no doubt what the wording should be after you read this page in the Guide.*

I have also cut and pasted a very small amount of info from each of these to compare at a glance:

### **Guidance on Implementing the ADU Requirements Oregon Department of Land Conservation and Development March 2018**

Among the provisions of SB 1051 and HB 4031 is the requirement that cities and counties of a certain population allow accessory dwelling units (ADUs) as described below: a) A city with a population greater than 2,500 or a **county with a population greater than 15,000 shall allow in areas within the urban growth boundary** that are zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design.

That is the wording from the state and is what should be in our ordinance. Please compare that to what the city of Bandon is proposing below.

### **Proposed Ordinance for the City of Bandon regarding ADUs**

AN ORDINANCE AMENDING BANDON MUNICIPAL CODE TO ALLOW FOR ACCESSORY DWELLING UNITS, SPECIFICALLY AMENDING TITLE 16.42 – DEFINITIONS, AND TITLE 17 – ZONING.

WHEREAS, the Oregon State Legislature passed a bill mandating that all cities with a population greater than 2,500 shall allow the development of at least one accessory dwelling unit for each single family dwelling in areas that are zoned for detached, single-family dwellings, subject to local siting and design standards; and

What a mess. Just because the city ordinance only deals with houses inside the city limits, you just don't go and cut words out of the state law.

This part is just an introduction as to why they are writing this ordinance. It does not affect the changes they are making to the Bandon Municipal Code.

If you open the attachment with the guide below it has the following footnote on the first page of text:

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

The planning department says the "legislature passed a bill".

You have to use both bills (SB 1051 and HB 4031) to get the whole story.

The footnote highlighted above tells that story.

SB 1051 was passed in 2017 and had an error in it as the words "within the urban growth boundary" were accidentally deleted. The planning department chose to use SB 1051 with the error and not even quote it correctly or name it.

In 2018, they passed House Bill 4031 to add the words that had been deleted.

And as the footnote says HB 4031 added the words into statute and **thus limited the siting of ADUs to within UGBs.**

Please make these corrections.

Thank you,

Judy Smilan  
[761 12th St SW](#)  
[Bandon, Oregon](#)

attached

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2 attachments



ADU\_Guidance\_with highlight.pdf

242K



ADU proposed ordinance with highlights.pdf

152K



# City of Bandon

## PLANNING COMMISSION AGENDA DOCUMENTATION

DATE: Nov. 15, 2018

SUBJECT: ADU Ordinance – Continuation of Deliberation

ITEM NO: 4.2

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The Commission discussed several different options for the ordinance, including different sizes, as well as occupancy and design requirements. In the end, the Commission settled on an ordinance that sets clear and objective standards similar to those associated with the development of single family homes.

Regarding utilities, the Commission recommended that if the ADU is a separate structure, that separate utilities (water and electric, with options for sewer) be installed to service this dwelling. If the ADU is incorporated as part of the existing home, then the ADU would be allowed to utilize the existing utilities.

Regarding System Development Charges, the Commission recommended that a SDC be charged for the ADU, but that it be a lesser amount than for a single family home. Staff is recommending that an SDC equal to 40% of the standard single family home SDC be charged, and that this issue be specifically addressed in a future update of the SDC methodology and calculations. The SDC for a regular home is \$13,750. 40% of that amount would equal \$5,500.

### POTENTIAL MOTION:

I move to recommend that the City Council adopt the Accessory Dwelling Unit ordinance as presented in the attachment, and that recommended policies for utilities be adopted requiring separate utilities for ADU's located in separate structures from the primary dwelling, and that a recommended policy for SDC's be adopted requiring that an SDC be established for ADU's at 40% of the amount for single family dwellings.

SUBMITTED BY:



John McLaughlin, Planning Director

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    - ~~3. c.~~ **c.** No exterior storage of materials shall be permitted.
    - ~~4. d.~~ **d.** There shall be no other exterior indication of the home occupation or variation from the residential character of the principal building.
- B. **Accessory Dwellings:** Accessory Dwellings are allowed as permitted uses in the following zones: R-1, R-2, CD-1, CD-2, CD-3, CD-R1, CD-R2, or anywhere single-family dwellings are outright permitted. Accessory dwellings shall comply with all requirements of the primary use except where specifically modified by the title and shall comply with the following limitations:
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  - 2.** A detached Accessory Dwelling shall not exceed 650 square feet of floor area, or 40 percent of the primary dwelling's floor area, whichever is smaller.
  - 3.** An attached or interior Accessory Dwelling shall not exceed 650 square feet of floor area, or 40 percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling would be more than 650 square feet.
  - 4.** One additional off-street parking space, beyond the two required for a single-family dwelling, is required for an Accessory Dwelling.

PASSED to a second reading this \_\_\_\_ day of \_\_\_\_\_ 2018 on a roll call vote, \_\_\_\_\_.

ADOPTED by the City Council this \_\_\_\_ day of \_\_\_\_\_ 2018 on a roll call vote, \_\_\_\_\_.

\_\_\_\_\_  
Mary Schamehorn, Mayor

*Attest:*

\_\_\_\_\_  
Denise Russell, City Recorder



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



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

**OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**

**MARCH 2018**



Oregon Department of  
Land Conservation  
and Development

## Introduction

As housing prices in Oregon go up, outpacing employment and wage growth, the availability of affordable housing is decreasing in cities throughout the state. While Oregon's population continues to expand, the supply of housing, already impacted by less building during the recession, has not kept up. To address the lack of housing supply, House Speaker Tina Kotek introduced House Bill 2007 during the 2017 legislative session to, as she stated, "remove barriers to development." Through the legislative process, legislators placed much of the content of House Bill 2007 into Senate Bill 1051, which then passed, and was signed into law by Governor Brown on August 15, 2017. In addition, a scrivener's error<sup>1</sup> was corrected through the passage of HB 4031 in 2018.

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

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

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

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

**Guidance by Topic**

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

*Number of Units*

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

*Siting Standards*

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

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

*Design Standards*

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

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

*Parking*

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

*Owner Occupancy*

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

*Public Utilities*

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

*System Development Charges (SDCs)*

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



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## Accessory Dwellings (model code)

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

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

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

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

/

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

### **B. Floor Area.**

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

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

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

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

---

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

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

**REGULAR MEETING  
OF THE PLANNING COMMISSION  
CITY OF BANDON  
THURSDAY, November 15, 2018 – 7:00 PM  
IN THE COUNCIL CHAMBERS, CITY HALL**

**REGULAR AGENDA**

\*\*\*\*\*

Council Chambers is accessible to the disabled.  
For special services contact City Hall 48 hours in advance at 347-2437, Voice ~ 711 TTR ~  
e-mail: [citymanager@cityofbandon.org](mailto:citymanager@cityofbandon.org) ~ web: [www.ci.bandon.or.us](http://www.ci.bandon.or.us)

\*\*\*\*\*

**1.0 CALL TO ORDER**

**1.1 ROLL CALL**

**2.0 CONSENT AGENDA**

**2.1 REGULAR PLANNING COMMISSION MEETING MINUTES – October 25, 2018**

**3.0 PUBLIC COMMENT**

Opportunity for Citizens to speak on issues NOT on the Agenda.  
TIME LIMIT - 3 MINUTES

**4.0 PUBLIC HEARINGS**

**4.1 CONDITIONAL USE PERMIT AND PLAN REVIEW – 1090 Portland Ave. SW –  
Application #18-132 for the proposed Bandon Beach Hotel, to construct a new a  
32-unit hotel with a small ground floor café and 60 spaces of off-site parking, on  
property within the Controlled Development One (CD-1) Zone in the City of  
Bandon.**

**4.2 ADU Ordinance – Continuation of Deliberation  
(No public comments will be accepted, public hearing was closed on October 25, 2018)**

**5.0 FINDINGS OF FACTS**

**6.0 DISCUSSION/OTHER**

**6.1 AMENDMENT TO BANDON MUNICIPAL CODE, Chapter 8.08.150 *Noxious  
Vegetation*, regarding Gorse Exemptions.**

**6.2 DECEMBER MEETING**

**7.0 COMMISSIONERS COMMENTS**

**8.0 ADJOURN THE REGULAR MEETING**

\*\*\*\*\*

# City of Bandon

## PLANNING COMMISSION AGENDA DOCUMENTATION

DATE: Nov. 15, 2018

SUBJECT: ADU Ordinance – Continuation of Deliberation

ITEM NO: 4.2

The Planning Commission held a public hearing on the proposed Accessory Dwelling Unit (ADU) ordinance at the October 25, 2018 meeting. General agreement was reached among the commissioners regarding the new ordinance but directed staff to prepare a final version for review, and to also clarify recommendations regarding utilities and System Development Charges (SDC's).

Attached, please find a final ordinance version prepared for adoption by the City Council. The key components are that ADU's are allowed as permitted uses in all zones where single-family dwellings are allowed. The maximum size, per Commission direction, was established as 650 sq. ft. or 40% of the size of the primary dwelling, whichever is smaller. However, if the ADU is proposed to convert an existing level of a home (such as a second story), then the ADU may occupy the entire level, even if it exceeds 650 sq. ft.

The Commission discussed several different options for the ordinance, including different sizes, as well as occupancy and design requirements. In the end, the Commission settled on an ordinance that sets clear and objective standards similar to those associated with the development of single family homes.

Regarding utilities, the Commission recommended that if the ADU is a separate structure, that separate utilities (water and electric, with options for sewer) be installed to service this dwelling. If the ADU is incorporated as part of the existing home, then the ADU would be allowed to utilize the existing utilities.

Regarding System Development Charges, the Commission recommended that a SDC be charged for the ADU, but that it be a lesser amount than for a single family home. Staff is recommending that an SDC equal to 40% of the standard single family home SDC be charged, and that this issue be specifically addressed in a future update of the SDC methodology and calculations. The SDC for a regular home is \$13,750. 40% of that amount would equal \$5,500.

### POTENTIAL MOTION:

I move to recommend that the City Council adopt the Accessory Dwelling Unit ordinance as presented in the attachment, and that recommended policies for utilities be adopted requiring separate utilities for ADU's located in separate structures from the primary dwelling, and that a recommended policy for SDC's be adopted requiring that an SDC be established for ADU's at 40% of the amount for single family dwellings.

SUBMITTED BY:



John McLaughlin, Planning Director

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING BANDON MUNICIPAL CODE TO ALLOW FOR ACCESSORY DWELLING UNITS, SPECIFICALLY AMENDING TITLE 16.42 – DEFINITIONS, AND TITLE 17 – ZONING.

WHEREAS, the Oregon State Legislature passed a bill mandating that all cities with a population greater than 2,500 shall allow the development of at least one accessory dwelling unit for each single-family dwelling in areas that are zoned for detached, single-family dwellings, subject to local siting and design standards; and

WHEREAS, the Planning Commission held a public hearing on October 25, 2018 on this matter in accordance with legal notice requirements and procedures; and

WHEREAS, the Planning Commission found the proposed ordinance amendment serves the public interest and is consistent with the Bandon Comprehensive Plan, and forwarded a recommendation of approval to the City Council; and

WHEREAS, the City Council did hold a public hearing on \_\_\_\_\_ on this matter in accordance with legal notice requirements and procedures and directed that an ordinance be prepared to adopt the requested zoning code text amendment.

NOW, THEREFORE, THE CITY OF BANDON ORDAINS AS FOLLOWS:

**Section 1.** The Bandon Municipal Code Section 16.42.010 - Definitions - is modified as follows:

The definition for “**Accessory dwelling (attached separate cottage, or above detached garage)**” is deleted in its entirety and replaced with the following:

*“Accessory Dwelling Unit” An interior attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling. A maximum of one Accessory Dwelling Unit is allowed per legal single-family dwelling. The unity may be a detached building, in a portion of the detached accessory building (e.g., above a garage or workshop), or a unity attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor).*

**Section 2.** Accessory Dwelling Units shall be listed as permitted uses, subject to the requirements of Chapter 17.104.020, in the following sections of the Bandon Municipal Code:

*17.12.020 Residential 1 (R-1) Zone*

*17.16.020 Residential 2 (R-2) Zone*

*17.20.020 Controlled Development 1 (CD-1) Zone*



17.24.020 Controlled Development 2 (CD-2) Zone

17.28.020 Controlled Development 3 (CD-3) Zone

17.32.020 Controlled Development Residential 1 (CD-R1) Zone

17.36.020 Controlled Development Residential 2 (CD-R2) Zone

**Section 3.** The Bandon Municipal Code Section 17.104 – SUPPLEMENTARY PROVISIONS - is modified as follows (deletions in ~~strikeout~~, new language in **bold**):

17.104.020 General provisions regarding accessory uses

- A. **Accessory Uses:** Accessory uses shall comply with all requirements of the ~~principal~~**primary** use except where specifically modified by this title and shall comply with the following limitations:
- ~~A. 1.~~ **1.** No sales shall be made from a greenhouse or hothouse maintained as accessory to a dwelling.
  - ~~B. A guest house may be maintained accessory to a dwelling, provided the parcel has adequate square footage to meet requirements of this title for two dwellings on a lot.~~
  - ~~C. 2.~~ **2.** A home occupation, when conducted as an accessory use to a dwelling in a residential zone, shall be subject to the following limitations:
    - ~~1.a.~~ **a.** No exterior display shall be permitted.
    - ~~2.b.~~ **b.** Exterior signs shall be restricted to those generally permitted in the zoning district in which the home occupation is located.
    - ~~3.c.~~ **c.** No exterior storage of materials shall be permitted.
    - ~~4.d.~~ **d.** There shall be no other exterior indication of the home occupation or variation from the residential character of the principal building.
- B. **Accessory Dwellings:** Accessory Dwellings are allowed as permitted uses in the following zones: R-1, R-2, CD-1, CD-2, CD-3, CD-R1, CD-R2, or anywhere single-family dwellings are outright permitted. Accessory dwellings shall comply with all requirements of the primary use except where specifically modified by the title and shall comply with the following limitations:
- 1.** Accessory Dwelling Units are prohibited from use as a Vacation Rental Dwelling in all zones. Accessory Dwelling Units are also prohibited on properties designated as Vacation Rental Dwellings.
  - 2.** A detached Accessory Dwelling shall not exceed 650 square feet of floor area, or 40 percent of the primary dwelling's floor area, whichever is smaller.
  - 3.** An attached or interior Accessory Dwelling shall not exceed 650 square feet of floor area, or 40 percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling would be more than 650 square feet.
  - 4.** One additional off-street parking space, beyond the two required for a single-family dwelling, is required for an Accessory Dwelling.

PASSED to a second reading this \_\_\_\_ day of \_\_\_\_\_ 2018 on a roll call vote, \_\_\_\_\_.

ADOPTED by the City Council this \_\_\_\_ day of \_\_\_\_\_ 2018 on a roll call vote, \_\_\_\_\_.

\_\_\_\_\_  
Mary Schamehorn, Mayor

*Attest:*

\_\_\_\_\_  
Denise Russell, City Recorder



November 15, 2018

TO: City of Bandon Planning Commission, City Manager, City Council, Mayor, City Attorney, Planning Director, and more

RE: REASONS WHY PUBUIC COMMENT TIME MUST BE REOPENED AND EXTENDED FOR ADUs

#### **Bandon Municipal Code**

**17.116.010** says that public hearings shall occur in accordance with Section 17.120.080

**17.120.080** Permits or land use approvals which require a public hearing

Upon review and determination that the application is complete, a staff report shall be prepared ten (10) days prior to the meeting at which the application is scheduled for public hearing. The application and staff report shall be available for public review ten (10) days prior to the scheduled public hearing.

*The Municipal Code says 10 days prior for public review and the City of Bandon's notice says 7 days. It looks like they are not following the Municipal Code here.*

*They did not follow what they said on their notice either. The notice said that the ordinance criteria applicable to this application is available on the city's website but it was not. I immediately called and asked about it and was told that is was not on the website but will be available in their office. The notice said website and it was not on the website.*

**17.120.090** Notice of Public Hearing

A-1. Notice to pubic via a public notice published in a newspaper of general circulation in the city at least tem (10) days prior to the hearing

B-2. List in general terms the applicable criteria from this title and the plan that apply to the application at issue.

*This says that the notice shall list in general terms the applicable criteria from this title and the plan that apply to the application at issue.*

*They did not list the criteria on the notice but said we could find it on their website but it was not on the website as mentioned above.*

**17.120.100** Availability of hearings information

The documents or evidence relied upon by the applicant shall be submitted to the local government and be made available to the public at the time the notice is provided as per Section 17.120.090

*The notice came out on October 15, 2018 but there were no supporting documents at that time..*

#### **17.120.110 Hearing Procedures**

# 4 That if a participant at the hearing so requests before the hearing concludes, the record shall be kept open for at least 7 days, unless there is a continuance.

*The planning department did not follow the municipal code and grant this requested extension of public comment time*

*There were actually two requests for extension of public comment time. I emailed my letter of testimony on October 19 and it was received by planning. I also emailed it directly to the Planning Commission and others and asked that one of them bring it up at the hearing.*

*I think these mistakes must be remedied and, therefore, I, Judy Smilan, request that the administrative record before the planning commission be reopened for at least an additional seven (7) days.*

The planning department did not follow the dates in the Municipal Code or the dates on their Notice of Hearing. A copy of the staff report and proposed ordinance was to be available for inspection in the city of Bandon planning department ten days before the first evidentiary hearing and was to be available for review through the city's webpage one week before the first evidentiary hearing.

This information was not made available to public in a timely manner. The information was not available on the website until November 19<sup>th</sup>.

*Because the planning department (the city) did not follow its own required procedures governing the availability of the staff report and ordinance, I, Judy Smilan, request that the administrative record before the planning commission be reopened for at least an additional seven (7) days to remedy the problem the city created by cheating the people out of the information they deserved and therefore the time they deserved for public comment.*

Judy Smilan

761 12<sup>th</sup> ST SW

Bandon, OR 97411



Megan Lawrence &lt;mlawrence@ci.bandon.or.us&gt;

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**\*\* Proposed Ordinance on ADUs - SHOULD THERE BE AN ORDINANCE AT ALL?**

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Judy Smilan &lt;jsmilan@yahoo.com&gt;

Thu, Oct 25, 2018 at 9:11 AM

To: "planning@cityofbandon.org" &lt;planning@cityofbandon.org&gt;

**Proposed Ordinance on ADUs - SHOULD THERE BE AN ORDINANCE AT ALL?**

I QUESTION WHETHER THERE SHOULD EVEN BE A PROPOSED ORDINANCE DISCUSSING ADUs ON LOTS ZONED FOR SINGLE FAMILY DWELLINGS INSIDE THE CITY LIMITS OF BANDON.

**The bills (SB 1051 passed in 2017 with scrivener's error in it and HB 4031 which passed in 2018) are the Oregon state laws governing ADUs but these state laws limit the siting of ADUs to inside the Urban Growth Boundary.**

Dana Nichols and John McLaughlin have been saying that all houses inside the city limits of Bandon are included inside the Urban Growth Boundary. That is not what the map looks like to me.

The link to the Bandon Zoning Map is right here below and **I do not see our houses inside the UGB.**

<http://www.cityofbandon.org/sites/default/files/fileattachments/general/page/262/zonemap-2009.pdf>

I have brought up this matter from the beginning and have emailed these concerns to many of you. I guess everyone just figured I was being too picky about the words, but words matter.

I have asked our Planning Department many times why they are not using the proper wording when saying that SB 1051 "mandates" that the city of Bandon allow ADUs on all properties zoned for single family dwellings

First of all, they are wrong when just quoting SB 1051. That is explained below in my attachment. They need to consider SB 1051 along with HB 4031 to understand what the law says in Oregon.

No one seemed to think it was important for them to be correct in their wording. But I, have a big problem with them not putting the words **"inside the Urban Growth Boundary"** in the ordinance.

I have a big problem because those are the words in HB 4031 and they limit the siting of ADUs to inside the Urban Growth Boundary. IF our houses are NOT inside the UGB, then there is no mandate for us and we should not even be discussing ADUs on lots zoned for single family dwellings inside the city limits of Bandon.

I emailed the question of whether or not every house inside the city limits of Bandon is inside the UGB to people who should know and I have not had anyone outside of our Planning Department say that our houses are inside the UGB.

The Planning Department is trying to pass this ordinance to include all of the houses zoned for single family dwellings inside the city limits of Bandon. The law does not pertain to our houses inside the city limits if they are not also inside the Urban Growth Boundary.

I am hoping I am correct and that there is not going to be an ADU ordinance for houses inside the city limits of Bandon. ADUs inside the city limits of Bandon will greatly change the character of Bandon from a peaceful beautiful little city where we all want to live to a crowded, cheap and unattractive city where people might not even want to come and stay for a visit.

The law limits the siting of ADUs to inside the Urban Growth Boundary and the ordinance proposed by the Planning Department says that ADUs will be allowed on all lots in Bandon that are zoned for single family dwellings.

The question of the day and of the hour is

"ARE ALL THE HOUSES INSIDE THE CITY LIMITS OF BANDON INSIDE THE URBAN GROWTH BOUNDARY?"

If the answer to this question is NO then we can move on and there will be no ordinance for ADUs inside the city limits of Bandon and we can go back to enjoying our peaceful city.

Judy Smilan  
761 12th ST SW  
Bandon, OR 97411

The attached Guide to ADUs also has the history of the two bills that regulate ADUs in the state of Oregon. Please read the first full page of text in this booklet attached below. This was put on the website by Dana back in August.

1

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



ADU\_Guidance\_with highlight.pdf  
242K



To the Bandon Planning Commission/Department

Re: Accessory Dwelling Units Ordinance

October 22, 2018

*The issue of Accessory Dwelling Units (ADUs) could have a profound impact on Bandon and its residents if not addressed appropriately. The Bandon Planning Department's current plans raise few restrictions on what could be built. For example, the size limit is stipulated as 700 square feet or 50% of the primary house. There are many primary houses around Bandon which are not even 700 square feet. Are we to allow ADUs to exceed the size of many existing houses? That is way out of line.*

Do residents have any means to review or object to the plans of next door or nearby neighbors who want to erect a structure which may be totally out of character with the existing neighborhood? Why should a neighbor and/or neighborhood have to put up with this?

Parking will inevitably be an issue. There should be a rule stating that cars will not be permitted to park on the lawn of the house with the ADU.

Will the zoning codes and ordinances currently in effect for that neighborhood continue to be enforced? We should not be making exceptions to current zoning regulations for the sake of ADUs.

The law passed by the State of Oregon gives Bandon and other communities the legal means to manage, control and restrict ADUs in their communities. I do wonder about the Bandon Planning Departments' reluctance to put reasonable and manageable guidelines and restrictions in place to address this issue. What is their motivation? Why are they taking this "anything goes" approach? What is driving this? This issue as written is not ready for prime time. It demands a lot more from the Planning Department and the Planning Commission before moving forward. We don't want Bandon to become a ghetto of sheds, shanties and caddyshacks.

David Hellmann

761 12<sup>th</sup> St SW

Bandon, Or 97411



Megan Lawrence <mlawrence@ci.bandon.or.us>

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## ADU questions for October 25 th

1 message

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**Mary Carol Roberson** <mrobers912@yahoo.com>  
To: [planning@cityofbandon.org](mailto:planning@cityofbandon.org)  
Cc: Mary Carol Roberson <mrobers912@yahoo.com>

Sun, Oct 21, 2018 at 11:41 AM

We live in Ocean Trails and have questions we would like answered at the hearing.  
Why did only certain residential  
Areas receive this?  
Assume there will be a negative effect on property values?  
Effect on roads, sewer systems?  
How are taxes handled?  
Parking for two cars per household, assume second house takes up street parking and where do their RVs etc go?  
Can we stop this by activating our CC and Rs?  
Thanks  
Mary Carol Roberson  
541 366 1371

Sent from my iPhone

TO: Planning Commission/Department

October 19, 2018

RE: Accessory Dwelling Units Ordinance

The necessary documents were just posted today by the planning department and I am replying as quickly as possible and hope that my letter is included in the packets and online. I think you should extend the time for public comment.

This ADU ordinance proposed by the planning department has almost no restrictions. It would basically be a free –for- all for anyone to plop whatever ADU they want on their lot. Senate Bill 1051 and House Bill 4031 allow us to regulate the Accessory Dwelling Units in Bandon. The following link has a chart which summarizes what these bills will do and what they won't do.

<http://www.oregonapa.org/wp-content/uploads/2017/09/SB1051-and-Summary.pdf>

Topic What the bill will do: What the bill will NOT do:

Infill (ADUs) (Section 6)

This bill WILL:

Allow ADUs in residential areas on lots that are zoned for single family dwellings and are inside the Urban Growth Boundary.

Local jurisdictions may still impose reasonable regulations *including but not limited to* those relating to siting and design.

This bill WILL NOT:

- WILL NOT Prevent local jurisdictions from imposing regulations on the development of ADUs in single-family zones.
- Will NOT Limit reasonable regulations of ADUs exclusively to siting and design.

I have studied what other cities in Oregon do to regulate ADUs in their city. I feel very strongly that we need to add restrictions and regulations to our ADUs so that the ADUs do not change the character of our city and so that Bandon remains the place we want to live.

The following are some of the restrictions and requirements that I think Bandon should have regarding ADUs: *The majority of the cities in the list of ADUs do have these restrictions / requirements.*

***The property owner must live in either the primary dwelling unit or the ADU as their permanent/primary residence.***

Without having this requirement, we have lost all control over our neighborhoods and could have two rental units on one lot.

I totally disagree with John McLaughlin that this could be challenged. Senate Bill 1051 does give cities discretion in many areas as noted above in the bill summary.

SB 1051 does define “needed housing” but says that local government can take exception to part of this definition and doing that could give us better control of what ADUs can be in our city. SB 1051 does limit the use of ADUs, and we too can limit the use of ADUs in our city.

***We need to limit the number of people living in the ADUs or the total number of people living on the property or both.***

***A detached ADU should be limited to 1 story.***

***The property owner may not, at any time, receive rent for the owner-occupied unit.***

***There should not be more than one rental unit per property.***

ADUs should be affordable housing for full time residential living

***I do not think that ADUs should be allowed to be used as rentals unless it is a long term residential rental to one person or to this one person and this one person's immediate family.***

Yes, people can now have ADUs but hopefully not to the point that our neighborhoods will be transformed into something less desirable than what we have now.

We are all, by law, entitled to the peaceful (quiet) enjoyment of our home.

The following statement should be included in the ordinance::

***Detached Accessory Dwelling Units shall be required to conform to all the regulations and requirements of the underlying zone***

For the allowed size of the ADU, the planning department has chosen 700 square feet or 50% of living space square footage (excluding the garage) of the primary house, whichever is less.

That is way too big for ADUs in Bandon. Most of the smaller cities in the list they gave picked anywhere from 25% of primary house to 30% or 33% or 40%

***The ADUs in Bandon should be allowed to be 25% of the square footage of the living space of the primary building or 400 square feet, whichever is less.***

It is ***an accessory building***. We want to keep the appearance of an R-1 zoning area. An accessory building should be much smaller than the primary building.



**Parking – One *additional* off street parking place shall be provided *in addition to the required parking* for the primary dwelling**

We also need to put in more detail regarding the siting of the ADUs.

***The ADU needs to be set back behind the rear wall of the primary house.***

***The entrance to the ADU shall not face the front property line.***

**I think people who choose to have ADUS should have to pay SDCs and fees. These are real costs associated with adding ADUs to our old infrastructure. They are the ones adding the extra wear on our old infrastructure and they should be the ones to pay for that.**

ADUs cost money and I do not think that too many “regular” citizens will be putting them in their yards. Who wants to share their lot with another family?

My concern is that our planning department has a plan for these ADUs. The Planning Department really talked up the ADUs as rental property while SB 1051 and HB 4031 are about need and not greed. **They are about having** ADUs as affordable housing for full time residential living. They are about solving a housing problem.

I attended both Planning Commission Study Sessions and at the second study session, the Planning Commission came up with restrictions and regulations to be used in writing up this ordinance. What happened to those restrictions and regulations? The ordinance the Planning Department came up with has nothing to do with what I heard at that meeting. I was shocked to see this nothing of an ordinance.

An ordinance without enough regulations or restrictions will not solve any housing problems but I can guarantee that an ordinance without enough regulations and restrictions will be the cause of many problems.

Judy Smilan

761 12<sup>th</sup> St SW

Bandon, OR 97411



Megan Lawrence &lt;mlawrence@ci.bandon.or.us&gt;

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**ACCESSORY LIVING UNITS**

1 message

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**sandy wenzel** <sndywnzl@yahoo.com>

Fri, Oct 19, 2018 at 11:59 AM

Reply-To: "sndywnzl@yahoo.com" &lt;sndywnzl@yahoo.com&gt;

To: "planning@cityofbandon.org" &lt;planning@cityofbandon.org&gt;

I am writing to express my urgent sense of importance to remedy the acute housing crisis for service industry renters. EXAMPLE: I recently had a vacancy for a unit renting at \$750 per month....I HAD 25 APPLICANTS, MANY OF WHOM WERE VERY WELL QUALIFIED. I only advertised thru Craigslist, so you can imagine how many more had I gone thru the Coffeebreak.

I have 3 "affordable" rentals, so this is a common occurrence for me. The current market has people frequently paying up to half their take-home income for rent. IT IS TOTALLY UNREALISTIC.

I am reluctant to criticize my neighbors, but important they remember "the olden days" before they attained the success which has allowed them to retire in Bandon. From a very selfish viewpoint, we need to be mindful that those workers are important to meet our daily needs as we go shopping or call for technical assistance for a plumbing/electrical problem.

I have a choice lot and have been conferring with Neighbors Inc. in Roseburg to build a low income rental ..... it would give me a lot of satisfaction to make a small contribution to the situation. Changes in city code would make it cost effective, as it has not been in the past.

Sandy Wenzel  
541 551 1523  
[sndywnzl@yahoo.com](mailto:sndywnzl@yahoo.com)



Megan Lawrence &lt;mlawrence@ci.bandon.or.us&gt;

## Accessory Housing Comments

1 message

johnny@truesecretogolf.com <johnny@truesecretogolf.com>  
 To: planning@cityofbandon.org

Thu, Oct 18, 2018 at 7:49 PM

I grew up in Bandon, graduating from Bandon High in 1966 and own our families house at [425 Oregon Avenue](#). I live in Hope, Alaska. Our property is described as Lot 11 & 12 Block 1, Belle View Addition. My sister and I inherited the house from my parents and after her passing my wife and I did a ton of work to the house before we rented our house to others. I have had the same renters, a couple with 2 dogs for the last 3 or 4 years. It is an older house built in 1948 and as such is not a big house with only 1,035 SF. I talked to the Planning Department several years ago to see if there was any possible way to build an accessory dwelling on the property but the answer was NO! I am very excited there is a possibility for me to have a small accessory dwelling on the property. I have two accessory buildings on my property here in Alaska. One is 160 S.F. and the other about the same size so each of my sons have their own space when visiting on weekends. Building an accessory living area in Bandon would enable me and my wife to visit my home town for a longer period of time. Last month we spent 3 nights in the Yurts at Bullards Beach and one night at Bandon Inn which was fantastic.

What I have found visiting with the Bandon planning department, and with planning in general is the inflexibility of plan requirements. I read the minutes of work sessions and wonder about the idea of an accessory unit MAX size being 40% or 65% the size of the original house and wonder why a big house that takes up much of the lot, would be allowed to take up even more of the lot than a small house. Why would a big house be allowed to have an accessory unit as big as my main house and I can only build a 20ft x 20ft. unit? If necessary a 400 S.f. unit might work but I would like more flexibility.

I have a rough plan, there is nothing wrong or sinister in the plan, no big impact on the city and wonder if proposed codes could accommodate my simple ideas. Although plans evolve, I would like to build an accessory unit on what is a different lot from the original house. The house is on a double lot. You can not tell it is a different lot on the ground, it is just part of the back lawn. I would like to use a macerator pump like the brand Little Giant that is basically a 20 gallon sewage tank, grind the waste and pump through a small diameter pipe into my regular house sewer, maybe connecting to the clean-out. I would also bring buried power from the regular house to the cabin, probably two 15 amp electrical circuits. For a water supply I would also bring water from the original house, buried 18 inches. I could actually just bring water to the structure through a garden hose. The whole idea would be to reduce costs by constructing something simple and it would be between the renter and I on how to divide up utility costs. I doubt I would have much for cooking, maybe a small propane stove. Hot water and heat would be an on-demand diesel Toyo water heater and Toyo heater. Donny Goddard is the Toyo dealer in town.

If this were allowed, I would have more freedom in my life and perhaps rent the dwelling during the summer. I enjoy biking, going out to Blacklock Point, eating at Langlois Market, the Minute and going to the Arcade and would like to crab off the docks. Even though the Oregon State Beavers are not a winning program, I like to spend the fall visiting Corvallis and seeing old friends.

My plan would have a concrete patio area and separate the accessory dwelling from my renters with vegetation. My wife and I spend as much time as possible outside so we could live comfortably in small accessory unit during the fall. It is important to me to have renters in our main house at all times for security.

I applaud the idea of accessory housing. Many local economies are based upon tourism and as the seasons change people migrate. Bandon relies on tourists and the State of Alaska is especially transient. In our community people working in the tourist industry must live in tents and it is difficult to keep employees. Our businesses suffer and are not open as much as they would like to be and of course the tourist experience suffers with limited choices.

Sincerely,

Johnny and Dru Sorenson  
 P.O. Box 109  
 Hope, AK 99605



**Regular Meeting of the Planning Commission  
at Bandon City Hall  
October 25, 2018**

**COMMISSION:**

- ☒ David Kimes, Chair
- ☒ Sheryl Bremmer, Vice Chair
- ☒ Sally Jurkowski, Commissioner
- ☒ Donald Starbuck Commissioner
- ☒ Paul Fisher, Commissioner
- ☒ Gerald Slothower, Commissioner
- ☒ Blythe Tiffany, Commissioner

**STAFF:**

- ☒ John McLaughlin, Planning Director
- ☒ Fred Carleton, City Attorney
- ☐ Dana Nichols, City Planner
- ☐ Megan Lawrence, Planning Assistant

**1.0 CALL TO ORDER**

Kimes called the meeting to order at 7:15 p.m., following a short delay. Roll Call was taken as indicated above.

**2.0 CONSENT AGENDA**

**2.1 Regular Planning Commission Meeting Minutes—September 27, 2018**

**2.2 Work Session Planning Commission Meeting Minutes—September 27, 2018**

Bremmer moved to approve the consent agenda for the September 27, 2018, Regular Planning Commission Meeting and the September 27, 2018, Work Session Planning Commission Meeting. The motion was seconded by Starbuck and was approved with no corrections or additions. The vote was 6:0:1 (Tiffany abstained).

**3.0 PUBLIC COMMENTS—Opportunity for Citizens to speak on issues not on the Agenda**

**Joni Keller, 857 Lincoln Avenue SW, Bandon, OR 97411**

Keller expressed her concerns that a site for the proposed pool has already been chosen in the City Park, that the taxpaying citizens do not know of it, and that one supposedly unknown person is dictating to the City where to build a 2,000-square-foot aquatic center. In the paper, she has read a complaint that there are some unsigned flyers going around the city. She would like to know if any of the information is false or misleading. Keller feels that one person who is gifting \$2.5 million—but only if the aquatic center is built in the City Park—seems to be dictating policy to the City Council.

**Dan Green, 850 11<sup>th</sup> Street SW, Bandon, OR 97411**

Representing the pool committee, Green stated that the committee does not know of any plan having been approved to build the pool in the park, and he wished to dispel the rumor to that effect. The person who is offering to make a gift to the City for the purpose of building a pool had originally offered \$350,000, with the idea of obtaining a matching grant. Green suggested the anonymous donor might be having qualms about making the donation, after some of the

unneighborly things that have recently been said about him. Green further asserted that he has not seen any sign that the unnamed individual has any intent to dictate, and from what he has observed, the City Council is not a council that can be dictated to. He noted three letters in the newspaper this morning that reflect a rise in negativity since it has begun to look possible for a pool to be built.

**Arlene Esqueda, 855 Jackson Avenue SW, Bandon, OR 97411**

Esqueda also addressed the proposed pool. She voiced concerns over the City's potential liability issues, and the difficulty this small community will have maintaining funding for the pool's operating expenses, leaving the City's taxpayers responsible for keeping the pool open and successful. She attributes rumors that are circulating to the fact that City staff has spent time surveying sites for the pool, demonstrating that City time and money is already being devoted to help the pool be built in the park. Letters to the editor and flyers are showing there are strong viewpoints being expressed on both sides of the pool issue, but Esqueda feels pool opponents who are concerned about its direct impact on parking and traffic in their neighborhood are being chastised for their opinions in a way that opponents of the hotel at Coquille Point were not.

**Bart Taylor, 957 Seacrest Drive, Bandon, OR 97411**

Taylor, a proponent of the pool, clarified that the pool committee does not have \$2.5 million but does have some money and 10 acres of land adjacent to the park, which may or may not be used, depending on what happens in the next month or so. He asserted that the \$2.5 million bequest will probably end up as sustainability money to keep the pool floating. If the pool is built, some equipment will need to be replaced after 10 years or so. The pool committee operates as a non-profit organization, and any income over what's needed to operate the facility will go into a fund to help sustain the pool. The \$2.5 million will go a long way toward attracting matching grants to help build the pool.

Responding to the criticism of the donor as "dictating" to the Council, Taylor pointed out that the person who is giving such a gift has something to say about how the money is to be spent. In Taylor's view, the park is a public entity that changes over time. He agrees with Esqueda that no one should be chastised for their opinions, and in fact you can learn a lot if you listen to other points of view. He would like to have more discourse—but more civil discourse—to help people find common ground. He concluded by urging everyone not to look at the park as being lost due to the pool, but to look at it as being enhanced.

Green interjected that there is a \$1 million cap on a municipality's liabilities.

**Myra Lawson, 1404 Strawberry Drive, Bandon, OR 97411**

Lawson has been involved in the pool effort for about seven years. It has been about 80 years since the last natatorium in Bandon burned down. The pool committee became a 501c3 non-profit in 2005. Originally, the pool was to be placed on school property on 11<sup>th</sup> Street. But the school district decided to withdraw its property due to liability concerns. At that point, the pool board purchased a 10-acre parcel that is part of the County "donut" bordering the park in back of the baseball field. About \$200,000 has been invested in this property, which the pool committee planned to use a location for the pool until it found out \$750,000 would be needed to access the property with an acceptable street, sidewalks, and utilities.



Lawson emphasized that a positive feasibility study has been done, showing the pool could be supported by the community, and she pointed out that the Bandon community is not just the population of 3,000 within the city limits, but up to 9,000 when you include the immediate surrounding area. A swimming pool would provide a safe place for beneficial healthy exercise and school competition; it would also serve tourists looking for a warm indoor activity. The park would provide an easy location for everyone to find the pool, and it was the location suggested by the unknown benefactor. Anyone who has purchased property near the park on Kensington, Lincoln, or 8<sup>th</sup> and 9<sup>th</sup> off Jackson would have known that those streets are current or potential access points for the park. The pool would be indoors, so it would cause little noise. It would be in an attractive, solar-paneled building. Hundreds of people have already given contributions toward building a pool, but no additional steps can be taken until a location is decided.

Kimes reminded everyone that there is nothing currently before the Planning Commission or the Planning Department about the pool.

**Karen Donaldson, 736 12<sup>th</sup> Street SW, Bandon, OR 97411**

Donaldson asked about the status of an application for a referendum regarding the City's vacation rental dwelling (VRD) ordinance. An item about this may have appeared in the "What's New" section on the City's website.

McLaughlin was not aware of such a referendum request but noted that the City's VRD ordinance took effect October 10, and it may be past the point for a referendum.

Carleton confirmed that a prospective petition had been taken out and the City Recorder would know its status, but nothing has been turned in with signatures yet.

## **4.0 PUBLIC HEARINGS**

### **4.1 Accessory Dwelling Unit (ADU) Ordinance**

Kimes noted that this is a public hearing on a legislative matter. The hearing began with McLaughlin providing a staff briefing.

The Commission has held study sessions on the proposed ADU ordinance in August and September. Accompanied by a PowerPoint presentation, McLaughlin explained that the Oregon state legislature passed a bill which became State statute ORS 197.312, requiring cities with population greater than 2,500 and counties with population greater than 15,000, wherever single family detached dwellings are allowed within their urban growth boundaries, to also allow for accessory dwelling units (ADUs). This is essentially a mandate from the state.

Responding to a letter submitted as part of the public input solicited by the City for this hearing, McLaughlin addressed the question of whether the proposed ordinance affects the City's urban growth boundary. He noted that what is being considered by the Commission applies only within Bandon's city limits. An urban growth boundary is a line that surrounds the City and areas that could be the City's future urbanized areas—over the next 20 years or more. Everything within Bandon's city limits and beyond that—including the "Donut Hole," the airport, and Sunset City as the prime areas—is considered urbanizable.

Bandon is required by State law to allow ADUs anywhere the City allows single family homes, subject to reasonable local regulations relating to siting and design. Under State statutes, all housing is considered “needed housing,” and language that regulates permitted housing must be “clear and objective.” The City must be able to administer its housing regulations in a manner that is not discretionary. In developing an ADU ordinance, Planning Department staff has proposed, and the Commissioners have discussed, standards that will allow permitted housing units to be approved within the City.

ADUs have actually been around a long time. Historically, people have had small apartments within their houses, basement or attic apartments, garage conversions, “mother-in-law units,” “granny flats,” “tiny homes,” or detached cottages. These secondary units are often created as a way to house a family member, or as a rental unit. Some examples of these were shown as part of the on-screen presentation. Over time, such units have been zoned out, and the City has developed areas of single-family residential zones, where only one single-family home is allowed on a parcel, marking a departure from patterns of housing typical of many other cities.

The Staff’s proposed ADU ordinance has been developed based on the Commission’s discussions, using language from the State’s statute to modify the City’s definition of an ADU. The ordinance will apply in Zones R-1, R-2, CD-1, CD-2, CD-3, CDR-1, and CDR-2, where R stands for residential and CD means controlled development. All of these zones within the City allow single-family homes by right, subject to setback and height requirements. Some zones have additional potential requirements for geotechnical studies based on their proximity to the ocean and certain geologic features.

In the proposed ADU ordinance, allowed uses will be listed for each zone, including references to the standards for accessory units. Although ADUs will be permitted within these zones, they will be prohibited from use as vacation rentals and are not allowed to be listed on Airbnb, VRBO, or anything similar. Conversely, an accessory dwelling will not be allowed on a lot where there is a VRD.

In its proposed language, Staff has included a suggested ADU size limitation of either 700 square feet or 50% of the primary dwelling’s floor size—whichever is smaller—in addition to the 650 square foot and 40% of floor size limits favored by some of the Commissioners at the previous Work Session. Staff recommended the same limits for an interior unit, unless it takes over an entire floor of a primary home, which the ordinance would allow without limitation. McLaughlin speculated that would not be a common type of ADU in Bandon.

Single-family dwellings in Bandon are currently required to have two off-street parking spaces, and the ADU ordinance would require one additional off-street space, unless the property already exceeds the minimum number of spaces.

Over 2,000 notices were sent to property owners prior to this Public Hearing. A number of citizens who have attended will be provided time to give testimony and recommendations to the Commission. First, Kimes solicited questions for Staff from the Commissioners.

Fisher sought clarification as to whether existing zoning requirements for minimum lot size for two separate dwellings would still apply when accessory dwellings are permitted. He wondered if duplexes will be allowed on parcels where they were not previously permitted.

McLaughlin countered that his interpretation of the statute is that an ADU is not a duplex. It is subject to the same requirements as a single-family dwelling, and it may be placed on a lot that has an existing single-family home, regardless of lot size.

Kimes added that existing setback and lot coverage restrictions will still apply to properties that add an ADU.

McLaughlin pointed out that the intent of the State's legislation is to remove barriers to allowing this type of housing to occur in communities statewide.

**Jason Youmans, 1185 7<sup>th</sup> Street SW, Bandon, OR 97411**

Youmans views the State's mandate as a lazy attempt to address the tragedy of not having affordable housing. The State is saying to an existing neighborhood that was founded on low density that it has no choice but to accept individuals who opt to make it a high-density community. To some, "affordable housing" connotes "Section 8 housing," and Youmans feels America's workforce housing is on the verge of becoming Section 8 housing. Rents are steadily rising, with an average of \$1200 or more in Bandon.

Youmans is convinced the City would not be going through the process of developing an ADU ordinance if it were not mandated. So, as the City goes through the process, he suggested giving consideration both to the people who are in existing low-density neighborhoods and those who need what he terms "workforce housing." He advised the Commissioners to consider the size of the accessory units and how they affect privacy in neighboring yards. He also emphasized that new detached structures are not likely to be affordable, given their huge price per square foot. Youmans would favor units that are attached to existing owner-occupied primary dwellings. He expressed sympathy for the hard-working nurses, teachers, food servers, and such who support the local tourist economy. He proposed a 450 square foot limit on ADUs on smaller single-family lots, to make it more affordable for first-time tenants; 650 on a duplex lot; and 800 on larger parcels.

**Steve Miller, 3275 Golf Links Road, Bandon, OR 97411**

Miller disputed the notion that adding a second dwelling to a lot doesn't make it a duplex. Existing zoning provides places in town for single-family, multiple-family, and duplex housing. He feels Portland is dictating the ADU policy to our community. To him, the idea of turning the entire urban area of Bandon in multi-family lots is ridiculous and will not alleviate rent prices. He wonders who will invest \$50 to \$100,00 to build a small home and be able to rent it at an affordable price. Miller has owned two rental homes in Bandon for 20 years and has maintained low rents, but he wouldn't build a home of any size and rent it for less than market rate. He also questioned only requiring one off-street parking space when most two-person families have more than one car.

Carleton pointed out that the State often passes mandated laws with what he calls a "sop" to local jurisdictions. In essence, the State is saying it will overstep the local "home rule" abilities in what is nominally a home-rule state. But, Carleton asserted, that is a myth. Cities have lost that power years ago. They have home-rule charter ability until the State says they don't. From what he can discern, the legislative intent of the ADU mandate is exactly what Miller said is wrong about it.



Miller responded that the only way to counteract that is for the community to put enough restrictions that are acceptable on these units that they will happen where it is acceptable and not where it is not.

**Debbie Gleason, 995 Harlem Street SE, Bandon, OR 97411**

Gleason is new in Bandon, having come from a more crowded area in Southern California. She owned a couple of houses there that she sold, and she wanted to buy a beach house for her son. She agreed with Youmans and Miller that rents are high here. Before she bought property here, she was looking into ADUs and was told a 6,500 to 7,000 square foot lot was a minimum size for adding an ADU. She would consider most ADUs to be aimed at an in-law or a young person who can't afford the rents. Because they help these people, she leaned toward favoring ADUs. Having owned both houses and apartment buildings, she is also aware of the effect of dense housing on property values. Gleason suggested the person who puts in an ADU bears a responsibility to locate it for least impact on neighbors.

**Nancy Drew, 386 Delaware Avenue SE, Bandon, OR 97411**

With experience working for a "slumlord" in California, Drew sought to share her observations about garages, sheds, "shanty-shacks," and other things that could be put in a backyard and called dwellings. Depending on their construction, she sees most of them as being unsafe and unhealthy. Sewer backup is a big problem, and septic tanks aren't inspected as they should be. Who knows how many people are living in such dwellings? In California, there might be five people there one night and ten the next. Such dwellings may use the cheapest construction. Parking, garbage, and noise become problems because there are too many people there. These places become run down, affecting the value of surrounding properties. Drew believes the City definitely needs housing. She cited the low-cost, well-constructed, first-time-homeowner type of housing that was built after World War II as a positive example. The idea of putting shanty-shacks in the backyard worries her.

**Mary Woolley, 2821 Lincoln Avenue SW, Bandon, OR 97411**

Woolley needed clarification as to whether the proposed ordinance would change lot coverage and setback restrictions for lots with ADUs. Kimes assured her there would not be any changes. Woolley followed by asking if CC&Rs (covenants, conditions, and restrictions) would be affected. Kimes told her the City does not enforce CC&Rs, so the Commission can't comment on them. McLaughlin added that a subdivision might not allow ADUs

**Bart Taylor, 957 Seacrest Drive, Bandon, OR 97411**

Taylor wondered how many homes in Bandon would qualify to have an ADU. Kimes responded that although we don't have an answer for Bandon, we do know that in Portland, which has had an ADU ordinance for close to 30 years, less than one percent of the properties have one. In Ashland, where the city has pushed the development of ADUs, the number of parcels with an ADU is less than two per cent. With around 1,700 structures in Bandon, Kimes said he would be surprised to see even 17 ADU requests.

Taylor emphasized that the State mandate does not mean any property owner has to build an accessory dwelling. Everyone has a choice to invest in an ADU or not. He stressed the difficulty of finding available homes in Bandon. He knows people who work at the hospital who are tired of losing good people because there is no place for them to live locally. Taylor feels ADU construction will provide short-term, temporary relief until better housing can be built.

**Rose Bajorns, 800 Rogers Place, Bandon, OR 97411**

Bajorns did not feel the option of converting space within a large home into an ADU had been addressed as much as the pros and cons of putting accessory dwellings in backyards. She also wondered if the State ADU law, as fulfilled by the City, wouldn't trump an HOA's regulations.

Starbuck pointed out that an HOA is a separate entity. Miller interjected that CC&Rs apply to private property and have been upheld in court. Kimes expressed a desire to learn more about this at another time and concluded that HOAs can do things that the City cannot.

**Karen Donaldson, 736 12<sup>th</sup> Street SW, Bandon, OR 97411**

Referring to a clerical error in SB 1051, Donaldson expressed concern and confusion over whether and how the State ADU legislation and proposed City ordinance applied to the City's urban growth area, speculating that the State initially intended future incorporation of ADUs into undeveloped areas, as opposed to already-developed areas within the City.

Kimes explained that the intent of the legislation is for the City's ADU regulations to apply within its city limits as well as within its urban growth boundaries. Slothower and Tiffany sought to further interpret the way a map depicts the city and its additional urban growth area. Bremmer referred Donaldson to Chapter 8 ("Urbanization"), pages 1-21 of the City's Comprehensive Plan, available on the City's website, for further explanation.

McLaughlin elaborated on the clerical error cited by Donaldson. The error did not affect cities. By mandating that counties with a population greater than 15,000 must allow ADUs, the State was contradicting its goal of discouraging urbanization in rural agricultural and forest areas. That is what necessitated corrective language specifically limiting the scope of the legislation to within urban growth boundaries.

Kimes closed the Public Hearing portion of the meeting at 8:35 p.m.

Slothower favored Youmans' idea of basing the allowable ADU size on lot size—a 450-square-foot limit on single-home lots of 5,400 or more square feet, 650 on 9,000 square foot or greater lots zoned for duplexes, and 800 square feet allowed on larger lots—those over 10,500 square feet—that could accommodate three family dwellings. He suggested this would be a way of avoiding some of the problems that have been brought up. Slothower would also prefer single-story units, which he explained would encompass a single-story unit over a garage or a single floor of a home, as well as one-story detached units.

Bremmer felt the multi-level size limits would make the ordinance too complicated. In her opinion, such limits are arbitrary and would tilt toward the affluent, when the purpose of the law is to provide affordable housing. There are already a limited number of lots in Bandon that will accommodate an accessory dwelling.

Slothower liked the concept of tying the ADU size to lot size because it would maintain a sense of proportion without letting things get out of hand.

McLaughlin confirmed with Slothower that his proposal would eliminate the component of the regulation that limits the ADU to a comparative percentage of the primary dwelling.



Slothower agreed with Kimes that an entire floor of the primary dwelling or an over-garage unit would be allowed, regardless of square footage.

Fisher sought to clarify that lots having existing vacation rental dwellings are not eligible to construct ADUs.

McLaughlin explained that VRDs do not qualify as single-family dwellings because they have been given a multiple-family conditional use designation. An existing VRD would have to revert to single-family status in order to be permitted to build an ADU.

Jurkowski agreed that VRDs should not be allowed to have an ADU. She has no problem with two-story units in areas that already have two-story structures.

Starbuck found the sliding scale proposal interesting and agreed with single-story limitations and excluding VRDs from having ADUs.

Saying simpler is better, Tiffany would tend to prefer the 650 square foot or 40% of primary dwelling floor area restriction. She leaned toward having at least one of the units on a multiple-unit property be owner-occupied, but understood that such a limitation has been discussed and determined to be problematic. Tiffany thought it would be appropriate to levy SDCs (system development charges) that are proportional to the ADU's size compared to the primary dwelling.

Having worked for the City of Bandon for many years, she has seen how conflicts can arise if accessory dwellings do not have separate utility hookups. She favored separate hookups and meters for each unit, along with whatever fees those entail. She also felt it would not be unreasonable to require an ADU's design to be compatible with its primary dwelling. Tiffany wondered, too, if some amount of separation might be required between a primary dwelling and its ADU.

McLaughlin answered that there would have to be a purpose for such a requirement for separation, beyond meeting existing building code requirements.

Kimes suggested practicality would take care of determining the proximity of an ADU. If it was planned as a rental, an owner might want more separation, but might want the ADU closer if it housed a family member.

Jurkowski added that lot size would be a factor as well.

McLaughlin asked what the public purpose would be in specifying an amount of separation between a primary dwelling and an ADU, beyond what is already required by building codes and health and safety regulations.

Slothower returned to the topic of owner occupancy. Initially, he felt positive about requiring an owner-occupied dwelling on a property that has an ADU on it. Upon reflection, he sees that might cause some complications. If an owner moves away, for example, would they have to sell the property in order for the ADU to be rented?

Kimes was bothered by the owner-occupied restriction when he considered the circumstance of an owner passing away, leaving the property in trust. Technically no one would be allowed to live there.

Tiffany enquired if the ordinance would specify that properties with VRDs are not eligible to have an ADU, and should the VRD owner wish to add an ADU, if they would have to give up the VRD status.

McLaughlin confirmed the VRD restrictions and stressed that the purpose of the ADU ordinance will be to create housing opportunities for full-time residents.

Bremmer expressed fear that the City was falling into a problem of unintended consequences. On one extreme, it is creating a slum town with these ADUs; on the other, it is going to micromanage so much that it becomes a planned community. She thinks the Commission needs to come together somewhere in the rational middle.

Bremmer liked the proposal for ADUs to be the lesser of 650 square feet or 40% of the primary dwelling floor area, but she opposed limiting their height beyond existing zoning standards. She didn't think a neighbor has the right to prevent another property owner from building within the code. The City should allow people to choose to do the right thing, and then it needs to have clear and objective standards that can be enforced when they don't. She didn't anticipate anyone building something that looks like a garden shed, and then putting a For Rent sign on it. She thought code enforcement would be responsible for ensuring that a dwelling designed for a single person doesn't end up housing fifteen.

Bremmer agreed with Tiffany that an ADU ought to be compatible in appearance with its primary dwelling. She also liked Tiffany's recommendation that SDCs and separate utility meters be required for developing an ADU. It could be expensive for the builder but could save money in the long run. She would prefer SDC fees to be set in proportion to the size of the ADU, and felt Bandon's current SDCs need to be examined, too.

McLaughlin pointed out that a study of Bandon's SDCs will be conducted at some point in the future, to update the City's plan, and that will likely involve a refinement of how they are calculated. Currently, the City charges \$13,750 for a single-family dwelling, whether it's 5,000 square feet or 1,000 square feet, and no matter how many people it may be able to house. It's not necessarily fair. But in the interim, McLaughlin suggested a reduced SDC for ADUs, applied evenly until a study is done, could be a fair approach.

From a previous work session, Kimes recalled a reference that Staff made to the SDCs in either Medford or Ashland, where the charges are based on square footage. Bandon has three SDCs: roads, sewer, and water. Kimes suggested the City could use a formula, such as \$1 per square foot for each City service, to collect nominal, reasonable fees from ADU development.

McLaughlin recommended discussing specific fees at a later hearing but noted the Commission's sentiment for applying reduced SDCs to accessory dwellings.

Because an ADU could be a portion of an existing home or garage, Kimes was hesitant to require separate meters.

Tiffany suggested, and Jurkowski agreed, that it could be stipulated that meters would be required if the ADU is a separate dwelling.

McLaughlin observed that the Commission was approaching consensus on its recommendations regarding utilities, noting that the Council will ultimately decide on what the ordinance requires.

Kimes polled the Commissioners regarding their preference for ADU size restrictions. Jurkowski liked the sliding scale approach. Fisher favored 650 square feet or 40% of the primary home. Starbuck would go with a sliding scale and 40%, with a separate metering system for a detached unit. Tiffany, Bremmer, and Kimes were in accord with the 650/40% size limits. Slathower stayed with the sliding scale fee proposal but acknowledged that the majority preferred 650/40%.

Tiffany asked if the Commissioners would see a draft of the ordinance before it goes to the Council, and if there is a timeline being followed.

McLaughlin responded that the ADU ordinance is scheduled for the Council's December meeting. Staff would have time to modify the proposed language, incorporating revisions recommended by the Commissioners, and bring the ordinance back to the Commission for review at its November 15 meeting. The Commissioners can continue their deliberations at that time.

The draft ordinance will use the 650/40% ADU size limits; will require compliance with existing requirements in each zone for height, setbacks, and lot coverage; will recommend separate electric and water meters for ADUs that are separate structures; will establish accessory dwelling SDCs that are proportional to those for a standard single-family dwelling; and could contain a non-binding directive that the design of an ADU should be compatible with the primary dwelling on the same lot.

The Commissioners discussed the pros and cons of imposing ADU design expectations, in light of the need to have clear and objective standards in the ordinance. McLaughlin noted that the Commission's goal is probably not to proscribe what the ADUs will look like. He explained that existing design feature requirements were put in place to regulate manufactured homes when they were allowed on single-family lots, to prevent the worst of minimal homes from being built—whether manufactured or site-built.

Jurkowski asserted that dictating ADU design elements would be unreasonable. The consensus was to leave out any reference to design compatibility.

Fisher suggested a "park model" would likely be the cheapest form of ADU and wondered if that type of home would qualify. Kimes said that was exactly what he thought the goal and intent of the legislation was. Fisher asked if a "tiny house" would be allowed.

Starbuck cited a restriction in existing code that says there cannot be a manufactured dwelling less than 1,000 square feet, and it has to be double-wide.

McLaughlin indicated that a site-built tiny home built to building code standards would be fine. A park model might not be okay, because it would have been built in a factory and not meet the

minimum requirements for a manufactured home. He recommended saving this topic for a future amendment, to first see how things start out after the ordinance is enacted, and to gauge the interest at that time. Before the next Commission meeting, McLaughlin will research how other communities have addressed tiny homes and park models. Park models have actually been regulated as travel trailers by the DMV (Department of Motor Vehicles).

Tiffany moved to continue the deliberation portion of the hearing until November 15. Jurkowski seconded the motion.

Fisher requested further discussion after the motion was introduced, referring the Commissioners to a letter submitted to the Commission prior to this hearing, which requested that the Public Hearing be extended.

Kimes responded that the Commission is only making a recommendation to the Council, which will also hold a hearing on the ADU ordinance. So, reopening the hearing for public comment would not be beneficial, since the public will have another opportunity to comment before the Council, prior to any final decision.

The motion was approved (6:1:0). Fisher opposed the motion.

## **5.0 FINDINGS OF FACTS**

There were no findings of facts.

## **6.0 DISCUSSION/OTHER**

## **7.0 COMMISSIONERS' COMMENTS**

The Commissioners did not have additional comments, but McLaughlin reminded them that the November meeting will be a week earlier than normal due to Thanksgiving. The conditional use permit for a 32-unit Bandon Beach Hotel with parking off-site across the street and a small café on the first floor will be on the agenda, along with the revised ADU ordinance.

McLaughlin noted that on November 16, 2018, John Morgan of Morgan Consulting Services will conduct a land use training session for the City Council, Parks and Recreation Commission, and Planning Commission.

McLaughlin then surprised most of the Commissioners by announcing that he will be retiring December 14, 2018. Commissioners congratulated McLaughlin and let him know he will be missed.

## **8.0 ADJOURN THE REGULAR MEETING**

Kimes adjourned the meeting at 9:10 p.m.

Planning Commission Regular Meeting Minutes submitted by Richard Taylor, Minutes Clerk

**REGULAR MEETING  
OF THE PLANNING COMMISSION  
CITY OF BANDON  
THURSDAY, October 25, 2018 – 7:00 PM  
IN THE COUNCIL CHAMBERS, CITY HALL**

**REGULAR AGENDA**

\*\*\*\*\*

Council Chambers is accessible to the disabled.  
For special services contact City Hall 48 hours in advance at 347-2437, Voice ~ 711 TTR ~  
e-mail: [citymanager@cityofbandon.org](mailto:citymanager@cityofbandon.org) ~ web: [www.ci.bandon.or.us](http://www.ci.bandon.or.us)

\*\*\*\*\*

**1.0 CALL TO ORDER**

**1.1 ROLL CALL**

**2.0 CONSENT AGENDA**

- 2.1 REGULAR PLANNING COMMISSION MEETING MINUTES – September 27, 2018**
- 2.2 WORK SESSION PLANNING COMMISSION MINUTES – September 27, 2018**

**3.0 PUBLIC COMMENT**

Opportunity for Citizens to speak on issues NOT on the Agenda.  
TIME LIMIT - 3 MINUTES

**4.0 PUBLIC HEARINGS**

**4.1 ACCESSORY DWELLING UNIT (ADU) ORDINANCE**

**5.0 FINDINGS OF FACTS**

**6.0 DISCUSSION/OTHER**

**7.0 COMMISSIONERS COMMENTS**

**8.0 ADJOURN THE REGULAR MEETING**

\*\*\*\*\*



# City of Bandon

PLANNING COMMISSION AGENDA DOCUMENTATION

DATE: OCT. 25, 2018

SUBJECT: ADU ORDINANCE

ITEM NO: 4.1

SUBMITTED BY:



Dana Nichols, City Planner



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## LEGISLATIVE ZONING ORDINANCE STAFF REPORT

### Application File Name (Number):

18-080 Accessory Dwelling Units Ordinance

### Ordinance Request:

Amend Chapter 17 of the Bandon Municipal Code, *Zoning*, to allow for Accessory Dwelling Units in zones where single-family dwellings are outright permitted.

### Applicant:

City of Bandon

### Lead City Staff:

Dana Nichols, City Planner, 541-347-2437

### Hearing Date:

October 25<sup>th</sup>, 2018

### Relevant Dates:

The application was initiated by the City of Bandon in response to the passing of Senate Bill 1051 at the State level. This Bill requires that, as of July 1<sup>st</sup>, 2018, cities with populations greater than 2,500 shall allow the development of at least one accessory dwelling unit for each detached single-family dwelling in areas that are zoned for detached, single-family dwellings. The Planning Commission has conducted two work sessions on topic, first on August 23<sup>rd</sup>, 2018 and then again on September 27<sup>th</sup>, 2018. A public hearing has been scheduled in front of the Planning Commission on October 25<sup>th</sup>, 2018 and tentatively scheduled for a hearing in front of the City Council on December 3<sup>rd</sup>, 2018.

### Purpose of Staff Report:

Staff reports provide the Planning Commission and community members with information regarding current land use requests and staff analysis of the application. The staff report provides only preliminary information and recommendations. In limited land use decisions, permits, or actions, the Planning Commission conducts reviews in all zones during regularly scheduled meetings. When in a public hearing, the Planning Commission will consider public testimony and other materials when making decisions on the application.

### Ordinances Referenced:

(See also <http://www.cityofbandon.org/sites/default/files/fileattachments/general/>)

16.42.010 – Definitions

Chapter 17 - Zoning



## I. Relevant Facts

### **Background – History of Application**

Housing affordability and availability are issues facing cities large and small nationwide. With increasing population, waning housing supply, and cost of living outpacing local wages, housing has become a greater burden for families and individuals to bear. These issues persist in our local community as well and have been addressed in the Housing Needs Assessment prepared for the City of Bandon in winter of 2018.

In an effort to address the lack of housing options and remove barriers to the development of new housing statewide, House Speaker Tina Kotek introduced House Bill 2007 in 2017. Senate Bill 1051 was the product of the legislative process addressing Kotek's bill and was signed into law by Governor Kate Brown on August 15, 2017. This bill requires that cities with populations greater than 2,500 shall allow the development of at least one accessory dwelling unit for each detached single-family dwelling in areas that are zoned for detached, single-family dwellings. The city retains the ability to regulate siting and design of the structures.

The Planning Commission has conducted two work sessions on topic, first on August 23<sup>rd</sup>, 2018 and then again on September 27<sup>th</sup>, 2018.

### **Detailed Description of Proposed Ordinance**

#### Chapter 16.42 Definitions

The current definition for "accessory dwelling" located in Chapter 16.42 will be changed from:

"Accessory dwelling (attached separate cottage, or above detached garage)" means an accessory dwelling is a small, secondary housing unit on a single family lot, usually the size of a studio apartment. The additional unit can be a detached cottage, a unit attached to a garage or in a portion of an existing structure.

To:

"Accessory Dwelling Unit:" means an interior attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling. A maximum of one Accessory Dwelling is allowed per legal single-family dwelling. The unit may be a detached building, in a portion of a detached accessory building (e.g., above a garage or workshop), or a unit attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor).



## Chapter 17 – Zoning – General Changes

Accessory Dwelling Units will be listed as permitted uses, subject to the requirements of Chapter 17.104.020, in the following:

- 17.12.020 in Residential 1 (R-1) Zone
- 17.16.020 in Residential 2 (R-2) Zone
- 17.20.020 in Controlled Development 1 (CD-1) Zone
- 17.24.020 in Controlled Development 2 (CD-2) Zone
- 17.28.020 in Controlled Development 3 (CD-3) Zone
- 17.32.020 in Controlled Development Residential 1 (CD-R1) Zone
- 17.36.020 in Controlled Development Residential 2 (CD-R2) Zone

### Chapter 17.104

#### SUPPLEMENTARY PROVISIONS

17.104.020 General provisions regarding accessory uses

- A. Accessory Uses: Accessory uses shall comply with all requirements of the ~~principal~~ primary use except where specifically modified by this title and shall comply with the following limitations:
- ~~A. 1.~~ 1. No sales shall be made from a greenhouse or hothouse maintained as accessory to a dwelling.
  - ~~B. A guest house may be maintained accessory to a dwelling, provided the parcel has adequate square footage to meet requirements of this title for two dwellings on a lot.~~
  - ~~C. 2.~~ 2. A home occupation, when conducted as an accessory use to a dwelling in a residential zone, shall be subject to the following limitations:
    - ~~1.a.~~ a. No exterior display shall be permitted.
    - ~~2.b.~~ b. Exterior signs shall be restricted to those generally permitted in the zoning district in which the home occupation is located.
    - ~~3.c.~~ c. No exterior storage of materials shall be permitted.
    - ~~4.d.~~ d. There shall be no other exterior indication of the home occupation or variation from the residential character of the principal building.
- B. Accessory Dwellings: Accessory Dwellings are considered outright permitted uses in the following zones: R-1, R-2, CD-1, CD-2, CD-3, CD-R1, CD-R2, or anywhere single-family dwellings are outright permitted. Accessory dwellings shall comply with all requirements of the primary use except where specifically modified by the title and shall comply with the following limitations:
- 1. Accessory Dwelling Units are prohibited from use as a Vacation Rental Dwelling in all zones. Accessory Dwelling Units are also prohibited on properties designated as Vacation Rental Dwellings.
  - 2. A detached Accessory Dwelling shall not exceed 700 square feet of floor area, or 50 percent of the primary dwelling's floor area, whichever is smaller.
  - 3. An attached or interior Accessory Dwelling shall not exceed 700 square feet of floor area, or 50 percent of the primary dwelling's floor area, whichever is smaller. However,



Accessory Dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling would be more than 700 square feet.

4. One additional off-street parking space is required for an Accessory Dwelling.

## II. Procedural – Required Burden of Proof

The proposed ordinance would be an addition to Title 17, Zoning of the Bandon Municipal Code and an "Accessory Dwelling Unit" would be codified as an outright permitted use in each of the R-1, R-1, CD-1, CD-2, CD-3, CD-R1, CD-R2 zones and then a new section would be added to Chapter 17.104 Supplementary Provisions regarding Accessory Dwelling Units. A legislative amendment is subject to the requirements of 17.116.020, which are as follows:

*The Planning Commission (and ultimately the City Council) shall, "review the proposed amendments to the text of the zoning ordinance to determine consistency with the comprehensive plan and that the amendment will not adversely affect the city's or the developer's ability to satisfy land use, transportation and utility service needs or capacities. The proposed amendment shall also be reviewed to determine the suitability of the uses proposed in terms of slope, geologic stability, flood hazard, wetlands, and other relevant hazard or resource considerations."*

## III. Discussion

The proposed ordinance is the result of two work sessions with the Planning Commission, in addition to public comment at the last meeting. Staff has provided changes to the proposed ordinance language to reflect these discussions, however there are also other topics that the Commission brought up that, without commission consensus, Staff omitted from the proposed ordinance language for the hearing. These topics include owner occupancy and together requirements than the underlying zone in regards to height or setbacks.

While the owner occupancy piece was purposefully omitted due to this possibly running afoul with SB 1051's requirement that ADUs be subject to reasonable regulations regarding siting and design, height and setback requirements were not. Should the Commission wish to include differing language in regards to these siting and design standards, please provide further guidance.

## IV. Recommendations

As of July 1<sup>st</sup>, 2018, Senate Bill 1051 requires that cities with populations greater than 2,500 allow Accessory Dwelling Units anywhere single-family homes are outright permitted. In Bandon, this ordinance adoption will affect properties in the R-1, R02, CD-1, CD-2, CD-3, CD-R1, and CD-R2 zones- nearly 2000 properties. The Commission has held two work sessions on the matter and provided the public with an opportunity for preliminary review of the ordinance. Staff made changes to the previously presented proposed Ordinance, based on recommendations of the Commission. These changes include





adjusting the maximum size of the unit and clarifying the requirement to conform to the language in the underlying zone. Additional language was also added to the vacation rental dwelling item to further clarify the Commission's stance.

Staff recommends adoption of the ordinance as proposed here.

The Commission may also wish to consider making a recommendation to the City Council regarding the assessment of fees and hook-ups for utilities.

At the last work session, Staff presented models from other Oregon cities regarding the assessment of System Development Charges. The Commission, and the public, seemed interested in assessing System Development Charges with accessory dwellings due to the increased residential impact that the use will have on existing water, transportation, stormwater, and sewer systems. Staff finds that the accessory use has a minimal impact of storm water and transportation, or at least a similar impact to additions such as garages or simple additions (which are permitted without additional SDC payments). Staff recommends that the Planning Commission look at water and sewer SDC rates, to be assessed at either a per square foot or flat rate.

The City of Ashland assesses SDC fees at \$2.6069 per square foot for water and \$2.028 per square foot for sewer, however this is the rate charged for all residential development. In Bandon, we have a flat rate for SDCs for residential development, so the Commission could recommend a flat fee (maybe 50% of the residential equivalent dwelling unit cost). In this case, 50% of the SDC for water in Bandon would be \$3,273 and the SDC for sewer would be \$1,191. If the Commission wishes to capture the SDC payment based on the size and impact of the home, a rate similar to Ashland or an SDC equivalent to the percentage of the primary dwelling's floor area may be used. Using the Ashland SDC model as an example, the property owner would pay, at a maximum, \$1824.83 for water SDC and \$1491.60 for sewer (using the maximum square footage of 700 square feet). The Commission may also make a request for additional information.

Additionally, the Commission may wish to make a recommendation regarding the utility hook-ups. Every new dwelling in town hooks-in to electric, water, and sewer. The addition of a new unit may require new hook-ups for each of these services, or it may require none. There are a few scenarios which might provide some clarity to the commission on the two trains of thought.

If a property owner were to build a guest home in their back yard or convert their garage so that friends or family could stay over, it may be cost-prohibitive and undesirable (as well as extra work for City employees) to require them to install new services for water, sewer, and electric. However, should a property owner wish to construct an ADU for rental purposes, they may wish to provide separate meters for each tenant/unit. The Commission may wish to give the property owners the choice whether or not to hook into existing systems or install new ones, based on preference and intended use. The



City of Bandon Planning Department

Bandon, Oregon 97411

Phone: 541-347-2437

[www.cityofbandon.org/general/page/planning-department](http://www.cityofbandon.org/general/page/planning-department)

unintended consequence of this may be that in the future the use changes from personal to rental and lack of payment for service will result in loss of service for the entire property, not just the delinquent party. While this may be an unfortunate event, Staff recommends that the property owner be given the choice as to whether or not they would like to provide separate services.

The Commission is also free to amend the ordinance as deemed appropriate based upon testimony received at the meeting and comments entered into the record. The Commission may continue this item to allow for additional research and/or testimony. The Commission may also recommend that the proposed changes not be adopted.

A potential motion of the Planning Commission is as follows:

*"Move to recommend adoption by the City Council of the land use ordinance as proposed (and amended here) for the addition of Chapter 17-Zoning of the Bandon Municipal Code."*



Megan Lawrence <mlawrence@ci.bandon.or.us>

## Fwd: ADU Hearing

Dana Nichols <dnichols@ci.bandon.or.us>

Wed, Oct 17, 2018 at 2:52 PM

To: Megan Lawrence <mlawrence@cityofbandon.org>

----- Forwarded message -----

From: **Carolyn Potts Metzker** <cpmetzker@gmail.com>

Date: Mon, Oct 15, 2018 at 10:40 PM

Subject: ADU Hearing

To: <jmclaughlin@cityofbandon.org>, <dnichols@cityofbandon.org>

Cc: Carolyn Potts Metzker <cpmetzker@gmail.com>

Hi Jim and Dana,

My only feedback for the ADU Hearing that I would like included in the testimony packet is to not only exclude their use for vacation rentals but also for Airbnbs. A lot of people in other communities add on to their residential properties for this purpose, including the building of tiny houses, which does nothing to help with the low income housing need.

Thanks,  
Carolyn Potts Metzker  
541-329-2126  
2964 Spinnaker Dr.  
Bandon, OR 97411

—  
**Dana Nichols** | City Planner  
City of Bandon  
541.347.2437  
[www.cityofbandon.org](http://www.cityofbandon.org)



Monday, October 15, 2018

To: Planning Commission  
City of Bandon

From: Karen Donaldson  
736 12<sup>th</sup> Street SW  
Bandon, OR 97411

With regard to the proposed language put forth by the city council please consider the following language that would help minimize a negative impact on adjacent properties and the overall neighborhood. None of these ideas preclude ADU construction.

---

An accessory dwelling unit shall meet the design and development criteria described below:

1. Accessory dwelling units are allowed in any zoning (district) that allows residential uses insofar as there is an existing single-family residence on the lot.
2. Each accessory dwelling unit shall meet the requirements for building height, setbacks, yards and lot coverage for principal buildings of the zoning district in which it is located, except that a detached accessory dwelling unit may exhibit a minimum side yard and rear setback of five feet. However, detached ADU's, not meeting the setback requirements of the primary dwelling are limited to a maximum height of 15-feet, unless built above an existing garage or result from the conversion of an existing structure which is taller than 15-feet in height.
3. The design of the accessory dwelling unit shall employ a design compatible with the principal dwelling and shall be consistent with the principal dwelling in terms of form, massing, scale, and level of articulation.
4. Any window or door on a 2<sup>nd</sup> story shall be located and designed utilizing techniques that lessen the impacts on the privacy of adjacent properties. These techniques may include use of obscure glazing, window placement above eye level, windows and doors located toward the existing on-site residence or screening treatments.
5. There shall be a minimum five (5) foot separation between a detached accessory dwelling and any adjacent structure or building.
6. An attached accessory dwelling unit shall have independent exterior access from the existing residence with direct access from the front or side setback area.
6. Accessory dwelling units are required to follow the same building and safety requirements as the principal dwelling.
7. The introduction of an accessory dwelling unit shall be subject to review and approval by the local health officer where a private sewage disposal system is proposed.
8. The accessory dwelling unit shall not be sold separate from the principal dwelling and shall not be rented, leased or let for periods of time less than thirty (30) days.
9. There shall be no more than one accessory dwelling unit per lot.

Hello Bandon Planning Commission,

I wanted to share my opinion on the proposed changes relating to the Accessory Dwelling Units Ordinance being considered by the City. If this e-mail was sent to the wrong address, please forward it to the appropriate person or department.

Bandon's identity is that of a tourist destination with amazing food, art, golf, and natural beauty. It is not, nor should it ever be, considered to be a town of accessory housing overcrowded with homeless people living in trailers. The two concepts are obviously incompatible. Any action which encourages accessory housing in Bandon will be detrimental to this area's tourist appeal and will have a negative impact on almost every aspect of our quality-of-life here in Bandon. I agree that low-cost housing should be more easily available in cities like Coos Bay, North Bend, Coquille, and other non-tourist destinations, however Bandon should take all steps necessary to limit the amount of poverty in town, retain its high property values, and remain the crown-jewel of all cities in Oregon. We cannot allow this town to be transformed into a poverty stricken town with destitute people living trailers in other people's garages or driveways. If affordable housing is needed, then build low-rent apartment complexes in Coquille or outside of City limits. This solves the problem of affordable housing without destroying the property values, tourist appeal, and quality-of-life here in Bandon.

Despite your best efforts, any ordinance allowing accessory dwellings will be exploited by people abusing the ordinance to facilitate low-cost vacation rentals, airbnbs, etc. Every vacation rental in town will begin renting out it's driveway or backyard to people living in a trailer, essentially turning all of Bandon into a trailer park. The ordinance would also be adding population density to all neighborhoods in Bandon, and the people coming in will all be the bottom-rung of society. Why would Bandon want to invite homeless people, trailer-park alcoholics, drug addicts, criminals, unemployable adults, and illegal aliens into town? They don't pay taxes and do not contribute to society. How do they help us become a top tourist destination? I want tourists to visit Bandon and be impressed by our town, not surrounded by poverty, addiction, and mobile homes. No one will want to come spend their vacations in a town overrun with impoverished people who cannot afford their own housing, and are too dysfunctional to make it on their own. Send those people to the bigger cities like Eugene, Portland, and Coos Bay which have the infrastructure to help these people get their lives back on track.

Don't turn Bandon into a trailer park. Reject the Accessory Dwelling Units Ordinance.

Thank you for your time,  
Andrew & Joan Coleman  
681 Seaview Ct SW  
Bandon, OR 97411  
(541) 329-0553



10/10/2018

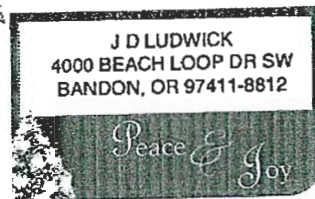
City of Bandon  
PLANNING COMMISSION

Thank you for the opportunity to express my support for  
the proposal to allow "Accessory Dwelling Units"  
on my property.

This embraces the concept of freedom of use for  
items of my ownership. This is, of course,  
predicated upon the added responsibility of  
consideration of my neighbors

Sincerely







Megan Lawrence &lt;mlawrence@ci.bandon.or.us&gt;

**ADU Comments**

1 message

**Ben Fisher** <ben@toadly.com>

Thu, Oct 11, 2018 at 11:16 AM

To: planning@cityofbandon.org

Folks,

I read through the Planning Commission work session minutes as well as the ADU guidelines from DLCD. The impression I had from reading the work session minutes is that the staff believes there won't be a lot of interest in building ADU's. That may be true now, but as people notice that they are profitable there may be increased interest in providing some additional rental income. It makes sense to me that the City should be cautious on how ADU's are regulated. It's a lot easier to relax rules than tighten them. I have some suggestions for you:

- SDC's and separate meters should be required for each ADU. This will help the City fund infrastructure issues related to increased need.
- Off street parking should be required regardless of availability of on street parking to limit congestion on city streets such as Franklin Ave or 8th Street.
- Detached ADU's should be limited to 400 sq. ft. Think large "tiny" house. If it's a garage conversion, or similarly attached then 650 sq. ft.
- While ADU's are to be permitted outright, that should not mean that a VRD should be able to have an ADU. Permitting this may enrich the City's coffers through TOT fees, but would add additional "guests" and impact the neighborhood surrounding the VRD. If a person with a VRD wants to build an ADU they should have to give up their VRD status.
- No building a second story ADU, except for the "tiny home" model.
- One ADU per subject property.
- Detached ADU's should have the same requirements as other residences as to design standards- in other words, you shouldn't be able to move in an old storage box and call it an ADU.
- The usual setback requirements still apply.

Ben Fisher  
550 Eleventh St SW  
Bandon

**Work Session of the Planning Commission  
At Bandon City Hall  
August 23, 2018**

**COMMISSION:**

- ☒ David Kimes, Chair
- ☒ Sheryl Bremmer, Vice Chair
- ☒ Paul Fisher, Commissioner
- ☒ Sally Jurkowski, Commissioner
- ☐ Gerald Slothower, Commissioner
- ☒ Donald Starbuck Commissioner
- ☒ Blythe Tiffany, Commissioner

**STAFF:**

- ☒ John McLaughlin, Planning Director
- ☐ Fred Carleton, City Attorney
- ☐ Megan Lawrence, Planning Assistant
- ☒ Dana Nichols, City Planner

**1.0 CALL TO ORDER**

Kimes called the Work Session to order at 7:20 p.m. Roll Call was taken as indicated above.

**2.0 ACCESSORY DWELLING UNIT (ADU) ORDINANCE**

Kimes announced there are no public comments allowed at Work Sessions because the Commission is hearing the material for the first time, but the public is welcome to stay and listen.

Nichols prepared a Staff Report and presentation to provide preliminary information to the Commission regarding a proposed ordinance to address Accessory Dwelling Units (ADUs). At least one ADU is now required to be allowed by-right in any zone outright permitting single-family dwellings, as required by the State of Oregon through House Bill (HB) 2007/Senate Bill (SB) 1051. This requirement for ADUs is only required in cities with populations greater than 2,500 or in counties with populations greater than 15,000.

McLaughlin clarified that the area inside Bandon city limits will be subject to these regulations because our city exceeds a population of 2,500.

Questions were asked and answered about the slideshow, including the urban growth boundary (UGB), previous county issues/forested areas, etc.

McLaughlin said that ADUs can be a garage conversion, attic conversion, or addition on an existing home; it doesn't have to be a new separate dwelling. The idea from the state level is that if the structure meets setbacks and lot coverage, ADUs will increase housing stock to address housing shortage concerns of all communities in the state. Portland has been doing this for 20 years. Each city will set standards appropriate for its community. The state requirement has been in effect since July 1, 2018.

McLaughlin explained some of the reasons for and uses of an ADU. It could be used for:

- parents moving onto a grown child's property (they could be elderly and need a bit of care)
- adult children moving back home (for any number of reasons—home from college, divorced, etc.)
- a rental unit (rental income would help pay the mortgage or increase disposable income)

Fisher asked if we can put a cap on rental ADUs. McLaughlin said no, there is no rent control in Oregon at this time. The object of an ADU is that it is affordable by design, e.g., a studio apartment, generally, because of lot sizes.

Jurkowski asked if the State says we have to meet a certain percentage requirement. McLaughlin said there is no goal to be met.

Kimes said there couldn't be 50% lot coverage and setbacks need to be observed. Thirty percent lot coverage is average.

Nichols said the ADU couldn't be larger than a set percentage of the size of the primary dwelling.

McLaughlin said that he doesn't predict a large amount of the population will build ADUs. In Portland, less than 2% of homeowners have ADUs. In Ashland, less than 1% of homeowners have ADUs. Vancouver has been strategically aggressive and allows two ADUs on one home site, with no parking requirements.

Kimes said that some homeowners build an ADU and then move into it themselves and rent the primary dwelling.

Bremmer asked if all ADUs are rentals. McLaughlin said an ADU cannot be sold separately, so in a sense they all could be rentals or considered guest housing. They can be rented to family members or others looking for housing. Bremmer said the state and municipalities will have to deal with unintended consequences of this Ordinance. Eugene is infilling. Bandon will be infilling. Yes, ADUs may be more affordable, but what about the problems of increased parking demands, neighbors being bothered by headlights at night, and what about Systems Development Charges (SDCs)?

Kimes knows someone in the rental industry that has 6 pages listing people looking for rentals.

McLaughlin said some communities are embracing ADUs. If we go the route Vancouver took, how do we encourage residents to build ADUs, whether they are separate dwellings or garage conversions or added rooms? What incentives could we offer that would reduce barriers? We could explore the areas of permit fees and SDC costs. The builder of an ADU would have to arrange for utility hookups and would need insulation and drywall. How could the city help, keeping in mind builders of ADUs would need to pay their fair share of expenses?

Discussion arose about the impact on properties. McLaughlin said similar impact happens whether the land has one big dwelling or one smaller dwelling with an ADU.

Bremmer said each ADU will have its own unique aspects. Do we really want to encourage people to give up their garages for garage conversions?

Fisher said some communities don't allow garage conversions. McLaughlin said other communities think it's more important to house people than to house cars and therefore allow garage conversions.

Bremmer said garage conversions aren't simple. A garage is built to house vehicles. To do an ADU conversion would mean meeting fire regulations, installing a food preparation area/exhaust vents, heating/cooling, appropriate flooring, meeting construction codes, windows, etc.

McLaughlin said it's illegal to live in a garage that has not been converted, and yes, there are state building code requirements for garage conversions regarding window exiting, eating areas, flooring, living space, venting, plumbing, etc. Most people would probably prefer to live in a studio apartment or a one-bedroom apartment rather than a garage conversion.

Tiffany asked if this ordinance would permit conditional use stipulations or if ADUs are required to be outright permitted. McLaughlin said the State wants all communities to do this. It is mandated, and ADUs are outright permitted. Tiffany asked if zoning is sufficient to meet issues that might come up with an ADU. McLaughlin: That is what we are here to discuss—the correct scale of the prospective ADUs in relation to the primary dwelling, the setbacks, the lot coverage, etc.—with administrative “yes” and “no” answers to questions that will come up.

Tiffany: There are all kinds of conditions. Do we need to change the underlying code? McLaughlin: The Commission has to decide what the issues are. Tiffany said it's hard to anticipate every issue and she has safety concerns. McLaughlin: State codes handle most health and safety concerns. The main issue is how do we comply with the State's requirements and fit the ADU mandate into the urban quilted fabric of Bandon? Any additional requirements we set have to be clear and objective. Tiffany: So, we send a recommendation to the City Council and they adopt an ordinance? McLaughlin: Yes. Bremmer: We already made code provisions for “live or sell,” in light industrial areas, so we have precedence. Can we tell the State about conditional use? McLaughlin said sure, but we would still have to meet State requirements.

Fisher: Could we consider stipulating that an ADU has to be owner/family occupied? McLaughlin said he's not sure we can do that. The Bill may be vague, but how would we figure out who lives where and how would that be enforced? And who's to say a renter isn't on the same level (as an occupant) as a family member?

Fisher: Since an ADU would be using the same power/electricity, water/sewer, who is the responsible party if the hose is left on, for example, and the water bill is inflated? Nichols said separate meters would solve that issue. McLaughlin said SDCs charges would be separate from meter charges. Do we want ADUs to pay SDCs? Jurkowski asked, since the ADU is proportionately smaller than the main dwelling, would the fee be proportional? McLaughlin said it could be as easy as determining the percentage of use that an ADU would have. Bremmer said she understands the City Council: may structure SDCs instead of leaving them “one size fits all.” Jurkowski said that would be good since dwellings vary.

Nichols said the State requirements have been covered, and summed up practical reasons to adopt the ordinance:

- housing/rentals are needed
- \$48K is the median income for Bandon residents and an ADU's rental income would supplement a homeowner's income

Nichols went over the content of the Staff Report regarding the types and sizes of ADUs, photos, implementing recommendations, and staff recommendations. Nichols asked if there were any questions.

Bremmer: Has anyone heard discussions about municipalities limiting the amount of vacation rentals to raise long-term rental availability in general and thus increase housing stock?



McLaughlin: It is a big discussion in planning circles, especially in vacation communities because vacation rentals generate more income. Some of those municipalities have no restrictions and lose housing stock to vacation rentals. We have pretty tight restrictions, especially along Beach Loop and the Jetty area which are primarily locals' housing, rather than vacation rentals. Bend tries to limit vacation rentals to boost housing stock. It's a good idea not to open the whole city to vacation rentals. It's practical as locals need housing.

Kimes: Are ADUs always conditional uses?

McLaughlin: They are always permitted uses. They have to be permitted outright.

Kimes: Parking for ADUs needs conditions.

McLaughlin: The Commission can set requirements for parking for ADUs. A single-family dwelling must have two on-property parking spaces.

Nichols: For ADUs it could be stipulated that if on-street parking is allowed (or if on-street parking is allowed on both sides of the street), then no on-property parking requirement is necessary. Otherwise, it could be stipulated that a property must have 1.5 times the number of units for parking spaces, so an ADU would mean 3 parking spaces would need to be available.

McLaughlin: Parking is what we need to decide as a Commission. Portland started out requiring conditional use permits, but hearings and applications were a hassle and impediment. This new Bill is telling communities that ADUs have to be allowed outright. Requirements can be imposed; however, the goal is to make it as relatively easy as possible. He thinks that not many homeowners will take advantage of building an ADU.

Bremmer and Fisher asked if a duplex owner could build an ADU. Discussion ensued about duplexes and triplexes, and lot sizes for same compared to single-family home properties.

Nichols said she looked up a subsection of the Bill, and since a duplex isn't a single-family dwelling, she and McLaughlin said no, an ADU could not be built on a property with a duplex.

Bremmer: There are consequences to consider regarding that. She thinks duplex living would be preferable to living in a garage conversion. An ADU on a duplex could make it a triplex and increase housing availability.

McLaughlin: With ADUs we are talking about a totally different style of housing from duplexes and triplexes. ADUs tend to be more compatible to neighborhoods than duplexes.

Jurkowski: The cost of construction is less too.

Kimes: What about not allowing ADUs to be vacation rentals since ADUs are supposed to increase housing availability? Discussion ensued between Kimes and McLaughlin about the pros and cons of allowing or not allowing an ADU to be a vacation rental dwelling (VRD).

Jurkowski: If using an ADU as a VRD allows the owner to be able to afford staying in place because of vacation rental income, then it does help housing.

Fisher, Nichols, Bremmer, McLaughlin, and Tiffany discussed single-family dwellings with ADUs being used as VRDs and VRDs in general. In summary, McLaughlin reiterated that the Commission can determine what requirements will be written into the recommendation that will go before the City Council.

Tiffany brought up the issue of parking, to which Nichols said that a requirement could be set that an on-site parking space would only be required if there wasn't parking available on both sides of the street. General discussion ensued, and it was suggested that the approval form could include a parking check box that indicates whether or not there is adequate street parking available.

Fisher introduced the topic of our sewer system and that the Commission needs to think about the demands ADUs will put on our infrastructure. General discussion ensued, and it was pointed out that any time there is development; new demands are made on the system. Kimes brought up that if only 1–2% of the 1700 single-family dwelling homeowners take advantage of building an ADU, there should not be a major impact on the infrastructure. Fisher said it's the older part of town he's concerned about.

Bremmer: We need to make building ADUs available (and not onerous), but we need to be civic-minded too, and let property owners know utility infrastructure demands. We need to offer maximum fairness to those who chose to build ADUs to rent and to those who build ADUs because they have family members with no place to live—the demands on the utilities are the same either way. The goal is to have minimal negative effects on utilities.

Kimes thinks it might be beneficial to have some kind of SDC because we are trying to bring more people into town which puts an extra burden on utilities and our streets. Nichols asked if the Commission needs any additional information from staff to help determine what amount to set for an SDC.

Bremmer and Fisher offered the suggestions of basing the charge on percentage of the dwelling used by the owner or based on square footage.

Nichols said she could compare Bandon with other communities.

Bremmer emphasized the importance of realistically addressing parking issues. Not all streets are wide. Some streets are substandard. Some have bike lanes, but we are basically a car-based community. We need to consider the impact of ADUs on neighborhoods before they become a problem, possibly by adding parking space requirements, especially if the ADU is a garage conversion, because garage parking would no longer be available to the owner or the ADU dwellers.

McLaughlin suggested that the Commission develop a clear approval process, streamlined to an initial basic path. Then, depending on the unique aspects of each ADU, offer discretionary paths (this could include parking circumstances). We could have a hearing officer review conditional usage. We will learn what works over time and by experience.

Kimes asked for Commissioner comments and started with Starbuck.

Starbuck said he: lives in the “donut hole” (thus has been listening more than contributing) and is on the Utilities Commission. Until now, we've had level population growth. He's concerned about the capacity of the city utilities to accommodate the potential number of new residents moving into ADUs. The State demanding we allow ADUs will have a major impact on utilities. He is curious to see the outcome.

Kimes similarly thinks we should look at conditional use regarding Residential Care/Assisted Living Facilities as well because of the utilities demands they will place on the infrastructure. He asked staff to look at the Elmira scenario.

McLaughlin said he'll take a look at that, but thinks the State says Residential Care Facilities have to be allowed where apartments are allowed (he'll confirm that). Through the zoning compliance process, we always have the right to impose conditions that we believe address infrastructure concerns, especially when the fire and police departments have concerns.

Kimes asked if anyone wanted to add anything.

Nichols wanted to know how the Commission feels about the numbers in Limitations on Uses, Item C. in the Staff Report on page 4: "A detached Accessory Dwelling shall not exceed 900 square feet of floor area, or 75 percent of the primary dwelling's floor area, whichever is smaller." The State recommends between 800–900 square feet, so 900 is on high end. Does the Commission want the numbers smaller or larger, or is the Commission okay with what is stated.

Discussion ensued about how big 900 square feet is, and is 800 square feet the smallest ADU a person could build (Nichols said, no, it can be smaller than 800 square feet). Questions were asked about the size of the ADUs pictured in the Staff Report and the size of the tiny house on Division near Wilson's Market.

McLaughlin said he will look at square footage/percentages and bring the Planning Commission examples of ADU sizes compared to primary dwellings, plus additional information gleaned from research.

### **3.0 ADJOURN**

Kimes adjourned the Work Session at 8:38 p.m.

Planning Commission Work Session Minutes submitted by Fran McGuire, Minutes Clerk

**Work Session of the Planning Commission  
At Bandon City Hall  
September 27, 2018**

**COMMISSION:**

- ☒ David Kimes, Chair
- ☒ Sheryl Bremmer, Vice Chair
- ☒ Sally Jurkowski, Commissioner
- ☒ Donald Starbuck Commissioner
- ☒ Paul Fisher, Commissioner
- ☒ Gerald Slothower, Commissioner
- ☐ Blythe Tiffany, Commissioner

**STAFF:**

- ☒ John McLaughlin, Planning Director
- ☐ Fred Carleton, City Attorney
- ☒ Dana Nichols, City Planner
- ☐ Megan Lawrence, Planning Assistant

**1.0 CALL TO ORDER**

Kimes called the Work Session to order at 7:23 p.m. Roll Call was taken as indicated above.

**2.0 ACCESSORY DWELLING UNIT (ADU) ORDINANCE—PART TWO**

Incorporating the Commissioners' feedback from the previous Work Session, Nichols began a presentation to accompany the Staff Report provided to the Commissioners prior to this Work Session.

She began by discussing the application process for an ADU. One option is to follow the State requirement for outright permitted zoning compliance. Another option would provide some flexibility for a homeowner to do something slightly outside of what is outright permitted, such as constructing more than one ADU. For example, there could be an attic unit in the house and another unit outside. Or, if there is standard on-street parking available, an off-street parking requirement may be waived. If someone wants to build a unit that exceeds the size allowance, a plan review might be offered.

Nichols researched how other Oregon communities are assessing System Development Fees (SDCs) for ADUs. Some cities assess a flat rate for a single-family dwelling, such as Bandon's \$13,750. Some assess a standard impact fee; others, such as Ashland, use a per-square-foot model. Portland waives its SDC fees initially in an effort to encourage construction of ADUs.

In last month's Work Session, Commissioners felt a 900 square foot limit for an ADU would be too big, so the proposed ordinance language has been changed to reflect a maximum of 800 square feet or 65 percent of the primary dwelling's floor area, whichever is smaller. To provide a perspective on this amount of floor space, four business cards were placed on the Council Chambers floor to mark the corners of a 200 square foot area.

Nichols' presentation included photographic examples of different types of ADUs, showing both the exteriors and the interiors. The first example showed a two-floor conversion of a single-car

garage. A garage conversion could utilize the garage floor as part of the living space, or the living unit could be built above the garage, leaving the lower floor of the garage still available for parking space. The second example in Nichols' presentation was a 200 square foot tiny home studio, more appropriate for a guest home than a rental. The next example was a 480 square foot one-bedroom, one-bath ADU with flex space that could be used as a living room or second bedroom. The final example showed a 720 square foot, two-bedroom, one-bath unit.

Nichols reminded the Commissioners that the State bill allows cities to create clear and objective, reasonable standards relating to siting and design, in an effort to create more housing. These State guidelines are rather broad, and staff has tried to narrow down the options for the Commission, but remains open to more ideas before moving on to the public hearing.

Kimes announced that public comment and questions are not usually allowed at the Commission's Work Sessions, but in this instance public input is welcome before the Commissioners begin their discussion period.

**Jason Youmans, 1185 7<sup>th</sup> Street SW, Bandon, OR 97411**

Youmans does not oppose ADUs in the sense that they are intended for affordable housing. But he hasn't heard anything that guarantees they will be affordable. He thinks rents will still rise to as much as \$1,000 a month, making them out of reach for many people. His impression is that in vacation towns like Bandon the intent switches from affordable housing to an attitude that whoever can afford the most will get the most. Youmans would like to find a way to curb that bumping up of prices.

Youmans acknowledges that the ADUs in Portland look nice. Since he has personally designed and sold long and narrow lots with a cottage in the back, he does not view them unfavorably. But many of Bandon's lots don't fit that image. In considering the appropriateness of ADUs, he says we need to look at factors such as lot sizes, orientation of existing houses, and neighbors who want their privacy and will lose it with a two-story home looking down into their yard. Bandon's building codes have previously been so restrictive that many who planned their lives so they could end up here would never have seen this change coming.

Youmans asked if a second dwelling is put on an R-1 lot, does it become an R-2 lot? Would it have two sets of utility meters if it has two families on it?

McLaughlin clarified that a property that adds an ADU still retains the same zoning. It would be an allowed use within a single-family zone to have an accessory dwelling.

Youmans responded that there are size limits on duplex lots, and he feels duplex lots should be used as criteria for establishing ADU zoning, because there would be less pressure on neighbors with ADUs in R-2 zones. He then proposed considering two tiers on ADU size, based on lot size.

Kimes noted that the 50% lot coverage limitation would apply regardless of lot size.

Youmans repeated that two-story ADUs threaten the privacy of neighbors. Originally an opponent of SDC fees on infill lots, which are priced higher than lots without systems, he came to accept the rationale that SDCs were needed because existing sewer lines wouldn't



accommodate those lots. Now, he questions the potential doubling of the demand on those lines without requiring a fee.

Youmans then asked where to find a copy of the State policy on ADUs. So, Bremmer read the names of the applicable State legislation: House Bill (HB) 2007, introduced in the House in 2017, and Senate Bill (SB) 1051, which addressed the House bill and was signed into law by Governor Brown on August 15, 2017.

Nichols pointed out that a guide based on the House and Senate bills was created by the Oregon Department of Land Conservation and Development (DLCD), and it was included in the packet for the Commission's August meeting. It also may be found on the City of Bandon's website. The bill states, "A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas within the urban growth area that are zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and designs."

Youmans urged caution with expansion, considering Bandon doesn't have curbs, gutters, and sidewalks like other cities and towns. He has witnessed many close calls between cars, bicycles, and people on 7<sup>th</sup> Street near Beach Loop because of this. He wondered about the timing of the City's taking up the ADU issue.

McLaughlin explained that the State law became effective July 1 of this year. It has been in the City's work plan since then, but other items have taken precedence. This is the second study session on the subject.

Youmans still feels that the City is rushing into a major decision on zoning that will affect development for years to come.

Kimes assured Youmans that this Work Session is just a preliminary step. It leads to a more formal process producing an ordinance proposal to be discussed at a public hearing before the Commission. After that, it goes before the City Council and receives public input there.

McLaughlin noted that in the past two years the Planning Department has only received one or two requests regarding ADUs. So there hasn't previously been a great demand for them. This law is a tool the City can use to help create more affordable housing.

**Judy Smilan, 761 12<sup>th</sup> Street NW, Bandon, OR 97411**

Smilan would like to limit the number of people living on properties that have a primary house and an ADU. She thinks an ADU should be limited to two people, unless it is a conversion that is a whole floor of a house, and she feels the property owner must live in either the primary dwelling or the ADU as a permanent primary resident. In her view, the property owner must not receive rent for the primary owner-occupied unit.

Smilan feels the ADU needs to be much smaller than the main building and needs to serve a good purpose—not just for the owners to make extra money from their property. The goal of SB 1051 is to have ADUs that are affordable housing for full-time residential living. Her reading of bills 1051 and 4031 is that they were both aimed at farmers, emphasizing compounds, multi-

family dwellings, and subsidized housing. In addition to farm workers, SB 1051 addressed affordable housing for people with low income.

Smilan thinks an ADU should not be used as a rental unless it is a long-term residential rental to one person or to one person and their immediate family. There should not be an unrelated group of people renting an ADU, such as caddies and hotel workers. There would be too many cars in neighborhood. She also believes the proposed ordinance should specify that an ADU must meet underlying requirements for lot size, setbacks, and height restrictions in its zone, and she fears the effect on neighborhoods if the City allows exceptions.

Smilan suggests the ordinance should limit ADUs to 25% of the primary dwelling and 400 square feet, whichever is less. She says two dwellings of a similar size on a property would not be appropriate, and off-street parking should be required for an ADU. In her opinion, SDC fees should not be waived for owners who are just trying to make extra money off their properties.

Fisher cited the ADU size restrictions of several Oregon cities, ranging from 25% to 40% of primary dwelling size, as listed in the Staff-prepared packet.

**Denise Frazier, 1259 Wavecrest Lane, Bandon, OR 97411**

Fraser believes the market will drive ADU rental prices. A renter will not pay \$1,000 for 200 square feet if an entire home is available for the same cost, so ADUs will end up providing affordable housing.

**William Beck, 1107 6<sup>th</sup> Street SE, Bandon, OR 97411**

Beck urged ADU guidelines that will help retain the charm, character, lifestyles, and privacy of Bandon and its citizens. An ADU should not compete in scale with an existing structure, and the property should still comply with existing maximum lot coverage rules for its zoning area, including all accessory buildings. Beck suggests setbacks of 10 feet for one-story ADUs and 15 feet for two-story units, with no exceptions for existing height limits.

**Karen Donaldson, 736 12<sup>th</sup> Street SW, Bandon, OR 97411**

Donaldson feels the entire text of SB 1051 should be provided to the public, rather than just the guidance summary. She doesn't think the proposed ordinance shows enough consideration to design elements. When you look at communities and subdivisions that work, they work because of design. They may have the same zoning as older neighborhoods, but they are designed as a subdivision and the plans of the homes are altered to protect privacy. Donaldson said it is important to design an ADU to acquiesce to the existing neighborhood, with attention to window placement that protects the privacy people are accustomed to and that attracted them to their neighborhood.

McLaughlin offered a clarification on SB 1051. The bill included a variety of land use changes for both cities and counties on a variety of issues. Section 6 amends ORS (Oregon Revised Statute) 197.312, which applies to city land use planning. In the exact language of the Senate Bill, the State mandates that the city shall allow ADUs. Much of the language of SB 1051 does not affect our city, but the ADU requirement does.

McLaughlin, Fisher, and Slothower discussed the interpretation of "shall" as used in SB 1051. It was concluded that the legislature uses "shall" as an imperative.

Nichols told the Commissioners they have three aspects of the ADU proposal to consider: the application process, the SDCs, and changes to limitation on limitations of use.

Kimes emphasized his desire to have firm and explicit conditions in the ADU regulations, so applicants will know there is a basis for a clear yes-or-no answer.

Jurkowski, Kimes, Slothower, and Fisher discussed suitable limitations on ADU size. Slothower debated what might be the appropriate percentage of a primary dwelling to allow, and then he proposed a 650 square foot limit. Fisher pointed out that twenty cities listed by DLCD set ADU limits at up to 40% of the primary dwelling floor plan or up to 800 square feet, whichever is less. Garibaldi, a beach town comparable to Bandon, has a 600 square foot maximum, or 33% of the size of the existing main dwelling, whichever is less. Additionally, 68% of Oregon communities in the DLCD document require the primary residence to be owner-occupied.

McLaughlin interjected that the language in the State legislation allows a city to adopt reasonable regulations that are related to siting and design. When ADUs were a new concept, there was initial cautiousness about their impact on neighborhoods, and that concern is reflected in the ordinances adopted prior to SB 1051 by cities listed in the DLCD document. At that time, some cities included language restricting the number and type of occupants in dwellings on properties with ADUs. Under new State law, McLaughlin said it's unclear if the legislature precluded cities from setting occupancy restrictions, and such restrictions haven't been litigated yet. Bandon doesn't currently limit who can occupy a home—owner, renter, family member, or non-family member.

Fisher noted that in last month's presentation on ADUs there was an emphasis on aging parents and caretakers, implying ADUs would commonly be built on owner-occupied properties.

McLaughlin responded that requests are coming far less from people looking at an investment opportunity than from those dealing with the needs of a family member, such as a child or an aging parent. Once it's built, the ADU may serve as a guest room or turn out to be an investment in their property that they may rent out.

Fisher, Slothower, and Kimes discussed how a property owner might work within maximum lot coverage, maximum dwelling height, and ADU size restrictions to build the largest allowable unit for the greatest potential rental income. Slothower stressed that most of the regulations in the DLCD document limit the size of an ADU to the lesser of its square footage or some fixed percentage of the floor size of the main dwelling.

McLaughlin observed that there have only been maybe two property owners in Bandon who have pushed the limits on height and lot coverage. These homes look out of place, and most people would rather have yard space and be able to live there and enjoy it. McLaughlin said it's necessary to consider the theoretical extremes, but that shouldn't stop the City from meeting the underlying purpose of the ADU proposal, which is to put ADUs in the toolbox of housing options. It's not going to bring resolution to the problem of affordable housing, and in fact it will have a small impact, but the State has said we "shall" do this.

Fisher referred again to the DLCD document to note that some cities have imposed minimum lot size regulations for properties to qualify for ADUs—often 7,500 square feet—and he pointed out

there are many lots in Bandon that are only 40 feet by 100 feet with 50% lot coverage already, particularly in Bandon Heights. Fisher wondered if those lots would be too small for an ADU, or would something like a garage conversion be allowable? Would they be grandfathered in?

McLaughlin replied that the State has recommended that if a building already exists, there shouldn't be a penalty for converting it to an ADU.

Starbuck suggested looking at options to curtail efforts of property owners who are trying to minimize lot coverage and maximize floor space by building two-story structures.

Slothower pointed out that stairways take up a lot of livable space in multiple story dwellings. So, what is gained by building extra stories is lost in the staircase. Building codes do not allow a ladder to the second floor or loft, except in tiny homes, which was affirmed by McLaughlin.

Bremmer stated the intent of the law is to solve the housing crisis in Oregon. Bandon especially suffers from a lack of rental housing. The Purpose paragraph on page three of the Proposed Sample Ordinance Language states, "This ordinance is intended to encourage development that is consistent with existing residential requirements..." Should there also be occupancy requirements?

McLaughlin offered an explanation of the origin of occupancy requirements in the ordinance language of some communities. Initially, these stipulations arose from a concern that small rental units in single-family zones would have a negative impact on neighborhoods that were primarily owner-occupied. When he was in Ashland, the city required an ADU applicant to live on the property being developed before a building permit could be approved. After an ADU is built and occupied, enforcement of this type of restriction becomes difficult.

Kimes suggested someone who owns an existing rental dwelling might build a second rental unit on the same property and might be able to reduce the rent on the original unit, addressing the spirit of the affordability issue at the root of the ordinance.

Bremmer asked if it is assumed that property owners who apply to build an ADU are doing it for a "granny" house for an elderly relative, for a child returning home who can't find a place to live in the area, or for a place for someone who wants to live and work in Bandon. Can we trust they are doing it for the right reasons? Since allowing ADUs under current regulations will affect the R-1 zone, should there be occupancy requirements, too? She wondered about the tenor of the community on these issues.

Bremmer also described a situation of a large lot that could be split into two adjoining lots, with each having the potential for ADU construction. Nichols clarified that the Commissioners had decided at last month's meeting to limit the number of ADUs to one per property, and that each property must first have a primary dwelling to qualify for adding an ADU.

McLaughlin introduced a scenario in which someone who has purchased a property in Bandon but can only afford to build a garage with a small apartment above it, intends to come back someday and build a big house. Can they do that under the ADU ordinance? They already have a primary dwelling on the property. Can you start with an accessory dwelling and build a primary residence later?

Kimes recalled that under the old rules, you could live in an accessory dwelling while your primary dwelling was being built. Once you moved into the new building, you had to abandon the accessory dwelling.

McLaughlin concurred, adding that you would have to abandon the kitchen facilities and perhaps convert the accessory dwelling into a bedroom with a bathroom.

Kimes wanted to know how addresses are assigned if an ADU is added to a property. McLaughlin replied that two numeric addresses, not an A or B, would be assigned. Kimes said they would need to be separate to help direct emergency services to the correct location.

Bremmer noted that several of the ordinance examples in the DLCD material state that on a lot containing an ADU there can only be one entrance facing the street. McLaughlin indicated there could be a second entrance on a corner lot, so the ADU would have its own entrance.

As a hypothetical case, Fisher asked if a 14-foot by 57-foot manufactured home would qualify as an ADU. McLaughlin said it would. Fisher then wondered if someone walked in tomorrow with a request for a manufactured home as an ADU, would the City have to go with the State mandate? McLaughlin said yes. Slothower countered that the new State law allows for compliance with local zoning laws, and in most areas of Bandon that are zoned R-1, you are not allowed to put a trailer on your property. Kimes stated that under the City's code, you cannot build an ADU today. However, McLaughlin reiterated the State's mandate that as of July 1, 2018, the City must allow ADUs. The cities listed by DLCD had their ADU ordinances in place in 2015-2016, before the Senate bill.

McLaughlin repeated that in the last two years there have only been one or two requests that have tested Bandon's existing regulations to determine what they could do on their property to house an aging parent. At that point, the option of duplexes was discussed. If someone comes in now with such a request, the City would try to accommodate, based on the State mandate and using the Commission's directions as interim rules.

Kimes urged the Commissioners to come up with numbers for maximum ADU size. Fisher favored 40% of existing dwelling area, or up to 800 square feet, to adjust for larger primary homes and yards. Slothower liked 650 square feet and felt 800 would be too imposing on some lots. He agreed on 40% of the primary dwelling, as did Jurkowski, who was uncertain about the square foot limit, considering the variety of lot sizes. Starbuck concurred with 40% and was leaning toward agreeing with 650 square feet. Bremmer expressed concern over forcing everyone into a small size limitation that might, for example, preclude converting one floor of a two-story home into an ADU. She thought the original 800 square foot limit was fair, and that most of the ADU requests in Bandon would be for converting an existing garage or building a unit on top of a garage and would not reach 800 square feet. Building a free-standing structure might be more expensive than converting an existing structure. Kimes, Fisher, and Slothower discussed what might be involved in modifying an existing garage to convert it to a living space and bring it up to codes.



Kimes asked if a detached garage is factored into determination of 50% lot coverage. Nichols answered that lot coverage applies to any structure and any impervious surface. McLaughlin added that a garage does not count as living space.

Kimes asked Staff to work up a draft ADU proposal specifying 650 square feet or 40% of existing primary dwelling floor space. Fisher wondered if language requiring primary dwellings to be owner occupied could be inserted. Kimes suggested there could be an owner-occupied restriction with a conditional use waiver for certain specified circumstances. McLaughlin cautioned that such limits should be clearly defined, and that the Commissioners could be inhibiting the creation of these units by limiting them to owner-occupied properties.

McLaughlin decided to have Staff prepare the ADU proposal with alternative language for an option that requires owner occupancy, after researching current ordinances elsewhere. Owner-occupied requirements have not been litigated since the State law went into effect, so their future in ADU ordinances is unclear. McLaughlin also stated that compliance would be difficult, because there would be no way to monitor which dwellings were being used as rentals until there was a neighborhood complaint.

Kimes then turned the Commissioners' attention toward the question of SDC fees. Slothower favored SDC fees to cover the extra strain on water, sewer, and power. Bandon's current SDCs actually cover sewage, water, and storm drains. Nichols clarified that the City charges a flat SDC rate of \$13,750 regardless of lot size, dwelling size, or impervious surface. Fisher enquired about SDC fees for duplexes, and Nichols replied that they are around \$2,000 less than the regular single-family rate.

Fisher expressed concern for the strain additional housing units might place on some older sewer lines and wondered if homeowners would be forced to upgrade laterals to 6 inches or if they might be able to tie into the existing laterals that serve their primary dwellings.

Jurkowski agreed on having an SDC fee for ADU construction, saying it would be more equitable if done by square footage. Starbuck was in accord. Bremmer also felt square footage should be a factor.

Slothower asked if you just want to rent out a floor of your house, can you just do it without calling it an ADU? McLaughlin replied that you can, as long as it doesn't have a separate kitchen. If it has a kitchen, then it's a separate dwelling.

McLaughlin told the Commissioners that Staff will take their directions, along with additional research into current practices in other communities, and develop a revised proposal that will lay the framework for a public discussion and further review by the Commission.

### **3.0 ADJOURN THE WORK SESSION**

Kimes adjourned the Work Session at 8:58 p.m.

**AFFIDAVIT OF PUBLICATION**

**Bandon Western  
WORLD**

Lee Enterprises - Coos County  
P.O. Box 1840, Coos Bay, Or. 97420  
1185 Baltimore SE, Bandon, Or. 97411

**STATE OF OREGON - COUNTY OF COOS**

**City of Bandon**

**Attention: Megan Worton**

**PO Box 67**

**Bandon, Oregon 97411**

**Reference: 60005569/ 20336129**

I, Ashley Steele, first duly sworn, deposed and say that I am the Legal Advertising Clerk for The Bandon Western World, a newspaper, of general circulation published at Coos Bay, Oregon, in the aforesaid county and state; that I know from my personal knowledge that the notice of Public Hearing regarding ADU Ordinance, of which hereto annexed, was published in the entire issue of said newspaper one time(s) in the following issues:

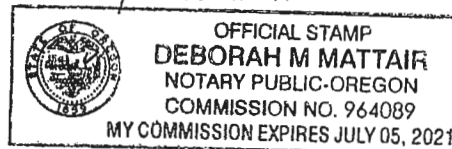
PUBLISHED: October 11<sup>th</sup>, 2018

TOTAL COST: \$157.58

*Ashley Nicole Rae Steele*  
Legal Clerk, Ashley Nicole Rae Steele,  
Subscribed and sworn to before this 11th day of  
October 2018

Notary Public of Oregon  
My Commission Expires

*Deborah Marie Mattair*  
*July 05, 2021*



Notice is hereby given that a Public Hearing has been set before the Planning Commission of the City of Bandon, regarding a proposed ordinance adoption to allow Accessory Dwelling Units as an outright permitted use in all zones that are zoned for detached, single-family dwellings in the City of Bandon. The Planning Commission will not make a decision on this proposal; they will only be making a recommendation to the City Council. The City Council is scheduled to conduct a Public Hearing on this proposal on December 3, 2018, pending future information.

The hearing has been set for Thursday, October 25, 2018 at 7:00 p.m. in the Council Chambers at City Hall, 555 Hwy 101, Bandon, Oregon. Time will be allowed for your verbal testimony at these hearings. It is recommended that testimony be presented in written form. Please note the deadlines below for submitting testimony:

- o 5:00 pm, October 17, 2018: Deadline for inclusion of testimony in meeting packet.
- o 3:00 pm, October 24, 2018: Deadline for electronic (e-mail or FAX), hand delivered or US mail testimony.
- o After 3:00 pm on October 24, 2018: Testimony must be presented at the hearing.

The proposed ordinance is available for inspection at the City of Bandon Planning Department at no cost, hard copies can be made available for purchase at the actual cost of copying, upon request. A copy of the Staff Report will be available for inspection at the City of Bandon Planning Department at no cost at least one week prior to the public hearing. The ordinance criterion applicable to this application is available to review online at [www.cityofbandon.org](http://www.cityofbandon.org). Oregon law states that failure to raise an objection concerning this application, either in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes your right of appeal to the Land Use Board of Appeals (LUBA) on that issue. Failure to specify which ordinance criterion the objection is based on also precludes your right of appeal to LUBA on that criterion. All materials are available at the Bandon Planning Department, 555 Hwy 101, and Bandon, Oregon 97411. During the Public Hearing, time shall be allowed for testimony from the applicant and those in attendance concerning this request. The Chair shall have the right to limit the length of testimony and require that comments be restricted to the applicable criteria. If you have questions or comments concerning this notice, please contact the Planning Department (541) 347-2437 or [planning@cityofbandon.org](mailto:planning@cityofbandon.org). Office hours are Monday - Friday, 8:30 am to 3:00 pm.

Published: October 11th,  
2018-Bandon Western World and  
ONPA (ID-20336129)



Megan Lawrence &lt;mlawrence@ci.bandon.or.us&gt;

## Legal Notice - Public Hearing regarding ADU Ordinance

3 messages

Megan Lawrence <mlawrence@ci.bandon.or.us>  
 To: Deborah Mattair <Deborah.Mattair@theworldlink.com>

Thu, Oct 4, 2018 at 3:12 PM

Good afternoon Deborah!

Please publish the attached legal notice in the Bandon Western World on October 11th. If I have missed the deadline for that date, we would like this published on October 18th.

Thanks!

Megan Lawrence  
 Planning Assistant

City of Bandon  
 P.O. Box 67  
 Bandon, OR 97411  
 T: (541) 347-2437  
 F: (541) 347-1415  
 mlawrence@cityofbandon.org

\*\*\*\*\*

### PUBLIC RECORDS LAW DISCLOSURE:

This is a public document. This email is subject to the State Retention Schedule and may be made available to the public upon request.



**Legal Notice - ADU Ordinance.docx**  
 17K

Ashley Steele <Ashley.Steele@theworldlink.com>  
 To: "mlawrence@cityofbandon.org" <mlawrence@cityofbandon.org>

Thu, Oct 4, 2018 at 3:40 PM

Hello

Please approve for publication. We will be unable to push through for publication until an emailed approval response is received three days prior to the first scheduled run date.

Attached is a copy of the proof and manual invoice for the legal ad regarding "Public Hearing regarding ADU Ordinance". Our Reference number is **20336129** and the **total cost will be \$157.58**. It will publish on October 11<sup>th</sup>, 2018. We will send two legal notarized Affidavit of Publication after the last publication date is completed.

Please provide an **email address for your accounts payable E-statements monthly**. Paper statements generate a \$5.00 monthly fee to your account. If an email address has already been provided, thank you.

If you have any other questions, please do not hesitate to contact us.

*Ashley Steele*

*The World Classifieds, Recruitment Specialist, Obituaries,  
 and Bussiness/Worship Directory*

541-266-6069

Ashley.steele@theworldlink.com

11/21/2018

City of Bandon Mail - Legal Notice - Public Hearing regarding ADU Ordinance

**From:** Deborah Mattair  
**Sent:** Thursday, October 04, 2018 3:17 PM  
**To:** The World Legals <TheWorldLegals@lee.net>  
**Subject:** FW: Legal Notice - Public Hearing regarding ADU Ordinance

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**From:** Megan Lawrence  
**Sent:** Thursday, October 4, 2018 3:12:55 PM (UTC-08:00) Pacific Time (US & Canada)  
**To:** Deborah Mattair  
**Subject:** Legal Notice - Public Hearing regarding ADU Ordinance

[Quoted text hidden]

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 **Public Hearing regarding ADU Ordinance.pdf**  
46K

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**Megan Lawrence** <mlawrence@ci.bandon.or.us>  
**To:** Ashley Steele <Ashley.Steele@theworldlink.com>  
**Cc:** Brittany Morgan <bmorgan@ci.bandon.or.us>

Thu, Oct 4, 2018 at 3:53 PM

Thanks Ashley! Looks Great!

Our accounts payable employee is Brittany Morgan, her email address is [bmorgan@cityofbandon.org](mailto:bmorgan@cityofbandon.org).

Thanks!  
Megan Lawrence  
Planning Assistant

City of Bandon  
P.O. Box 67  
Bandon, OR 97411  
T: (541) 347-2437  
F: (541) 347-1415  
[mlawrence@cityofbandon.org](mailto:mlawrence@cityofbandon.org)

\*\*\*\*\*  
PUBLIC RECORDS LAW DISCLOSURE:

This is a public document. This email is subject to the State Retention Schedule and may be made available to the public upon request.

[Quoted text hidden]

**REGULAR MEETING  
OF THE PLANNING COMMISSION  
CITY OF BANDON  
THURSDAY, October 25, 2018 – 7:00 PM  
IN THE COUNCIL CHAMBERS, CITY HALL**

**REGULAR AGENDA**

\*\*\*\*\*

Council Chambers is accessible to the disabled.  
For special services contact City Hall 48 hours in advance at 347-2437, Voice ~ 711 TTR ~  
e-mail: [citymanager@cityofbandon.org](mailto:citymanager@cityofbandon.org) ~ web: [www.ci.bandon.or.us](http://www.ci.bandon.or.us)

\*\*\*\*\*

**1.0 CALL TO ORDER**

**1.1 ROLL CALL**

**2.0 CONSENT AGENDA**

**2.1 REGULAR PLANNING COMMISSION MEETING MINUTES – September 27, 2018**

**2.2 WORK SESSION PLANNING COMMISSION MINUTES – September 27, 2018**

**3.0 PUBLIC COMMENT**

Opportunity for Citizens to speak on issues NOT on the Agenda.  
TIME LIMIT - 3 MINUTES

**4.0 PUBLIC HEARINGS**

**4.1 ACCESSORY DWELLING UNIT (ADU) ORDINANCE**

**5.0 FINDINGS OF FACTS**

**6.0 DISCUSSION/OTHER**

**7.0 COMMISSIONERS COMMENTS**

**8.0 ADJOURN THE REGULAR MEETING**

\*\*\*\*\*



Page : 1 of 2 10/04/2018 17:33:10

Order Number : 20336129  
PO Number :  
Customer : 60005569 CITY OF BANDON  
Contact : Accounting Department  
Address1 : PO BOX 67  
Address2 :  
City St Zip : BANDON OR 97411  
Phone : (541) 347-2437  
Fax : (541) 347-1415

Printed By : Ashley Steele  
Entered By : Ashley Steele

Keywords : Public Hearing regarding ADU Ordinance  
Notes :  
Zones :

Ad Number : 10694013  
Ad Key :  
Salesperson : Legal - Legals  
Publication : Western World  
Section : Legals  
Sub Section : Legals  
Category : Legals  
Dates Run : 10/11/2018-10/11/2018  
Days : 1  
Size : 1 x 7.56, 84 lines  
Words : 440  
Ad Rate : Legals  
Ad Price : 157.58  
Amount Paid : 0.00  
Amount Due : 157.58

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Printed By : Ashley Steele  
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Keywords : Public Hearing regarding ADU Ordinance  
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Published: October 11th,  
2018-Bandon Western World and  
ONPA (ID-20336129)



CITY OF BANDON PLANNING  
P.O. BOX 67  
555 HWY 101  
BANDON, OR 97411  
P:(541) 347-2437  
F:(541)347-1415

# NOTICE OF PUBLIC HEARING

of the Bandon Planning Commission and City Council

Notice is hereby given that a Public Hearing has been set before the Planning Commission of the City of Bandon, regarding a proposed ordinance adoption to allow Accessory Dwelling Units as an outright permitted use in all zones that are zoned for detached, single-family dwellings in the City of Bandon. The Planning Commission will not make a decision on this proposal, they will only be making a recommendation to the City Council. The City Council is scheduled to conduct a Public Hearing on this proposal on December 3, 2018, pending future information.

**The hearing has been set for Thursday, October 25, 2018 at 7:00 p.m. in the Council Chambers at City Hall, 555 Hwy 101, Bandon, Oregon.** Time will be allowed for your verbal testimony at these hearings. It is recommended that testimony be presented in written form. Please note the deadlines below for submitting testimony:

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- **After 3:00 pm on October 24, 2018:** Testimony must be presented at the hearing.

**Background:** Housing affordability and availability are issues facing cities large and small nationwide. With increasing population, waning housing supply, and cost of living outpacing local wages, housing has become a greater burden for families and individuals to bear. These issues persist in our local community as well and have been addressed in the Housing Needs Assessment prepared for the City of Bandon in winter of 2018.

In an effort to address the lack of housing options and remove barriers to the development of new housing statewide, House Speaker Tina Kotek introduced House Bill 2007 in 2017. Senate Bill 1051 was the product of the legislative process addressing Kotek's bill and was signed into law by Governor Kate Brown on August 15, 2017. This bill requires that cities with populations greater than 2,500 allow the development of at least one accessory dwelling unit for each detached single-family dwelling in areas that are zoned for detached, single-family dwellings. The Planning Commission has been tasked with developing reasonable regulations related to siting and design of these structures.

Since single-family detached dwellings are outright permitted in the following zones, changes will be made to language in the Bandon Municipal Code in each zone section, as well as in another, not yet determined, section regarding the specific requirements of accessory dwellings.

- Residential 1
- Residential 2
- Controlled Development 1
- Controlled Development 2
- Controlled Development 3
- Controlled Development Residential 1
- Controlled Development Residential 2

The Planning Commission has met twice in a work session regarding the proposed Accessory Dwelling Unit Ordinance: first on August 23<sup>rd</sup>, 2018 and then again on September 27<sup>th</sup>, 2018. Meeting documentation and minutes from these work sessions are available for review online through the City of Bandon webpage.

The proposed ordinance is available for inspection at the City of Bandon Planning Department at no cost, hard copies can be made available for purchase at the actual cost of copying, upon request. A copy of the Staff Report will be available for inspection at the City of Bandon Planning Department at no cost at least one week prior to the public hearing. The ordinance criteria applicable to this application is available to review online at [www.cityofbandon.org](http://www.cityofbandon.org). Oregon law states that failure to raise an objection concerning this application, either in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes your right of appeal to the Land Use Board of Appeals (LUBA) on that issue. Failure to specify which ordinance criterion the objection is based on also precludes your right of appeal to LUBA on that criterion. All materials are available at the Bandon Planning Department, 555 Hwy 101, and Bandon, Oregon 97411. During the Public Hearing, time shall be allowed for testimony from the applicant and those in attendance concerning this request. The Chair shall have the right to limit the length of testimony and require that comments be restricted to the applicable criteria.

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## AFFIDAVIT OF MAILING

I, Megan Lawrence, hereby depose and say that I did, on October 4th, 2018 send a Notice of Public Hearing for a proposed Accessory Dwelling Unit (ADU) Ordinance. It was delivered to the United States post office at Bandon, Oregon on October 4th, 2018 for mailing to the attached list of participants.



MEGAN LAWRENCE  
PLANNING ASSISTANT

FOR: NOTICE OF Public Hearing: ADU Ordinance

Mailed to:  
Excel File ADU Notice List: 10.25.18 Hearing Notice

# City of Bandon

PLANNING COMMISSION WORK SESSION AGENDA  
DOCUMENTATION

DATE: SEPT. 27, 2018

SUBJECT: ADU ORDINANCE – PART TWO

ITEM NO: 2.0

SUBMITTED BY:



Dana Nichols, City Planner





## ACCESSORY DWELLING UNIT ORDINANCE STAFF REPORT

### Background

At the last meeting, Staff presented basic information about the rules and regulations behind Accessory Dwelling Units (ADUs) and about what latitude we have locally to use siting and design to manage the impacts to our local neighborhoods. After lengthy discussion, the Planning Commission requested that Staff provide additional information about what other localities are doing in terms of ordinance language to protect neighborhood character and how other cities are setting fee schedules associated with impact costs.

This is a continuation of the first work session, held on August 23<sup>rd</sup>, 2018. No public comment was taken during that work session in an effort to help the Planning Commission learn about a new topic without public opinion intervening. While this work session will also be closed to public comment, the public hearing, tentatively scheduled for October 25<sup>th</sup>, will be open for both written and oral public input.

Staff has also provided an attachment from DLCD summarizing ADU requirements from other communities. This information was compiled prior to the new Senate Bill however, so this information may not be the most up-to-date.

### Discussion

The continued work session approach will be used to discuss the following topics: 1) method of processing application, 2) SDCs and fees, and 3) minor updates to the proposed ordinance language.

### Application Process

Staff has made minor updates to the proposed ordinance language in an effort to translate the concerns raised during last month's meeting into action items. There are a few options for the commission to consider:

1. The Planning Commission may choose to move forward with the ordinance as presented here. Any applicants will be required to apply for zoning compliance with the planning department at a fee of \$300 and each case will be seen the same, as either conforming to these requirements or not. A true black or white approach.
2. The Planning Commission may choose to allow, by-right, ADUs when they conform to the requirements in the proposed ordinance, or if the commission is comfortable with allowing there to be gray areas for specific cases, a plan review, with notice to surrounding neighbors, may be allowed for the following features of an applicant's proposed structure:
  - a. The size is greater than 800 square feet, or greater than 65% of the primary dwelling's floor area, whichever is greater.
  - b. The applicant may request the off-street parking requirement be waived if on-street parking is available.



- c. The applicant is requesting a second ADU (only one interior, attached and one detached would be allowed).
- d. The applicant is requesting to build an ADU that does not meet architectural feature requirement (it may a more modern design, or may have other architectural features not provided on our list).

### SDCs

The Commission also requested additional information regarding the fees associated with impacts assessed by other cities. Staff has provided the following list of Oregon cities and their assessed fees for your consideration.

- **City of Ashland:** The City of Ashland assesses only water and sanitary sewer SDCs when a residential structure adds any additional habitable space (new structure or attached that is heated) at a rate of **\$2.6069 per square foot for water** and **\$2.028 per square foot for sewer**.
- **City of Springfield:** While the City of Springfield currently waives any SDCs for ADUs (as they want to encourage their popularity), they expect that the average SDC payment for and ADU is in the range of \$5,000-\$6,000.
- **City of Vernonia:** The ADU owner only pays one third of the street SDC fee. No other SDCs assessed unless the property is later partitioned to exclude the primary dwelling from the ADU.
- **Clackamas County:** While this is a county, they did have an interesting way of assessing SDCs for ADUs. They assess a per unit fee based on their apartment unit SDC, which amounts to a total impact fee of \$3,056 per unit.
- **City of Portland:** Though the City of Portland currently waives SDCs for ADUs, a transportation SDC is assessed at half the cost of a residential structure and a water SDC is only assessed if there is a change in size required to serve the property for water service. Please note that the City does however charge a \$400 waiver fee to cover administrative costs.

You may consider recommending a flat fee for SDCs for an ADU or you may wish to set a per square foot fee for ADUs. The Planning Commission may also wish to discuss which of the SDCs should be assessed for ADUs-transportation, sewer, water, and storm drainage. Do all SDCs apply? Are there some impacts that are not changing, or only minimally changing, by the addition of the ADU? Is an addition on a house much different from the addition of an ADU?

Ultimately the decision of assessing SDCs falls to both the City Manager and the Council, however the Planning Commission may wish to make a recommendation to the City Council regarding the impact of development and the appropriate associated fees.

### Minor Updates to Proposed Ordinance Language

Staff has made changes to the proposed ordinance language based on conversations at last month's meeting. Specifically, Staff reduced the maximum square footage (and percentage ratio of the primary dwelling) allowed for an ADU and added the requirement of one off-street parking space. Staff also removed the language pertaining to SDCs as this will not be listed in the land use development code.



## Proposed Sample Ordinance Language [UPDATED]

Accessory Dwelling Units will be listed as an outright permitted use in the following zones:

- Residential 1
- Residential 2
- Controlled Development 1
- Controlled Development 2
- Controlled Development 3
- Controlled Development Residential 1
- Controlled Development Residential 2

### Definition

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

### Purpose

The purpose of an Accessory Dwelling Unit Ordinance is to establish standards and regulations for the siting of both attached and detached units, allowed by right in any zone where a single-family home is outright permitted. This ordinance is intended to encourage development that is consistent with existing residential requirements, while also providing additional housing opportunities within existing, developed properties and neighborhoods.

### Limitations on Uses

- A. Detached Accessory Dwelling Units shall be required to conform to the architectural design feature requirements of the underlying zone.
- B. Accessory Dwelling Units are prohibited from use as a Vacation Rental Dwelling in all zones.
- C. A detached Accessory Dwelling shall not exceed ~~900~~ 800 square feet of floor area, or ~~75~~ 65 percent of the primary dwelling's floor area, whichever is smaller.
- D. An attached or interior Accessory Dwelling shall not exceed ~~900~~ 800 square feet of floor area, or ~~75~~ 65 percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling would be more than ~~900~~ 800 square feet.
- E. ~~No~~ One off-street parking space is required for an Accessory Dwelling.
- F. ~~No additional System Development Charges will be assessed for an Accessory Dwelling outside of the fee assessed as part of the construction of the primary unit single-family dwelling.~~



- G. ~~Accessory Dwelling Units will be required to obtain a separate meter box for electrical use,~~ however the owner may choose to connect them to existing sewer and water facilities currently utilized by the primary unit. (This is ultimately a City Council/City Manager issue and while the Planning Commission should make a recommendation as to whether ADUs should be required to have water, sewer, and electric service separate from the main dwelling, it will not be listed as a requirement in the land use code.)

CITY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Portland	Converting existing living area Finishing an existing basement or attic Building a new structure Making an addition to an existing structure Some existing attached or detached garages can be converted into an ADU	The ADU may be no more than 75% of the total living area of the house or a maximum of 800 square feet, whichever is less.	Additional parking is not required for an ADU. However, if parking is required for the existing dwelling unit, that parking must either be retained, or if eliminated in the creation of the ADU, replaced.	Only one entrance can be located on the facade facing a street.	NONE	Building coverage smaller than SFR and no more than 15% of lot. Detached ADUs set back 60 feet from street or 6 feet behind main SFR
Cornelius		A minimum of 250 SF of floor area for each occupant, and there shall be no more than two occupants, and the unit shall not exceed 800 square feet, or 30 percent of the total floor area of the primary dwelling.	One additional off-street parking space shall be provided.	Only one door may face the street, either primary dwelling or ADU.	The owner(s) of the primary dwelling shall occupy at least one of the units.	Area occupied by the home, and all accessory buildings and structures on the lot shall not exceed 50 percent of the lot area. No more than two occupants of the ADU.
Beaverton		The proposed ADU shall be no more than fifty percent (50%) of the gross floor area of the primary detached dwelling or 800 square feet, whichever is less.	One off street parking space must be provided.	The entrance to the ADU may not face the front property line.	Either the primary or accessory dwelling units shall be occupied by the property owner at any time the accessory dwelling unit is occupied	The primary dwelling shall be at least two-stories when the accessory dwelling unit is to be provided over a garage.
Hillsboro		The floor area of an accessory dwelling unit may be as large as 50% of the existing dwellings total floor area, and may not exceed 600sf.	At least one off-street parking space shall be provided for the accessory dwelling unit	The entrance to the ADU shall not face the front property line.	Either the primary or accessory dwelling units shall be occupied by the property owner at any time the accessory dwelling unit is occupied"	
King City	May be created by Converting existing living area, attic, basement or garage; Adding floor area; Constructing a detached ADU on site with an existing house or constructing a new house,...etc.	Size of attached or detached ADU shall not exceed 33% of the living area of the existing dwelling or 800 sq. ft., whichever is less.	Not required if ADU is created on a site with an existing primary residence and one abutting street has a paved width of at least twenty-eight feet; otherwise one parking space required.	Only one building entrance may be located on the façade for the two dwellings.		Lot size must be a minimum of 7500 square feet;



CITY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Durham	Must be created within or share a common wall with the primary residence.	An ADU shall not be larger than 33 percent of the habitable area of the primary residence (excludes garage) or 600 square feet, whichever is less.		Primary entrance to the ADU may not be newly constructed on the façade of the primary residence that faces public right of way.	Primary residence must be owner occupied.	A garage may not be converted into an ADU unless replaced by a new garage. Maximum occupancy of ADU is two persons.
Forest Grove	May be allowed by conversion of an existing space, by means of an addition, or as an accessory structure.	The gross floor area of the ADU shall not exceed 30% of the primary dwelling's gross floor area, or 720 square feet, whichever is less	One additional off-street parking space shall be provided in addition to the required parking for the primary dwelling.		The owner(s) of the primary dwelling shall occupy at least one of the units;	Any addition shall not increase the gross floor area of the original dwelling by more than 10%;
Sherwood	Converting existing living area, adding floor area, or constructing a detached ADU	The maximum floor area) of the ADU shall not exceed 40% of the floor area of the primary residence.			The property owner must occupy either the principal unit or the ADU as their permanent residence, but not both, for at least six months out of the year,	Property owner may at no time receive rent for the owner-occupied unit. Total occupants of both units may not exceed the number allowed for a household.
Tigard	Must be within or attached to a primary dwelling.	May not exceed 50% of the size of the primary unit, up to a maximum of 800 square feet;	One parking space shall be provided for the accessory residential unit. This parking space shall be paved and/or covered;	The door to the ADU cannot open onto the front façade.	Either the primary or accessory residential unit must be owner-occupied;	Garage may not be converted to an ADU unless it is replaced.
Tualatin	Must be within a detached single-family dwelling or be an addition to the primary dwelling.	An ADU shall not exceed 50% of the gross floor area (house and garage) of the existing detached single-family dwelling up to a maximum of 800 square feet	One paved onsite parking space shall be provided for the ADU.	ADU front door shall not be located on the same street frontage as the primary dwelling's front door.		
Vernonia	May be created by converting existing living area, finishing basement or attic, addition to an existing structure, new structure, or converting or adding to detached garage or shed.	Maximum size of 33% of primary dwelling living area or 880 square feet, whichever is less.	One additional off-street parking space provided for the ADU	Main entrance must open onto a porch or covered entry unless ADU is limited to interior remodeling of existing dwelling.	Primary residence must be owner occupied	Total number of individuals in both units may not exceed the number allowed for a "family." Separate water service may be required. SDC is 1/3 that of a single family residence.

CITY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
North Plains	None	Maximum floor area is 650 square feet.	None	None	Either primary residence or accessory dwelling must be owner occupied unless owner appoints family member as resident caretaker of primary residence.	Recessed behind or flush with front elevation of the primary dwelling.
Scappoose	May be created by converting existing living area or adding floor area, or construction of a new structure that is either attached or detached. An attached garage may not be converted.	Floor area shall not exceed 50% of floor area of primary residence or 800 square feet, whichever is less.	One additional on-site parking space unless existing dwelling has four or more on-site spaces.	No separate entrance to ADU from the front yard.	Primary dwelling must be occupied by owner; however owner may appoint a family member or resident caretaker. In low density zone ADU must be occupied by a family member of owner-occupied primary dwelling.	
Columbia City	May only be created by converting existing floor area or adding floor area to an existing dwelling unit.	No greater than 50% of the size of the primary dwelling.	No off-street parking required if the street frontage is at least 18 feet wide, unless ADU is constructed at the same time as the primary dwelling.	No separate entrance from the front yard.	None	Not allowed in city R-1 zoning district. Must be located in either rear or side yard.
St. Helens	Converting existing living area, attic, basement or garage; Adding floor area; Constructing a detached auxiliary dwelling unit on a developed site; or Constructing a new house, attached house, or manufactured home with an internal or detached auxiliary dwelling unit;	Minimum is 220 square feet. Maximum may be no more than 30 percent of the living area of the primary dwelling or 1,000 square feet, whichever is less.	No off-street parking required if the street frontage is at least 20 feet wide, unless ADU is constructed at the same time as the primary dwelling.	No separate entrance from the front yard.	The owner of the property must occupy either the primary residence or the auxiliary dwelling unit	The detached auxiliary dwelling unit may not have a larger footprint than the footprint of the house

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Wilsonville	May be attached or detached.	No greater than 800 square feet with not more than two bedrooms.	Parking: Each ADU shall have one standard sized parking space on the same lot; Where an off-street parking space is not available to serve the ADU, onstreet parking is allowed if street parking exists along the frontage of the lot, or within 100' of the front lot line of the lot AND No more than 25% of the lots in a block will have ADUs.			
West Linn	Conversion of existing space inside the primary dwelling, addition to the existing dwelling, addition as an accessory structure, or converting or adding to an existing accessory structure	No more than one bedroom and between 250 and 1000 square feet. 500 square feet required for two person occupancy	One off-street parking space for the ADU	The main exterior entrance of the ADU shall be located on either the rear or side of the ADU.	NONE	The detached ADU shall be at least 10 feet behind the front building line of the primary dwelling . The only exception allowed shall be for an ADU which is located above a detached garage.
Lake Oswego	Conversion of existing space, an addition, or as an accessory structure.	Max of one bedroom and an area of 800 sq. ft., or a total FAR of 0.4:1 for all buildings; Minimums: One person – 250 sq. ft.; Two persons – 500 sq. ft.	One off-street parking space for the secondary unit in addition to the required parking for the primary dwelling		One unit shall be occupied by the property owner.	No more than 2 persons in the secondary unit.
Milwaukie	Either conversion of existing space or by means of an addition.	Maximum unit size of 600 sf; and shall not exceed 40% of the gross floor area of the primary structure.	Off-street parking shall be provided. If new parking must be constructed to meet minimum required parking, it shall be located contiguous to existing parking.	Only one entrance to the residential structure may face the street.	Either the ADU or the primary residence must be occupied by the owner.	
Rivergrove	Either within the primary residence or above a garage.	?	Residential units less than 500 SF and 1 bedroom;(except for over the garage units) require 1 additional parking space			

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Oregon City	May be attached or detached.	The ADU cannot be more than 40% of the primary dwelling unit's total floor area or be more than 800 sq. ft. or be less than 300 sq. ft.	No additional parking space is required for the ADU if it is created on a site with an existing primary dwelling unit and the roadway for at least one abutting street is at least twenty-eight feet wide.		The property owner must occupy either the primary dwelling unit or the ADU as their permanent residence, for at least seven months out of the year, and at no time receive rent for the owner-occupied unit.	May not have more than 2 sleeping areas. , Owner may at no time receive rent for the owner-occupied unit
Gladstone	May be created as a detached structure or within, or as an addition to, a primary dwelling or accessory structure.	The floor area of an ADU shall not exceed 400 square feet or contain more than one bedroom	One off-street parking space shall be provided in addition to the off-street parking for the primary dwelling unit.	Only one entrance may be located on the street-facing façade of the structure containing the primary dwelling unit	Either the primary dwelling unit or the accessory dwelling unit shall be owner-occupied for as long as the other unit is being rented or otherwise occupied.	
Fairview	Can be a detached cottage, a unit attached to a garage, or in a portion of an existing house.	Size of ADU shall not exceed 800 square feet. On a lot less than one acre, an ADU may be constructed above a detached garage. However, the floor area of the ADU cannot exceed 800 square feet and the floor area of the detached garage, excluding the ADU, cannot exceed 1,000 square feet.	One additional on-site parking space is required if the primary dwelling has less than four on-site spaces available before construction of the ADU.		The primary residence or accessory dwelling shall be owner-occupied. Alternatively, the owner may appoint a family member as a resident caretaker of the principal house or of the accessory dwelling.	The number of accessory dwelling units is not to exceed 50 percent of the lots within any block

CITY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Happy Valley	" The ADU may be created by converting existing living area or adding floor area, or construction of a new structure that is either attached or detached.	The maximum sq. ft. of an ADU involving the conversion of existing space within a primary dwelling shall not exceed 50% of the size of the primary residence. For a detached ADU, the size shall not exceed 50% of the size of the primary residence and shall not exceed a maximum of one thousand (1,000) square feet, whichever is less.	The ADU shall provide an additional on-site parking space if the primary dwelling has less than four on-site spaces available before construction of the accessory unit	Only one entrance shall be located on the front of the primary dwelling or any portion of the primary dwelling abutting a street	Either the primary dwelling or the ADU must be owner occupied. Alternatively, the owner may appoint a family member as a resident caretaker of the primary dwelling or of the ADU.	
Troutdale	Must be within or added to a detached primary dwelling.	Shall not exceed 750 square feet in area	One off-street parking space, in addition to that which is required for the primary dwelling, shall be provided for the ADU.	Only one entrance shall be located on any portion of the primary dwelling abutting a street.		Primary dwelling must be at least 1800 sq. ft or in a subdivision recorded after 2000. Shall not have more than 1 bedroom.
Gresham	Must be within or added to the primary dwelling. No separate free-standing units allowed. May be attached to a garage or above a garage.	An accessory dwelling shall have a maximum floor area of 900 square feet.	One off-street parking space, in addition to that which is required by the Development Code for the primary dwelling unit, shall be provided.	No new door entrance on an exterior wall facing a front property line.	Either the ADU or the primary residence must be occupied by the owner.	
Wood Village	Converted existing living area or garage, adding floor area to primary dwelling or constructing a detached ADU.	The maximum floor area of the ADU shall not exceed 800 square feet.	One additional parking stall required for ADU.		The property owner must occupy either the principal unit or the ADU as their permanent residence for at least six months out of the year,	Owner may at no time receive rent for the owner-occupied unit. The total number of individuals that reside in both units may not exceed the number that is allowed for a household.



CITY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Damascus	The unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house.	Accessory dwellings shall not exceed 800 square feet of floor area, or 40% of the primary dwelling unit floor area, whichever is smaller.			The primary residence or accessory dwelling shall be owner occupied. Alternatively, the owner may appoint a resident caretaker of the principal house and manager of the accessory dwelling.	
Sandy	May be detached or attached.	Maximum 600 sq. ft.	One off-street parking space for the ADU	Primary entrance may not be in front of the primary dwelling.	Either primary residence or ADU must be occupied by the owner	Maximum number of occupants in ADU is 3. May not be a single-wide manufactured unit.
Canby	Must be attached to the primary dwelling.	Maximum 800 sq. ft.	One off-street parking space for the ADU	None	Either primary residence or ADU must be occupied by the owner	
Toledo	Conversion of existing space, addition to dwelling, accessory structure.	Maximum of 650 square feet or 35% of the floor area of the primary dwelling, whichever is less	One additional off-street parking space	None	Owner must occupy either primary dwelling or accessory dwelling.	
Garibaldi	detached cottage, a unit attached to a garage, or in a portion of the existing house	The maximum floor area of the accessory dwelling shall not exceed 33 percent of the living area of the house or 600 square feet, whichever is less, and may not exceed 15 percent of the entire area of the site.	a minimum of one space shall be provided for the accessory dwelling.	None	The primary residence shall be owner-occupied. Alternatively, the owner may appoint a family member as a caretaker of the principal house and manager of the accessory dwelling.	
Cannon Beach	Any new structure, or addition to an existing structure, must go through design review.	Maximum 600 square feet.	One additional off-street parking space required	None	None	Must be rented for a term of 30 days or more. May not be a manufactured dwelling.
Warrenton	a detached cottage, a unit attached to a garage, or in a portion of an existing house	The maximum floor area of the accessory dwelling shall not exceed 600 square feet.	No additional off-street parking is required if the lot already contains at least two off-street parking spaces; otherwise, one space is required.	None	The primary residence or accessory dwelling shall be owner-occupied. The owner may appoint a family member as resident caretaker.	May not be used as a rental unit or other income-producing unit. May not be used as servants' quarters or as lodging (temporary or permanent) for housekeepers, gardeners, etc.

CITY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Astoria	May only be created through conversion of existing living area or areas over attached garages. Existing primary unit must have at least 1400 square feet prior to creation of accessory dwelling unit.	Not to exceed 40% of the size of primary dwelling or 800 square feet, whichever is smaller.	One additional off-street parking space.	No new entrances at the front of the house – only separate ADU entrance can be to side or rear.	Property owner must occupy either primary residence or ADU.	All basic utilities must remain combined with primary structure. Minimum lot size 5000 square feet. Is only allowed in homes at least 50 years old at the time of permit application.
Coquille	The unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house;	Accessory dwellings shall not exceed 800 square feet of floor area if detached from the primary dwelling, or 40 percent of the primary unit, whichever is less.	None	None	The primary residence or accessory dwelling shall be owner-occupied, or owner may appoint a family member as a resident caretaker of one of the units and manager of the other unit;	
Myrtle Point	Detached cottage, attached to a dwelling, or in a portion of an existing dwelling	Accessory dwellings shall not exceed 600 square feet of floor area if detached from the primary dwelling, or 40 percent of the primary unit, whichever is less.	A parcel containing a primary dwelling unit and an accessory dwelling shall provide a minimum of two off-street parking spaces.	None	None	Minimum lot size of 6000 square feet.
Reedsport	Detached or attached	Maximum 750 square feet.	One additional off-street parking space	None	Either the primary residence or the ADU must be owner-occupied	Detached ADU must be located in the side yard or rear yard.
Newberg	An accessory dwelling unit may be created within or as an addition to a detached or attached single-family structure or as a freestanding accessory building.	An accessory dwelling unit may not exceed 50 percent of the size of the primary unit, up to a maximum of 1,000 square feet.	one on-site parking space shall be provided for the accessory dwelling unit. This parking space shall be paved and/or covered.	The front door of the accessory dwelling unit shall not be located on the front facade of the primary residence unless the door is already existing.	NONE	Second story windows 10 feet or less from the property line must be made of privacy glass. ADU is a conditional use in the R-1 zoning district, which covers most residentially zoned land in the city.
Silverton	Attached, Separate Cottage, or Above Detached Garage	Accessory dwellings shall not exceed 800 square feet of floor area if detached from the primary dwelling, or 40 percent of the primary unit, whichever is less.	A parcel containing a primary dwelling unit and an accessory dwelling shall provide a minimum of two off-street parking spaces.	None	The primary residence or accessory dwelling shall be owner-occupied, or owner may appoint a family member as a resident caretaker of one of the units and manager of the other unit;	

CITY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
McMinnville	Conversion of any portion of primary dwelling, adding floor area to primary dwelling, or construction of detached ADU	Square footage not greater than 40% of primary dwelling square footage or 800 sq. ft., whichever is less. Minimum area is 300 sq. ft.	One additional off street parking space required.	None	Primary residence must be occupied by the property owner.	Must have independent utilities. May not be a manufactured home.
Dayton	Must be located in a detached structure	No more than 25% of size of primary dwelling or 750 square feet, whichever is less.				Allowed only in R-2 zoning district. Must be located in side or rear yard.
Dallas	Attached, separate structure, or above a detached garage	Cannot exceed 40% of primary dwelling area or 800 sq. ft., whichever is less	None	None	None	An ADU equals 0.5 units when calculating housing density.
Independence	Must be in same building as primary residence unless lot is at least 8,500 square feet.	May not be less than 300 square feet. May not be greater than 800 square feet. May not exceed 40% of the combined size of primary residence and ADU	One off-street parking space required.	Separate entrance for ADU must be located on side or rear of building.	Either primary residence or ADU must be occupied by the owner.	Total number of occupants on property cannot exceed maximum number defined by "family".
Monmouth	Must be in same building as primary residence unless lot is at least 8,500 square feet.	May not be less than 300 square feet. May not be greater than 800 square feet. May not exceed 40% of the combined size of primary residence and ADU	One off-street parking space required.	Separate entrance for ADU must be located on side or rear of building.	Either primary residence or ADU must be occupied by the owner.	Total number of occupants on property cannot exceed maximum number defined by "family".
Aurora	Conversion of existing living area or garage, adding floor area, or constructing a detached accessory dwelling unit	Maximum 50% of size of primary dwelling or 1000 sq. ft., whichever is less.	No additional parking required if abutting street is at least 18 feet wide, except if accessory unit is created at the same time as primary dwelling.	No separate entrance in front yard.	Either primary residence or ADU must be occupied by the owner	Must be located in side or rear yard. If detached must be set back at least 6 feet from front building line.
Keizer	Must be in a separate structure	Maximum area 25% of primary residence floor area or 750 sq. ft., whichever is less.	None	None	None	Not allowed in any of the city's zoning districts?
Jefferson	None	The maximum floor area of the accessory dwelling shall not exceed seven hundred fifty (750) square feet.	None	None	None	Only in Mixed Use Zoning district

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Corvallis	Attached or detached. Garage may be converted to ADU if off-street parking requirement for primary dwelling is met.	May not be greater than 40% of the floor area of primary structure or 480 sq. ft., whichever is greater. May in no case exceed 900 square feet.	No additional parking if parking requirement for the primary dwelling is met.	Entrance to detached ADU shall be located five feet or more toward the interior of the lot from the abutting side yard setback lines, unless existing or created screen is located between the ADU and the property line.	Either primary residence or ADU must be occupied by the owner.	Minimum lot sizes vary for each zoning district in which ADUs are allowed.
Philomath	May be detached structure, attached to a garage, or a portion of existing dwelling.	May not exceed 600 sq. ft.	None	None	Either primary residence or ADU must be occupied by the owner, or owner may appoint a family member as a resident caretaker of the principal dwelling	Allowed use in R-2 and R-3 districts. Conditional use in R-1 district.
Albany	Allowed as an addition to or within a primary residence, in a detached building built before 1998, or on a lot in a subdivision of over 10 lots approved after 2007	May not exceed 50% of the primary residence floor area or 750 sq. ft., whichever is less.	At least three off-street parking spaces must serve the primary residence and the ADU.		Either primary residence or ADU must be occupied by the owner	Lot must meet minimum lot area requirements for the applicable zoning district. Only allowed in Residential Two-family zoning district.
Brownsville	May be attached or detached	The maximum size of any secondary residence shall be no greater than 800 square feet of interior floor space.	Two parking places shall be provided for the secondary residence. These spaces may be in tandem. Required parking shall not be located in the front yard.	none	One of the dwelling units on a property shall be occupied by one or more owners of the property as the owner's permanent and principal residence.	Maximum lot coverage for the principal residence and all accessory structures, including the secondary residence, is 30%.
Lebanon	Attached, separate structure, or above detached garage	Not to exceed 1000 sq. ft. or 40% of the primary unit, whichever is smaller	None	none	none	May not reduce the floor area of the primary residence.
Sweet Home						Allowed as a conditional use in the R-1 zoning district.
Coburg	Attached to primary residence, separate structure, or above garage	Maximum floor area is 800 sq. ft.	None	None	Owner must occupy primary residence, or appoint a family member as resident caretaker.	

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Junction City	May be a detached cottage, a unit attached to or above a garage, or in a portion of an existing house	The floor area of the accessory dwelling unit shall not exceed 800 square feet.	none	None	The primary residence or accessory dwelling shall be owner-occupied or occupied by a family member.	
Veneta		Maximum size 600 sq. ft. or 50% of primary dwelling size, whichever is smaller	A minimum of two combined spaces for primary dwelling and ADU, plus one additional space if no on-street parking abuts the property	none	none	
Eugene		Dwelling unit shall not exceed 800 SF, unless occupying the full story of a multistory structure.	One off street parking space must be provided.		Owner shall occupy either the ADU or primary dwelling.	Except for flag lots, the lot shall be at least 6,000 SF. Flag lots shall contain at least 13,500 SF. The primary entrance to an ADU shall be defined by a roofed porch.
Springfield		Minimum size is 300 sq. ft. Maximum size is 40% of primary dwelling or 750 sq. ft., whichever is less.	One additional 9'x18' paved, off-street parking space must be provided	Only one entrance may be located on the front or street side of each residence.	Owner must occupy either primary dwelling or ADU.	
Creswell	Detached structure, above a garage, or attached to primary dwelling	Maximum of 800 Sq. Ft. or 40% of primary dwelling floor area, whichever is less.	none	none	Primary dwelling must be owner-occupied, or owner may appoint family member as caretaker.	
Cottage Grove	Detached structure, above a garage, or attached to primary dwelling	Maximum 800 Sq. Ft.	none	none	Primary dwelling must be owner-occupied, or owner may appoint family member as caretaker.	
Roseburg		Shall not exceed a maximum size of 1,000 square feet or no more than 50% of the gross floor area of the primary residence	Shall have one additional off-street parking space	None	Shall have at least one unit owner-occupied	Conditional Uses in single-family residential zoning districts. Primary heat source must be electric or gas, not wood. May not have separate utility meters
Sutherlin	Attached or detached or attached to garage	Maximum 600 sq. ft.	One off-street parking space required	none	none	



CITY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Winston		Maximum 1000 sq. ft. of 50% of the size of the primary dwelling, whichever is less	One off-street parking space required	none	Primary dwelling or ADU must be owner occupied	Primary heat source must be electric or gas, not wood
Grants Pass						Only allowed in commercial zoning districts.
Central Point		No more than thirty-five percent of the gross floor area of the main dwelling in existence prior to the construction of the accessory dwelling unit or 800 sq. ft., whichever is less.	At least one off-street parking space shall be provided for each ADU in addition to the off-street parking spaces required for the single-family dwelling.	If a separate entrance door is provided, it must be located either off the rear or side of the single-family dwelling. All ADUs which are attached to a single-family dwelling shall have a separate entrance for the accessory dwelling unit.	The owner or of the primary dwelling shall reside either in the single-family dwelling or the ADU as a permanent place of residence	Permitted in single-family residential zoning districts.
Medford		No greater than 50% of the size of the primary dwelling on the lot, or 900 square feet, whichever is less.	A parcel containing a primary dwelling unit and an ADU shall provide a minimum of two off-street parking spaces	Only one entrance may be located on the front of the existing dwelling	none	
Eagle Point		The habitable gross floor area of any ADU shall contain no more than 50 percent of the total gross habitable floor area of the main dwelling unit or 900 square feet, whichever is the lesser.	A minimum of two ADU off-street parking spaces shall be provided in addition to the two spaces of off-street parking required for the single-family residence.	If a separate entrance door is provided, it must be located either off the rear or side of the single-family dwelling. All ADUs which are attached to a single-family dwelling shall have a separate entrance for the accessory dwelling unit.	The owner of the primary dwelling shall reside either in the single-family dwelling or the ADU as a permanent place of residence	The conversion of a garage to an ADU shall require the construction of a new garage, at a square footage equal to, or greater than, the area being converted from garage to habitable space.
Ashland		Shall not exceed 50% of the floor area of the primary residence on the lot or 1000 sq. ft. whichever is less.	No off street parking required if 50 linear feet of uninterrupted curb in front of property. More than 500sqft unit requires 2 parking spaces.			Accessory Residential Units (ARU) in the Single-Family Residential Zones (R-1-5/R-1-7.5 & R-1-10) require a Conditional Use Permit.
Phoenix	Attached to house, detached structure, or attached to garage	May not exceed 50% of primary dwelling size, or 800 sq. ft., whichever is less	One off-street paved parking space required	none	none	

CITY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
Talent	May be either conversion of existing living space, new attached structure, or new detached structure.	Must be at least 300 square feet. If a detached structure, may be no more than 750 sq. ft.	Two off street parking spaces required.	Separate entrance must be less visible than entrance to primary dwelling.	none	Maximum of three occupants. Manufactured home ADUs are not allowed. If a garage is converted to an ADU, it must be replaced.
Lakeview	Attached, separate structure, or above detached garage	May not exceed 40% of primary dwelling size, or 800 sq. ft., whichever is less	none	none	Primary dwelling must be owner-occupied, or owner may appoint family member as caretaker.	
Bend	Attached, separate structure, or above detached garage	May not exceed 40% of primary dwelling size, or 600 sq. ft., whichever is less	One off-street parking space required.	none	none	ADUs located on lots in SR, RL, and RS zones created prior to 1998 require conditional use permit. Subject to architectural standards same as for multi-family residential development.
Sisters	Attached, detached, or attached to garage.	May not exceed 50% of primary dwelling size, or 800 sq. ft., whichever is less	One off-street parking space required.	none	Primary residence must be occupied by owner or member of owner's family.	Separate water and sewer service required.
Redmond		Minimum 300 sq. ft. Maximum 800 sq. ft. or 50% of primary dwelling size, whichever is less.	One off-street parking space required.	Must be separately accessible from exterior of the structure.	Owner shall occupy either the ADU or primary dwelling.	If ADU is above a garage, may not exceed the building footprint of the garage.
Prineville	A detached cottage, a unit attached to a garage, or in a portion of an existing house.	The maximum floor area of the accessory dwelling shall not exceed 700 square feet.	An accessory dwelling shall provide at least one additional off-street parking space	none	none	
Hood River	Attached or detached	ADU's shall contain 800 square feet or less.	One off-street parking space shall be provided in addition to the off-street parking that is required for the primary dwelling	none	The property owner must occupy the primary dwelling or the ADU as their principal residence for at least six months out of the year	The ADU occupant shall provide proof that at least one occupant is locally employed (Gorge – Hood River, Wasco, Skamania, and Klickitat counties), a relative or on a local assistance program for the rent. If a garage or detached building does not currently meet setbacks, no conversion to an ADU.

CITY	TYPES OF STRUCTURES	SIZE LIMITATION	PARKING REQUIREMENTS	ENTRANCE STANDARDS	OCCUPANCY RESTRICTIONS	OTHER STANDARDS
The Dalles		May not exceed 60% of primary dwelling size, or 600 sq. ft., whichever is less	none	none	The property owner must occupy the primary dwelling or the ADU as a principal residence	Minimum lot size requirement of the underlying zoning district must be met. If garage is converted then off-street parking to meet minimum requirement must be provided.
Mosier						Conditional Use Permit required.
Boardman						Accessory dwelling units are permitted, but the code section referenced with regulations is missing.
La Grande		May not exceed 33% of primary dwelling size, or 800 sq. ft., whichever is less	One off-street parking space is required if ADU is constructed at the same time as the primary residence, or an abutting street has pavement width less than 28 feet.	Only one total entrance is allowed along the front façade.	Owner must occupy the primary dwelling. Total number of occupants must not exceed definition of a "family" in the code.	Requires a conditional use permit. Minimum lot size is 7500 sq. ft.
Baker City	Attached, detached, or attached to garage	Maximum size of 700 sq. ft.			Primary dwelling must be owner-occupied, or owner may appoint family member as caretaker.	May not be used as a short term vacation rental

**Work Session of the Planning Commission  
At Bandon City Hall  
August 23, 2018**

**COMMISSION:**

- ☒ David Kimes, Chair
- ☒ Sheryl Bremmer, Vice Chair
- ☒ Paul Fisher, Commissioner
- ☒ Sally Jurkowski, Commissioner
- ☐ Gerald Slothower, Commissioner
- ☒ Donald Starbuck Commissioner
- ☒ Blythe Tiffany, Commissioner

**STAFF:**

- ☒ John McLaughlin, Planning Director
- ☐ Fred Carleton, City Attorney
- ☐ Megan Lawrence, Planning Assistant
- ☒ Dana Nichols, City Planner

**1.0 CALL TO ORDER**

Kimes called the Work Session to order at 7:20 p.m. Roll Call was taken as indicated above.

**2.0 ACCESSORY DWELLING UNIT (ADU) ORDINANCE**

Kimes announced there are no public comments allowed at Work Sessions because the Commission is hearing the material for the first time, but the public is welcome to stay and listen.

Nichols prepared a Staff Report and presentation to provide preliminary information to the Commission regarding a proposed ordinance to address Accessory Dwelling Units (ADUs). At least one ADU is now required to be allowed by-right in any zone outright permitting single-family dwellings, as required by the State of Oregon through House Bill (HB) 2007/Senate Bill (SB) 1051. This requirement for ADUs is only required in cities with populations greater than 2,500 or in counties with populations greater than 15,000.

McLaughlin clarified that the area inside Bandon city limits will be subject to these regulations because our city exceeds a population of 2,500.

Questions were asked and answered about the slideshow, including the urban growth boundary (UGB), previous county issues/forested areas, etc.

McLaughlin said that ADUs can be a garage conversion, attic conversion, or addition on an existing home; it doesn't have to be a new separate dwelling. The idea from the state level is that if the structure meets setbacks and lot coverage, ADUs will increase housing stock to address housing shortage concerns of all communities in the state. Portland has been doing this for 20 years. Each city will set standards appropriate for its community. The state requirement has been in effect since July 1, 2018.

McLaughlin explained some of the reasons for and uses of an ADU. It could be used for:

- parents moving onto a grown child's property (they could be elderly and need a bit of care)
- adult children moving back home (for any number of reasons—home from college, divorced, etc.)
- a rental unit (rental income would help pay the mortgage or increase disposable income)

Fisher asked if we can put a cap on rental ADUs. McLaughlin said no, there is no rent control in Oregon at this time. The object of an ADU is that it is affordable by design, e.g., a studio apartment, generally, because of lot sizes.

Jurkowski asked if the State says we have to meet a certain percentage requirement. McLaughlin said there is no goal to be met.

Kimes said there couldn't be 50% lot coverage and setbacks need to be observed. Thirty percent lot coverage is average.

Nichols said the ADU couldn't be larger than a set percentage of the size of the primary dwelling.

McLaughlin said that he doesn't predict a large amount of the population will build ADUs. In Portland, less than 2% of homeowners have ADUs. In Ashland, less than 1% of homeowners have ADUs. Vancouver has been strategically aggressive and allows two ADUs on one home site, with no parking requirements.

Kimes said that some homeowners build an ADU and then move into it themselves and rent the primary dwelling.

Bremmer asked if all ADUs are rentals. McLaughlin said an ADU cannot be sold separately, so in a sense they all could be rentals or considered guest housing. They can be rented to family members or others looking for housing. Bremmer said the state and municipalities will have to deal with unintended consequences of this Ordinance. Eugene is infilling. Bandon will be infilling. Yes, ADUs may be more affordable, but what about the problems of increased parking demands, neighbors being bothered by headlights at night, and what about System's Development Charges (SDCs)?

Kimes knows someone in the rental industry that has 6 pages listing people looking for rentals.

McLaughlin said some communities are embracing ADUs. If we go the route Vancouver took, how do we encourage residents to build ADUs, whether they are separate dwellings or garage conversions or added rooms? What incentives could we offer that would reduce barriers? We could explore the areas of permit fees and SDC costs. The builder of an ADU would have to arrange for utility hookups and would need insulation and drywall. How could the city help, keeping in mind builders of ADUs would need to pay their fair share of expenses?

Discussion arose about the impact on properties. McLaughlin said similar impact happens whether the land has one big dwelling or one smaller dwelling with an ADU.

Bremmer said each ADU will have its own unique aspects. Do we really want to encourage people to give up their garages for garage conversions?

Fisher said some communities don't allow garage conversions. McLaughlin said other communities think it's more important to house people than to house cars and therefore allow garage conversions.

Bremmer said garage conversions aren't simple. A garage is built to house vehicles. To do an ADU conversion would mean meeting fire regulations, installing a food preparation area/exhaust vents, heating/cooling, appropriate flooring, meeting construction codes, windows, etc.



McLaughlin said it's illegal to live in a garage that has not been converted, and yes, there are state building code requirements for garage conversions regarding window exiting, eating areas, flooring, living space, venting, plumbing, etc. Most people would probably prefer to live in a studio apartment or a one-bedroom apartment rather than a garage conversion.

Tiffany asked if this ordinance would permit conditional use stipulations or if ADUs are required to be outright permitted. McLaughlin said the State wants all communities to do this. It is mandated, and ADUs are outright permitted. Tiffany asked if zoning is sufficient to meet issues that might come up with an ADU. McLaughlin: That is what we are here to discuss—the correct scale of the prospective ADUs in relation to the primary dwelling, the setbacks, the lot coverage, etc.—with administrative “yes” and “no” answers to questions that will come up.

Tiffany: There are all kinds of conditions. Do we need to change the underlying code? McLaughlin: The Commission has to decide what the issues are. Tiffany said it's hard to anticipate every issue and she has safety concerns. McLaughlin: State codes handle most health and safety concerns. The main issue is how do we comply with the State's requirements and fit the ADU mandate into the urban quilted fabric of Bandon? Any additional requirements we set have to be clear and objective. Tiffany: So, we send a recommendation to the City Council and they adopt an ordinance? McLaughlin: Yes. Bremmer: We already made code provisions for “live or sell,” in light industrial areas, so we have precedence. Can we tell the State about conditional use? McLaughlin said sure, but we would still have to meet State requirements.

Fisher: Could we consider stipulating that an ADU has to be owner/family occupied? McLaughlin said he's not sure we can do that. The Bill may be vague, but how would we figure out who lives where and how would that be enforced? And who's to say a renter isn't on the same level (as an occupant) as a family member?

Fisher: Since an ADU would be using the same power/electricity, water/sewer, who is the responsible party if the hose is left on, for example, and the water bill is inflated? Nichols said separate meters would solve that issue. McLaughlin said SDCs charges would be separate from meter charges. Do we want ADUs to pay SDCs? Jurkowski asked, since the ADU is proportionately smaller than the main dwelling, would the fee be proportional? McLaughlin said it could be as easy as determining the percentage of use that an ADU would have. Bremmer said she understands the City Council: may structure SDCs instead of leaving them “one size fits all.” Jurkowski said that would be good since dwellings vary.

Nichols said the State requirements have been covered, and summed up practical reasons to adopt the ordinance:

- housing/rentals are needed
- \$48K is the median income for Bandon residents and an ADU's rental income would supplement a homeowner's income

Nichols went over the content of the Staff Report regarding the types and sizes of ADUs, photos, implementing recommendations, and staff recommendations. Nichols asked if there were any questions.

Bremmer: Has anyone heard discussions about municipalities limiting the amount of vacation rentals to raise long-term rental availability in general and thus increase housing stock?

McLaughlin: It is a big discussion in planning circles, especially in vacation communities because vacation rentals generate more income. Some of those municipalities have no restrictions and lose housing stock to vacation rentals. We have pretty tight restrictions, especially along Beach Loop and the Jetty area which are primarily locals' housing, rather than vacation rentals. Bend tries to limit vacation rentals to boost housing stock. It's a good idea not to open the whole city to vacation rentals. It's practical as locals need housing.

Kimes: Are ADUs always conditional uses?

McLaughlin: They are always permitted uses. They have to be permitted outright.

Kimes: Parking for ADUs needs conditions.

McLaughlin: The Commission can set requirements for parking for ADUs. A single-family dwelling must have two on-property parking spaces.

Nichols: For ADUs it could be stipulated that if on-street parking is allowed (or if on-street parking is allowed on both sides of the street), then no on-property parking requirement is necessary. Otherwise, it could be stipulated that a property must have 1.5 times the number of units for parking spaces, so an ADU would mean 3 parking spaces would need to be available.

McLaughlin: Parking is what we need to decide as a Commission. Portland started out requiring conditional use permits, but hearings and applications were a hassle and impediment. This new Bill is telling communities that ADUs have to be allowed outright. Requirements can be imposed; however, the goal is to make it as relatively easy as possible. He thinks that not many homeowners will take advantage of building an ADU.

Bremmer and Fisher asked if a duplex owner could build an ADU. Discussion ensued about duplexes and triplexes, and lot sizes for same compared to single-family home properties.

Nichols said she looked up a subsection of the Bill, and since a duplex isn't a single-family dwelling, she and McLaughlin said no, an ADU could not be built on a property with a duplex.

Bremmer: There are consequences to consider regarding that. She thinks duplex living would be preferable to living in a garage conversion. An ADU on a duplex could make it a triplex and increase housing availability.

McLaughlin: With ADUs we are talking about a totally different style of housing from duplexes and triplexes. ADUs tend to be more compatible to neighborhoods than duplexes.

Jurkowski: The cost of construction is less too.

Kimes: What about not allowing ADUs to be vacation rentals since ADUs are supposed to increase housing availability? Discussion ensued between Kimes and McLaughlin about the pros and cons of allowing or not allowing an ADU to be a vacation rental dwelling (VRD).

Jurkowski: If using an ADU as a VRD allows the owner to be able to afford staying in place because of vacation rental income, then it does help housing.

Fisher, Nichols, Bremmer, McLaughlin, and Tiffany discussed single-family dwellings with ADUs being used as VRDs and VRDs in general. In summary, McLaughlin reiterated that the Commission can determine what requirements will be written into the recommendation that will go before the City Council.

Tiffany brought up the issue of parking, to which Nichols said that a requirement could be set that an on-site parking space would only be required if there wasn't parking available on both sides of the street. General discussion ensued, and it was suggested that the approval form could include a parking check box that indicates whether or not there is adequate street parking available.

Fisher introduced the topic of our sewer system and that the Commission needs to think about the demands ADUs will put on our infrastructure. General discussion ensued, and it was pointed out that any time there is development; new demands are made on the system. Kimes brought up that if only 1–2% of the 1700 single-family dwelling homeowners take advantage of building an ADU, there should not be a major impact on the infrastructure. Fisher said it's the older part of town he's concerned about.

Bremmer: We need to make building ADUs available (and not onerous), but we need to be civic-minded too, and let property owners know utility infrastructure demands. We need to offer maximum fairness to those who chose to build ADUs to rent and to those who build ADUs because they have family members with no place to live—the demands on the utilities are the same either way. The goal is to have minimal negative effects on utilities.

Kimes thinks it might be beneficial to have some kind of SDC because we are trying to bring more people into town which puts an extra burden on utilities and our streets. Nichols asked if the Commission needs any additional information from staff to help determine what amount to set for an SDC.

Bremmer and Fisher offered the suggestions of basing the charge on percentage of the dwelling used by the owner or based on square footage.

Nichols said she could compare Bandon with other communities.

Bremmer emphasized the importance of realistically addressing parking issues. Not all streets are wide. Some streets are substandard. Some have bike lanes, but we are basically a car-based community. We need to consider the impact of ADUs on neighborhoods before they become a problem, possibly by adding parking space requirements, especially if the ADU is a garage conversion, because garage parking would no longer be available to the owner or the ADU dwellers.

McLaughlin suggested that the Commission develop a clear approval process, streamlined to an initial basic path. Then, depending on the unique aspects of each ADU, offer discretionary paths (this could include parking circumstances). We could have a hearing officer review conditional usage. We will learn what works over time and by experience.

Kimes asked for Commissioner comments and started with Starbuck.

Starbuck said he: lives in the “donut hole” (thus has been listening more than contributing) and is on the Utilities Commission. Until now, we've had level population growth. He's concerned about the capacity of the city utilities to accommodate the potential number of new residents moving into ADUs. The State demanding we allow ADUs will have a major impact on utilities. He is curious to see the outcome.

Kimes similarly thinks we should look at conditional use regarding Residential Care/Assisted Living Facilities as well because of the utilities demands they will place on the infrastructure. He asked staff to look at the Elmira scenario.

McLaughlin said he'll take a look at that, but thinks the State says Residential Care Facilities have to be allowed where apartments are allowed (he'll confirm that). Through the zoning compliance process, we always have the right to impose conditions that we believe address infrastructure concerns, especially when the fire and police departments have concerns.

Kimes asked if anyone wanted to add anything.

Nichols wanted to know how the Commission feels about the numbers in Limitations on Uses, Item C. in the Staff Report on page 4: "A detached Accessory Dwelling shall not exceed 900 square feet of floor area, or 75 percent of the primary dwelling's floor area, whichever is smaller." The State recommends between 800–900 square feet, so 900 is on high end. Does the Commission want the numbers smaller or larger, or is the Commission okay with what is stated.

Discussion ensued about how big 900 square feet is, and is 800 square feet the smallest ADU a person could build (Nichols said, no, it can be smaller than 800 square feet). Questions were asked about the size of the ADUs pictured in the Staff Report and the size of the tiny house on Division near Wilson's Market.

McLaughlin said he will look at square footage/percentages and bring the Planning Commission examples of ADU sizes compared to primary dwellings, plus additional information gleaned from research.

### **3.0 ADJOURN**

Kimes adjourned the Work Session at 8:38 p.m.

Planning Commission Work Session Minutes submitted by Fran McGuire, Minutes Clerk

**REGULAR MEETING AND WORK SESSION  
OF THE PLANNING COMMISSION  
CITY OF BANDON  
THURSDAY, AUGUST 23, 2018 – 7:00 PM  
IN THE COUNCIL CHAMBERS, CITY HALL**

**REGULAR AGENDA**

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Council Chambers is accessible to the disabled.  
For special services contact City Hall 48 hours in advance at 347-2437, Voice ~ 711 TTR ~  
e-mail: [citymanager@cityofbandon.org](mailto:citymanager@cityofbandon.org) ~ web: [www.ci.bandon.or.us](http://www.ci.bandon.or.us)

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**1.0 CALL TO ORDER**

**1.1 ROLL CALL**

**2.0 CONSENT AGENDA**

- 2.1 REGULAR PLANNING COMMISSION MEETING MINUTES - JUNE 28, 2018**
- 2.2 REGULAR PLANNING COMMISSION MEETING MINUTES - JULY 26, 2018**

**3.0 PUBLIC COMMENT**

Opportunity for Citizens to speak on issues NOT on the Agenda.  
TIME LIMIT - 3 MINUTES

**4.0 PUBLIC HEARINGS**

**5.0 FINDINGS OF FACTS**

- 5.1 CONDITIONAL USE PERMIT – Application No. 18-046, Bandon Professional Building, LLC – To convert the existing structure at 475 Elmira Ave. SE into a 19-unit residential care facility in City of Bandon**

**6.0 ELECTION OF OFFICERS**

- 6.1 VOTE CHAIR & VICE-CHAIR FOR THE JULY 1, 2018 to JUNE 30, 2020 TERM**

**7.0 DISCUSSION/OTHER**

**8.0 COMMISSIONERS' COMMENTS**

**9.0 ADJOURN THE REGULAR MEETING**

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**WORK SESSION**

- 1.0 ROLL CALL**
- 2.0 ACCESSORY DWELLING UNIT ORDINANCE**
- 3.0 ADJOURN**



# City of Bandon

**PLANNING COMMISSION WORK SESSION AGENDA  
DOCUMENTATION**

**DATE: AUGUST 23, 2018**

**SUBJECT: ACCESSORY DWELLING UNIT ORDINANCE**

**ITEM NO: 2.0**

**SUBMITTED BY:**



Dana Nichols, City Planner



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## ACCESSORY DWELLING UNIT ORDINANCE STAFF REPORT

### Background

Housing affordability and availability are issues facing cities large and small nationwide. With increasing population, waning housing supply, and cost of living outpacing local wages, housing has become a greater burden for families and individuals to bear. These issues persist in our local community as well and have been addressed in the Housing Needs Assessment prepared for the City of Bandon in winter of 2018.

In an effort to address the lack of housing options and remove barriers to the development of new housing statewide, House Speaker Tina Kotek introduced House Bill 2007 in 2017. Senate Bill 1051 was the product of the legislative process addressing Kotek's bill and was signed into law by Governor Kate Brown on August 15, 2017. This bill requires that cities with populations greater than 2,500 shall allow the development of at least one accessory dwelling unit for each detached single-family dwelling in areas that are zoned for detached, single-family dwellings. The city retains the ability to regulate siting and design of the structures.

### Discussion

As of July 1<sup>st</sup>, 2018, these requirements became effective and all applications for accessory dwelling units must be accepted by the city. Without any local ordinance in place, these applications are subject to state regulations, which are extremely limited. The Planning Department has taken a first step towards crafting a draft ordinance for your review. Since ADUs will be allowed anywhere a single-family dwelling is allowed, the regulations in the underlying zone will apply to the development of the ADU as well and will not be addressed in the ordinance. For example, lot size requirements, setbacks, and height restrictions will not change for the siting of an ADU. Certain aspects of ADUs, however, are not listed explicitly in the code already and should be addressed as part of the ordinance adoption. More specifically, the ordinance provides a definition and purpose for ADUs, and describes limitations on use.

Staff has recommended that ADUs be prohibited from use as a vacation rental, even if the underlying zone allows it. One of the greater intentions of the ADU ordinance is to encourage the development of affordable housing units for full-time residential living, and any allowance for vacation rentals may complicate that.

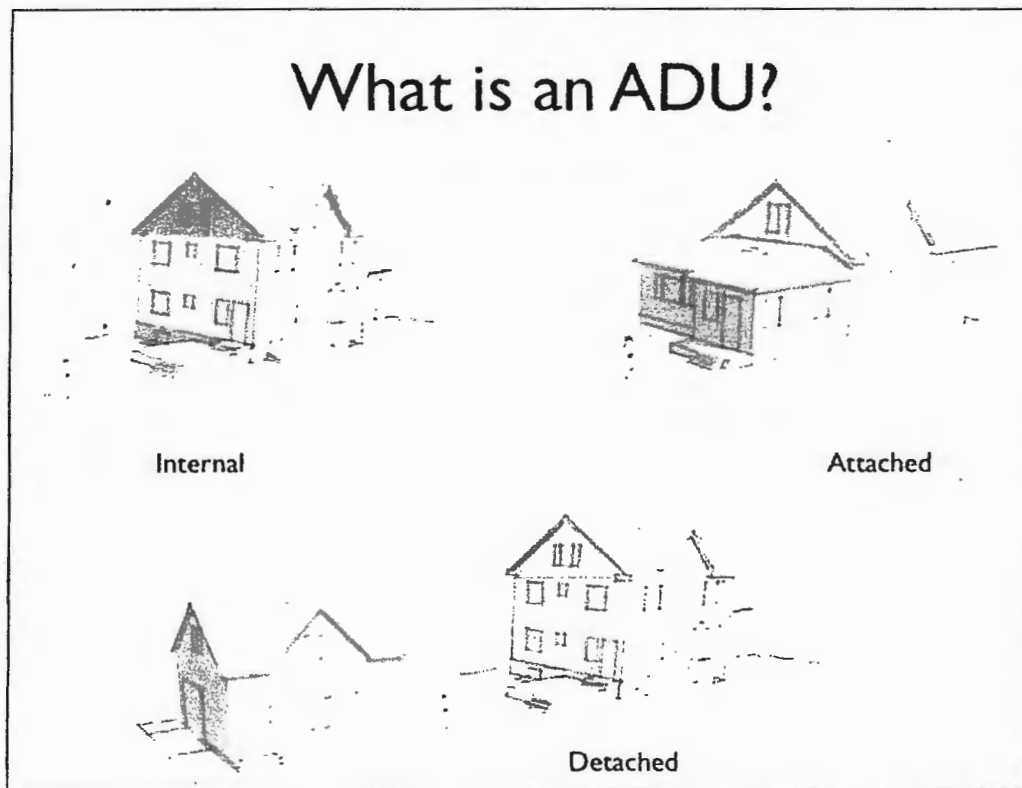
Staff has also recommended that additional System Development Charges not be assessed for Accessory Dwelling Units. When a lot is developed for a single-family residence, System Development Charges amount to a standard \$13,750 for transportation, water, wastewater, and storm drainage. This value is assessed whether the new construction is 500 square feet or 5,000 square feet, whether the house serves one person or a family of six. Accessory Dwelling Units, while they are an additional structure and



account for additional impervious surface, are no more impactful on our system than an addition to an existing home or the installation of a shed/barn. Other communities, such as Springfield and Portland, have waived SDCs for ADUs to encourage development of these units.

An on-going point of discussion for the commission will be that of utilities. Staff is recommending that the unit be required to have a separate electric meter however the unit may connect to an existing sewer and water meter. Concerns have been raised over the issue of dealing with what happens if the primary unit fails to pay their bill for the sewer and water and the utilities must be turned off. Staff finds that the additional costs and installation work required for these utilities will be a barrier to development and they aren't necessary to accomplish of increasing housing affordability and availability.

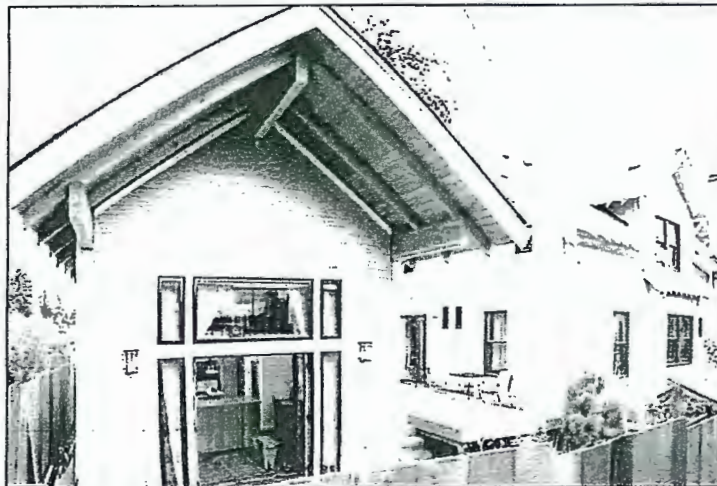
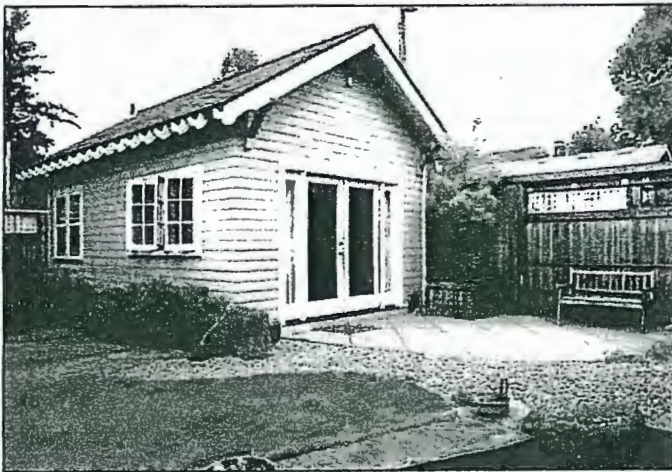
Finally, Staff has also recommended only one ADU be permitted per single-family dwelling and that no additional off-street parking be required for ADUs if on-street parking is permitted. While the State will permit up to two units per single-family dwelling (one as an attached and one as a detached), Staff is recommending the allowance of only one at this time. Bandon does not have many high-density residential areas and the addition of three units (one single-family and two ADUs) may have a greater neighborhood impact than is currently experienced anywhere else in the city. The Commission may wish to discuss whether the number of allowable units per lot should be the same city-wide, or if there are certain zones that might be more appropriate for higher density.







In addition, one ADU will likely have a limited impact on parking for the existing single-family housing stock. Staff's recommendation to not require any additional off-street parking is to alleviate one of the perceived barriers to new development of an existing lot. Parking, outside of our commercial centers, has not been major concern in residential neighborhoods, especially when on-street parking exists. Many homes have outdoor parking spaces in addition to a garage and sometimes a parking pad elsewhere on a property. The Commission may wish to discuss parking requirements and whether or not to allow a greater number of ADUs per property if greater flexibility is desired.





## Proposed Sample Ordinance Language

Accessory Dwelling Units will be listed as an outright permitted use in the following zones:

- Residential 1
- Residential 2
- Controlled Development 1
- Controlled Development 2
- Controlled Development 3
- Controlled Development Residential 1
- Controlled Development Residential 2

### Definition

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

### Purpose

The purpose of an Accessory Dwelling Unit Ordinance is to establish standards and regulations for the siting of both attached and detached units, allowed by right in any zone where a single-family home is outright permitted. This ordinance is intended to encourage development that is consistent with existing residential requirements, while also providing additional housing opportunities within existing, developed properties and neighborhoods.

### Limitations on Uses

- A. Detached Accessory Dwelling Units shall be required to conform to the architectural design feature requirements of the underlying zone.
- B. Accessory Dwelling Units are prohibited from use as a Vacation Rental Dwelling in all zones.
- C. A detached Accessory Dwelling shall not exceed 900 square feet of floor area, or 75 percent of the primary dwelling's floor area, whichever is smaller.
- D. An attached or interior Accessory Dwelling shall not exceed 900 square feet of floor area, or 75 percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling would be more than 900 square feet.
- E. No off-street parking is required for an Accessory Dwelling.
- F. No additional System Development Charges will be assessed for an Accessory Dwelling outside of the fee assessed as part of the construction of the primary unit single-family dwelling.





City of Bandon Planning Department

Bandon, Oregon 97411

Phone: 541-347-2437

[www.cityofbandon.org/general/page/planning-department](http://www.cityofbandon.org/general/page/planning-department)

- G. Accessory Dwelling Units will be required to obtain a separate meter box for electrical use, however the owner may choose to connect them to existing sewer and water facilities currently utilized by the primary unit.

**Work Session of the Planning Commission  
At Bandon City Hall  
September 27, 2018**

**COMMISSION:**

- ☒ David Kimes, Chair
- ☒ Sheryl Bremmer, Vice Chair
- ☒ Sally Jurkowski, Commissioner
- ☒ Donald Starbuck Commissioner
- ☒ Paul Fisher, Commissioner
- ☒ Gerald Slothower, Commissioner
- ☐ Blythe Tiffany, Commissioner

**STAFF:**

- ☒ John McLaughlin, Planning Director
- ☐ Fred Carleton, City Attorney
- ☒ Dana Nichols, City Planner
- ☐ Megan Lawrence, Planning Assistant

**1.0 CALL TO ORDER**

Kimes called the Work Session to order at 7:23 p.m. Roll Call was taken as indicated above.

**2.0 ACCESSORY DWELLING UNIT (ADU) ORDINANCE—PART TWO**

Incorporating the Commissioners' feedback from the previous Work Session, Nichols began a presentation to accompany the Staff Report provided to the Commissioners prior to this Work Session.

She began by discussing the application process for an ADU. One option is to follow the State requirement for outright permitted zoning compliance. Another option would provide some flexibility for a homeowner to do something slightly outside of what is outright permitted, such as constructing more than one ADU. For example, there could be an attic unit in the house and another unit outside. Or, if there is standard on-street parking available, an off-street parking requirement may be waived. If someone wants to build a unit that exceeds the size allowance, a plan review might be offered.

Nichols researched how other Oregon communities are assessing System Development Fees (SDCs) for ADUs. Some cities assess a flat rate for a single-family dwelling, such as Bandon's \$13,750. Some assess a standard impact fee; others, such as Ashland, use a per-square-foot model. Portland waives its SDC fees initially in an effort to encourage construction of ADUs.

In last month's Work Session, Commissioners felt a 900 square foot limit for an ADU would be too big, so the proposed ordinance language has been changed to reflect a maximum of 800 square feet or 65 percent of the primary dwelling's floor area, whichever is smaller. To provide a perspective on this amount of floor space, four business cards were placed on the Council Chambers floor to mark the corners of a 200 square foot area.

Nichols' presentation included photographic examples of different types of ADUs, showing both the exteriors and the interiors. The first example showed a two-floor conversion of a single-car

garage. A garage conversion could utilize the garage floor as part of the living space, or the living unit could be built above the garage, leaving the lower floor of the garage still available for parking space. The second example in Nichols' presentation was a 200 square foot tiny home studio, more appropriate for a guest home than a rental. The next example was a 480 square foot one-bedroom, one-bath ADU with flex space that could be used as a living room or second bedroom. The final example showed a 720 square foot, two-bedroom, one-bath unit.

Nichols reminded the Commissioners that the State bill allows cities to create clear and objective, reasonable standards relating to siting and design, in an effort to create more housing. These State guidelines are rather broad, and staff has tried to narrow down the options for the Commission, but remains open to more ideas before moving on to the public hearing.

Kimes announced that public comment and questions are not usually allowed at the Commission's Work Sessions, but in this instance public input is welcome before the Commissioners begin their discussion period.

**Jason Youmans, 1185 7<sup>th</sup> Street SW, Bandon, OR 97411**

Youmans does not oppose ADUs in the sense that they are intended for affordable housing. But he hasn't heard anything that guarantees they will be affordable. He thinks rents will still rise to as much as \$1,000 a month, making them out of reach for many people. His impression is that in vacation towns like Bandon the intent switches from affordable housing to an attitude that whoever can afford the most will get the most. Youmans would like to find a way to curb that bumping up of prices.

Youmans acknowledges that the ADUs in Portland look nice. Since he has personally designed and sold long and narrow lots with a cottage in the back, he does not view them unfavorably. But many of Bandon's lots don't fit that image. In considering the appropriateness of ADUs, he says we need to look at factors such as lot sizes, orientation of existing houses, and neighbors who want their privacy and will lose it with a two-story home looking down into their yard. Bandon's building codes have previously been so restrictive that many who planned their lives so they could end up here would never have seen this change coming.

Youmans asked if a second dwelling is put on an R-1 lot, does it become an R-2 lot? Would it have two sets of utility meters if it has two families on it?

McLaughlin clarified that a property that adds an ADU still retains the same zoning. It would be an allowed use within a single-family zone to have an accessory dwelling.

Youmans responded that there are size limits on duplex lots, and he feels duplex lots should be used as criteria for establishing ADU zoning, because there would be less pressure on neighbors with ADUs in R-2 zones. He then proposed considering two tiers on ADU size, based on lot size.

Kimes noted that the 50% lot coverage limitation would apply regardless of lot size.

Youmans repeated that two-story ADUs threaten the privacy of neighbors. Originally an opponent of SDC fees on infill lots, which are priced higher than lots without systems, he came to accept the rationale that SDCs were needed because existing sewer lines wouldn't

accommodate those lots. Now, he questions the potential doubling of the demand on those lines without requiring a fee.

Youmans then asked where to find a copy of the State policy on ADUs. So, Bremmer read the names of the applicable State legislation: House Bill (HB) 2007, introduced in the House in 2017, and Senate Bill (SB) 1051, which addressed the House bill and was signed into law by Governor Brown on August 15, 2017.

Nichols pointed out that a guide based on the House and Senate bills was created by the Oregon Department of Land Conservation and Development (DLCD), and it was included in the packet for the Commission's August meeting. It also may be found on the City of Bandon's website. The bill states, "A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas within the urban growth area that are zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and designs."

Youmans urged caution with expansion, considering Bandon doesn't have curbs, gutters, and sidewalks like other cities and towns. He has witnessed many close calls between cars, bicycles, and people on 7<sup>th</sup> Street near Beach Loop because of this. He wondered about the timing of the City's taking up the ADU issue.

McLaughlin explained that the State law became effective July 1 of this year. It has been in the City's work plan since then, but other items have taken precedence. This is the second study session on the subject.

Youmans still feels that the City is rushing into a major decision on zoning that will affect development for years to come.

Kimes assured Youmans that this Work Session is just a preliminary step. It leads to a more formal process producing an ordinance proposal to be discussed at a public hearing before the Commission. After that, it goes before the City Council and receives public input there.

McLaughlin noted that in the past two years the Planning Department has only received one or two requests regarding ADUs. So there hasn't previously been a great demand for them. This law is a tool the City can use to help create more affordable housing.

**Judy Smilan, 761 12<sup>th</sup> Street NW, Bandon, OR 97411**

Smilan would like to limit the number of people living on properties that have a primary house and an ADU. She thinks an ADU should be limited to two people, unless it is a conversion that is a whole floor of a house, and she feels the property owner must live in either the primary dwelling or the ADU as a permanent primary resident. In her view, the property owner must not receive rent for the primary owner-occupied unit.

Smilan feels the ADU needs to be much smaller than the main building and needs to serve a good purpose—not just for the owners to make extra money from their property. The goal of SB 1051 is to have ADUs that are affordable housing for full-time residential living. Her reading of bills 1051 and 4031 is that they were both aimed at farmers, emphasizing compounds, multi-

family dwellings, and subsidized housing. In addition to farm workers, SB 1051 addressed affordable housing for people with low income.

Smilan thinks an ADU should not be used as a rental unless it is a long-term residential rental to one person or to one person and their immediate family. There should not be an unrelated group of people renting an ADU, such as caddies and hotel workers. There would be too many cars in neighborhood. She also believes the proposed ordinance should specify that an ADU must meet underlying requirements for lot size, setbacks, and height restrictions in its zone, and she fears the effect on neighborhoods if the City allows exceptions.

Smilan suggests the ordinance should limit ADUs to 25% of the primary dwelling and 400 square feet, whichever is less. She says two dwellings of a similar size on a property would not be appropriate, and off-street parking should be required for an ADU. In her opinion, SDC fees should not be waived for owners who are just trying to make extra money off their properties.

Fisher cited the ADU size restrictions of several Oregon cities, ranging from 25% to 40% of primary dwelling size, as listed in the Staff-prepared packet.

**Denise Frazier, 1259 Wavecrest Lane, Bandon, OR 97411**

Fraser believes the market will drive ADU rental prices. A renter will not pay \$1,000 for 200 square feet if an entire home is available for the same cost, so ADUs will end up providing affordable housing.

**William Beck, 1107 6<sup>th</sup> Street SE, Bandon, OR 97411**

Beck urged ADU guidelines that will help retain the charm, character, lifestyles, and privacy of Bandon and its citizens. An ADU should not compete in scale with an existing structure, and the property should still comply with existing maximum lot coverage rules for its zoning area, including all accessory buildings. Beck suggests setbacks of 10 feet for one-story ADUs and 15 feet for two-story units, with no exceptions for existing height limits.

**Karen Donaldson, 736 12<sup>th</sup> Street SW, Bandon, OR 97411**

Donaldson feels the entire text of SB 1051 should be provided to the public, rather than just the guidance summary. She doesn't think the proposed ordinance shows enough consideration to design elements. When you look at communities and subdivisions that work, they work because of design. They may have the same zoning as older neighborhoods, but they are designed as a subdivision and the plans of the homes are altered to protect privacy. Donaldson said it is important to design an ADU to acquiesce to the existing neighborhood, with attention to window placement that protects the privacy people are accustomed to and that attracted them to their neighborhood.

McLaughlin offered a clarification on SB 1051. The bill included a variety of land use changes for both cities and counties on a variety of issues. Section 6 amends ORS (Oregon Revised Statute) 197.312, which applies to city land use planning. In the exact language of the Senate Bill, the State mandates that the city shall allow ADUs. Much of the language of SB 1051 does not affect our city, but the ADU requirement does.

McLaughlin, Fisher, and Slothower discussed the interpretation of "shall" as used in SB 1051. It was concluded that the legislature uses "shall" as an imperative.



Nichols told the Commissioners they have three aspects of the ADU proposal to consider: the application process, the SDCs, and changes to limitation on limitations of use.

Kimes emphasized his desire to have firm and explicit conditions in the ADU regulations, so applicants will know there is a basis for a clear yes-or-no answer.

Jurkowski, Kimes, Slothower, and Fisher discussed suitable limitations on ADU size. Slothower debated what might be the appropriate percentage of a primary dwelling to allow, and then he proposed a 650 square foot limit. Fisher pointed out that twenty cities listed by DLCDC set ADU limits at up to 40% of the primary dwelling floor plan or up to 800 square feet, whichever is less. Garibaldi, a beach town comparable to Bandon, has a 600 square foot maximum, or 33% of the size of the existing main dwelling, whichever is less. Additionally, 68% of Oregon communities in the DLCDC document require the primary residence to be owner-occupied.

McLaughlin interjected that the language in the State legislation allows a city to adopt reasonable regulations that are related to siting and design. When ADUs were a new concept, there was initial cautiousness about their impact on neighborhoods, and that concern is reflected in the ordinances adopted prior to SB 1051 by cities listed in the DLCDC document. At that time, some cities included language restricting the number and type of occupants in dwellings on properties with ADUs. Under new State law, McLaughlin said it's unclear if the legislature precluded cities from setting occupancy restrictions, and such restrictions haven't been litigated yet. Bandon doesn't currently limit who can occupy a home—owner, renter, family member, or non-family member.

Fisher noted that in last month's presentation on ADUs there was an emphasis on aging parents and caretakers, implying ADUs would commonly be built on owner-occupied properties.

McLaughlin responded that requests are coming far less from people looking at an investment opportunity than from those dealing with the needs of a family member, such as a child or an aging parent. Once it's built, the ADU may serve as a guest room or turn out to be an investment in their property that they may rent out.

Fisher, Slothower, and Kimes discussed how a property owner might work within maximum lot coverage, maximum dwelling height, and ADU size restrictions to build the largest allowable unit for the greatest potential rental income. Slothower stressed that most of the regulations in the DLCDC document limit the size of an ADU to the lesser of its square footage or some fixed percentage of the floor size of the main dwelling.

McLaughlin observed that there have only been maybe two property owners in Bandon who have pushed the limits on height and lot coverage. These homes look out of place, and most people would rather have yard space and be able to live there and enjoy it. McLaughlin said it's necessary to consider the theoretical extremes, but that shouldn't stop the City from meeting the underlying purpose of the ADU proposal, which is to put ADUs in the toolbox of housing options. It's not going to bring resolution to the problem of affordable housing, and in fact it will have a small impact, but the State has said we "shall" do this.

Fisher referred again to the DLCDC document to note that some cities have imposed minimum lot size regulations for properties to qualify for ADUs—often 7,500 square feet—and he pointed out

there are many lots in Bandon that are only 40 feet by 100 feet with 50% lot coverage already, particularly in Bandon Heights. Fisher wondered if those lots would be too small for an ADU, or would something like a garage conversion be allowable? Would they be grandfathered in?

McLaughlin replied that the State has recommended that if a building already exists, there shouldn't be a penalty for converting it to an ADU.

Starbuck suggested looking at options to curtail efforts of property owners who are trying to minimize lot coverage and maximize floor space by building two-story structures.

Slothower pointed out that stairways take up a lot of livable space in multiple story dwellings. So, what is gained by building extra stories is lost in the staircase. Building codes do not allow a ladder to the second floor or loft, except in tiny homes, which was affirmed by McLaughlin.

Bremmer stated the intent of the law is to solve the housing crisis in Oregon. Bandon especially suffers from a lack of rental housing. The Purpose paragraph on page three of the Proposed Sample Ordinance Language states, "This ordinance is intended to encourage development that is consistent with existing residential requirements..." Should there also be occupancy requirements?

McLaughlin offered an explanation of the origin of occupancy requirements in the ordinance language of some communities. Initially, these stipulations arose from a concern that small rental units in single-family zones would have a negative impact on neighborhoods that were primarily owner-occupied. When he was in Ashland, the city required an ADU applicant to live on the property being developed before a building permit could be approved. After an ADU is built and occupied, enforcement of this type of restriction becomes difficult.

Kimes suggested someone who owns an existing rental dwelling might build a second rental unit on the same property and might be able to reduce the rent on the original unit, addressing the spirit of the affordability issue at the root of the ordinance.

Bremmer asked if it is assumed that property owners who apply to build an ADU are doing it for a "granny" house for an elderly relative, for a child returning home who can't find a place to live in the area, or for a place for someone who wants to live and work in Bandon. Can we trust they are doing it for the right reasons? Since allowing ADUs under current regulations will affect the R-1 zone, should there be occupancy requirements, too? She wondered about the tenor of the community on these issues.

Bremmer also described a situation of a large lot that could be split into two adjoining lots, with each having the potential for ADU construction. Nichols clarified that the Commissioners had decided at last month's meeting to limit the number of ADUs to one per property, and that each property must first have a primary dwelling to qualify for adding an ADU.

McLaughlin introduced a scenario in which someone who has purchased a property in Bandon but can only afford to build a garage with a small apartment above it, intends to come back someday and build a big house. Can they do that under the ADU ordinance? They already have a primary dwelling on the property. Can you start with an accessory dwelling and build a primary residence later?

Kimes recalled that under the old rules, you could live in an accessory dwelling while your primary dwelling was being built. Once you moved into the new building, you had to abandon the accessory dwelling.

McLaughlin concurred, adding that you would have to abandon the kitchen facilities and perhaps convert the accessory dwelling into a bedroom with a bathroom.

Kimes wanted to know how addresses are assigned if an ADU is added to a property. McLaughlin replied that two numeric addresses, not an A or B, would be assigned. Kimes said they would need to be separate to help direct emergency services to the correct location.

Bremmer noted that several of the ordinance examples in the DLCD material state that on a lot containing an ADU there can only be one entrance facing the street. McLaughlin indicated there could be a second entrance on a corner lot, so the ADU would have its own entrance.

As a hypothetical case, Fisher asked if a 14-foot by 57-foot manufactured home would qualify as an ADU. McLaughlin said it would. Fisher then wondered if someone walked in tomorrow with a request for a manufactured home as an ADU, would the City have to go with the State mandate? McLaughlin said yes. Slothower countered that the new State law allows for compliance with local zoning laws, and in most areas of Bandon that are zoned R-1, you are not allowed to put a trailer on your property. Kimes stated that under the City's code, you cannot build an ADU today. However, McLaughlin reiterated the State's mandate that as of July 1, 2018, the City must allow ADUs. The cities listed by DLCD had their ADU ordinances in place in 2015-2016, before the Senate bill.

McLaughlin repeated that in the last two years there have only been one or two requests that have tested Bandon's existing regulations to determine what they could do on their property to house an aging parent. At that point, the option of duplexes was discussed. If someone comes in now with such a request, the City would try to accommodate, based on the State mandate and using the Commission's directions as interim rules.

Kimes urged the Commissioners to come up with numbers for maximum ADU size. Fisher favored 40% of existing dwelling area, or up to 800 square feet, to adjust for larger primary homes and yards. Slothower liked 650 square feet and felt 800 would be too imposing on some lots. He agreed on 40% of the primary dwelling, as did Jurkowski, who was uncertain about the square foot limit, considering the variety of lot sizes. Starbuck concurred with 40% and was leaning toward agreeing with 650 square feet. Bremmer expressed concern over forcing everyone into a small size limitation that might, for example, preclude converting one floor of a two-story home into an ADU. She thought the original 800 square foot limit was fair, and that most of the ADU requests in Bandon would be for converting an existing garage or building a unit on top of a garage and would not reach 800 square feet. Building a free-standing structure might be more expensive than converting an existing structure. Kimes, Fisher, and Slothower discussed what might be involved in modifying an existing garage to convert it to a living space and bring it up to codes.

Kimes asked if a detached garage is factored into determination of 50% lot coverage. Nichols answered that lot coverage applies to any structure and any impervious surface. McLaughlin added that a garage does not count as living space.

Kimes asked Staff to work up a draft ADU proposal specifying 650 square feet or 40% of existing primary dwelling floor space. Fisher wondered if language requiring primary dwellings to be owner occupied could be inserted. Kimes suggested there could be an owner-occupied restriction with a conditional use waiver for certain specified circumstances. McLaughlin cautioned that such limits should be clearly defined, and that the Commissioners could be inhibiting the creation of these units by limiting them to owner-occupied properties.

McLaughlin decided to have Staff prepare the ADU proposal with alternative language for an option that requires owner occupancy, after researching current ordinances elsewhere. Owner-occupied requirements have not been litigated since the State law went into effect, so their future in ADU ordinances is unclear. McLaughlin also stated that compliance would be difficult, because there would be no way to monitor which dwellings were being used as rentals until there was a neighborhood complaint.

Kimes then turned the Commissioners' attention toward the question of SDC fees. Slothower favored SDC fees to cover the extra strain on water, sewer, and power. Bandon's current SDCs actually cover sewage, water, and storm drains. Nichols clarified that the City charges a flat SDC rate of \$13,750 regardless of lot size, dwelling size, or impervious surface. Fisher enquired about SDC fees for duplexes, and Nichols replied that they are around \$2,000 less than the regular single-family rate.

Fisher expressed concern for the strain additional housing units might place on some older sewer lines and wondered if homeowners would be forced to upgrade laterals to 6 inches or if they might be able to tie into the existing laterals that serve their primary dwellings.

Jurkowski agreed on having an SDC fee for ADU construction, saying it would be more equitable if done by square footage. Starbuck was in accord. Bremmer also felt square footage should be a factor.

Slothower asked if you just want to rent out a floor of your house, can you just do it without calling it an ADU? McLaughlin replied that you can, as long as it doesn't have a separate kitchen. If it has a kitchen, then it's a separate dwelling.

McLaughlin told the Commissioners that Staff will take their directions, along with additional research into current practices in other communities, and develop a revised proposal that will lay the framework for a public discussion and further review by the Commission.

### **3.0 ADJOURN THE WORK SESSION**

Kimes adjourned the Work Session at 8:58 p.m.

Planning Commission Work Session Minutes submitted by Richard Taylor, Minutes Clerk

**REGULAR MEETING AND WORK SESSION  
OF THE PLANNING COMMISSION  
CITY OF BANDON  
THURSDAY, SEPTEMBER 27, 2018 – 7:00 PM  
IN THE COUNCIL CHAMBERS, CITY HALL**

**REGULAR AGENDA**

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Council Chambers is accessible to the disabled.  
For special services contact City Hall 48 hours in advance at 347-2437, Voice ~ 711 TTR ~  
e-mail: [citymanager@cityofbandon.org](mailto:citymanager@cityofbandon.org) ~ web: [www.ci.bandon.or.us](http://www.ci.bandon.or.us)

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**1.0 CALL TO ORDER**

**1.1 ROLL CALL**

**2.0 CONSENT AGENDA**

- 2.1 REGULAR PLANNING COMMISSION MEETING MINUTES – AUGUST 23, 2018**
- 2.2 WORK SESSION PLANNING COMMISSION MEETING MINUTES – AUGUST 23, 2018**

**3.0 PUBLIC COMMENT**

Opportunity for Citizens to speak on issues NOT on the Agenda.  
TIME LIMIT - 3 MINUTES

**4.0 PUBLIC HEARINGS**

**5.0 FINDINGS OF FACTS**

**6.0 DISCUSSION/OTHER**

- 6.1 UPCOMING SCHEDULE CHANGES: NOVEMBER MEETING MOVED TO THE 15<sup>TH</sup>  
AND DECEMBER 27<sup>TH</sup> MEETING TENTATIVELY CANCELLED.**

**7.0 COMMISSIONERS COMMENTS**

**8.0 ADJOURN THE REGULAR MEETING**

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**WORK SESSION**

**1.0 ROLL CALL**

**2.0 ACCESSORY DWELLING UNIT ORDINANCE – PART TWO**

**3.0 ADJOURN**