



MEMO

TO: Mark Nystrom, AOC

FROM: Associate of Oregon County Planning Directors
Angie Brewer, AOCPCD President

DATE: February 17, 2017

RE: Rural Accessory Dwelling Units (ADU'S)

The Association of Oregon County Planning Directors (AOCPCD) understands legislation to allow ADU's in rural areas outside of Urban Growth Boundaries will be considered by the 2017 Oregon Legislature. AOCPCD has developed a list of questions and potential benefits and impacts, a recommendation, and conceptual development standards to inform the discussion.

Questions

It is necessary to answer at least the following questions in order for AOCPCD to provide informed comments on specific legislative proposals pertaining to rural ADU's.

- Problem Statement: What concern or problems are rural ADU's intended to solve or address?
- Local Control: Will counties be granted local control in deciding whether or not to permit ADU's, the zones in which they are permitted and prohibited, and the regulations governing their development?
- Zoning: In what zones will rural ADU's be allowed and how (outright permitted, permitted subject to standards, conditional use permits)?
- Farm and Forest Zones: Will ADU's be allowed in resource (farm and forest) zones? If allowed, how will ADU's be regulated on properties that have a primary dwelling, farm help dwelling(s), and/or a temporary care dwelling?
- Short-Term Rentals: Will ADU's be permitted or prohibited from being used for short term rentals (Air BnB, VRBO).
- Limitations or Standards: If rural ADUs are mandatory, will they be subject to limitations or standards imposed by the state or counties?

Potential Benefits of Rural ADUs

An abundance of literature and experiences from communities across the country demonstrates the value of ADUs in urban areas. Many of those positives are applicable to rural Oregon. This section highlights some potential benefits:

- Increases housing stock.
- Increases rental units.
- Provides multigenerational living opportunities.
- Provides the potential to increase the affordability of housing, such as:
 - Property owners are able to purchase or maintain a home with rental income from the ADU or from the primary dwelling if living in the ADU.
 - ADUs are smaller than the primary dwelling, resulting in lower rental, maintenance, and utility costs.
- Provides opportunities for revitalization allowing some growth in areas that have lost population.
- Provides an incentive to legalize existing, unpermitted second dwelling units in counties across the state.
- Does not require public financial resources or property to increase housing supply.

Potential Concerns and Impacts of Rural ADUs

- Creates potential to overburden infrastructure and public services (police, fire, emergency services, road, utilities, schools, etc.).
- Increases the number of septic systems negatively impacting groundwater quality and, impacts (reduces) the availability of replacement areas. Smaller lots may not have adequate room to accommodate a replacement system. Existing septic systems may need to be upgraded or replaced per DEQ rules.
- Rural properties often lack convenient access to amenities, grocery stores, other resources, and medical facilities. Public transportation is lacking and not easily accessible, if at all.
- Creates increased density in rural zones, which is not consistent with the intent of the low density rural zones, particularly if located at the minimum setback of a property line near a home on an adjacent property.
- May change the character of rural neighborhoods and communities.
- May not be used for rural affordable housing, but rather for short term vacation rentals (i.e., AirBnB, VRBO, etc.), defeating a potential intended purpose of the legislation.
- The existence of a rental, or the ability to add a rental unit to the property increases the monetary value of the property. In turn, in order to recoup costs, the property owner may need to charge more rent for the ADU, which may negate intent of providing more affordable housing options. In addition the value of the property increases thus potentially reducing its ultimate affordability.
- EFU may be impacted; a farmer may farm less of their property because they would be able to supplement their income with rental income of the ADU.
- Additional dwellings create additional impacts and conflicts with farming and forest practice uses, and wildlife habitat and management, allowed within the resource zones.

AOCPD Recommendation

The AOC PD recommends making ADU's permissive, thereby allowing counties the latitude of deciding whether or not to permit them, the zones in which they are permitted and prohibited, and all regulations governing their development (the same as ADU's in cities).

If the Legislature mandates accessory dwelling units, the AOC PD recommends that counties be authorized to determine standards or limitations listed below or, at a minimum, included in the legislation.

- Limit the number of ADU's to one (1) that can be placed on a lot of record.
- Require the ADU be located on the same lot or parcel as the primary dwelling.
- Require the ADU and the parcel be in compliance with DEQ's on-site wastewater standards. Require that the ADU is hooked up to the existing septic system, which may require expanding the system, etc. For land that is within a Groundwater Management Area or other designation where groundwater quality is known to have problems, require proof that the septic system is pumped regularly (usually every 5 years depending upon the system and the soil absorption, etc. OSU Extension and DEQ have recommended pumping intervals).
- A deed restriction shall be recorded acknowledging resource uses in the vicinity, if applicable, and an agreement to comply with the adopted standards.
- Require the ADU to utilize the existing well (or a shared well). The intent is to prevent drilling a second, "exempt" well but to maintain flexibility so that a landowner could drill a new well to be shared by the two homes, the primary and the ADU.
- Authorize counties to:
 - Determine the zones in which ADUs are allowed and prohibited.
 - Establish siting standards addressing the layout and design of existing or proposed improvements including, but not limited to buildings, structures, setbacks, access, parking, circulation, outdoor storage, landscaping areas, proximity to the primary dwelling, and other design elements.
 - Establish ADU size limits.
 - Require a deed restriction or restrictive covenant limiting the ADU to be rented for not less than 30 consecutive days if the state or local legislative intent is to increase housing stock and/or to provide affordable housing. This would make it clear that a short-term vacation rental would be prohibited.
 - Require a deed restriction be recorded acknowledging that the primary dwelling unit or the accessory dwelling unit be owner occupied.

Potential Conceptual Rural ADU Development Standards

In addition to the standards and limitations listed above, the AOC PD recommends consideration of the following conceptual development standards be considered for inclusion in legislation, Oregon Administrative Rules, or local County codes to implement the state or local legislative intent (to be determined).

Development standards may also help garner consensus on legislation or rules from various interest groups.

1. Only allow ADU's in Rural Communities, Urban Unincorporated Communities, Rural Service areas, and Destination Resorts. These areas are typically more dense, often are served by urban services (e.g. sewer, water, transit, etc.), and may provide additional transportation choices and/or recreational opportunities.
2. Shall comply with local transportation and access standards.
3. Require an annual review of the permit/use, with or without a fee. The purpose of the annual review is to document compliance with permit conditions, especially to document water use (meter data which should also be shared with OWRD) and proof of septic system maintenance (with specific intervals for pumping, e.g. every 5 years).
4. If allowed in EFU zones, limit the number of dwelling types that are allowed. Currently, there are several types of dwellings allowed: primary dwelling, farm help dwelling, temporary care or medical hardship dwelling, and an ADU.

Thank you for your consideration of this information, we look forward to working with you on this issue. If the AOC PD can provide any additional information or participate in the legislative or rulemaking process, please contact the AOC PD President, Angie Brewer, at angieb@co.wasco.or.us or (541) 506-2566.