



Oregon

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TO: The Honorable Michael Dembrow, Chair
Senate Committee on Environment and Natural Resources

FROM: Sadie Carney, Policy Analyst
Department of Land Conservation and Development

RE: Senate Bill 88



Senate Bill 88 would allow counties, at their discretion, to allow accessory dwelling units (ADUs) on land zoned for rural residential use. An existing administrative rule, OAR 660-004-0040(8)(f), limits lots and parcels in rural residential areas to one permanent single-family dwelling except in a narrow circumstance for a second unit accessory to a pre-1945 home. If enacted, DLCDC would be required to perform rulemaking to amend this rule to be consistent with law.

ADU approvals granted under this bill would not be allowed in areas of critical state concern, in areas with groundwater restrictions, or in areas designated as urban reserves.¹ The bill includes criteria for approval of the use.

Current land use policy limits rural development in order to promote rural areas that maintain rural, resource based industries such as farming and forestry free from conflicts. Limiting rural residential use also helps promote the viability of urban areas by increasing the predictability of development-location decisions; this supports coherent provision of public facilities, emergency services, and planning for housing needs.

Approval of ADUs in rural residential areas would increase the density of development and population in rural areas. Increased rural population leads to increased conflicts with farm and forest uses, higher risk of human-caused forest fires (28,007 acres of forest was consumed by human caused fires in 2018, 36.5% of the total acres burned²), more pressure on local water quality (and drinking water supply in some areas), and higher vehicle miles traveled relative to the same development occurring in an urban area.

¹ The jurisdictions with acknowledged urban reserves are Central Point, Eagle Point, Madras, Medford, Metro, Newberg, Ontario, Pendleton, Phoenix, Redmond, Sandy, and Talent

² Oregon Department of Forestry, 2018 Fire Season Update. House Interim Committee on Agriculture and Natural Resources, December 14, 2018.

This bill would require the Land Conservation and Development Commission to develop rules that classify lands within a fire protection district as low, moderate, or high fire risk. This important land classification could also have benefits that serve our landowners, rural residents, counties and state agencies unrelated to ADUs. The department suggests that limiting the applicable land classification standard to areas “within”, or “served by” a fire protection district would be less effective than creating a fire risk standard that can be uniformly applied to land throughout the state. For that reason, the department recommends eliminating the “fire protection district” qualification (Section 2(j) and Section 3).

If enacted, this bill would require counties to update their comprehensive plans if they chose to permit ADUs on rural residential development. It would also require participating counties to adopt the fire risk standards as a guidance document in making land use decisions.

As a final point, DLCD would like to remind committee members of the added concerns Measure 49 brings to permitting new forms of residential development. Under Ballot Measure 49, once a residential use or type of development has been permitted, Measure 49 places restrictions on limiting that use thereafter. If either state or local government enacts a new land use regulation that restricts a previously permitted use and can be perceived to reduce the fair market value of a property, landowners subject to the change have a right to compensation. A conservative expansion of residential development rights may be advisable.

Thank you for this opportunity to provide you with information about SB 88. If committee members have questions about this testimony, I may be reached at 503-373-0036 or via email at sadie.carney@state.or.us