

Eugene's Accessory Dwelling Unit Code  
A Comparative Analysis for Reasonableness  
And Design and Siting  
in light of ORS 197.312(5)

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## Introduction

The City of Eugene is embarking on a project to ensure that, in light of ORS 197.312(5), the regulations it applies to Accessory Dwelling Units in the city are reasonable and related to siting and design. Eugene faces a particular challenge in this project, because over the years, and in particular as a result of code amendments passed in 2014, its regulations related to ADUs are substantially more complex and restrictive than those of other cities—23 separate types of restrictions or regulations are placed on ADUs in Eugene, many of them reference in multiple places in the code, or differing somewhat in different areas of the city.

An additional challenge is that “reasonableness” is to some degree in the eye of the beholder; what is reasonable for one person may not be reasonable for another. This document attempts to identify and analysis Eugene’s code in light of some sort of measure of “reasonableness”—namely, how other cities have addressed the same issues (a “reasonable cities” standard) and a consistency standard (is it consistent with how Eugene addresses other housing/building types and is it consistent with other regulations on housing, such as anti-discrimination and fair housing statutes.)

By evaluating all segments of Eugene’s code that relate to ADUs in this way, the hope is that Eugene will be able to modify its regulations related to ADUs so that will be in compliance with ORS 197.312(5), and remove barriers to ADUs to make it easier to provide additional housing that our city desperately needs.

A summary of the analysis can be found on page 6 of this document, breaking down each area of regulation and indicating if it is related to siting and design, if it reasonable, if it is clear and objective, and if it is a useful regulation. For each area, a recommendation is provided to retain, remove, or revise relevant provisions.

Overall, Eugene needs to substantially revise its code related to ADUs in order to meet minimum requirements of state law. Over half of the provisions examined are recommended to be removed or substantially rewritten. An additional quarter need to be revised in some fashion. There are very few areas where code language could be left as is without some concern.

While Eugene is embarking on this project in response to a remand from the Land Use Board of Appeals, and therefore must of course consider what changes are defensible given LUBA’s finding and ORS 197.312(5), it should also be remembered that Eugene is facing a substantial housing crisis. Eugene has included as a goal in various plans and documents to remove barriers to housing. When examining the barriers to dwelling units in Eugene’s code, the question should not be can we defend leaving it in, but rather, does this regulation ensure such a universal good that it outweighs any negative impacts to provide housing for our residents?

During the course of this analysis, several provisions in other cities were identified that went “above and beyond” and addressed issues that would not be specifically required under ORS 197.312(5). Notes on those solutions are also included, in case Eugene also has an interest in doing more than the bare minimum required by law.

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## Definitions

### Definitions

In this document, each segment of code related to ADUs in Eugene will be evaluated based on four criteria—is it related to siting and design, is it reasonable, is able to be applied in a clear and objective fashion, and is it useful and effective.

- **Siting and design:** ORS 197.312(5) states that cities can subject ADUs to “reasonable local regulations related to siting and design.”
  - **Siting** is dictionary-defined as “fixing or building something in a particular place.” In the context of land use planning, “siting” is used both to refer to where something is fixed in the city as a whole, and as well where a particular structure is fixed its lot and in relation to other buildings on the lot.

In the context of ORS 197.312(5), the state regulation provides clear guidance regarding the first meaning of siting—ADUs must be permitted in all zones where detached single-family homes are allowed. Therefore, local regulations related to siting are referring to the siting of the ADU on the lot. This would include regulations related to setbacks from the lot line and distance between the ADU and other buildings.
  - **Design** is dictionary-defined as “the arrangement of elements or details in a product.” This is referring to the look and function of an ADU. This would mean that cities could have regulations related to how ADUs look (height, size, color, style, etc.) They could also ensure that ADUs meet with building codes related to safety.
- **Reasonable:** Reasonable is a term that is not legally defined in this context, but is legally defined in other contexts. The Legal Information Institute at Cornell Law School defines it as “just, rational, appropriate, ordinary, or usual in the circumstances.” For example, in the context of negligence law, the actions of a “reasonable” person is considered what averagely prudent person would observe under a given set of circumstances.

For the purposes of this analysis, “reasonableness” will be based on two factors.

- *Is it ordinary or usual in the circumstances?* To determine this, we’ll look at how other mid-size cities in Oregon and other cities in Lane County have addressed the question. In some sense, we will be using a “reasonable cities” standard, on the assumption that other cities who have modified and reviewed their code in light of ORS 197.312(5) are under similar circumstances to Eugene, in as much as they are cities in Oregon with similar sized populations and/or location and subject to the same state level regulations and land use requirements, and are at least averagely prudent.
  - *Is it appropriate and just?* To determine this we will look at if, in Eugene’s code, other dwellings are subject to similar requirements. If a provision of the code is truly necessary to ensure the welfare of the public and community, then it should be evenly applied to similar structures and uses. In addition, code provisions that have discriminatory effect or disparate impact on protected classes are not just.
- **Clear and Objective:** Clear and Objective is a term of art in Oregon’s Land Use laws and processes, referring to the fact that for housing, cities can only apply standards and regulations that aren’t discretionary or subjective or discourages housing through unreasonable cost or

delay (ORS 197.307(4)). While housing is allowed to go through a discretionary track, a developer or homeowner must also have the option to build a home that meets the code without the need for interpretation. In addition, regulations must be able to be enforced consistently, without relying on the judgement of the City about when and where to enforce particular regulations. In their November 28<sup>th</sup>, 2018 decision in Home Builders Association v. City of Eugene, the Land Use Board of Appeals specifically suggested that Eugene review its ADU code to ensure that it could be applied in a Clear and Objective manner.

- **Useful and Effective:** While ORS 197.312(5) and LUBA didn't require that regulations related to ADUs actually be crafted in such a way as to accomplish their intent, when reviewing our code for the benefit of our city, it seems reasonable to ensure that the regulations in place are actually producing the results they were intended to. The purpose of Eugene's land use code is to "protect and promote health, safety, and the general welfare of the public, and to preserve and enhance the economic, social, and environmental qualities of the community." If the provision of the code in question is not effective at achieving that purpose, it is not useful.

Unless an element of the zoning code related to ADUs can pass all these tests, it should be removed from the Eugene Zoning Code, or revised so that it can pass all the above tests.

## Analysis Summary

Provisions	Siting & Design?	Reasonable?	Clear and Objective?	Useful and Effective?	Recommendation
Owner Occupancy Requirements	No	No	No	No	<b>Remove</b>
Lot Size Minimums	No	No	Yes	No	<b>Remove</b>
Density Requirements	No	No	Yes	No	<b>Remove</b>
Prohibition on Alley Access and Flag Lots	No	No	Yes	No	<b>Remove</b>
Flag Lot Access Requirements	No	No	No	No	<b>Remove</b>
Bedroom Limits	Yes	No	No	No	<b>Remove</b>
Maximum Occupancy Limits	No	No	No	No	<b>Remove</b>
Outdoor Trash Screening Requirements	Yes	No	Yes	No	<b>Remove</b>
Dog Keeping Limits	No	No	No	No	<b>Remove</b>
Maximum Wall Length	Yes	No	Yes	No	<b>Remove/Revise</b>
Conversion of an Existing Structure	Yes	No	No	No	<b>Remove/Revise</b>
Flat Square Footage Limits	Yes	Yes	Yes	Yes	Retain
Square-Footage Limits Based on Lot Size	Yes	No	Yes	No	<b>Remove</b>
Allowance for Unheated Garage Space	Yes	Yes	No	No	<i>Revise</i>
Height Limits	Yes	No	No	No	<i>Revise</i>
Setback Requirements	Yes	Yes	No	No	<i>Revise</i>
Setback Intrusions Limitations	Yes	No	Yes	No	<b>Remove</b>
Attached ADU Connection Standards	Yes	Yes	Yes	Yes*	Retain
University Lot Dimension and Coverage Requirements	No	No	Yes	No	<b>Remove</b>
University Parking Requirements	Yes	Yes	Mixed	Mixed	<i>Revise</i>
Applicability of Standards in Other Zones	N/A	N/A	No	No	<i>Revise</i>
S-C and S-JW Terminology	N/A	No	N/A	No	<i>Revise</i>
Pedestrian Access Requirements	Yes	Yes*	Yes	Yes*	Retain/Revise
Covered Entrance Requirements	Yes	Yes*	Yes	Yes*	Retain/Revise
Minimum Off-Street Parking Spaces	Yes*	Yes*	Yes	No	No Recommendation
Exemption from Underground Utility Standards	N/A	Yes	N/A	Yes	Retain

Assessments of “reasonable” and “useful and effective” are based on the specifics of Eugene’s code. In some cases, while a general concept, such as height limits, are reasonable and useful, the manner in which they are presented in Eugene’s code are not. See detailed analysis before for more information.

## Analysis

### Owner Occupancy Requirements

**Description:** Eugene requires that the owner of the property have their principle residence on the property, they must occupy the property for at least 6 months out of every year, and that the principle residence can't be leased or rented when not occupied by the property owner. It goes into great detail about how this is verified, the types of documentation required, and how the property owner is determined. It requires that a deed restriction be placed on the property stating this. It provides an allowance for a longer absence (up to a year, or two years after going through an adjustment review process) during which both units may be rented, provided that the property owner provide a notarized statement of their intent to return as well as documentation from their employer, educational facility, volunteer organization or medical provider. It requires that the owner re-verify their residence with the city every two years.

**Where in the code:** 9.2751 (17)(a)(7), 9.2751 (17)(a)(8), 9.2751 (17)(a)(9), 9.2751 (17)(c)(11), 9.2751 (17)(c)(12), 9.2751 (17)(c)(13), 9.2751 (17)(c)(14), 9.3811(b), 9.8030(34)(a)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
No	No	No	No

#### Explanation:

- *Siting and Design:* The rental or ownership status of the residents of a dwelling is not related to either the location of the building on a lot, nor the design of that building.
- *Reasonableness:* All other housing types in the Eugene code are completely agnostic as to ownership status. A single-family home can be either owner or renter occupied; a multi-family dwelling could be either renter occupied (apartment) or owner-occupied (condo). Singling out ADUs as the lone housing type where ownership status of the resident is relevant is inconsistent with how Eugene treats all other housing types in the code.
- *Reasonableness:* It is outside of the scope of this project to do a full analysis of the intersection of city-mandated owner-occupancy requirements and Fair Housing and anti-discriminatory requirements. However, given the frequent justification, including by members of the Eugene City Council, that owner-occupancy requirements are necessary because homes resided in by renters are less desirable in the neighborhood, and recent cases regarding disparate impact of housing decisions, owner-occupancy requirements should be examined for disparate impact and discriminatory intent in that light. See below regarding Useful and Effectiveness.
- *Reasonableness:* Prior to final occupancy, owners of properties where ADUs and primary dwellings are being built simultaneously, the owner must submit proof of occupancy prior to final occupancy. This is likely an impossible standard to meet, since until someone is living at a property, they are unlikely to have income tax filings or other documentation of residency. For developers who are hoping to sell the buildings, they are less likely to find a purchaser to move into the property prior to issuance of a final occupancy permit. This creates an unreasonable catch-22 situation—they can't occupy the building until they have proved that they occupy the building.
- *Clear and Objective:* While the length and specificity of these provisions are clearly an attempt to develop an owner occupancy requirement that can be maintained over time in a consistent and enforceable fashion, in the end, it still relies on the discretion of City Staff, working under a complaint-based system, to enforce the provisions.

- *Useful and Effective:* Proponents of the owner occupancy provision frequently cite an opinion that a home will be better maintained and neighbors will be less disruptive if the property owner lives on site. Both renters and property owners can be bad neighbors; both renters and property owners can be good neighbors. Demographically, property owners tend to be higher income and older than renters, though renters span the age and income spectrum. More than half of Eugene’s population rents their home. The implication of this argument—that in order to be desirable neighbors, renters need the supervision of a property owner—is troubling to say the least.
- *Useful and Effective:* Owner occupancy provisions are extremely difficult to enforce, as discussed in the Guidance on Implementing the Accessory Dwelling Unit Requirement document provided by the Department of Land Conservation and Development. Eugene has attempted to address this enforcement difficulty by adding additional requirements (deed restrictions, documentation requirements, etc.) to their code. However, at the end of the day, enforcement remains a concern with this provision—after all, few homeowners read the zoning code in depth before they purchase a home, and are unlikely to realize that they are required to provide the city with a doctor’s note, a notarized document of intent and go through an adjustment review process if they wish to rent out their home while they care for a sick family member. On the other side, the City is unlikely to know that a homeowner has temporarily relocated unless someone complains. Given the equity and reasonableness concerns described above, it seems unlikely that owner-occupancy requirements serve such a public good as to justify the extreme efforts and invasion of personal privacy required to enforce them.

**Other Cities:** No other city reviewed had an owner-occupancy requirement as detailed or restrictive as Eugene. Of the 16 cities review, four had owner occupancy requirements for ADUs in their code at the time of the review. All of these requirements pre-date SB 1051. Junction City and Albany both included removal of their owner-occupancy requirements in proposed or pending adjustments for compliance with SB 1051. Corvallis postponed discussion of owner-occupancy to a yet-to-be-completed “Phase II.” Oakridge has not yet updated their code.

Cities that had owner occupancy requirements and have completed their SB 1051 related revisions have consistently removed those provisions.

**Recommendation: Remove the owner-occupancy requirement, and all related language from the code.**



## Lot Size Minimums

**Description:** Eugene prohibits ADUs of any type on lots that are smaller than 6,100. In some cases, larger lots are required: Eugene only allows ADUs on flag lots that are over 12,500 square feet in size, and in the University Neighborhoods (Fairmont, Amazon and South University) lots with ADUs must be at least 7,500 square feet. A few special area zones allow ADUs on smaller lots-- the S-C/R-1 subarea allows for attached accessory dwellings on lots of 4,500 square feet and detached ADUs on lots of 6,000 square feet. In the S-JW, two dwellings are prohibited on lots under 4,500, thus creating a lot size minimum of 4,5000 square feet for additional one family dwellings that meet the definition of ADUs.

**Where in the code:** 9.2751 (17) (a)(1), 9.2751 (17)(c)(1), 9.2775 (4)(b), 9.3065 (2)(a), Table 9.3625

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
No	No	Yes	No

### Explanation:

- *Siting and Design:* The size of the lot is not related to the placement of the ADU on the lot, nor the design of the ADU.
- *Reasonableness:* While Eugene has definitions for what constitutes a legal lot and restricts new development on non-legal lots, only two housing types have lot-size minimums separate from legal lot size and lot coverage requirements—ADUs and duplexes in R-1. It is presumed that if a lot is legally sized, a single-family home, multi-family dwelling, rowhouse, etc. is permitted to be built on it provided it could meet all other requirements. While the determination of lot size minimum for ADUs for a typical R-1 lot seems to be based on a maximum density of 14 units per acre (see below re: density), the lot size minimums in the university neighborhoods and flag lots seem arbitrary. No other cities had similar lot size minimums.
- *Useful and Effective:* An interior/attached ADU or a conversion of an existing permitted structure into an ADU would have no impact on what “fits” on a particular lot. Particularly for these types of ADUs, the impact of lot size minimums is not to reduce the impact of additional buildings on a lot, but rather to limit the number of people who can live on a lot.
- *Useful and Effective:* Lot size minimums prohibit a substantial percentage of detached single-family homes from being able to develop an ADU. In the R-1 zones and university area, the lot size minimum preclude ADUs on 10,606 lots, or about 24% of all R-1 lots. In zones R-2 and R-3, out of about 3,516 total lots, 2,353 are less than 6,100 square feet (67%), and thus would not be allowed to construct an ADU. While not all of those lots have detached single family homes on them and would not be entitled to an ADU, the majority of single-family homes in the R-2 and R-3 zones are prohibited from building an ADU based on lot size.
- *Useful and Effective:* Given the minimum size of 6,100 square feet, which is almost precisely the size an R-1 lot would have to be to allow two units under Eugene’s standard density calculations, it is clear that the lot size minimums are intended to reinforce density requirements. See below for discussion of density requirements; however, this is clearly not useful or effective in zones other than R-1, which have higher density minimums and maximums.

**Other Cities:** No other cities reviewed had lot size prohibitions like Eugene’s. Creswell requires a slightly larger lot for single family homes with ADUs (5000 square feet minimum lot size for single family homes vs. 6000 square feet for single family homes and an ADU; Creswell also is one of the few cities to allow more than one ADU per single family dwelling.) Corvallis, which used a two-phase process like Eugene, removed pre-existing lot size minimums as part of their Phase I process.

Five cities stipulated that ADUs could only be built on lots that met the legal lot minimum lot size for the zone.

**Recommendation: All lot size minimums specific to ADUs should be removed from the code.**

**Sample Code:** Springfield

5.5-110 Applicability

A. Accessory dwelling units are permitted on LDR properties with a primary dwelling.

....

5.5-140 Non-Conforming Lot/Parcel Sizes

Accessory dwelling units shall not be permitted on lots/parcels that do not meet the applicable minimum lot/parcel size stated in Section 3.2-215.

....

3.2-215 Base Zone Development Standards

The following base zone development standards are established.

	<b>Residential Zoning District</b>			
<b>Development Standard</b>	<b>Low Density Residential (LDR)</b>	<b>Small Lot Residential (SLR)</b>	<b>Medium Density Residential (MDR)</b>	<b>High Density Residential (HDR)</b>
<i>Standard Lots/Parcels</i>				
<i>Minimum Area</i>				
East-West Streets	4,500 sq. ft.	3,000 sq. ft.	4,500 sq. ft. (15)	4,500 sq. ft. (15)
North-South Streets	5,000 sq. ft.	3,000 sq. ft.	5,000 sq. ft. (15)	5,000 sq. ft. (15)

## Density Requirements

**Description:** Accessory Dwelling Units in Eugene must meet both the minimum and maximum density requirements for the base zone. The one exception is that in R-1, attached ADUs do not need to meet the minimum density requirement.

**Where in the code:** Table 9.2740, 9.2751 (1)(a), Table 9.3115, 9.3811(1)(e)(1), 9.3911(2)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
No	No	Yes	No

### Explanation:

- *Siting and Design:* Density requirements do not determine where on a lot a structure is located, nor what that structure looks like or how it functions.
- *Reasonableness:* While most other dwelling types are subject to density requirements, ADUs are not typically considered to apply to density requirements in other cities. All other examined cities have either explicitly exempted ADUs from their density requirements or have remained silent on the subject and instead permitted ADUs on a per lot or per dwelling basis similar to how accessory uses/buildings are addressed—none specifically included ADUs in calculations of minimum and maximum density in the manner of Eugene.
- *Reasonableness:* Prior to 2014, ADUs were not explicitly subject to density regulations in Eugene. During the process of the 2014 Single Family Code Amendments, there was much discussion as to if ADUs should be subject to density limitations. These arguments primarily centered upon Metro Plan Policy A.9, which states that “local jurisdictions should establish density ranges which are consistent with the broad density categories of this plan.” This was argued at the time to be a flat prohibition upon allowing any housing above 10 units per gross acre on land designated as low-density by the Metro Plan. The City both has the authority to interpret the Metro Plan, and the responsibility to balance the various provisions of the Metro Plan to develop reasonable interpretations. The Metro Plan overall indicates a preference for increasing density of residential development—for example, Metro Plan Finding 16, 17, and 18 discusses that residential density targets are not being achieved at the time of the writing of the Metro Plan. Policies A.10, A.12, A.13, A.14, and A.16 all focus on ways to increase density of housing development. In particular, policy A.14 requires that Eugene review local regulations and remove barriers to higher density housing and to make provisions for a fuller range of housing options, and policy A.16 requires for that Eugene allow for the development of zoning districts which allow the overlap of established density ranges—and creates a flat prohibition upon allowing densities *below* existing Metro Plan density ranges, but does not provide a similar prohibition about allowing densities *above* existing Metro Plan density ranges. An interpretation of the Metro Plan that looks only at the text of policy A.9 without the context of other policies related to density is not reasonable.
- *Reasonableness:* Eugene interprets the Metro Plan requirements through its land use code. In the 2014 debate, it was argued that because Table 9.2740 stated that “all dwellings shall meet the minimum and maximum density requirements in accordance with Table 9.2750 Residential Zone Development Standards unless specifically exempted elsewhere in this land use code” this meant that ADUs must be subject to the density standards, and the clarification that was added in to the code in 2014 to include them in density calculations. However, another solution to that problem is not to explicitly *subject* ADUs to density standards, but rather to explicitly *exempt* ADUs from density standards. Many cities in Oregon have done just that (see sample

code below.) Springfield, who until recently shared a Metro Plan with Eugene, also does not count ADUs towards density. Eugene also exempts other forms of housing from density standards, for example by providing “density bonuses” for Affordable Housing and allowing this housing to develop at levels higher than what is allowed by the underlying plan.

- *Reasonableness*: Just as if Eugene code is determined to be inconsistent with the Metro Plan, the Metro Plan prevails, if the Metro Plan is inconsistent with state statute, the state statute prevails. This is highlighted in numerous places through state law, including 197.646 and 197.829(d). As a result of SB 1051, state law now provides that each detached single-family home is permitted to develop at least one Accessory Dwelling Unit. Given that density regulations on ADUs are not design and siting, nor reasonable, if Eugene chooses to interpret its Metro Plan density policies in a manner that does not permit the development of at least one accessory dwelling unit for each detached single-family dwelling, this interpretation would be inconsistent with state statute, and invalid.
- *Useful and Effective*: Subjecting ADUs to minimum density requirements is contrary to their intended purpose as a form of infill development—their intended purpose is to add a small amount of housing where a detached single-family home already exists. Given the current difference between permitted density and actual density in Eugene, and the relatively small number of ADUs permitted, exempting ADUs from density requirements would be unlikely to bring the actual density above the 10 units per gross acre range articulated in A.9, but would facilitate policy A.10, A.12, A.13, A.14 and A.16.
- *Useful and Effective*: When the City permitted ADUs in R-2, R-3, and R-4, it did not exempt ADUs from the minimum and maximum density requirements of those zones. Very few lots with single family homes would be able to add a unit and meet minimum density standards in zones with minimum density standards. So, for example, in an R-2 zone under density requirements, ADUs would be allowed where a single dwelling existed on a lot that was sized between 3,100 square feet and 6,700 square feet... the maximum density in R-2 is 28 units per acre and the minimum density is 13 units per acre. On a lot larger than 6700 square feet, 3 units of housing would be needed to meet the minimum density, and on a lot smaller than 3,100 square feet, two units would exceed the maximum density.
- *Useful and Effective*: Exempting Attached ADUs from minimum density in R-1 doesn’t make any sense since R-1 has no minimum density. This provision appears to be a hold-over from a previous version of code.

**Other Cities:** Half of the cities reviewed explicitly exempt ADUs from both minimum and maximum density calculations. The remaining cities do not mention density in the context of ADUs, but instead explicitly permit an ADU per lot or per dwelling basis.

**Recommendation:** **Either remove all references to ADUs as being subject to minimum and maximum density requirements, or explicitly state that ADUs are not subject to minimum and maximum density requirements.**

**Sample Language:** Cottage Grove

14.22.200 (B) (2) Exempt from Density. Accessory dwellings are exempt from the housing density standards of the Residential District, due to their small size and low occupancy levels.

### Prohibition on Alley Access and Flag Lots

**Description:** The Eugene Code prohibits new ADUs on alley access lots. ADUs are prohibited on flag lots created after August 29<sup>th</sup>, 2014. The S-C allows for detached (but not attached) ADUs in the R-1 subarea on alley access and flag lots. In the S-JW, only one dwelling is allowed on alley access lots, thus prohibiting additional one family dwellings that meet the definition of an ADU.

**Where in the code:** 9.2741(2), 9.2751(18)(a)(2), 9.2775 (4)(c), 9.3065 (2)(b)(1), Table 9.3625, 9.3811(1)(d)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
No	No	Yes	No

**Explanation:**

- *Siting and Design:* The position of the lot and the street access to the lot is not connected to the siting and design of the units on the lot.
- *Reasonableness:* No other cities had explicit prohibitions on ADUs for any lots, excepting lots that were below the legal minimum lot size. Eugene has extensive regulations related to dwellings on alley access and flag lots, many added at the same time as the 2014 ADU restrictions.
- *Useful and Effective:* The primary purpose for limiting ADUs on lots accessed by an alley or a flag lot would be to ensure that those dwellings could be served effectively by fire trucks. This is presumably why alley access dwellings further than a particular distance from the main street are required to have sprinklers in section 9.2751 (18)(a)(12) of the Eugene Code. If the primary motivation of prohibiting ADUs on alley access lots is indeed fire safety, a similar provision could be added for ADUs on alley access lots. This would be a less restrictive way to meet a public safety need than an outright ban. See below regarding flag pole access for ADUs on flag lots.

**Other Cities:** No other cities reviewed drew a distinction between alley access lots or flag lots and any other type of lot for the purposes ADUs.

**Recommendation:** Blanket alley access lot and flag lot prohibitions should be removed. If fire safety is a concern, then a sprinkler requirement for ADUs on flag/alley access lot that are not easily accessible by fire trucks could be added as exists in 9.2751 (18)(a)(12).

## Flag Lot Access Requirements

**Description:** To allow for ADUs on flag lots, the minimum width of the pole must be at least 25 feet, and the no more than 4 dwellings (including primary and accessory) can take access off of the pole.

**Where in the code:** 9.2775 (5)(e)(1), 9.2775 (5)(e)(2)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
No	No	No	No

### **Explanation:**

- *Siting and Design:* The geometric shape of the lot and the street access to the lot is not connected to the siting and design of the unit on the lot. The number of dwellings on adjacent lots are not siting and design.
- *Reasonableness:* Eugene bases its requirement for flag lot pole-width on the number of lots accessed from the same pole. It is feasible that lots with duplexes or other housing types with multiple dwellings on a single lot could be accessed by a single pole 15 foot pole. It is unclear why building a duplex on a flag lot would require an access pole of 15 feet, but a primary dwelling and an ADU would require a flag lot pole of 25 feet.
- *Clear and Objective:* In many places, standards are applied to particular lots and buildings. For example, when determine how many units are allowed on a lot under density standards, Eugene looks at the specific lot as opposed to attempting to determine the density of a neighborhood or block based on what has previously been built. In the case of section 9.2775 (5)(e)(2), whether or not an ADU is permitted on an individual lot is dependent on how a neighboring lot has developed. It is questionable as to if this can be applied in a clear and objective fashion.

**Other Cities:** Only two other cities specifically included ADUs in their limits on the number of dwellings that could be accessed off a single flag lot pole. Cottage Grove and Springfield both had limits on the number of dwellings (including ADUs) that could take access of one pole for a flag lot—Cottage Grove’s limit was four like Eugene; Springfield’s was 8 including ADUs. However, they did not limit ADUs based on the pole width of the flag lot. No other city required a larger pole width to permit an ADU.

**Recommendation:** Remove restrictions on ADUs on flag-lots based on pole-width.

## Bedroom Limits

**Description:** In most areas, ADUs are limited to two bedrooms. In the University area, if the primary dwelling has 4 or more bedrooms, the ADU is limited to 1 bedroom.

**Where in the code:** 9.2751 (17)(a)(5), 9.2751 (17)(c)(7)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
Yes	No	No	No

### Explanation:

- *Siting and Design:* The number of bedrooms a building has could be considered part of the design of the building.
- *Reasonableness:* While some parking standards for multi-unit buildings are based on the number of bedrooms in the apartments, no other housing type in Eugene, nor ADUs in other cities, had limits on the number of bedrooms permitted. In addition, no other housing type in Eugene nor ADUs in other cities have the number of bedrooms permitted based on the number of bedrooms in a different dwelling.
- *Reasonableness:* Based on testimony at the time, the bedroom limits were put in place in part to prevent ADUs from being used as student housing and to facilitate limiting the number of residents living in an ADU. Eugene already has occupancy limits for housing that limit the number of unrelated people who can live in a dwelling to 5; the bedroom limit is redundant.
- *Reasonableness:* According to Louise Dix, a AFFH Specialist from the Fair Housing Council of Oregon during Fair Housing training provided to the Eugene Planning Commission, bedroom limits can have a disparate impact on larger families and be considered discrimination based on family status (10/9/18 Planning Commission Meeting, minute 36), and a violation of the Fair Housing Act. In addition, Eugene prevents housing discrimination based on age (over 18) and if in fact the intent of this regulation was to discourage young adults from residing in particular units or areas, it would be in conflict with Eugene's anti-discrimination measures. (Eugene Code 4.630) (page 2 of May 14<sup>th</sup>, 2014 city council meeting materials: "Those code amendments apply to the existing single-family neighborhoods surrounding the University of Oregon (Amazon, Fairmount and South University), which have experienced a substantial increase in unintended housing development associated with the demand for student housing and the proximity of the university. As adopted, they prohibit certain dwelling types and land divisions, and limit certain uses..." Intended purpose of these amendments was to limit housing development for housing for a particular class of citizens—i.e. students, who are disproportionately younger.)
- *Clear and Objective:* While Eugene includes a definition of a "bedroom" in the code, this definition is not able to be applied in a clear and objective fashion. The number of bedrooms in a home could be based not on any measurable quality of the building, but rather, the discretion of the real estate agent listing the house at any point in time. Interpretation would be needed to determine, in the case of conflicting documents, which prevails. In addition, for some homes almost any room could be considered a bedroom based on the definition provided in part C. (see Appendix A sample floor plan from Sears, Roebuck catalog—in this case, the kitchen, living room, parlor, and dining room all meet the definition in section C of a bedroom, but presumably the City is not routinely counting what is clearly a kitchen as a bedroom, nor would it interpret this design to be an eight bedroom home.)

- *Useful and Effective:* From a practical perspective, a size limit of 800 square feet functionally limits the number of bedrooms that an ADU can have. Having a separate “bedroom” limit adds complexity and risk without providing much additional benefit beyond the square footage limit.

**Other Cities:** No other cities had specific limits on the number of bedrooms in ADUs.

**Recommendation:** Remove bedroom limits on ADUs.



## Maximum Occupancy Limits

**Description:** The number of people allowed to live in an ADU in the University Neighborhoods is based on the number of bedrooms in the main house—if the main house has 3 or fewer bedrooms, three people are permitted to live in the ADU; 4 or more bedrooms limits the ADU to being occupied by 2 individuals.

**Where in the code:** 9.2751 (17)(c)(8)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
No	No	No	No

### Explanation:

- *Siting and Design:* The number of people living in a building is not related to the siting or design of the building.
- *Reasonableness:* No other housing type in Eugene, nor ADUs in other parts of Eugene, has an occupancy limit for housing separate from the overall occupancy limit for dwellings in the city. No other housing type bases its occupancy limit on the number of bedrooms in a different dwelling. Only one other city had a separate occupancy limit for ADUs. No other city based occupancy limits, definition of a family, or other similar restrictions on the characteristics of a different dwelling.
- *Reasonableness:* Occupancy limits placed on the number of people, regardless of familial relationships, creates a great risk of family status discrimination. Would a couple with a child living in an ADU be required to move if they had a second child?
- *Reasonableness:* This requirement puts landlords who own ADUs in the position to have to choose between complying with City Code or State Law. ORS 90.262, which outlines the types of rules and regulations landlords may adopt regarding use and occupancy of a premises, states: “If adopted, an occupancy guideline for a dwelling unit shall not be more restrictive than two people per bedroom.” A landlord with a two-bedroom ADU in the University Neighborhoods would be required to place a more restrictive standard—1.5 people per bedroom—in place or else be in violation of city code.
- *Clear and Objective:* Enforcement of this requirement would be complaint based, and influenced by the conflict with anti-discrimination law. For example, would the city act against a couple who lived in an ADU and had a baby the same way they would react to a couple who lived in an ADU and had a friend move in with them? In addition, see above regarding bedroom limits. It is unlikely that this provision could be enforced in a clear and objective fashion.
- *Useful and Effective:* The City of Eugene already limits the residents of a dwelling to the definition of a “family” in the code, which includes a limit that no more than 5 unrelated persons can live in a single dwelling, and given their size, ADUs are unlikely to attract many larger households.

**Other Cities:** Only one other city- Hillsboro- had an occupancy limit for ADUs separate from occupancy limits in the overall code. Their limit is three persons. It is unclear when Hillsboro last updated their code surrounding this. No other city based occupancy limits on the number of bedrooms in a different dwelling.

**Recommendation:** Separate occupancy limits for ADUs should be removed.

## Outdoor Trash Screening Requirements

**Description:** Owners of ADUs have to build a fence around their outdoor storage/garbage areas.

**Where in the code:** 9.2751 (17)(b)(4), 9.2751 (17)(c)(19), 9.3811(1)(e)(4)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
Yes	No	Yes	No

**Explanation:**

- *Reasonableness/Useful and Effective:* While in general Eugene requires screening of outdoor storage areas and garbage areas, it exempts one and two family dwellings from these requirements (9.6740). It is unclear why a one family dwelling plus an ADU has a requirement that two-family dwellings are exempt from. Fencing costs money, and since the City has already determined that exempting one and two family dwellings from garbage screening requirements is reasonable, it is unclear why properties with ADUs should be the exception to that.

**Other Cities:** Springfield has a trash screening requirement similar to Eugene's. All other cities had no separate trash screening requirements for ADUs.

**Recommendation:** **Remove.**

## Dog Keeping Limits

**Description:** No more than three dogs are permitted on a lot with an ADU, though an additional dog can come visit for up to six months.

**Where in the code:** 9.2751 (17)(a)(6), 9.2751 (17)(c)(10)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
No	No	No	No

**Explanation:**

- *Siting and Design:* How many dogs are allowed on a lot is not related to the siting or design of a structure.
- *Reasonableness:* ADUs are the only type of dwelling in Eugene that has specific limits on the number of dogs permitted on the lot, separate from regulations regarding kennels.
- *Clear and Objective:* The number of dogs living on a lot at any given time is changeable, and not able to be enforced or applied in a clear and objective fashion. The City would likely need to be responding to a complaint and would otherwise be exercising discretion as to when and where to enforce this provision.
- *Useful and Effective:* There is some implication, by the definition and language surrounding “kennels,” that any lot that has more than four dogs might be considered a kennel and thus only permitted with specific requirements. If so, and a dog limit of four exists overall, then it is unclear why a lot with an ADU would be permitted fewer dogs than a lot with a single-family home or a duplex.

**Other Cities:** No other city had ADU-specific dog limits.

**Recommendation:** Remove ADU specific dog limit. If desired, draft different language to limit the number of dogs permitted on residential properties in, for example, section 6.005 of the Eugene City Code.

## Maximum Wall Length

**Description:** Detached ADUs are required to have recesses or extensions of at least 2 feet deep by five feet wide, for the full height of the building, at least every 25 feet.

**Where in the code:** 9.2751 (17)(b)(6), 9.2751 (17)(c)(20)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
Yes	No	Yes	No

### **Explanation:**

- *Reasonableness:* While articulation standards exist for other types of buildings in Eugene, notably for multi-family buildings, they do not exist for single family homes or other buildings that are typically as small as ADUs, and usually provide options and adjustment criteria. For example, the multi-family standards (9.5500(7)) have an articulation requirement, but it provides multiple options including offsets, entries, etc. and is adjustable.
- *Useful and Effective:* The Articulation Requirement is not one that can be adjusted. Given that the intent is to ensure that the building holds some points of interest, and there are multiple ways to do that other than recesses or extensions, this is a standard that should be adjustable.
- *Useful and Effective:* Given the small size of ADUs, and the additional cost of adding recesses and extensions to a structure, a recess might not even be the most effective way to add interest to an ADU. This provision adds to the cost of an ADU without necessarily accomplishing the intended goal.
- *Useful and Effective:* This is one of the only design standards applied to ADUs (perhaps with the covered entry provision) that attempts to ensure that ADUs are not just boxes. There is a whole menu of methodologies to prevent that; it is unclear why this is the singular methodology encoded.

**Other Cities:** While many cities had design standards to attempt to ensure that ADUs were visually interesting or “matched” the primary dwelling, this primarily addressed items like building materials, windows, or roof pitch. Only Springfield had a maximum wall length standard similar to Eugene’s, and that standard was explicitly adjustable.

**Recommendation:** Remove maximum wall length standard. Alternately, revise the standard to better accomplish the goal of avoiding blank walls and make it an adjustable standard.

**Sample Code:** Eugene 9.5500

(7) Building Articulation.

(a) Articulation Requirement. To preclude large expanses of uninterrupted wall surfaces, exterior elevations of buildings shall incorporate design features such as offsets, projections, balconies, bays, windows, entries, porches, porticos, or similar elements.

1. Horizontal Surface. At least 2 of the design features outlined above shall be incorporated along the horizontal face (side to side) of the structure, to be repeated at intervals of no more than 40 feet.

2. Vertical Surface. At least 2 of the design features outlined above shall be incorporated along the vertical face (top to bottom) of the structure, to be repeated at intervals of no more than 25 feet.

(b) When offsets and projections are used to fulfill articulation requirements, the offset or projection shall vary from other wall surfaces by a minimum of 2 feet. Such changes in plane shall have a minimum width of 6 feet.

(c) Individual and common entry ways shall be articulated by roofs, awnings, or porticos.

(d) Criteria for Adjustment. Adjustments to the standards in this subsection may be made, based on the criteria of EC 9.8030(4) Building Orientation and Entrance Standards Adjustment.

## Conversion of an Existing Structure

**Description:** Existing buildings may be converted to ADUs through an adjustment review process provided they are at least 5 feet from the interior property line (or there is a note from the adjacent property owner), the building satisfies all accessory dwelling standards except for the slopped setback requirements, and the ADU is limited to 600 square feet and 15 feet in height. The adjustment review process to convert an existing dwelling into an ADU is not permitted in the University Neighborhoods.

**Where in the code:** 9.8030(34)(b), 9.2751 (17)(d)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
Yes*	No	No	No

### **Explanation:**

- *Siting and Design:* While all of the specific requirements are related to siting and design, the application to existing buildings only is questionable—see below regarding clear and objective.
- *Reasonable:* The height and square footage standards for a legally established building to be converted into an ADU are less than the standards that are applied to new construction of a building. No other type of housing in Eugene requires different standards for remodeling or conversion, nor do any other cities require that other buildings being converted into ADUs be smaller or shorter than new construction.
- *Clear and Objective:* While adjustment review is a discretionary process, and thus doesn't have to be clear and objective, it is questionable as to if all conversion of an existing structure into an ADU should be required to go through a discretionary process, particularly as to conversions of portions of existing structures (i.e. turning part of an existing single-family home into an ADU.) If an existing structure meets the clear and objective standards to be permitted as an ADU, it should not be required to go through an adjustment process. In addition, the provision for written consent from an adjacent property owner puts the discretion in the hands of the next door neighbor.
- *Useful and Effective:* One of the advantages to ADUs as a housing type is that they can often be constructed with less expense than other newly constructed dwelling types, and thus rented at a lower rate. Converting an existing structure into a dwelling is also frequently less expensive than building an entirely new structure. The impact of this standard is to require conversions to go through a more expensive and time-consuming process, and to limit the existing building that could be converted beyond the overall requirements for ADUs. It is unclear how the impact of a converted ADU would exceed that of a newly constructed ADU enough to justify smaller requirements.

**Other Cities:** Medford outlined a process to convert “illegal” ADUs into legal ADUs. Other than that, no other discussion of conversion of existing buildings to ADUs was found in other city’s code. No other city required that existing buildings that were being converted to ADUs be smaller than newly-constructed ADUs.

**Recommendation:** **Revise to clarify that existing buildings only need to go through this process if they require an adjustment to ADU standards. Revise to clarify that ADU conversions can be the same size as a newly built ADU. Revise to allow additional adjustments.**

## Flat Square Footage Limits

**Description:** In almost all zones, the total building square footage of an ADU shall not exceed 800 square feet. In the S-RN, they may exceed the 800 square foot limit if they are the full story of a multi-story residential structure.

**Where in the code:** 9.2751 (17)(a)(2), 9.3811 (1)(a)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
Yes	Yes	Yes	Yes

**Explanation:**

- The size of a building is an element of the design of the building.
- Given that ADUs are, by definition, “accessory” to single family homes, it is reasonable that they be smaller than the primary dwelling.

**Other Cities:** Square-footage based size limits are universal in other cities’ ADU code. 800 square feet is a common size, with the range being between 600-1000 square feet. Some cities had separate (smaller) size limitations for detached ADUs vs. attached/interior ADUs. Creswell allows ADUs that are the entire story of another building (basement, attic, etc.) to exceed 800 square feet.

10 cities, in addition to have a flat square footage maximum for the ADU as described above, limited the size of the ADU to a percentage of the size of the primary dwelling (ranging from 40% to 100%), presumably with the intent of ensuring that ADUs were in fact smaller than the primary dwelling.

**Verdict:** An 800 square foot size limit for ADUs should be retained. Language similar to that in the S-RN regarding exceeding the 800 square foot limit if they are the full story of a multi-story structure may want to be considered to be applied elsewhere.

## Square-Footage Limits Based on Lot Size

**Description:** The square footage of an ADU is limited to 10% of the lot area. In the University areas, for lots between 7,500 and 9,000 square feet, ADUs are limited to 600 square feet.

**Where in the code:** 9.2751 (17)(a)(2), 9.2751 (17)(c)(5)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
Yes	No	Yes	No

Explanation:

- *Siting and Design:* The size of a structure is related to the design of the structure.
- *Reasonableness:* No other housing type (with the exception of any dwellings on alley access lots, a requirement implemented at the same time as this one) is limited in square footage based on the lot size separately from lot coverage minimums.
- *Useful and Effective:* Particularly for conversions of existing structures, attached ADUs, or interior ADUs, regulating the size of the ADU based on the size of the lot can create substantial complexities and barriers. Given that roughly 47% of residentially zoned lots in Eugene are under 8,000 square feet, it effectively applies a smaller square footage maximum for ADUs on many properties, determined on a property-by-property basis. It would also make very difficult to implement programs such as “pre-approved” ADU designs (suggested by the Housing Tools and Strategies working group) as the pre-approved designs may not be allowed on many lots.
- *Useful and Effective:* ADUs are already limited to 800 square feet, and lot coverage also is limited to 50% of the lot in R-1. It is unclear what benefit is provided by requiring that an ADU on a 7,500 square foot lot be 750 square feet instead of 800.

**Other Cities:** No other city reviewed limited the size of ADUs to a percentage of the lot size. Bend had separate building square footage limits for lots under 6000 square feet (600 square foot ADU maximum) and lots over 6000 square feet (800 square foot maximum.)

**Recommendation:** Size limit based on a percentage of lot size should be removed.



## Allowance for Unheated Garage Space

**Description:** Detached ADUs are allowed to have up to 300 square feet of garage or storage space attached, in addition to the 800 square foot size limit.

**Where in the code:** 9.2751 (17)(b)(1)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
Yes	Yes	No	No

**Explanation:**

- While the idea of allowing a detached ADU to have a one-car garage or a storage space that doesn't count towards the square footage limit is reasonable, the phrasing of this provision creates substantial confusion as to if above-garage apartments are allowed. Some sort of rephrasing to clarify if an ADU can be built above a two-car detached garage used by the primary house would be helpful. Prohibiting above-garage ADUs may have been an unintended consequence of this provision.

**Other Cities:** Similar code provisions were not found in other cities' code. Tigard had code that provided clarity about the interaction between an ADU and an connected, non-ADU accessory structure such as a garage.

**Recommendation:** Rewrite this provision to clarify applicability to above-garage ADUs.

*Sample Code: Tigard*

18.40.120 (A)

*If an accessory dwelling unit is located above a detached accessory structure, such as a garage, the floor area of the portion of the building utilized as an accessory structure is not included in the calculation of square footage for the accessory dwelling unit. The square footage limits for accessory structures and for accessory dwelling units remain in effect.*

## Height Limits

**Description:** Attached ADUs that are located more than 60 feet from the front of the lot are limited to a total of 18 feet in height, with a requirement for a sloped setback. Attached ADUs within 60 feet of the front of the lot are limited to the height of the main building. ADUs do not received the additional height allowance for sloped roofs that other buildings receive. Detached ADUs have the requirement for sloped setback regardless of where on the lot they are placed. The height limit for detached ADUs in the S-C/R-1 subarea is 20 feet, with no requirement for sloped setbacks. Detached ADUs in S-RN are limited to 25 feet. Adjustment Review allows ADUs that are 20 feet from all interior property lines and within the sloped setback to be up to 24 feet tall, to allow for accessory dwellings over accessory buildings.

**Where in the code:** 9.2751 (3)(d), 9.2751 (17)(a)(3)(b), 9.2751 (17)(a)(3)(a), 9.2751 (17)(b)(5)(a), 9.2751 (17)(c)(9)(a), 9.2775 (5)(e)(3)(a), 9.3065 (2)(b)(2), Table 9.3815(3)(n), 9.8030(34)(c), 9.2775(5)(e)(3)(c), 9.2751 (17)(b)(5)(c)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
Yes	No	No	No

### Explanation:

- *Reasonableness:* Eugene’s ADU height limitations are complex, and don’t recognize the distinction between attached/interior ADUs, over-garage ADUs, and detached ADUs—for example, would converting the back-half of the second story of an existing single-family home be subject to the ADU height limit?
- *Reasonableness:* Eugene doesn’t regulate the height of other dwelling types based on position on the lot. A two-story detached single-family home could be built with a second story more than 60 feet from the front of the lot line without sloped setback, which presumably would have the same impact as an ADU at that location. It is unclear why a dwelling type of an ADU would require additional height regulation that single-family dwellings, duplexes, etc. wouldn’t.
- *Reasonableness:* 18 feet with a sloped setback is an atypically small height limit—it limits ADUs to 1 to 1.5 stories, as opposed to most other cities, where height limits are sufficient to allow two story ADUs.
- *Clear and Objective:* It is unclear if the height limit for ADUs in the front part of the lot are limited to the height of the primary dwelling on the lot, or the main building height as listed in table 9.2750. In addition, it is unclear what the height limit is for ADUs that have a portion of the building more than 60 feet from the front of the lot line and a portion of the building less than 60 feet from the front of the lot line.
- *Useful and Effective:* It is presumed that the intent of this regulation is to limit ADUs to one story. However, as it applies to both detached and attached ADUs, it effectively limits ADUs places on the second story of a building. While 9.2751(17)(b)(5)(c) allows for the standard be adjusted to allow an ADU to be constructed over a garage or other accessory building, this effectively prohibits a backroom or an attic of an existing single-family home from being converted to an ADU.
- *Useful and Effective:* Given standard lot-sizes in Eugene and the fact that by definition an ADU is on a property with at least one other building, the ability to adjust the height limit only if the building is at least 20 feet from interior lot lines creates a substantial barrier to creating ADUs over accessory buildings.

**Other Cities:** Most other cities either have no separate height limit for ADUs, or limit ADUs to between 24-28 feet (2 stories). No city had a height limit as low as 18 feet (the only city with a height limit less than 24 feet was Oakridge, with a height limit of 20 feet.) No city had height standards as complex as Eugene's, or based height limits on where the ADU was located on the lot.

**Recommendation:** ADUs should be subject to the height limit of the base zone. Slope requirements and separate height requirements based on position on the lot should be removed.

**Sample Code:** Gresham

10.0120 (D)

*Accessory Dwellings shall be consistent with the applicable setback, height and lot coverage standards of the land use district; in the case of non-conforming single-family homes, the LDR-7 setbacks and height requirements shall apply to the proposed Accessory Dwelling.*

## Setback Requirements

**Description:** ADUs are required to be set back five feet from the interior lot line. This requirement is repeated separately for ADUs that are within 60 feet of the front of the lot and ADUs are that are more than 60 feet from the front of lot. For ADUs on flag lots, the setback requirement is 10 feet, which is consistent with other new buildings on flag lots.

**Where in the code:** 9.2751 (17)(a)(3)(a), 9.2751 (17) (a)(3)(b), 9.2751 (17)(b)(5)(a), 9.2751 (17)(c)(9)(a), 9.2775 (5)(e)(3)(a)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
Yes	Yes	No	No

**Explanation:**

- *Siting and Design:* Setbacks govern where a building is placed on a lot, and are siting requirements. A five-foot setback from the lot line is fairly standard, and consistent with other structures in Eugene.
- *Clear and Objective:* See above regarding clear and objective application of within 60 feet/greater than 60 feet language.
- *Useful and Effective:* Given that the overall requirement for setbacks in R-1 is 5 feet, and that the setback back is the same no matter where the ADU is sited on the lot, the language surrounding this is redundant. While having a setback for ADUs is useful, including it the particular location and manner that it is confusing.

**Other Cities:** All cities reviewed had setback requirements for ADUs that were the same as the base zone.

**Recommendation:** Retain 5 foot setback, but revise language to decrease redundancy/increase clarity.

## Setback Intrusions Limitations

**Description:** While most buildings are allowed to have particular architectural features intrude into the setback, such as eaves, bay windows, porches, and awnings, ADUs are limited to having eaves and chimneys that project into the setback for no more than two feet.

**Where in the code:** 9.2751 (17)(a)(3)(c), 9.2751 (17)(b)(5)(b), 9.2751 (17)(c)(9)(b), 9.2775 (5)(e)(3)(b)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
Yes	No	Yes	No

**Explanation:**

- *Reasonable:* It is unclear why ADUs, unlike any other dwelling structure has a more limited requirement for setback intrusions. It is inconsistent with how Eugene treats other types of residential structures.
- *Useful and Effective:* The presumed intent of this regulation is to prevent porches, bay windows, and other features which may impact the privacy of a neighbor. As described elsewhere, if a particular element is a concern for an ADU, it should also be a concern for a single-family home, and revised overall. However, in conjunction with the wall length requirement, it is clear one overall goal is to create architectural interesting ADUs; providing additional restrictions on eaves, cornices and other architectural features seems to serve merely to require an increased setback for interesting ADUs, and reward ADUs that have fewer features of interest with a decreased setback requirement.

**Other Cities:** Hillsboro had a requirement ADU requirement that eaves be at least two feet away from the property line; otherwise, no other city had special mention of setback intrusions as relates to ADUs.

**Recommendation:** Remove the extra limitations on setback intrusions for ADUs.

## Attached ADU Connection Standards

**Description:** To be considered an attached ADU, an ADU must share a common wall or ceiling for at least 8 feet.

**Where in the code:** 9.2751 (17)(a)(4), 9.2751 (17)(c)(6)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
Yes	Yes	Yes	Yes

**Explanation:**

- *Useful and Effective:* It makes sense to have a standard for what constitutes an attached vs. detached ADU only if different standards apply to detached vs. attached ADUs. If the same standards are applied to both attached and detached ADUs, then the standard is not necessary.

**Other Cities:** No definition of “attachment” with any more detail than Eugene’s was found in any other city’s code. Most did not define a minimum amount of connection for “attached” ADUs at all.

**Recommendation:** Remove if different standards don’t exist for attached/interior ADUs vs. detached ADUs. Otherwise retain.

## University Lot Dimension and Coverage Requirements

**Description:** In addition to the lot size minimum, the boundaries of a lot with an ADU must be sufficient to fully encompass an area with a minimum dimension of 45 feet by 45 feet. In addition, unlike other R-1 areas, all roofed areas are included as part of the calculations for lot coverage.

**Where in the code:** 9.2751 (17)(c)(2), 9.2751 (17)(c)(3)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
No	No	Yes	No

**Explanation:**

- *Siting and Design:* As discussed previously with flag lots, the geometric shape of a lot itself is not siting and design.
- *Reasonable:* Eugene excludes roofed eaves and covered porches/balconies/carports that are open on at least 50% of their perimeter from lot coverage calculations for all other housing types and for ADUs in other neighborhoods.
- *Useful and Effective:* It is unclear what purpose the regulations serve, particularly in conjunction with other regulations such as maximum size for ADUs, overall lot coverage standards, and setback requirements.

**Other Cities:** No other city had similar requirements.

**Recommendation:** Remove these requirements.

## University Parking Requirements

**Description:** Driveways and parking areas in the University Areas are limited to 20% of the total lot area. The lot is required to have at least two but no more than three parking spaces. For lots where the primary vehicle access to the ADU is via the alley, standards for alley access lots located at 9.2751(18)(a)11 are applied, which includes size restrictions on garages and parking areas.

**Where in the code:** 9.2751 (17)(c)(4), 9.2751 (17)(c)(15), 9.2751 (17)(c)(16)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
Yes	Yes	Mixed	Mixed

**Explanation:**

- *Clear and Objective/Useful and Effective:* While overall providing limits on the parking areas and number of parking spaces on a lot is useful, particularly in areas where active transportation is encouraged, the cross-reference to section 9.2751(18)(a)(11) creates some amount of conflict—most notably, for a lot with an ADU that takes parking access from an alley, it is unclear if the total vehicle use area is limited to 400 square feet or 20% of the lot area; if the parking requirements apply only to alley access parking or if they would extend to a separate parking area accessed by the front of the lot, or if it is even physically possible to construct the number of parking spaces required under the alley access parking rules.

**Other Cities:** Overall parking requirements for other cities were not reviewed; however, it appeared that parking for ADUs was governed by overall code requirements for parking, as opposed to being specific to ADUs. The primary difference was to exempt ADUs from parking requirements in some cases.

**Recommendation:** Retain the majority of this code, but resolve conflict between ADU and alley access code.



## Applicability of Standards in Other Zones

**Description:** In some special area zones, the standards for ADUs contained in sections 9.2751(17) are applicable; in others they are not. In addition, the summary for 9.2751(17) specifically refers to ADUs in R-1, leaving it unclear as to if the standards are intended to apply to ADUs in other zones (R-2, etc.)

**Where in the code:** 9.2751(17), Table 9.3115, Table 9.3210, 9.3215(2), Table 9.3310, 9.3510 (1)(b), Table 9.3810, Table 9.3910, 9.3915(13)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
N/A	N/A	No	No

### Explanation:

- **Clear and Objective:** In some special area zones (S-CN, S-E, S-HB) ADUs are a permitted use, with no reference to additional standards. S-DW specifically exempts the ADUs in that zone from the standards in 9.2751(17), while 9.3915(13) specifically applies the standards to the S-W. S-RN has a separate set of ADU standards, which are the same as those which previously existed in the R-1 zone prior to the 2014 update and contain overlapping provisions. This leaves it open to interpretation as to which standards apply to ADUs in which zones.
- **Useful and Effective:** The intent of the S-C and S-JW revision below was to ensure that SAZs didn't have new regulations applied that were inconsistent with SAZ code. However, by applying the regulations in 9.2751(17) specifically to the S-W zone without analysis as to the compatibility of the standards with the S-W zone or SB 1051 overall, the city applied new standards to a Special Area Zone without review specific to that Special Area Zone. Either SAZ zones can/should be modified in conjunction with the base code without special consideration (in which case S-JW and S-C should permit ADUs) or they shouldn't be (in which case the standards in 9.2751(17) should not apply in S-W.) In addition, as an explicitly mixed-use zone that allows for multi-unit and higher density development, it is unclear why the restrictive standards applied to ADUs in R-1 should be continued, and why they were not for any other SAZ.
- **Useful and Effective:** The S-RN zone retains the ADU standards that existed in the Eugene code prior to the revisions of 2014. While phrased differently than the code provisions analyzed about, they contain many of the same concepts such as owner-occupancy. These standards will also need to be reviewed and adjusted in light of ORS 197.312.

**Other Cities:** Most cities had far fewer or no "special" zones that are comparable to Eugene's. Detailed analysis of how ADUs were handled in the special zones that did exist was not done.

**Recommendation:** **Revise language so that applicability of ADU standards in Special Area Zones and non-R-1 zones is clear. Remove impermissible legacy ADU regulations (such as owner occupancy.)**

## S-C and S-JW Terminology

**Description:** In the S-C and S-JW special area zones, buildings that meet the definition of ADUs are to be referred to as “one-family dwellings” as opposed to “Accessory Dwellings”

**Where in the code:** 9.3060(2), 9.3615(2)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
N/A	N/A	N/A	No

**Explanation:**

- This is a terminology question, as opposed to a question of standards or regulations, so it is not evaluated for siting and design, reasonableness, or clear and objective application. LUBA found that referring to ADU like structures as “additional one family dwellings” is permissible.
- *Useful and Effective:* It appears that the idea behind this phrasing is that even if at a future date the City modified the regulations surrounding ADUs, it would not affect the S-JW and S-C areas. For example, the S-JW permits additional single-family dwellings on lots over 4,500. By not calling them ADUs, the terminology change attempts to ensure that even if lot size minimums are removed for ADUs, S-JW can still disallow ADU like structures on lots under 4,500 square feet. However, LUBA has also held that the city may limit access to accessory dwelling units only pursuant to “reasonable local regulations related to siting and design.” As according to LUBA, “additional one family dwellings” are ADUs for the purposes of ORS 197.312(5), the S-C and S-JW zones cannot avoid compliance with the law by simply calling the structures something else. The intent of ensuring that ADUs or ADU-like-dwellings would be prohibited for particular single-family home owners in those neighborhoods was not achieved by changing what they were called. Instead, it has created confusion and the necessity of creating work-arounds in other processes. (See: allowance for Transportation SDCs to be reduced for homes under 800 square feet rather than ADUs in order to ensure that ADU-like buildings in these zones would be eligible for the SDC reduction.)

**Other Cities:** This is a unique situation and comparison to other cities is difficult. However, no other information was found indicating that other cities used a different term to refer to ADU-like structures in select zones.

**Recommendation:** Remove the additional language and permit ADUs called ADUs outright in the S-JW and S-C zones; alternately, ensure that the S-JW and S-C zones do not disallow additional one family dwellings based on anything other than reasonable regulations related to siting and design (i.e. lot size.)

## Pedestrian Access Requirements

**Description:** Detached ADUs are required to have a hard-surface pedestrian walkway from the street/alley to the entrance. The pedestrian walkway is not required in the S-C/R-1 subarea.

**Where in the code:** 9.2751 (17)(b)(2), 9.2751 (17)(c)(17), 9.3065 (2)(b)(3), 9.3811(1)(e)(2)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
Yes	Yes*	Yes	Yes*

**Explanation:**

- *Reasonableness:* While pedestrian walkways are not called out to be hard surface in this manner for single family home, duplexes, etc. the requirement for pedestrian walkways is common in other areas of the code, and driveway standards also exist for other housing types.
- *Useful and Effective:* The requirement for a hard surface walkway does add to the cost of developing a dwelling. Less expensive hard surface materials tend to be impermeable; specific recommendations for permeable surfaces that allow groundwater absorption might be useful. In particular, this should be an adjustable standard.

**Other Cities:** Springfield and Florence had pedestrian access requirements similar to Eugene's, and Corvallis required space between pedestrian access for ADUs and adjacent properties; otherwise, no other city had unique pedestrian access standards for ADUs.

**Recommendation:** Retain. Should be made adjustable. Could be revised to more explicitly promote permeable surfaces, or removed as unnecessary restrictive, but it complies with all of the review standards requirements as is.

## Covered Entrance Requirements

**Description:** Detached ADUs are required to have a primary entrance with a covered area at least 3 feet by 3 feet.

**Where in the code:** 9.2751 (17)(b)(3), 9.2751 (17)(c)(18), 9.3811(1)(e)(3)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
Yes	Yes*	Yes	Yes*

**Explanation:**

- *Reasonableness:* While most dwelling types do not have a similar requirement for covered entry ways in the base zone, requirements for covered entryways or porches are included in several special area zones.
- *Useful and Effective:* Requiring covered entry ways adds to the cost of a development, but it is also an effective and useful way to ensure architectural interest in a building. However, it should be an adjustable standard to allow for other methodologies, particularly for existing structures.

**Other Cities:** While several other cities had design requirements for ADUs, and Springfield had a similar covered entrance requirement to Eugene's, most other cities did not specifically require covered entrances for ADUs.

**Recommendation:** **Retain. Allow this to be an adjustable standard.**

## Minimum Off-Street Parking Spaces

**Description:** ADUs are required to have one off street parking space.

**Where in the code:** 9.3811(1)(c), Table 9.6410

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
Yes*	Yes*	Yes	No

**Explanation:**

- Most cities reviewed retained a parking requirement of some sort for ADUs, even after updating other elements of their ADU code. Eugene consistently requires parking for most buildings in most areas. However, proposed HB 2001 specifically indicates that requiring additional parking shouldn't be considered a regulation related to siting and design, in a section providing legislative clarification for SB 1051. Parking requirements meet the "reasonableness" standards outlined in this document, and it is unclear how much preemptive weight should be given to a proposed (as opposed to passed) legislative measure.
- Creating additional parking is an expensive proposition, and according to DLCD, it is not recommended that jurisdictions include an off-street parking requirement in their ADU standards. As small accessory units, sometimes occupied by family members, sometimes in areas with access to non-car transportation, additional parking may not be necessary.

**Other Cities:** Four cities required no additional parking for ADUs (Salem, Medford, Corvallis, and Creswell); most others required at least one parking space per ADU.

**Recommendation: No recommendation made.** While in the opinion of this writer, requiring additional parking for ADUs can create a substantial barrier and the parking requirement should be removed, by the criteria used for this analysis it is a "reasonable" local regulation.

## Exemption from Underground Utility Standards

**Description:** ADUs are exempt from having to construct underground utility infrastructure if they can be served by legally established above ground utility service to the primary dwelling.

**Where in the code:** 9.6775(c)

Siting and Design	Reasonable	Clear and Objective	Useful and Effective
N/A	Yes	N/A	Yes

**Explanation:**

- *Reasonableness:* Other new connections to structures or buildings with legal existing above ground utility service are also exempt from the requirement to place utilities underground.
- *Useful and Effective:* Undergrounding utilities requires substantial money and time. Allowing ADUs to use existing utility infrastructure reduces barriers to ADU development.

**Other Cities:** Detailed analysis of other cities' utility standards was not completed; however, at least one other city (Cottage Grove) had ADU standards that allowed for use of existing utility connections.

**Recommendation: Retain.**

## A Note on Accessory Buildings

While SB 1051 makes no requirements on accessory buildings that are not used for dwellings, it is relevant to note that the majority of the code related to Accessory Buildings in R-1 (9.2751 (16)) was passed at the same time as the update to the code surround Accessory Dwelling Units. It contains many provisions that are similar to those for Accessory Dwelling Units in Eugene, including square footage limits based on the size of the lot, sloped-setback height limits, and deed restrictions. The clear intent of this code was to regulate structures that would have the potential to be converted into ADUs at a future date.

While not required by SB 1051 or LUBA, it may not be out of line to review this section of the code as well for objectivity, feasibility, and reasonableness.

## Comparable Cities

### Summary of Analysis

For the purpose of this analysis, the zoning code of 16 cities that could be considered comparable to Eugene was examined—all 10 other cities in Oregon with a population between 50,000 and 200,000 (mid-size cities), and the 6 additional cities in Lane County with populations between 2,500 and 50,000 (Lane cities.)

The most recent versions of the zoning code that were able to be examined via the internet were used, and were examined as fully as possible for comparison with elements of the Eugene code; however, given the variances in overall structure of the code, terminology and robustness of website tools, it is conceivable that elements of code that may affect ADUs, particularly if located outside of ADU standards, may have been missed. Where necessary, additional sources (city council minutes and passed ordinances, news reports, informational fliers) were used to verify interpretations and status.

The majority of the cities (at least 7 of the mid-sized cities, and 3 of the Lane cities) made updates to their code in 2017 or 2018 that affected ADUs. Two other cities began a process to update their ADU code that was not completed as of this writing, and at least one other identified only one change needed and instructed staff to fold it into a future code update. All told, at least 14 of the 16 cities attempted to address the requirements of SB 1051 in some form or another. Some notes:

- It is unclear when **Hillsboro** last made updates to the ADU code; however, with the exception of the three-person occupancy limit for ADUs, they appear to be substantively in compliance with SB 1051.
- **Beaverton** code reviewed was dated in 2002, and a more recent version was not found. In a memo, Beaverton indicated that they would approve one ADU per single family home as opposed to one per lot as indicated in their code, and would update their code at a later date. Other than this, they appeared to be in compliance with SB 1051.
- **Corvallis** updated their ADU code in 2018; however, like Eugene they are explicitly using a “two-phase” process to address SB 1051 compliance. In phase 1, completed in 2018, they removed lot size minimums that previously existed for ADUs. They have stated that owner-occupancy requirements are among the elements to be examined in Phase II.
- **Albany’s** ADU code was last updated in 2007; in 2018, the Albany City Council twice approved ADU code modifications that would have increased the maximum square footage of ADUs and removed the owner occupancy requirements; both times it was vetoed by the Albany Mayor and the final outcome of the process is still pending.
- **Junction City** identified owner occupancy requirements in their code as an element of their code in need of revision in light of SB 1051, and included modifying it in a list of future code amendments to be completed as time allows.
- **Veneta** proposed modifications to their ADU amendments in December of 2018; however, the vote on these amendments was delayed and was still pending as of the writing of this report.
- **Oakridge** appears to have not updated their code related to ADUs since it was originally passed in 2004, and no information was found about plans to do so. Oakridge was also the smallest city reviewed in the process.



## Additional Provisions from Other Cities

Several cities had ADU provisions that touched on topics not addressed in Eugene’s code, but may be of interest. This is not necessarily a recommendation that similar provisions be applied in Eugene, but rather examples of how other cities have gone beyond the minimums required by state law.

### **Medford- CC&Rs**

In Eugene, there has been some conversation about how some CC&Rs restrict the ability of property owners to build ADUs, and the impacts of this on neighborhoods that do not have CC&Rs. Medford has specifically limited CC&Rs from prohibiting ADUs.

Medford Section 10.821 (9)

*A development’s Conditions, Covenants, and Restrictions (CC&Rs) or similar legal instrument recorded subsequent to the effective date of this ordinance [December 16, 2004] shall not prohibit or limit the construction and use of ADUs meeting the standards and requirements of the City of Medford.*

### **Medford and Junction City- Lot Coverage Bonus**

While in most cities lot coverage standards remain the same regardless of if there is an ADU on the lot, both Medford and Junction City allow for a “coverage bonus” when an ADU is constructed, and allow greater lot coverage for lots with ADUs.

Junction City Section 14. Lot Coverage.

*In a R1 zone, buildings shall not occupy more than 40 percent of the lot area except where an accessory dwelling unit is constructed, and then buildings shall not occupy more than 50 percent of the lot area.*

### **Springfield and Florence– Standards for Manufactured Homes or Towable Structures (i.e. tiny homes on wheels)**

The permissibility of Tiny Homes on Wheels in residential zones and their status under the code is a separate but related discussion to the ADU question. Both Springfield and Florence have created standards for the use or conversion of Wheeled Homes as ADUs.

Springfield:

*If a Type 2 manufactured home or a towable structure (that is permitted, inspected and approved by the local authority having jurisdiction) is brought to the site as an accessory dwelling unit, it shall have its tongue and towing apparatus removed. It shall be placed on an excavated and back-filled foundation, enclosed at the perimeter with stone, brick or other concrete or masonry materials approved by the Building Official and with no more than 24 inches of the enclosing material exposed above grade. Where the building site has a sloped grade, no more than 24 inches of the enclosing material shall be exposed on the uphill side of the home (if the dwelling is placed on a basement, the 24-inch limitation will not apply). (6384; 6376)*

*Mobile homes, recreational vehicles, motor vehicles, and travel trailers shall not be used as an accessory dwelling unit. Type 2 Manufactured Homes and towable structures that are permitted, inspected and approved by the local authority having jurisdiction are allowed. (6376)*

Florence, 10-10-6:

*i. Dwellings built on an axled frame designed for transportation on streets and highways do not qualify as ADUs unless made permanent through the payment of System Development Charges.*

*ii. ADUs built on an axled frame may be considered a permanent dwelling through the removal of tongue and running gear, addition of blocking, and the addition of skirting.*

### **Tigard, Springfield, and Creswell- Multiple ADUs per Lot**

While SB 1051 only required that each detached single family home be allowed one ADU, Tigard, Springfield and Creswell allowed additional ADUs on the same lot. In Springfield's case, this was only in higher density zones. Tigard allowed multiple ADUs in all zones. This was limited to either two attached or one attached and one detached ADU.

Tigard 18.220.040 A

- 1. A maximum of 2 accessory dwelling units are allowed per single detached house*
- 2. A maximum of 1 detached accessory dwelling unit is allowed per single detached house A second accessory dwelling unit must be attached to the primary unit.*

### **Medford- Illegal ADU Conversion Standards**

While an exact count is impossible, it is known that there are some number of structures that are being used as ADUs but that are unpermitted and likely have not been inspected for safety. Owners of such structures have sometimes asked how to make them "legal." Medford recently implement a process for exactly that.

Medford 10.821

#### *(D) Illegal ADUs*

*It is the intent of subsection 10.821(D) to offer a land use review process to convert illegal ADUs to a nonconforming structure or use. Any such ADU shall adhere to the following:*

- (1) Illegal ADUs seeking conversion to a nonconforming structure or use shall have been constructed prior to January 1, 2019. The owner, not the City, has the burden of proving that any illegal ADU structure or use was occupied, constructed and/or used prior to January 1, 2019.*
- (2) All applicable permits and utility connections required by Medford Municipal Code for the illegal ADU shall be obtained prior to the issuance of any Certificate of Occupancy or other required licensed for occupancy of the ADU.*
- (3) All building, fire, life and safety codes shall be met.*
- (4) If the standards of Article V of the Medford Land Development Code otherwise cannot be met, the land use approval for an illegal ADU shall be subject to the land use review procedures of the Type III, Exception land use review (Section 10.186). The applicable Exception criteria for converting an illegal ADU shall be 10.186(B)(1-3).*
- (5) An illegal ADU converted to a legal structure or use per 10.821(D)(4) in this subsection shall be considered a nonconforming ADU once all standards of 10.821(D)(1-4) have been met.*

## Comparative Code Chart

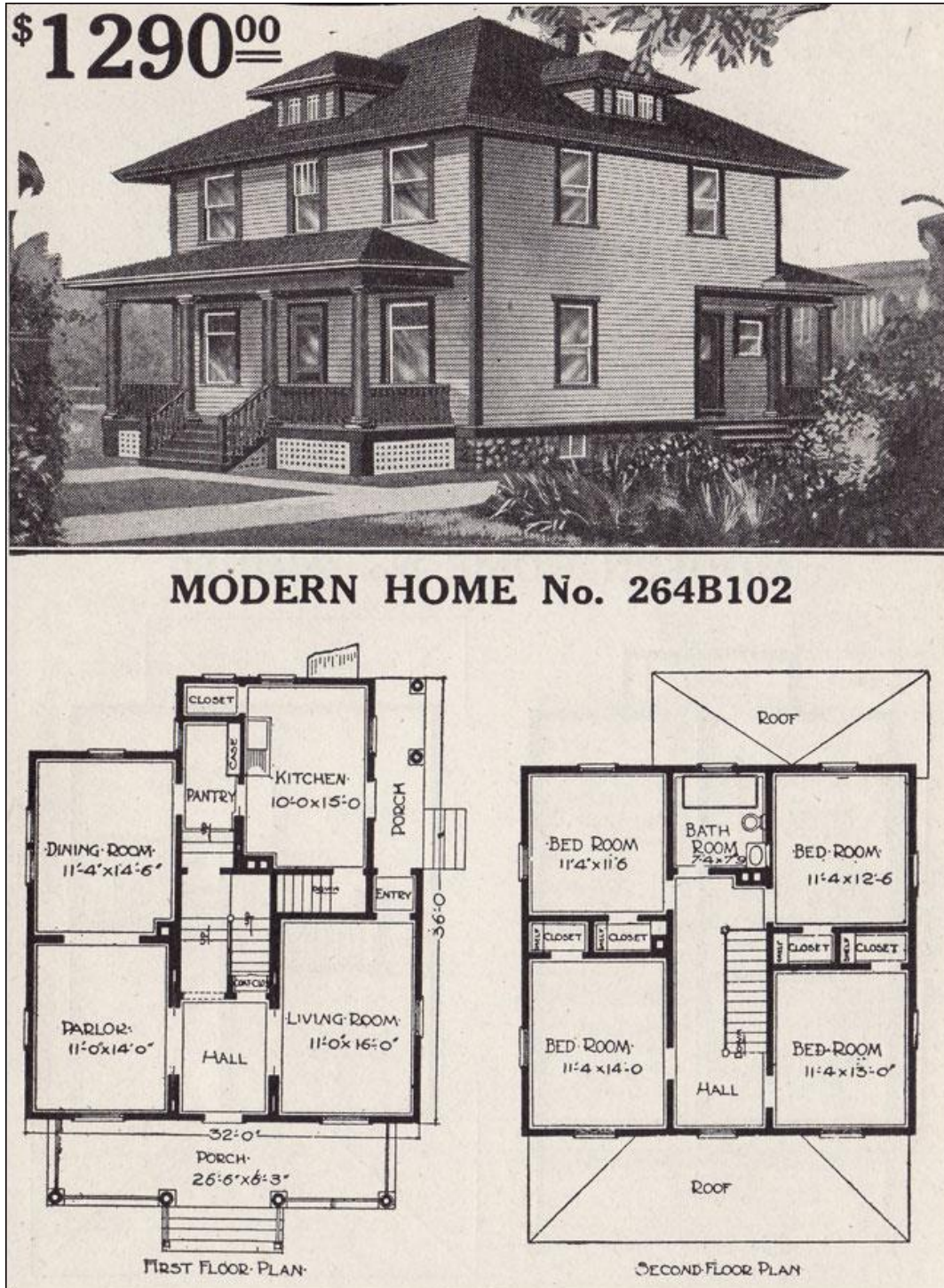
For the purposes of this analysis, the zoning code as relates to ADUs for 16 other cities in Oregon were examined. The Cities selected were either comparable to Eugene in population (between 50,000 and 200,000 population) or location (cities with populations over 2,500 in Lane County.) A brief summary of these city's codes is below.

City	Population	Last Update	Owner Occupancy	Lot Size Minimum	Density	Square Footage	Height Limit	Parking Required
<b>Salem</b>	165,265	2017	No	No	Exempt	900/75%	25 feet	0
<b>Gresham</b>	110,505	2018	No	No	Exempt	750*/50%	Base	1
<b>Hillsboro</b>	101,920	Unclear	No	Legal Lot	Silent	750	Base	1
<b>Beaverton</b>	97,000	2002	No	No	Silent	800/50%	Base	1
<b>Bend</b>	89,505	2018	No	No	Exempt	600*	25 feet	1
<b>Medford</b>	80,375	2018	No	No	Exempt	900/75%	Base	0
<b>Springfield</b>	60,865	2018	No	Legal Lot	Silent	800/100%	Base	1
<b>Corvallis</b>	59,280	2018	Yes	Legal Lot	Silent	900/40%	Base	0
<b>Albany</b>	53,145	2007	Yes	Legal Lot	Silent	750/50%	24 feet	3*
<b>Tigard</b>	52,785	2018	No	No	Silent	800/100%	25 feet	1
<b>Cottage Grove</b>	10,005	2018	No	No	Exempt	800	28 feet	1
<b>Florence</b>	8,795	2018	No	Legal Lot	Exempt	1000/75%	Base	1
<b>Junction City</b>	6,125	2003	Yes	No	Silent	800	25 feet	1
<b>Creswell</b>	5,455	2018	No	No	Exempt	800**	110% of primary	0
<b>Veneta</b>	4,790	2017	No	No	Silent	600/50%	28 feet	3*
<b>Oakridge</b>	3,280	2004	Yes	No	Exempt	800	20 feet	2

- **Lot Size:** “No”- City permits ADU on lot with no reference to lot size. “Legal Lot”- City permits ADUs on lots that meet legal lot requirements elsewhere in the code.
- **Density:** “Exempt”- City explicitly exempts ADUs from residential density minimums and maximums/requirements. “Silent”- The City does not explicitly apply or exempt residential density requirements to ADUs. In most cases, this is in conjunction with language that indicates that density doesn’t need to be considered when permitted ADUs—for example, Section 3.080(4) of the Albany Code: *“One accessory apartment is permitted per primary single-family residence called the ‘primary residence.’”*
- **Square Footage:** Percentages refer to the percentage size in relation to the primary dwelling; no city regulated ADU size based on percentage of the lot other than Eugene. If a different requirement existed for attached and detached ADUs, the detached ADU size is listed, and it is marked with a star.
- **Height:** “Base” means that the code either explicitly or implicitly limited ADU height based on the maximum height of the underlying zone.
- **Parking:** Both Veneta and Albany required a particular number of parking spaces for the property if it included an ADU, as opposed to explicitly requiring an additional space for the ADU. Neither of their codes have yet been updated in light of SB 1051.

## Appendix A: A Modern Home

The attached graphic is a floorplan for a 1916 Sears Roebuck Home Design. Depending on how the definition of a “bedroom” in the Eugene code is interpreted, this home design could have between four and eight bedrooms.



## Appendix B: Sources and Links to Text

### Salem:

- Zoning Code: [https://library.municode.com/or/salem/codes/code\\_of\\_ordinances?nodeId=TITXUNDECO\\_UDC\\_CH700SPUSPR\\_S700.007ACDWUN](https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH700SPUSPR_S700.007ACDWUN)

### Gresham:

- Zoning Code: <https://greshamoregon.gov/Development-Code/>

### Hillsboro:

- Zoning Code: <http://qcode.us/codes/hillsboro/view.php?version=beta&view=desktop&topic=12>
- Secondary Dwelling Unit City Flyer: <http://www.hillsboro-oregon.gov/Home/ShowDocument?id=5485>

### Beaverton:

- Zoning Code: <https://www.beavertonoregon.gov/DocumentCenter/View/4970/Chapter-60---Special-Requirements?bidId=>
- 7/1/18 “Interested Parties” Memo regarding ADUs: <https://www.beavertonoregon.gov/DocumentCenter/View/23266/ADUs-memo-7-1-18?bidId=>
- Building Code Considerations for Accessory Dwelling Units: <https://www.beavertonoregon.gov/DocumentCenter/View/20534/Accessory-Dwelling-Units-Code-Considerations?bidId=>

### Bend:

- Zoning Code: <https://www.codepublishing.com/OR/Bend/html/BendDC03/BendDC0306.html#3.6.200>

### Medford:

- Zoning Code: <http://www.ci.medford.or.us/code.asp?codeid=3805>
- ADU Specific Code: <https://www.ci.medford.or.us/files/accessory%20dwelling%20units.pdf>

### Springfield:

- Zoning Code: [http://qcode.us/codes/springfield-development/view.php?topic=5-5\\_5\\_100&showAll=1&frames=on](http://qcode.us/codes/springfield-development/view.php?topic=5-5_5_100&showAll=1&frames=on)

### Corvallis:

- Zoning Code: <https://archives.corvallisoregon.gov/public/0/edoc/1105293/COMPLETE%20LDC%20-%20Amended%2011.05.2018.pdf>
- Ordinance 2018-16: <https://archives.corvallisoregon.gov/public/ElectronicFile.aspx?dbid=0&docid=1036430>
- Corvallis Gazette-Times Article on Phased Approach: [https://www.gazettetimes.com/news/housingthemidvalley/an-adu-in-every-backyard-city-tries-to-align-code/article\\_57833021-4c0f-5d75-a82e-ae6486a5b04e.html](https://www.gazettetimes.com/news/housingthemidvalley/an-adu-in-every-backyard-city-tries-to-align-code/article_57833021-4c0f-5d75-a82e-ae6486a5b04e.html)
- Prior version of zoning code with lot size minimums for ADUs, removed in Ordinance 2018-16: <https://archives.corvallisoregon.gov/public/0/edoc/1042207/COMPLETE%20LDC%20-%20Amended%20January%2026,%202018.pdf> (p878)

**Albany:**

- Zoning Code: [https://www.cityofalbany.net/images/stories/cd/planning/development\\_code/03-Article%203-Residential%20Zoning%20Districts.pdf](https://www.cityofalbany.net/images/stories/cd/planning/development_code/03-Article%203-Residential%20Zoning%20Districts.pdf)
- 12/5/18 Council Agenda packet and minutes, including draft ADU ordinance:  
[https://www.cityofalbany.net/images/stories/citycouncil/archive/2018/cc\\_20181205\\_agd.pdf](https://www.cityofalbany.net/images/stories/citycouncil/archive/2018/cc_20181205_agd.pdf)  
[https://www.cityofalbany.net/images/stories/citycouncil/archive/2018/cc\\_20181205\\_min.pdf](https://www.cityofalbany.net/images/stories/citycouncil/archive/2018/cc_20181205_min.pdf)
- 11/8/19 Council Agenda packet, ADU Public Hearing materials and minutes:  
[https://www.cityofalbany.net/images/stories/citycouncil/archive/2018/cc\\_20181107\\_agd.pdf](https://www.cityofalbany.net/images/stories/citycouncil/archive/2018/cc_20181107_agd.pdf)  
[https://www.cityofalbany.net/images/stories/citycouncil/archive/2018/cc\\_20181107\\_min.pdf](https://www.cityofalbany.net/images/stories/citycouncil/archive/2018/cc_20181107_min.pdf)
- 11/9/19 Albany Democrat-Herald article regarding ADU veto in Albany:  
[https://democratherald.com/news/local/albany-mayor-again-vetoes-adu-proposal/article\\_1165d30b-df52-5fd8-ac5c-a221f7946559.html](https://democratherald.com/news/local/albany-mayor-again-vetoes-adu-proposal/article_1165d30b-df52-5fd8-ac5c-a221f7946559.html)
- 12/6/18 Corvallis Gazette-Times article regarding ADUs in Albany:  
[https://www.gazettetimes.com/news/local/council-holds-off-on-adu-plan/article\\_81eb472e-2295-52a2-98e2-0e2e827c9502.html](https://www.gazettetimes.com/news/local/council-holds-off-on-adu-plan/article_81eb472e-2295-52a2-98e2-0e2e827c9502.html)

**Tigard:**

- Zoning Code: [http://www.tigard-or.gov/business/title\\_18.php](http://www.tigard-or.gov/business/title_18.php)
- Ordinance 18-23 amending zoning code: [http://www.tigard-or.gov/DevelopmentCode/Ordinance18-23\\_updates.pdf](http://www.tigard-or.gov/DevelopmentCode/Ordinance18-23_updates.pdf)

**Cottage Grove:**

- Zoning Code: <https://www.cottagegrove.org/cd/page/cottage-grove-development-code>
- ADU Ordinance:  
[http://www.cottagegrove.org/sites/default/files/fileattachments/mayor\\_amp\\_city\\_council/meeting/packets/7711/8a.pdf](http://www.cottagegrove.org/sites/default/files/fileattachments/mayor_amp_city_council/meeting/packets/7711/8a.pdf)

**Florence:**

- Zoning Code:  
[http://www.ci.florence.or.us/sites/default/files/fileattachments/mayor\\_and\\_council/page/961/chapter\\_10\\_-\\_restricted\\_residential.pdf](http://www.ci.florence.or.us/sites/default/files/fileattachments/mayor_and_council/page/961/chapter_10_-_restricted_residential.pdf) <https://www.ci.florence.or.us/council/title-10-zoning-regulations>

**Junction City:**

- Zoning Code: [http://www.ci.junction-city.or.us/ord/title10/10\\_11pt4.html](http://www.ci.junction-city.or.us/ord/title10/10_11pt4.html)  
<https://www.codepublishing.com/OR/JunctionCity>
- 2003 ADU Ordinance: <https://www.codepublishing.com/OR/JunctionCity/html/pdfs/1116.pdf>
- 5/2/18 Community Development Committee Minutes, containing SB 1051 recommendation:  
[https://www.junctioncityoregon.gov/vertical/sites/%7BE865F063-52B6-4191-89A3-FB88287BBBED%7D/uploads/05-02-18\\_CDC\\_Minutes\\_-\\_Approved.pdf](https://www.junctioncityoregon.gov/vertical/sites/%7BE865F063-52B6-4191-89A3-FB88287BBBED%7D/uploads/05-02-18_CDC_Minutes_-_Approved.pdf)

**Creswell:**

- Zoning Code:  
[http://www.ci.creswell.or.us/sites/default/files/fileattachments/planning/page/731/c\\_art2\\_creswell\\_preview\\_052306.pdf](http://www.ci.creswell.or.us/sites/default/files/fileattachments/planning/page/731/c_art2_creswell_preview_052306.pdf)
- 7/9/18 City Council Meeting Minutes, approving Ordinance No. 514:  
[http://www.ci.creswell.or.us/sites/default/files/fileattachments/mayor\\_amp\\_council/meeting/4192/2018-07-09\\_city\\_council\\_minutes.pdf](http://www.ci.creswell.or.us/sites/default/files/fileattachments/mayor_amp_council/meeting/4192/2018-07-09_city_council_minutes.pdf)
- Creswell Chronicle article related to ADUs:  
<https://www.thecreswellchronicle.com/story/2018/07/19/news/city-adus-will-help-alleviate-housing-burdens/785.html>
- Ordinance No 514: Copy provided by Creswell City Recorder

**Veneta:**

- Zoning Code:  
[https://www.venetaoregon.gov/sites/default/files/fileattachments/planning/page/1252/land\\_development\\_ordinance\\_493\\_effective\\_may\\_11\\_2017.pdf](https://www.venetaoregon.gov/sites/default/files/fileattachments/planning/page/1252/land_development_ordinance_493_effective_may_11_2017.pdf)
- 12/10/18 City Council Agenda/Packet and minutes w/ ADU recommendations (not yet passed):  
[https://www.venetaoregon.gov/sites/default/files/fileattachments/city\\_council/meeting/3801/12-10\\_cc\\_packet.pdf](https://www.venetaoregon.gov/sites/default/files/fileattachments/city_council/meeting/3801/12-10_cc_packet.pdf)  
[https://www.venetaoregon.gov/sites/default/files/fileattachments/city\\_council/meeting/3801/12-10\\_cc.pdf](https://www.venetaoregon.gov/sites/default/files/fileattachments/city_council/meeting/3801/12-10_cc.pdf)

**Oakridge:**

- Zoning Code:  
[https://www.ci.oakridge.or.us/sites/default/files/fileattachments/general/page/15001/ord874\\_land\\_uses\\_and\\_development.pdf](https://www.ci.oakridge.or.us/sites/default/files/fileattachments/general/page/15001/ord874_land_uses_and_development.pdf)

**Other:**

- ORS 197.312: <https://www.oregonlaws.org/ors/197.312>
- DLCAD ADU Guidance:  
[https://www.oregon.gov/lcd/Publications/ADU\\_Guidance\\_SB1051\\_2018.pdf](https://www.oregon.gov/lcd/Publications/ADU_Guidance_SB1051_2018.pdf)
- LUBA: Homebuilders Association of Lane County v. City of Eugene (11/29/18)  
<https://www.oregon.gov/LUBA/docs/Opinions/2018/11-18/18063-064.pdf>
- LUBA: Kamps-Hughes v. City of Eugene (11/29/18)  
<https://www.oregon.gov/LUBA/docs/Opinions/2018/11-18/18091.pdf>
- Single Family Code Amendments/University Protection Measures- 2013 Public Comments to Planning Commission: <https://www.eugene-or.gov/documentcenter/view/13115>
- City Council Meeting Materials, May 14<sup>th</sup> 2014 <https://www.eugene-or.gov/documentcenter/view/16216>