

REVIEWED
DM
LEGAL COUNSEL



For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code *
Titles 18 and 19 to Incorporate Changes to State Law * ORDINANCE NO. 2019-009
Allowing a Historic Home Located in a Rural *
Residential Area to be Converted to an Accessory *
Dwelling Unit and a New Single-Family Dwelling to *
be Constructed on the Same Lot or Parcel. *

WHEREAS, the Deschutes County Community Development Department (CDD) initiated amendments (Planning Division File No. 247-19-000137-TA) to the Deschutes County Code (DCC) Title 18, Chapters 18.32, Multiple Use Agricultural Zone – MUA; 18.60, Rural Residential Zone – RR-10; 18.116, Supplementary Provisions; Title 19, Chapters 19.12, Urban Area Reserve Zone UAR-10; 19.20, Suburban Low Density Residential Zone – SR 2 ½; and 19.92, Interpretations and Exceptions, to incorporate changes to state law allowing a historic home located in a rural residential area to be converted to an accessory dwelling unit and a new single-family dwelling to be constructed on the same lot or parcel; and

WHEREAS, the Deschutes County Planning Commission reviewed the proposed changes on March 28, 2019, and forwarded to the Deschutes County Board of County Commissioners (“Board”), a unanimous recommendation of approval; and

WHEREAS, the Board considered this matter after a duly noticed public hearing on April 24, 2019, and concluded that the public will benefit from the proposed changes to the Deschutes County Code Titles 18 and 19; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC 18.32, Multiple Use Agricultural Zone – MUA, is amended to read as described in Exhibit "A" attached and incorporated by reference herein, with new language underlined.

Section 2. AMENDMENT. DCC 18.60, Rural Residential Zone – RR-10, is amended to read as described in Exhibit "B" attached and incorporated by reference herein, with new language underlined.

Section 3. AMENDMENT. DCC 18.116, Supplementary Provisions, is amended to read as described in Exhibit "C" attached and incorporated by reference herein, with new language underlined.



Section 4. AMENDMENT. DCC 19.12, Urban Area Reserve Zone UAR-10, is amended to read as described in Exhibit "D" attached and incorporated by reference herein, with new language underlined.


Section 5. AMENDMENT. DCC 19.20, Suburban Low Density Residential Zone – SR 2 ½, is amended to read as described in Exhibit "E" attached and incorporated by reference herein, with new language underlined.

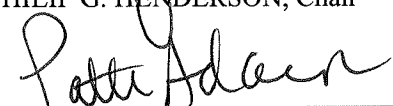
Section 6. AMENDMENT. DCC 19.92, Interpretations and Exceptions, is amended to read as described in Exhibit "F" attached and incorporated by reference herein, with new language underlined.

Section 7. FINDINGS. The Board adopts as its findings Exhibit "G" attached and incorporated by reference herein.

Dated this 5 of June, 2019

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON


PHILIP G. HENDERSON, Chair


PATTI ADAIR, Vice Chair

ATTEST:


Recording Secretary


ANTHONY DEBONE

Date of 1st Reading: 15 day of May, 2019.

Date of 2nd Reading: 5 day of June, 2019.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Philip G. Henderson	X	—	—	—
Patti Adair	X	—	—	—
Anthony DeBone	X	—	—	—

Effective date: 3 day of September, 2019.



Deschutes County Board of Commissioners
1300 NW Wall St, Bend, OR 97703
(541) 388-6570 – Fax (541) 385-3202 – <https://www.deschutes.org/>

AGENDA REQUEST & STAFF REPORT

For Board of Commissioners BOCC Wednesday Meeting of June 5, 2019

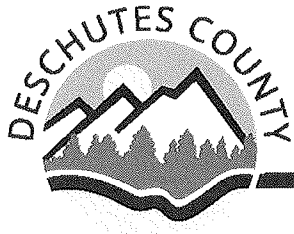
DATE: May 29, 2019

FROM: Tanya Saltzman, Community Development,

TITLE OF AGENDA ITEM:

CONSIDERATION OF SECOND READING: Ordinance No. 2019-009 – Historic ADU

Following a public hearing held on April 24, 2019 and May 15, 2019, and first reading on May 15, 2019, the Board of County Commissioners is scheduled to conduct the second reading of Ordinance No. 2019-009 on June 5, 2019.



MEMORANDUM

TO: Deschutes County Board of Commissioners

FROM: Tanya Saltzman, Associate Planner

DATE: June 5, 2019

SUBJECT: Consideration of Second Reading of Ordinance No. 2019-009 – Historic ADU

I. BACKGROUND

The Board of County Commissioners (Board) held a public hearing on April 24, 2019,¹ continuing on May 15, 2019,² to consider Ordinance No. 2019-009, text amendments incorporating changes to state law regarding historic accessory dwelling units per House Bill 3012.

At the conclusion of the public hearing on May 15, the Board closed the oral and written records for the hearing and deliberated, voting to approve the ordinance, and conducted first reading of Ordinance No. 2019-009.

II. SECOND READING

The Board is scheduled to conduct the second reading of Ordinance No. 2019-009 on June 5, 2019.

ATTACHMENTS:

Ordinance 2019-009 and Corresponding Exhibits

- Exhibit A: DCC Chapter 18.32, Multiple Use Agricultural Zone – MUA
- Exhibit B: DCC Chapter 18.60, Rural Residential Zone – RR-10
- Exhibit C: DCC Chapter 18.116, Supplementary Provisions
- Exhibit D: DCC Chapter 19.12, Urban Area Reserve Zone UAR-10
- Exhibit E: DCC Chapter 19.20, Suburban Low Density Residential Zone – SR 2 ½
- Exhibit F: DCC Chapter 19.92, Interpretations and Exceptions
- Exhibit G: Staff Findings

¹ https://deschutescountyor.igm2.com/Citizens/Detail_Meeting.aspx?ID=2356

² https://deschutescountyor.igm2.com/Citizens/Detail_Meeting.aspx?ID=2359

Chapter 18.32. MULTIPLE USE AGRICULTURAL ZONE - MUA

* * *

18.32.020. Uses Permitted Outright.

The following uses and their accessory uses are permitted outright:

- A. Agricultural uses as defined in DCC Title 18.
- B. A single family dwelling, or a manufactured home subject to DCC 18.116.070.
- C. Propagation or harvesting of a forest product.
- D. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.
- E. Class III road or street project.
- F. Noncommercial horse stables, excluding horse events.
- G. Horse events, including associated structures, involving:
 - 1. Fewer than 10 riders;
 - 2. Ten to 25 riders, no more than two times per month on nonconsecutive days; or
 - 3. More than 25 riders, no more than two times per year on nonconsecutive days.
 Incidental musical programs are not included in this definition. Overnight stays by participants, trainers or spectators in RVs on the premises is not an incident of such horse events.
- H. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- I. Type 1 Home Occupation, subject to DCC 18.116.280.
- J. Accessory Dwelling Units, subject to DCC 18.116.350.
 (Ord. 2019-009 §1, 2019; Ord. 2004-002 §3, 2004; Ord. 2001-039 §2, 2001; Ord. 2001-016 §2, 2001; Ord. 94-008 §10, 1994; Ord. 93-043 §4, 1993; Ord. 93-001 §1, 1993; Ord. 91-038 §1, 1991; Ord. 91-020 §1, 1991; Ord. 91-005 §18, 1991; Ord. 91-002 §6, 1991)

Chapter 18.60. RURAL RESIDENTIAL ZONE - RR-10

* * *

18.60.020. Uses Permitted Outright.

The following uses and their accessory uses are permitted outright.

- A. A single-family dwelling, or a manufactured home subject to DCC 18.116.070.
- B. Utility facilities necessary to serve the area including energy facilities, water supply and treatment and sewage disposal and treatment.
- C. Community center, if shown and approved on the original plan or plat of the development.
- D. Agricultural use as defined in DCC Title 18.
- E. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.
- F. Class III road or street project.
- G. Noncommercial horse stables as defined in DCC Title 18, excluding horse events.
- H. Horse events, including associated structures, involving:
 - 1. Fewer than 10 riders;
 - 2. Ten to 25 riders, no more than two times per month on nonconsecutive days; or
 - 3. More than 25 riders, no more than two times per year on nonconsecutive days.
 Incidental musical programs are not included in this definition. Overnight stays by participants, trainers or spectators in RVs on the premises is not an incident of such horse events.
- I. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- J. Type 1 Home Occupation, subject to DCC 18.116.280.
- K. Accessory Dwelling Units, subject to DCC 18.116.350.
 (Ord. 2019-009 §2, 2019; Ord. 2004-002 §7, 2004; Ord. 2001-039 §5, 2001; Ord. 2001-016 §2, 2001; Ord. 94-008 §12, 1994; Ord. 93-043 §8, 1993; Ord. 91-020 §1, 1991; Ord. 91-005 §§30 & 31, 1991)

Chapter 18.116. SUPPLEMENTARY PROVISIONS

- 18.116.010. Authorization of Similar Uses.
- 18.116.020. Clear Vision Areas.
- 18.116.030. Off-Street Parking and Loading.
- 18.116.031. Bicycle Parking.
- 18.116.035. Bicycle Commuter Facilities
- 18.116.036. Special Parking Provisions for the Sunriver Town Center District
- 18.116.040. Accessory Uses.
- 18.116.050. Manufactured Homes.
- 18.116.070. Placement Standards for Manufactured Homes.
- 18.116.080. Manufactured Home or RV as a Temporary Residence on an Individual Lot.
- 18.116.090. A Manufactured Home or RV as a Temporary Residence for Medical Condition.
- 18.116.095. Recreational Vehicle as a Temporary Residence on an Individual Lot.
- 18.116.100. Building Projections.
- 18.116.200. Repealed.
- 18.116.120. Fences.
- 18.116.130. Hydroelectric Facilities.
- 18.116.140. Electrical Substations.
- 18.116.150. Endangered Species.
- 18.116.160. Rimrock Setbacks Outside of LM Combining Zone.
- 18.116.170. Solar Height Restrictions.
- 18.116.180. Building Setbacks for the Protection of Solar Access.
- 18.116.190. Solar Access Permit.
- 18.116.200. Repealed.
- 18.116.210. Residential Homes and Residential Facilities.
- 18.116.215. Family Childcare Provider.
- 18.116.220. Conservation Easements on Property Adjacent to Rivers and Streams-Prohibitions.
- 18.116.230. Standards for Class I and II Road Projects.
- 18.116.240. Protection of Historic Sites.
- 18.116.250. Wireless Telecommunications Facilities.
- 18.116.260. Rock Crushing Outside the SM Zone.
- 18.116.270. Conducting Filming Activities in All Zones.
- 18.116.280. Home Occupations.
- 18.116.290. Amateur Radio Facilities
- 18.116.300. Wind Energy Systems that Generate Less than 100 kW
- 18.116.310. Traffic Impact Studies
- 18.116.320. Medical Marijuana Dispensary
- 18.116.330. Marijuana Production, Processing, and Retailing
- 18.116.340. Marijuana Production Registered by the Oregon Health Authority (OHA)
- 18.116.350. Accessory Dwelling Units in RR10 and MUA Zones

* * *

18.116.350. Accessory Dwelling Units in RR10 and MUA Zones

A. As used in this section:

- 1. “Accessory dwelling unit” means a residential structure that is used in connection with or that is auxiliary to a single-family dwelling.

2. “Area zoned for rural residential use” means land that is not located inside an urban growth boundary as defined in ORS 195.060 and that is subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland and planned and zoned by the county to allow residential use as a primary use.
 3. “Historic home” means a single-family dwelling constructed between 1850 and 1945.
 4. “New” means that the dwelling being constructed did not previously exist in residential or nonresidential form. “New” does not include the acquisition, alteration, renovation or remodeling of an existing structure.
 5. “Place a manufactured home” means the placement of a manufactured home that did not previously exist on the subject lot of record; it may include the placement of a manufactured home that was previously used as a dwelling on another lot and moved to the subject lot of record.
 6. “Single-family dwelling” means a residential structure designed as a residence for one family and sharing no common wall with another residence of any type.
- B. An owner of a lot or parcel within an area zoned for rural residential use (RR10 and MUA zones) may construct a new single-family dwelling or place a manufactured home on the lot or parcel, provided:
1. The lot or parcel is not located in an area designated as an urban reserve as defined in ORS 195.137;
 2. The lot or parcel is at least two acres in size;
 3. A historic home is sited on the lot or parcel;
 4. The owner converts the historic home to an accessory dwelling unit upon completion of the new single-family dwelling or placement of a manufactured home; and
 5. The accessory dwelling unit may be required to comply with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment.
- C. The construction of an accessory dwelling under subsection (B) of this section is a land use action subject to DCC 22.20.
- D. An owner that constructs a new single-family dwelling or places a manufactured home under subsection (B) of this section may not:
1. Subdivide, partition or otherwise divide the lot or parcel so that the new single-family dwelling or manufactured home is situated on a different lot or parcel from the accessory dwelling unit.
 2. Alter, renovate or remodel the accessory dwelling unit so that the square footage of the accessory dwelling unit is more than 120 percent of the historic home’s square footage at the time construction of the new single-family dwelling commenced.
 3. Rebuild the accessory dwelling unit if the structure is deemed a dangerous building due to fire or other natural disaster, pursuant to the Uniform Code for the Abatement of Dangerous Buildings, which defines “dangerous building” as “Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.”
 4. Construct an additional accessory dwelling unit on the same lot or parcel.
- E. A new single-family dwelling constructed or a manufactured home placed under this section may be required to be served by the same water supply source as the accessory dwelling unit.
- F. Owner occupancy of either the accessory dwelling unit or the new single-family dwelling is not required. However, the new single-family dwelling and the accessory dwelling unit may not be used simultaneously for short-term rentals of thirty (30) consecutive days or less.

(Ord. 2019-009 §3, 2019)

Chapter 19.12. URBAN AREA RESERVE ZONE UAR-10

19.12.020. Permitted Uses.

* * *

19.12.020. Permitted Uses.

The following uses are permitted:

- A. Farm uses as defined in DCC Title 19.
- B. Single-family dwelling.
- C. Home occupation subject to DCC 19.88.140.
- D. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use subject to DCC 19.92.020.
- E. Day care center facilities subject to site review, DCC 19.76 and DCC 19.88.160.
- F. Farm stands subject to DCC 19.76 and DCC 19.88.290.
- G. Accessory Dwelling Units, subject to DCC 19.92.150.

(Ord. 2019-009 §4, 2019; Ord. 2008-14 §3, 2008; Ord. 91-001 §2, 1991; Ord. 88-042 §4, 1988)

Chapter 19.20. SUBURBAN LOW DENSITY RESIDENTIAL ZONE - SR 2 1/2

19.20.020. Permitted Uses.

* * *

19.20.020. Permitted Uses.

The following uses are permitted:

- A. Single-family dwelling.
- B. Agriculture, excluding the keeping of livestock.
- C. Home occupations subject to DCC 19.88.140.
- D. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use subject to DCC 19.92.020.

E. Accessory Dwelling Units, subject to DCC 19.92.150.

(Ord. 2019-009, §5, 2019; Ord. 93-018-1 §3, 1993; Ord. 91-001 §4, 1991, Ord. 88-042 §6, 1988)

Chapter 19.92. INTERPRETATIONS AND EXCEPTIONS

- 19.92.010. General Exceptions to Lot Size Requirements.
- 19.92.020. Accessory Uses and Structures.
- 19.92.030. Exception to Height Regulations.
- 19.92.040. Establishment and Measure of Clear Vision Areas.
- 19.92.050. Exceptions to Yard Requirements.
- 19.92.060. Authorization for Similar Uses.
- 19.92.070. Existing Uses.
- 19.92.080. Pending Building Permits.
- 19.92.090. Repealed.
- 19.92.100. (Untitled).
- 19.92.110. Solar Height Restrictions.
- 19.92.120. Conservation Easements on Property Adjacent to Rivers and Streams; Prohibitions.
- 19.92.130. Fill and Removal Exceptions.
- 19.92.140 Existing Marijuana Production Registered by the Oregon Health Authority (OHA)
- 19.92.150. Accessory Dwelling Units in UAR-10 and SR-2 1/2 Zones

* * *

19.92.150. Accessory Dwelling Units in UAR-10 and SR-2 1/2 Zones

A. As used in this section:

- 1. "Accessory dwelling unit" means a residential structure that is used in connection with or that is auxiliary to a single-family dwelling.
- 2. "Area zoned for rural residential use" means land that is not located inside an urban growth boundary as defined in ORS 195.060 and that is subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland and planned and zoned by the county to allow residential use as a primary use.
- 3. "Historic home" means a single-family dwelling constructed between 1850 and 1945.
- 4. "New" means that the dwelling being constructed did not previously exist in residential or nonresidential form. "New" does not include the acquisition, alteration, renovation or remodeling of an existing structure.
- 5. "Single-family dwelling" means a residential structure designed as a residence for one family and sharing no common wall with another residence of any type.

B. An owner of a lot or parcel within an area zoned for rural residential use (UAR-10 and SR-2 1/2 zones) may construct a new single-family dwelling on the lot or parcel, provided:

- 1. The lot or parcel is not located in an area designated as an urban reserve as defined in ORS 195.137;
- 2. The lot or parcel is at least two acres in size;
- 3. A historic home is sited on the lot or parcel;
- 4. The owner converts the historic home to an accessory dwelling unit upon completion of the new single-family dwelling; and
- 5. The accessory dwelling unit may be required to comply with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment.

C. The construction of an accessory dwelling under subsection (B) of this section is a land use action subject to DCC 22.20.

D. An owner that constructs a new single-family dwelling under subsection (B) of this section may not:

- 1. Subdivide, partition or otherwise divide the lot or parcel so that the new single-family dwelling is situated on a different lot or parcel from the accessory dwelling unit.

2. Alter, renovate or remodel the accessory dwelling unit so that the square footage of the accessory dwelling unit is more than 120 percent of the historic home's square footage at the time construction of the new single-family dwelling commenced.
 3. Rebuild the accessory dwelling unit if the structure is deemed a dangerous building due to fire or other natural disaster, pursuant to the Uniform Code for the Abatement of Dangerous Buildings, which defines "dangerous building" as "Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location."
 4. Construct an additional accessory dwelling unit on the same lot or parcel.
- E. A new single-family dwelling constructed under this section may be required to be served by the same water supply source as the accessory dwelling unit.
- F. Owner occupancy of either the accessory dwelling unit or the new single-family dwelling is not required. However, the new single-family dwelling and the accessory dwelling unit may not be used simultaneously for short-term rentals of thirty (30) consecutive days or less.

(Ord. 2019-009 §6, 2019)