



PLANNING COMMISSION MEETING
Tuesday, July 24, 2018, 6:30 PM
Council Chambers, 2nd Floor City Hall
1300 NE Village Street

MEETING AGENDA

1. **CALL TO ORDER:** 6:30 p.m.
2. **CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS**
3. **PUBLIC HEARING**

TYPE IV LEGISLATIVE

File Number 2018-45-ZC

Summary: The City of Fairview is proposing amendments to the Fairview Development Code to comply with State requirements for accessory dwelling units enacted by Senate Bill 1051, and to make related amendments to accessory dwelling unit standards.

Applicable Fairview Municipal Code Criteria:

FMC 19.205.010 Amendments – Procedure

FMC 19.413.040(G) Type IV Procedures

4. **COMMISSION UPDATES**
5. **STAFF UPDATES**
6. **TENTATIVE AGENDA**
7. **ADJOURNMENT**

NEXT PLANNING COMMISSION MEETING: TUESDAY, AUGUST 14, 2018

Planning Commission hearings are broadcast live on Comcast Cable Channel 22 and Frontier Cable Channel 33. Replays of the hearing are shown on Comcast Channel 22 and Frontier Channel 33 Saturday at 12:00pm and Monday at 2:00pm, and Comcast Channel 30 and Frontier Channel 39 Wednesday at 7:00pm. Further information is available on our web page at www.fairvieworegon.gov or by calling Devree Leymaster, City Recorder, 503-674-6224.

The meeting location is wheelchair accessible. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting to: Devree Leymaster, 503-674-6224.



**STAFF REPORT
TYPE IV – LEGISLATIVE TEXT AMENDMENTS
FINDINGS AND RECOMMENDATION**

Date of Report:	July 17, 2018
Hearing Date:	July 24, 2018
Staff Contact:	Sarah Selden, Senior Planner
Application Number:	2018-45-ZC
Applicant:	City of Fairview
Proposal:	Amendments to the Fairview Development Code Related to Accessory Dwelling Units. Amends FMC sections 19.13.010 Definitions; 19.30.110 Residential District, Use Specific Standards; FMC 19.115.020 Village Single-Family, Permitted Uses; and FMC 19.422 Applicability.
Exhibits:	<ul style="list-style-type: none">A. Draft Ordinance A-1. Ordinance 07-2018, dated 07/17/18 Attachment A: Draft Code AmendmentsB. Background Materials B-1. Map of Zoning DistrictsC. Written Comments C-1. Comments from DLCDD. Planning Commission Findings (reserved for Council hearing)C. Minutes (reserved for Council hearing)D. Staff Reports (reserved for Council hearing)

I. NOTICES & REFERRALS

Public Notice Date/Type: A notice of public hearing was published in the Gresham Outlook on July 13, 2018, in accordance with FMC 19.413.040, Type IV procedures (legislative).

Referrals: The Department of Land Conservation and Development (DLCD) and Metro were sent the required 35-day notice of public hearing and draft amendments on June 19, 2018.

Comments from DLCD on the draft amendments are attached as Exhibit C-1. Metro hired a planning consultant to conduct an ADU code audit and provide feedback to jurisdictions on their ADU code amendments. Both sets of feedback are noted in the staff commentary as part of the draft code amendments (Attachment A to Ordinance).

II. APPLICABLE CRITERIA

- FMC 19.205.010 Amendments – Procedure
- FMC 19.413.040(G) Type IV Procedures

III. BACKGROUND AND SUMMARY OF ISSUES

State Legislation

In August 2017 the Oregon legislature passed SB 1051, intended to address the under-supply of housing by removing barriers to development. Among the provisions of SB 1051, as now adopted into ORS 197, are the following requirements for accessory dwelling units (ADUs):

- a) A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design.*

- b) *As used in this subsection, “accessory dwelling unit” means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.*

The new state legislation also provides clarification that all development standards applicable to ADUs must be clear and objective. This requirement is a clarification to ORS 197, which requires that all “needed housing” be permitted based on clear and objective standards, conditions and procedures. SB 1051 expanded the definition of “needed housing” to include all housing.¹ DLCDC required that jurisdictions meet the July 1, 2018 effective deadline for the new requirement by providing the 35-day notice of the first evidentiary hearing by this date.

Fairview Code

The Fairview Development Code (Title 19) has permitted ADUs in single-family zones since 2001, subject to a set of use-specific standards intended to promote compatibility with adjacent land uses. The following zoning districts permit this use (also see map, Exhibit B-1):

- Residential: R, R-7.5, and R-10
- Residential /Townhouse Overlay (R/TOZ)
- Residential/South Fairview Lake Design Overlay (R/SFLD)
- Village Single Family (VSF)
- Village Townhouse (VTH)

Approximately five ADUs have been permitted in Fairview, in addition to many that were built above garages in Fairview Village. This construction rate is relatively low compared to cities with greater population growth and demand for affordable housing. On average, planning staff receives one inquiry per month from property owners interested in developing an ADU on their property. Interest in ADU development is expected to grow, as family sizes decrease and development pressure from Portland moves east.

Amendment Process

The Planning Commission held work sessions on May 22 and June 12 to consider background information, code amendment concepts, and draft code language, and to provide direction to staff on options that should be forwarded to public hearing.

Key Issues

While the existing code meets the major requirement of allowing ADU’s in all detached single-family zones, smaller adjustments are needed to reach full compliance. Below is a

¹ Cities may also adopt an alternative approval process based in whole or in part on discretionary standards, as long as the applicant has a choice to follow the clear and objective approval process.

summary list of changes. Additional discussion of each proposed amendment can be found in the commentary following the code language, attached as Exhibit A-1, Attachment A.

Required changes under SB 1051 are:

- Update the definition of “ADU” for clarity and consistency with the State definition.
- Allow one ADU *per detached single-family residence* instead of *one ADU per lot*
- Remove the requirement that limits ADUs to 50% of the lots on any given block.
- Remove standards that are not “clear and objective”, e.g. the standard that hedges or a fence *may* be required to buffer the ADU from adjacent residents.
- Ensure that siting and design standards are “reasonable”.

Beyond these requirements, the State also provided a set of recommended code approaches intended to help remove barriers to ADU development. The Planning Commission considered these additional recommendations, and directed staff to prepare draft amendments that provide flexibility in some situations.

Additional changes are:

- Maximum square footage flexibility for conversion of existing building area to an ADU
- Allowance for two ADUs per residence, when one of the units is attached/internal to the primary dwelling.
- Clarification of the parking requirement for ADUs

Staff has also identified an additional code amendment for the Commission’s review as part of the public hearing. The review procedures for ADUs established in the Development Code require that ADUs over 600 square feet in size be processed through a Type II (Administrative) Site Design Review Procedure, which is subject to public notice, and an opportunity for comment and appeal to the Planning Commission.² Single-family homes, however, are not subject to Site Design Review. Staff has observed that with the proposed ADU code amendments, ADUs will be subject to only clear and objective standards, rather than being subject to discretionary criteria that typically necessitate a higher level of public review. While the Commission did not consider an amendment to the review procedure as part of its earlier work sessions, to capture all ADU amendments with this ordinance, staff has included an amendment to bring the ADU review procedure in line with that of detached single family homes.

² The maximum size of ADUs is currently 800 square feet

V. APPROVAL CRITERIA FINDINGS

FMC 19.413.040 *Type IV Procedures (legislative).*

This is a Type IV application for legislative amendments to the Fairview Municipal Code (“FMC”) and follows the process set forth in FMC 19.413. Type IV matters are considered by the Planning Commission at a public hearing, and a recommendation made to the City Council. The final decision is made by City Council following a public hearing and consideration of the Planning Commission’s recommendation. Public notice is required and was provided as described under Section II. Notices & Referrals.

FMC 19.413.040(G), *Type IV Procedures – Decision Making Consideration*

G. Decision Making Consideration. The recommendation by the planning commission and the decision by the city council shall be based on consideration of the following factors:

1. Statewide planning goals and guidelines

Goal 10: Housing

The Housing goal serves to ensure the opportunity for adequate housing to meet the needs of Oregon households. The housing goal and implementing statutes ensure that local regulations allow for housing at range of price and rent levels, and in varying housing forms, densities and locations. The ADU amendments are proposed for compliance with this goal and implementing statutes, including ORS 197.312. This goal is met.

2. Comments from applicable federal or state agencies

DLCD: Staff sent the proposed amendments to DLCD for their review, and received a set of comments (Exhibit C-1). DLCD comments address three code provisions that relate to the additional recommendations provided by the DLCD (not the SB 1051 requirements): the existing owner occupancy requirement, the maximum building height, and the parking requirement. They recommend changes to each of these code provisions to avoid unintended development barriers and to ensure the standards are not overly restrictive. Their comments strongly recommend against enacting parking regulations that are more restrictive than the requirements for detached single-family homes. The staff code commentary further addresses these recommendations.

3. Applicable intergovernmental agencies

Metro: Metro hired a planning consultant to assist cities in implementing the SB 1051 requirements and in removing regulatory barriers to ADU development. They conducted an audit of ADU standards across the region, and provided feedback to jurisdictions on their ADU code amendments. Fairview planning staff

sent the draft code amendments to Metro staff and their consultant for review and feedback with the required 35-day DLCD and Metro notice. Several suggestions were made to clarify the code language. They also shared DLCD's concern about the parking requirement and suggested additional flexibility on ADU height to match the requirement for other types of accessory structures. The staff code commentary further addresses these recommendations.

4. Applicable Comprehensive Plan policies

Chapter 10 – Housing

Policy 9

In Fairview Village, the following housing policies shall apply:

F. The opportunity for accessory dwelling units shall be provided within the Village Single-Family Residential and Townhouse designated areas. Density calculations shall not include accessory dwelling units.

Policy 13

Accessory Dwelling Units shall be permitted in all single-family residential districts.

FINDING: The existing Development Code allows ADUs in the VSF and VTH zones, along with all other residential zones. Minimum and maximum density requirement apply to the primary use (primary dwelling) and not the accessory use (ADU). No changes are proposed to either of these code provisions. These policies are met.

FMC: 19.205.020: Criteria

A. *The amendment will not interfere with the livability, development or value of other land in the vicinity of site-specific proposals when weighted against the public interest in granting proposed amendment.*

FINDING: The proposed amendments are legislative code amendments, and apply broadly to all zones that permit single family homes. The proposal is not site specific, and therefore this criterion does not apply.

B. *The amendment will not be detrimental to the general interests of the community.*

FINDING: The code amendments are intended to support small-scale and affordable housing options in the community. ADUs can also provide opportunities for homeowners to afford living in their primary dwelling by creating rental income, can provide opportunities for seniors to age in place with ADUs for caregivers, and can provide more affordable housing options within single-family neighborhoods. Community interests are supported by clarifying the standards, by providing reasonable standards for a permitted residential use, and by providing greater opportunities to meet community housing needs. This criterion is met.

C. *The amendment will not violate the land use designations established by the comprehensive land use plan and map or related text.*

AND

D. *The amendment will place all property similarly situated in the area in the same zoning designation or in appropriate complementary designations without creating inappropriate "spot zoning".*

FINDING: No changes are proposed to the Zoning Map or Comprehensive Plan Map.

VI. CONCLUSION AND RECOMMENDATIONS

STAFF RECOMMENDATION

Staff recommends that the Commission consider the draft code amendments with staff-recommended alternatives, along with comments submitted by DLCD and by Metro consultants and any public testimony, and make a recommendation to City Council.

PLANNING COMMISSION ALTERNATIVES

1. *Recommend City Council adoption of draft Ordinance 07-2018, with the staff-recommended code alternatives outlined in Attachment A to the ordinance.*
2. *Recommend City Council adoption of Ordinance 07-2018, with other changes to the proposed code amendments.*
3. *Continue the Public Hearing to if additional information is needed.*



ORDINANCE
(07-2018)

AN ORDINANCE AMENDING CHAPTER 19 OF THE FAIRVIEW DEVELOPMENT CODE TO COMPLY WITH OREGON SB 1051 AND TO MAKE ADDITIONAL AMENDMENTS RELATED TO ACCESSORY DWELLING UNITS

WHEREAS, accessory dwelling units (ADUs) provide opportunities for additional small-scale and affordable housing to be integrated into single family neighborhoods; and

WHEREAS, accessory dwelling units (ADUs) are permitted in all Fairview single-family residential districts in compliance with the City's Comprehensive Plan; and

WHEREAS, in 2017, the Oregon Legislature enacted SB 1051, aimed at addressing the housing shortage by removing barriers to housing development, and SB 1051 requires cities with populations over 2,500 to allow at least one ADU for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design; and

WHEREAS, the Department of Land Conservation and Development (DLCD) provided additional recommendations aimed at removing barriers to ADU development; and

WHEREAS, amendments to the Fairview Development Code were needed to comply with SB 1051 requirements, and additional changes were desired to further remove development barriers; and

WHEREAS, the effective date for SB 1051 called for jurisdictions to provide DLCD by July 1, 2018, with a 35-day notice of the first evidentiary hearing to consider any necessary code amendments; and

WHEREAS, the City provided notice of Ordinance 07- 2018 / 2018-45-ZC to DLCD and Metro on June 19, 2018; and

WHEREAS, the City provided notice of the hearings consistent with Fairview Municipal Code Chapter 19.413 and ORS 227.186; and

WHEREAS, the Planning Commission and City Council review of the Development Code amendments have determined that the proposed amendments meet the criteria set forth in the Comprehensive Plan.

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

Section 1 The Development Code, Chapter 19 of the Fairview Municipal Code, is amended in substantially the same form as the attached Attachment A.

Section 2 The City adopts the Findings set forth in the staff report dated [], attached as Exhibit D.

Section 3 This Ordinance takes effect 30 days after its adoption.

Ordinance adopted by the City Council of the City of Fairview, this day of , 2018.

Mayor, City of Fairview
Ted Tosterud

ATTEST

City Recorder, City of Fairview
Devree Leymaster

Date

ATTACHMENT A
TO ORDINANCE 07-2018

NOTE:

Added text is underlined and bolded. Deleted text is stricken. *** marks intervening text that is not being amended.

Additional discussion of each code amendment is provided in the staff commentary boxes following each amendment; this is for information only, to be removed with adoption of the final ordinance.

FMC 19.13 DEFINITIONS

19.13.010 "A" definitions.

Accessory Dwelling. ~~An "accessory dwelling" is a small, secondary housing unit on a single-family lot, usually the size of a studio apartment.~~ **An interior, attached, or detached dwelling unit that is used in connection with, or that is accessory to, a single-family dwelling.**

Discussion: The new definition implements the recommended state definition and clarifies that an ADU is associated with a single-family *dwelling* rather than a single-family *lot*. In the Planning Commission's work sessions, the draft language considered was "An interior, attached, or detached residential structure..." This has been modified to replace "residential structure" with "dwelling unit." This change was recommended by the Metro ADU project consultant for clarification.

This change also provides better consistency with the option for ADUs to be internal to the primary structure, and provides reference to the Development Code definition of "dwelling unit", which outlines the interior living components needed to qualify as an independent dwelling

"Dwelling Unit. A "dwelling unit" is a living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the Uniform Building Code, for not more than one family, or a congregate residence for 10 or less persons."

FMC 19.30 RESIDENTIAL (R) DISTRICT

19.30.110 Special standards for certain uses.

B. Accessory Dwelling (~~Attached, Separate Cottage, or Above Detached Garage~~). ~~An accessory dwelling is a small, secondary housing unit on a single-family lot, usually the size of a studio~~

apartment. ~~The additional unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house.~~ **An accessory dwelling is an interior, attached, or detached dwelling unit that is used in connection with, or that is accessory to, a single-family dwelling.** The housing density standard of the residential district does not apply to accessory dwellings, due to the small size and low occupancy level of the use. The following standards are intended to control the size and number of accessory dwellings on individual lots, to promote compatibility with adjacent land uses. Accessory dwellings shall comply with all of the following standards:

Discussion: The text is updated to match the amended definition proposed for FMC 19.13.010.

1. Oregon Structural Specialty Code. The structure complies with the Oregon Structural Specialty Code;
2. Owner-Occupied. The primary residence or accessory dwelling shall be owner-occupied. Alternatively, the owner may appoint a family member as a resident caretaker of the principal house or of the accessory dwelling;

Discussion: No proposed change. The commission discussed the owner occupancy requirement at its two work sessions, and did not request that staff prepare any amendments to the standard.

The DLCDC guidance document on ADUs recommends removing the owner occupancy standard in order to remove barriers to ADU construction. This comment was reiterated in the DLCDC comments submitted for these code amendments. They note that this requirement can create issues for owners looking to sell their property (owner may reside in either the ADU or primary house) or when children inherit a home, and that the requirement may pose compliance challenges.

Under the current code, property owners who rent their home could not build an ADU on the property without moving into the primary residence or accessory dwelling. By removing the owner occupancy standard, property owners who do not currently live on-site may be encouraged to build an ADU for additional investment income. There are no owner occupancy requirements for any other residential uses in the Fairview code. Currently, about half of the cities and counties in the region have owner-occupancy requirements.

3. ~~One Unit~~ **Two Units**. A maximum of ~~one~~ **two** accessory dwelling units is allowed per lot ~~single-family detached dwelling. To maintain the single-family residential character, where two ADUs accompany a primary residence, only one may be detached.~~

Discussion: The DLCDC guidance document on ADUs encourages cities to go beyond the minimum requirement and allow more than one ADU on a property. The Commission considered this concept at their May 22 work session, and refined the policy direction at the June 12 work session to suggest that two should be allowed but only one could be detached.

Allowing two ADUs could provide flexibility, for example, for an aging parent to live in one ADU and a caretaker in another. Limiting the ADUs to only one detached structure is intended to limit the visual impact and physical presence on the property. The second internal or attached ADU could be conversion of an attached garage, lower level/basement conversion, or other portion of the existing building. The detached ADU could be a new backyard cottage, detached garage conversion, or unit built above a garage.

Draft code language considered by the Commission at the June 12 work session stated that "...one ADU must be attached to the primary residence and one must be detached." Metro consultant feedback supported the allowance for two ADUs. They also suggested that instead of *requiring* one of the two to be detached, that the code *limit* ADUs to one detached, but allow both to be attached or interior. Staff agrees with this recommendation, and has reflected it in the proposed amendment above.

4. Floor Area. The total square footage of ~~the~~ an accessory dwelling shall not exceed 800 square feet, **except where the entire floor of a dwelling existing as of [effective date of Ord. 07-2018] is converted to an accessory dwelling there is no maximum square footage for the converted floor.** ~~On a lot less than one acre, an accessory dwelling unit may be constructed above a detached garage. However, the floor area of the accessory dwelling unit cannot exceed 800 square feet and the floor area of the detached garage, excluding the accessory dwelling unit, cannot exceed 1,000 square feet;~~

Discussion: DLCDC guidance recommends creating flexibility in size requirements to remove barriers to ADU production. In particular, homeowners wishing to convert an existing portion of their home to an ADU may be prohibited due to size limits. For example, a homeowner may wish to convert an entire upper floor or basement that is over 800 square feet. The creation of this ADU would not result in an increase in building height, lot coverage, etc. Based on feedback from the commission at the work sessions, allowing flexibility for existing structures while maintaining the 800 SF limit for detached ADUs and additions is desirable.

Metro's consultant provided two suggestions on this code provision. First, it was suggested that the exemption also apply to existing detached accessory structures, such as garage conversions, in addition to existing space within the primary dwelling. Other detached accessory structures are limited to 1,000 square feet, which would be the maximum size of an accessory structure converted to an ADU, should that exception be added. Staff has not added this change to the proposed amendments, and the Commission may wish to consider it at the public hearing. Second, it was suggested that a provision be added that limits the exception to already constructed homes, to avoid people "flipping" large areas of new homes. Staff concurred with his recommendation and integrated new language into the proposed amendment.

5. Building Height. The building height of detached accessory dwellings (i.e., separate cottages) shall not exceed 20 feet, as measured in accordance with FMC 19.30.080;

Alternative Code Amendment:

5. Building Height. The building height of detached accessory dwellings (i.e., separate cottages) shall not exceed 20 feet, as measured in accordance with FMC 19.30.080, **except ADUs located above a detached garage shall comply with the building height standards for Accessory Uses and Structures in FMC 19.30.110.G.6.d.ii-iii.**

Discussion: The Commission did not discuss changes to the building height standard for detached ADUs during the work session. In the Residential zones, *primary* building height is limited to 35 feet or two and one-half stories in height, whichever is less, and height is measured to the mid-point of a pitched roof.

The Commission may consider the additional feedback received on this proposal and recommend or modify the Alternative Code Amendment language outlined above. Both DLCD and the Metro consultant recommended modifying the height limit. DLCD recommended allowing up to 25 ft. in height to accommodate an ADU above a garage, and Metro’s consultant recommended that the standard match the height requirements for other accessory structures (allowing the ADU’s setback more than the minimum requirement to be as tall as the principal structure or 25 ft., whichever is less).

Staff has outlined an Alternative Code Amendment in response to these recommendations. Under the alternative, ADUs above a detached garage would be subject to the following standards in FMC 19.30.110.G.6.d.ii-iii, which apply to other types of accessory structures (such as detached garages) and could provide up to 5 additional feet in height if the building setbacks exceeded those required for the primary dwelling:

d. Accessory structures larger than 200 square feet must meet the following standards:

ii. If located at five feet or more, but less than the setback required for the principal structure, the building may be as tall as the main building or 20 feet in height, whichever is less.

iii. If located at a greater distance from the property line than the setback required for the principal building, the accessory structure may be as tall as the principal structure or 25 feet, whichever is less.

~~6. Buffering. A minimum four-foot hedge or sight-obscuring fence may be required to buffer a detached accessory dwelling from dwellings on adjacent lots, when buffering is necessary for the privacy and enjoyment of yard areas by either the occupants or adjacent residents;~~

Discussion: This standard is removed because it not clear and objective. Buffering or screening requirements for ADU's are also very uncommon in the development code of local jurisdictions. The City of Milwaukie is the only city in the region with a buffering standard, which requires ADUs with a wall within 20' and at 45 degree angle or less to the property line to provide a vegetation or wall screen. The Fairview Development code does not require buffering for single-family detached homes. The need for a fence, wall, or hedge is determined by the property owner.

~~7. Units per Block. The number of accessory dwelling units is not to exceed 50 percent of the lots within any block;~~

Discussion: SB 1051 requires local jurisdictions to allow one ADU per single-family dwelling. The "units per block" standard does not comply with SB 1051 and must be removed.

8. Parking. The development of the accessory dwelling(s) shall provide an additional on-site parking space for each accessory dwelling if the primary dwelling has less than four on-site spaces available before construction of the accessory unit(s). The parking space(s) for the accessory dwelling shall be independently accessible from the parking space(s) for the primary dwelling. Tandem and shared parking are not allowed.

Alternative Code Amendment (staff recommendation):

8. Parking. **One additional parking space shall be provided for each ADU** ~~The development of the accessory dwelling shall provide an additional on-site parking space if the primary dwelling has less than four on-site spaces available before construction of the accessory unit; and~~

Discussion: Single-family detached housing requires one off-street parking space per dwelling. The code states that *"Off-street parking spaces may include spaces in garages, carports, parking lots, and/or driveways so long as vehicles are not parked in a vehicle travel lane (including emergency or fire access lanes), public right-of-way, pathway or landscape area. Credit shall be allowed for "on-street parking," as provided in FMC [19.164.030\(B\)](#)."* And *"The credit for on-street parking allows a reduction of one off-street parking space for every one on-street parking space adjacent to the development if deemed appropriate by the city."*

Fairview's existing requirement of at least 4 on-site spaces is very high compared to other local jurisdictions. About half of the local jurisdictions in the region require one parking space for the primary dwelling and one space for the ADU. Other jurisdictions base parking requirements on considerations such as the presence of on-street spaces, street width, proximity to transit, and ADU size.

Discussion Continued:

At the Planning Commission’s work sessions, the Commission expressed a desire to clarify how on-site spaces are counted (e.g., whether or not driveway spaces behind a garage can count as additional spaces). At the June 12 work session, the Commission raised concerns about on-site parking management, and provision of a sufficient number of spaces to accommodate typical household vehicles.

DLCD guidance recommends removing parking requirements altogether to maximize ADU development, and both DLCD and Metro’s consultant raised significant concerns about the proposed code language that came out of the June 12 Planning Commission work session. Metro’s consultant questioned whether requiring at least 4 spaces for a lot with an ADU met the “reasonable” regulations criterion of SB 1051, given that detached single-family homes only require one space; they recommended a maximum of one additional parking space required for the ADU. They further noted that separate access has the effect of increasing the impacts on the neighborhood with two curb cuts or a wider driveway, which is less consistent with single-family neighborhood character, and recommended a single access and allowance for tandem parking. DLCD also noted the four space requirement was difficult to justify in comparison to the one space required for detached single-family homes. They also recommended a maximum of one additional space per ADU, and applying the same parking location standards that apply citywide.

Staff concurs with these recommendations that parking standards for ADUs should not be more restrictive than for single family homes. Unintended consequences from such a requirement include not being able to provide parking while meeting the 65% maximum impervious area. **Staff recommends the Commission consider the Alternative Code Amendment language above.**

9. Lot Coverage. The accessory dwelling and all other buildings and impermeable surfaces shall not exceed the ~~70-percent~~ lot coverage requirements in FMC **19.30.070**.

Discussion: No substantial changes are proposed to the lot coverage standard. The reference to the 70% lot coverage requirement is removed because single-family developments only allow up to 65% lot coverage. The new language eliminates any specific percentage references and ties the lot coverage allowance to the underlying zone. If lot coverage standards are changed in the future, this section will not need to be updated.

FMC 19.115 VILLAGE SINGLE-FAMILY (VSF)

FMC 19.115.020 Permitted uses

The following uses and their accessory uses are permitted in the VSF zone:

- H. A maximum of one accessory dwelling unit is allowed per lot single-family residence. ~~Accessory dwelling units shall be constructed only over the garage — see FMC 19.30.110(B).~~ Accessory dwellings are subject to the special standards for certain uses in FMC 19.30.110.B.

Discussion: The existing village single-family code restricts ADUs to one per lot and to properties with garages. To reach compliance with SB 1051, this language must be removed to allow one ADU per single-family dwelling.

FMC 19.422 APPLICABILITY

19.422.001 Applicability.

Development review or site design review shall be required for all new developments and modifications of existing developments, except that regular maintenance, repair and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing, and similar maintenance and repair shall be exempt. The criteria for each type of review are as follows in this chapter.

19.422.010 Site design review.

Site design review is a discretionary review conducted by the planning commission with a public hearing. It applies to all developments in the city, except those specifically listed under FMC [19.422.020](#), Development review. Site design review ensures compliance with the basic development standards of the land use district (e.g., building setbacks, lot coverage, maximum building height), as well as other more detailed design standards and public improvement requirements in Articles II and III of this title.

19.422.020 Development review.

Development review is a nondiscretionary or “ministerial” review conducted by the city administrator’s designee without a public hearing. It is for less complex developments and land uses that do not require site design review approval. Development review is based on clear and objective standards and ensures compliance with the basic development standards of the land use district, such as building setbacks, lot coverage, maximum building height, and similar

provisions. Development review is required for all of the types of development listed below, except that all developments in sensitive land areas and historic districts shall also use the development review procedures for those districts:

- A. Single-family detached dwelling (including manufactured homes), when required by a condition of land division approval;
- B. A single duplex, up to two single-family attached (townhome) units, or a single triplex which is not being reviewed as part of any other development, and accessory parking on the same lot;
- C. Building additions of not more than 500 square feet, and minor modifications to development approvals;
- D. Any proposed development which has a valid conditional use permit. Major modifications to a development with a conditional use permit shall require review and approval in accordance with Chapter [19.440](#) FMC, Conditional Use Permits;
- E. Home occupation, subject to review under Chapter [19.490](#) FMC;
- F. Temporary use, except that temporary uses shall comply with the procedures and standards for temporary uses as contained in Chapter [19.490](#) FMC;
- G. Accessory structures with less than 600 square feet of floor area, including accessory dwellings;
- H. Other developments, when required by a condition of approval.

Discussion: This section requires ADUs over 600 square feet to go through a Type II Site Design Review procedure (Type II applies to Site Design Review procedures for residential buildings with three or fewer dwelling units). Type II decisions are made by staff, with public notice and an opportunity for the public to appeal the staff decision to the Planning Commission. Site Design Review applications are also subject to additional submittal requirements and fees.

Detached single family homes are not subject to Site Design Review, regardless of their size.

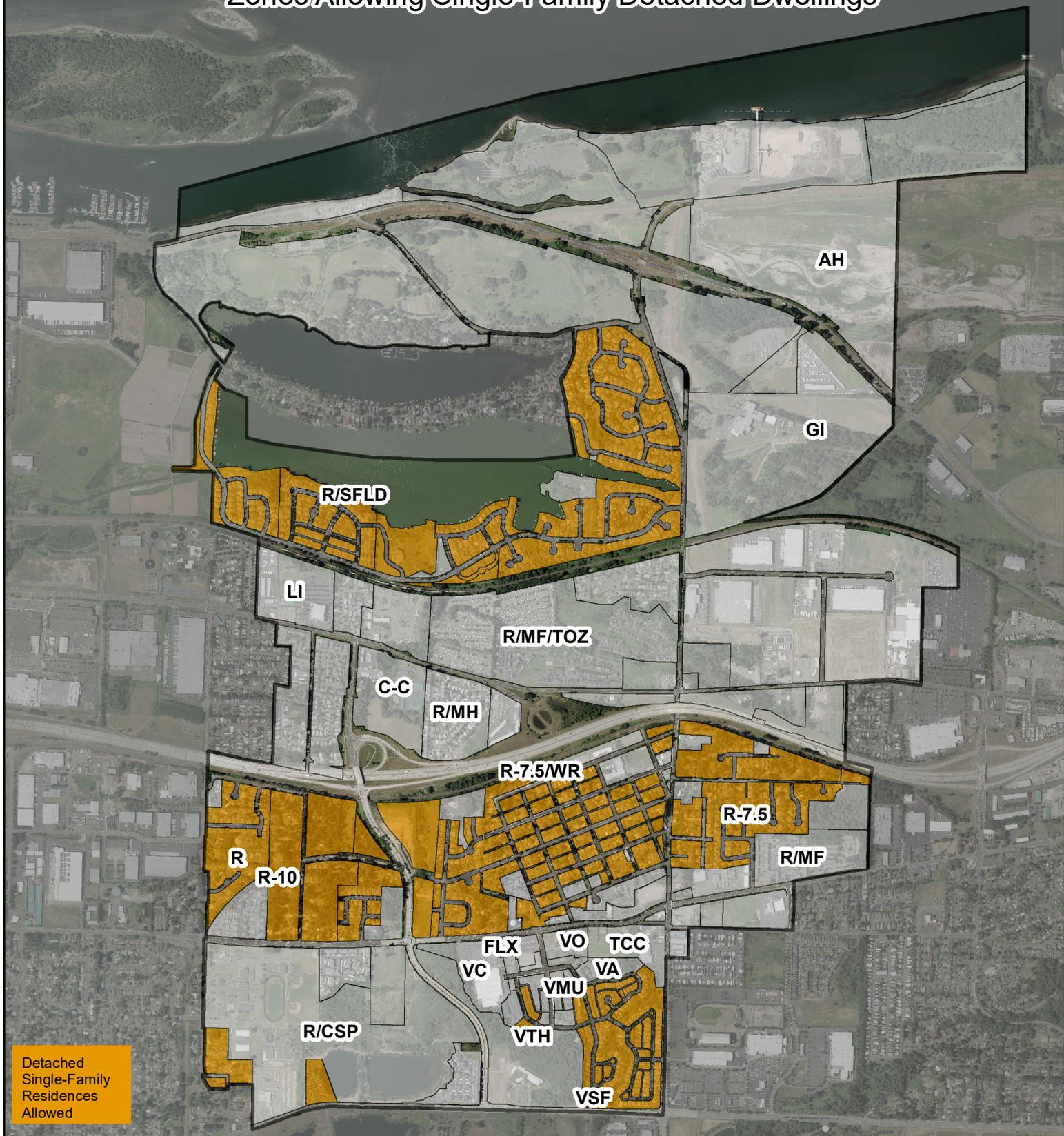
While non-ADU accessory structures over 450 square feet are subject to discretionary design standards, the ADU standards (with proposed amendments) are clear and objective. The building plans would either comply and be approved, or not comply and not be approved. A discretionary review process may give a false impression of the opportunity to require changes to the proposal.

Discussion Continued:

If the code was amended at stricken above, ADUs would be subject to the Type I Development Review Procedure consistent with new single family homes. Planning staff reviews all single-family building plans for compliance with the development standards, and would similarly process all ADU permits.

This issue was not identified and discussed as part of the Commission’s work sessions. Due to the related nature of the code issue, staff is bringing the potential amendment forward for Planning Commission and public consideration at the hearing. This amendment is not a change required for compliance with SB 1051.

Accessory Dwelling Unit Code Update Zones Allowing Single-Family Detached Dwellings



Detached Single-Family Residences Allowed

- | | | | |
|---|---------------------------|---|------------------------------|
| Residential (R) | Village Townhouse (VTH) | Res/MultiFamilyTown... Overlay (R/MF/TOZ) | Town Center Commercial (TCC) |
| Residential (R-7.5) | Agricultural Holding (AH) | Residential Community Service Parks (R/CSP) | Village Apartments (VA) |
| Residential (R-10) | Corridor Commercial (CC) | Residential MultiFamily (R/MF) | Village Commercial (VC) |
| Res/South Fairview Lake Design Overlay (R/SFLD) | General Industrial (GI) | Residential/Manufac... Home (R/MH) | Village Flex (FLX) |
| Village Single Family (VSF) | Light Industrial (LI) | | Village Mixed Use (VMU) |
| | | | Village Office (VO) |



City of Fairview
1300 NE Village Street
Fairview, OR 97024
(503) 665-7929
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1 inch = 1,667 feet



This map is for informational purposes only and the City cannot accept responsibility for any errors, omissions, or positional inaccuracy. This map is provided "AS-IS".

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Oregon

Kate Brown, Governor

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27 June 2018

sent via email



Sarah Selden
Senior Planner | Economic Development Program Coordinator
City of Fairview Public Works Department
seldens@ci.fairview.or.us

RE: Accessory Dwelling Unit (ADU) Code Language

Dear Sarah,

Thanks for the opportunity to review the City's ADU code amendments. The department has a few comments regarding the proposed language, overall, it looks like staff is doing a very good job of analyzing the issues.

There are a number of instances where SB 1051 is mentioned as recommending certain standards. Just to be clear SB 1051 doesn't recommend anything, it requires that ADUs be permitted in specific circumstances. The recommendations for certain standards are found in the SB 1051 *guidance document*.

Specific ADU code issues:

- *Owner occupancy*: The commentary by staff lays out some of the problems with this requirement, including the fact that it doesn't apply to any other housing type. The requirement can also create issues when owners seek to sell their property or when children inherit. Code violations are likely to occur. It is strongly recommended to remove the owner occupancy requirement.
- *Building height*: Consider increasing the max height to 25'. The 20' limit could make it difficult to build an ADU above a garage, especially if it is to have pitched roof.
- *Parking*: The City's parking requirement is extremely high as well as tough to justify. According to Table 19.164.030, the Fairview code requires one off-street space for a single-family dwelling, why would it require *four* total spaces for a single-family dwelling with one, or even two ADUs? The City of Talent proposed to require no additional parking space for one ADU and one additional space for two ADUs. This is a good model to follow. If Fairview does want to require off-street parking for ADUs, it should be no more than one space for each ADU. In addition, all the regular standards for sharing, counting on-street spaces, etc. should apply. We recommend deleting the last sentence (on sharing and tandem) in the parking paragraph. Don't prevent ADUs from taking advantage of provisions that are available to other uses. For example, the code says

“off-street parking spaces may include spaces in garages, carports, parking lots, and/or **driveways** so long as vehicles are not parked in a vehicle travel lane (including emergency or fire access lanes), public right-of-way, pathway or landscape area.”

Parking in driveways is often a form of tandem parking, so if it’s allowed elsewhere in the code, it should be allowed for ADUs. Allow driveway spaces to be counted for off-street parking (this is sometimes called tandem parking). This is a great way to increase land-use efficiency. Salem added this provision when they passed their ADU code (even though they didn’t end up requiring off-street parking for ADUs). Any inconvenience that might result from tandem parking is borne exclusively by the residents of the property, so there is nothing to lose by permitting it. Indeed, it benefits the City because it can prevent the creation of more impervious surface, which is a big benefit for mitigating storm water runoff and urban heat island effect.

Please let me know if you have any questions, I can be reached at 503-725-2183. Please include this letter into the official record.

Respectfully,

Jennifer Donnelly
Regional Representative
Metro Regional Solutions Team