

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 **ORDINANCE # 507**

4 Relating to land use planning; amending LCC 1.1115 Definitions, LCC 1.1310 Residential Zone
5 R-1, LCC 1.1345 Rural Residential Zone RR-2, LCC 1.1355 Rural Residential Zone RR-5, LCC
6 1.1357 Rural Residential Zone RR-10, and creating new provisions LCC 1.1540 Accessory
7 Dwelling Unit Standards; and declaring an emergency.

8 WHEREAS the Oregon Legislature in 2017 and 2018 amended Oregon Laws, ORS
9 197.312, to create a right to develop accessory dwelling units as defined by law within Urban
10 Growth Boundaries in counties with a population over 15,000 persons, subject to certain
11 limitations and reasonable regulations enacted by the County. The purpose of the new law is to
12 encourage additional development of housing units on existing developed property in urban and
13 urbanizable areas; and

14 WHEREAS the effective date for this new right is July of 2018; and

15 WHEREAS the Cities of Lincoln City, Newport and Toledo already have regulations in
16 place governing the development of accessory dwelling units; and

17 WHEREAS the Lincoln County Code (LCC) Urbanization Policies encourages
18 coordination of development of property outside the city limits but within an Urban Growth
19 Boundary; and

20 WHEREAS the Oregon Department of Land Conservation and Development has
21 provided model language to encourage and regulate accessory dwelling units in accordance with
22 the new law; and

23 WHEREAS, the Lincoln County Planning Commission held a hearing on this proposed
24 Ordinance on June 11, 2018, and thereafter recommended approval to the Lincoln County Board
25 of Commissioners, and

26 WHEREAS, the Lincoln County Board of Commissioners advertised and held a public
27 hearing on January 23, 2018, regarding the Ordinance, and to review the Planning Commission's
28 recommendation, receive additional testimony, deliberate and reach a decision.

1 NOW, THEREFORE, THE LINCOLN COUNTY BOARD OF COMMISSIONERS
2 ORDAINS AS FOLLOWS:

3 **SECTION 1: AMENDMENT OF LCC CHAPTER ONE**

4 A. Amend LCC **1.1115 Definitions** to read:

5 ...

6 (2) "**Accessory structure or accessory use**" means a structure or use incidental and
7 subordinate to the main use of a property and located on the same lot as the main use.

8 (a) "**Accessory dwelling unit (ADU)**" means an interior, attached or detached
9 residential structure that is used in connection with or that is accessory to a single-family
10 dwelling. A maximum of one accessory dwelling unit is allowed per legal single-family
11 dwelling.

12 ...

13 B. Amend LCC **1.1310 Residential Zone R-1** to read:

14 In an R-1 zone, the following regulations shall apply:

15 **(1) Uses Permitted Outright:**

16 The following uses and their accessory uses are permitted subject to the
17 applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599 and 1.1901 to 1.1999:

18 (a) A one-family dwelling unit excluding single wide mobile homes;

19 (b) Duplex on a corner lot each unit fronting on a separate street;

20 (c) A recreational vehicle or other approved temporary housing to be used for
21 dwelling purposes during the construction of a single-family residential dwelling unit for
22 which a building permit has been issued. The use shall not exceed a period of one year;

23 (d) Farm and forest use: Livestock and primary processing or forest products are
24 prohibited;

25 (e) Beach front protective structures[.];

1 **(f) An accessory dwelling unit within an established Urban Growth**
2 **Boundary only, subject to the requirements of LCC 1.1540 Accessory Dwelling Unit**
3 **Standards.**

4 C. Amend LCC 1.1345 Rural Residential Zone RR-2 to read:

5 In an RR-2 zone, the following regulations shall apply:

6 **(1) Uses Permitted Outright:**

7 The following uses and their accessory uses are permitted subject to the
8 applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599 and 1.1901 to 1.1999:

9 (a) A one-family dwelling unit excluding single wide mobile homes;

10 (b) Farm and forest use.

11 (c) A recreational vehicle or other approved temporary housing to be used for
12 dwelling purposes during the construction of a single-family residential dwelling unit for
13 which a building permit has been issued. The use shall not exceed a period of one year;

14 (d) Beach front protective structures;;

15 **(e) An accessory dwelling unit within an established Urban Growth**
16 **Boundary only, subject to the requirements of LCC 1.1540 Accessory Dwelling Unit**
17 **Standards.**

18 D. Amend LCC 1.1355 Rural Residential Zone RR-5 to read:

19 In an RR-5 zone, the following regulations shall apply:

20 **(1) Uses Permitted Outright:**

21 The following uses and their accessory uses are permitted subject to the
22 applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599 and 1.1901 to 1.1999:

23 (a) A one-family dwelling unit excluding single wide mobile homes;

24 (b) Farm and forest use.

1 (c) A recreational vehicle or other approved temporary housing to be used for
2 dwelling purposes during the construction of a single-family residential dwelling unit for
3 which a building permit has been issued. The use shall not exceed a period of one year;

4 (d) Beach front protective structures[.];

5 (e) **An accessory dwelling unit within an established Urban Growth**
6 **Boundary only, subject to the requirements of LCC 1.1540 Accessory Dwelling Unit**
7 **Standards.**

8 E. Amend LCC 1.1357 Rural Residential Zone RR-10 to read:

9 In an RR-10 zone, the following regulations shall apply:

10 **(1) Uses Permitted Outright:**

11 The following uses and their accessory uses are permitted subject to the
12 applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599 and 1.1901 to 1.1999:

13 (a) A one-family dwelling unit excluding single wide mobile homes;

14 (b) Farm and forest use.

15 (c) A recreational vehicle or other approved temporary housing to be used for
16 dwelling purposes during the construction of a single-family residential dwelling unit for
17 which a building permit has been issued. The use shall not exceed a period of one year;

18 (d) Beach front protective structures[.];

19 (e) **An accessory dwelling unit within an established Urban Growth**
20 **Boundary only, subject to the requirements of LCC 1.1540 Accessory Dwelling Unit**
21 **Standards.**

22 **SECTION 2: ADDITION TO LCC CHAPTER ONE**

23 The following section is added to and made a part of LCC Chapter One:

24 **1.1540 Accessory Dwelling Unit Standards**

25 **(1) An Accessory Dwelling Unit (ADU) is allowed only within Urban Growth**
26 **Boundaries. All County requirements for water services and sewage disposal (septic or**
27 **sanitary sewer) must be met.**

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1 (2) For an ADU within the Lincoln City Urban Growth Boundary, the standards
2 in the Lincoln City Municipal Code as amended for ADU uses shall apply. If there is a
3 conflict between the City standards and County standards, City standards shall be used.

4 (3) For an ADU within the City of Newport Urban Growth Boundary, the
5 standards in the Newport Municipal Code as amended for ADU uses shall apply. If there is
6 a conflict between the City standards and County standards, City standards shall be used.

7 (4) For an ADU within the Toledo Urban Growth Boundary, the standards in
8 the Toledo Municipal Code as amended for ADU uses shall apply. If there is a conflict
9 between the City standards and County standards, City standards shall be used.

10 (5) For all other Urban Growth Boundary areas if a city later adopts ADU
11 standards, those standards shall apply. For Urban Growth Boundaries with no city
12 standards, the following standards apply:

13 (a) A detached ADU shall not exceed 800 square feet of floor area, or 75% of the
14 primary dwelling's floor area, whichever is smaller.

15 (b) An attached or interior ADU shall not exceed 800 square feet of floor area, or
16 75% of the primary dwelling's floor area, whichever is smaller. However, ADUs that result
17 from conversion of a level or floor (e.g. basement, attic, or second story of the primary
18 dwelling) may occupy the entire level or floor, even if the floor area of the ADU would be
19 more than 800 square feet.

20 (c) ADUs shall meet all other development standards (e.g. height, setbacks, lot
21 coverage, etc.) for the buildings in the zone, except that:

22 (A) Conversion of an existing legal non-conforming structure to an ADU is
23 allowed, provided that the conversion does not increase the non-conformity; and

24 (B) No additional off-street parking is required for an ADU.

25 **SECTION 3: SEVERANCE CLAUSE**

26 If any section, subsection, provision, clause or paragraph of this Ordinance shall be
27 adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid,
28 such judgment shall not affect the validity of the remaining portions of this Ordinance, and it
29 shall be expressly declared that every other section, subsection, provision, clause or paragraph of
30 this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared
31 to be unconstitutional or invalid, is valid.

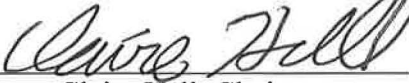
32 **SECTION 3: EMERGENCY CLAUSE**

33 This Ordinance being necessary for the immediate preservation of the public health and
34 safety, an emergency is declared to exist and this Ordinance shall take effect upon its passage.

35 ///

1 DATED this 30th day of January, 2019

2 LINCOLN COUNTY BOARD OF COMMISSIONERS

3 

4 Claire Hall, Chair

5 

6 Kaety Jacobson, Commissioner

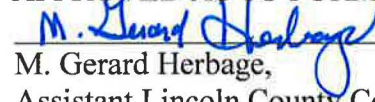
7 Excused

8 Doug Hunt, Commissioner

9 ATTESTED TO: 

10 Kristi Whitaker, Recorder

11 APPROVED AS TO FORM:

12 

13 M. Gerard Herbage,
14 Assistant Lincoln County Counsel