

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending the Columbia County)
Zoning Ordinance to Authorize and Adopt) ORDINANCE NO. 2023-1
Standards for Accessory Dwelling Units in Rural)
Residential Zones)

The Board of County Commissioners for Columbia County, Oregon ordains as follows:

SECTION 1. TITLE.

This Ordinance shall be known as Ordinance No. 2023-1.

SECTION 2. AUTHORITY.

This Ordinance is adopted pursuant to the powers of Columbia County under ORS 203.035, 197.175, 215.050 and 215.495.

SECTION 3. PURPOSE.

The purpose of this Ordinance is to amend the Columbia County Zoning Ordinance (“CCZO”) to authorize Accessory Dwelling Units (“ADUs”) in Rural Residential zones, as well as to adopt standards for the siting for such ADUs, in response to the adoption of Senate Bill 391 (2021) (“SB 391”), codified at ORS 215.495.

SECTION 4. HISTORY.

During the 2021 Regular Legislative Session, the Oregon Legislature passed SB 391, which authorizes counties to allow for the siting and construction of an ADU in Rural Residential zones, subject to certain conditions and in compliance with local land use regulations. Prior to the adoption SB 391, the CCZO permitted the establishment of one ADU but only in Suburban Residential zones, meaning only within the Urban Growth Boundary (“UGB”) of a city.

In response to the changes in state law brought about by the passage of SB 391, County staff initiated TA 23-02 to amend the CCZO to allow for ADUs in Rural Residential zones, adopt siting standards for such ADUs, and undertake certain housekeeping measures to certain CCZO sections to update and make the CCZO easier to follow in light of these changes.

On October 3, 2022, the Planning Commission held a public hearing to consider the amendments to the CCZO proposed by TA 23-02. Staff presented the Staff Report dated September 23, 2022 and heard testimony from interested parties. After clarification from staff

that the proposed amendments would not allow ADUs to be sited inconsistent with ORS 215.495's minimum siting requirements without a Variance process, the Planning Commission unanimously adopted a motion to recommend APPROVAL of the amendments to the CCZO proposed by TA 23-02, as presented by staff.

On April 12, 2023, the Board of Commissioners held a duly noticed public hearing to consider the recommendation of the Planning Commission. The Board of Commissioners received evidence and testimony from interested parties at the hearing, deliberated and voted to tentatively approve the proposed amendments to the CCZO as presented by staff, with direction to prepare an appropriate ordinance.

SECTION 5. FINDINGS AND CONCLUSIONS.

In support of its decision, the Board of Commissioners adopts the following findings and conclusions:

- A. The above recitals.
- B. The findings of fact and conclusions of law in the Staff Report to the Board of County Commissioners dated April 5, 2023, which is attached hereto as Exhibit A and incorporated herein by this reference.

SECTION 6. AMENDMENT AND AUTHORIZATION.

The Columbia County Zoning Ordinance is hereby amended as shown in of Exhibit B, attached hereto and incorporated herein by this reference.

SECTION 7. SEVERABILITY.

The provisions of this Ordinance are severable. If for any reason a court of competent jurisdiction holds any portion of this Ordinance to be invalid, and such holding is upheld on any appeal, such portion shall be deemed a separate, distinct and independent portion. Any such holding shall not affect the validity of the remaining portions.

SECTION 8. SCRIVENER'S ERRORS.

A scrivener's error in any portion of this Ordinance, or any of its exhibits, may be corrected by order of the Board of County Commissioners.

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SECTION 9. EFFECTIVE DATE.

In accordance with ORS 203.045, this Ordinance shall take effect on the 90th day after the date of its adoption.

DATED this 17th day of May, 2023.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: [Signature]
Casey Garrett, Chair

By: [Signature]
Kellie Jo Smith, Commissioner

By: Not Present
Margaret Magruder, Commissioner

Approved as to form

By: [Signature]
Office of County Counsel

Attest

By: [Signature]
Recording Secretary

First Reading: May 3, 2023
Second Reading: May 7, 2023
Effective Date: August 15, 2023

**COLUMBIA COUNTY BOARD OF COMMISSIONERS
STAFF REPORT**

April 5, 2023

Text Amendment – Legislative Process – Rural Accessory Dwelling Units

HEARING DATE: April 12, 2023

FILE NUMBER: TA 23-02

APPLICANT/OWNER: Columbia County
Land Development Services
230 Strand Street
St. Helens, OR 97051

REQUEST: To amend the Columbia County Zoning Ordinance in response to the adoption of Senate Bill 391 and ORS 215.495 to develop standards to allow for Accessory Dwelling Units within Rural Residential zones.

APPLICABLE CRITERIA:

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BACKGROUND:

In the 2021 Regular Legislative Session, the Oregon Legislature passed Senate Bill 391 which was codified in ORS 215.495. This Senate Bill allows counties to authorize the siting and construction of an Accessory Dwelling Unit (ADU) in Rural Residential zones subject to certain conditions and compliance with local land use regulations.

Currently, the Columbia County Zoning Ordinance allows the establishment of one ADU within Suburban Residential zones within identified city Urban Growth Boundaries. This was authorized via Ordinance 2019-1 which was adopted on May 15, 2019. The adoption of TA 23-02 would expand the siting of ADUs into Rural Residential areas as well. Section 224 describes the current siting standards for ADUs within Urban Growth Boundaries, however the proposal for TA 23-02 would separate the siting standards of proposed ADUs inside of urban growth boundaries and proposed ADUs outside of urban growth boundaries. In addition to adopting siting standards for ADUs in rural residential zones, TA 23-02 proposes to reorganize CCZO 224 to make it easier to follow.

The proposal establishes CCZO 224.2 – Accessory Dwelling Units outside of Urban Growth Boundaries. This new section has five subsections that apply to the siting of an ADU on Rural Residential zoned property. The five subsections include a two acre minimum lot size, a maximum of 900 square feet of useable floor area, the ADU cannot be located farther than 100 feet from the primary dwelling, the lot is served by a fire protection district, and the ADU may not be used for vacation occupancy.

The proposal also includes a third subsection to CCZO Section 224 titled General Development Standards. This General Development Standards apply to ADUs both inside and outside of UGBs and includes requirements such as; complying with siting criteria as required in the underlying zone, support by an approved domestic water source, proper sewage disposal, access and off-street parking, and prohibiting the establishment of an ADU to be used as justification of a land division.

Currently, Columbia County has processed applications for ADUs within Rural Residential zones. However, rather than making findings directly to the county's local zoning ordinance, findings were made directly to the applicable criteria in ORS 215.495. The proposal for TA 23-02 would adopt the standards found in ORS 215.495 into the county's local zoning ordinance.

On October 3, 2022, the Planning Commission held a public hearing to consider the proposal set forth for TA 23-02. Staff presented the Staff Report dated September 23, 2022 and heard testimony from interested parties. After clarification from staff that the proposed amendments would not allow any ADUs to be sited inconsistent with ORS 215.495's minimum siting requirements without a Variance process, the Planning Commission unanimously adopted a motion to recommend APPROVAL to the Board of County Commissioners for the adoption of TA 23-02's proposed amendments as presented by staff.

The remainder of this staff report will discuss to what extent the proposal conforms to the applicable sections of the Columbia County Zoning Ordinance, goals and policies of the Comprehensive Plan, and any relevant Oregon Revised Statute.

FINDINGS:

This request is being processed under Section 1606 (Legislative hearing) and Section 1611 (Notice of Legislative Hearing) of the CCZO. The pertinent sections of the ordinance are reviewed as follows:

1606 Legislative Hearing:

Requests to amend the text of the Zoning Ordinance or to change a large area of the Zoning Map of Columbia County in order to bring it into compliance with the Comprehensive Plan are legislative hearings. Legislative hearings shall be conducted in accordance with the following procedures.

- .1 A legislative amendment to the Zoning Ordinance Text or Map may be initiated at the request of the Board of Commissioners, a majority of the Commission, or the Director, or any citizen of the County may petition the Commission for such a change.

Finding 1: Columbia County Land Development Services initiated the text amendments proposed for TA 23-02 in response to Senate Bill 391 and codified in ORS 215.495. These text amendments are necessary to adopt the applicable standards into the county's local implementing ordinance and to be consistent with ORS 215.495, related to accessory dwelling units in rural residential areas. With this information, the criteria required in Section 1606.1 has been met.

Continuing with the Columbia County Zoning Ordinance:

- .2 Notice of a Legislative Hearing shall be published at least twice, one week apart in newspapers of general circulation in Columbia County. The last of these notices shall be published no less than 10 calendar days prior to the Legislative Hearing. The mailing of notice to individual property owners is not required but shall be done if ordered by the Board of Commissioners.

Finding 2: A hearing notice was published in the Columbia County Spotlight Newspaper on September 16, 2022 and on September 23, 2022. Additionally, another hearing notice was published in the Chronicle Newspaper on September 14, 2022 and on September 21, 2022. Both of these notices in each newspaper were published more than 10 days prior to the Planning Commission hearing date of October 3, 2022. Notice of the Board of Commissioners hearing on April 12, 2023 was published in the Chronicle Newspaper on March 22, 2023 and March 29, 2023. Both of these notices were published more than 10 days prior to the Board of Commissioners hearing scheduled for April 12, 2023. The Board of Commissioners did not direct staff to notice individual property owners.

Pursuant to ORS 215.503, Measure 56 Notice of the proposed zoning code text amendment is not required. This will be discussed in detail in later findings. Staff finds appropriate public notice meeting the required timelines for legislative hearings has been given; therefore, this criterion is satisfied.

Continuing with the Columbia County Zoning Ordinance:

1607 Consistency with the Comprehensive Plan: All amendments to the Zoning Ordinance Text and Map shall be consistent with the Comprehensive Plan Text and Maps.

- .1 The Commission shall hold a hearing to consider the proposed amendments and shall make a recommendation to the Board of Commissioners with regard to the proposed amendments. The Board of Commissioners shall hold at least one hearing to consider the proposed amendments. Both the Commission and the Board of Commissioners hearings will require notice in the manner outlined in Section 1611.

Finding 3: The Planning Commission held a public hearing on October 3, 2022 to consider the adoption of the proposed amendments to the Zoning Ordinance. The Planning Commission does not make the final decision on this matter, but rather makes a recommendation to the Board of Commissioners for the final decision. The Planning Commission unanimously voted to recommend that the Board of Commissioners approve TA 23-02 as presented by staff. Staff finds there will be at least two public hearings on this matter, one before the Planning Commission and at least one before the Board of Commissioners. The Board of Commissioners is required to hold at least one public hearing which is scheduled for April 12, 2023 therefore, this criterion is satisfied.

Continuing with the Columbia County Zoning Ordinance:

1611 Notice of Legislative Hearing:

The notice of a legislative hearing shall contain the following items:

- .1 Date, time and place of the hearing;
- .2 A description of the area to be rezoned or the changes to the text;
- .3 Copies of the statement for the proposed changes are available in the Planning Department. These proposed changes may be amended at the public hearing;
- .4 Interested parties may appear and be heard;
- .5 Hearings will be held in accordance with the provisions of the Zoning Ordinance.

Finding 4: All of the above information was included in the Planning Commission Notice of Public Hearing published twice in the Columbia County Spotlight and the Chronicle newspapers. Reference the attached notices. This information was also included in the Chronicle March 22, 2023 and March 29, 2023 Notice of Public Hearing for the Board of Commissioners public hearing scheduled for April 12, 2023. Staff finds that the public hearing notices given for the October 3, 2022 Planning Commission public hearing and for the scheduled April 12, 2023 Board of Commissioners public hearing includes all of the

required language for legislative hearings under CCZO Section 1611; therefore, these criteria have been satisfied.

The following Oregon Revised Statutes are applicable to this post-acknowledgement zoning ordinance amendment:

ORS 197.610 Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development; rules.

- (1) Before a local government adopts a change, including additions and deletions, to an acknowledged comprehensive plan or a land use regulation, the local government shall submit the proposed change to the Director of the Department of Land Conservation and Development. The Land Conservation and Development Commission shall specify, by rule, the deadline for submitting proposed changes, but in all cases the proposed change must be submitted at least 20 days before the local government holds the first evidentiary hearing on adoption of the proposed change. The commission may not require a local government to submit the proposed change more than 35 days before the first evidentiary hearing.
- (2) If a local government determines that emergency circumstances beyond the control of the local government require expedited review, the local government shall submit the proposed changes as soon as practicable, but may submit the proposed changes after the applicable deadline.
- (3) Submission of the proposed change must include all of the following materials:
 - (a) The text of the proposed change to the comprehensive plan or land use regulation implementing the plan;
 - (b) If a comprehensive plan map or zoning map is created or altered by the proposed change, a copy of the map that is created or altered;
 - (c) A brief narrative summary of the proposed change and any supplemental information that the local government believes may be useful to inform the director or members of the public of the effect of the proposed change;
 - (d) The date set for the first evidentiary hearing;
 - (e) The form of notice or a draft of the notice to be provided under ORS 197.763, if applicable; and
 - (f) Any staff report on the proposed change or information describing when the staff report will be available, and how a copy of the staff report can be obtained.
- (4) The director shall cause notice of the proposed change to the acknowledged comprehensive plan or the land use regulation to be provided to:
 - (a) Persons that have requested notice of changes to the acknowledged comprehensive plan of the particular local government, using electronic mail, electronic bulletin board, electronic mailing list server or similar electronic method; and
 - (b) Persons that are generally interested in changes to acknowledged comprehensive plans, by posting notices periodically on a public website using the Internet or a similar electronic method.

Finding 5: Notice of the proposed post-acknowledgement zoning ordinance amendment was uploaded to the DLCDC PAPA Online Submittal portal on August 29, 2022 and the first public hearing date is scheduled for October 3, 2022. Reference DLCDC file number 004-22. The online submittal includes all of the required information describing the type of change, the text of the change, the date of the first public

hearing and how a copy of the staff report can be obtained. This staff report will be uploaded to the online portal once complete, as well as added to the Columbia County LDS Planning webpage. Staff finds that it has exceeded the minimum notice requirements to State agencies by providing notice more than 20 days prior to the first public hearing. These criteria have been met.

Continuing with the applicable sections of ORS 215.495 related to Accessory Dwelling Units in Rural Residential zones

215.495 Accessory dwelling units in rural residential zones.

- (2) Consistent with a county's comprehensive plan, a county may allow an owner of a lot or parcel within an area zoned for rural residential use to construct one accessory dwelling unit on the lot or parcel, provided:
- (a) The lot or parcel is not located within an area designated as an urban reserve as defined in ORS 195.137;
 - (b) The lot or parcel is at least two acres in size;
 - (c) One single-family dwelling is sited on the lot or parcel;
 - (d) The existing single-family dwelling property on the lot or parcel is not subject to an order declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600;
 - (e) The accessory dwelling unit will comply with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment;
 - (f) The accessory dwelling unit will not include more than 900 square feet of useable floor area;
 - (g) The accessory dwelling unit will be located no farther than 100 feet from the existing single-family dwelling;
 - (h) If the water supply source for the accessory dwelling unit or associated lands or gardens will be a well using water under ORS 537.545 (1)(b) or (d), no portion of the lot or parcel is within an area in which new or existing ground water uses under ORS 537.545 (1)(b) or (d) have been restricted by the Water Resources Commission;
 - (i) No portion of the lot or parcel is within a designated area of critical state concern;
 - (j) The lot or parcel is served by a fire protection service provider with professionals who have received training or certification described in ORS 181A.410;
 - (k) The lot or parcel and accessory dwelling unit comply with rules of the State Board of Forestry under ORS 477.015, 477.025 and 477.027;
 - (L) Statewide wildfire risk maps have been approved and the accessory dwelling unit complies with the Oregon residential specialty code relating to wildfire hazard mitigation for the mapped area; and
 - (m) The county has adopted land use regulations that ensure that:
 - (A) The accessory dwelling unit has adequate setbacks from adjacent lands zoned for resource use;
 - (B) The accessory dwelling unit has adequate access for firefighting equipment, safe evacuation and staged evacuation areas; and

- (C) If the accessory dwelling unit is not subject to ORS 477.015, 477.025 and 477.027, the accessory dwelling unit has defensible space and fuel break standards as developed in consultation with local fire protection service providers.

Finding 6: The proposed ADU ordinance was drafted by Columbia County Planning Staff in order to meet the requirements as passed by Senate Bill 391, codified in ORS 215.495. Specifically, the proposed ordinance permits the construction of one ADU on a lot or parcel within an area zoned for rural residential use, provided that the lot or parcel meets certain requirements, including minimum size, service by a fire protection district, and compliance with applicable sanitation and wastewater disposal regulations.

Moreover, the proposed ordinance ensures that the ADU will be located no farther than 100 feet from the existing single-family dwelling. The ordinance also considers public safety by requiring that the lot or parcel be served by a fire protection service provider with professionals who have received training or certification described in ORS 181A.410, and that the ADU comply with rules of the State Board of Forestry under ORS 477.015, 477.025, and 477.027.

Furthermore, the ordinance requires compliance with the Oregon residential specialty code relating to wildfire hazard mitigation for the mapped area, as well as the adoption of land use regulations that ensure adequate setbacks from adjacent lands zoned for resource use, adequate access for firefighting equipment and safe evacuation. Staff find that the proposed new ADU ordinance is consistent with the county's comprehensive plan and satisfies the criteria set forth in ORS 215.495(2).

- (3) A county may not allow an accessory dwelling unit allowed under this section to be used for vacation occupancy, as defined in ORS 90.100.
- (4) A county that allows construction of an accessory dwelling unit under this section may not approve:
 - (a) A subdivision, partition or other division of the lot or parcel so that the existing single-family dwelling is situated on a different lot or parcel than the accessory dwelling unit.
 - (b) Construction of an additional accessory dwelling unit on the same lot or parcel.
- (5) A county may require that an accessory dwelling unit constructed under this section be served by the same water supply source or water supply system as the existing single-family dwelling, provided such use is allowed for the accessory dwelling unit by an existing water right or a use under ORS 537.545. If the accessory dwelling unit is served by a well, the construction of the accessory dwelling unit shall maintain all setbacks from the well required by the Water Resources Commission or Water Resources Department.
- (6) An existing single-family dwelling and an accessory dwelling unit allowed under this section are considered a single unit for the purposes of calculating exemptions under ORS 537.545 (1).
- (7) Nothing in this section requires a county to allow any accessory dwelling units in areas zoned for rural residential use or prohibits a county from imposing any additional restrictions on accessory dwelling units in areas zoned for rural residential use, including restrictions on the construction of garages and outbuildings that support an accessory dwelling unit. [2021 c.396 §2]

Finding 7: The proposed new ADU ordinance meets the criteria outlined in subsections ORS 215.495(3), (4), (5), (6), and (7) for allowing an owner of a lot or parcel within an area zoned for rural residential use to construct one accessory dwelling unit on the lot or parcel. The ordinance prohibits the use of ADUs for

vacation occupancy (see attached recording covenant required for ADU authorization) and does not allow for subdivision or construction of additional ADUs on the same lot or parcel. It also requires that ADUs be served by an approved water supply source as required by the Water Resources Commission. Overall, the proposed new ADU ordinance is consistent with ORS 215.495 and promotes safe and sustainable development in rural residential areas.

NOTICE TO PROPERTY OWNERS (Required by Measure 56)

ORS 215.503 Legislative act by ordinance; mailed notice to individual property owners required by county for land use actions.

- (1) As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.
- (2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by the governing body of a county shall be by ordinance.
- (3) Except as provided in subsection (6) of this section and in addition to the notice required by ORS 215.060, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof or to adopt a new comprehensive plan, the governing body of a county shall cause a written individual notice of land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.
- (4) In addition to the notice required by ORS 215.223 (1), at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, the governing body of a county shall cause a written individual notice of land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.
- (5) An additional individual notice of land use change required by subsection (3) or (4) of this section shall be approved by the governing body of the county and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

This is to notify you that (governing body of the county) has proposed a land use regulation that may affect the permissible uses of your property and other properties.

(b) Contain substantially the following language in the body of the notice:

On (date of public hearing), (governing body) will hold a public hearing regarding the adoption of Ordinance Number _____. The (governing body) has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number _____ is available for inspection at the _____ County Courthouse located at _____. A copy of Ordinance Number _____ also is available for purchase at a cost of _____.

For additional information concerning Ordinance Number _____, you may call the (governing body) Planning Department at _____.

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- (6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by the governing body of a county pursuant to a requirement of periodic review of the comprehensive plan under ORS 197.628, 197.633 and 197.636, the governing body of the county shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment may affect the use of the property. The notice also shall:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

This is to notify you that (governing body of the county) has proposed a land use that may affect the permissible uses of your property and other properties.

(b) Contain substantially the following language in the body of the notice:

As a result of an order of the Land Conservation and Development Commission, (governing body) has proposed Ordinance Number _____. (Governing Body) has determined that the adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number _____ will become effective on (date).

Ordinance Number _____ is available for inspection at the _____ County Courthouse located at _____. A copy of Ordinance Number _____ also is available for purchase at a cost of _____.

For additional information concerning Ordinance Number _____, you may call the (governing body) Planning Department at _____.

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- (7) Notice provided under this section may be included with the tax statement required under ORS 311.250.
- (8) Notwithstanding subsection (7) of this section, the governing body of a county may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under subsections (3) and (4) of this section.
- (9) For purposes of this section, property is rezoned when the governing body of the county:
- (a) Changes the base zoning classification of the property; or
 - (b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.
- (10) The provisions of this section do not apply to legislative acts of the governing body of the county resulting from action of the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under ORS 197.047, or resulting from an order of a court of competent jurisdiction.
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- (11) The governing body of the county is not required to provide more than one notice under this section to a person who owns more than one lot or parcel affected by a change to the local comprehensive plan or land use regulation.
- (12) The Department of Land Conservation and Development shall reimburse the governing body of a county for all usual and reasonable costs incurred to provide notice required under subsection (6) of this section.

Finding 8: Finding 2 of this staff report stated that a Measure 56 notice was not required for the subject Zoning Ordinance Text Amendment. As stated in ORS 215.503(9), property is rezoned when the governing body of the county changes the base zoning classification of the property or adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone. This amendment was also initiated by the legislative act of Senate Bill 391 which exempts a local government from Measure 56 notice requirements as stated in ORS 215.503(10). As stated in the Background, the proposal for TA 23-02 is to adopt the requirements currently set forth in ORS 215.495. The proposed text amendment will not amend an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zones because the applicable statute already requires these specific siting standards. With this information, staff finds that a Measure 56 notice is not required.

Review of the following Columbia County Comprehensive Plan Goal & Policies:

The Columbia County Comprehensive Plan has twenty-one parts, each with a set of general Goals and implementing Policies. These Goals and Policies are implemented by Ordinance and most specifically the CCZO. The most applicable portions of the Comprehensive Plan are Part I – Administrative Procedures for Zoning Text Amendments, Part VI – Housing, and Part VII – Rural Residential are reviewed below.

Columbia County Comprehensive Plan

Part 1 Administrative Procedures

Goals:

1. To assure the goals and policies of this plan are implemented.
2. To provide review and revision procedures which include provisions for participation by citizens and affected interest groups.
3. To provide and understandable framework for reviewing and revising this plan.

Policies:

5. Provide a framework by which the Comprehensive Plan may be reviewed, revised and amended. Amendments to the Comprehensive Plan and its implementing ordinance(s) shall be in accordance with the following procedures and guidelines:
 - A. Amendments may be initiated by the Board of Commissioners, the Planning Commission, the Planning Director or the owner(s) of the affected property.
 - B. A Citizen Planning Advisory Committee may, upon a majority vote of its members, formally request either the Board of Commissioners or the Planning Commission initiate an amendment.
 - C. Revisions or amendments will follow the same process as initial adoption - CPAC review, Planning Commission public hearing and recommendation, and Board hearing and adoption of revisions or amendments.
 - D. For quasi-judicial amendments, all property owners within two hundred and fifty (250) feet of the affected area shall be notified of the hearing date and the requested amendment at least ten (10) days prior to the first scheduled public hearing.
 - E. For legislative amendments, notice of the public hearing and a copy of the proposed amendment, will be mailed to all Citizen Planning Advisory Committees and interested parties at least ten (10) days prior to the first scheduled public hearing.

Finding 9: The proposed zoning ordinance text amendment was initiated by the passage of Senate Bill 391 and codification in ORS 215.495. Land Development Services initiated this text amendment as part of a larger package which includes a text amendment to address psilocybin uses. This project was not initiated by a CPAC and is not a quasi-judicial decision. Adoption of the proposed text amendments will follow the process for a legislative amendment with notice and opportunity to comment given to CPAC's, followed by a Planning Commission public hearing and recommendation and then a Board of Commissioners public hearing and adoption of amendment. Notice to CPAC's was more than 10 days before the first scheduled public hearing with the Planning Commission on October 3, 2022. Reference Findings 2-6 for specific details of the notice of the Planning Commission hearing as well as notice of the Board of Commissioners hearing scheduled for April 12, 2023. Staff finds the process used for this legislative text amendment to the CCZO is consistent with Part 1 of the Comprehensive Plan. These criteria are satisfied.

Continuing with the Columbia County Comprehensive Plan:Part VI – HousingHOUSING: GOALS AND POLICIES

GOAL: To provide for the housing needs of the citizens of the County by allowing adequate flexibility in housing location, type, and density.

POLICIES: It shall be a policy of the County to:

1. Encourage an adequate housing supply by providing adequate opportunity for the development of new housing units and supporting the rehabilitation of the existing housing units when feasible.
2. Develop land use designations that provide for a wide range of housing units.
3. Provide adequate land inside the urban growth boundaries to meet housing needs and to provide for a wide range of urban housing choices.
4. Encourage development which will provide a range of choices in housing type, densities, price, and rent ranges throughout the County.

Finding 10: The proposal for TA 23-02 involves locally authorizing accessory dwelling units in rural residential zones. This will provide more diverse housing options for the citizens of Columbia County and will open more opportunities for second dwellings in rural residential zones outside of temporary dwellings. The proposal for TA 23-02 is to adopt the language in ORS 215.495 which developed these land use regulations which will provide for a wider range of housing units. Staff finds that the proposal for this legislative text amendment to the CCZO is consistent with the applicable goals and implementing policies of Part VI of the Comprehensive Plan.

Continuing with the Columbia County Comprehensive Plan:

Part VII Rural Residential

GOAL: It is the goal of the County to provide for the continuation and needed expansion of Rural Residential uses on those resource lands where a valid exception can be, or has been shown to be, justified.

5. Encourage the in-filling of existing built and committed lands for new residential development.
6. Encourage rural growth in exception areas where facilities and services such as adequate transportation networks, school facilities, fire districts, water and police services, etc. already exist so as to minimize costs of providing such services to these areas.
7. Require a buffer between Rural Residential development and adjacent resource lands.

Finding 11: The proposal for TA 23-02 does not result in additional land zoned for farm or forest uses to be rezoned to rural residential. With this, no exception is required. However, the proposal for TA 23-02 will further encourage the in-filling of existing built and committed lands for new residential development because it will allow a secondary dwelling to be located on the same lot or parcel as a previously established primary dwelling. The properties that are eligible have already been approved through the exception process and have been shown to be supported by adequate transportation networks, school

facilities, and domestic water sources. One of the requirements in the proposed CCZO Section 224.2(D) is that the lot or parcel is serviced by a fire protection district and has adequate access for firefighting equipment. Also, by requiring the proposed ADU to comply with all siting criteria as required in the underlying zone, it will ensure that all residential structures in the RR-5 and RR-2 zoning districts are setback at least 50' from adjacent resource zoned properties, as required in CCZO 604.6 and CCZO 625.6. With this information, staff finds that the proposal for TA 23-02 is consistent with the goal and applicable implementing policies of Part VII of the Comprehensive Plan.

COMMENTS:

There were no comments received from any federal, state, or local agency. There were also no comments received from private property owners.

CONCLUSION & DISCUSSION:

A work session with the Planning Commission for the proposed text amendment was conducted on September 12, 2022. This work session included general discussions about the proposal and clarification regarding the specific language of the text amendments. A Measure 56 notice is not required for the proposal. Notice of the public hearing was published in two local newspapers and mailed notice was given to Federal, State and Local agencies. All notices given have been shown to meet the timelines required by State and Local law.

Notice of the Planning Commission public hearing was available on the County website, published in local newspapers and mailed notice was given to Federal, State, and Local agencies. The Planning Commission held a public hearing on October 3, 2022. After hearing the staff presentation and public testimony and deliberating on the matter, the Planning Commission unanimously approved a motion to recommend approval of the item to the Board of Commissioners, as presented by Staff.

STAFF RECOMMENDATION:

Based upon the findings in this staff report, staff forwards to the Board of Commissioners the recommendation of the Columbia County Planning Commission to **APPROVE** the proposed legislative text amendments to the CCZO, contained in File Number TA 23-02, which will adopt the siting standards to allow Accessory Dwelling Units in Rural Residential Zones as well as minor organizational changes to CCZO Section 224 – Accessory Dwelling Units.

Attachments:

1. Planning Commission Final Order, Staff Report, and Original Attachments
2. Prohibition of Vacation Occupancy Recording Covenant
3. Board of Commissioner's Hearing Notice

Attachment 1. Proposed Zoning
Ordinance Text for TA 23-02

- 224 Accessory Dwelling Units: One accessory dwelling unit is allowed in conjunction with a detached single-family dwelling on a lot zoned for single-family development within an Urban Growth Boundary (UGB) or on a lot or parcel zoned for Rural Residential development outside of an Urban Growth Boundary subject to the following criteria:

~~.1 One accessory dwelling unit is allowed in conjunction with a detached single family dwelling on a lot zoned for single family development within an Urban Growth Boundary (UGB) of a city. UGB areas have the following residential zoning districts: Single Family Residential (R-10), Single Family & Two Family Residential (R-7), and Rural Residential (RR-5 and RR-2).~~

~~.2 An ADU shall contain a kitchen, bathroom and a living/sleeping area that is completely independent of the primary dwelling. Recreational vehicles are not allowed as an accessory dwelling unit. Creation of a new Accessory Dwelling Unit may be accomplished through any of the following methods:~~

- ~~A. Attached to the primary dwelling by converting a single family dwelling's existing living area, attic, basement or garage;~~
- ~~B. Attached to the primary dwelling by adding floor area to the existing single family dwelling;~~
- ~~C. Constructing a detached accessory dwelling unit on the developed site including siting of a manufactured dwelling;~~
- ~~D. Converting an accessory building, or portion thereof, to an accessory dwelling unit; or,~~
- ~~E. Constructing a new dwelling with an internal accessory dwelling unit and,~~
- ~~F. Constructing a new dwelling and converting the existing dwelling to a detached ADU, provided both dwellings meet the minimum zoning requirements.~~

.1 Accessory Dwelling Units inside of Urban Growth Boundaries

- A.** The proposed Accessory Dwelling Unit shall comply with the Gross Habitable Floor Area and Owner Occupancy requirements as imposed by the City for the unincorporated portion of the City's Urban Growth Boundary Area.
- B.** Location of Entrances: For an attached ADU only one entrance to the residence may be located on the front of the dwelling facing the street, unless the primary dwelling contained additional door entrances before its conversion to an ADU. An exception is entrances that do not have access from the ground such as entrances from balconies or decks.
- C.** Exterior Design and Appearance: ADUs shall maintain consistency with the

primary dwelling. For an ADU that is created by an adding floor area to the existing primary dwelling, the ADU shall have the same siding and roofing materials and exterior paint colors as the primary dwelling. For a detached ADU the County will require compliance with clear and objective design and appearance regulations adopted by the City where the UGB is located.

- D. Alteration: If an existing authorized detached accessory structure, or portion thereof, is converted into an ADU, it is exempt from the minimum setback standards for primary dwellings. Any floor area that is added to this structure must not increase the setback non-conformity. Proposed expansions are not eligible to be approved with a Variance to the setback standards for single-family development.
- E. The accessory dwelling unit complies with all criteria in Section 224.3.

.2 Accessory Dwelling Units outside of Urban Growth Boundaries

- A. The lot or parcel is at least two acres in size.
- B. The accessory dwelling unit will not include more than 900 square feet of useable floor area.
- C. The accessory dwelling unit will be located no farther than 100 feet from the existing single-family dwelling.
- D. The lot or parcel is serviced by a fire protection district and has adequate access for firefighting equipment.
- E. The accessory dwelling unit may not be used for vacation occupancy, as defined in ORS 90.100.
- F. The accessory dwelling unit complies with all criteria in Section 224.3.

.3 General Development Standards

- A. The proposed ADU shall comply with all siting criteria as required in the underlying zone relating to residential structures. These criteria include setbacks, height requirements, and minimum lot or parcel coverage.
- B. Domestic Water: Documentation shall be submitted to LDS that the ADU can be served by an existing public or community water district or by a private well that has been recorded with the State of Oregon Water Resources Department. LDS shall also require a Will Serve letter from the community/city water purveyor verifying the ADU can utilize the water system.
- C. Sewage Disposal: The County Sanitarian shall review and approve the proposed method of onsite sewage disposal for the ADU for compliance with the applicable provisions in the Oregon Administrative Rules (OAR) 340-071-0205 for existing septic systems. If the ADU will utilize community

sewer, documentation shall be submitted to the County that the affected city will provide sewer service.

- D. Access: The road access to all ADUs shall be reviewed and approved by the County Public Works Department and/or the affected city for consistency with the applicable provisions of the County Road Standards Ordinance and the Urban Growth Area Management Agreements between the affected city and Columbia County.
- E. Off-Street Parking: The ADU shall provide one additional on-site parking space if the primary dwelling has less than three available on-site parking spaces (inclusive of garage and driveway).
- F. Divisions of Property: The division of a property containing an ADU shall comply with the minimum and applicable provisions of Zoning District and Subdivision and Partitioning Ordinance. Establishing a new ADU shall not allow the further division of RR-5 and RR-2 properties provided for in Sections 606 and 627 of the County's Zoning Ordinance.
- G. Existing Non-conforming ADU: An existing, non-conforming second dwelling on a lot or parcel in any residential zone permitted by this section may be determined to be a conforming ADU through an approval process that includes the following:
1. All necessary building permits and occupancy authorization is obtained to assure the ADU complies with the applicable fire, life & safety and building codes per the Oregon Residential Specialty Code and
 2. The ADU complies with other requirements of this section, such as size, floor area, water, sewerage, entry and access.

~~3 The County will require the proposed Accessory Dwelling Unit to comply with the Gross Habitable Floor Area, and Owner Occupancy requirements as imposed by the City for the unincorporated portion of the City's Urban Growth Boundary Area.~~

~~4 Domestic Water: Documentation shall be submitted to LDS that the ADU can be served by an existing public or community water district or by a private well that has been recorded with the State of Oregon Water Resources Department. LDS shall also require a Will Serve letter from the community/city water purveyor verifying the ADU can utilize the water system.~~

~~5 Sewage Disposal: The County Sanitarian shall review and approve the proposed method of onsite sewage disposal for the ADU for compliance with the applicable provisions in the Oregon Administrative Rules (OAR) 340-071-0205 for existing septic systems. If the ADU will utilize community sewer, documentation shall be submitted to the County that the affected city will provide sewer service.~~

- ~~6. Access: The road access to all ADUs shall be reviewed and approved by the County Public Works Department and the affected city for consistency with the applicable provisions of the County Road Standards Ordinance and the Urban Growth Area Management Agreements between the affected city and Columbia County.~~
- ~~7. Siting Requirements/Standards: The proposed ADU must comply with the underlying zone R-10, R-7, RR-5 and/or RR-2 Zones' minimum yard setback requirements for primary dwellings. Height limitations and lot or parcel coverage requirements shall be the same as the underlying zone.~~
- ~~8. On Site Parking: The ADU shall provide one additional on-site parking space if the primary dwelling has less than three available on-site parking spaces (inclusive of garage and driveway).~~
- ~~9. Location of Entrances: For an attached ADU only one entrance to the residence may be located on the front of the dwelling facing the street, unless the primary dwelling contained additional door entrances before its conversion to an ADU. An exception is entrances that do not have access from the ground such as entrances from balconies or decks.~~
- ~~10. Exterior Design and Appearance: ADUs shall maintain consistency with the primary dwelling. For an ADU that is created by an adding floor area to the existing primary dwelling, the ADU shall have the same siding and roofing materials and exterior paint colors as the primary dwelling. For a detached ADU the County will require compliance with clear and objective design and appearance regulations adopted by the City where the UGB is located.~~
- ~~11. Divisions of Property: The division of a property containing an ADU shall comply with the minimum and applicable provisions of Zoning District and Subdivision and Partitioning Ordinance. Establishing a new ADU shall not allow the further division of RR-5 and RR-2 properties provided for in Sections 606 and 627 of the County's Zoning Ordinance.~~
- ~~12. Alteration: If an existing authorized detached accessory structure, or portion thereof, is converted into an ADU, it is exempt from the minimum setback standards for primary dwellings. Any floor area that is added to this structure must not increase the setback non-conformity. Proposed expansions are not eligible to be approved with a Variance to the setback standards for single family development.~~
- ~~13. Existing Non-conforming ADU: An existing, non-conforming second dwelling on a lot or parcel in any residential zone permitted by this section may be determined to be a conforming ADU through an approval process that includes the following:~~

- A. ~~All necessary building permits and occupancy authorization is obtained to assure the ADU complies with the applicable fire, life & safety and building codes per the Oregon Residential Specialty Code and~~
- B. ~~The ADU complies with other requirements of this section, such as size, floor area, water, sewerage, entry and access.~~

Section 600 RURAL RESIDENTIAL - 5 RR-5

[Amended by Ordinance 99-2, eff. 1/11/00; Amd. Ordinance 2015-4, eff. 11-25-15].

601 Purpose: This district is designed for rural areas where parcels at the time of initial zoning designation are committed to non-resource uses consistent with County acknowledged exception areas. Uses in this zoning district are anticipated to be predominantly residential with a rural level of public services; i.e., domestic water from private wells, sewage disposal using on-site systems, adequate fire and emergency service by fire districts, and road access consistent with the County Transportation Plan and County Road Standards. Other uses shall be those customary to such areas, including farm and forest uses, churches, and home occupations of a rural character.

602 Permitted Uses:

- .1 Single family detached dwellings.
- .2 Farm use as defined in ORS 215.203(2) except marijuana growing and producing.
- .3 The propagation and harvesting of forest products.
- .4 Structures accessory to permitted uses when sited in accordance with the following:
 - A. If attached to the main building or separated by a breezeway, they shall meet the front and side yard requirements of the main building.
 - B. If detached from the main building, they must be located behind the front wall of the main building or a minimum of 30 feet from the front lot or parcel line.
 - C. Detached accessory buildings shall have a minimum setback of 5 feet from the rear and/or side lot or parcel line.
- .5 Accessory Dwelling Units when sited in accordance with Section 224.

Section 620 RURAL RESIDENTIAL - 2 RR-2

[Amended by Ordinance 98-02, effective 1/11/00; Amd. Ordinance 2015-4, eff. 11-25-15].

621 Purpose: This district is designed for rural areas where lot sizes at the time of initial zoning are predominantly two acres or less. The intent is to recognize existing areas, not to create substantially new two acre parcel areas. Uses in this zoning district will be predominantly residential with a rural level of public services; i.e., domestic water from water districts, sewage disposal using on-site systems, adequate fire and emergency service by fire districts, and rural road standards per County plans and regulations. Other uses will be those customary to such areas, including farm and forest uses, churches and home occupations of a rural character.

622 Permitted Uses:

- .1 Single family detached dwellings.
- .2 Farm use as defined in ORS 215.203 (2) except marijuana growing and producing.
- .3 Propagation and harvesting of forest products.
- .4 Structures accessory to permitted uses when sited in accordance with the following:
 - A. If attached to the main building or separated by a breezeway, they shall meet the front and side yard requirements of the main building.
 - B. If detached from the main building, they must be located behind the front wall of the main building or a minimum of 30 feet from the front lot line.
 - C. Detached accessory structures shall have a minimum setback of 5 feet from the rear and/or side lot line.
- .5 Accessory Dwelling Units when sited in accordance with Section 224.

Section 650 RURAL COMMUNITY RC

[Amended by Ordinance 98-02, effective 1/11/00; Amd. Ordinance 2015-4, eff. 11-25-15].

651 Purpose: The Rural Community zone is intended to sustain existing unincorporated rural communities in the County without changing their

essential rural character, by permitting, under certain circumstances, residential development at greater densities than on Rural Residential zoned lands surrounding the communities, plus small low- impact commercial uses intended to serve the community or surrounding areas, small low-impact industrial uses dependent on local resources, and institutional, utility and recreation facilities.

652 Permitted Uses:

- .1 Single family detached dwellings.
- .2 Farm use as defined by ORS 215.203(2) except marijuana growing and producing.
- .3 The propagation and harvesting of forest products.
- .4 Structures accessory to permitted uses when sited in accordance with Section 653.2.
- .5 Accessory Dwelling Units when sited in accordance with Section 224.

Section 700 SINGLE-FAMILY RESIDENTIAL R-10

[Amended by Ordinance 99-02, effective 1/11/00].

701 Purpose: The Single-Family Residential (R-10) District is intended to provide minimum development standards for low density residential uses in unincorporated urban growth boundaries where public water and public sewer exist, or are programmed, and where resource activities are declining.

702 Permitted Uses:

- .1 A single family detached dwelling.
- .2 Structures accessory to permitted uses when sited in accordance with Section 705.7.
- .3 Accessory Dwelling Units when sited in accordance with Section 224.

Section 710 SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL R - 7

[Amended by Ordinance 98-02, effective 1/11/00].

711 Purpose: The Single-Family and Two-Family Residential District is intended to provide minimum development standards for low and medium density residential uses in unincorporated urban growth boundaries where public water and public sewer exist, or are programmed, and where resource activities are declining.

712 Permitted Uses:

- .1 A single-family detached dwelling.
- .2 Two-family dwellings (duplexes).
- .3 Structures accessory to permitted uses when sited in accordance with Section 715.7.
- .4 Accessory Dwelling Units when sited in accordance with Section 224.

Section 720 MULTIPLE-FAMILY RESIDENTIAL MFR

721 Purpose: The Multiple-Family Residential District is intended to provide minimum development standards for low, medium, and high density residential uses in unincorporated urban growth boundaries where public water and public sewer exist, or are programmed, and where resource activities are declining.

722 Permitted Uses:

- .1 Single-family residences.
- .2 Two-family residences (duplexes).
- .3 Apartment and multiple-family dwellings.
- .4 Structures accessory to permitted uses when sited in accordance with Section 725.7.
- .5 Accessory Dwelling Units when sited in accordance with Section 224.

Section 730 MOBILE HOME RESIDENTIAL MHR

731 Purpose: The Mobile Home Residential District is intended to provide minimum development standards for single-family dwellings and medium density mobile home park development in unincorporated urban growth boundaries where public water and public sewer exist, or are programmed, and where resource activities are declining.

732 Permitted Uses:

- .1 Single-family dwellings.
- .2 Mobile Home Parks.

- .3 Structures accessory to permitted uses when sited in accordance with Section 735.7.
- .4 Accessory Dwelling Units when sited in accordance with Section 224.