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STAFF REPORT FOR THE PLANNING COMMISSION HEARING OCTOBER 3, 2016

ACCESSORY STRUCTURE PROVISIONS IN UNINCORPORATED MULTNOMAH COUNTY (PC-2016-4940)

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1.0 SUMMARY

The proposed Accessory Structure code amendments are intended to accomplish three main objectives:

- 1) Clarify the internal features allowed within Accessory Structures through the non-discretionary Allowed Use review process (i.e., Type I review);
- 2) Clarify the internal features allowed within Accessory Structures through the discretionary Review Use review process (i.e., Type II review); and
- 3) Clearly state within the code that Accessory Structures cannot be used as a temporary or permanent dwelling.

Additionally, Section 3.0 of this report adds flexibility by amending setback requirements for the siting of small accessory structures, fences and retaining walls. A public Work Session was held August 1st 2016 with the Planning Commission so that different approaches for amending county code could be considered.

2.0 INTRODUCTION AND BACKGROUND

Accessory Structures are those structures that are customarily accessory or incidental to a lawfully established use. Accessory Structures include non-building structures (e.g., swimming pool, deck) and buildings (e.g., storage shed, workshop, greenhouse).

Many elements of the current Accessory Structure regulations date back to the commencement of land use regulation in Multnomah County in the 1950s (e.g., the current definition of “Accessory Building” was adopted in 1955).

In 2007, the Accessory Structure regulations outside the Columbia River Gorge National Scenic Area were amended in three respects. First, the meaning of “Accessory Structure” was clarified through a list of qualifying structures. Second, Accessory Buildings (i.e., Accessory Structures that also fall within the definition of “Building”) were limited to a cumulative footprint area of 2,500 square feet. Accessory Buildings exceeding the 2,500 cumulative footprint threshold became subject to a discretionary land use review to confirm the structure would be ‘customarily accessory or incidental’ to any use permitted or approved in the district. Third, a new requirement was imposed regarding notice to neighbors for proposals exceeding the 2,500 cumulative square foot footprint threshold. Together, these amendments in 2007 were intended to address concerns at that time regarding approval of uncommonly large Accessory Buildings.

Today, interest in the use of Accessory Structures for *dwelling* purposes is on the rise. In fact, Staff now receives inquiries into such use on nearly a daily basis. Most of these inquiries relate to the use of Accessory Structures as accessory dwelling units (ADUs). ADUs are typically smaller, auxiliary dwellings with their own independent living facilities located on the same lot as or within a primary dwelling. This trend seems to correspond with the rise in popularity of on-line short-term rental sites, like Airbnb, and the increased housing rental rates in the metro area squeezing affordable rental opportunities. **Importantly, state law largely prohibits ADUs in rural areas and ADUs are not presently allowed under the Multnomah County Code. Background on ADU restrictions on rural lands in Oregon is found within Chapter 10 (Housing) of the Multnomah County Comprehensive Plan attached as Exhibit A.**

Along with this increased interest in ADUs, Staff is receiving an increased number of complaints alleging the unlawful conversion of Accessory Structures to Dwelling Units. Many Accessory Structures are approved with facilities such as a sink, toilet, stove, or shower and, consequently, unlawful conversion for residential uses is not difficult.

Lastly, a corollary to the conversion issue described above is that the current code lacks clear standards regarding the nature and extent of internal features and facilities that may be approved within an Accessory Structure. The absence of such standards leads to uncertainty, delays, and disproportionate consumption of Staff and property owner resources and the expenditure of these resources does not appear to result in preventing conversion of these structures to a prohibited dwelling use.

Accordingly, the proposed code amendments in Section 3.0 of this Staff Report are intended to address the foregoing issues by explicitly listing the internal features and facilities that are permissible within Accessory Structures. The regulations provide for expedient, nondiscretionary Allowed Use review appropriate for proposals involving fewer internal features and facilities, and provide a discretionary Review Use review process appropriate for proposals including internal features and facilities beyond those allowed under the nondiscretionary review process.

3.0 PROPOSED CODE AMENDMENTS

Section 3.0 subsections include:

3.1 – Amendments to Chapters 33, 34, 35, and 36 (West Hills, Sauvie Island/Multnomah Channel, East of Sandy River & West of Sandy River)

3.2 – Amendments to Chapter 38 (Columbia River Gorge National Scenic Area)

Staff is not currently recommending changes to the Accessory Structure provisions of Chapter 11.15 (urban unincorporated lands) and will instead address any necessary amendments to that chapter after the County's code consolidation project is complete.

***Staff Note:** The following text formatting is used to differentiate existing, proposed and deleted language:*

Bold = Existing language to remain

Double Underline = Proposed new language

~~Strikethrough~~ = Language proposed for deletion

(X), XX and XX.XXXX notations = Generalized code reference that differ in each base zoning district and in each chapter. The generalized existing code reference below helps reduce un-necessary duplication and reduce staff report length. Staff will insert the necessary cross-references into the final ordinance.

* * * = code section break

3.1 (CHAPTERS 33, 34, 35, and 36 and TABLE OF CONTENTS)

PART 1 – GENERAL PROVISIONS

* * *

§33.0005	DEFINITIONS.
§34.0005	DEFINITIONS
§35.0005	DEFINITIONS
§36.0005	DEFINITIONS

Cooking Facilities – Facilities such as a range, stove, oven, hotplate, microwave, or similar facilities, but not including a facility designed primarily for room heating, such as a wood or pellet stove.

* * *

PART 3 – ADMINISTRATION AND ENFORCEMENT – Permits and certificates

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§ 33.0565 Condition of Approval – Accessory Structures
§ 34.0565 Condition of Approval – Accessory Structures
§ 35.0565 Condition of Approval – Accessory Structures
§ 36.0565 Condition of Approval – Accessory Structures

Prior to issuance of any development permit involving an Accessory Building, the property owner shall record a covenant with County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling.

Staff Note: The Accessory Structure covenant in Exhibit B is currently used by the Planning Program when facilities are proposed which could potentially accommodate the use of the structure as a single family dwelling.

PART 4 – ZONES

* * *

ALLOWED USES – Amending “Allowed Uses” in all relevant zones in Chapters 33, 34, 35, and 36:

Chapter 33: §33.2020(T), 33.2220(T), 33.2420(T), 33.2620(O), 33.2820(F), 33.3120(F), 33.3320(F)

Chapter 34: §34.2620(O), 34.2820(F), 34.3120(F), 34.3320(F)

Chapter 35: §35.2020(T), 35.2220(T), 35.2620(O), 35.2820(F), 35.3120(F), 35.3320(F)

Chapter 36: §36.2020(T), 36.2620(O), 36.2820(F), 36.3120(G), 36.3320(F), 36.3420(F), 36.3520(F)

* * *

(X) Accessory Structures subject to the following:

(1) The Accessory Structure is ~~Structures or uses listed below when customarily accessory or incidental to any use permitted or approved in this district~~ and is a structure identified in the following list:

Staff Note: Allowed uses in the Commercial Forest Use Zones contain slightly different language in (1) which will be amended as follows:

Accessory Structures subject to the following:

(1) ~~Other~~ The Accessory structures or uses listed below is customarily accessory or incidental to any use permitted or approved in this district located within 100 feet of the dwelling and is a structure identified in the following list:-

(a) Garages or carports;

(b) Pump houses;

(c) Garden sheds;

(d) Workshops;

(e) Storage sheds, including shipping containers used for storage only;

(f) Greenhouses;

(g) Woodsheds;

(h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;

(i) Swimming pools, pool houses, hot tubs, saunas, and associated changing rooms;

(j) Sport courts;

(k) Gazebos, pergolas, and detached decks;

(l) Fences, gates, or gate support structures; and

(m) Mechanical equipment such as air conditioning units, heat pumps and electrical boxes; and

(n)(m) Similar structures.

(2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(3) The Accessory Structure may contain one sink.

(4) The Accessory Structure shall not contain:

(a) More than one story;

(b) Cooking Facilities;

(c) A toilet;

(d) Bathing facilities such as a shower or bathing tub;

(e) A clothing washer or dryer unit;

(f) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or

(g) A closet built into a wall.

(5) Compliance with MCC XX.0565 is required.

(6) The combined footprints of all Accessory Buildings on a Lot of Record shall not exceed 2,500 square feet. ~~(2) If the accessory structure is a building, then to be an “allowed use” the footprint of the building in combination with the footprint of all other accessory buildings on the property shall not exceed 2,500 square feet.~~

(7) An Accessory Structure exceeding any of the Allowed Use provisions above shall be considered through the Review Use provisions.

~~(8)(4)~~ **Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions.**

~~(3) If the accessory structure has a bathroom or kitchen facilities, then prior to issuance of the building permit the property owner shall record a deed restriction with County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling.~~

* * *

REVIEW USES – Amending “Review Uses” in all relevant zones in Chapters 33, 34, 35, and 36:

Chapter 33: §33.2025(L), 33.2225(L), 33.2425(L), 33.2625(O), 33.2825(J), 33.3125(J), 33.3325(I)

Chapter 34: §34.2625(O), 34.2825(J), 34.3125(J), 33.3325(J)

Chapter 35: §35.2025(J), 35.2225(L), 35.2625(O), 35.2825(J), 35.3125(J), 35.3325(I)

Chapter 36: §36.2025(L), 36.2625(P), 36.2825(I), 36.3125(I), 36.3325(J), 36.3425(I), 36.3525(J)

* * *

(X) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the “accessory structures” standard in MCC XX.XXXX Allowed Uses, but which meet the following provisions:-

(1) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(2) The Accessory Structure shall not contain a bathing tub.

(3) Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building.

(4) An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities.

(5) The Accessory Structure shall not contain a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage.

(6) The applicant must show that building features or combined building footprints exceeding the Allowed Use provisions are the minimum possible departure from the Allowed Use standards to accommodate the use.

(7) Compliance with MCC XX.0565 is required.

* * *

DIMENSIONAL REQUIREMENTS – Amending “Dimensional Requirements” in all relevant zones in Chapters 33, 34, 35, and 36

Chapter 33: §33.2660(C), 33.2855(C), 33.3155(C), 33.3355(C)

Chapter 34: §34.2660(C), 34.2855(C), 34.3155(C), 34.3355(C)

Chapter 35: §35.2660(C), 35.2855(C), 35.3155(C), 35.3355(C)

Chapter 36: §36.2660(C), 36.2855(C), 36.3155(C), 36.3355(B), 36.3455(B), 36.3550(B)

* * *

(X) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

(1) A fence or retaining wall less than six feet in height is not subject to the minimum yard dimensions. A fence or retaining wall over six feet in height shall have a minimum Yard equal to the fence or wall height.

(2) An Accessory Structure may encroach up to 40% into any required Yard not contiguous to a road without an approved Adjustment subject to the following.

(a) The structure does not exceed five feet in height or exceed a footprint of ten square feet, and

(b) The applicant demonstrates the proposal complies with the fire code as administered by the applicable fire service agency.

(3) Any Accessory Structure that encroaches 40% or more into any required Yard must obtain an approved Variance.

Staff Note: Current code allows for modification of dimensional standards – including reductions in yard dimensions – under an Adjustment review if the modification is no more than 40 percent, and under a Variance review if the modification exceeds 40 percent. Staff has used that same 40 percent threshold here, exempting Accessory Structure encroachment from Adjustment review as long as the encroachment does not exceed 40 percent and meets the standards outlined above.

* * *

FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES – Amending relevant provisions in all Chapters

Chapter 33: §33.2056, 33.2256, 33.2456

Chapter 35: §35.2056, 35.2256

Chapter 36: §36.2056

The Forest Practice Setbacks and applicability of the Fire Safety Zones is based upon existing conditions, deviations are allowed through the exception process and the nature and location of the proposed use. The following requirements apply to all structures as specified:

Table 1

Use		Forest Practice Setbacks		Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
* * *				
Other Accessory structures	N/A	30	130	Primary & Secondary required
<u>Fences and Retaining Walls</u>	<u>N/A</u>	<u>A fence or retaining wall less than six feet in height is not subject to the forest practices setbacks. A fence or retaining wall over six feet in height shall have a minimum Setback equal to the fence or wall height.</u>	<u>A fence or retaining wall less than six feet in height is not subject to the forest practice setbacks. A fence or retaining wall over six feet in height shall have a minimum Setback equal to the fence or wall height.</u>	<u>N/A</u>
Other Structures	N/A	30	130	Primary & Secondary required
* * *				

Staff note: Adding an exemption to the Forest Practices and Fire Safety zones for small accessory structures is not proposed in the Commercial Forest Use zones. Reduction of a Secondary fire safety zone requires application of fire safety standards, which help prevent the spread of wildfire through special siting and construction requirements. Multnomah County

Comprehensive Plan Policy 7.7 requires development in areas prone to wildfire risks to meet fire safety and mitigation standards.

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3.2 (CHAPTER 38, INCLUDING TABLE OF CONTENTS)

§38.0015 DEFINITIONS.

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Cooking Facilities – Facilities such as a range, stove, oven, hotplate, microwave, or similar facilities, but not including a facility designed primarily for room heating, such as a wood or pellet stove.

* * *

§38.1005 ALLOWED USES

(A) The following uses may be allowed without review in all zone districts except General Management Area Open Space (GGO, GGO-GW, and GGO-SP) and Special Management Area Open Space (GSO) zone districts.

* * *

(4) Accessory structures 60 square feet or less in area and 10 feet or less in height, unless within the buffer zone of a wetland, stream, pond, lake or riparian area. This category does not include signs, fences, outdoor lights, retaining walls, flagpoles, transportation facilities, or utility facilities.

(a) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(b) The Accessory Structure may contain one sink.

(c) The Accessory Structure shall not contain:

(i) More than one story;

(ii) Cooking Facilities;

(iii) A toilet;

(iv) Bathing facilities such as a shower or bathing tub;

(v) A clothing washer or dryer unit;

(vi) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or

(vii) A closet built into a wall.

(d) Prior to issuance of any development permit involving an Accessory Building, the property owner shall record a covenant with County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling.

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§38.1010 EXPEDITED USES.

(A) The following development may be reviewed using the expedited process listed in MCC 38.0530(B), and are permitted when found to satisfy the applicable approval criteria pursuant to the provisions of MCC 38.7100.

(1) Except in Open Space zoning districts, accessory structures between 60 and 200 square feet in area and 10 feet or less in height which also meet the provisions (a)-(d) below. Only one accessory building per parcel may be allowed under this guideline, regardless of whether the parcel already includes an accessory building(s). Additional accessory buildings shall be subject to full review. This category does not include signs, decks, fences, outdoor lights, retaining walls, transportation facilities, or utility facilities.

(a) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(b) The Accessory Structure may contain one sink.

(c) The Accessory Structure shall not contain:

(i) More than one story;

(ii) Cooking Facilities;

(iii) A toilet;

(iv) Bathing facilities such as a shower or bathing tub;

(v) A clothing washer or dryer unit;

(vi) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or

(vii) A closet built into a wall.

(d) Prior to issuance of any development permit involving an Accessory Building, the property owner shall record a covenant with County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling.

(2) Additions and covered decks for existing buildings, provided the existing building is at least 500 square feet in area and the addition or covered deck is no larger than 200 square feet in area and no taller than the height of the existing building. Additions and covered decks for existing Accessory Structures shall also meet the provisions A(1)(a)-(d) above. Only one addition and one covered deck per parcel may be allowed under this guideline, regardless of whether the parcel already includes an addition or covered deck.

* * *

FOREST DISTRICTS - GGF and GSF
§38.2025 REVIEW USES

(A) The following uses may be allowed on lands designated GGF, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

* * *

(8) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (9) or (10).

Staff Note: The provision above applies to non-building accessory structures (pools, walls, fences, etc.). Accessory buildings are regulated under (9) and (10) below.

(9) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to MCC 38.7305, ~~and MCC 38.7315,~~ and MCC 38.7390 and the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The height of any individual accessory building shall not exceed 24 feet.

(10) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to MCC 38.7305, ~~and MCC 38.7315~~, and MCC 38.7390 and the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(c) The height of any individual accessory building shall not exceed 24 feet.

* * *

AGRICULTURAL DISTRICTS - GGA and GSA §38.2225

(A) The following uses may be allowed on lands designated GGA pursuant to the provisions of MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

* * *

(4) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in MCC 38.2225 (A)(5) or MCC 38.2225 (A)(6).

(5) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The height of any individual accessory building shall not exceed 24 feet.

(c) The accessory building satisfies the standards in MCC 38.7390.

(6) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(c) The height of any individual accessory building shall not exceed 24 feet.

(d) The accessory building satisfies the standards in MCC 38.7390.

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RURAL CENTER – GGRC
§38.2425 REVIEW USES

The following uses may be allowed on lands designated GGRC, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(B) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (C) below.

(C) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The height of any individual accessory building shall not exceed 24 feet.

(3) The accessory building satisfies the standards in MCC 38.7390.

* * *

RECREATIONAL DISTRICTS - GG-PR, GG-CR and GS-PR
§38.2825 REVIEW USES

(A) The following uses are allowed on all lands designated GG– PR pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(1) The following uses may be allowed, subject to compliance with MCC 38.7300, and the standards of MCC 38.7000 through 38.7085:

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (c) below.

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

1. The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

2. The height of any individual accessory building shall not exceed 24 feet.

3. The accessory building satisfies the standards in MCC 38.7390.

* * *

RESIDENTIAL DISTRICTS - GGR and GSR §38.3025 REVIEW USES

(A) The following uses may be allowed on lands designated GGR, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(2) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (3) below.

(3) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The height of any individual accessory building shall not exceed 24 feet.

(c) The accessory building satisfies the standards in MCC 38.7390.

* * *

COMMERCIAL - GGC
§38.3225 REVIEW USES

The following review uses may be allowed on lands designated GGC, pursuant to the provisions of MCC 38.0045 and MCC 38.7300:

(C) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed as accessory buildings larger than 200 square feet in area or 10 feet in height.

(D) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel, subject to the following standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The height of any individual accessory building shall not exceed 24 feet.

(3) The accessory building satisfies the standards in MCC 38.7390.

* * *

PART 7 – SPECIAL USES – *Approval Criteria and Submittal Requirements*

§38.7390 ACCESSORY STRUCTURES

(A) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(B) The Accessory Structure shall not contain a bathing tub.

(C) Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building.

(D) An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities.

(E) The Accessory Structure shall not contain a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage.

(F) The applicant must show that building features exceeding the Allowed Use or Expedited Use provisions are the minimum possible departure from the Allowed Use or Expedited Use standards to accommodate the use.

(G) Prior to issuance of any development permit involving an Accessory Building, the property owner shall record a covenant with County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling.

(H) An Agricultural Structure or Agricultural Building in conjunction with an Agricultural Use as those terms are defined in MCC 38.0015 are not subject to these provisions.

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§ 38.2060(C) DIMENSIONAL REQUIREMENTS

Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

(1) A fence or retaining wall less than six feet in height is not subject to the minimum yard dimensions. A fence or retaining wall over six feet in height shall have a minimum Yard equal to the fence or wall height.

* * *

§ 38.2260(C), 38.2460(E), 38.2660(C), 38.2860(C), 38.3060(C), 38.3260(C) DIMENSIONAL REQUIREMENTS

Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

(1) A fence or retaining wall less than six feet in height is not subject to the minimum yard dimensions. A fence or retaining wall over six feet in height shall have a minimum Yard equal to the fence or wall height.

(2) An Accessory Structure may encroach up to 25% into any required Yard not contiguous to a street without a Minor Variance subject to the following.

(a) The structure does not exceed five feet in height or exceed a footprint of ten square feet, and

(b) The applicant demonstrates the proposal complies with the fire code as administered by the applicable fire service agency.

(3) Any Accessory Structure that encroaches 25% or more into any required Yard requires an approved Major Variance.

Staff Note: Amendments to the Forest Districts GGF and GSF (MCC § 38.2060) are limited to providing setback flexibility for fences and retaining walls. Amendments include an exemption to the Minor Variance process for small accessory structures in other Gorge zones.

A Major Variance is required in the National Scenic Area when encroachment exceeds 25% of an applicable dimensional requirement. This 25% limit is referenced above to allow minor structures to encroach up to 25% into any required Yard not contiguous to a street without a Minor Variance. Exceeding 25% encroachment will still require an approved Major Variance.

4.0 EXHIBITS

Exhibit A. Multnomah County Comprehensive Plan Chapter 10 – Housing

Exhibit B. Accessory Structure Covenant Currently Used by Planning Program