

Work Session Agenda Bill

Date: June 13, 2023

To: Rory Bialostosky, Council President
Members, West Linn City Council

Through: John Williams, City Manager *JRW*

From: Darren Wyss, Planning Manager *DSW*

Subject: Accessory Dwelling Unit (ADU) Code Amendment Package Work Session

Purpose:

Receive an overview and ask clarifying questions about proposed code amendments to the siting and design standards for ADUs as recommended by the Planning Commission.

Question(s) for Council:

Does Council have any clarifying questions or need additional information prior to the July 10, 2023 legislative public hearing?

Background & Discussion:

Council placed and prioritized a policy review of the City's accessory dwelling unit (ADU) regulations on the Planning Docket and directed staff to work with the West Linn Planning Commission to review and recommend a code amendment package. Staff had found several the ADU siting and design standards were not clear and objective, as required by state statute, and were prohibitive to the construction of ADUs.

The Commission held five work sessions from November 2022 to April 2023 to review 11 policy questions related to siting and design standards for ADUs (see Attachment 1 for more details, including links to project materials). The Commission recommended to remove the majority of requirements that were prohibitive. The Commission maintained, with amendments, the maximum size and height of detached ADUs to provide additional flexibility for property owners.

The Planning Commission reached consensus on April 5, 2023 on a proposed ADU Code Amendment Package and directed staff to bring it forward into the legislative adoption process. The Commission held its legislative public hearing on May 17, 2023 and voted unanimously to recommend amendments to Community Development Code Chapter 34 (see Attachment 2). The amendments are intended to remove barriers to the construction of ADUs within the City.

At the June 20th work session, Council will be able to ask clarifying questions and/or request more information about the recommended ADU Code Amendment Package.

Council will then hold its public hearing on July 10th to make the final decision on adopting the recommended ADU Code Amendment Package with or without further adjustments.

Council Options:

1. Receive briefing and hold Public Hearing on July 10, 2023
2. Receive briefing and direct staff to provide any additional information needed before the Public Hearing on July 10, 2023.

Staff Recommendation:

Request any additional needed information and make a final decision at the Public Hearing scheduled on July 10, 2023.

Attachments:

1. Staff Memorandum – City of West Linn ADU Code Amendment Process
2. ORD 1742 – Planning Commission Recommended ADU Code Amendment Package

Memorandum

Date: June 13, 2023

To: Rory Bialostosky, Mayor
Members, West Linn City Council

From: Darren Wyss, Planning Manager

Subject: ADU Code Amendment Process

The Accessory Dwelling Unit (ADU) Code Amendments project is a policy analysis to review the City's current ADU code ([CDC Chapter 34: Accessory Structures, Accessory Dwelling Units, and Accessory Uses](#)) and make recommended changes based on whether the City wishes to facilitate or complicate the construction of ADUs. The West Linn City Council directed Planning staff to undertake this project by prioritizing it on the [Planning Docket](#).

ADUs have been traditionally utilized to provide alternative housing options that in turn foster opportunities for a greater diversity of more accessible and affordable living arrangements ([HUD Case Study](#)). ADUs are commonly identified as a viable way to help facilitate multigenerational housing, 'aging in place', and independent living for family members and renters, as well as housing for caregivers, individuals with disabilities, and individuals with special care requirements, among others. Typically, ADUs are a more affordable housing option in communities because of their smaller living area and the fact they are located on a property that has a primary structure. West Linn Comprehensive Plan Goal 10: Housing contains the following housing goal, which aligns well with promoting construction of ADUs as an affordable housing option.

Goal 10: Housing

Goal 3. Encourage the development of affordable housing for West Linn residents of all income levels.

The City's current code requirements have made constructing an ADU within West Linn challenging for several reasons. One of the primary reasons was the requirement to install half-street improvements with the construction of an ADU. This requirement was eliminated as part of the CDC Chapter 96 Code Amendments ([Ordinance 1739](#)). However, many of the siting and design standards found in CDC Chapter 34 have proved to be a hindrance to the development of ADUs. The goal of this project is to develop the City's policy position by reviewing current regulations found in CDC Chapter 34, and amending some, or all, of the requirements as necessary to align with the desired policy position.

City Council, at its September 19, 2022 meeting, directed the Planning Commission to act in the role of the working group on this project. Staff developed a scope of work for the project and identified 11 policy questions for the Planning Commission (PC) to discuss through a series of four work sessions. The outcome of the work sessions would be Planning Commission consensus on proposed amendments to CDC Chapter 34 regulations based on a recommended policy position.

Below are recaps of the work sessions, including the 11 policy questions discussed and the associated recommendations:

WORK SESSION 1 RECAP:

At Work Session 1, held on November 16, 2023, staff presented the first four policy questions for review and discussion by the PC. The discussion for policy questions 1 and 4 were continued to Work Session 2 (January 18, 2023) as PC members requested further information from staff.

Policy Question 1: Should the visual design of ADUs be regulated in relation to the existing dwelling?
Currently, ADUs need to meet a number of requirements matching them to the exact visual design of the existing dwelling (i.e. trim, roof pitch, windows, eaves, etc.).

The Commission requested additional information from staff and continued the discussion to Work Session 2.

Policy Question 2: Should the placement of stairs on ADUs be limited?

Currently, exterior stairs serving ADUs are prohibited from facing the front property line.

The Commission agreed to eliminate this requirement at its November 16, 2022 work session.

Policy Question 3: Should the location of the entrances on ADUs be limited?

Currently, exterior entrances of ADUs are required to be located on their rear or side. Other comparable structures do not have such restrictions.

The Commission agreed to eliminate this requirement at its November 16, 2022 work session.

Policy Question 4: Should the placement of ADUs be limited in relation to the primary dwelling?

Currently, detached ADUs are required to be at least 10 feet behind the front of the primary structure.

The Commission requested additional information from staff and continued the discussion to Work Session 2.

[Link to PC Work Session 1 Memo](#)

[Link to PC ADU Work Session 1 Video](#)

[Link to PC Work Session 1 Meeting Notes](#)

WORK SESSION 2 RECAP:

At Work Session 2, held on January 18, 2023, staff provided further information for policy questions 1 and 4. Staff also presented policy questions 5 through 7. The discussion for policy question 4 was continued to Work Session 3 (February 15, 2023) as PC members requested further information from staff.

The question was posed if the City can require parking for ADUs. The City cannot require off-street parking for ADUs per ORS 197.312.5.b.B

[ORS 197.312 Limitations on city and county prohibitions](#)

*(B) “Reasonable local regulations relating to siting and design” does not include owner-occupancy requirements of either the primary or accessory structure **or requirements to construct additional off-street parking.***

Policy Question 1: Should the visual design of ADUs be regulated in relation to the existing dwelling?
Currently, ADUs need to meet a number of requirements matching them to the exact visual design of the existing dwelling (i.e. trim, roof pitch, windows, eaves, etc.).

After further discussion, the Commission agreed to eliminate design standards at its January 18, 2023 work session.

Policy Question 4: Should the placement of ADUs be limited in relation to the primary dwelling?
Currently, detached ADUs are required to be at least 10 feet behind the front of the primary structure.

After further discussion, the Commission requested additional information from staff and continued the discussion to Work Session 3.

Policy Question 5: Should the number of bedrooms in ADUs be limited?
Currently, ADUs cannot exceed one bedroom.

The Commission agreed to eliminate this requirement at its January 18, 2023 work session.

Policy Question 6: Should the size of ADUs be limited on a per-person basis?
Currently, if one person is living in an ADU, the minimum area standard is 250 sq. ft., whereas if two people are living in an ADU, the minimum area standard is 500 sq. ft.

The Commission agreed to eliminate this requirement at its January 18, 2023 work session.

Policy Question 7: Should we limit the number of ADUs per residence? If so, should this limit apply to the residence or the overall property?
Currently, no more than one ADU is allowed per primary dwelling.

The Commission agreed to retain this requirement at its January 18, 2023 work session. The proposed language is found in CDC Chapter 34.030(A).

[Link to PC Work Session 2 Memo](#)

[Link to PC ADU Work Session 2 Video](#)

[Link to PC Work Session 2 Meeting Notes](#)

WORK SESSION 3 RECAP:

At Work Session 3, held on February 15, 2023, staff provided further information for policy question 4. Staff also presented policy questions 8 through 11. The discussion for policy questions 9 and 11 was continued to Work Session 4 (March 15, 2023) as PC members requested further information from staff.

Policy Question 4: Should the placement of ADUs be limited in relation to the primary dwelling?
Currently, detached ADUs are required to be at least 10 feet behind the front of the primary structure.

After further discussion, the Commission agreed to eliminate this requirement at its February 15, 2023 work session.

Policy Question 8: Should ADUs have a minimum size?

Currently, the minimum ADU size is 250 square feet.

The Commission agreed to eliminate this requirement at its February 15, 2023 work session.

Policy Question 9: Should ADUs have a maximum size in relation to the primary dwelling?

Currently, ADUs cannot exceed 1000 sq. ft. in size, and if they are in an accessory structure, they cannot exceed 30% of the gross square footage of the primary dwelling.

The Commission requested additional information from staff and continued the discussion to Work Session 4.

Policy Question 10: Should attached ADUs have a maximum height separate from the height standard already in place for the applicable zone?

Currently, attached ADUs cannot exceed the height of the existing primary dwelling.

The Commission agreed to eliminate this requirement at its February 15, 2023 work session.

Policy Question 11: Should detached ADUs have a maximum height separate from the height standard already in place for the applicable zone?

Currently, detached ADUs are limited to an 18 ft. maximum height.

The Commission requested additional information from staff and continued the discussion to Work Session 4.

[Link to PC Work Session 3 Memo](#)

[Link to PC Work Session 3 Video](#)

[Link to PC Work Session 3 Meeting Notes](#)

WORK SESSION 4 RECAP:

At Work Session 4, held on March 15, 2023, staff provided further information for policy questions 9 and 11. With consensus on the last two policy questions, the Commission completed the work session component of the project and directed staff to bring the proposed code amendment package into the legislative hearing process.

Policy Question 9: Should ADUs have a maximum size in relation to the primary dwelling?

Currently, ADUs cannot exceed 1000 sq. ft. in size, and if they are in an accessory structure, they cannot exceed 30% of the gross square footage of the primary dwelling.

The Commission agreed to retain the 1,000 sq. ft. maximum size and increase the cap for detached accessory structures to 75 percent of gross square footage. The proposed language is found in CDC Chapter 34.030.A(2).

Policy Question 11: Should detached ADUs have a maximum height separate from the height standard already in place for the applicable zone?

Currently, detached ADUs are limited to an 18 ft. maximum height.

The Commission agreed to retain a maximum height for detached ADUs, but increased it to the greater of either the height of the primary structure or 26 feet. The proposed language is found in CDC Chapter 34.030.A(4).

[Link to PC Work Session 4 Memo](#)

[Link to PC Work Session 4 Video](#)

[Link to PC Work Session 4 Meeting Notes](#)

Staff returned to the Planning Commission on April 5, 2023 for a final review of the proposed language and final consensus that the proposed code amendment package was ready for a legislative public hearing.

The Planning Commission held its legislative public hearing on May 17, 2023 and voted unanimously to recommend City Council adopt the proposed ADU Code Amendment Package.

If you have questions about the meeting or materials, please feel free to email or call me at dwyss@westlinnoregon.gov or 503-742-6064.

ORDINANCE NO. 1742

AN ORDINANCE ADOPTING TEXT AMENDMENTS TO THE WEST LINN COMMUNITY DEVELOPMENT CODE CHAPTER 34: ACCESSORY STRUCTURES, ACCESSORY DWELLING UNITS, AND ACCESSORY USES

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~lined through~~ and additions are underlined in red font.

WHEREAS, Chapter II, Section 4, of the West Linn City Charter provides: Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

WHEREAS, the City Council initiated a review of the City's accessory dwelling unit (ADU) regulations by placing a prioritized project on the Planning Document; and

WHEREAS, the City Council appointed the West Linn Planning Commission (PC) on September 19, 2022 to act as the working group and work with staff evaluate policy positions and to review and recommend a proposed code amendment package; and

WHEREAS, the PC held five work sessions from November 2022 to April 2023; and

WHEREAS, the PC held a public hearing, which was noticed in accordance with City standards, on May 17, 2023, and recommended approval of the proposed ADU Code Amendment Package; and

WHEREAS, the West Linn City Council held a public hearing, which was noticed in accordance with City standards, on July 10, 2023, to consider the Planning Commission recommendation, receive public testimony, and evaluate the decision-making criteria; and

WHEREAS, the Council's decision is based on the findings contained in these Whereas Clauses, together with findings, conclusions, and substantial evidence found in the associated land use record file CDC-23-01, which is incorporated by this reference.

NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:

SECTION 1. Amendments. The West Linn Community Development Code Chapter 34 is amended to include new text and rescind existing text as shown in Exhibit A.

SECTION 2. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 3. Savings. Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions of the ordinance were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 4. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 2-4) need not be codified and the City Recorder or the designee is authorized to correct any cross-references and any typographical errors.

SECTION 9. Effective Date. This ordinance shall take effect on the 30th day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the ____ day of _____, 2023, and duly PASSED and ADOPTED this ____ day of _____, 2023.

RORY BIALOSTOSKY, MAYOR

ATTEST:

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

Chapter 34

Accessory Structures, Accessory Dwelling Units, and Accessory Uses

Sections:

- 34.020 ACCESSORY USES
- 34.030 ACCESSORY DWELLING UNITS (ADUs)
- 34.040 SETBACK PROVISIONS FOR NOISE-PRODUCING ~~ACCESSORY USES~~ **EQUIPMENT**
- 34.050 BOAT HOUSES AND DOCKS
- 34.060 SETBACK PROVISIONS FOR ACCESSORY STRUCTURES (NON-DWELLING)

34.020 ACCESSORY USES

Accessory uses are permitted uses which are customary and incidental to principal uses permitted in the zone and shall be permitted outright, or by prescribed conditions as identified below, and may be either attached or separated from the principal dwelling. Accessory uses on designated historic resources are subject to additional regulations in CDC 25.060(B).

- A. A greenhouse may be a maintained accessory to a dwelling provided the activity does not exceed that which requires a license under Chapter 571 of the Oregon Revised Statutes, Nurseries.
- B. A television disk or satellite dish larger than three feet in diameter, and any other non-commercial antennas over three feet in height (minor utility), may be a maintained accessory to a dwelling provided it is not located within the front yard or side yard abutting a street, it is mounted on the ground, is screened from view, as practical, with landscaping, and otherwise meets the requirements of CDC 34.060. The satellite dish shall not exceed a maximum height of 18 feet.

Where it can be demonstrated that these restrictions impose unreasonable limitations to the extent that the antenna/satellite dish's reception or transmitting capability is significantly reduced, then roof-mounted (provided it is powder-coated with mesh or perforated construction) or alternate locations for the antenna/satellite dish may be allowed. (Ord. 1350, 1993; Ord. 1463, 2000; Ord. 1614 § 8, 2013)

34.030 ACCESSORY DWELLING UNITS (ADUs)

- A. ~~An~~ **One** accessory dwelling unit (ADU), **either attached or detached**, may be allowed in conjunction with an existing primary single-family **detached** dwelling **(excluding duplexes, triplexes and quadplexes)** by conversion of existing space inside the primary dwelling; by means of an addition to an existing dwelling; by means of an addition as an accessory structure; or by converting or adding to an existing accessory structure, such as a garage, on the same lot with an existing primary dwelling, when the following conditions are met:

~~1. One off-street parking space for the ADU shall be provided in addition to the required parking for the primary dwelling except in those cases where the abutting street has a paved width of 28 feet or more and allows on-street parking.~~

~~2.1. Public services can serve both dwelling units.~~

~~3. The number of occupants is limited to no more than one family as defined by the Community Development Code.~~

~~4. The ADU does not exceed one bedroom and has an area between 250 and 1,000 square feet. If the ADU is located in an accessory structure, then it shall not exceed 30 percent of the gross square footage of the primary dwelling, except that an ADU may be a minimum of 250 square feet in size regardless of the size of the primary dwelling. No more than one ADU is allowed.~~

2. The maximum size of an ADU shall be:

a. 1,000 square feet when attached to the primary dwelling.

b. 1,000 square foot or 75 percent of gross square footage of the primary dwelling, whichever is less, when contained in a detached accessory structure.

~~5.3. The ADU is in conformance with the setback and lot coverage requirements of the underlying zone.~~

~~6. The following minimum area standards shall be met:~~

~~1 person — 250 square feet~~

~~2 persons — 500 square feet~~

~~7. Existing accessory structures such as large workshops, offices, garages, etc., constructed prior to January 2000, that exceed dimensional standards prescribed above for ADUs may be converted into ADUs in the future so long as the occupied or inhabited area is restricted to less than 1,000 square feet or less. Existing structures are not required to meet the design standards of subsections (B)(1) through (9) of this section, but shall conform to them to the greatest extent feasible.~~

~~B. Design standards for both attached and detached ADUs are as follows:~~

~~1. Exterior finish materials. The exterior finish material must be the same, or visually match in type, size, and placement, the exterior finish material of the primary dwelling.~~

~~2. Roof pitch. The roof pitch must be the same as the predominant roof pitch of the primary dwelling.~~

~~3. Trim. Trim on edges of elements on the addition must be the same in type, size, and location as the trim used on the rest of the primary dwelling.~~

~~4.— Windows. Windows must match those in the primary dwelling in proportion (relationship of width to height). Second floor windows on the ADU should be placed and sized so as to achieve a reasonable amount of privacy for the abutting property owner(s).~~

~~5.— Eaves. Eaves must project from the building walls the same distance as the eaves on the rest of the primary dwelling.~~

~~6.— Setbacks. The detached ADU shall be at least 10 feet behind the front building line of the primary dwelling so as to maintain the primary status of the single family home. The only exception allowed shall be for an ADU which is located above a detached garage, in which case, the setback of the ADU may be the same as that of the garage below.~~

~~7.~~ **4. Height.** The maximum height allowed for **of** a detached ADU **shall be the greater of:**

a. the height of the primary structure; or

b. 26 feet.

~~is 18 feet (as measured using Building Codes methodology). Attached ADUs may be higher than 18 feet, but cannot exceed the height of the existing primary dwelling.~~

~~8.— The main exterior entrance of the ADU shall be located on either the rear or side of the ADU so that the main entrance to the primary dwelling will not be in competition with the entrance to the ADU.~~

~~9.— Exterior stairs serving the ADU shall not face the front property line. (Ord. 1463, 2000)~~

34.040 SETBACK PROVISIONS FOR NOISE-PRODUCING ~~ACCESSORY USES~~ **EQUIPMENT**

Noise-producing ~~accessory uses~~ **equipment** (for example: heat pumps, swimming pool motors or filter pumps) may be placed within the side, front or rear yard setback, but no closer than three feet to the property line. (Ord. 1675 § 34, 2018)

34.050 BOAT HOUSES AND DOCKS

Only side yard setback requirements apply to boat houses and docks.

34.060 SETBACK PROVISIONS FOR ACCESSORY STRUCTURES (NON-DWELLING)

A. Accessory structures shall comply with all requirements for the principal use except as provided in CDC 34.040 and where specifically modified by this code as follows.

B. A side yard or rear yard requirement may be reduced to three feet for an accessory structure except for a side or rear yard abutting a street, with the exception of alleys platted and dedicated prior to September 30, 1984, as defined in this code; provided, that:

1. The structure is erected more than 60 feet from the front lot line;
2. The structure does not exceed one story or 15 feet in height;
3. The structure does not exceed an area of 500 square feet; and
4. The structure does not violate any existing utility easements.

C. Attached accessory structures. When an accessory structure is attached to the main structure (wall to wall or by any permanent attachment), including via a covered walkway, such accessory structure shall be considered as part of the main structure. (Ord. 1604 § 38, 2011)