

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 to 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 10th day of July, 2023, and duly PASSED and ADOPTED this 10th day of July, 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)