

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

ORDINANCE NO. 2018-01-17

An ordinance relating to land use; adopting amendments to the Clark County Code to amend sections 40.100.070 Definitions, 40.260.073 Cottage Housing, and 40.260.020 Accessory Dwelling Units – Urban, and to create a new section 40.260.022 Accessory Dwelling Units – Rural.

WHEREAS, the Clark County Council (Council) held three duly noticed, public work sessions on August 9 and September 6, 2017, and January 10, 2018 to discuss the County's needs for a diversity of housing choices, an increased variety of housing types for smaller households, and affordable housing; and

WHEREAS, the Council directed staff to draft code amendments to address the needs raised in the work sessions outlined above; and

WHEREAS, the required sixty day notifications of intent to adopt this set of amendments were received by the State Department of Commerce on October 30, 2017; and

WHEREAS, SEPA determinations of non-significance were published on November 1, 2017 and no comments were received; and

WHEREAS, Clark County Planning Department staff held a duly noticed open house with the public interested in Accessory Dwelling Unit and Cottage Housing code amendments at the Bud Van Cleve Community Room at Luke Jensen Sports Complex and Battle Ground Community Center on October 25 and October 26, 2017 respectively; and

WHEREAS, the Clark County Planning Commission held a duly noticed work session on November 2 to review the staff recommendation on the proposed code amendments; and

WHEREAS, the Planning Commission held a duly noticed public hearing on November 16, at which it considered and deliberated on the staff proposals for these code amendments, and adopted a recommendation to the Council regarding the proposed amendments; and

WHEREAS, the Council held a duly noticed work session on January 10, 2018 to review the Planning Commission recommendation on the proposed code amendments; and

WHEREAS, the Council at its duly noticed public hearing on January 23 and 30, 2018, took public testimony and considered all comments presented to the Council and the recommendations of the Planning Commission and staff; and

WHEREAS, the Council finds that adoption of these code amendments will further the public health, safety and welfare; now, therefore,

BE IT HEREBY ORDERED, RESOLVED AND DECREED BY THE CLARK COUNTY COUNCIL, CLARK COUNTY, STATE OF WASHINGTON, as follows:

Section 1. Findings. The recitals above are incorporated into this ordinance as findings.

Section 2. Amendatory. Sec. 1 (Ex. A) of Ord. 2003-11-01 and codified as CCC 40.100.070, and most recently amended by Sec. 17 of Ord. 2018-01-02, are each hereby amended as follows:

40.100.070 Definitions

Unless the context clearly requires otherwise, the definitions in this section shall apply to terms in this title. In addition to definitions provided below, there are chapter-specific or section-specific definitions in the following sections:

- Section 40.240.040, Columbia River Gorge National Scenic Area Districts;
- Section 40.250.010, Airport Environs Overlay Districts (AE-1, AE-2);
- Section 40.250.030, Historic Preservation;
- Section 40.260.050, Bed and Breakfast Establishments;
- Section 40.260.100, Home Businesses;
- Section 40.260.250, Wireless Communications Facilities;
- Section 40.310.010, Sign Standards;
- Section 40.386.010, Stormwater and Erosion Control;
- Section 40.410.010, Critical Aquifer Recharge Areas (CARAs);
- Section 40.420.010, Flood Hazard Areas;
- Section 40.430.010, Geologic Hazard Areas;
- Chapter 40.460, Shoreline Master Program;
- Section 40.560.030, Amendments Docket;
- Chapter 40.570, State Environmental Policy Act (SEPA); and
- Section 40.610.020, Development Impact Fees.

(Amended: Ord. 2009-06-01; Ord. 2012-07-16; Ord. 2015-11-24; Ord. 2017-07-04)

Dwelling	"Dwelling" means any building or portion thereof, designed or used as the residence or sleeping place of one (1) or more persons.
Dwelling unit	"Dwelling unit" means one (1) room or a suite of two (2) or more rooms, designed for or used by one (1) family or housekeeping unit for living and sleeping purposes, and having only one (1) kitchen or kitchenette.
Dwelling unit, accessory (ADU)	<p>"Accessory dwelling unit" (ADU) is an additional, smaller, subordinate dwelling unit on a lot with, or in, an existing or new house. ADUs are limited to no more than one bedroom. A house with an ADU is different from a duplex because the intensity of use is less due to the limitations of size and number of bedrooms, and it has the appearance of a single-family structure.</p> <ul style="list-style-type: none">• <u>"Urban ADU" means an attached or detached dwelling unit that provides for a greater range of housing types in single-family and multifamily residential districts while protecting the character of the residential neighborhood.</u>• <u>"Rural ADU" means an attached dwelling unit (RADU) that provides for a greater range of housing types in Rural and Resource lands while maintaining rural community character and ensuring the conservation, enhancement and protection of resource lands.</u> <p>(Amended: Ord. 2010-08-06)</p>
Dwelling, duplex	"Duplex dwelling" means a building, on a single lot, designed or used for residence purposes by not more than two (2) families, and containing two (2) dwelling units.
Dwelling, multiple-family, or multifamily	"Multiple-family dwelling" means a building or portion thereof designed or used as a residence by three (3) or more families, and containing three (3) or more dwelling units.
Dwelling, single-family	<p>"Single-family dwelling" means a building designed or used for residence purposes by not more than one (1) family, and containing one (1) dwelling unit only.</p> <ul style="list-style-type: none">• "Attached" means sharing a common wall or walls that separate interior occupant space or attached garage space on separate lots. At least fifty percent (50%) of the overall dimension of the attached side or end, as applicable, of each unit shall share a common wall.• "Detached" means physically separated.• <u>"Tiny house" means a detached single-family dwelling unit of not less than one hundred and fifty (150), square feet that is constructed or mounted on a foundation and is connected to</u>

	<p>utilities. A small dwelling unit built on a chassis is considered a recreational vehicle.</p> <p>(Amended: Ord. 2009-07-01)</p>
Dwelling, townhouse	<p>"Townhouse dwelling" means a form of attached single-family housing where two (2) or more dwelling units share one (1) or more common walls with other dwelling units, and with each dwelling occupying an individually owned parcel of land.</p>

(Amended: Ord. 2009-01-01; Ord. 2012-07-15)

Section 3. Amendatory. Sec. 1 (Attachment A) of Ord. 2012-02-03 and codified as CCC 40.260.073, are each hereby amended as follows:

40.260.073 Cottage Housing

A. Purpose. The purposes of the cottage housing provisions are:

1. To promote sustainable development practices through smaller, more efficient housing and effective use of residential land.
2. To diversify the county's housing stock by providing a housing type that is affordable and that responds to changing household sizes and ages, such as retirees, small families, and single-parent households.
3. To encourage development in existing residential areas by allowing a density bonus and design flexibility.
4. To provide centrally located and functional common open space that fosters a sense of community and openness within the cottage development.
5. To provide private areas around the individual dwellings to enable diversity in landscape design and foster a sense of ownership.
6. To maintain the character of existing residential neighborhoods and ensure compatibility between cottage developments and their neighbors.

B. Applicability.

1. This section applies to cottage housing developments as defined in Section 40.100.070.
2. Except within the Mixed Use (MX) zone and the Highway 99 Overlay District (which provide their own standards), cottage housing shall comply with the standards, requirements, and limitations in Section 40.260.073(C).
3. The narrow lot development standards in Section 40.260.155 shall not apply to cottage housing developments.

C. Development Standards and Requirements.

1. Cottage housing developments shall be subject to site plan review in accordance with Section 40.520.040; except, where the site is proposed to be platted with each cottage on its own lot, the site plan shall be reviewed in conjunction with the land division application and a separate site plan review application shall not be required.
2. Cottage housing developments may be allowed at up to two hundred percent (200%) of the maximum density of the underlying zone, including any accessory dwelling units.
3. Cottage housing developments shall contain a minimum of four (4) and a maximum of twelve (12) units in a cluster; provided, that a cottage development may contain more than one (1) cluster.

4. For platted cottage developments, the minimum lot area and lot dimension standards of the underlying zone shall not apply; provided, that the cottage on each lot meets the setback and separation standards herein.
5. Cottages and accessory structures shall maintain the following minimum setbacks:
 - a. Ten (10) feet from public rights-of-way or private street easements.
 - b. Five (5) feet from external non-street property boundaries.
 - c. Eighteen (18) feet from a street for garage doors; provided the minimum garage door setback from an alley may be two (2) feet.
 - d. Ten (10) feet minimum space between buildings (including accessory structures).
6. On-site parking shall be provided at a minimum rate of one and one-half (1 1/2) parking spaces per cottage and one parking space per accessory dwelling unit.
7. On-site parking may be clustered in common parking lots or detached garages.
8. Detached garages may contain up to two (2) accessory dwelling units (ADUs, also known as carriage units) per cottage cluster built above the parking spaces.
9. Cottage developments shall provide common open space at a minimum rate of four hundred (400) square feet per cottage.
10. Common open space shall be located with cottages abutting on at least two sides and abutting a minimum of fifty percent (50%) of the cottages in the cluster.
11. Each cottage shall have a minimum of two hundred (200) square feet of private open space. Private open space shall be adjacent to each dwelling unit for the exclusive use of the residents of that cottage. The space shall be usable (not encumbered by steep slopes or other physical limitations) and oriented toward the common open space as much as possible, with no dimension less than ten (10) feet.

D. Building Design Standards.

1. Cottages shall have a minimum of ~~five hundred (500)~~ one hundred and fifty (150) and a maximum of ~~sixteen twelve hundred (1,600 + 200)~~ square feet gross floor area. The maximum floor area allowed on the ground or main floor shall be ~~twelve eight hundred (1,200 800)~~ square feet.
2. Cottages located adjacent to a street shall provide a covered entry feature with minimum dimensions of six (6) feet by six (6) feet facing the street.
3. Cottage facades facing the common open space or common pathway shall feature a roofed porch at least eighty (80) square feet in size with a minimum dimension of eight (8) feet on any side.
4. The maximum building height shall be twenty-five (25) feet for cottages and ADUs built over garages and eighteen (18) feet for accessory structures.
5. All portions of building roofs over eighteen (18) feet in height must be pitched with a minimum slope of six to twelve (6:12).
6. Cottages and accessory buildings within a particular cluster shall be designed within the same "family" of architectural styles. Examples include:
 - a. Similar building/roof form and pitch.
 - b. Similar siding materials.
 - c. Similar porch detailing.
 - d. Similar window trim.

- 1 A diversity of cottages can be achieved within a "family" of styles by:
2 e. Alternating porch styles (such as roof forms).
3 f. Alternating siding details on facades and/or roof gables.
4 g. Different siding color.
5

6 (Added: Ord. 2012-02-03)

7 * Code reviser's note: Ordinance 2012-02-03 adds this section as Section 40.260.075. It has been
8 editorially renumbered to avoid duplication of numbering.

9
10 **Section 4. Amendatory.** Sec. 1 of Ord. 2003-11-01 and codified as CCC 40.260.020, and most recently
11 amended by Sec. 9 of Ord. 2010-08-06, are each hereby amended as follows:
12

13 **40.260.020 Accessory Dwelling Units - URBAN**
14

15 A. Purpose. The purpose of this section is to:
16

- 17 1. Provide an additional smaller, subordinate dwelling unit on a lot with, or in, an existing or new
18 house.
19 2. Provide for a greater range of choices of housing types in single-family and multifamily residential
20 districts while protecting the character of the residential neighborhood.
21

22 B. Applicability.
23

- 24 1. Accessory dwelling units may be allowed in the R1-20, R1-10, R1-7.5, R1-6, R1-5 zones or on
25 any multifamily-zoned (Residential (R) or Office Residential (OR)) lot developed with an existing
26 single-family dwelling, subject to the requirements of this section.
27
28 2. A lot of record lawfully occupied by two (2) or more single-family residences per Section
29 40.200.050 does not qualify for an ADU, unless the lot is short platted under Chapter 40.540. If a
30 short plat is approved, an ADU for each dwelling unit is permitted only if all dimensional standards
31 of the underlying zone and all other provisions of this section are met.
32
33 3. An ADU shall not be located in a dwelling or on a lot where a Type II home business is operating.
34

35 C. Development Standards.
36

- 37 1. No more than one (1) ADU per legal lot is permitted and it must be accessory to a single-family
38 residence.
39
40 ~~2. No accessory dwelling unit shall be permitted on a lot of less than five thousand (5,000) square~~
41 ~~feet. An ADU shall not contain more than one (1) bedroom.~~
42
43 ~~32.~~ ADUs require building permits to ensure compliance with applicable fire, health, and safety
44 codes.
45
46 ~~43.~~ An ADU may be created through:
47
48 a. Internal conversion within an existing dwelling;
49 b. The addition of new square footage to the existing house or to a garage;
50 c. Conversion of an existing garage;
51 d. Inclusion in the development plans for, or as part of, the construction of a new single-family
52 detached dwelling unit; or
53 e. A separate detached dwelling unit on the same lot as the primary dwelling unit when the
54 accessory unit is located at least ten (10) feet behind the most distant back or side wall or
55 other structural element of the primary dwelling unit structure.

~~f. Mobile homes are not considered an ADU for the purposes of this subsection. Subject to the requirements of this section, a manufactured or modular home can be considered an ADU for the purposes of this subsection.~~

54. An ADU shall conform to the standards of the zone, including, but not limited to lot coverage and setbacks.

65. Building height is limited to twenty-five (25) feet for a detached ADU. Additions to existing dwellings shall meet the height requirements of the zone.

76. Allowable Size.

The total gross floor area of an ADU shall not exceed eight hundred (800) square feet or forty percent (40%) of the area of the primary dwelling's living area, whichever is less, with the following exceptions for large lots with large primary dwellings or primary dwellings with basements.

a. On lots zoned R1-10 that are at least ten thousand (10,000) square feet, the maximum square footage of an ADU is one thousand (1,000) square feet, or forty percent (40%) of the area of the primary dwelling's living area, whichever is less; and

b. On lots zoned R1-20 that are at least twenty thousand (20,000) square feet, the maximum square footage of an ADU is fifteen hundred (1,500) square feet, or forty percent (40%) of the area of the primary dwelling's living area, whichever is less.

c. The total floor area of a basement of the primary dwelling may be used as the ADU, provided that there is a separate exterior entrance and the basement area not exceed the size of the primary dwelling unit.

d. The living area of the primary dwelling unit excludes uninhabitable floor area, and garage and or other outbuilding square footage whether attached or detached. If the primary dwelling unit is smaller less than seven hundred and fifty (750) square feet gross floor area, the ADU may be up to three hundred (300) square feet even though this exceeds forty percent (40%) of the primary dwelling unit's living area. The absolute minimum area of an ADU shall be one hundred and fifty (150) square feet. is determined by the building code.

87. Parking.

One parking space shall be provided for the ADU. Parking may be provided by the following methods:

a. On site;

b. On-street parking; provided, that the parking space is legally available and along the ADU lot's street frontage. Posted-time or day-restricted parking spaces do not qualify as legally available for the purposes of this section; or

c. If no parking space is available on-site or on-street, a joint agreement for off-site parking may be used subject to Section 40.340.010(A)(5).

98. An ADU shall connect to public sewer and water unless a sewer waiver is obtained under Section 40.370.010.

109. ADUs shall be subject to a seventy-five percent (75%) reduction in school, transportation and park impact fees from the rate imposed for multifamily dwelling units.

~~1110. Owner Occupancy.~~

~~Prior to issuance of a building permit establishing an ADU, the applicant shall record as a deed restriction in the County Auditor's office a certification covenant by the owner agreeing under oath in a form prescribed by the responsible official that one (1) of the dwelling units is and will continue to be occupied by the owner of the property as the owner's principal and permanent residence for as long as the other unit is being rented or otherwise occupied. The owner shall~~

~~also agree to maintain residency for at least six (6) months out of the year, and at no time receive rent for, or otherwise allow to be occupied, the owner-occupied unit if absent for the remainder of the year. The owner shall restrict one dwelling unit to a long-term (30-day minimum stay) rental agreement. Failure to abide by the covenant regarding Falsely certifying owner occupancy shall will be considered a violation of the zoning ordinance and is will be subject to the enforcement actions pursuant to described in Title 32.~~

(Amended: Ord. 2005-04-12)

D. Design Standards.

1. The exterior appearance of an addition or detached ADU shall be architecturally compatible with the primary residence. Compatibility includes coordination of architectural style, exterior building materials and colors, roof form and pitch, window style and placement, other architectural features and landscaping. The responsible official may approve variations as necessary to accommodate proposed energy efficient building features into the ADU.
2. New entrances for an ADU created by internal conversion or by an addition to an existing primary dwelling shall be located on the side or rear of the primary residence unless it can be demonstrated that no feasible alternative exists.
3. Exterior Finish Materials. Plain concrete, concrete block, corrugated metal or plywood are prohibited if they are not the predominant exterior finish material on the primary dwelling, unless these materials duplicate or reflect the predominant finish.
4. Roof Slopes. For buildings over fifteen (15) feet in height, the slope of the accessory dwelling unit roof must be the same as that of the predominant slope of the primary dwelling structure.
5. Historic Structures. If an ADU is on the same lot as or within a historic structure which has been designated on the national, state or local historic register, the following design guidelines are applicable:
 - a. Exterior materials should be of the same type, size and placement as those of the primary dwelling structure.
 - b. Trim on edges of elements of accessory structures and additions should be the same as those of the primary structure in type, size and placement.
 - c. Windows in any elevation which faces a street should match those in the primary structure in proportion, i.e., same height, width and orientation (horizontal or vertical).
 - d. Pediments and Dormers. Each accessory dwelling unit over twenty (20) feet in height should have either a roof pediment or dormer if one (1) or the other of these architectural features are present on the primary dwelling.
6. Accessibility. To encourage the development of ADA-accessible housing units, the responsible official may allow reasonable deviation from the requirements of this section for features that facilitate accessibility.

E. Process.

Accessory dwelling units created under Section 40.260.020(C)(3)(e) require Type I site plan review under Section 40.510.010. Building permits may be submitted at the same time as the site plan review.

(Amended: Ord. 2010-08-06)

Section 5. New.

40.260.022 Accessory Dwelling Units – RURAL (RADU)

1 A. Purpose. The purpose of this section is to provide an additional smaller, subordinate dwelling unit
2 attached to or in an existing or new house. RADUs are intended to provide for a greater range of choices
3 of housing types in Rural and Resource lands while maintaining rural community character and ensuring
4 the conservation, enhancement and protection of resource lands.

5
6 B. Applicability.

7
8 1. Rural accessory dwelling units may be allowed in the RC-1, RC2.5, R-5, R-10, R-20, AG-20, FR-
9 40, FR-80 and AG-WL zones, on lots of record that are either already developed with a single-
10 family dwelling, or that will be developed with a dwelling that includes the primary dwelling unit
11 and the RADU, subject to the requirements of this section.

12
13 2. A lot of record lawfully occupied by two (2) or more single-family residences per Section
14 40.200.050 does not qualify for a RADU.

15
16 3. A RADU shall not be located in a dwelling or on a lot where a Type II home business is
17 operating.

18
19 C. Development Standards.

20
21 1. No more than one (1) RADU per legal lot is permitted and it must be accessory to a single-family
22 residence.

23
24 2. RADUs shall comply with applicable fire, health, and safety codes.

25
26 3. A RADU may be created through:

27
28 a. Internal conversion of space within an existing dwelling;

29 b. The addition of new square footage to the existing house, subject to the requirements of the
30 Clark County Code;

31 c. Conversion of an existing garage that is attached to a single-family dwelling; or

32 d. Inclusion in the development plans for, or as part of, the construction of a new single-family
33 detached dwelling unit.

34
35 4. The dwelling unit that includes the primary unit and the RADU together shall conform to the
36 standards of the zone, including, but not limited to lot coverage and setbacks.

37
38 5. Building height shall meet the height requirements of the zone.

39
40 6. Allowable Size.

41
42 a. Subject to Section 40.260.022(6)(c) below, the total gross floor area of a RADU excluding
43 basements, shall not exceed fifteen hundred (1,500) square feet or forty percent (40%) of the
44 area of the primary dwelling's living area, whichever is less.

45
46 b. The total floor area of the dwelling's basement may be used as the RADU, provided there is
47 a separate exterior entrance, and the basement area does not exceed the size of the primary
48 dwelling unit.

49
50 c. The living area of the primary dwelling unit excludes uninhabitable floor area, garage, and
51 outbuilding square footage, whether attached or detached. If the primary dwelling unit is
52 smaller than seven hundred and fifty (750) square feet gross floor area, the RADU may be up
53 to three hundred (300) square feet even though this exceeds forty percent (40%) of the
54 primary dwelling unit's living area. The minimum area of a RADU shall not be less than one
55 hundred and fifty (150) square feet.

56
57 7. Parking.

1
2 One parking space shall be provided on-site for the RADU.

- 3
4 8. RADUs shall be subject to a seventy-five percent (75%) reduction in school and transportation
5 impact fees from the rate imposed for multi-family dwelling units.

6
7 9. Owner Occupancy.

8
9 ~~Prior to issuance of a building permit establishing a RADU, the applicant shall record as a deed~~
10 ~~restriction in the County Auditor's office a covenant by the owner agreeing under oath in a form~~
11 ~~prescribed by the responsible official that one (1) of the dwelling units is and will continue to be~~
12 ~~occupied by the owner of the property as the owner's principal and permanent residence for as~~
13 ~~long as the other unit is being rented or otherwise occupied. The owner shall also agree to~~
14 ~~maintain residency for at least six (6) months out of the year, and at no time receive rent for, or~~
15 ~~otherwise allow to be occupied, the owner-occupied unit if absent for the remainder of the year.~~
16 ~~The owner shall restrict one dwelling unit to a long-term (30-day minimum stay) rental~~
17 ~~agreement. Failure to abide by the covenant regarding owner occupancy will be considered a~~
18 ~~violation of the zoning ordinance and will be subject to the enforcement actions pursuant to Title~~
19 ~~32.~~

20
21 D. Design Standards.

- 22
23 1. New entrances for a RADU created by internal conversion or by an addition to an existing primary
24 dwelling shall be located on the side or rear of the primary dwelling unless it can be demonstrated
25 that no feasible alternative exists.
26
27 2. Historic Structures. If a RADU is within a historic structure which has been designated on the
28 national, state or local historic register, the following design guidelines are applicable:
29
30 a. Exterior materials should be of the same type, size and placement as those of the primary
31 dwelling structure.
32 b. Trim on edges of elements of accessory structures and additions should be the same as
33 those of the primary structure in type, size and placement.
34 c. Windows in any elevation which faces a street should match those in the primary structure in
35 proportion, i.e., same height, width and orientation (horizontal or vertical).
36 d. Pediments and Dormers. Each accessory dwelling unit should have either a roof pediment or
37 dormer if either one of these architectural features are present on the primary dwelling.
38 6. Accessibility. To encourage the development of ADA-accessible housing units, the responsible
39 official may allow reasonable deviation from the requirements of this section for features that
40 facilitate accessibility.
41

42 **Section 6. Effective Date.**

43 This ordinance shall go into effect on March 2, 2018, thirty (30) days after its adoption.

44
45 **Section 7. Instructions to Clerk.**

46 The Clerk to the Council shall:

- 47
48 1. Transmit a copy of this ordinance to the Washington State Department of Commerce within
49 ten (10) days of its adoption pursuant to RCW 36.70A.106.
50
51 2. Transmit a copy of the adopted ordinance to Code Publishing, Inc. forthwith to update the
52 electronic version of the County Code.
53
54 3. Transmit a copy of the adopted ordinance to the Community Development Department
55 (Debra Webber).
56

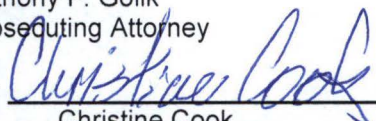
- 1
2 4. Record a copy of this ordinance with the Clark County Auditor.
3
4 5. Cause notice of adoption of this ordinance to be published forthwith pursuant to RCW
5 36.70A.290.
6

7 ADOPTED this 30th day of January 2018.
8
9

10 Attest:

11 
12 _____
13 Clerk to the Council
14

15
16 Approved as to Form Only:
17 Anthony F. Golik
18 Prosecuting Attorney
19

20 By: 
21 _____
22 Christine Cook
23 Sr. Deputy Prosecuting Attorney
24
25
26
27

CLARK COUNTY COUNCIL
FOR CLARK COUNTY, WASHINGTON

By: _____
Marc Boldt, Chair

By: 

Julie Olson, Councilor

By: 

Jeanne Stewart, Councilor

By: 

Eileen Quiring, Councilor

By: _____
John Blom, Councilor

