

# FOR THE BOARD OF CLARK COUNTY COUNCILORS

TO: Board of County Councilors

PREPARED BY: Peter Silliman

REPORT DATE: September 22, 2015

SUBJECT: Accessory Dwelling Units

## I. REQUEST

Direct the County Manager to have these proposed changes to 40.260.020 evaluated by DEAB and the Planning Commission and returned to the BOCC for action by the end of the year.

## II. BACKGROUND

In April of 2015, the Building Industry Association sent a list of suggestions they believed would benefit the local economy and building industry. One of those suggestions was to allow Accessory dwelling units in the rural zones. On June 17<sup>th</sup>, the Commission on Aging, in a joint session with the BOCC, asked the BOCC to consider the same request.

Accessory Dwellings are smaller, subordinate dwellings on a lot with an existing house. They differ from general multi-family properties as one residence is required to be occupied by the property owner. The intention of the current code is to allow for a wider range of housing types while preserving the character of the existing residential neighborhood. This option is currently available in urban residential and multifamily zones.

# FOR THE BOARD OF CLARK COUNTY COUNCILORS

Accessory dwelling units have been shown to increase the supply of affordable and independent housing for a variety of households, increase home and personal security, and provide supplemental earnings for people with limited incomes.

Other counties in Washington State allow Accessory Dwelling units in rural zoning. Draft changes to 40.260.020 are attached that would facilitate the proposed expansion of this housing option in Clark County.

### III. PROCESS

Planning will produce a staff report and present the proposed elements to the DEAB and Planning Commission for a recommendation. The department of Commerce will also be contacted for comments as this is a development regulation. Staff will then bring this back to the BOCC by the end of the year for action.

### IV. RECOMMENDATION

Approve the request to have these modifications evaluated by DEAB and the PC.

1 **40.260.020 Accessory Dwelling Units**

2 A. Purpose.

3 An accessory dwelling unit (ADU) is an additional smaller, subordinate dwelling unit on a lot  
4 with, or in, an existing or new house. These units are intended to provide for a greater  
5 range of choices of housing types in single-family and multifamily residential districts while  
6 protecting the character of the residential neighborhood.

7 B. Applicability.

8 ~~1. Accessory dwelling units may be allowed in the R1-20, R1-10, R1-7.5, R1-6, R1-5~~  
9 ~~zones or on any multifamily-zoned (Residential (R) or Office Residential (OR)) lot~~  
10 ~~developed with an existing single-family dwelling, subject to the requirements of this~~  
11 ~~section.~~

12 1. Accessory dwelling units may be allowed in all urban residential districts and rural  
13 districts subject to the requirements of this section.

14 2. A lot of record lawfully occupied by two (2) or more single-family residences per Section  
15 40.200.050 does not qualify for an ADU, unless the lot is short platted under  
16 Chapter 40.540. If a short plat is approved, an ADU for each dwelling unit is  
17 permitted only if all dimensional standards of the underlying zone and all other  
18 provisions of this section are met.

19 3. An ADU shall not be located in a dwelling or on a lot where a Type II home business is  
20 operating in an urban residential district.

21 4. An ADU shall not be permitted on a lot with a Temporary Dwelling per Section  
22 40.260.210

23 C. Development Standards.

24 1. No more than one (1) ADU per legal lot is permitted and it must be accessory to a  
25 single-family residence.

26 2. No accessory dwelling unit shall be permitted on a lot of less than five thousand (5,000)  
27 square feet. ~~An ADU shall not contain more than one (1) bedroom.~~

28 3. ADUs require building permits to ensure compliance with applicable fire, health, and  
29 safety codes.

30 4. An ADU may be created through:

31 a. Internal conversion within an existing dwelling;

32 b. The addition of new square footage to the existing house or to a garage;

33 c. Conversion of an existing garage;

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

1 e. A separate detached dwelling unit on the same lot as the primary dwelling unit when  
2 the accessory unit is located at least ten (10) feet behind the most distant back or  
3 side wall or other structural element of the primary dwelling unit structure.

4 ~~f. Mobile homes are not considered an ADU for the purposes of this subsection.~~

5 f. In the rural districts only, mobile homes may be considered an ADU for the purposes  
6 of this subsection.

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

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

11 7. Allowable Size.

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

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

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

23 c. On a rural district lot, with an existing home less than fifteen hundred (1,500) square  
24 feet, a new primary residence may be constructed, and the existing home shall be  
25 permitted as the ADU.

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

32 8. Parking.

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

35 a. On site;

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

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

6 9. In Urban Residential districts, an ADU shall connect to public sewer and water unless a  
7 sewer waiver is obtained under Section 40.370.010.

8 10. In Rural districts, an ADU shall comply with the On-Site Sewage System Rules and  
9 Regulations in Title 24 Public Health.

10 ~~4011.~~ ADUs shall be subject to impact fees at the same rate as those imposed for  
11 multifamily dwelling units.

12 ~~44-12~~ Owner Occupancy.

13 Prior to issuance of a building permit establishing an ADU, the applicant shall record as a  
14 deed restriction in the County Auditor's office a certification by the owner under oath  
15 in a form prescribed by the responsible official that one (1) of the dwelling units is  
16 and will continue to be occupied by the owner of the property as the owner's  
17 principal and permanent residence for as long as the other unit is being rented or  
18 otherwise occupied. The owner shall maintain residency for at least six (6) months  
19 out of the year, and at no time receive rent for, or otherwise allow to be occupied,  
20 the owner-occupied unit if absent for the remainder of the year. Falsely certifying  
21 owner occupancy shall be considered a violation of the zoning ordinance and is  
22 subject to the enforcement actions described in Title 32.

23 (Amended: Ord. 2005-04-12)

24 D. Design Standards

25 1. The exterior appearance of an addition or detached ADU shall be architecturally  
26 compatible with the primary residence. Compatibility includes coordination of  
27 architectural style, exterior building materials and colors, roof form and pitch,  
28 window style and placement, other architectural features and landscaping. The  
29 responsible official may approve variations as necessary to accommodate proposed  
30 energy efficient building features into the ADU.

31 2. New entrances for an ADU created by internal conversion or by an addition to an  
32 existing primary dwelling shall be located on the side or rear of the primary  
33 residence unless it can be demonstrated that no feasible alternative exists.

34 3. Exterior Finish Materials. Plain concrete, concrete block, corrugated metal or plywood  
35 are prohibited if they are not the predominant exterior finish material on the primary  
36 dwelling, unless these materials duplicate or reflect the predominant finish.

37 4. Roof Slopes. For buildings over fifteen (15) feet in height, the slope of the accessory  
38 dwelling unit roof must be the same as that of the predominant slope of the primary  
39 dwelling structure.

1 5. Historic Structures. If an ADU is on the same lot as or within a historic structure which  
 2 has been designated on the national, state or local historic register, the following  
 3 design guidelines are applicable:

4 a. Exterior materials should be of the same type, size and placement as those of the  
 5 primary dwelling structure.

6 b. Trim on edges of elements of accessory structures and additions should be the same  
 7 as those of the primary structure in type, size and placement.

8 c. Windows in any elevation which faces a street should match those in the primary  
 9 structure in proportion, i.e., same height, width and orientation (horizontal or  
 10 vertical).

11 d. Pediments and Dormers. Each accessory dwelling unit over twenty (20) feet in height  
 12 should have either a roof pediment or dormer if one (1) or the other of these  
 13 architectural features are present on the primary dwelling.

14 6. Accessibility. To encourage the development of ADA-accessible housing units, the  
 15 responsible official may allow reasonable deviation from the requirements of this  
 16 section for features that facilitate accessibility.

17 E. Process.

18 Accessory dwelling units require Type I site plan review under Section 40.510.010. Building  
 19 permits may be submitted at the same time as the site plan review.

20 (Amended: Ord. 2010-08-06)  
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| Table 40.210.020-1. Uses  |          |          |          |                   |
|---|----------|----------|----------|-------------------|
|   | R-20     | R-10     | R-5      | Special Standards |
| 1. Residential.   |          |          |          |                   |
| a. Single-family dwellings and accessory buildings, including 1 guest house         | P        | P        | P        | 40.260.010        |
| <u>b. Accessory dwelling units</u>  | <u>P</u> | <u>P</u> | <u>P</u> | <u>40.260.020</u> |
| <del>b.c.</del> Family day care centers   | P        | P        | P        | 40.260.160        |
| <del>c.</del> <u>d.</u> Adult family homes  | P        | P        | P        | 40.260.190        |
| <del>d.</del> <u>e.</u> Home business – Type I                                      | P        | P        | P        | 40.260.100        |
| <del>e.</del> <u>f.</u> Home business – Type II                                     | R/A      | R/A      | R/A      | 40.260.100        |
| <del>f.</del> <u>g.</u> Bed and breakfast establishments (up to 2 guest bedrooms)   | R/A      | R/A      | R/A      | 40.260.050        |
| <del>g.</del> <u>h.</u> Bed and breakfast establishments (3 or more guest bedrooms) | C        | C        | C        | 40.260.050        |

|   |   |   |   |            |
|---|---|---|---|------------|
| <del>h.</del> <u>i.</u> Country inns of historic significance | C | C | C |            |
| <del>i.</del> <u>j.</u> Garage sales                          | P | P | P | 40.260.090 |
| <del>j.</del> <u>k.</u> Residential care homes                | C | C | C | 40.260.180 |
| <del>k.</del> <u>l.</u> Temporary dwellings                   | P | P | P | 40.260.210 |
| <del>l.</del> <u>m.</u> Staffed residential homes             | C | C | C | 40.260.205 |

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| Table 40.210.030-1. Uses  |          |          |                   |
|---|----------|----------|-------------------|
|   | RC-1     | RC-2.5   | Special Standards |
| 1. Residential.   |          |          |                   |
| a. Single-family dwellings and accessory buildings, including 1 guest house         | P        | P        | 40.260.010        |
| <u>b.</u> Accessory dwelling units  | <u>P</u> | <u>P</u> | <u>40.260.020</u> |
| <del>c.</del> <u>b.</u> Family day care centers                                     | P        | P        | 40.260.160        |
| <u>d.</u> <del>e.</del> Adult family homes  | P        | P        | 40.260.190        |
| <u>e.</u> <del>d.</del> Home business – Type I                                      | P        | P        | 40.260.100        |
| <u>f.</u> <del>e.</del> Home business – Type II                                     | R/A      | R/A      | 40.260.100        |
| <u>g.</u> <del>f.</del> Bed and breakfast establishments (up to 2 guest bedrooms)   | P        | P        | 40.260.050        |
| <u>h.</u> <del>g.</del> Bed and breakfast establishments (3 or more guest bedrooms) | P        | P        | 40.260.050        |
| <u>i.</u> <del>h.</del> Country inns of historic significance                       | C        | C        |                   |
| <u>j.</u> <del>i.</del> Garage sales  | P        | P        | 40.260.090        |
| <u>k.</u> <del>j.</del> Residential care homes                                      | C        | C        | 40.260.180        |
| <u>l.</u> <del>k.</del> Temporary dwellings   | P        | P        | 40.260.210        |
| <u>m.</u> <del>l.</del> Staffed residential homes                                   | C        | C        | 40.260.205        |

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| Table 40.220.010-1. Uses   |       |       |        |      |      |                   |
|--|-------|-------|--------|------|------|-------------------|
|  | R1-20 | R1-10 | R1-7.5 | R1-6 | R1-5 | Special Standards |
| 1. Residential.  |       |       |        |      |      |                   |
| a. Single-family detached dwellings                                  | P     | P     | P      | P    | P    |                   |
| b. Accessory uses and structures normal to a residential environment | P     | P     | P      | P    | P    | 40.260.010        |

|  |                  |                  |                  |                  |                  |                          |
|--|------------------|------------------|------------------|------------------|------------------|--------------------------|
| c. Accessory dwelling units                                    | R/A<br>P         | R/A<br>P         | R/A<br>P         | R/A<br>P         | R/A<br>P         | 40.260.020               |
| d. Duplex dwellings  | X                | X                | X                | P <sup>1</sup>   | P <sup>1</sup>   |                          |
| e. Family day care centers                                     | P                | P                | P                | P                | P                | 40.260.160               |
| f. Adult family homes  | P                | P                | P                | P                | P                | 40.260.190               |
| g. Home business – Type I                                      | P                | P                | P                | P                | P                | 40.260.100               |
| h. Home business – Type II                                     | R/A              | R/A              | R/A              | R/A              | R/A              | 40.260.100               |
| i. Bed and breakfast establishments (up to 2 guest bedrooms)   | R/A              | R/A              | R/A              | R/A              | R/A              | 40.260.050               |
| j. Bed and breakfast establishments (3 or more guest bedrooms) | C                | C                | C                | C                | C                | 40.260.050               |
| k. Garage sales  | P                | P                | P                | P                | P                | 40.260.090               |
| l. Mobile home parks   | X                | X                | X                | X                | X                |                          |
| m. Mobile homes on individual lots                             | R/A <sup>7</sup> | R/A <sup>7</sup> | R/A <sup>7</sup> | R/A <sup>7</sup> | R/A <sup>7</sup> | 40.260.130               |
| n. Residential P.U.D.  | R/A              | R/A              | R/A              | R/A              | R/A              | 40.520.080               |
| o. Single-family attached dwelling units (townhouses)          | R/A <sup>2</sup> | R/A <sup>2</sup> | R/A <sup>2</sup> | R/A <sup>2</sup> | R/A <sup>2</sup> | 40.260.155<br>40.520.080 |
| p. Zero lot-line developments                                  | X                | X                | R/A              | R/A              | R/A              | 40.260.260               |
| q. Residential care homes and facilities                       | C                | C                | C                | C                | C                | 40.260.180               |
| r. Temporary dwellings   | P                | P                | P                | P                | P                | 40.260.210               |
| s. Cottage housing   | X                | X                | P                | P                | P                | 40.260.073               |
| t. Staffed residential homes                                   | C                | C                | C                | C                | C                | 40.260.205               |

**Table 40.220.020-1. Uses**

|  | R-12                               | R-18                               | R-22                               | R-30                               | R-43                               | OR-15                              | OR-18                              | OR-22                              | OR-30                              | OR-43                              | Special Standards |
|--|------------------------------------|------------------------------------|------------------------------------|------------------------------------|------------------------------------|------------------------------------|------------------------------------|------------------------------------|------------------------------------|------------------------------------|-------------------|
| 1. Residential.  |                                    |                                    |                                    |                                    |                                    |                                    |                                    |                                    |                                    |                                    |                   |
| a. Accessory uses and structures normal to a residential environment | P                                  | P                                  | P                                  | P                                  | P                                  | P                                  | P                                  | P                                  | P                                  | P                                  | 40.260.010        |
| b. Accessory dwelling units  | R/A <sup>1</sup><br>P <sup>1</sup> | R/A <sup>1</sup><br>P <sup>1</sup> | R/A <sup>1</sup><br>P <sup>1</sup> | R/A <sup>1</sup><br>P <sup>1</sup> | R/A <sup>1</sup><br>P <sup>1</sup> | R/A <sup>1</sup><br>P <sup>1</sup> | R/A <sup>1</sup><br>P <sup>1</sup> | R/A <sup>1</sup><br>P <sup>1</sup> | R/A <sup>1</sup><br>P <sup>1</sup> | R/A <sup>1</sup><br>P <sup>1</sup> | 40.260.020        |
| c. Boarding houses   | R/A                                | R/A                                | P                                  | P                                  | P                                  | P                                  | P                                  | P                                  | P                                  | P                                  |                   |
| d. Duplex dwellings  | P                                  | P                                  | P                                  | P                                  | P                                  | P                                  | P                                  | P                                  | P                                  | P                                  |                   |



|  |                  |                  |                  |                |                |                  |                  |                  |                |                |                          |
|--|------------------|------------------|------------------|----------------|----------------|------------------|------------------|------------------|----------------|----------------|--------------------------|
| e. Multifamily dwellings                                       | P                | P                | P                | P              | P              | P                | P                | P                | P              | P              | 40.260.150               |
| f. Existing residential use                                    | P                | P                | P                | P              | P              | P                | P                | P                | P              | P              |                          |
| g. Family day care centers                                     | P <sup>2</sup>   | P <sup>2</sup>   | P <sup>2</sup>   | P <sup>2</sup> | P <sup>2</sup> | P <sup>2</sup>   | P <sup>2</sup>   | P <sup>2</sup>   | P <sup>2</sup> | P <sup>2</sup> | 40.260.160               |
| h. Adult family homes  | P                | P                | P                | P              | P              | P                | P                | P                | P              | P              | 40.260.190               |
| i. Home business – Type I                                      | P                | P                | P                | P              | P              | P                | P                | P                | P              | P              | 40.260.100               |
| j. Home business – Type II                                     | R/A              | R/A              | R/A              | R/A            | R/A            | R/A              | R/A              | R/A              | R/A            | R/A            | 40.260.100               |
| k. Bed and breakfast establishments (up to 2 guest bedrooms)   | R/A              | R/A              | R/A              | R/A            | R/A            | R/A              | R/A              | R/A              | R/A            | R/A            | 40.260.050               |
| l. Bed and breakfast establishments (3 or more guest bedrooms) | C                | C                | C                | C              | C              | C                | C                | C                | C              | C              | 40.260.050               |
| m. Garage sales  | P                | P                | P                | P              | P              | P                | P                | P                | P              | P              | 40.260.090               |
| n. Mobile home parks   | R/A              | R/A              | R/A              | R/A            | R/A            | R/A              | R/A              | R/A              | R/A            | R/A            | 40.260.140               |
| o. Mobile homes on individual lots                             | R/A <sup>4</sup> | R/A <sup>4</sup> | R/A <sup>4</sup> | X              | X              | R/A <sup>4</sup> | R/A <sup>4</sup> | R/A <sup>4</sup> | X              | X              | 40.260.130<br>40.520.020 |
| p. Residential P.U.D.  | R/A              | R/A              | R/A              | R/A            | R/A            | R/A              | R/A              | R/A              | R/A            | R/A            | 40.520.020<br>40.520.080 |
| q. Assisted living facilities                                  | P                | P                | P                | P              | P              | P                | P                | P                | P              | P              | 40.260.190               |
| r. Single-family attached dwelling units (townhouses)          | R/A              | R/A              | R/A              | R/A            | R/A            | R/A              | R/A              | R/A              | R/A            | R/A            | 40.260.155               |
| s. Single-family detached dwellings                            | R/A              | R/A              | R/A              | X              | X              | R/A              | R/A              | R/A              | X              | X              | 40.260.155               |
| t. Residential care homes and facilities                       | C                | C                | C                | C              | C              | C                | C                | C                | C              | C              | 40.260.180               |
| u. Cottage housing   | P                | P                | P                | X              | X              | P                | P                | P                | X              | X              | 40.260.073               |
| v. Staffed residential homes                                   | C                | C                | C                | C              | C              | C                | C                | C                | C              | C              | 40.260.205               |

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