

Yamhill County

DEPARTMENT OF PLANNING AND DEVELOPMENT

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May 25, 2023

MEMORANDUM

To: Planning Commissioners

From: Ken Friday, Planning Director

Re: **Docket G-01-21, Proposed Amendments to the zoning ordinance to allow Accessory Dwelling Unit's (ADUs) within the rural residential zones under the requirements of Senate Bill 644 (SB 644).**

Background Information

The legislature recently passed Senate Bill 644 (2023) which modified Senate Bill 391 passed in 2021 to allow Accessory Dwelling Units (ADUs). SB 644 authorizes a county to allow an owner of a lot or parcel within a rural residential zone to construct one ADU subject to certain restrictions and limitations. An ADU is a second residence of 900 square feet or less on a property that meets certain requirements of the state law. Currently, ADUs are allowed on parcels in specific zones within an Urban Growth Boundary (UGB). SB 644 expands ADUs to rural residential properties outside of the UGB and Urban Reserve Area (URA) and includes a set of minimum standards and conditions that a county must require if it chooses to authorize ADUs. Counties are allowed to pass more stringent requirements but cannot be more lenient than state law.

Attached is the record of the above proposed legislative amendment that is scheduled to be heard by the Planning Commission on June 1, 2023. After holding the public hearing, the Planning Commission will make a recommendation to the Board of Commissioners. The Board of Commissioners will then hold a public hearing and make a final decision.

Attached please find the staff report with the following exhibits.

- EXHIBITS:**
1. Proposed YCZO (Sections 501, 502, and 503) Rural Residential Districts Amendments.
 2. Proposed YCZO (Section 1014) Accessory Dwelling Units Amendments.
 3. Senate Bill 644 (2023)
 4. Comments Received

STAFF REPORT
YAMHILL COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT

HEARING DATE: June 1, 2023 (Planning Commission)

DOCKET NO.: G-01-21

REQUEST: To amend Section 1014 to the Yamhill County Zoning Ordinance (YCZO) related to the development standards for Accessory Dwelling Units. To add Accessory Dwelling Units as a permitted use to rural residential zones per Senate Bill 644 (2023)

APPLICANT: Yamhill County

CRITERIA: Section 1207.01 of the Yamhill County Zoning Ordinance, Senate Bill 644, and ORS 197.

EXHIBITS:

1. Proposed YCZO (Sections 501, 502, and 503) Rural Residential Districts Amendments.
2. Proposed YCZO (Section 1014) Accessory Dwelling Units Amendments.
3. Senate Bill 644 (2023)
4. Comments Received

FINDINGS:

A. Background

On June 23, 2021, the Governor signed Senate Bill 391 (SB 391) into Oregon law. This law allowed rural accessory dwelling units (ADUs) in rural residential zoned areas, subject to certain conditions. In 2021, staff drafted an ordinance implementing these changes, however, the ADU bill was not able to be locally implemented at the time because the bill language required the adoption of state wildfire risk mapping. The state wildfire risk mapping was a requirement of Senate Bill 762, and the Oregon Department of Forestry (ODF) was tasked with completion of the map. The state wildfire risk maps were published in June of 2022 and then rescinded in August 2022 by ODF due to public outcry about a lack of public involvement in their creation. Because the mapping was taking longer than anticipated, and because of the pressing need for housing, the legislature passed Senate Bill 644 (SB 644), which uncoupled the ADU bill from the wildfire risk maps and allows jurisdictions to proceed with local implementation of the ADU bill. The bill included an emergency clause, meaning it went into effect on May 8, 2023, the day it was signed by the Governor. However, the county must adopt the language into their local ordinances before ADUs can be allowed. An ADU is a second residence on a property that meets certain requirements of the state law, as well as any more restrictive codes that may be passed by the county. SB 644 includes a set of minimum standards and conditions that a county must require if it chooses to authorize ADUs. Counties are allowed to pass more stringent requirements but cannot be more lenient than state law.

B. Proposed Amendments

Exhibits 1 and 2, as attached, contains proposed amendments regarding the permissibility of Accessory Dwelling Units (ADUs) to rural residential sections of the YCZO: *Section 501 Agriculture/Forestry Small Holding District, Section 502 Very Low-Density Residential District, and Section 503 Low Density Residential District*. These Sections of the code propose removing the requirement that the parcel(s) be located within a cities UGB as SB 644 expands ADUs to all parcels within a rural residential zone. The only exception to this being parcels within an Urban Reserve Area (URA) cannot have an ADU. The city of Newberg is the only city within Yamhill County that has a URA. The amendments to *Section 1014 Accessory Dwelling Units* to the YCZO, add the standards and requirements for ADUs that are located outside of a cities UGB. The intent of the zoning ordinance revisions is to update the local ordinance consistent with the requirements of SB 644. The bill allows one ADU per single-family dwelling in every zone that allows residential use as the primary use, with the limitations as outlined in Section 1 of the Bill.

C. ZONING ORDINANCE PROVISIONS AND ANALYSIS

1. Section 1207.01 of the Yamhill County Zoning Ordinance (YCZO) contains the process and review criteria pertinent to the proposed zoning ordinance text amendments. The ordinance standards are as follows:

A. *An amendment may be initiated by the Board, the Commission, or the Director.*

Regarding the above criterion (A), the proposed amendments are in response to Senate Bill 644 (2023) which authorizes counties to allow an owner of a lot or parcel within an area zoned for rural residential use to construct one ADU subject to standards. The Planning Director initiated the ordinance amendment process and sent the required 35-day notice to the Department of Land Conservation and Development in response to SB 391 and updated the code related to SB 644; therefore, the proposed amendments comply with criterion (A).

2. B. *An owner of land may petition the Board, the Commission, or the Director to initiate such an amendment, but may not initiate the amendment by making such an application.*

Regarding criterion (B), as mentioned above the process was initiated by the Director in response to SB 391 and the amendments made by SB 644. An owner of land did not petition the Board, Commission, or Director for the proposed amendments therefore criterion (B) is not applicable; however, it should be noted that Planning staff receives many calls where property owners are requesting to build a second home or ADU on their property.

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3. C. *Such amendments shall be made only by the Board after review and recommendation by the Commission, and after public hearings have been held by both the Commission and Board, pursuant to Section 1402 of this ordinance.*

Regarding criterion (C), Section 1402.02 states: *Notice of any legislative public hearing authorized or required by this ordinance shall be published in a newspaper of general circulation in the county at least ten (10) days prior to the hearing date.* A newspaper notice was printed in the News Register on May 23, 2023. In addition, notice was also sent to the Department of Land Conservation and Development. A public hearing will be held before the Planning Commission. The Planning Commission will make a recommendation on the proposed amendments to the Board of Commissioners. The proposed amendments comply with criterion (C).

4. D. *Approval of a legislative ordinance amendment shall include findings showing the amendment is consistent with any applicable federal, state and local government rules and statutes, and comprehensive plan goals and policies.*

Regarding criterion (D), the ordinance amendments are required to be consistent with the state legislature's amendments to ORS Chapter 215. The proposed ordinance amendments are consistent with the County's Comprehensive Planning Goal Statement regarding housing, Section (I.) (E.) (1.), which states that the county should aspire "To assure the provisions of safe, sanitary and decent housing for all residents of the county at a reasonable cost." The proposed amendment has the potential to increase the number of safe and sanitary homes available within the county, therefore, the proposed ordinance amendments comply with criterion (D).

5. E. *Changes to the County zoning map which result from legislative ordinance amendments shall be made and become effective upon filing said ordinance with the County Clerk.*

Regarding criterion (E) above, the request does not involve a map amendment, so this criterion does not apply.

D. SENATE BILL 644:

SECTION 1. ORS 215.495, as amended by section 5, chapter 85, Oregon Laws 2022, is amended to read:

215.495. (1) As used in this section:

- (a) "Accessory dwelling unit" has the meaning given that term in ORS 215.501.*
- (b) "Area zoned for rural residential use" has the meaning given that term in ORS 215.501.*
- (c) "Single-family dwelling" has the meaning given that term in ORS 215.501.*

(2) Consistent with a county's comprehensive plan, a county may allow an owner of a lot or parcel within an area zoned for rural residential use to construct one accessory dwelling unit on the lot or parcel, provided:

- (a) The lot or parcel is not located within an area designated as an urban reserve as defined in*

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ORS 195.137;

(b) The lot or parcel is at least two acres in size;

(c) One single-family dwelling is sited on the lot or parcel;

(d) The existing single-family dwelling property on the lot or parcel is not subject to an order declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600;

(e) The accessory dwelling unit will comply with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment;

The above Section 1 (2)(a-e) requirements are listed in Section 1014.01(B) of the YCZO. "Accessory dwelling unit" and "single-family dwelling" are defined in Section 200 of the YCZO. SB 644 only authorizes ADUs on lands zoned for rural residential use. "Area zoned for rural residential use" means land that is not located inside an urban growth boundary as defined in ORS 197.015 and that is subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland and planned and zoned by the county to allow residential use as a primary use. The applicable zoning designations in Yamhill County are Agriculture/Forestry Small Holding (AF-10), Very Low Density Residential (VLDR-5, VLDR-2.5, VLDR-1), Low Density Residential (LDR-12,000, LDR-9,000, LDR-6,000).

(f) The accessory dwelling unit will not include more than 900 square feet of useable floor area;

Requirement (f) is in Section 1014.02(1)(a) as this was already part of the ordinance allowing ADUs within UGBs.

(g) The accessory dwelling unit will be located no farther than 100 feet from the existing single-family dwelling;

(h) If the water supply source for the accessory dwelling unit or associated lands or gardens will be a well using water under ORS 537.545 (1)(b) or (d), no portion of the lot or parcel is within an area in which new or existing ground water uses under ORS 537.545 (1)(b) or (d) have been restricted by the Water Resources Commission;

The above requirements are listed in Section 1014.01(B) of the YCZO.

(i) No portion of the lot or parcel is within a designated area of critical state concern;

No part of Yamhill County is identified as being within an area of "critical state concern." Therefore, this requirement is not applicable.

(j) The lot or parcel is served by a fire protection service provider with professionals who have received training or certification described in ORS 181A.410;

(k) If the lot or parcel is in an area identified on the statewide map of wildfire risk described in ORS 477.490 as within the wildland-urban interface, the lot or parcel and accessory dwelling unit comply with any applicable minimum defensible space requirements for wildfire risk reduction established by the State Fire Marshal under ORS 476.392 and any applicable local requirements for defensible space established by a local government pursuant to ORS 476.392;

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As stated above, statewide mapping is currently underway for identifying properties that are located within a “wildland-urban interface”. In the absence of these maps, staff has proposed language for implementing Sections (l) through (m) as drafted in Section 1014.01(B) of the YCZO.

(l) The accessory dwelling unit complies with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:

- (A) The lot or parcel is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or*
- (B) No statewide map of wildfire risk has been adopted; and*

(m) The county has adopted land use regulations that ensure that:

- (A) The accessory dwelling unit has adequate setbacks from adjacent lands zoned for resource use;*
- (B) The accessory dwelling unit has adequate access for firefighting equipment, safe evacuation and staged evacuation areas; and*
- (C) If the accessory dwelling unit is not in an area identified on the statewide map of wildfire risk described in ORS 477.490 as within the wildland-urban interface, the accessory dwelling unit complies with the provisions of this section and any applicable local requirements for defensible space established by a local government pursuant to ORS 476.392.*

The above requirements are listed in Section 1014.01(B) of the YCZO. The setbacks recommended by staff are 30 feet to adjacent properties zoned for Exclusive Farm use and 60 feet to adjacent properties zoned for Agriculture/Forestry Large Holding (AFLH) or Forestry District (F-80). In addition, those parcels adjacent to the AFLH or F-80 zones would be required to implement the firebreak standards found in those zones. Note the requirements are the same for both zones, which are as follows:

F. A primary fire break shall be constructed, no less than 30 feet wide. The fire break is only required to be constructed on land surrounding the dwelling that is owned or controlled by the owner. The primary firebreak could include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed.

G. A secondary firebreak of not less than 100 feet outside the primary firebreak shall also be constructed. The fire break is only required to be constructed on land surrounding the dwelling that is owned or controlled by the owner. Vegetation within the secondary firebreak should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent spread of fire into the crowns of the larger trees. Dead fuels shall be removed. The secondary fire break shall be increased to 150 feet if the dwelling or structure is located on a slope of greater than 25% or other fire hazards exist.

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Additionally, the property owner would be required to show that the local fire district has deemed the ADU as having adequate access for firefighting equipment, safe evacuation, and staged evacuation areas as well as any requirements for defensible space.

(3) A county may not allow an accessory dwelling unit allowed under this section to be used for vacation occupancy, as defined in ORS 90.100.

The above requirement is in Section 1014.01(A) of the YCZO.

(4) A county that allows construction of an accessory dwelling unit under this section may not approve:

(a) A subdivision, partition or other division of the lot or parcel so that the existing single-family dwelling is situated on a different lot or parcel than the accessory dwelling unit.

(b) Construction of an additional accessory dwelling unit on the same lot or parcel.

The above requirements are in Section 1014.01(A) and 1014.02 of the YCZO.

(5) A county may require that an accessory dwelling unit constructed under this section be served by the same water supply source or water supply system as the existing single-family dwelling, provided such use is allowed for the accessory dwelling unit by an existing water right or a use under ORS 537.545. If the accessory dwelling unit is served by a well, the construction of the accessory dwelling unit shall maintain all setbacks from the well required by the Water Resources Commission or Water Resources Department.

(6) An existing single-family dwelling and an accessory dwelling unit allowed under this section are considered a single unit for the purposes of calculating exemptions under ORS 537.545 (1).

The above (5 and 6) requirements are listed in Section 1014.01(B) of the YCZO.

(7) Nothing in this section requires a county to allow any accessory dwelling units in areas zoned for rural residential use or prohibits a county from imposing any additional restrictions on accessory dwelling units in areas zoned for rural residential use, including restrictions on the construction of garages and outbuildings that support an accessory dwelling unit.

The commission can propose additional restrictions.

CONCLUSIONS FOR APPROVAL:

1. The proposal is to amend the text of the Yamhill County Zoning Ordinance to allow ADUs within rural residential zones, with specific standards.
2. The proposed text language complies with the review criteria for a legislative amendment in Section 1207.02 of the Yamhill County Zoning Ordinance.
3. The proposed amendments comply with the Yamhill County Comprehensive Plan goals and policies and state statutes.

1. Proposed YCZO (Sections 501, 502, and 503) Rural Residential Districts Amendments.

Docket G-01-21 – Exhibit A
ORDINANCE AMENDMENTS

Language to be added is double underlined and language to be deleted is ~~crossed out~~.

SECTION 500 – RURAL RESIDENTIAL DISTRICTS

501. AGRICULTURE/FORESTRY SMALL HOLDING DISTRICT (AF-10)

[Last amended 09/02/04; Ord. 746]

501.01 Purpose.

The purpose of the AF-10 District is to provide for low density rural residential development on selected lands identified as Agricultural/Forestry Small Holding in the Comprehensive Plan; and, at the same time, to encourage small-scale or more intensive farm and forestry activities. Within this District, no limitations shall be placed on farm and forestry uses of the scale, type and performance characteristics commonly found in the F-80, EF-20, -40 or -80 and AF-20, -40 or -80 Districts. In areas immediately adjacent to urban centers, the AF-10 District is intended to be a transitional zone between F-80, EF-20, -40 or -80 and AF-20, -40 or -80 Districts and higher-density VLDR and LDR Districts or urban districts identified in city comprehensive plans.

[Amended 12/05/02; Ord. 720]

501.02 Permitted Uses.

In the AF-10 District, the following uses shall be permitted subject to the standards and limitations set forth in subsection 501.06:

- A. Farm uses; [Amended 7/9/98; Ord. 648]
- B. Propagation and harvesting of forest products;
- C. The boarding of horses for profit, subject to Section 1101 for site design review;
- D. Principal dwelling;
- E. Park or open space which is publicly or privately owned, operated or maintained, including fishing and wildlife preserves but excluding hunting preserves;
- F. Subdivisions, subject to the land division requirements set forth in Ordinance 205;
- G. Residential Planned Unit Developments, subject to Section 903 of this Ordinance and the land division requirements set forth in Ordinance 205;
- H. Accessory uses;
- I. Operations conducted for the exploration of oil, natural gas or geothermal resources, subject to the Type A application procedure set forth in Section 1301;
- J. Temporary structures as may be required during construction of an authorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector;

- K. Manufactured home storage and temporary sales offices for permitted uses, pursuant to the Type A application procedure set forth in Section 1301 and subject to Section 1009 for temporary permits;
- L. Signs, pursuant to the sign provisions set forth in Section 1006; ~~and~~
- M. Residential home; [Added 3/19/98; Ord. 643]
- N. Accessory dwelling unit ~~within an urban growth boundary~~, subject to the standards in Section 1014. [Added 6/28/18; Ord. 906]

501.03 Conditional Uses.

In the AF-10 District, pursuant to the Type B application procedure set forth in Section 1301, and subject to the conditional use review criteria listed in Section 1202, and any other applicable criteria established by this ordinance, the following uses may be allowed conditionally:

- A. Secondary dwelling, for persons engaged full-time in farm activities on the premises for at least six (6) months in each year, in conjunction with a principal dwelling on the same parcel, and provided that:
 - 1. The applicant demonstrates that the nature of the farm activities on the premises makes it necessary for the occupants of the secondary dwelling to reside there.
 - 2. The occupants of the secondary dwelling will perform work related to the management of the farm that the occupants of other dwellings on the property cannot perform.
 - 3. If the occupants of a secondary dwelling approved hereunder have no proprietary interest in the land, the dwelling shall be a manufactured home. In such a case, if at any time the requirements of this Section can no longer be satisfied, the manufactured home shall be removed.
- B. One manufactured dwelling or recreational vehicle, or the temporary use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or relative, as defined in ORS 215, of the resident, subject to the following:
 - 1. The resident or relative of the resident is aged, infirm, or for health-related reasons, is incapable of maintaining a complete separate residence.
 - 2. The permit for the manufactured dwelling for the term of hardship shall be valid for a period of two years or a shorter period as determined appropriate by the Director or hearings body. A permit may be revoked by the Director at any time, if any of the reasons for which the permit was granted are no longer applicable, or if any imposed condition is violated.
 - 3. The permit for the temporary dwelling for the term of hardship shall be granted to the applicant only and shall not be deemed to run with the land.
 - 4. The temporary dwelling shall use the same subsurface sewage disposal system as the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.

5. When a recreational vehicle is allowed to be used as a temporary structure the recreational vehicle site shall have services, inspected and approved by the building department which includes electricity, plumbing and connection to an approved septic system.
 6. Within three months of the end of the hardship, the manufactured dwelling shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. In the case of a recreational vehicle, within three months of the end of the hardship, it shall be removed, demolished or may remain on the property and used in accordance with Section 501.06(H). A temporary residence approved under this paragraph is not eligible for replacement. [Amended 07/29/04; Ord. 743]
- C. Home occupation, as defined by this ordinance, subject to the standards and limitations set forth in Section 1004;
 - D. Mineral resource extraction, subject to the applicable criteria in Section 404;
 - E. Extraction and development of oil, natural gas or geothermal resources, subject to the criteria specified in subsection 404.10;
 - F. Personal use airports or helicopter pads, including associated hangars, maintenance and service facilities. For the purpose of this section, a personal use airport is defined as an airstrip restricted, except for aircraft emergencies, to use by the owner or by his invited guests, on an infrequent and occasional basis, and by commercial aviation activities in connection with agricultural or forestry operations. No aircraft may be based or stored at a personal use airport except those owned or controlled by the owner of the airstrip;
 - G. Kindergarten, day nursery or day care facility in conjunction with a principal dwelling on the same parcel, subject to the standards for day care facilities set forth in Section 1008;
 - H. Veterinary hospital;
 - I. Kennel;
 - J. Community or municipal water-supply system, except within acknowledged service boundaries;
 - K. Community or municipal sewer system;
 - L. Utility facility, subject to Section 1101 for Site Design Review;
 - M. Public or private school, including all buildings essential to the operation of the school; and
 - N. Church
 - O. A church may offer overnight camping space on institution property to homeless persons living in vehicles provided there are three or fewer vehicles and campers have access to sanitary facilities including but not limited to toilet, hand washing and trash disposal facilities. [Amended 12/05/02; Ord. 720]

- P. Winery, including production and wholesale and retail sale of wine, subject to Section 1101 site design review and the following:
1. A winery shall be permitted to conduct on-site marketing activities events such as festivals and group tastings that are directly related to promotion and sale of the wine produced on-site with an anticipated maximum of 750 daily visitors. Only three such events may be conducted in one calendar year, and the events shall not exceed a duration of three days. The frequency and duration of these events may be further limited through site design review approval based on the adequacy of public facilities.
 2. The winery shall allow only the sale of:
 - (a) Wines produced in conjunction with the winery;
 - (b) Items directly related to wine, the sales of which are incidental to the retail sale of wine on-site and do not exceed 25 percent of the total sales gross receipts of the retail facility. Such items include those served by a limited service restaurant, as defined in ORS 624.010, and local agricultural products commonly sold in conjunction with wine; and
 - (c) Wines not produced in conjunction with the winery, the sales of which are incidental to the sale of wine produced on-site; [Amended 12/05/02; Ord. 720]
- Q. Community Centers. [Added 09/02/04; Ord. 746]
- R. Residential facility as defined in ORS 197.660. [Added 09/02/04; Ord. 746]

501.04 Prohibited Uses.

Uses of land and water not specifically mentioned in this section are prohibited in the AF-10 District.

501.05 Nonconforming Uses.

Nonconforming uses found in the AF-10 District are subject to the nonconforming use provisions of Section 1205 as well as to any other applicable provisions of this ordinance.

501.06 Standards and Limitations.

In the AF-10 District, the following standards and limitations shall apply:

- A. Dwelling Density.
1. Permitted Uses.
 - (a) The overall dwelling density shall not exceed one (1) principal dwelling per ten (10) acres; and
 - (b) Not more than one (1) principal dwelling shall be permitted on any parcel except in the case of a planned unit development.

B. Parcel Size and Dimension.

1. Newly-Created Parcels.

Except as provided in Subsection 4 below, the minimum size of any newly-created parcel shall be ten (10) acres, except in the case of parcel size averaging the minimum parcel size shall be five (5) acres.

2. Pre-existing Lots of Record. Any permitted or conditional use provided for in this District may be established on a substandard pre-existing lot of record, subject to the applicable requirements of this section.

3. Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 4:1.

4. Division of Pre-existing Dwellings. A division of a lot or parcel may be allowed if:

- (a) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
- (b) Each dwelling complies with the criteria for a replacement dwelling under 403.02(N);
- (c) Except for one lot or parcel, each lot or parcel created under this paragraph is between two and five acres in size; and
- (d) At least one dwelling is located on each lot or parcel created under this paragraph.

[501.06(B)(4) added 09/02/04, Ord 746]

C. Setbacks.

The minimum setback for all yards shall be thirty (30) feet for all uses, except as follows:

- 1. No dwelling shall be located within one hundred (100) feet of the property line of an existing extraction or mining operation nor less than two hundred (200) feet from an existing extraction operation;
- 2. The minimum setback for a kennel and a veterinary hospital shall be fifty (50) feet;
- 3. The minimum setback for signs shall be five (5) feet; and
- 4. An accessory structure not more than fifteen (15) feet in height, at least sixty (60) feet from a road, and at least ten (10) feet from any dwelling may be located a minimum distance of three (3) feet from the property line in a side yard or rear yard.
- 5. A swimming pool may be located in a required rear yard, provided it lies a minimum of five (5) feet from the rear property line.

6. Fences, walls and hedges may be permitted in any required yard or along the edge of any yard, subject to the clear-vision area requirements of subsection 501.06(F).
[Amended 7/9/98; Ord. 648]

D. Parcel Coverage.

Not applicable, except that for any parcel of less than one (1) acre, the maximum parcel coverage shall be fifteen (15) percent.

E. Access.

Before a dwelling may be established on any parcel as provided in this section, the parcel shall have a legal, safe and passable means of access by abutting at least twenty (20) feet either directly upon a public road, or by a private easement which is at least thirty (30) feet in width for its entire length and which also abuts upon a public road for at least thirty (30) feet. Nothing in this section shall be construed to vary or waive the requirements for creation of new access contained in any Land Division Ordinance legally adopted by Yamhill County.

F. Clear-Vision Areas.

A clear-vision area shall be maintained on the corner of any parcel at the intersection of any two of the following: County roads; public roads; private roads serving four or more parcels; and railroads. A clear-vision area shall contain no sight-obscuring structures or plantings exceeding thirty (30) inches in height within a triangle formed by the lot corner nearest the intersection, and the two points twenty (20) feet from this corner as measured along the parcel lines adjacent to the intersecting rights-of-way. Trees exceeding this height may be located such that their branches extend into this triangle, provided they are maintained to allow at least twelve (12) feet of visual clearance within the triangle below the lowest hanging branches.

G. Height.

1. The maximum building height for any dwelling shall be thirty-five (35) feet;
2. The maximum building height for all other structures shall be forty-five (45) feet; and
3. Appurtenances usually required to be placed above the roof level and not intended for human occupancy such as spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys and wind generators are not subject to the height limitations of this ordinance.

H. Occupancy of Recreational Vehicles

One (1) recreational vehicle shall be permitted to be parked on any parcel in conjunction with a principal dwelling, and may be used for the temporary accommodation of guests for a period of up to 30 days total in any year. In no case shall any recreational vehicle be used as a principal dwelling or rented unless the necessary permits have been obtained.

[Amended 7/9/98; Ord. 648]

I. Off-street Parking.

1. In the AF-10 District, prior to establishment of any dwelling, sufficient area must be provided to allow for at least one (1) emergency vehicle turnaround; and
2. Parking requirements for those uses which may generate traffic beyond what is normally expected in the AF-10 District shall be determined by the Director subject to the provisions of Section 1007.

Docket G-01-21 – Exhibit A
ORDINANCE AMENDMENTS

Language to be added is double underlined and language to be deleted is ~~crossed-out~~.

SECTION 500 – RURAL RESIDENTIAL DISTRICTS

502. VERY LOW DENSITY RESIDENTIAL DISTRICTS (VLDR-5, VLDR-2 ½, VLDR-1)

[Last Amended 5/24/12; Ord. 872]

502.01 Purpose.

The purpose of the VLDR Districts is to provide for medium-to-high density rural residential development on selected lands identified as Very Low Density Residential in the Comprehensive Plan. The VLDR Districts are intended to accommodate rural residential development at an anticipated magnitude or density level that does not require more than a very basic level of services, such as single local-road access, individual domestic wells and sewage-disposal systems, and rural fire protection. Ultimate density limitations in VLDR Districts shall be determined in part by prevailing lot sizes, and limitations of domestic water sources or soil conditions for subsurface sewage disposal. Opportunities for small-scale or intensive farm and forestry activities compatible with rural residential uses shall be encouraged in the VLDR Districts. In areas immediately adjacent to urban centers, the VLDR Districts are intended as transitional zones between F-80, EF-20, -40 or -80, AF-20, -40 or -80 and AF-10 Districts and higher-density LDR Districts or urban districts identified in city comprehensive plans.

[Amended 12/05/02; Ord. 720]

502.02 Permitted Uses.

In the VLDR Districts, the following uses shall be permitted subject to the standards and limitations set forth in subsection 502.06:

- A. Farm uses. The number of livestock and other animals that may be raised on a parcel is subject to the limitations in subsection 502.06(J). [Amended 3/19/98, Ord. 643; 7/9/98, Ord 648]
- B. Propagation and harvesting of Christmas trees;
- C. Principal Dwelling;
- D. Subdivisions, subject to the land division requirements set forth in Ordinance 205;
- E. Residential planned unit developments, subject to Section 903 of this ordinance and the land division requirements set forth in Ordinance 205;
- F. Accessory uses;
- G. Temporary structures as may be required during construction of an authorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector;
- H. Manufactured home storage and temporary sales offices for permitted uses, pursuant to the Type A application procedure set forth in Section 1301 and subject to Section 1009 for temporary permits;

- I. Signs, pursuant to the sign provisions set forth in Section 1006;
- J. Residential home or a registered or certified family child care home; ~~and~~ [Amended 5/24/12; Ord. 872]
- K. Propagation and harvesting of forest products; [Added 12/05/02; Ord. 720]
- L. Accessory dwelling unit ~~within an urban growth boundary~~, subject to the standards in Section 1014. [Added 6/28/18; Ord. 906]

502.03 Conditional Uses.

In the VLDR Districts, pursuant to the Type B application procedure set forth in Section 1301, and subject to the conditional use review criteria listed in Section 1202, and any other applicable criteria established by this ordinance, the following uses may be allowed conditionally:

- A. One manufactured dwelling or recreational vehicle, or the temporary use of an existing building, in conjunction with as existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or relative, as defined in ORS 215, of the resident, subject to the following:
 - 1. The resident or relative of the resident is aged, infirm, or for health-related reasons, is incapable of maintaining a complete separate residence.
 - 2. The permit for the manufactured dwelling for the term of hardship shall be valid for a period of two years or a shorter period as determined appropriate by the Director or hearings body. A permit may be revoked by the Director at any time, if any of the reasons for which the permit was granted are no longer applicable, or if any imposed condition is violated.
 - 3. The permit for the temporary dwelling for the term of hardship shall be granted to the applicant only and shall not be deemed to run with the land.
 - 4. The temporary dwelling shall use the same subsurface sewage disposal system as the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.
 - 5. When a recreational vehicle is allowed to be used as a temporary structure the recreational vehicle site shall have services, inspected and approved by the building department which includes electricity, plumbing and connection to an approved septic system.
 - 6. Within three months of the end of the hardship, the manufactured dwelling shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. In the case of a recreational vehicle, within three months of the end of the hardship, it shall be removed, demolished or may remain on the property and used in accordance with Section 501.06(H). A temporary residence approved under this paragraph is not eligible for replacement. [Amended 07/29/04; Ord. 743]
- B. Home occupation, as defined by this ordinance, subject to the standards and limitations set forth in Section 1004.

- C. Operations conducted for the exploration of oil, natural gas or geothermal resources subject to the requirements in subsection 404.10;
- D. Kindergarten in conjunction with a principal dwelling on the same parcel, subject to the standards for day care facilities set forth in Section 1008; [Amended 5/24/12; Ord. 872]
- E. Community or municipal water-supply system, except within acknowledged service boundaries;
- F. Community or municipal sanitary-sewer system;
- G. Utility facility, subject to Section 1101 for site design review;
- H. Public or private school, including all buildings essential to the operation of a school, subject to Section 1101, Site Design Review; and [Amended 8/13/98, Ord. 657]
- I. Church, subject to Section 1101, Site Design Review. [Amended 8/13/98, Ord. 657]
- J. A church may offer overnight camping space on institution property to homeless persons living in vehicles provided there are three or fewer vehicles and campers have access to sanitary facilities including but not limited to toilet, hand washing and trash disposal facilities. [Added 12/05/02; Ord. 720]
- K. Park, playground, recreational area or open space which is publicly or privately owned, operated or maintained, including fishing and wildlife preserves but excluding hunting preserves. [Added 05/25/04; Ord. 741]
- L. Community Centers. [Added 09/02/04; Ord. 746]
- M. Residential facility as defined in ORS 197.660. [Added 09/02/04; Ord. 746]

502.04 Prohibited Uses.

Uses of land and water not specifically mentioned in this section shall be prohibited in the VLDR Districts.

502.05 Nonconforming Uses.

Nonconforming uses found in the VLDR Districts are subject to the nonconforming use provisions of Section 1205 as well as any other applicable provisions of this ordinance.

502.06 Standards and Limitations.

In the VLDR Districts, the following standards and limitations shall apply:

- A. Dwelling Density.
 - 1. Permitted Uses.
 - (a) The maximum overall dwelling density for any new development shall not exceed:
 - i. one (1) dwelling per five (5) acres in the VLDR-5 District;

- ii. one (1) dwelling per two and one-half (2 ½) acres in the VLDR-2 ½ District; and
 - iii. one (1) dwelling per acre in the VLDR-1 District.
- (b) Not more than one (1) principal dwelling shall be permitted on any parcel, except in the case of a planned unit development and except as follows:
- i. one (1) duplex may be allowed on any ten (10) acre parcel in the VLDR-5 District.
 - ii. one (1) duplex may be allowed on any five (5) acre parcel in the VLDR-2 ½ District; and
 - iii. one (1) duplex may be allowed on any two (2) acre parcel in the VLDR-1 District.
- (c) For the division of any contiguous lands under the same ownership, parcel sizes may be averaged provided that the maximum overall density of the applicable VLDR District is not exceeded, and provided that no parcel shall be below the applicable minimum parcel size established by subsection 502.06(B). In the case of parcel-size averaging, the landowner shall record an affidavit with the county clerk specifying the imposed conditions which are applicable to the newly-created parcels, including overall residential density, etc.

2. Conditional Uses.

Not more than one (1) secondary dwelling shall be permitted on any parcel.

B. Parcel Size and Dimension.

1. VLDR-5 District.

- (a) Newly-Created Parcels. The minimum size of any newly-created parcel shall be five (5) acres, except as follows:
- i. In the case of parcel-size averaging, the minimum parcel size shall be two and one-half (2 ½) acres;
 - ii. In the case of a duplex, the minimum parcel size shall be (10) acres; and
 - iii. In the case of a duplex or multi-family planned unit development, the minimum parcel size shall be twenty (20) acres.
- (b) Pre-existing Lots of Record. Any permitted or conditional use provided for in this District may be established on a substandard pre-existing lot of record, subject to the applicable requirements of this section. In addition, prior to issuance of a building permit for a principal dwelling, the provisions of Section 1204 shall be satisfied.

- (c) Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 3:1.

2. VLDR-2 ½.

- (a) Newly-Created Parcels. The minimum size of any newly-created parcel shall be two and one-half (2 ½) acres, except as follows:
 - i. in the case of parcel-size averaging, the minimum parcel size shall be one (1) acre; and
 - ii. in the case of a duplex, the minimum parcel shall be five (5) acres; and
 - iii. in the case of a residential planned unit development, the minimum parcel size shall be ten (10) acres.
- (b) Pre-existing Lots of Record. Any permitted or conditional use provided for in this District may be established on a substandard pre-existing lot of record, subject to the applicable requirements of this section. In addition, prior to issuance of a building permit for a principal dwelling, the provisions of Section 1204 shall be satisfied.
- (c) Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 3:1.

3. VLDR-1.

- (a) Newly-Created Parcels. The minimum size of any newly-created parcel shall be one (1) acre, except as follows:
 - i. in the case of parcel-size averaging, the minimum parcel size shall be 20,000 square feet; and
 - ii. in the case of a duplex, the minimum parcel size shall be two (2) acres; and
 - iii. in the case of a residential planned unit development, the minimum parcel size shall be five (5) acres.
- (b) Pre-existing Lots of Record. Any permitted or conditional use provided for in this District may be established on a substandard pre-existing lot of record, subject to the applicable requirements of this section. In addition, prior to issuance of a building permit for a principal dwelling, the provisions of Section 1204 shall be satisfied.
- (c) Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 3:1.

C. Setbacks.

The following setback requirements apply to all VLDR Districts unless varied or waived by a planned unit development, subject to Section 903:

1. Front Yard. The minimum front yard setback shall be thirty (30) feet except as follows:
 - (a) No dwelling shall be located within one hundred (100) feet of the property line of an existing extraction or mining operation nor less than two hundred (200) feet from an existing extraction operation.
 - (b) The minimum setback for all yards for signs shall be five (5) feet; and
 - (c) No structure housing livestock shall be located within fifty (50) feet of any front parcel line, twenty-five (25) feet of any other parcel line, and forty (40) feet of any dwelling.
2. Side and Rear Yard. The minimum side and rear yard setbacks shall be fifteen (15) feet, except as provided in this subsection.
3. An accessory structure not more than fifteen (15) feet in height, at least sixty (60) feet from a road, and at least ten (10) feet from any dwelling may be located a minimum distance of three (3) feet from the property line in a side yard or rear yard.
4. A swimming pool may be located in a required rear yard, provided it lies a minimum of five (5) feet from the rear property line.
5. Fences, walls and hedges may be permitted in any required yard or along the edge of any yard, subject to the clear-vision area requirements of subsection 502.06(F).

[Subsection C amended 7/9/98, Ord. 648]

D. Parcel Coverage.

For any parcel of one (1) acre or more, but less than ten (10) acres, the maximum parcel coverage shall be ten (10) percent. For any parcel of less than one (1) acre, the maximum parcel coverage shall be fifteen (15) percent.

E. Access.

Before a dwelling may be established on any parcel as provided in this section, the parcel shall have a legal, safe and passable means of access by abutting at least twenty (20) feet either directly upon a public road, or by a private easement which is at least thirty (30) feet in width for its entire length and which also abuts upon a public road for at least thirty (30) feet. Nothing in this section shall be construed to vary or waive the requirements for creation of new access contained in any Land Division Ordinance legally adopted by Yamhill County.

F. Clear-Vision Areas.

A clear-vision area shall be maintained on the corner of any parcel at the intersection of any two of the following: County roads, public roads, private roads serving four or more parcels; and railroads. A clear-vision area shall contain no sight-obscuring structures or planting exceeding thirty (30) inches in within a triangle formed by the lot corner nearest the intersection, and the two points twenty (20) feet from this corner as measured along the parcel lines adjacent to the intersecting rights-of-way. Trees exceeding this may be located such that their branches extend into this triangle, provided they are maintained to allow at least twelve (12) feet of visual clearance within the triangle below the lowest hanging branches.

G. Height.

1. The maximum building height for any dwelling shall be thirty-five (35) feet;
[Amended 4/9/97; Ord. 624]
2. The maximum building height for all other structures shall be forty-five (45) feet, except for accessory structures on any parcel of less than ten (10) acres the maximum building height shall be thirty-five (35) feet; and
[Amended 4/9/97; Ord. 624]
3. Appurtenances usually required to be placed above the roof level and not intended for human occupancy such as spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys and wind generators are not subject to the height limitations of this ordinance.

H. Occupancy of Recreational Vehicles.

One (1) recreational vehicle shall be permitted to be parked on any parcel in conjunction with a principal dwelling, and may be used for the temporary accommodation of guests for a period of up to 30 days total in any year. In no case shall any recreational vehicle be used as a principal dwelling or rented unless and until the necessary permits have been obtained.
[Amended 7/9/98, Ord. 648]

I. Off-Street Parking.

1. In the VLDR Districts, prior to establishment of any dwelling, sufficient area must be provided to allow for at least one (1) emergency vehicle turnaround; and
2. Parking requirements for those uses which may generate traffic beyond what is normally expected in the VLDR Districts, including multi-family dwellings, shall be determined by the Director subject to the provisions of Section 1007.

J. Livestock.

The keeping of livestock shall be allowed subject to the following restrictions:

1. On any parcel of one-half (1/2) acre or less, the total number of fowl, rabbits and other similar small animals shall not exceed twenty-five (25) and no other livestock of any kind shall be permitted;
2. On any parcel of less than ten (10) acres, the total number of animal units shall not exceed one (1) for each one (1) acre of parcel area. Animal units shall be counted as follows: horse 1.0, cow over 18 months old 1.0, calf 0.6, cow and calf pair 1.35, sheep 0.2, pig 0.5 and goat 0.2.
[Amended 12/05/02; Ord. 720]
3. On any parcel of less than ten (10) acres, the total number of fowl, rabbits and other similar small animals shall not exceed twenty-five (25), plus one (1) for each five hundred (500) square feet of parcel area in excess of one-half (1/2) acre and the total number of bee colonies shall not exceed one (1) per two thousand (2,000) square feet of parcel area;
4. All livestock shall be properly fenced and contained so as to minimize adverse impacts to surrounding property owners; and

5. All animal food shall be stored in metal or other rodent-proof receptacles.

Docket G-01-21 – Exhibit A
ORDINANCE AMENDMENTS

Language to be added is double underlined and language to be deleted is ~~crossed out~~.

SECTION 500 – RURAL RESIDENTIAL DISTRICTS

503. LOW DENSITY RESIDENTIAL DISTRICTS (LDR-12,000, LDR-9,000, LDR-6,750)

[Last amended 8/13/98, Ord. 657]

503.01 Purpose.

The purpose of the LDR Districts is to provide for high-density rural residential development on selected lands identified as Low Density Residential in the Comprehensive Plan. The LDR Districts are intended to accommodate rural residential development in locations generally adjacent to urban centers and are characterized by patterns of subdivision or partitioning creating a scale of service and access requirements that are complementary or similar to city residential zones. Depending upon location, LDR Districts may be converted in a timely and orderly manner through annexation to city residential lands. The LDR Districts shall apply only to those lands zoned LDR at the time of adoption of this ordinance.

503.02 Permitted Uses.

In the LDR Districts, the following uses shall be permitted subject to the standards and limitations set forth in subsection 503.06:

- A. Principal Dwelling;
- B. Subdivisions, subject to the land division requirements set forth in Ordinance 205;
- C. Residential planned unit developments, subject to Section 903 of this ordinance and the land division requirements set forth in Ordinance 205;
- D. Accessory uses;
- E. Temporary structures as may be required during construction of an authorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector;
- F. Manufactured home storage and temporary sales offices for permitted uses, pursuant to the Type A application procedure set forth in Section 1301 and subject to Section 1009 for temporary permits;
- G. Signs, pursuant to the sign provisions set forth in Section 1006;
- H. Residential home. [Added 3/19/98; Ord. 643]
- I. Accessory dwelling unit ~~within an urban growth boundary~~, subject to the standards in Section 1014. [Added 6/28/18; Ord. 906]

503.03 Conditional Uses.

In the LDR Districts, pursuant to the Type B application procedure set forth in Section 1301, and subject to the conditional use review criteria listed in Section 1202, and any other applicable criteria established by this ordinance, the following uses may be allowed conditionally:

- A. Home occupation, as defined by this ordinance, subject to the standards and limitations set forth in Section 1004;
- B. Kindergarten, pre-school nursery, or day care facility in conjunction with a principal dwelling on the same parcel, subject to the standards for day care facilities set forth in Section 1008;
- C. Utility facilities, subject to Section 1101 for site design review;
- D. Duplex or multi-family dwelling, subject to the planned unit development requirements in Section 903; and
- E. Residential facility, subject to the planned unit development requirements in Section 903.

[Added 8/13/98, Ord. 657]

503.04 Prohibited Uses.

Uses of land and water not specifically mentioned in this section are prohibited in the LDR Districts.

503.05 Nonconforming Uses.

Nonconforming uses found in the LDR Districts are subject to the provisions of Section 1205 as well as any other applicable provisions of this ordinance.

503.06 Standards and Limitations.

In the LDR Districts, the following standards and limitations shall apply:

- A. Dwelling Density.
 - 1. The maximum overall dwelling density for any new development shall not exceed:
 - (a) One (1) dwelling per twelve thousand (12,000) square feet in the LDR-12,000 District;
 - (b) One (1) dwelling per nine thousand (9,000) square feet in the LDR-9,000 District; and
 - (c) One (1) dwelling per six thousand seven hundred fifty (6,750) square feet in the LDR-6,750 District.
 - 2. Not more than one (1) principal dwelling shall be permitted on any parcel, except in the case of a planned unit development, and except as follows:

- (a) For the division of any contiguous lands under the same ownership, parcel sizes may be averaged provided that the maximum overall density of the applicable LDR District is not exceeded and provided that no parcel shall be below the applicable minimum parcel size established by subsection 503.06(B). In the case of parcel-size averaging, appropriate conditions shall be imposed to prevent redivision of oversized parcels which would exceed the maximum overall residential density requirements of the applicable LDR District.

B. Parcel Size and Dimension.

1. LDR-12,000 District.

- (a) Newly-Created Parcels. The minimum size of any newly-created parcel shall be twelve thousand (12,000) square feet, except as follows:
 - i. in the case of parcel-size averaging, the minimum parcel size shall be nine thousand (9,000) square feet; and
 - ii. in the case of a duplex or multi-family planned unit development, the minimum parcel size shall be two (2) acres.
- (b) Pre-existing Lots of Record. Any permitted or conditional use provided for in this District may be established on a substandard pre-existing lot of record, subject to the applicable requirements of this section. In addition, prior to issuance of a building permit for a principal dwelling, the provisions of Section 1204 shall be satisfied.
- (c) Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 3:1.

2. LDR-9,000 District.

- (a) Newly-Created Parcels. The minimum size of any newly-created parcel shall be nine thousand (9,000) square feet, except as follows:
 - i. in the case of parcel-size averaging, the minimum parcel size shall be six thousand seven hundred fifty (6,750) square feet; and
 - ii. in the case of a duplex or multi-family planned unit development, the minimum parcel size shall be two (2) acres.
- (b) Pre-existing Lots of Record. Any permitted or conditional use provided for in this District may be established on a substandard pre-existing lot of record, subject to the applicable requirements of this section. In addition, prior to issuance of a building permit for a principal dwelling, the provisions of Section 1204 shall be satisfied.
- (c) Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 3:1.

3. LDR-6,750 District.
 - (a) Newly-Created Parcels. The minimum size of any newly-created parcel shall be six thousand seven hundred fifty (6,750) square feet, except as follows:
 - i. in the case of parcel-size averaging, the minimum parcel size shall be six thousand (6,000) square feet; and
 - ii. in the case of duplex or multi-family planned unit development, the minimum parcel size shall be one (1) acre.
 - (b) Pre-existing Lots of Record. Any permitted or conditional use provided for in this District may be established on a substandard pre-existing lot of record, subject to the applicable requirements of this section. In addition, prior to issuance of a building permit for a principal dwelling, the provisions of Section 1204 shall be satisfied.
 - (c) Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 3:1.

C. Setbacks.

The following setback requirements apply to all LDR Districts unless varied or waived under a Planned Unit Development, subject to Section 903:

1. Front Yard. The minimum front yard setback shall be thirty (30) feet except as follows:
 - (a) No dwelling shall be located within one hundred (100) feet of the property line of an existing extraction or mining operation nor less than two hundred (200) feet from an existing extraction operation; and
 - (b) The minimum setback for all yards for signs shall be five (5) feet.
2. Side and Rear Yard. The minimum side and rear yard setbacks shall be ten (10) feet except as provided in this subsection.
3. An accessory structure not more than fifteen (15) feet in height, at least sixty (60) feet from a road, and at least ten (10) feet from any dwelling may be located a minimum distance of three (3) feet from the property line in a side yard or rear yard.
4. A swimming pool may be located in a required rear yard, provided it lies a minimum of five (5) feet from the rear property line.
5. Fences, walls and hedges may be permitted in any required yard or along the edge of any yard, subject to the clear-vision area requirements of subsection 503.06(F).

[Subsection C amended 7/9/98, Ord. 648]

D. Parcel Coverage.

For any parcel of one (1) acre or more, but less than ten (10) acres, the maximum parcel coverage shall be ten (10) percent. For any parcel of less than one (1) acre, the maximum parcel coverage shall be fifteen (15) percent.

E. Access.

Before a dwelling may be established on any parcel as provided in this section, the parcel shall have a legal, safe and passable means of access by abutting at least twenty (20) feet either directly upon a public road, or by a private easement which is at least thirty (30) feet in width for its entire length and which also abuts upon a public road for at least thirty (30) feet. Nothing in this section shall be construed to vary or waive the requirements for creation of new access contained in any Land Division Ordinance legally adopted by Yamhill County.

F. Clear-Vision Areas.

A clear-vision area shall be maintained on the corner of any parcel at the intersection of any two of the following: County roads, public roads, private roads serving four or more parcels; and railroads. A clear-vision area shall contain no sight-obscuring structures or plantings exceeding thirty (30) inches in height within a triangle formed by the lot corner nearest the intersection, and the two points twenty (20) feet from this corner as measured along the parcel lines adjacent to the intersecting rights-of-way. Trees exceeding this height may be located such that their branches extend into this triangle, provided they are maintained to allow at least twelve (12) feet of visual clearance within the triangle below the lowest hanging branches.

G. Height.

1. The maximum building height for any dwelling shall be twenty-five (25) feet;
2. The maximum building height for all other structures shall be forty-five (45) feet, except for accessory structures on any lot of less than ten (10) acres the maximum building height shall be twenty-five (25) feet; and
3. Appurtenances usually required to be placed above the roof level and not intended for human occupancy such as spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys and wind generators are not subject to the height limitations of this ordinance.

H. Occupancy of Recreational Vehicles

One (1) recreational vehicle shall be permitted to be parked on any parcel in conjunction with a principal dwelling, and may be used for the temporary accommodation of guests for a period of up to 30 days total in any year. In no case shall any recreational vehicle be used as a principal dwelling or rented unless and until the necessary permits have been obtained.

[Amended 7/9/98; Ord. 648]

I. Off-Street Parking.

1. In the LDR Districts, sufficient area must be provided to allow for at least one (1) emergency vehicle turnaround; and

2. Parking requirements for those uses which may generate traffic beyond what is normally expected in the LDR Districts shall be determined by the Director subject to the provisions of Section 1007.

2. Proposed YCZO (Section 1014) Accessory Dwelling Units Amendments.

Docket G-01-21 – Exhibit A
ORDINANCE AMENDMENTS

Language to be added is double underlined and language to be deleted is ~~crossed out~~.

SECTION 1000 – SPECIAL USE REQUIREMENTS

1014. ACCESSORY DWELLING UNITS

[Added 06/28/18; Ord. 906; Amd ?/?/21; Ord ?]

1014.01 General Provisions

- A. The following provisions shall apply to accessory dwelling units (ADU's) on lands zoned for rural residential use, located within an Urban Growth Boundary (UGB):
1. ~~The lot or parcel shall be located within an Urban Growth Boundary (UGB).~~
 2. A maximum of one ADU is allowed per principal single-family dwelling. The unit may be a detached building, in a portion of a detached accessory building (e.g. above a garage or shop), or a unit attached or interior to the primary dwelling (e.g. an addition or the conversion of an existing floor).
 3. A recreational vehicle is not permitted to be used as an ADU.
 4. ADU's shall, if possible, utilize the same driveway as the principal dwelling.
 5. ADU's are exempted from the parcel coverage and dwelling density standards.
 6. Short-term rental of the ADU is prohibited. For purposes of this provision, short-term rental is defined as fee-based occupancy for a period less than 30 consecutive days. Month to month rental agreements for long-term purposes is not short-term rental when the renter(s) remains the same each month.
- B. In addition to the provisions of Section 1014.01(A), the following additional provisions shall apply to ADU's on lands zoned for rural residential use, located outside of a UGB:
1. The lot or parcel is at least two acres in size and not within an urban reserve as defined in ORS 195.137.
 2. The ADU will be located no farther than 100 feet from the existing single-family dwelling;
 3. If the water supply source for the ADU or associated lands or gardens will be a well using water under ORS 537.545 (1)(b) or (d), no portion of the lot or parcel is within an area in which new or existing ground water uses under ORS 537.545 (1)(b) or (d) have been restricted by the Water Resources Commission;
 - a. The ADU constructed under this section shall be served by the same water supply source or water supply system as the existing single-family dwelling, provided such use is allowed for the ADU by an existing water right or a use

under ORS 537.545. If the ADU is served by a well, the construction of the ADU shall maintain all setbacks from the well required by the Water Resources Commission or Water Resources Department.

b. An existing single-family dwelling and an ADU allowed under this section are considered a single unit for the purposes of calculating ground water right exemptions under ORS 537.545 (1).

4. The lot or parcel is located within a fire protection district with professionals who have received training or certification described in ORS 181A.410;
5. If the lot or parcel is in an area identified on the statewide map of wildfire risk described in ORS 477.490 as within the wildland-urban interface, the lot or parcel and ADU comply with any applicable minimum defensible space requirements for wildfire risk reduction established by the State Fire Marshal under ORS 476.392 and any applicable local requirements for defensible space established by a local government pursuant to ORS 476.392;
6. The ADU complies with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:

(A) The lot or parcel is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or

(B) No statewide map of wildfire risk has been adopted and the county has adopted land use regulations that ensure that:

(i) The accessory dwelling unit has adequate setbacks from adjacent lands zoned for resource use. The ADU is setback a minimum of 30 feet from adjacent lands zoned Exclusive Farm use (Section 402); and 60 feet from adjacent lands zoned Agriculture/Forestry Large Holding (Section 403) and Forestry (Section 401);

(ii) The ADU, if adjacent to lands zoned Forestry (Section 401) or Agriculture/Forestry Large Holding (Section 403), meets the firebreak requirements of Section 401.09(F) & (G);

(iii) The ADU has adequate access for firefighting equipment, safe evacuation and staged evacuation areas as determined by the local fire district; and

(iv) If the accessory dwelling unit is not in an area identified on the statewide map of wildfire risk described in ORS 477.490 as within the wildland-urban interface, the accessory dwelling unit complies with the provisions of this section and any applicable local requirements for defensible space established by a local government pursuant to ORS 476.392, as developed in consultation with local fire protection service providers.

1014.02 Standards and Requirements.

- A. Accessory dwelling units (ADU's), where allowed, are subject to review and approval through a Type A application procedure as set forth in Section 1301, and shall meet the following development standards:
1. If interior or attached:
 - a. Shall be a maximum of 900 square feet in floor area or 75% of the primary dwelling's floor area, whichever is less. However, ADU's that result from the conversion of a level or floor (e.g. basement, attic or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the ADU would be more than 900 square feet.
 - b. Shall meet the same height requirements as the primary dwelling on the property.
 - c. Shall meet the same setbacks as required of the primary dwelling in the underlying zoning district, or the setbacks as required by 1014.01(B)(6), whichever is applicable.
 2. If detached:
 - a. Shall be a maximum of 900 square feet in floor area or 75% of the primary dwelling's floor area, whichever is less.
 - b. Shall not exceed 25 feet in height or the height of the primary dwelling, whichever is less;
 - c. Shall maintain the setbacks of the underlying zoning district, or the setbacks as required by 1014.01(B)(6), whichever is applicable.
 3. An ADU is not allowed if the existing single-family dwelling is subject to an order declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600;
 4. A subdivision, partition or other division of the lot or parcel is not allowed if it would result in the existing single-family dwelling being situated on a different lot or parcel than ADU.
 5. The ADU will comply with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment;
 - ~~3.6.~~ Conversion of an existing legal non-conforming structure to an ADU is allowed, provided that the conversion does not increase the non-conformity.

3. Senate Bill 644 (2023)

Enrolled
Senate Bill 644

Sponsored by Senators KNOPP, FINDLEY; Senators DEMBROW, HAYDEN, SMITH DB, Representative HIEB (Pre-session filed.)

CHAPTER

AN ACT

Relating to accessory dwelling units on lands zoned for rural residential use; amending ORS 215.495; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 215.495, as amended by section 5, chapter 85, Oregon Laws 2022, is amended to read:

215.495. (1) As used in this section:

- (a) "Accessory dwelling unit" has the meaning given that term in ORS 215.501.
- (b) "Area zoned for rural residential use" has the meaning given that term in ORS 215.501.
- (c) "Single-family dwelling" has the meaning given that term in ORS 215.501.

(2) Consistent with a county's comprehensive plan, a county may allow an owner of a lot or parcel within an area zoned for rural residential use to construct one accessory dwelling unit on the lot or parcel, provided:

- (a) The lot or parcel is not located within an area designated as an urban reserve as defined in ORS 195.137;
- (b) The lot or parcel is at least two acres in size;
- (c) One single-family dwelling is sited on the lot or parcel;
- (d) The existing single-family dwelling property on the lot or parcel is not subject to an order declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600;
- (e) The accessory dwelling unit will comply with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment;
- (f) The accessory dwelling unit will not include more than 900 square feet of usable floor area;
- (g) The accessory dwelling unit will be located no farther than 100 feet from the existing single-family dwelling;
- (h) If the water supply source for the accessory dwelling unit or associated lands or gardens will be a well using water under ORS 537.545 (1)(b) or (d), no portion of the lot or parcel is within an area in which new or existing ground water uses under ORS 537.545 (1)(b) or (d) have been restricted by the Water Resources Commission;
- (i) No portion of the lot or parcel is within a designated area of critical state concern;
- (j) The lot or parcel is served by a fire protection service provider with professionals who have received training or certification described in ORS 181A.410;
- (k) If the lot or parcel is in an area identified on the statewide map of wildfire risk described in ORS 477.490 as within the wildland-urban interface, the lot or parcel and accessory dwelling unit comply with any applicable minimum defensible space requirements for wildfire risk reduction es-

tablished by the State Fire Marshal under ORS 476.392 and any applicable local requirements for defensible space established by a local government pursuant to ORS 476.392;

(L) *[Statewide wildfire risk maps have been approved and the accessory dwelling unit complies with the Oregon residential specialty code relating to wildfire hazard mitigation for the mapped area; and]* **The accessory dwelling unit complies with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:**

(A) The lot or parcel is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or

(B) No statewide map of wildfire risk has been adopted; and

(m) The county has adopted land use regulations that ensure that:

(A) The accessory dwelling unit has adequate setbacks from adjacent lands zoned for resource use;

(B) The accessory dwelling unit has adequate access for firefighting equipment, safe evacuation and staged evacuation areas; and

(C) If the accessory dwelling unit is not in an area identified on the statewide map of wildfire risk described in ORS 477.490 as within the wildland-urban interface, the accessory dwelling unit complies with the provisions of this section and any applicable local requirements for defensible space established by a local government pursuant to ORS 476.392.

(3) A county may not allow an accessory dwelling unit allowed under this section to be used for vacation occupancy, as defined in ORS 90.100.

(4) A county that allows construction of an accessory dwelling unit under this section may not approve:

(a) A subdivision, partition or other division of the lot or parcel so that the existing single-family dwelling is situated on a different lot or parcel than the accessory dwelling unit.

(b) Construction of an additional accessory dwelling unit on the same lot or parcel.

(5) A county may require that an accessory dwelling unit constructed under this section be served by the same water supply source or water supply system as the existing single-family dwelling, provided such use is allowed for the accessory dwelling unit by an existing water right or a use under ORS 537.545. If the accessory dwelling unit is served by a well, the construction of the accessory dwelling unit shall maintain all setbacks from the well required by the Water Resources Commission or Water Resources Department.

(6) An existing single-family dwelling and an accessory dwelling unit allowed under this section are considered a single unit for the purposes of calculating exemptions under ORS 537.545 (1).

(7) Nothing in this section requires a county to allow any accessory dwelling units in areas zoned for rural residential use or prohibits a county from imposing any additional restrictions on accessory dwelling units in areas zoned for rural residential use, including restrictions on the construction of garages and outbuildings that support an accessory dwelling unit.

SECTION 2. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

Passed by Senate March 28, 2023

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Lori L. Brocker, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House April 26, 2023

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Dan Rayfield, Speaker of House

Received by Governor:

.....M,....., 2023

Approved:

.....M,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M,....., 2023

.....
Shemia Fagan, Secretary of State

4. Comments Received

Ken Friday

From: justin lieuallen <jwl97229@yahoo.com>
Sent: Tuesday, May 23, 2023 10:15 AM
To: Planning
Subject: June 1, 2023 Public Hearing

Caution: This email originated outside of the Yamhill County email system

My wife and I are writing in support of Yamhill County permitting ADUs on lands zoned for rural residential use, especially for those ADUs that already exist. We're in a situation where we moved our mother into the ADU on our property through a hardship permit. We remodeled/upgraded the unit to make it accomodating to our mother, spending nearly \$18,000. Our mother has since passed away and we find it wasteful that the ADU cannot be utilized as a residence for someone.

We're hopeful that Yamhill County's request will be approved as this will also help those seeking residence in the region find affordable housing and in such cases as ours, make good use of existing resources.

In support,

Justin & Debbie Lieuallen
R5423 00300 17900 WALNUT HILL RD SE AF-10



P.O Box 1083
McMinnville, OR 97128

Helping to shape the use of our natural resources to protect the quality of life in Yamhill County.

July 27, 2021

To: Yamhill County Planning Commission
Stephanie Armstrong
Ken Friday

From: Kathryn Jernstedt, President

Re: Implementation of Senate Bill 391 – accessory dwelling units in rural residential zones
Docket G-01-21

Friends of Yamhill County concurs with the comments made by 1000 Friends of Oregon in its July 27, 2021, memo regarding the county's proposal to amend the zoning ordinance to permit accessory dwelling units (ADUs) in the rural residential zones. The enabling legislation includes significant conditions and limitations. Omitting this level of detail from the YCZO is likely to create confusion. Particularly when there is not clear language referring the reader to the state statute.

We further believe that the county should wait to adopt the amendments more closely to the final publication of the Department of Forestry wildfire risk maps in order to prevent the perception that ADUs are permitted when in fact they are not.

Please include these comments in the record of the proposed amendments.



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July 27, 2021

To: Yamhill County Planning Commission
Stephanie Armstrong, armstrongs@co.yamhill.or.us
Ken Friday, fridayk@co.yamhill.or.us

From: Mary Kyle McCurdy, Deputy Director and Staff Attorney

Re: Implementation of Senate Bill 391 - Accessory Dwelling Units in rural residential areas.
Local File #: G-01-21 DLCD File #: 003-21

1000 Friends of Oregon has reviewed Yamhill County's proposed ordinance G-01-21, drafted to comply with Senate Bill 391. We understand the first hearing on this proposal is August 5, 2021. Please include these comments in the record for this proposed ordinance.

Senate Bill 391 allows counties to permit accessory dwelling units (ADUs) in rural residential areas, within specific parameters. 1000 Friends was closely involved with the development of SB 391. In our review of proposed ordinance G-01-21 we have found some shortfalls in compliance with SB 391, as follows:

- SB 391 applies only to rural residential lands that are not in urban reserves. (SB 391, Sec. 2(2) and (2)(a)). These two restrictions are not stated in the proposed ordinance. Rather, the proposed ordinance states that it applies "outside of a UGB." (Sec. 1014.01.B). This proposed provision does not comply with SB 391.
- SB 391 specifies that ADUs are not allowed on the rural residential lot if the existing single-family dwelling property is "subject to an order declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600." (SB 391, Sec. 2(2)(d)). We do not see this limit in the proposed ordinance. While it might be something the county intends to require in any event, it might be useful to include it in the ordinance for clarity for rural residential land owners contemplating developing an ADU.
- SB 391 specifies that ADUs must comply with "all applicable laws and regulations relating to sanitation and wastewater disposal and treatment." (SB 391, Sec. 2(2)(e)). We do not see this requirement in the proposed ordinance. Again, this might be something the county intends to require in any event, but it might be useful to include it in the ordinance.
- No ADU may be permitted pursuant to SB 391 until "statewide wildfire risk maps have been approved." (SB 391, Sec 2(2)(L)) That mapping is required under the omnibus wildfire bill, SB 762, and is due to be completed by Oregon Department of Forestry by June 2022. While the county might understand that this ordinance is not effective until

those statewide maps have been approved, it is not evident from the proposed ordinance itself and without that clarification, residents might be misled.

- ADUs permitted under SB 391 are limited to 900 square feet. (SB 391, Sec.2(f)) We do not see a size limit on ADUs in the proposed ordinance.
- The county must have adopted regulations for "adequate setbacks from adjacent lands zoned for resource use" and "adequate access for firefighting equipment, safe evacuation and staged evacuation areas." (SB 391, Sec. 2(m)) We do not see these regulations, or reference to them, in the proposed ordinance.

To comply with SB 391, we recommend revising the proposed ordinance consistent with these comments. Please do not hesitate to contact us with any questions or concerns.