

Accessory Dwelling Units (ADUs)

To: Onsite Program Rulemaking Advisory Committee, RAC

From: DEQ Onsite Program

Date: Nov. 21, 2024

Summary of Existing Rule

Accessory dwelling units (ADUs) are not currently addressed in Oregon Administrative Rules (OARs). Oregon Revised Statute, ORS 197.312, defines ADU as an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.

Description of the Issue

Over the past decade, ADU's have been gaining popularity in urban areas as a solution to housing affordability and increasing infill. Community sewerage systems are the primary form of wastewater treatment and disposal within urban areas, with onsite wastewater (septic) systems playing a lesser role. Under Oregon's land use laws, ADUs have not been allowed outside cities where septic systems are most prevalent. That changed in 2021, when Oregon's governor signed into law Senate Bill 391, which allows ADUs on some rural parcels. The law requires that ADUs follow wastewater regulations but does not specifically address septic systems. In 2023, Oregon's governor signed into law Senate Bill 835, which defines ADU in ORS chapter 454, Sewage Treatment & Disposal Systems, and mandates that the Environmental Quality Commission (EQC), the governing body of DEQ, adopt rules setting forth the conditions for approving the permanent connection of ADUs to the primary dwelling's subsurface sewage disposal system.

Onsite program regulators have been addressing the addition of ADUs to primary dwellings' septic systems within cities for years and noted that the absence of sizing requirements in rule or clear definitions of what is and is not an ADU presents challenges. The result is inconsistent implementation of sizing requirements for ADUs, which may be overly protective of public health and the environment, or in some situations, not protective enough.

Most existing septic systems are not sized to handle the increase in the total projected daily sewage flow with the addition of an ADU without additional septic tank volume, and in some cases, expansion of treatment units or the drainfield area. This can add additional expenses that could affect whether a particular ADU project is financially feasible.

Revised Sections

Changes are proposed to section 340-071-0100: Definitions, 340-071-0205: Authorization to Use Existing Systems, and 340-071-0220: Table 2, Quantities of Sewage Flows.

Translation or other formats

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Implications of Rule Changes

- Provide consistent sizing criteria and regulations across the state for the addition of ADUs to existing systems and for new development.
 - Sizing may be more or less conservative than how regulators have been addressing the implementation of ADUs without regulatory specificity from DEQ.
- Define accessory dwelling units from an environmental health perspective, so regulators do not have to defer to planning and building division definitions that may be vague or not considerate of potential wastewater flows.
- In many situations, an Authorization Notice for the addition of an ADU will result in a construction-installation permit, and possibly a site evaluation, to replace or make upgrades to the existing septic system. This will be more protective of public health and the environment but will come with additional infrastructure cost to the property owner. This has already been occurring with the current rules in place that do not specially address ADU sizing and siting criteria.

Non-discrimination statement

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Draft Proposed Rule Changes Pertaining to ADUs

Key to Identifying Changed Text:

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New/inserted text

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340-071-0100

Definitions. . .

“Accessory dwelling unit”, commonly referred to as ADU, means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling, and is located on the same lot or parcel as the single-family dwelling. It must contain permanent cooking, eating, sleeping and sanitary facilities, and must not exceed 900 square feet of usable floor area.

340-071-0205

Authorization to Use Existing Systems

- (1) Authorization Notice required. Except as this rule specifically allows, a person may not place into service, reconnect to, **connect an accessory dwelling unit**, change the use of, or increase the daily sewage flow into, an existing onsite system without first obtaining an Authorization Notice, construction-installation permit, or alteration permit as appropriate.
- (2) Exceptions.
 - (a) An Authorization Notice is not required to replace a mobile home with a similar mobile home in a mobile home park or a recreation vehicle with another recreation vehicle in a lawful recreation vehicle park if the onsite wastewater system has adequate capacity for safely treating wastewater generated within the park.
 - (b) An Authorization Notice is not required to place into service a previously unused system for which a Certificate of Satisfactory Completion has been issued within five years of the date such system is placed into service. The proposed sewage flow does not exceed the design flow and the system is in compliance with the requirements of the Certificate of Satisfactory Completion and applicable requirements in this division.
- (3) A completed application for the Authorization Notice must be submitted to an agent with all required exhibits and the authorization notice fee in OAR 340-071-0140(3). The exhibits must include:
 - (a) A land use compatibility statement from the appropriate land use authority as required in OAR chapter 340, division 018;
 - (b) An accurate property development plan;
 - (c) An onsite system description;
 - (d) A lot map or equivalent plat map for the property;

- (e) Documentation of any hardship claimed;
 - (f) All other information the agent finds necessary to complete the application.
- (4) An agent may issue an Authorization Notice valid for up to one year to place into service or change the use of an existing onsite system when no increase in sewage flow is projected and the design flow is not exceeded, if:
- (a) The existing system is not failing;
 - (b) All set-backs between the existing system and the structure can be maintained; and
 - (c) In the agent's opinion, the proposed use would not create a public health hazard on the ground surface or in public surface waters.
- (5) An agent may issue an Authorization Notice valid for up to one year to place into service or change the use of an existing system, when increase to the current design flow is not more than 300 gallons above the design flow and not more than 50 percent of the design flow for the system if:
- (a) The existing system is not failing;
 - (b) All set-backs between the existing system and the structure can be maintained;
 - (c) A full system replacement area is available and meets all siting requirements in this division except those relating to soil conditions and groundwater; and
 - (d) In the agent's opinion, the proposed increase in sewage flow would not [adversely impact the function of the system](#), create a public health hazard or pollute waters.
- (6) A construction-installation permit is required to place into service or change the use of a system, when the increase to the current design flow is more than 300 gallons above the design flow or by more than 50 percent of the design flow of the system. . .

TABLE 2 QUANTITIES OF SEWAGE FLOWS (OAR 340-071-0220)			
Type of Establishment		Column 1	Column 2
		Gallons Per Day	Minimum Gallons Per Establishment Per Day
Airports		5 (per passenger)	150
Bathhouses and swimming pools		10 (per person)	300
Camps: (4	Campground with central comfort Stations	35 (per person)	700
	With flush toilets, no showers	25 (per person)	500
Persons per Campsite, where Applicable)	Construction camps — semi-Permanent	50 (per person)	1000
	Day camps — no meals served	15 (per person)	300

	Resort camps (night and day) with limited plumbing	50 (per person)	1000
	Luxury camps	100 (per person)	2000
Churches		5 (per seat)	150
Country clubs		100 (per resident member)	2000
Country clubs		25 (per non-resident member present)	—
Dwellings:	Boarding houses	150 (per bedroom)	600
	Boarding houses – additional for non-residential boarders	10 (per person)	—
	Rooming houses	80 (per person)	500
	Condominiums, Multiple family dwellings — including Apartments	300 (per unit)	900
	Single family dwellings	300 (not exceeding 2 bedrooms)	450*
	Single family dwellings — with more than 2 bedrooms	75 (for third & each succeeding bedroom)	450
	Single family dwellings – with accessory dwelling unit (ADU)	600 (not exceeding 2 bedrooms in either dwelling)	750
	Accessory dwelling units (ADU)	300 (per unit)	-
Factories (exclusive of industrial wastes — with shower facilities)		35 (per person per shift)	300
Factories (exclusive of industrial wastes — without shower facilities)		15 (per person per shift)	150
Hospitals		250 (per bed space)	2500
Hotels with private baths		120 (per room)	600
Hotels without private baths		100 (per room)	500