

**ORDINANCE NO. O2017-014**

**AN ORDINANCE** of the City Council of the City of Tumwater, Washington, amending regulations related to beekeeping by removing the cap on the number of hives allowed per property and adding “beekeeping” to the definition of “agriculture” which is allowed in the ARI, LI, RSR, SFL, SFM, and MFM zone districts

**WHEREAS**, “agriculture” is already allowed within the Airport Related Industrial and Light Industrial zone district chapters so the list in TMC 18.42.070(A) is being updated to reflect this fact; and

**WHEREAS**, the City is required to plan under Chapter 36.70A RCW, the Growth Management Act; and

**WHEREAS**, this Ordinance is consistent with the City’s Comprehensive Plan; and

**WHEREAS**, this Ordinance meets the goals and requirements of the Growth Management Act; and

**WHEREAS**, the Attorney General Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property (Dec. 2015) on takings was reviewed and utilized by the City in objectively evaluating the proposed changes; and

**WHEREAS**, this Ordinance was sent to the Washington State Department of Commerce on June 7, 2017, in accordance with RCW 36.70A.106; and

**WHEREAS**, a Determination of Nonsignificance for the proposed code amendments was issued on June 12, 2017 in accordance with the State Environmental Policy Act (Chapter 197-11 WAC) and in compliance with Chapter 16.04 of the Tumwater Municipal Code; and

**WHEREAS**, the Planning Commission received a briefing on the proposed code amendments on June 27, 2017 and held a public hearing on July 11, 2017; and

**WHEREAS**, following the public hearing and deliberations, the Planning Commission recommended approval of the proposed code amendments to the City Council; and

**WHEREAS**, the City Council’s General Government Committee reviewed the proposed code amendment in a briefing on June 6, 2017; and

**WHEREAS**, on July 18, 2017, the City Council considered the proposed code amendments; and

**WHEREAS**, the City Council finds that the provisions of this Ordinance are in the best interest of and protect the health, safety, and welfare of the citizens of the City.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUMWATER, STATE OF WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1.** Section 6.08.010 of the Tumwater Municipal Code is hereby amended to read as follows:

**6.08.010 Animals.**

A. Lots two acres in size and larger are allowed one USDA Animal Unit (AU) per acre.

1. Animal structures such as chicken coops or barns are not allowed within fifty feet of a property line, except for the following:

- a. Structures for the animals and amounts of animals listed in subsection B of this section for lots smaller than two acres in size; and
- b. Structures for pet animals kept in accordance with TMC Chapter 6.04.

2. Roosters, geese, peacocks and other similar loud fowl are prohibited.

B. Lots smaller than two acres in size are allowed the following types and number of animals:

1. Chickens.

- a. Female chickens are allowed on lots less than two acres in size.
- b. Lots one-quarter acre and smaller are allowed up to five female chickens. Lots between one-quarter acre and one acre are allowed up to nine female chickens. Lots one acre and larger are allowed up to ten female chickens plus one additional female chicken for every additional one thousand square feet of lot area beyond one acre.
- c. Roosters are prohibited.
- d. The chickens must be confined to the property.
- e. Suitable sanitary enclosures (chicken coops) must be provided. The enclosures may not be located within five feet of rear or side property lines. Enclosures are not allowed within fifteen feet of the front property line. Through lots are allowed to have an enclosure within five feet of a property line in one of the front yards; provided, that yard is at the back or side of the structure.

2. Rabbits, miniature goats, ducks, and turkeys are allowed in addition to the chickens allowed in subsection (B)(1) of this section subject to the following restrictions:

a. Rabbits. Lots one-quarter acre (ten thousand eight hundred ninety square feet) and smaller are allowed up to five rabbits. Lots between one-quarter acre and one acre are allowed up to nine rabbits. Lots one acre and larger are allowed ten rabbits plus one additional rabbit for every additional one thousand square feet of lot area beyond one acre.

b. Miniature Goats. Lots between five thousand square feet and one-quarter acre (ten thousand eight hundred ninety square feet) in size are allowed up to two miniature goats. Lots between one-quarter acre and one acre are allowed up to four miniature goats. Lots one acre and larger are allowed up to six miniature goats.

c. Four of any combination of ducks or turkeys are allowed on lots at larger than seven thousand five hundred square feet in size.

d. Suitable sanitary enclosures must be provided. The enclosures may not be located within five feet of rear or side property lines. Enclosures are not allowed within fifteen feet of the front property line. Through lots are allowed to have an enclosure within five feet of a property line in one of the front yards; provided, that yard is at the back or side of the structure.

~~3. Bees.~~

~~a. Honey or pollinating bee hives are allowed at a rate of two hives per lot.~~

~~b. Hives must be set back at least ten feet from all property lines.~~

**Section 2.** Section 18.04.010 of the Tumwater Municipal Code is hereby amended to read as follows:

**18.04.010 A definitions.**

“Accessory building, structure, use” means the use of land or a subordinate building or a portion of a principal building, such use being secondary or incidental to a permitted use or structure, whether such permitted use is on the same lot as the proposed accessory building or use, or on a contiguous lot or lots under the same ownership; provided, that the accessory structure or use may be established in conjunction with or after the establishment of the permitted structure or use.

“Accessory dwelling unit” means a dwelling unit as defined in TMC 18.04.040 that is an accessory use or structure subordinate to a single-family dwelling.

“Accessory wireless communication antenna” is a ground mounted (freestanding) or building mounted (attached) antenna for the sole use of residents, patrons of a business, or other occupants of property for the original transmission or final

reception of communications or data as an accessory to a permitted use on the property on which the antenna is located. Types of accessory wireless communication antennas include:

- A. “Category I (radio and television)” means “receive-only” radio and television antennas, or parabolic (“dish”) antennas not exceeding one meter (39.4 inches) in diameter, usually supported by a single pole, post, or mast, with an antenna height not exceeding fifteen feet above grade for freestanding antennas or ten feet above the height of the building upon which mounted for attached antennas; or
- B. “Category II (amateur radio antenna)” means “send and receive” citizen band radio antennas or similar antennas operated by a federally licensed amateur (“ham”) radio operator at a dwelling, with an antenna height not exceeding the maximum height for buildings on the property upon which the antenna is located except as provided otherwise in TMC 11.20.070(F); or
- C. “Category III (accessory mobile antenna device)” is an antenna including, but not limited to, test mobile antennas and global positioning satellite (GPS) equipment, or mobile radio or television antennas which are less than twelve inches in height or width, excluding the support structure; or
- D. “Category IV (minor telecommunications antenna)” means “send and receive” data transmission or communication antennas or parabolic (dish) antennas (other than category I and II antennas) not exceeding one meter (39.4 inches) in diameter, usually supported by a single pole, post, or mast, with an antenna height not exceeding fifteen feet above grade for freestanding antennas or the height of the building upon which mounted for attached antennas.

Provided, however, that accessory wireless communications antennas or support structures shall be subject to the provisions of TMC Chapter 11.20, Communication Antennas and Towers, generally, and specifically to the location and landscaping requirements of TMC 11.20.070.

“Administrative official” means a duly appointed officer of the city or his appointed representative charged with the administration of building and occupancy permits, and for the interpretation and enforcement of this title.

“Adult family home” means the regular family abode of a person or persons who are providing personal care, room and board, under a license issued pursuant to RCW 70.128.060, to more than one but not more than four adults who are not related by blood or marriage to the person or persons providing the services; except that a maximum of six adults may be permitted if the Washington State Department of Social and Health Services determines that the home and the provider are capable of meeting standards and qualifications provided for by law (RCW 70.128.010).

“Agriculture” means the use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, beekeeping, and animal and poultry husbandry and the necessary accessory uses for selling, packing, treating, or storing the produce; provided, however, that the operation of

any such accessory uses shall be secondary. The term “agriculture” shall not include the operation or maintenance of a commercial stockyard or feed lot.

“Airport fueling facility” means a centralized aviation fuel storage facility where aviation fuel is transferred to aboveground storage tanks and various types of aircraft are fueled.

“Alley” means a public or private way, at the rear or side of property, permanently reserved as a secondary means of vehicular or pedestrian access to a property. Alleys are not considered streets for the purpose of calculating setbacks.

“Alterations” means any repair, reconstruction, or improvement of a structure, the cost of which does not equal or exceed fifty percent of the market value of the structure.

“Amendment” means any change, modification, deletion, or addition to the wording, text or substance of the zoning ordinance, or any modification, deletion or addition to the application of the zoning ordinance to property within the city, including any alteration in the boundaries of the zone when adopted by the city council.

“Animal clinic” or “animal hospital” means any medical facility except those designed and used for the care of human beings, maintained by or for the use of licensed veterinarians in the diagnosis, treatment, and prevention of animal diseases and ailments.

“Aquaculture” means activities relating to the fishing or harvesting of wild and planted fish stock for recreational and commercial purposes.

“Arcade” means a covered walk with shops along one side and a line of arches or columns on the other side.

“Articulation” means a design emphasis placed on a particular architectural feature through the use of one or more of the following: special details or materials; changes in building plane (recessed or extended from building surface); contrasting materials; or decorative artwork.

“Auto repair facilities” means any area of land, including the structures thereon, that is used for major auto repairs including, but not limited to, engine or transmission overhaul and replacement, collision services such as auto body and frame repair and painting, and the general servicing and replacement of parts.

“Auto repair facilities” shall not include businesses which exclusively perform minor servicing such as oil changes, car washes, tire installation services, stereo installation, etc.

“Automobile service station” means any area of land, including the structures thereon, that is used for the sale of gasoline or other motor fuels, oils, lubricants, and auto accessories; and which may or may not include washing, lubricating, and other minor servicing with the exception of automobile body work.

“Automobile wrecking” means the dismantling or wrecking of used motor vehicles or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The

presence on any lot or parcel of land of five or more motor vehicles, which for a period exceeding thirty days have not been capable of operating under their own power, and from which parts have been or are to be removed for reuse or sale, shall constitute prima facie evidence of an automobile wrecking yard.

“Aviation use” means any runway, taxiway, connector, apron or heliport designed for the landing and taking off of aircraft, transfer of passengers and/or cargo, surface access, and other support facilities typically associated with airports, including: hangars, control towers, communication and maintenance facilities, operations area, airport fueling facilities, fixed-based operators (FBO) and passenger and cargo terminals (including retail and eating and drinking establishments located within a terminal or FBO building).

“Awning” means a structure affixed to a building that extends over windows, sidewalks or doors.

(Ord. O2013-013, Amended, 10/01/2013; Ord. O2010-029, Amended, 06/07/2011; Ord. O2008-017, Added, 10/21/2008; Ord. O2004-009, Added, 12/07/2004; Ord. O2002-019, Amended, 01/07/2003; Ord. O97-019, Added, 06/17/1997; Ord. O95-037, Added, 12/05/1995; Ord. O95-035, Amended, 12/19/1995; Ord. 1289, Added, 06/04/1991; Ord. 883, Added, 05/06/1984. Formerly 18.04.010 – 18.04.042)

**Section 3.** Section 18.42.070 of the Tumwater Municipal Code is hereby amended to read as follows:

#### **18.42.070 Agriculture.**

A. Agriculture uses are allowed within the ARI, LI, RSR, SFL, SFM and MFM zone districts provided they are thirty acres or less in size and meet the following requirements:

1. The number and types of animals shall meet the requirements of TMC Chapter 6.08.
2. For the purposes of determining the total number of “animal units” allowed on a site (as defined in TMC 16.26.020(B)), acres are to be calculated in accordance with subsection B of this section.
3. On-site sales shall consist primarily of products produced on site by the agriculture use; except for lots less than two acres in size where all products sold must be produced on site by the agriculture use.
4. Signs shall meet the requirements listed in TMC Chapter 18.44.
5. Fences shall meet the requirements listed in TMC Chapter 18.46.
6. All agricultural uses shall adhere to the required best management practices (BMPs) and other provisions described in the city of Tumwater drainage design and erosion control manual. In the event the city has determined the agricultural uses cause a detrimental impact to water

quality, additional best management practices may be required at the direction of the public works director or designee, including cessation of uses, as necessary to restore water quality and protect public health.

B. **Acreage Calculation.** The size of agriculture uses is calculated by measuring the area of a lot less the portion of the lot that is undevelopable due to critical areas, existing development, or other site conditions that make utilizing that portion of the lot unfeasible for agriculture or activities related to agriculture including product storage, sales, processing, etc. The acreage total includes contiguous parcels that are also being utilized by the same agriculture operation. In instances where urban farms utilize parcels that are not contiguous, they are to be considered separate uses for the size calculation. For the purposes of this calculation, lots on opposite sides of a public right-of-way are not to be considered contiguous.

(Ord. O2010-029, Added, 06/07/2011)

**Section 4. Corrections.** The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

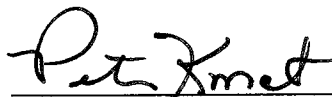
**Section 5. Ratification.** Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

**Section 6. Severability.** The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

**Section 7. Effective Date.** This ordinance shall become effective thirty (30) days after passage, approval, and publication as provided by law.

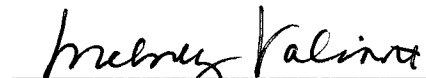
ADOPTED this 18<sup>th</sup> day of July, 2017.

CITY OF TUMWATER



Pete Kmet, Mayor

ATTEST:



Melody Vallant, City Clerk

APPROVED AS TO FORM:

Karen Kirkpatrick

Karen Kirkpatrick, City Attorney

Published: 07-20-2017

Effective Date: 08-19-2017