

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of March 16, 2021

SUBJECT: Amendments to Chapter 55 (Zoning), an Ordinance to Amend Section 5.15 (Table 5-15-2) and Section 5.16.6 of Chapter 55 (Unified Development Code) OF TITLE V OF THE CODE OF THE CITY OF ANN ARBOR related to Accessory Dwelling Units.

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the amendments to Chapter 55 (Zoning), Section 5.15 (Table 5.15-2) and Section 5.16.6. Accessory Uses and Structures

STAFF RECOMMENDATION

Staff recommends that the proposed amendments to Chapter 55 (Zoning), Section 5.15 (Table 5-15) and Section 5.16.6. Accessory Uses and Structures be **approved** on finding that city ordinances provide for development of Accessory Dwelling Units to support sustainable housing and affordability.

STAFF REPORT

The Planning Commission held a working session on Accessory Dwelling Units February 9, 2021 to review the updated draft ADU ordinance language. These changes were presented to the ORC (Ordinance Revision Committee) on February 23, 2021 and then presented at the March 2, 2021 Planning Commission Meeting. Since this last meeting, no additional changes have been proposed. Additional information was requested at this meeting and these items are addressed below. For reference, the proposed changes to the ADU ordinance can be found in the attached 3/2/21 City Planning Commission report link.

Public Notification

Since the previous meeting, City staff has shared the opportunity to speak at the public hearing on social media, via a press release, and through distribution to numerous email distribution lists maintained by the City.

Residential Occupancy

Per Section 5.16.1A(2) **Limits on Occupancy of Dwelling Unit**

A Dwelling Unit may be occupied by one of the following Family living arrangements:

- A. One or more Persons related by blood, marriage, adoption, or guardianship living as a single Housekeeping Unit, in all districts.
- B. A maximum of four Persons plus their Offspring living as a single Housekeeping Unit, in all districts.
- C. A maximum of six Persons living as a single Housekeeping Unit in Multiple-Family and mixed use districts only.
- D. A Functional Family living as a single Housekeeping Unit that has received a Special Exception Use permit pursuant to Section 5.29.5.

Functional Family

A group of people plus their Offspring, having a relationship which is functionally equivalent to a Family. The relationship shall be of a permanent and distinct character with a demonstrable and recognizable bond characteristic of a cohesive unit. Functional Family shall not include any society, club, fraternity, sorority, association, lodge, organization or group of students or other individuals where the common living arrangement or basis for the establishment of the Housekeeping Unit is temporary.

ADU Assessment

Property owners with one-unit properties are eligible for 100% principal residence exemption (PRE) if they occupy at least 50% of their home as their principal residence. If they occupy less than that, then they would be eligible for the percentage they occupy.

When there are multiple units on a property, including an ADU, the property is no longer eligible for a 100% PRE. This is true whether or not it's rented. It could be completely vacant, rented for free, or used by the homeowner for another purpose, and as long as there are separate units on the property, the property is only eligible for a partial PRE in accordance with the value of the unit occupied as their principal residence.

This is stated best on the *Principal Residence Exemption (PRE) Affidavit* itself. It states:

"If you own and live in a multi-unit or multi-purpose propertyyou can only claim a partial exemption based on that portion that you use as your principal residence... If the parcel of property that you are claiming has more than one home on it, you must determine the percentage that you own and occupy as your principal residence. A second residence on the same property ...is not part of your principal residence, even if it is not rented to another person."

The overall assessment is a compilation of the value of the land and of all the physical components of a property. If there is a detached ADU on a property, the value for that separate building or portion of building is subtracted from the overall value of all the property's physical improvements in order to determine the value of property improvements that are eligible for a PRE. That determined percentage applicable to the principal residence is the overall portion eligible for a PRE.

Water Meter Rates

All residential locations regardless of an ADU or not are charged based on a tier structure. ADU's do not need a separate meter, regardless if it's a detached unit. However, the water that is used in the ADU will be ran/metered and charged from the meter in the main house. Adding an ADU will not change the tiers. Attached is the water rates that show the tier structure for residential 1 tier.

Side and Rear Setback Requirements

Currently, City Code requires accessory structures to be set back from neighboring properties by a minimum of 5 feet (3 feet if the sides of the accessory structure have "fire rated" walls). ADU's are currently required to provide a minimum of a 3-foot side or rear setback. Residential zoning districts have various side setback requirements for primary structures such as a single-family home. Single family zoning districts have minimum side setback requirements that vary from 3, 5, 7, 9, and 11 feet depending on the zoning district. Minimum rear setback requirements vary from

20, 30, 40, and 50 feet depending on the zoning district. Two family zoning districts have a minimum side setback requirement of 5 feet and a minimum rear setback requirement of 30 feet. Some members of the public have expressed concern with the proposed 3-foot minimum side and rear setbacks for ADU's. Planning Commission could consider increasing the minimum side and rear setback for ADU's to a minimum of 5 feet.

FINDINGS

Eligibility – Planning Commission members asked staff about eligibility of ADU's in single-family and multiple owner-occupied lots in the City. Maps providing this information are attached in the 3/2/21 staff report. Additional information on existing accessory structures in the City with comparisons on existing and proposed ADU changes is provided in chart form (attached).

Comparisons to Other Cities – Portland, OR and Seattle, WA have made code amendments over the past two decades to incentivize the construction of new ADU's. In 2019, the State of California approved a number of statutes that outline state standards for the construction of ADU's and prevent municipalities from prohibiting ADU's.

Portland: Between 1997-2003, Portland removed the owner occupancy requirement for ADU's. In 2010 Portland eliminated their System Development Charge (SDC) fees for ADU's which are capital recover charges for infrastructure. This policy change resulted in a substantial increase in the number of ADU in Portland beginning in 2010. Portland also allows up to two ADU's in single family zoning districts, eliminated the off-street parking requirement, increased the maximum size of duplexes in basements to 1,000 square feet, and allowed ADU's to be constructed on sites with duplexes.

Seattle: In 2019, Seattle reduced the minimum lot size for ADU's from 4,000 to 3,200 square feet, increased the maximum size of ADU's to 1,000 square feet, removed the owner occupancy requirement, removed the off-street parking requirement, and allowed a maximum of two ADU's to be constructed for each lot.

State of California: In 2019, California passed a number of statutes regarding ADU's which created State standards and prevented municipalities from prohibiting ADU's. The new standards which apply to all municipalities in the state, include: reducing the municipal approval period for new ADU's from 120 to 60 days, allowing up to two ADU's for each single-family or multiple-family parcel, eliminating the owner occupancy requirement through January 1, 2025, eliminating the minimum lot size requirement, allowing the maximum size of an ADU to be 1,000 square feet, eliminating parking requirements for parcels within ½ mile of a transit corridor, and eliminating utility connection fees for ADU's that are less than 750 square feet.

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Attachments: [3/2/21 Staff Report](#)
[Water, Sewer, Storm Rates](#)
[ADU Fact Sheet](#)
[ADU Permit Portland](#)
[Backyard ADU Seattle](#)
[2020 Guide to New ADU California](#)
[Jump Starting the Market - ULI](#)

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of March 2, 2021

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STAFF RECOMMENDATION

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BACKGROUND

On August 4, 2016, the City Council adopted Ordinance 16-16, which amended the Zoning Ordinance to convert Accessory Apartments into Accessory Dwelling Units and create additional standards regulating their placement in the City. A component of this ordinance was the establishment of ADUs as an Accessory use in the R1A through R1E, and R2A Zoning Districts.

To date, realization of such units in the City has been minimal (a total of 23 ADU's are either built or under Zoning review). In 2019, City Council directed the City Administrator and Planning Commission to consider amendments to the Unified Development Code to eliminate restrictions on detached ADUs, and to consider additional amendments to further the realization of such units.

Upon this direction, the Planning Commission Ordinance Revisions Committee and full Planning Commission, via Working Session discussion had assembled the following recommended amendments to the Unified Development Code. The amendments reflect the following changes to regulation of ADUs:

- Addition of more zoning districts where ADUs are allowed. The proposed amendments add the option to all residential zoning districts, excepting R6, Mobile Home Parks. The addition of ADUs to other zoning districts does not eliminate the requirement of any location being an owner-occupied single-family property.
- Amend the requirements that previously limited detached ADUs on those properties that had an existing accessory structure prior to December 31, 2016. The amendments allow a detached ADU in any legally conforming detached accessory structure.
- Removal of requirement that any new entrance be located on the side or rear of a structure.
- Removal of minimum 5,000 square feet lot size requirement.
- Reordering of the requirements into more logical groupings.

These proposed amendments were denied by City Council in 2019. In 2020, the Planning Commission identified reconsideration of the ADU provisions of the UDC as part of the Commission's work plan.

The Planning Commission held a working session on Accessory Dwelling Units February 9, 2021 to again review the updated draft ordinance language. These changes were presented to the ORC (Ordinance Revision Committee) on February 23, 2021. The proposed changes introduced in 2019 continued to be supported by the Planning Commission along with the following additions to the proposed amendments ADU's:

- Removal of additional parking requirements as the majority of proposed ADU's are within ¼ mile of a bus stop.
- Removal of the requirement that the owner of the property resides on the property.
- Ensure the maximum occupancy is maintained.

FINDINGS

Eligibility – Planning Commission members asked staff about eligibility of ADU's in single-family and multiple owner-occupied lots in the City. Maps providing this information are attached. In summary, 15,203 out of 17,658 (86%) R1 zoned properties are homestead and 96% of these properties are greater than 5,000 sq. ft. Of the R2, R3 & R4 zoned properties below the minimum lot size (staff believes lots exceeding the minimum lot size could be developed at higher densities), 4,414 out of 8,968 (49%) are homestead. Staff is gathering information on existing accessory structures in the City and if this information is available by the March 2, 2021 meeting, it will be presented.

Comparisons to Other Cities – Staff analyzed the owner occupancy requirement in a number of American cities that allow ADU's. The findings are described below:

- Seattle, WA: no owner occupancy requirement
- Portland, OR: no owner occupancy requirement
- Sacramento, CA: State of California prohibits owner occupancy requirement in the state through 2025
- Missoula, MT: owner occupancy requirement
- Bloomington, IN: owner occupancy requirement
- Madison, WI: owner must occupy either principle dwelling or ADU for at least 6 months per year
- Pittsburgh, PA: owner occupancy requirement

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Attachments: [Parcels Zoned R1A Thru R1E Map](#)
[Parcels zoned R2A Thru R4D Map](#)
Proposed Ordinance Amendments

Water, Sewer & Stormwater Rates

Effective January 1, 2021 Ann Arbor water bills will be charged according to the following rate structure, based on water meter readings.



	Residential 1 Rate is based on a single water meter used in a home	Residential 2 Rate when a second Water-Only meter is also used in a home	Water Only** Rate for the second meter for non-sewer water uses, such as for irrigation	Non Residential Rate (Locations may also have a second, Water Only** meter)	Multi Family Rate Locations with 3 or more units
1-9 CCFs*	\$2.01 per CCF	\$2.01 per CCF	\$9.90 per CCF	\$4.34 per CCF	\$2.42 per CCF
10-18 CCFs*	\$3.21 per CCF	\$3.21 per CCF	\$9.90 per CCF	\$4.34 per CCF	\$2.42 per CCF
19-36 CCFs*	\$7.45 per CCF	\$3.21 per CCF	\$9.90 per CCF	\$4.34 per CCF	\$2.42 per CCF
Over 36 CCFs*	\$15.96 per CCF	\$3.21 per CCF	\$9.90 per CCF	\$4.34 per CCF	\$2.42 per CCF
Water Customer Charge	\$23.69/quarter for 5/8 inch and 3/4 short standard residential meter; charge varies by meter size	\$23.69/quarter for 5/8 inch and 3/4 short standard residential meter; charge varies by meter size	\$23.69/quarter for 5/8 inch and 3/4 short standard residential meter; charge varies by meter size	Customer charge varies by size of water meter	Customer charge varies by size of water meter
Sewer Service Rate per CCF*	\$6.33 per CCF Resident 1 Summer sewer usage is calculated at winter water use rate, so the water used for outdoor activities is not charged to sewer	\$6.33 per CCF	No sewer fees	\$6.33 per CCF	\$6.33 per CCF
Sewer Customer Charge	15.96/quarter for 5/8 inch and 3/4 short standard residential meter; charge varies by meter size	15.96/quarter for 5/8 inch and 3/4 short standard residential meter; charge varies by meter size	No charge	Customer charge varies by size of water meter	Customer charge varies by size of water meter

Stormwater Discharge Fee	Refer to Stormwater section below	Not Applicable	Not Applicable	Refer to Stormwater section below	Refer to Stormwater section below
Stormwater Charge+	\$4.15	Not Applicable	Not Applicable	\$4.15	\$4.15
Discount for bill paid by due date	10% Savings available	10% Savings available	10% Savings available	10% Savings available	10% Savings available

Notes to the above chart:

***1CCF = 100 cubic feet = 748 gallons** = a standard measurement of water.

****Water Only meters** are allowed only for water uses that do not result in return flow to the sanitary sewers, e.g., into a drain, and typically used for landscape irrigation or cooling tower operations.

The majority of water bills are measured and mailed on a quarterly basis. A few water accounts are billed monthly and are pro-rated according to the quarterly charts, listed above.

Residential locations with an additional Water Only** meter are billed according to the Residential 2 chart for their standard water meter, and charged from the Water Only chart for the water used through the second meter.

Businesses are billed according to the Non Residential rate chart and the Water Only chart, if applicable, for operating a second Water Only** meter.

+Stormwater Charge Rates

Stormwater rates are assessed based on the amount of impervious area—or hard surfaces such as roofs, driveways, patios—on the property. Individual property stormwater assessments are available online at www.a2gov.org/storm.

Single and two family residential properties are grouped into one of four tiers. The average percentage impervious square feet area for that tier is then used to calculate their quarterly storm water discharge fee. The impervious area is charged \$851.44/acre.

Tier 1: Less than or equal to 2187 square feet: will be billed for 3.706% of an impervious acre. (\$31.55)

Tier 2: Greater than 2187 to less than or equal to 4175 square feet will be billed for 6.486% of an impervious acre. (\$55.22)

Tier 3: Greater than 4175 to less than or equal to 7110 square feet will be billed for 11.118% of an impervious acre. (\$94.65)

Tier 4: Greater than 7110 square feet will be billed for 19.456% of an impervious acre. (\$165.66)

Commercial properties will be charged on their impervious area measurement, based on the same rate as the single and two family tiers (\$851.44 per impervious acre per quarter) plus the \$4.15 quarterly customer charge.

Allowable Residential Credits (up to three rate reductions are available per quarter; details are available at www.a2gov.org/storm).

- **RiverSafe Homes:** \$1.14/parcel.
- **Rain Barrels:** (one or more): \$3.01/parcel
- **Rain Gardens/Cisterns/Dry Wells:** \$6.24/parcel
- **Chapter 63 compliant Stormwater Control:** \$16.62/parcel

Allowable Non-Residential Credits (per quarter):

- **Community Partners for Clean Streams:** will reduce the customer charge by 25.83%
- **Chapter 63 Compliant Stormwater Control:** will reduce the stormwater discharge fee by 28.87%.
- **Other Approved Stormwater Controls:** will reduce the stormwater discharge rate by 8.17% and customer charge by 25.83%

Quarterly Customer Charges (also shown with 10% discount for on-time payment)

	Water	Water w/disc	Sewer	Sewer w/disc
5/8" or 3/4" short meter	\$23.69	\$21.32	\$15.96	\$14.36
3/4" meter	\$25.44	\$22.90	\$16.42	\$14.78
1" meter	\$28.65	\$25.79	\$17.05	\$15.35
1 1/2" meter	\$37.54	\$33.79	\$19.52	\$17.57
2" meter	\$47.52	\$42.77	\$21.76	\$19.58
3" meter	\$100.34	\$90.31	\$55.91	\$50.32
4" meter	\$130.98	\$117.88	\$63.38	\$57.04
6" meter	\$200.48	\$180.43	\$67.34	\$60.61
8" meter	\$291.72	\$262.55	\$80.56	\$72.50
10" meter	\$389.16	\$350.24	\$86.25	\$77.63



Quarterly Fire Service Charge

	Quarterly	Quarterly w/disc
1" service	\$39.49	\$35.54
1-1/2" service	\$39.49	\$35.54
2" service	\$39.49	\$35.54
3" service	\$39.49	\$35.54
4" service	\$78.99	\$71.09
6" service	\$78.99	\$71.09
8" service	\$78.99	\$71.09

January 1, 2021



Proposed Accessory Dwelling Unit Ordinance Amendments – 2021

<p>An Accessory Dwelling Unit (ADU) is a second, smaller dwelling unit that is either attached (such as a basement, attic, or addition) or detached (such as a converted garage or carriage house).</p>				
	Attached		Detached	
	Current Code	Proposed Code	Current Code	Proposed Code
Are Single-Family Use Properties Eligible?	Y	Y	Y ¹	Y
Are Multiple-Family Use Properties Eligible?	N	N	N	N
Allowed in Single Family & R2A Zoning Districts?	Y	Y	Y	Y
Allowed in other Residential Zoning Districts?	N	Y	N	Y
Does the Property Owner have to live On-Site?	Y	N	Y	N
Is a Deed Restriction Required?	Y	N	Y	N
Is a Minimum Lot Size Required?	Y	N	Y	N
Is Additional Parking Required?	Y ²	N	Y ³	N

¹ Only for properties with a qualifying accessory structure present by December 31, 2016.

² If not located within ¼ mile of a bus stop.

³ See footnote 2.