

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For City Council Regular meeting – 1st reading of ordinance change on June 20, 2016

SUBJECT: Amendments to Chapter 55 (Zoning), Section 5:1 (Definitions), 5.10.2 R1A, R1B, R1C, R1D, R1E single-family dwelling district related to Accessory Dwelling Units.

UPDATES

Ann Arbor City Council held a working session on Accessory Dwelling Units (ADUs) on Monday, May 9, 2015. The session included a staff presentation followed by questions and discussion between council and staff. There were several outstanding questions and requests for information from that meeting. Responses are provided below along with updated ordinance text dated 5.24.16 reflecting the changes below.

Pathway for enforcement: There was a request to understand more clearly how enforcement could take place for any potential violations, although the main concerns are over-occupancy, and tracking of owner-occupancy status.

Application – At the point of application, plans will be reviewed to comply with the approved code changes. The plans and building permit will be reviewed by Zoning, Housing and Building Departments. Zoning will place notes on the plans and the building permit listing the maximum number of occupants, and indicating the owner-occupancy requirement. In ADUs where it appears the floor plan allows for more than 2 persons, staff will ask the home owner to submit a letter stating occupancy requirements will be met. This will help zoning enforcement and housing enforcement as well as the assessing office easily find information on both owner-occupancy requirements and occupancy limits.

Housing Inspection Program – All ADUs will be required to be part of the rental inspection program and will be inspected every 30 months. Currently there are about 51,000 rental units in the City of Ann Arbor and 6 full time inspectors. The Housing Department reports that they are up to date on inspections and feel that number of new ADU units each year would not impact their ability to stay on top of the inspection schedule. Additionally, a zoning ordinance officer was recently added in late 2015, and will be able to assist with enforcement.

Enforcement – Current enforcement occurs when either a resident or inspector determines a possible zoning violation occurs. Follow-up enforcement includes a site visit, and a letter to the property owner and tenant notifying them of the possible violation. If it is proven that a violation occurred, it must be corrected within 2 -4 weeks (depending on the violation) or a ticket will be issued.

Owner Occupancy Requirement. Assessing reviews Primary Resident Exemption (PRE) status. In addition the State also reviews PRE based on comparisons with tax return information. The state denies PRE status based on discrepancies with tax returns, driver's license, voter registration and utility bills. The City also check all of these same things while investigating a PRE. A PRE can be denied any time during the year. The

city and state can go back and collect the current year and 3 previous years' taxes when there is a PRE violation.

Clarification on occupancy limit on ADU: Staff revised the language in the proposed text to more closely follow existing language in Section 5:7(2)(b). The revised text follows:

- The ADU shall not be occupied by more than the number of occupants permitted by section 5:7 except that only 2 unrelated persons plus their offspring living as a single housekeeping unit may occupy the ADU.

Building Code requirements and impact on occupancy: There was a request to understand how the building code could impact occupancy in an ADU. What follows are the building code size requirements for rooms/common areas per the Housing Department noting minimums for each part of the dwelling unit:

Room	Minimum Sq Ft
Hallway	70
Kitchen	35
Shared living space	135
Bathroom	50
First bedroom	70
Second bedroom	100
Third bedroom	150
ADU with 1 BR	360 sf
ADU with 2 BR	460 sf

Fees for ADU development: There was a request to have an idea of the fees required for development of an ADU. Listed below is sample costs based on the median costs discussed in the recent [Portland, OR survey](#) as well as the most recently approved Accessory Apartment built in Ann Arbor as an addition. Building fees are calculated based on the estimated project cost, so costs will vary based on the scope of the project.

BUILDING PERMIT FEES	PORTLAND ATACHED ADU*	PORTLAND DETACHED ADU *	ATTACHED – A2 EXAMPLE
Estimated Cost of Construction	\$ 45,500*	\$90,000*	\$85,000
Onsite Consultation w/ Inspector	\$35	\$35	\$35
Construction Inspections	\$555	\$1,401	\$1,211 –Plan Review and Permits
Site Compliance Permit	\$150	\$150	\$150
Site Compliance Inspection	\$60	\$60	\$0
Certificate of Occupancy Inspection	\$170	\$170	\$30
Zoning Compliance Permit	\$50	\$50	\$50
Address Change	\$50	\$50	\$30

Administrative Fee	\$25	\$25	n/a
Subtotal	\$1,095	\$1,941	
Building Plan Examination Fee (40%)	\$438	\$776	
Sewer tap fee	n/a	\$6,000-\$7,000	n/a
Sewer line installation	n/a	Varies by distance/contractor	n/a
ESTIMATED TOTAL	\$2,628	\$11,158	\$1,506

Mechanical, plumbing and electrical permit fees start at \$85 and vary depending on the individual design.

NOTES

* Budget does not include any demolition costs & is based on median costs in Portland, OR

RENTAL HOUSING SERVICES	
Registration Fee per building or complex	\$25 per building
Initial Inspection Fee	\$100 per unit

Deed restrictions: Staff proposes draft deed restriction language to clearly state to both current and future owners the ADU requirements

A deed restriction that runs with the land shall be filed with the register of deeds, prior to occupancy, and incorporate the following restrictions:

- a) The ADU cannot be sold separately from the single-family dwelling
- b) Either the primary dwelling unit, or the Accessory Dwelling Unit, must be occupied by the owner(s) of record of the Property
- c) The deed restrictions shall be in effect until the ADU is removed.

Affordability levels –Using the most recent HUD Income Limits and Affordable Housing Limits (5.23.16 v. 3), listed in the table below are the rental rates that are considered by affordable:

Unit size	Household Size	Household Income Limits*	Fair Market Rent**
Efficiency	1	\$37,200	\$769
Efficiency	2	\$42,480	\$769
1 bedroom	1	\$37,200	\$851
1 bedroom	2	\$42,480	\$851

*Determined for 60% Area Median Income

** FMR includes utilities

Additional information on ADU development: While staff provided information on the number of ADUs added annually in comparable cities, a [2016 report](#) on ADU development in the Pacific Northwest found that about 1% of single-family housing stock in Seattle and Portland have ADUs. Noting that both programs have been in place for 15-20 years, 1% of eligible owner-occupied single family houses in proposed zoning districts in Ann Arbor would equate to about 168 houses.

BACKGROUND

After adopting the Housing Affordability and Economic Equity Report on February 25, 2015, City Council directed the Planning Commission to review and make recommendations to amend the existing zoning ordinance to further allow Accessory Dwelling Units. Many communities throughout the country have encouraged the development of Accessory Dwelling Units and have noted the following benefits:

- Accessory Dwelling Units increase the variety of housing opportunities available within the community by introducing a new housing prototype that respects the look and scale of single-family neighborhoods
- The addition of accessory dwelling units may increase opportunities for homeowners to “age in place” in either the main dwelling unit or the accessory apartment, because the units may be rented out to provide added income. Such units also provide the potential for a homeowner to negotiate assistance in household maintenance in exchange for rent
- Accessory Dwelling Units can increase the number of smaller dwelling units to address declining household size. The decline in household size is attributed, in part, to a growing population of seniors and an increase in single-person households
- Accessory Dwelling Units can be more affordable than other new dwelling units because infrastructure (i.e., sewer and water) and land costs have already been absorbed by the main dwelling unit, and are typically smaller in size
- Likewise, ADUs support more efficient and sustainable use of existing housing stock and infrastructure
- The addition of an accessory apartment can help first-time homebuyers leverage a mortgage or current homeowners retain a home after a change in financial circumstances
- ADUs may provide an affordable rental alternative in established neighborhoods where a person might not otherwise be able to afford to live

The Planning Commission discussed Accessory Dwelling Units along with other priorities at their April 28, 2015 retreat, and included ADUs as a priority in their [2015-2016 work plan](#). Due to staff changes at the City, staff from Washtenaw County’s Office of Community and Economic Development partnered with the City to lead the effort in close collaboration with Planning Department staff.

The process began in [November](#) with the Ordinance Revisions Committee (ORC) who met twice to review options, best practices and experiences from other communities. In [December](#), ORC reviewed draft language, and asked that at upcoming input sessions, staff get feedback from the community regarding unit size, parking, detached vs. attached ADUs, and other potential components. The ORC scheduled a meeting in [February](#), but due to conflicts, the meeting was not held.

Four input sessions were held throughout the city, along with a larger community-wide meeting, and a session with a neighborhood board. Two additional neighborhood meetings were held at the request of neighborhood/condo associations. The input summary can be found at www.a2gov.org/ADU

The Planning Commission held a working session on Accessory Dwelling Units [March 9](#) to review updated draft ordinance language, and to discuss remaining issues. At that time, they felt it was appropriate to move forward with a public hearing and discussion of the proposed text amendment.

The existing standards and regulations for Accessory Apartments have resulted in only two applicants in more than 20 years. Presumed barriers in the existing ordinance are those affecting the cost of developing the unit (special exception permit, three off-street parking spaces) and limits to flexible use (allowed only in primary structure with occupancy limited to family who cannot pay rent).

Staff was asked to amend the ordinance so more ADUs could be legally constructed while providing means for maintaining neighborhood character and provisions for enforcement are considered. Staff focused on amending the existing ordinance, providing for ADUs in the same zoning districts that currently allow Accessory Apartments. These districts are R1A, R1B, R1C, R1D, R1E, and R2A.

Proposed changes intended to lessen restrictions to encourage construction of ADUs

- Change from special exception to permitted use
- Allowing ADUs in accessory structures
- Allowing for rental to non-relatives as well as ability to charge rent
- Reduction of parking requirement
- Minimum lot size of 5,000 square foot allows a maximum ADU size of 600 square feet. Minimum lot size of 7,200 or more allows a maximum ADU size of 800 square feet.

Proposed changes intended to maintain character and allow for means for enforcement

- Require deed restriction listing detailed requirements of ADU usage
- Require ADU to be in rental inspection program regardless of occupant
- No rental or lease less than 30 days
- The appearance of the primary dwelling and/or garage or carriage house must be maintained, and any new entrances for an ADU must be on the side or rear.
- Clear definition of temporary absence for owner-occupant - limiting it to 6 months in a calendar year
- The total number of persons residing in the primary and accessory dwelling unit combined shall not exceed the occupancy for single family units.
- Clarifying one ADU per parcel
- Clarifying that an ADU is allowed for single family uses only.

Planning commission held a public hearing on April 19, 2016, and ultimately unanimously recommended Accessory Dwelling Units be approved by City Council (minutes scheduled to be approved May 7, 2016).

However, as part of that discussion, two additional recommendations were suggested:

- Examination of potential incentives that can be provided in return for guarantees on affordability for ADUs.
- Guide for home-owners on what to consider and how to develop and ADU. A preliminary draft guide is attached.

DESCRIPTION AND ANALYSIS

Attached to this report are the proposed text amendments. Deleted text is shown as ~~strikethrough~~, proposed text as underline. The proposed amendments are in increasing numerical order by chapter.

Chapter 55 (Zoning), Section 5:1 (Definitions) – In this section, Accessory Apartment will be renamed Accessory Dwelling Unit, and ADUs can be allowed in accessory structures. Maximum occupancy is updated to meet Fair Housing Standards, which is one family or two unrelated individuals.

Chapter 55 (Zoning), Section 5:10 (R1A, R1B, R1C, R1D, R1E, single family district)
Text changes include addition of the purpose of Accessory Dwelling Units, as well as text amendments mentioned above. Approved amendments will also apply to R2A.

As proposed, legal, conforming accessory structures built before Dec. 31, 2016 can include an ADU. As well, existing legal accessory structures constructed before December 31, 2016 and more than 200 square feet can be demolished and rebuilt to include an ADU. While this might encourage more accessory structures to come into compliance, it does not create a pathway for future new garages and carriage houses to have the option for an ADU.

There have been many community questions about enforcement. Several proposed provisions offer means to enforcement, including the minimum rental/lease period of 30 days, deed restriction, and others. Most notably, applying the definition of Family in 5:7 to both the primary residence and ADU, requires occupancy on the site be limited to that of a single family residence without an ADU. While this provision can be confusing in conjunction with the ADU maximum occupancy, a family or two-unrelated adults, staff feels that the provision allows for limitation on intensity of use.

If adopted, staff also recommends development of an ADU zoning and building guide to help potential homeowners understand the new regulations and requirements, including cost estimates and information on relevant housing and building codes.

Staff also recommends consideration of incentives that could be provided in return for specific affordability limits. Incentives could include fee waivers, work with architects on usable plans, and potential development of loan products with local banks or credit unions that can be used to provide attractive mortgages leveraged in return for affordability requirements.

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Attachment: Proposed Amendments to Ordinance

c: City Attorney
Systems Planning
Fire Marshal
File