

PLANNING SERVICES STAFF REPORT

For Planning Commission Meeting of August 19, 2025

SUBJECT: Chapter Text Amendment Petition from Ann Arbor Community Land Trust related to Accessory Dwelling Units and Affordable Housing

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the following amendment to Chapter 55, Unified Development Code:

Section 5.16.6.D Accessory Dwelling Unit (ADU), add subsection 7 to allow ADUs with a maximum gross floor area of 1,700 square feet if both the principal unit and ADU are deed-restricted to remain permanently affordable to households at or below the Area Median Income (AMI).

STAFF RECOMMENDATION:

Staff recommends that the amendment to the Unified Development Code **to increase the floor area of an Accessory Dwelling Unit when it is deed restricted for affordable housing** in all Single Family and Two-Family Districts be **denied**.

- The proposed increased accessory dwelling unit (ADU) maximum size is contrary to the intent of ADUs as an alternative form of housing that is accessory or subordinate to the principal dwelling and sized to allow an alternative for smaller households.
- The City does not have a mechanism to track sales of deed-restricted properties and enforce the affordability requirement.
- Occupancy is limited to four adults per R1 or R2 lot; this maximum applies to the principal dwelling and ADU cumulatively. ADUs are required to be smaller and accessory to the principal dwelling to work within this limit. The occupancy of ADUs that are the same size as principal dwellings, in separate ownership, will be overly constrained.
- Changes to zoning will occur after adoption of the Comprehensive Land Use Plan that are likely to allow additional density where currently zoned for single or two-family use. Those conversations need to take place in the context of city-wide land use changes, not as a text amendment to the current code.

SUMMARY:

A petition has been submitted for a chapter text amendment to amend Section 5.16.6.D, the use specific standards for Accessory Dwelling Units, to increase the floor area of an ADU when the unit is deed restricted for affordable housing. Following a discussion by the Ordinance Revisions Committee on July 22, 2025, who recommended developing an alternative approach that does not equate accessory dwelling units with principal dwelling units while maintaining the goal of enabling affordable housing (with one dissenting opinion to forward the petition as submitted), staff drafted several concepts as suggested. None were found that could be properly administered or enforced. Staff applauds the applicant's goal to build affordable units quickly but ultimately believes that the desired density should be achieved through the established rezoning process rather than a text amendment. Larger conversations about increased density throughout single-family zoning districts should wait until after the new Comprehensive Plan is adopted.

REPORT:

A [petition was submitted](#) to add a paragraph to Section 5.16.6.D Accessory Dwelling Unit (ADU) use specific standards to allow an ADU with up to 1,700 square feet of floor area where both the principal and accessory dwelling units are deed-restricted to remain permanently affordable to households at or below the area median income (AMI).

Four members of the Planning Commission's Ordinance Revisions Committee discussed the petition and Planning Staff's analysis memo at its July 22, 2025 meeting. All supported the underlying premise of the petition – to support and ease the development of affordable housing in the city – but three expressed concerns that the amendment was not in keeping with the concept of accessory dwelling units being subordinate to principal dwellings. Staff share this concern as well as the ability to ensure continuous compliance.

Background – The Ann Arbor Community Land Trust seeks to build two homes on one parcel of land as their primary strategy to develop affordable housing. As stated in their [petition](#), “this will allow us to split the cost of the land acquisition, utilities, and fees between two homes.” They ask for a “simple” amendment to allow A2CLT and others to quickly and cost-effectively build multiple single-family houses and townhouses on lots currently zoned R1.

The [July 22, 2025 Planning Staff Memo](#) on the Accessory Dwelling Unit Petition and Considerations provides extensive background on the history of accessory apartment and accessory dwelling unit regulations in the Zoning Ordinance and Unified Development Code. In brief, accessory apartments or accessory dwelling units, are intended as an alternative form of housing in response to emerging needs such as aging in place, multi-generational households, smaller households, and defraying

increasing housing costs. Accessory apartments were first allowed in the 1990s with special exception use approval for each, with stipulations that no rent could be charged and the unit could only be occupied by family members or direct employees of the household. Major changes were approved in 2016 to remove many of the accessory apartment restrictions and rename them as accessory dwelling units (ADU). ADUs became permitted accessory uses allowed in single-family residential districts and the R2A (Two-Family Dwelling) district for unrestricted rent but could only be located within the principal dwelling or in an existing detached building and a recorded deed restriction was required. Further amendments were approved in 2021 that included allowing ADUs to be located in newly constructed detached buildings and eliminating the deed restriction requirement.

Proposed Amendment – The petition requests the following amendment to Section 5.16.6.D, show in typical track-changes format.

D. Accessory Dwelling Unit (ADU)

1. An ADU is permitted on a lot that has one single-family dwelling as the principal use.
2. Minimum lot area and floor area requirements for accessory dwelling units:

TABLE 5.16-2: LOT AREA AND FLOOR AREA REQUIREMENTS FOR ACCESSORY DWELLING UNITS	
LOT AREA	ADU FLOOR AREA
Less than 7,200 sq. ft.	Up to 600 sq. ft. permitted [A]
7,200 sq. ft. or greater	Up to 800 sq. ft. permitted [A]
Footnotes: [A] Floor area of ADU may not exceed the ground level floor area of the primary dwelling unit.	

3. An ADU is permitted as or within any legally conforming accessory building.
4. The total number of Persons residing in the primary dwelling unit and the ADU combined shall not exceed the limits specified in Section 5.16.1 A, except:
 - a. That only two unrelated Persons plus their offspring living as a single housekeeping unit may occupy the ADU; or
 - b. When a functional family is allowed by special exception use.
5. An ADU or single-family dwelling that is not owner-occupied shall be subject to periodic housing inspections as required by Section 8:511.

6. Leasing or rental of the ADU for less than 30 days is prohibited.

7. For lots where both the principal dwelling unit and the accessory dwelling unit (ADU) are deed-restricted to remain permanently affordable to households at or below the Area Median Income (AMI), the ADU may have a Maximum Gross Floor Area of 1700 SF.

Staff Analysis – Our [July 22, 2025 memo](#) to the Ordinance Revisions Committee provides a preliminary analysis of the petition and outlines our initial concerns on applicability, intent, conflicting standards and enforcement of the proposed amendment. This section provides a final analysis.

1. The Unified Development Code regulates the use of land, the area, height and placement standards of buildings and structures, and the required improvements to land. The construction of these tangible features is enforced through the site plan approval and permitting process, inspections, and issuance of certificates of occupancy. The development code generally does not address and is ineffective at regulating nonphysical aspects such as rental rates and sales prices, and has no real means to enforce such intangible factors.
2. Using deed restrictions to manage accessory dwelling units was tried in early versions of ADU regulations to ensure that either the primary dwelling unit or ADU was owner-occupied, that the ADU was not sold separately from the single-family dwelling unit, and occupancy was limited. These restrictions proved to be a significant barrier that City Council directed work to relieve so more ADUs could be realized. Among [updates](#) suggested by staff, the owner-occupancy restrictions were removed first and then the corresponding deed restriction requirements were removed from the ADU standards (ORD-21-14).
3. The proposed amendment's enforcement mechanism is to add a deed restriction stating that the unit will remain permanently affordable to households at or below the Area Median Income.
4. The City Attorney's office has echoed Planning Staff's concerns about deed restrictions, which depend on enforcement by the stewarding agent, as a reliable method of enforcement. Without a formal organization like a municipal land bank, the city does not have adequate staffing to track all future sales of deed restricted properties and ensure that every buyer of one of these properties meets income requirements before they are finalized. To date, only private-public partnerships (like those between the City and Avalon Housing) to ensure rental affordability have proven to be effective over the long term. An effective method to ensure compliance of long-term affordable home ownership through covenants (a more

specific type of deed restriction that legally promises or agrees to do or not do an activity applying to all owners of a property) has not been found.

5. By the UDC's definition, accessory dwelling units (ADUs) are intended to be subordinate to principal dwellings and are intended for smaller households. The proposed amendment to allow an ADU up to 1,700 square feet is specifically intended to allow an accessory building that is equal in size to the principal building. This is contrary to the intent of ADUs as an alternative form of housing that is accessory or subordinate to the principal dwelling.
6. Residential occupancy in R1 and R2 zoning districts is capped at four adults (related or unrelated) plus their children. Because ADUs are accessory land uses, residential occupancy is calculated per lot, not per dwelling. No matter the size of the ADU, the occupancy of a lot with a principal dwelling and an accessory dwelling may not exceed four adults. (Their kids aren't counted toward maximum occupancy.) There is a required relationship between principal and accessory dwelling units where the occupancy of one is dependent upon the other (see Section 5.16.6.D.4). Staff are concerned that these occupancy limits are too restrictive to meet the applicant's goals, and the proposed amendment will not function as the applicant desires.
7. From this proposed ordinance change and discussions with the applicant, it is acknowledged that the applicant's goal is to develop two primary dwelling units in both size and function on a lot, not a primary and accessory unit. Staff believe that changing the ADU ordinance is not the most suitable way to achieve their goals and will have unintended consequences.
8. Staff explored other avenues to achieve an additional unit on single-family lots as requested by the Ordinance Revisions Committee after discussion of the applicant's proposed language. Staff tried several iterations of both modifying the proposed amendment to the ADU use specific standards and crafting some sort of single-family density bonus to allow a second home or a duplex for affordable units. In the end, every concept faced the same enforcement problem described in this report because they rely on staff proactively monitoring every future lease agreement or sales agreement to ensure compliance. If a unit is sold at market rate and becomes nonconforming, future enforcement of the affordability language is likely impossible.
9. This application is essentially seeking to lower the minimum lot area per dwelling unit in R1 districts by increasing the maximum floor area of ADUs instead of changing the dimensional standards in Table 5.17-1. Rather than circumventing the intent, purpose, and specific standards of accessory dwelling units, it would be preferable for clarity in the UDC to instead halve the minimum lot area per dwelling unit required in single-family dwelling districts and permit buildings in

these districts to contain two units, without affordable housing restrictions. Staff strongly believe that conversation needs to take place after the new comprehensive plan is adopted; changing zoning to allow two units on all lots now would be premature.

Until there is zoning in place that allows more density than the single-family districts allow, the applicant may apply for rezoning from single-family to two-family if the lots meet code requirements. This is supported by the current *City of Ann Arbor Comprehensive Plan*.

10. While staff appreciate the applicant's mission and the need for affordable workforce housing, the pathway proposed is not appropriate or enforceable, and alternatives considered by staff are either unworkable or premature. Staff do not support this petition and recommend denial.

Prepared by Jill Thacher, Mariana Melin-Corcoran and Alexis DiLeo
Reviewed by Brett Lenart
August 14, 2025

Attachments: Petition to Amend ADU Standards from A2CLT
July 22, 2025 Planning Staff Memo