



MEMORANDUM

TO: Ordinance Revisions Committee
FROM: Planning Staff
DATE: July 22, 2025
SUBJECT: Accessory Dwelling Unit Petition and Considerations

Petition for Text Amendment: Allow increased floor area for accessory dwelling units that are designated as affordable housing

A petition has been submitted to amend the use specific standards in the Unified Development Code (UDC) to allow increased floor area for accessory dwelling units (ADUs) that are deed restricted to be sold to households that are at or above the Area Median Income (AMI). The petition requests new provision be added to Section 5.16.6.D:

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.

Attached to this memo is a letter from the petitioner, dated May 16, 2025, which outlines the reasons for the proposed amendment. While this proposed amendment responds to increasing housing costs, staff have concerns about the broader implications of this language and the potential conflicts with zoning code.

BACKGROUND

Accessory dwelling units were first allowed more than 30 years ago, then called “accessory apartments,” and were tightly restricted to small units within an owner-occupied single-family dwelling for family members or employees for no rent, each individually approved as a special exception use. In the 20 years of “accessory apartments” only two applications were received. Major changes were approved in 2016 to reduce the restrictions and rename them to “accessory dwelling units” or ADUs. Further changes were approved in 2021 (minor amendments were approved in 2020) which continued reducing restrictions and making the standards easier to apply and enforce.

Accessory Apartments (1990’s – 2016)

- Definition: A dwelling unit for not more than 2 persons which is an integral part of a single-family detached dwelling.
- Permitted: special exception use in the R1A, R1B, R1C, R1D, R1E and R2A districts.
- Owner must occupy either principal residence or accessory apartment.

- Appearance must remain single-family home, accessory apartment entrance must be at side or rear.
- Accessory apartment 25% of primary building up to 600 square feet.
- Primary residence owner-occupied for at least 12 months.
- No rent may be collected.
- Accessory apartment occupied by persons related by blood, marriage or adoption of primary residence family or up to 2 employees.
- Accessory buildings may not be converted to an accessory apartment.
- Total number occupants in primary residence and accessory apartment may not exceed residential occupancy limits [family or max. 4 unrelated persons].
- Minimum 3 off-street parking spaces.

Accessory Dwelling Unit (ADU) – 2016-2021

- Definition: A dwelling for not more than 1 family which is an integral part of a single-family dwelling or is included in a detached [conforming] accessory building.
- Permitted: accessory use in the R1A, R1B, R1C, R1D, R1E and R2A districts.
- Intended to enable a new housing prototype that respects the look and scale of single-family neighborhoods while: supporting more efficient use of existing housing stock and infrastructure; providing housing that responds to changing family needs, smaller households, and increasing housing costs, providing accessible housing for seniors and persons with disabilities, and supporting affordable housing goals.
- On a parcel that has a single-family dwelling as principal use.
- Owner must occupy either primary residence or accessory dwelling unit.
- ADU designed so appearance remains single-family residence, garage or carriage house, ADU entrance on side or rear.
- Minimum 5,000 square feet lot area. ADU size equal to first floor of primary residence up to 600 square feet when lot area 5,000 to 7,200 square feet. ADU size equal to size of first floor of primary residence up to 800 square feet when lot area greater than 7,200 square feet.
- ADU may be in [primary residence or] a conforming accessory building existing prior to 2016 – if less than 200 square feet, may be replace or modified. Not permitted in new accessory buildings or nonconforming accessory buildings.
- Total number occupants in primary residence and ADU may not exceed 4 persons plus offspring or approved functional family.
- Min 1 off-street parking space for ADU or none if property within ¼ mile of bus stop, tandem/stacked parking permitted.
- Units not occupied by owner required to be registered and inspected Rental Housing
- Leasing, rental less than 30 days prohibited.
- Deed restriction must be recorded to restrict ADU from being sold separately from primary residence and total occupancy limitations.

Accessory Dwelling Units (2021-current)

- Permitted: accessory use in R1A, R1B, R1C, R1D, R1E, R2A, R2B, R3, R4A, R4B, R4C, R4D, R4E districts.
- On a parcel that has a single-family dwelling as principal use.

- ADU up to 600 square feet when lot area less than 7,200 square feet. ADU up to 800 square feet when lot area equal or greater than 7,200 square feet.
- ADU permitted in [primary residence] or accessory building.
- Maximum occupancy of ADU is family or 2 unrelated persons and total number of occupants of primary residence and ADU may not exceed residential occupancy limits [family or 4-6 unrelated persons].
- Unit not occupied by owner required to be registered and inspected Rental Housing.
- Leasing, rental less than 30 days prohibited.

Link to [file 16-0831](#) (Ordinance 16-16) for amendments to change from special exception use accessory apartments to permitted accessory use ADU.

Link to [file 21-1794](#) (Ordinance 20-34) with minor amendments to ADU standards.

Link to [file 21-0589](#) (Ordinance 21-14) with amendments to ADU building type restrictions, ownership restrictions, revise occupancy limitations, off-street parking, and deed restriction requirement.

CURRENT STANDARDS

Intent Statement

An intent statement for accessory dwelling units is provided in Section 5.11.2.C with the Single-Family Dwelling districts. It states that accessory dwelling units are allowed to enable a new housing prototype that respects the look and character of single-family neighborhoods while: supporting more efficient use of existing housing stock and infrastructure; providing housing that responds to changing family needs, smaller households, and increasing housing costs; providing accessible housing for seniors and Persons with disabilities; and supporting affordable housing goals.

Permitted Use

As provided in Table 5.15-2 Accessory Use Table, accessory dwelling units are permitted as accessory uses in the R1A, R1B, R1C, R1D and R1E Single-Family Dwelling districts, the R2A and R2B (Two-Family Dwelling) districts, the R3 (Townhouse Dwelling) district, and the R4A, R4B, R4C, R4D, and R4E (Multiple-Family Dwelling) districts subject to the use specific standards provided in Section 5.16.6.D.

Use Specific Standards

ADUs are subject to the use specific standards provided in Section 5.16.6.D:

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.

PRELIMINARY ANALYSIS

Staff offer the following comments regarding the proposed petition.

1. Applicability

The petition seeks an amendment to the use specific standards for ADUs and would apply to all lots in the thirteen R1, R2, R3, and R4 zoning districts that are developed with one single-family dwelling. Any amendments must consider this broad applicability.

2. Intent

As currently provided, ADUs are intended “to enable a new housing prototype that respects the look and character of single-family neighborhoods while: supporting more efficient use of existing housing stock and infrastructure; providing housing that responds to changing family needs, smaller households, and increasing housing costs; providing accessible housing for seniors and Persons with disabilities; and supporting affordable housing goals.”

- a. ADUs are specifically intended to be a different kind of housing type than others already permitted such as duplexes or two-family dwellings, townhouses and multiple-family dwellings. Staff are concerned that the amendment seeks to introduce building forms into single-family zoning districts under an inappropriate regulatory designation.
- b. The proposed increase in maximum ADU floor area to 1,700 square feet is 280% more than the 600-square foot maximum for smaller lots and 212% more than the 800-square foot maximum for larger lots. Staff are concerned that insufficient

justification has been offered on why such a significant percentage increase is necessary.

- c. Staff are concerned that a 1,700-square foot accessory dwelling unit would be indistinguishable from the primary dwelling unit which is contrary to the intent of accessory dwelling units.
- d. Although the petition responds to increasing housing costs and supports affordable housing goals, it does not support the changing needs of families who increasingly seek accessory dwelling units for older but dependent children, aging relatives who need support in close proximity, and fixed-income homeowners seeking additional income using existing assets. The proposed amendment prohibits any subordinate or accessory relationship between the two units, with each separately owned. Without a primary and accessory relationship, staff are concerned the intent of accessory dwelling units as a benefit to the primary residence will be eroded.

3. Conflicting Standards

The proposed amendments, by introducing two different types of ADUs, may present conflicts in the intent of accessory buildings and application of primary and accessory building dimensional standards.

- a. Staff are concerned about the lack of proportionality with the proposed amendment. The proposed amendment would allow the ADUs up to 1,700 square feet to be constructed on lots of any size. The current standards limit the maximum ADU size based on lot size, minimal regulations to ensure the accessory use does not overwhelm the primary use of the lot.
- b. Staff note the proposed amendment appears to assume, but does not require, the deed-restricted ADUs to be located on large lots. The standards would apply to lots of any size and it may be difficult or impossible to utilize on lots in the R1D and R2A (5,000-square foot minimum lot area) and R1E (4,000-square foot minimum lot area) districts. Creating unreasonable expectations is contrary to purpose or clear, concise and reasonable regulations.
- c. Staff note the proposed amendment appears to assume, but does not require, the deed-restricted ADUs to be located in a primary building. As ADUs can be located in either a primary or accessory building, it may be difficult or impossible to utilize the amendment in an accessory building with its different and smaller height, setback and placement regulations.
- d. Staff note that the primary use and primary building of the lot must be larger than 1,700 square feet in order for the accessory use and building to meet the definition of accessory: "subordinate in use, area and purpose." This may exclude the majority of existing lots in the R1 districts from using the proposed amendment.
- e. Staff are concerned unreasonable expectations would be made for the occupancy of a deed-restricted ADU. An ADU can only be occupied by two unrelated persons plus their offspring, and the total number of people in the primary dwelling unit and accessory dwelling unit combined may not exceed the residential occupancy limits (families of any size [subject to housing codes] or up to 4 unrelated persons). These standards, put in place to support the accessory nature of ADUs, conflict with the narrow focus of the amendment to allow for two dwelling units to be constructed and occupied for full use by two separate, distinct, and unrelated households.

4. Enforcement Issues

Staff foresees complications in the future when trying to ensure the affordability of the proposed larger ADUs through deed enforcement.

- a. Use of deed restrictions was specifically eliminated as a mechanism to enforce affordability in updated regulation of accessory dwelling units.
- b. Staff, including both Planning and the City Attorney's office, have concerns about the feasibility of deed restriction enforcement to ensure that these ADUs remain affordable housing in perpetuity. The City Attorney's office has found it difficult to structure deed restrictions to ensure future compliance. Covenants and partnerships are more effective to maintain affordable housing, but that requires City participation in each transaction. The proposed amendments rely on private enforcement.
- c. Maintaining compliance and enforcing deed restrictions becomes exponentially complicated as dwelling units are repeatedly sold and purchased. No assurances can be offered as to affordability in the future with the proposed deed-restricted ADUs.

SUMMARY

Overall, staff feel the proposed amendment seeks to introduce overly complicated restrictions to the ADU use specific standards in lieu of rezoning to an existing, established zoning designation that would allow the exact development desired. The proposed amendments appear tempting and promising but are actually confusing and maybe be unreasonable to achieve.

More specifically,

- The proposed amendment does not meet the intent of Accessory Dwelling Units.
- The increased floor area conflicts the definition of accessory uses or accessory buildings.
- The difference in area, height and placement standards between primary buildings and accessory buildings may result in difficult or impossible circumstances to utilize.
- The occupancy restrictions of accessory dwelling units may be in direct conflict with developing two separately owned single-family homes on the same lot.
- The proposed enforcement mechanism has proven to be ineffective and will reintroduce administrative complexity that was previously eliminated for good reason.
- The proposed amendment seeks to circumvent the purpose and regulations of single-family zoning districts, which although admittedly problematic, with a narrowly crafted text amendment for accessory dwelling units to allow two primary homes on a lot.

Staff agree it *should* be easier to develop housing, particularly smaller homes that are inherently more affordable as well as permanently affordable owner-occupied homes. We disagree that the proposed amendment is the way to immediately ease some of the existing barriers for both the applicant and the city. Staff recommends rezoning as best option to developing small affordable single-family and two-family homes is to rezone lots or blocks to R2A (Two-Family Dwelling). This district allows construction of two homes, attached or detached, of any size without further restrictions on top of occupancy restrictions and without the need for any complex enforcement by the City to maintain compliance with code standards. The Future Land Use Element of the Comprehensive Plan already recommends single or two-family uses wherever R1 and R2 zoning is currently found.

Staff recommend this text amendment be withdrawn and a rezoning application be submitted to better achieve the applicant's goals, noting that the text amendment procedures are not necessarily shorter and can be longer than rezonings.

Future Considerations

In the absence of the wholesale changes to the land use regulations anticipated by the in-progress Comprehensive Plan, the accessory dwelling unit use specific standards could be again incrementally improved by streamlining some use provisions, rephrasing requirements, and reconsidering the ADU size restrictions to be more proportional to the primary residence yet remain a subordinate feature. We would be pleased to share our diagnosis and recommendations on request.

Prepared by: Jill Thacher, Principal Planner, and Mariana Melin-Corcoran, City Planner
Reviewed by: Hank Kelley, Deputy Planning Manager, and Alexis DiLeo, Principal Planner