

MEMORANDUM

TO: Ordinance Revisions Committee
FROM: Washtenaw County Office of Community and Economic Development Staff
DATE: December 22, 2015
SUBJECT: Second meeting - Revisiting Accessory Dwelling Units text amendment

Summary of ORC initial meeting on Nov. 18, 2015

At the Nov. 18, 2015 meeting, the ORC reviewed a staff memo and provided direction for a potential amendment to the existing accessory apartment provision in Sec. 5:10.2 (3) (e), as requested by the Ann Arbor City Council. ORC members generally agreed on these provisions:

- Require owner-occupancy in one of the two units
- Maintain design requirements that maintain the appearance of a single-family residents., i.e., any new entrances shall be limited to the side or rear
- Require a maximum size for ADUs
- Remove family requirement for occupants
- Allow potential for owners to accept rent
- Limit occupancy
- Remove special exemption requirement for units in primary building
- Lesson existing parking requirements, while encouraging ADUs along existing transit lines

Further discussion and questions arose in other areas:

- Whether or not to allow ADUs in accessory buildings such as garages or carriage houses
- Where ADUs would be permitted. Initial discussion centered on maintaining the current location of R1A, R1B, R1C, R1D, R1E and R2a, although there was some discussion of an overlay, and/or focus on R2 areas where setbacks limit implementation of second units.

City and OCED staff followed up on a series of questions, comments and clarifications requested by the ORC, including development of a project webpage including resources and information on public drop-in sessions and community meetings.

How could ADUs impact affordability?

The Ann Arbor Planning Commission is reviewing ADUs based on direction from City Council. Council responded to the 2015 Housing Affordability and Equity – Analysis, which recommended removing barriers to ADU implementation as one of a series of actions to improve affordability in Ann Arbor.

Reviewing available literature, affordability is considered in two ways in regard to ADUs; for the renter, and for the home-owner. For a potential renter, the small unit size (often 800 sf or less), usually results in a lower rent than the market at large. For the owner, affordability can be achieved through the provision of rental income, in particular for those on fixed incomes. Several surveys of ADU owners has

noted that 20-25% of units are provided at minimal or no rent to family members and close friends. The goal for ADUs in Ann Arbor would be to provide a new housing prototype, for a modest number of units.

Updated Purpose and Goal of text revision

The intent for revising the accessory apartment ordinance text is to increase residential housing stock by enabling development of a new housing prototype. ADUs also meet several of the City's Sustainability Goals by supporting environmentally-conscious housing options with less average space per person, smaller associated carbon footprints, and use of existing structures rather than new construction. To meet these goals, text amendments will be needed to effectively remove barriers for home-owners to develop an accessory dwelling unit.

Questions and Answer

As noted above, the ORC and audience members had a series of questions related to potential changes to the ordinance. Staff was able to find answers through city departments and through data and information from comparable communities.

Primary Resident Exemption (PRE) verification:

It is expected that an owner-occupancy requirement will remain part of the ordinance. Several questions came up regarding how that is current reviewed by city officials.

- Primary Resident Exemption (PRE) is applied for by the owner. If there are questions regarding ownership status, the Assessor's office checks via, Voter registration, utility bills, driver's license and returned mail to verify PREs.
- The PRE status is based on the percentage occupied by the owner. A property with a primary and accessory unit would be assessed similar to a 2 family rentals, adding for extra finish and kitchens.
- Owners in nursing homes can retain the PRE as long as the person plans to return, and their home has not been rented.

Relationship with the rental inspection program

- ADUs for rent would be inspected through the existing rental inspection program
- The current program requires prior notice for inspections per ordinance, per state law, with an exception for emergencies. It appears that "surprise" inspections can only be conducted if there is a warrant from a local jurisdiction.

How are violations (illegal ADUs) handled currently?

- Staff utilizes information, pictures and other data from neighbors as well as site visits to verify occupancy levels. On site visits, staff checks mailboxes to see how many names are listed; count cars in the driveway, and ask the home owner/renter what's the nature of their floor plan.
- In the case where there is a zoning violation, every day on which a violation exists shall constitute a separate violation and a separate offense. Each violation of the Zoning Ordinance shall be a civil infraction punishable by a fine up to \$500. It should be noted it has been rare that staff has issued tickets for an illegal ADU. Generally, staff requires occupants move out and remove either a kitchen/bathroom, so the ADU is not considered a dwelling unit.

Building code requirements that could impact construction costs.

- The minimum square footage for a dwelling unit is 220 square feet
- A potential basement ADU would need to have a minimum height of 7 feet, one hour fire separation, usually 5/8" drywall. Smoke detectors, GFIs and other residential code requirements including egress window. The zoning ordinance would require a separate entrance in the side or rear yards.
- For units attached or part of the primary dwelling, no separate water or sewer would be required.
- Detached units would require a separate sanitary sewer line, per the engineering department. Estimates for sanitary sewer tap fees and connection charge are estimated at \$2,800.

Existing permitted ADUs in Ann Arbor

Since the previous ordinance, two applications have been accepted and approved for a special exemption permit and related building/engineering permits to accommodate two legal ADUs.

- Approximate costs for special exemption application on top of other costs, approx., \$1,700
- Estimated construction costs were \$85,000 for a 596 sf attached ADU. Related building permit fees were \$1,261.

Construction costs

Using information a 2013 survey of Portland Oregon, the costs of construction ranged from \$3,500 to \$300,000. Attached or internal units had a median construction cost of \$45,500, while a detached unit's median construction cost was \$90,000.

Conforming Lot Size

City staff used GIS to review the number and percentage of conforming lots in the R1A, R1B, R1C, R1D and R2a districts. The vast majority conform to existing lot requirements, except in the R2A, which has known challenges with lot size.

Zoning	Non-conforming Lots	Total parcels	Percentage Non-conforming
R1A	112	1084	10.33%
R1B	224	2752	8.14%
R1C	874	10,236	8.54%
R1D	395	3289	12.01%
R2A	603	2394	25.19%

Source: Ann Arbor GIS

Senior population

ADUs have been discussed as a potential means to help seniors maintain home-ownership and age in place. As a reference point, City staff has pulled together the number of seniors by zoning district. Census data does not perfectly match zoning district boundaries, so the data will be mostly correct, but imperfect. As shown below, about a quarter of the population were over 55 in 2010.

Zoning	Pop >55	Total Pop	% >55
R1A	2602	9771	26.63
R1B	5728	19887	28.80
R1C	12943	53615	24.14
R1D	4874	20640	23.61
R2A	4558	22038	20.68
Total	30705	125951	24.38

Source: 2010 Decennial Census

Key points from other communities:

In the last 10 years, a number of communities across the country have revised their ordinances to try and allow for more accessory dwelling units as a means to increase housing inventory, options and ideally, affordable housing. Seattle, Portland, Berkeley, Asheville and others have removed more restrictive requirements including special exception permits (Seattle, Montgomery County, MD,) requirements that occupants be related by blood (Seattle), increased unit size limits (Ashville), and in the case of Portland, waived some fees to help promote utilization of the ordinance.

The college towns of Boulder, CO and Eugene, OR have had modest utilization. A 2012 survey of Boulder notes about 7 new ADUs per year, with ordinance provisions in place since 1982. In Eugene, here are a total of 104 units as of 2013.

Generally, of the 14 communities reviewed, the following trends appear:

- Combination of permitted and special exception permits depending on district, with trend toward permitted only.
- Owner-occupancy (and often recorded covenant) required
- Maximum size of units range up to 1200 sf, but several in 750-800 sf range
- Most communities allow for either detached or attached (internal) ADUs
- Those reviewed all allow owner to receive rent
- Most have parking requirement of a single parking space, with several that do not require parking near transit or the CBD
- Several communities do not have additional occupancy requirements while others limit bedrooms or maximum occupants to 2 individuals or 1 family.
- All only allow a single ADU on the parcel

CITIES	Zoning approval	Zoning Districts	Owner Occupancy	Unit Size Limitations	Attached/Detached	Rent allowed ?	Off-Street Parking Requirements	Minimum Lot Area	Occupancy Requirements	Other/Notes	Population	Uptake in Units
Ann Arbor (current)	Conditional	Single-family	Yes	25% of floor area, or 600 ft2	Attached only	No Rent	3 (total)		no more than 2 family members or employees	House must be owner-occupied for at least 12 months	113,934	2 since 2002
Boulder	Conditional but administrative review	Single- and multi-family	Yes	300 ft minimum, one-third total area maximum	Either (detached must be 5 years old)	Rent		1 6000 ft2	No more than 2 people	No more than 10% of the single-family lots or parcels in a neighborhood area can contain an accessory dwelling unit. Permit invalid if rental license not granted within 180 days	97,385	186 from 1982-2012, about 7 per year (Boulder Report 2012)
Madison	Conditional	All residential, some mixed/commercial	Yes	75% of floor area, 700 ft maximum	Either - detached has 25 foot height restriction	Rent	0 (maximum of 2)	Lot area and setbacks are those of underlying district for accessory buildings	Nor more than 1 family or 2 unrelated individuals	Provisions added in 2012 zoning code rewrite. Accessory dwelling units required in Traditional Residential Planned (TRP) districts.	233,209	waiting for response
Grand Rapids	Conditional/Permitted	Single- and multi-family (conditional), Mixed-use (permitted)	Yes	25 % of floor area, between 400 ft and 850 ft	Either	Rent (not less than 30 days)		1 5000 ft2	No more than 2 people and 2 bedrooms	House must be owner-occupied for at least 12 months	188,040	4 since 2008
Santa Cruz	Permitted - conditional if lot requirements not met	Single-family	Yes	500-800 ft2 (depending on lot size)	Either	Rent	1 for one-bedroom, 2 for two-bedroom	5000 ft2		A number of zoning incentives are provided to encourage the construction of accessory dwelling units. There is still some push in the community to relax the ordinance even further. Fee waivers for property owner's agreement to restrict ADU for rent to low or very-low income households through recorded covenant	59,946	
Berkeley (effective 8/19/15)	Permitted	Single-family	yes	no less than 250 sf; max of 750 sf - or 75% of the gross square footage of the primary residence	Either	rent	none within 1/4 mile of BART and within residential parking zone. If not - 1 per unit and tandem parking allowed	none		declaration of restrictions must be recorded with county	112,580	Recent adoption. Minimal data.
Eugene	Permitted	Single-family	Yes	10% of lot area, or 800 ft2 (which ever is smaller)	Either	rent		1 6100 sf	No more than 2 bedrooms	referred to as Secondary Dwelling Units (SDU) in the city code, which was amended in 2013/2014 in part to promote SDU's. Standards vary by lot type, neighborhood, etc. No more than 3 dogs on the lot	156,185	Total of 104 as of 2013
AARP Model Ordinance	Permitted	Single-family	Yes	None	Either	Rent		1 Minimum lot size for zoning district	None	The AARP Guide contains detailed explanations of many of the issues surrounding ADU's	N/A	

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Seattle	Permitted	single-family or lowrise	Yes	Max of 1,000 ft2 in single-family and up to 650 ft2 in rowhouse or townhouse for attached; Detached also limited to gross floor area (800 ft2 in single-family and 650 ft2 in lowrise)	Either	rent	1 (except for a rowhouse or townhouse in designated urban villages and urban centers and lowrise zones)	Minimum lot size for zoning district. 4,000 ft2 for detached.	8 unrelated individuals between the two dwelling units	A legally permitted unit in the home is called an accessory dwelling unit (ADU). A legally permitted unit on the property (but not within the home) is called a backyard cottage or detached accessory dwelling unit (DADU).signed owner occupancy covenant agreeing to this condition is required	652,405	Permits issued from 12/4/2009-1/3/2011: 36 detached, 46 attached. Source: http://www.seattle.gov/dpd/cs/groups/pan/@pan/documents/web_informational/dpdp025756.pdf
Niles, MI	Special use	Low-density and moderate density residential districts	yes	500-1,000 sf. ADU not more than 1/3 of primary dwelling	attached	rent		1 5,000 sf		deed restriction required	11,430	small number, number not yet confirmed by staff
Traverse City	Permitted	single-family	Yes	accessory dwelling <800 ft2 or the size of the principal dwelling, whichever is less. The accessory dwelling must have at least 250 ft2 of gross floor area.	Either	Rent	None	Less than 5,000 ft2.	Max 2 dwellings per parcel	Limit of 10 ADUs per year. Lease minimum of three months.	15,018	10 (Max, 5 apps for 2016)
Minneapolis	permitted/conditional	use based - single-two family structures	yes	300-600 sf attached or internal, 300-1,000 sf if detached	either	rent	none			deed restriction required		
Ashville, NC	permitted - (amended in June, 2015)	all residential districts - single-family residences only	no	detached - 70% or 800 sf attached 70% or 1,000 sf	either	rent	no off-street parking within 1 mile of CBD otherwise 1			conforming or non-conforming. Recent amendments allow for larger sized units		
Montgomery County, MD	permitted (recently changed from conditional)	single family houses in most districts	yes	less than 50% of principal dwelling or 1200 sf, whichever is less	either, but depend on distric. Detached allowed on 1 acre or more lots	rent		1		additions for ADUs not to exceed 800 sf		

(Early) Draft text revisions

Based on the previous ORC meeting and additional information above, staff has drafted some initial text changes, with the goals of maintaining neighborhood character, while lessening existing barriers to use.

5:10.2 R1A, R1B, R1c, R1D, R1E single-family dwelling district

Revised draft

Move:

from (3) *Special exception uses pursuant to section 5:104 €*
to (4) Permitted accessory uses (d)

Amend:

One accessory ~~apartment~~dwelling unit (ADU), subject to the following standards:

1. The owner ~~in which the accessory apartment is created~~ shall occupy one of the dwelling units, except for temporary absences.
2. The ~~accessory apartment~~ADU shall be designed so that the appearance of the building remains that of a 1-family residence. Any new entrances shall be located on the side or in the rear of the building and any additions shall not increase the square footage of the original house by more than 10%.
3. The accessory apartment shall not exceed ~~25% of the entire floor area of the structure, nor shall it be greater than~~ 600 square feet in gross floor area.
4. ~~The dwelling to which an accessory apartment is to be added must be owner-occupied and have been owner-occupied by the current owner for the 12 calendar months preceding the date of application.~~
The owner must occupy either the primary or accessory dwelling unit
5. ~~No~~ Rent shall can be paid for the accessory apartment.
6. The accessory apartment shall not be occupied ~~only by persons related by blood, marriage or adoption to the family occupying the principal dwelling or by not more than 2 employees not related to the family occupying the principal dwelling by more than 2 individuals.~~
7. Accessory buildings may ~~not~~ be converted for accessory apartment use provided they comply with Area, Height and Placement regulations as defined for primary buildings in 5:24.-
8. The total number of persons residing in the primary and accessory dwelling units combined building shall not exceed the residential occupancy standards defined in section 5:7.
9. At least ~~3~~1 additional off-street parking spaces shall be provided. Tandem parking permitted except in front yard setback.

Prepared by Teresa Gillotti, Washtenaw County OCED - 12/18/15

Districts where Accessory Apartments currently permitted



Zoning Districts

 R1A; R1B; R1C; R1D

 R2A

 AAATA_BusStops

