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.

<table>
<thead>
<tr>
<th>Zoning</th>
<th>Non-conforming Lots</th>
<th>Total parcels</th>
<th>Percentage Non-conforming</th>
</tr>
</thead>
<tbody>
<tr>
<td>R1A</td>
<td>112</td>
<td>1084</td>
<td>10.33%</td>
</tr>
<tr>
<td>R1B</td>
<td>224</td>
<td>2752</td>
<td>8.14%</td>
</tr>
<tr>
<td>R1C</td>
<td>874</td>
<td>10,236</td>
<td>8.54%</td>
</tr>
<tr>
<td>R1D</td>
<td>395</td>
<td>3289</td>
<td>12.01%</td>
</tr>
<tr>
<td>R2A</td>
<td>603</td>
<td>2394</td>
<td>25.19%</td>
</tr>
</tbody>
</table>

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.
<table>
<thead>
<tr>
<th>Zoning</th>
<th>Pop &gt;55</th>
<th>Total Pop</th>
<th>% &gt;55</th>
</tr>
</thead>
<tbody>
<tr>
<td>R1A</td>
<td>2602</td>
<td>9771</td>
<td>26.63</td>
</tr>
<tr>
<td>R1B</td>
<td>5728</td>
<td>19887</td>
<td>28.80</td>
</tr>
<tr>
<td>R1C</td>
<td>12943</td>
<td>53615</td>
<td>24.14</td>
</tr>
<tr>
<td>R1D</td>
<td>4874</td>
<td>20640</td>
<td>23.61</td>
</tr>
<tr>
<td>R2A</td>
<td>4558</td>
<td>22038</td>
<td>20.68</td>
</tr>
<tr>
<td>Total</td>
<td>30705</td>
<td>125951</td>
<td>24.38</td>
</tr>
</tbody>
</table>

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
<table>
<thead>
<tr>
<th>CITIES</th>
<th>Zoning approval</th>
<th>Zoning Districts</th>
<th>Owner Occupancy</th>
<th>Unit Size Limitations</th>
<th>Attached/Detached</th>
<th>Rent allowed?</th>
<th>Off-Street Parking Requirements</th>
<th>Minimum Lot Area</th>
<th>Occupancy Requirements</th>
<th>Other/Notes</th>
<th>Population</th>
<th>Uptake in Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ann Arbor (current)</td>
<td>Conditional</td>
<td>Single-family</td>
<td>Yes</td>
<td>25% of floor area, or 600 ft²</td>
<td>Attached only</td>
<td>No Rent</td>
<td>3 (total)</td>
<td>No more than 2 family members or employees</td>
<td>House must be owner-occupied for at least 12 months</td>
<td>113,934</td>
<td>2 since 2002</td>
<td></td>
</tr>
<tr>
<td>Boulder</td>
<td>Conditional but administrative review</td>
<td>Single- and multi-family</td>
<td>Yes</td>
<td>300 ft minimum, one-third total area maximum</td>
<td>Either (detached must be 5 years old)</td>
<td>Rent</td>
<td>1</td>
<td>600 ft²</td>
<td>No more than 2 people</td>
<td>Permit invalid of rental license not granted within 180 days</td>
<td>186 from 1982-2012, about 7 per year (Boulder Report 2012)</td>
<td>97,385</td>
</tr>
<tr>
<td>Madison</td>
<td>Conditional</td>
<td>All residential, some mixed/commercial</td>
<td>Yes</td>
<td>75% of floor area, 700 ft² maximum</td>
<td>Either - detached has 25 ft lot height restriction</td>
<td>Rent</td>
<td>0 (maximum of 2)</td>
<td>Lot area and setbacks are those of underlying district for accessory buildings</td>
<td>No more than 1 family or 2 unrelated individuals</td>
<td>Provisions added in 2012 zoning code rewrite. Accessory dwelling units required in Traditional Residential Planned (TRP) districts.</td>
<td>233,209</td>
<td></td>
</tr>
<tr>
<td>Grand Rapids</td>
<td>Conditional/Permitted</td>
<td>Single- and multi-family (conditional), Mixed-use (permitted)</td>
<td>Yes</td>
<td>25 % of floor area, between 400 ft and 850 ft</td>
<td>Either</td>
<td>Rent (not less than 30 days)</td>
<td>1</td>
<td>5000 ft²</td>
<td>No more than 2 people and 2 bedrooms</td>
<td>House must be owner-occupied for at least 12 months</td>
<td>188,040</td>
<td>4 since 2008</td>
</tr>
<tr>
<td>Santa Cruz</td>
<td>Permitted - conditional if lot requirements not met</td>
<td>Single-family</td>
<td>Yes</td>
<td>500-800 ft² (depending on lot size)</td>
<td>Either</td>
<td>Rent</td>
<td>1 for one-bedroom, 2 for two-bedroom</td>
<td>5000 ft²</td>
<td>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 of restrict ADU for rent to low or very-low income households through recorded covenant</td>
<td>59,946</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Berkeley (effective 8/19/15)</td>
<td>Permitted</td>
<td>Single-family</td>
<td>Yes</td>
<td>250 sf; max of 750 sf - or 75% of the gross square footage of the primary residence</td>
<td>Either</td>
<td>rent</td>
<td>Rent</td>
<td>1 for one-bedroom, 2 for two-bedroom</td>
<td>5000 ft²</td>
<td>Declaration of restrictions must be recorded with county</td>
<td>112,580</td>
<td></td>
</tr>
<tr>
<td>Eugene</td>
<td>Permitted</td>
<td>Single-family</td>
<td>Yes</td>
<td>10% of lot area, or 800 ft² (which ever is smaller)</td>
<td>Either</td>
<td>rent</td>
<td>1</td>
<td>6100 sf</td>
<td>No more than 2 bedrooms</td>
<td>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</td>
<td>156,185</td>
<td>Total of 104 as of 2013</td>
</tr>
<tr>
<td>AARP Model Ordinance</td>
<td>Permitted</td>
<td>Single-family</td>
<td>None</td>
<td>None</td>
<td>Either</td>
<td>Rent</td>
<td>Minimum lot size for zoning district</td>
<td>None</td>
<td>The AARP Guide contains detailed explanations of many of the issues surrounding ADU’s</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
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</tr>
<tr>
<td>Seattle</td>
<td>Permitted</td>
<td>single-family or lowrise</td>
<td>Yes</td>
<td>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)</td>
<td>Either</td>
<td>rent</td>
<td>1 (except for a rowhouse or townhouse in designated urban villages and urban centers and lowrise zones)</td>
<td>Minimum lot size for zoning district. 4,000 ft² for detached.</td>
<td>8 unrelated individuals between the two dwelling units</td>
<td>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</td>
<td>652,405</td>
<td>Permits issued from 12/4/2009-1/3/2011: 36 detached, 46 attached. Source: <a href="http://www.seattle.gov/dpd/cs/groups/pan/documents/web_informational/dpdp025756.pdf">http://www.seattle.gov/dpd/cs/groups/pan/documents/web_informational/dpdp025756.pdf</a></td>
</tr>
<tr>
<td>Niles, MI</td>
<td>Special use</td>
<td>Low-density and moderate density residential districts</td>
<td>yes</td>
<td>500-1,000 sf ADU not more than 1/3 of primary dwelling</td>
<td>attached</td>
<td>rent</td>
<td>1</td>
<td>5,000 sf</td>
<td>deed restriction required</td>
<td></td>
<td>11,430</td>
<td>small number, number not yet confirmed by staff</td>
</tr>
<tr>
<td>Traverse City</td>
<td>Permitted</td>
<td>single-family</td>
<td>Yes</td>
<td>dwelling &lt;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.</td>
<td>Either</td>
<td>Rent</td>
<td>None</td>
<td>Less than 5,000 ft²</td>
<td>Max 2 dwellings per parcel</td>
<td>Limit of 10 ADUs per year. Lease minimum of three months.</td>
<td>15,018</td>
<td>10 (Max. 5 apps for 2016)</td>
</tr>
<tr>
<td>Minneapolis</td>
<td>permitted/conditional</td>
<td>use based - single-two family structures</td>
<td>yes</td>
<td>detached or internal, 300-1,000 sf if detached</td>
<td>either</td>
<td>rent</td>
<td>None</td>
<td>deed restriction required</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asheville, NC</td>
<td>permitted - (amended in June, 2015)</td>
<td>single-family residences only</td>
<td>no</td>
<td>detached - 70% or 800 sf attached 70% or 1,000 sf</td>
<td>either</td>
<td>rent</td>
<td>no off-street parking within 1 mile of CBD otherwise 1</td>
<td></td>
<td></td>
<td>conformity or non-conforming. Recent amendments allow for larger sized units</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Montgomery County, MD</td>
<td>permitted (recently changed from conditional)</td>
<td>single family houses in most districts</td>
<td>yes</td>
<td>less than 50% of principal dwelling or 1200 sf, whichever is less</td>
<td>either, but depend on distric. Detached allowed on 1 acre or more lots</td>
<td>rent</td>
<td>1</td>
<td>additions for ADUs not to exceed 800 sf</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
(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.
5. No rent shall 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 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
Zoning Districts

- R1A; R1B; R1C; R1D
- R2A
- AAATA_BusStops

2 Miles