



# City of Annapolis

Planning Commission  
Department of Planning & Zoning  
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February 10, 2020

**To: Annapolis City Council**  
**From: Planning Commission**  
**Re: Findings for Ordinance O-39-19: Accessory Dwelling Units**

## SUMMARY

The purpose of Ordinance O-39-19 is to allow accessory dwelling units (ADU) in all zoning districts that allow single-family detached dwellings. An ADU is a smaller, independent residential dwelling unit located on the same lot as a stand-alone (i.e., detached) single-family home. ADUs go by many different names throughout the U.S., including accessory apartments, secondary suites, and granny flats. ADUs can be converted portions of existing homes, additions to new or existing homes (“attached ADUs”), or stand-alone accessory structures or converted portions of existing stand-alone accessory structures (“detached ADUs”).

## ANALYSIS

Attached and detached ADUs are sometimes promoted for the potential to increase housing affordability (both for homeowners and tenants), create a wider range of housing options. Others cite the negative and often unforeseen impacts of “stealth” density increases, damage to community character and impacts on municipal services and finance.

This ordinance defines attached ADUs as:

“Dwelling unit, accessory attached” means an independent self-contained dwelling unit located within a single-family detached dwelling.

It defines detached ADUs as:

“Dwelling unit, accessory detached” means an independent self-contained dwelling unit located on the same lot as a single-family detached dwelling.

Ordinance O-39-19 would permit both attached and detached ADUs as accessory uses subject to standards where existing accessory units for garages and tool sheds are not “grandfathered”. The standards, where they would be applied, are intended to mitigate the impact of ADUs, along with the additional parking requirement. The standards are the following:

### Section 21.64.010 - Accessory Attached Dwelling Unit and Accessory Detached Dwelling Unit

- A. The record owner of the property shall reside on the premises.
- B. The accessory dwelling unit, whether attached or detached, may not exceed 1,000 square feet.
- C. Only one accessory dwelling unit is permitted per principal use
- D. The property owner shall maintain a valid use and occupancy permit for the accessory dwelling unit in accordance with chapter 21.12, use and occupancy permits.
- E. If the principal use requires a special exception approval, the accessory use requires a special exception approval.

The Commission held public hearings during two meetings for O-39-19. Two witnesses testified on January 2 and numerous witnesses, primarily from Wards 1 and 8, provided testimony on February 6 on the perceived unintended negative consequences of the legislation. Only one of the legislation sponsors, Alderman Gay spoke in favor of the bill.

During the testimony and deliberations, a number of issues and questions surfaced, indicating the proposed legislation might have a significant impact on the current zoning code for applicable single family zones across the city as well as other unintended consequences. These are enumerated below.

#### 1. Definition and regulation of “existing” structures and “grandfathering”

In the proposed legislation, there is no definition of an “existing” structure. With a wide age and heterogeneity of the housing stock across the city, these could range from a simple toolshed to a garage to a full sized outbuilding, all which likely have different structural configurations and existing conditions. There were no criteria that addressed how much change to an existing building in terms of the structure or the footprint could take place before it was considered new construction. As a result, there is significant ambiguity around what could be “grandfathered” with respect to existing setback requirements and proposed height requirements in the legislation. The resulting potential impingement on privacy and light of any “grandfathered” structure has yet to be considered. This is an issue that occurs in other areas of the code and will likely be an issue here.

#### 2. Size

A 1000 square foot building is a significant sized dwelling which is close to the size of some older homes in the city. There was concern that such large ADUs could house significant numbers of people per requirements in other sections of the code. For “granny flats” or young people housing, 500 to 600 square feet would be adequate.

#### 3. Parking

The available parking for qualifying lots varies greatly depending on location in the city. As a result, parking requirements and permutations need further consideration.

#### 4. Use of ADUs

There was considerable concern that ADUs would be used primarily for short-term rentals due to economic incentives. If permission to build ADUs results primarily in short-term rentals, the purpose of the legislation will not be met. On the other hand, despite some being used for short-term rentals, there may be other real benefits to ADUs such as supplemental income to facilitate property ownership by lower income residents, and a richer fabric of life by providing opportunities for separate multigenerational housing. This will be highly neighborhood dependent and requires further study.

#### 5. Number/proximity of ADUs

Limitations on the numbers of ADUs permissible by zone or block or some easily measurable unit was raised. A crucial question is how many of these ADUs will be built and where? This matter deserves serious consideration, research, and solutions unique to Annapolis and its varied zones.

#### 6. Proof of residency and enforcement



The commission agreed the owner/occupancy requirement was important for self-regulation of ADUs and it is critically important to insure compliance with this requirement. A requirement to place covenants on the property title was suggested and major fines and even injunctive relief are possible tools in the enforcement repertoire. Additionally, in the case of multiple owners, there are no criteria as to what constitutes adequate ownership interest of the resident landlord.

#### 7. Public Facilities

There was no consideration to ADU impact on the current City infrastructure. Issues and questions were raised with respect to the current capital facilities connection charges currently required for dwelling units for water and sewer, Bay Restoration Charges, storm-water management charges and charges for refuse collection. A better understanding of how many might be permitted and where as noted in 5. above is needed to understand this impact.

#### 8. Compliance with the comprehensive plan

The 2009 Comprehensive Plan states “1.3 The City should work with neighborhoods to consider allowing ‘mother-in-law apartments’ or ‘granny flats’ in owner-occupied houses in residential districts where the community finds them acceptable. These above-garage apartments, in-home apartments, or small cottages that serve as a second residence on a property can provide added income to the homeowner and provide a small affordable housing unit. Regulation of such ‘accessory dwelling units’ would be necessary, and would need to address size of the accessory unit, provision of parking, and a permitting process and enforcement.”

While the plan encourages the City to consider allowing ADUs, the Commission noted above that implementation of any ADU legislation will have different consequences across the City and there has not been sufficient analysis done in conjunction with neighborhood groups prior to consideration of the legislation.

#### **RECOMMENDATION**

In light of the issues and questions enumerated above, on February 6, 2020, the Planning Commission voted 6-0 to reject the City’s recommendation that the Planning Commission approve and recommend the ordinance for adoption by the City Council and disapproves the ordinance.

Adopted this 5<sup>th</sup> day of March, 2020



Ben Sale, Chair

