

Legislation Text

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City Council Meeting Date: February 12, 2019

To: Mayor and City Council

From: Scott Tempel, City Planner
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Consider Ordinance revising Accessory Dwelling Unit regulations in Chapter 34 - Land Development Code

Action Requested:

The Northfield City Council considers the second reading of an ordinance amending Accessory Dwelling Unit regulations in Chapter 34 - Land Development Code.

Summary Report:

As part of the Planning Commission work plan and the City Council Strategic Plan, which also coincides with the HRA's goals, the Planning Commission has been looking at the regulations regarding Accessory Dwelling Units (ADUs) in an effort to grow and maintain affordable housing. Northfield's popularity and high quality of life makes it an attractive place to live, thereby increasing demand for all housing types. The limited availability of vacant developable land within city limits places upward pressure on both home prices and rental rates. One result of this has been an increased interest by homeowners in building accessory units. ADUs have the potential to increase housing affordability (both for homeowners and tenants), create a wider range of affordable housing options within the community, provide additional income for homeowners, enable seniors to stay near family as they age, and facilitate better use of the existing housing fabric in established neighborhoods. The City currently allows ADUs as carriage houses. The proposed amendments create more flexibility in the regulations.

Background:

The Planning Commission discussed the issue at its meeting on July 19, 2018. At the meeting, the Commission concurred that expansion of the use of ADUs is desirable in Northfield and posed a series of questions for staff to research. Answers to these questions were provided at the August 23, 2018, meeting where the Commission helped to formulate the ordinance revisions.

Final revisions to the ordinance were made at the October 18, 2018, Planning Commission meeting. A public hearing was held on the draft ordinance at the November 15 Planning Commission meeting. Four people spoke in favor of the amendment and there were no negative comments received.

A draft of the ordinance was discussed with multiple community groups throughout the fall of 2018. The Housing and Redevelopment Authority passed a motion of support for the ADU ordinance at its November 27, 2018, meeting. The Affordable Housing Task force provided input and comment at two of their fall meetings and have fully endorsed the ADU changes. Age Friendly Northfield was also given the opportunity to comment

on the ordinance. A letter of support is attached (Attachment 7).

The City Council passed the ordinance on first reading January 8, 2019. At the meeting, the Council asked for clarification on the unit size calculation and the interface with the rental ordinance. Staff discussed the Planning Commission's intent with them at their January 17, 2019 meeting (Attachment 5). The City Attorney has also been involved in reworking the ordinance. There is also an attachment from the Planning Commission detailing the changes proposed and the rationale behind them (Attachment 6).

Summary of Discussions:

Where should ADUs be permitted?

ADU's are currently a permitted accessory use in all residential zone districts. No residential uses are allowed in the Industrial zone, so expansion of ADUs to this zone is not possible as they are accessory to a primary residential use. Both the C1 and C2 commercial zones currently allow for multi-family residential and mixed use development. The addition of small, free-standing residential units to apartment buildings or large mixed use commercial buildings would most likely be out of character with these districts and mixed-use housing is preferred. The new ordinance will permit churches to have one ADU up to 1,000 square feet. These units are anticipated to be used for emergency or transitional housing, which is a great need for the community.

Attached units contained within a single-family home are the most common types of accessory dwelling units. These units, commonly referred to as "mother in-law apartments," usually involve the renovation of a garage, basement, attic, or similar space within a family home. These types of conversions are currently allowed by City codes. A homeowner still needs a rental license to add an additional unit to the home that has a separate entrance and kitchen.

What Code obstacles exist?

There are several common complaints about the current ordinance from applicants. The first is the LDC requirement that ADUs must be part of an attached garage. This limits design aesthetics, floor plans and the ability to give the building that "cottage charm." It also severely limits where on the lot an ADU can be placed (or if it can be placed at all) due to the fact that most properties already have an existing garage. Some newer properties in town have no access to the rear yard, so a detached garage is not an option. This eliminates the possibility of creating an ADU.

The second issue is closely related to the first in that, when adding an ADU to a garage, the size of both the garage and the ADU are limited to an 864 sq. ft. footprint. As a garage door and driveway must be present to qualify as a garage, this almost always results in the ADU being located above the garage. This is the carriage house model that was intended to increase neighborhood compatibility and follow the 'Old Northfield' aesthetic. However, it also creates problems. Some of the most common problems and resident complaints are as follows:

- The carriage house model with an upstairs unit is unfriendly and unsafe for seniors.
- Many 'Old Northfield' properties do not have a detached garage or have limited lot width to provide access for a detached garage (narrow side setback)
- Residents who do not live in old town have expressed concerns that a carriage house doesn't fit with the neighborhood. Many properties outside of old town have attached garages.

There are also Building Code difficulties with the carriage house model. Garages are designed for cars and dwellings for people and the two uses combined trigger additional health and safety standards for ventilation

and fire protection. Garage conversions can be especially problematic.

A final limiting factor is the City's rental ordinance (Attachment 8). Currently, the owner of the principal building on the property must reside on the property to create an ADU. Possible rationale for this are that homeowners will be more likely to maintain the property if they also live there. Owner-occupancy requirements are also thought to have the added benefit of ensuring better tenant management, since resident owners will be more likely to enforce appropriate behavior standards, however, these are not guarantees. If we were to allow ADUs on rental properties, not only would it increase affordable housing opportunities, these ADUs would be regularly inspected by the City. Some concerns with the removal of provision of owner occupied is that we would be adding additional density that would be a significant change to particularly the area of the community that has the 20% restrictions. Staff is concerned that the ADU ordinance review did not include substantial engagement of the public on this topic as well. Therefore, the staff recommended options include provisions for more comprehensive review and outreach with the public prior to considering these additions.

The same rationale, that homeowners will be more likely to maintain the property and enforce appropriate behavior standards if they also live there, supports allowing homeowners to add an ADU even if a rental license is not available on their block due to the 20% licensing restriction. Granting homeowners the opportunity for a rental license to add an ADU will increase community density near downtown, add to the affordable housing stock, and benefit homeowners with rental income, all while continuing to maintain single-family, owner-occupied neighborhoods. These units would then be licensed and inspected by the City as well. Options A and B would keep the 20% rule in place and applicable for ADUs. Planning Commission recommends exempting this particular accessory use from the 20% rule (Option C). Below is the specific section of the rental ordinance to be exempted:

Sec. 14-97. - Limitation on rental properties in low density neighborhoods.

In R-1 and R-2 districts in the city, no more than 20 percent of the houses on a single block shall be granted rental housing licenses. For purposes of this section, the word house shall mean a single structure containing one or more rental units. A single block shall be defined as the houses on both sides of a street between successive intersecting streets or between other such boundaries including college campus boundaries, railroad rights of way, corporate limit lines, or physical features such as rivers, outcroppings, ponds or lakes. Corner houses shall be included in the count of houses on a single block, regardless of which way they face or on what street they are addressed (corner houses may be counted as part of more than one single block).

(1) *Exception.* This limitation shall not apply to rental properties which are validly licensed as of the date of adoption of this article, including properties which have been sold and re-licensed as provided in section 14-92, although they will be counted among the 20 percent of allowable rental houses on a single block for purposes of determining whether new licenses may be issued.

Other Considerations?

Allowing free-standing ADUs, separate from a garage triggers different provisions for size limitations. An ADU should be subordinate in size to the primary residence or it would not be considered accessory. Northfield has a 30% Building Area Ratio limit for most residential properties. This is the area of a lot covered by the footprint of a principal building, detached garage, and covered porches, expressed as a percentage of the total lot area. Oftentimes this is a barrier to adding a unit. Excluding ADUs from the lot coverage limit, combined with a unit footprint limit of 1,000 square feet should allow ADUs to be placed on most residential lots and increase overall community density. Using a footprint calculation allows the homeowner to add additional living space in a basement or second story/loft.

Allowing another ADU on a lot as a free-standing structure could potentially open the door for Tiny Houses.

Per previous discussions, this may not be a bad idea. To summarize this issue, it is the recommendation from the Building Official and City Planner that allowance of Tiny Houses be mitigated by requiring permanent building stands and utility hookups, plus minimum insulation standards to ensure safety and compliance with the new Energy Code. All accessory dwellings will need to meet the Building Code. A summary of current minimum housing standards from the State of Minnesota is found at the end of Attachment 11. As the Building Code could change in the future, staff will monitor State level changes that may impact administering the code at the local level. Some excerpts of the regulations are:

- Every dwelling unit shall have at least one habitable room of 120 square feet.
- Bathrooms shall have 3 square feet of natural light and 1.5 square feet of natural ventilation.
- Basements, habitable attics and every sleeping room must have at least one operable emergency escape and rescue opening; minimum opening area must be 5.7 square feet.

Owners are now required to provide one off-street parking space for an ADU. This requirement is a deviation from the rental ordinance requirement that two parking spaces be provided for each dwelling unit. Generally, the garage itself or the driveway leading up to it accomplishes this. Allowing an ADU would trigger an additional parking space from the rental ordinance. On larger lots, this can be accommodated easily. For smaller lots it can be problematic or impossible. Technically, parking is not allowed in rear yards per the LDC parking standards, but occurs naturally when the garage is in the rear of the property. The recommendation from the Planning Commission is to remove the requirement for an additional parking space by exempting ADUs from the parking provisions of the rental ordinance. All of the alternative ordinances presented for consideration include this provision. If the intent of Council is to remove barriers to affordable housing, the parking provision constitutes a large barrier to be removed. Below is the rental ordinance language to be exempted:

Sec. 14-123. - Parking.

The following parking standards apply to rental properties in R-1 and R-2 districts of the city only and supersede any inconsistent standards established by this code. Parking standards for rental properties in other zoning districts shall be as stated in section 34-1013 of this Code. The building official shall inspect and approve specific parking spaces for each rental property which is subject to this section and the approved spaces shall be designated in conjunction with the rental license. The owner and occupants of the property shall not allow parking anywhere other than on approved parking spaces.

(1) *Number of spaces.* Each rental dwelling unit shall have a minimum of two off-street parking spaces, and as many additional off-street spaces as may be desired so long as they meet the dimensional, surface, location, and other requirements of this section.

(2) *Dimensional standards.* Parking spaces shall have the following minimum dimensions:

Width: Nine feet.

Length (non-tandem): 18 feet.

Length (tandem): 22 feet.

(3) *Parking surface standards.* Each parking space shall be constructed and maintained in good condition with a uniform hard surface of concrete, asphalt, minimum of four inches of Class 5 compacted gravel, or similar surface specifically approved by the building official.

(4) *Location.* Parking spaces shall be located in a garage or on approved driveway surfaces which lead to a garage or a side yard. Vehicles shall not be parked on grass, dirt, in front yards, backyards, or in any other location which is not an approved parking space and which does not adhere to these standards.

(5) *Enforcement.* Property owners are specifically advised that they, as well as their tenants, are responsible for enforcing these parking regulations and they are required to exercise effective control over their tenants and others visiting or using the property. The legal enforcement of these parking standards shall be the joint responsibility of the building official and the police department.

(6) *Time for compliance.* Any licensed rental property in existence at the time of adoption of this article which cannot readily provide parking spaces as required by subsections (1), (2) and (3) of this section may request permission from the building official for time to come into compliance with those subsections, which may be approved, in writing, for a period of time not to exceed one year from the date of adoption of this article. All properties which are subject to this section shall immediately comply with the other requirements of this section.

(7) *Variance*. A licensed rental property in existence at the time of adoption of this article which cannot feasibly provide parking spaces as required by subsection (1) of this section may request a variance from that subsection and the rental housing board of appeals may approve such a variance if it finds that strict enforcement of that subsection would cause an undue hardship because of circumstances unique to the individual property under consideration, which circumstances were not created by the current owner of the property, provided that the board of appeals may impose conditions in the granting of such a variance to protect neighboring properties and their occupants from the impact of such a variance.

Approval Criteria:

The planning commission and city council shall review the necessary submittal requirements, facts, and circumstances of the proposed amendment and make a recommendation and decision on the application based on, but not limited to, consideration of the following criteria:

- (1) The specific policies, goals, objectives, and recommendations of the comprehensive plan and other city plans, including public facilities and the capital improvement plans.

Criterion met:

Strategic Plan (2018-2020) Affordable Housing, *A Community Where Everyone Can Afford to Live*

- Review Best Practices for items such as opportunities for alternative housing types and styles, including mixed-use neighborhoods, accessory or mother-in-law apartments, modular homes, manufactured home parks and other innovative approaches to housing

Comprehensive Plan:

- HS1 Housing will strengthen the unique physical character of the community.
 - HS1.2 - Revise zoning and subdivision ordinances to ensure opportunities for development of alternative housing types and styles, including mixed-use neighborhoods, accessory or mother-in-law apartments, modular homes, manufactured home parks and other innovative approaches to housing.
 - HS1.6 - Establish standards for compact residential development and intensified land uses.
 - HS3 The City should assist in providing affordable housing.
 - LU4 Facilitate the creation of residential areas with strong neighborhood qualities.
 - LU4.6 - Permit accessory structures as residential housing units (granny flats or mother-in-law apartments) within existing neighborhoods, especially near downtown.
- (2) The purpose and intent of this LDC, or in the case of a map amendment, whether it meets the purpose and intent of the individual district.

The City of Northfield carries out the policies of the comprehensive plan by classifying and regulating the uses of land and structures within the city. This Land Development Code is adopted to protect and promote the public health, safety, morals, and general welfare of the city. **The LDC lists sixteen purposes for these regulations. All of the proposed ordinance alternatives recommended (A-C) meets eight of them:**

- Maintain and enhance the community's distinct small town character.

- Encourage growth in infill locations as the desired location of development with expansion on the edge of the city a secondary priority.
- Create residential community areas with strong neighborhood qualities including pedestrian-friendly streets, community gathering spaces, and basic commercial needs within walking distance.
- Encourage the development of neighborhoods that incorporate a variety of housing types to serve the needs of a diverse population.
- Allow for places with a mixture of uses that are distinctive and contribute to the city's overall vitality.
- Promote an ethic of sustainability in all activities to ensure that proposed development and redevelopment will, at a minimum, conserve energy and natural resources.
- Minimize vehicle traffic by providing for a mixture of land uses, pedestrian-oriented development, compact community form, safe and effective multi-modal traffic circulation (e.g., pedestrian, bicycle, and vehicular), and adequate on- and off-street parking facilities.
- Encourage vibrancy in the downtown core and fringe areas.

(3) The adequacy of infrastructure available to serve the proposed action.

Criterion met: Accessory Dwelling Units are by definition infill projects which are already served by municipal infrastructure. The system has sufficient capacity for growth.

(4) The adequacy of a buffer or transition provided between potentially incompatible districts.

Criterion met: No buffer or transition required between residential uses.

Recommendation:

Staff have reworked the ordinance for clarity and content and has presented several options for Council action. Staff recommends approval of Option A as the preferred option. Staff would be exploring a review of the rental ordinance more comprehensively including provisions of the rental restrictions and owner occupied requirements. Additionally, staff would explore a public engagement plan that would go along with any proposed revisions. We do not have formal recommendations on a timeline or process at this point but would be looking into that in the context of other priorities of the Strategic Plan.

Any other options besides options A through E (D is not recommended) or other options staff suggests that we postpone the agenda item until the April 15th Council worksession. This will give more time to do some additional engagement on components of the proposed ordinance to the public for feedback and also more general discussion opportunity for the Council. We would still be open to postponing until April 15th even if A is the option to give more time for engagement and discussion.

Options:

- A. This option would only impact Chapter 14 related to the omission of parking requirements. It keeps the 20% rule effective for ADUs and the owner occupied requirement. Upon further review and clarification by staff following last meeting, this option has been determined to be consistent with the original ordinance presented and introduced by Council. If this option is chosen, all changes to the ADU regulations are enacted, except all ADUs in the R1 zone would be subject to all of the requirements in Chapter 14 with the exception of parking provisions.

If subsequent changes are made to the rental ordinance, another text amendment might be required to make the LDC consistent with Chapter 14 and to have clear direction for the land use in the LDC. Staff has identified other issues and corrections needed to the rental ordinance that are beyond the scope of Accessory Dwelling Units.

This option would pass the ADU ordinance without an exemption to the 20% rule. The intent of staff would be to review consideration of the exemption until the larger policy issues associated with the 20% rule could be studied, analyzed and presented to Council for consideration, thereby allowing consideration of consistent changes to both the ADU ordinance and Chapter 14. Additionally, it would allow for more time to explore a public engagement process along with any proposed changes. Future amendments that may related to the rental code Chapter 14 and ADU could then be considered concurrently at a future meeting, depending on the direction Council gives staff related to application of the 20% rule to ADU's or otherwise.

- B. This is a similar option to Option A, but allows an ADU to be added to an existing licensed rental property (removing owner occupancy requirement). This action is legal and amends the existing interplay between the two ordinances. Chapter 14 will need to be amended for consistency. Staff would recommend similar analysis of the rental code and public engagement as outlined in Option A above.

Staff would recommend a “motion to postpone this item to the April 15th Council worksession.”

- C. This is consistent with the Planning Commission recommendation and clarifying opinion, this option exempts ADUs from the 20% rental restriction and the rental parking requirement, and allows rental properties to add an ADU. This option represents a policy change from the existing rental regulations to allow rental of all accessory units.

Even with these changes, a comprehensive review of the rental ordinance is warranted at some point and staff would review in consideration of the Strategic Priorities of the Council. Staff would recommend similar analysis of the rental code and public engagement as outlined in Option A above.

Staff would recommend a “motion to postpone this item to the April 15th Council worksession.”

- D. The City Council can pass the original Ordinance 1000 as written. This option is **not recommended** as it contains ambiguous language.
- E. Councilor Grabau has requested an option that would keep the owner occupied requirement within the language. This option would still exempts ADUs from the 20% rental restriction and the rental parking requirement. This action is legal and amends the existing interplay between the two ordinances. This option represents a policy change from the existing rental regulations to allow rental of all accessory units.

Even with these changes, a comprehensive review of the rental ordinance is warranted at some point and staff would review in consideration of the Strategic Priorities of the Council. Staff would recommend similar analysis of the rental code and public engagement as outlined in Option A above.

Staff would recommend a “motion to postpone this item to the April 15th Council worksession.”

Timeline:

Planning Commission Public Hearing and recommendation to City Council October 18, 2018

City Council 1st reading January 8, 2019

City Council 2nd Reading February 5, 2019

Ordinance becomes effective 30 days after publication

Alterative Option

Postponement to April 15th worksession.