

## MEMORANDUM

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**To:** City Planning Commission, Committee of the Whole  
**Prepared By:** Andrew Frenz, Senior City Planner, (612) 673-3790  
**Date:** October 22, 2020  
**Subject:** Proposed Zoning Code Text Amendment: Owner-Occupancy Requirement for Accessory Dwelling Units

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CPED staff is analyzing a zoning code text amendment that would modify owner-occupancy requirements for accessory dwelling units (ADUs). The zoning code currently allows for the establishment of ADUs accessory to conforming owner-occupied single- and two-family dwellings. This requirement is implemented and enforced through the recording of a covenant of owner-occupancy prior to the issuance of a building permit. The author's intent is to remove the owner-occupancy requirement for ADUs, allowing their establishment accessory to non-owner-occupied single- and two-family dwellings.

This proposed text amendment directly implements a portion of Policy 35, Action Step d. in *Minneapolis 2040*:

“Allow Accessory Dwelling Units (ADUs) on both owner occupied and non-owner occupied property, develop a set of ADU templates that meet City codes to ease ADU construction and allow the use of tiny homes and other alternative housing as ADUs.”

CPED staff is seeking the City Planning Commission's feedback regarding the proposed amendment. At this time, the amendment has been introduced by Council Member Gordon and has been referred to staff.

While the proposed zoning code text amendment itself is straightforward and directly supported by adopted policy, the amendment could have unintended consequences which could increase barriers to establishing ADUs for some applicants. In 2014, the Minneapolis Building Official made the determination that due to the owner-occupancy requirement, ADUs could be regulated from a building code perspective as portions of the principal dwelling to which they are accessory, rather than as separate dwelling units. This determination allows for significant flexibility in the establishment of ADUs, including with building code requirements such as fire and sound separation between units, rise/run of stairways, headroom requirements, and access to utilities. Beyond building code requirements, this interpretation also allows applicants establishing ADUs to avoid being assessed pass-through fees as part of the permitting process for sewer access (Metropolitan Council - \$2,485) and park dedication (Minneapolis Park and Recreation Board - \$1,659). For detached ADUs, this allows for the ability to tie into the existing water and sewer connections for the principal structure, rather than providing entirely new connections out to the public street. The Minneapolis Building Official's position is that this determination could not be maintained in the absence of the owner-occupancy requirement, and that the removal of the owner-occupancy requirement from the zoning ordinance would require newly-established ADUs to be regulated from a building code perspective as separate dwelling units. This position is consistent with practices in other municipalities in Minnesota.

In recognition of the regulatory impacts outside of the zoning code, the author is currently proposing the elimination of owner-occupancy requirements for attached and detached ADUs, while retaining the current owner-occupancy requirement for internal ADUs. This approach recognizes that the vast majority of internal ADUs

are constructed within existing buildings, most commonly in existing basements, and that in many cases fully complying with building code requirements for a separate dwelling unit, such as headroom, stairway rise/run, and fire and sound separation, is not practically feasible or is cost prohibitive. Conversely, attached and detached ADUs are most commonly new construction. While attached and detached ADUs would be impacted by these regulatory changes, they typically would not need to contend with extensive modifications to bring an existing structure into compliance.

CPED staff would like to discuss the proposed amendment with the City Planning Commission for feedback.

## **APPLICABLE POLICIES**

**Policy 35. Innovative Housing Types: Pursue innovative housing types and creative housing programs to help meet existing and future housing needs.**

- d. Allow Accessory Dwelling Units (ADUs) on both owner occupied and non-owner occupied property, develop a set of ADU templates that meet City codes to ease ADU construction and allow the use of tiny homes and other alternative housing as ADUs.

## **FEEDBACK REQUESTED**

1. General feedback on the proposed amendment and the elimination of owner-occupancy requirements for ADUs.
2. Feedback on the balance between the elimination of owner-occupancy requirements and the potential regulatory impacts outside of the zoning code.
3. Feedback on the proposed approach of retaining owner-occupancy requirements for internal ADUs, while eliminating the requirement for attached and detached ADUs.