Omaha Planning Department

Proposed Zoning Code Amendment for Accessory Dwelling Units

July 27, 2020
Sec. 55-763. - Residential use types.

(a) Accessory apartments.

(1) Purpose. This provision recognizes the need for alternative housing for special population groups and the economic difficulty of maintaining very large single-family houses in specific parts of the city. It is intended to meet these needs in designated areas, while maintaining the single-family nature of a neighborhood.

(2) Application process. An application to allow accessory apartments may be initiated by petition of not less than 50 percent of the property owners within the proposed area.

(3) City council action. The city council may, by ordinance, designate selected areas in which garage apartments and/or interior accessory apartments are permitted subject to the provisions of this section. The minimum designated area shall be one block face. The planning director and the planning board must transmit a recommendation on such designation to the city council.

(4) Permitted locations; permit. Within the designated areas, one apartment within a single-family residential structure, or one apartment on the second level of a detached private garage, is permitted in the AG, DR, R1, R2, R3 or R4 district subject to the following:
   a. The structure must comply with all applicable provisions of this code.
   b. The site must conform to all site development regulations of the base zoning district and to all off-street parking requirements.
   c. The property must be owner-occupied.
   d. The owner of the structure must obtain an accessory apartment permit from the permits and inspections division prior to occupancy of the apartment. If this application is denied by the permits and inspections division, the decision may be appealed to the zoning board of appeals.
   e. An accessory apartment permit is granted to a specific owner-occupant. The permit expires upon the sale of the property to another owner. Such owner must then reapply for a subsequent permit.

(5) Additional regulations for interior accessory apartments. Interior accessory apartments within a single-family residential structure shall be subject to the following additional regulations:
   a. The structure must have a livable floor area of at least 2,000 square feet.
   b. The accessory apartment can include no more than 30 percent of the livable floor area of the structure.
   c. Any exterior stair must be located within the rear yard of the structure. The appearance of the front or street facade of the structure shall not be substantially altered by the provision of an accessory apartment.

(b) Incidental dwelling units. One residential dwelling unit may be located within the same building as other uses incorporated into a common development, as an incidental use, in the LO, GO, LC, CC and GC base districts.

(c) Large group living uses. A large group living use is subject to the following conditions:

(1) Separation. The distance between a large group living use and any previously existing large group living use or small group living use shall be at least 1,200 feet, measured between nearest lot lines. However, a large group living use may be located within said 1,200 feet, subject to approval of a special use permit, as provided by section 55-884.

(2) Occupancy. The following occupancy regulations shall apply to large group living uses in certain listed districts.
a. In the AG, DR, R1, R2, R3, R4, R5, and R-WRN districts, no more than 14 residents shall be permitted in an owner-occupied dwelling unit, and no more than 12 residents shall be permitted in a non-owner-occupied dwelling unit.

b. In the R6 and R7 districts, no more than 20 residents shall be permitted in an owner-occupied dwelling unit, and no more than 16 residents shall be permitted in a non-owner-occupied dwelling unit.

c. In all districts, a minimum of 200 square feet must be provided in the dwelling unit for each resident.

(3) Application for special or conditional use permit. In addition to the requirements of sections 55-883 and 55-884, any application for special or conditional use permit for a large group living use must include the following information:

a. the maximum number of individuals that it is contemplated will be residing at the large group living use;

b. the amount of square feet of bedroom space available for each individual who will reside in the large group living use;

c. names and addresses of individuals and/or organizations expected to be operating the use or providing personal services to residents of the large group living use, if any;

d. a description of all services it is contemplated will be provided to residents of the large group living use, if any;

e. the maximum number of staff that will be involved in the provision of services to the residents of the large group living use, if any, and if so, how staff will be utilized;

f. the number of nonresident individuals expected to visit the large group living use each day, whether those individuals will come by motor vehicle, and the average length of stay;

g. the number of vehicles that will be expected to be parked at the large group living use on a daily basis;

h. all copies of licenses or applications for licenses obtained from or submitted to appropriate public agencies or departments to operate the use or to operate services proposed to be offered to residents of the large group living use;

i. certifications, credentials, accreditations or other similar acknowledgements awarded to individuals and/or organizations expected to be operating the use and/or providing personal services to residents of the large group living use, if any;

j. the name, address and local phone number of a designated contact person for the large group living use who can be reached 24 hours per day, if the need should arise;

k. a map showing the location of any signage associated with the use, including a scale drawing of the sign structure and sign face with the sign's proposed sign copy; and

l. the location of any existing large group living use or small group living use within 1,200 feet of the location for the proposed large group living use.

(d) Small group living uses. A small group living use is subject to the following conditions:

(1) Separation. The distance between a small group living use and any previously existing small group living use or large group living use shall be at least 600 feet, measured between nearest lot lines. However, a small group living use may be located within said 600 feet, subject to approval of a special use permit, as provided by section 55-884.
(2) **Application for special or conditional use permit.** In addition to the requirements of sections 55-883 and 55-884, any application for special or conditional use permit for a small group living use must include the following information:

a. the maximum number of individuals that it is contemplated will be residing at the small group living use;
b. the amount of square feet of bedroom space available for each individual who will reside in the small group living use;
c. names and addresses of individuals and/or organizations expected to be operating the use or providing personal services to residents of the small group living use, if any;
d. a description of all services it is contemplated will be provided to residents of the small group living use, if any;
e. the maximum number of staff that will be involved in the provision of services to the residents of the small group living use, if any;
f. the number of nonresident individuals expected to visit the large group living use each day, whether those individuals will come by motor vehicle, and the average length of stay;
g. all copies of licenses or applications for licenses obtained from or submitted to appropriate public agencies or departments to operate the use or to operate services proposed to be offered to residents of the small group living use;
h. certifications, credentials, accreditations or other similar acknowledgements awarded to individuals and/or organizations expected to be operating the use and/or providing personal services to residents of the small group living use, if any;
i. the name, address and local phone number of a designated contact person who can be reached 24 hours per day, if the need should arise;
j. a map showing the location of any signage associated with the use, including a scale drawing of the sign structure and sign face with the sign's proposed sign copy; and
k. the location of any previously existing large group living use or small group living use within 600 feet of the location for the proposed small group living use.

(e) **Manufactured housing.** A manufactured home may be located and installed according to the same standards for foundation system, permanent utility connections, setback, and minimum square footage which apply to site built, single-family dwellings on the same lot, subject to the manufactured housing meeting the following standards:

1. The home shall have no less than 900 square feet of floor area.
2. The home shall have no less than an 18-foot exterior width.
3. The roof shall be pitched with a vertical rise of two and one-half inches for each 12 inches of horizontal run.
4. The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction.
5. The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.
6. The home shall have non-reflective roof material which is or simulates asphalt or wood shingles, tile, or rock.
7. The home shall be installed upon a permanent foundation and with permanent utility connections, all as provided by the city's code.

(f) **Assisted living:**
(1) **Independent housing:** All development must provide a minimum of the following design features.
   a. Full accessibility within each unit, to all common areas and to the sidewalk on the adjacent street.
   b. A kitchenette in each apartment to complement a central kitchen and dining area.
   c. Service, activity and recreation areas in the main pattern of pedestrian movement.
   d. Designated on-premise space for use by visiting service providers.

(2) **Semi-dependent housing.** All developments must provide a minimum of the following design and service features:
   a. Full accessibility within each unit, to all common areas and to the sidewalk on the adjacent street.
   b. A central kitchen and dining area.
   c. Service, activity and recreation areas centrally located.
   d. Designated on-premise space for use by visiting service providers.
   e. Transportation services.
   f. On-premise access to limited medical or nursing services.

(3) **Dependent living:** All development must provide a minimum of the following design and service features:
   a. Full accessibility within each unit, to all common areas and to the sidewalk on the adjacent street.
   b. A central kitchen and dining area.
   c. Service, activity and recreation areas centrally located.
   d. Designated on-premise space for use by visiting service providers.
   e. Transportation services.
   f. On-premise access to limited medical and personal nursing services.
   g. Monitoring systems and a medical file system.
   h. On-premise physical therapy.

(g) **Accessory Dwelling Units:**

(1) **Purpose.** An accessory dwelling unit (ADU) is a second dwelling unit located on the same lot as a primary dwelling unit (PDU) which:
   a. Allows additional housing types that respond to the needs of changing households and are typically more affordable;
   b. Allows additional housing units types while respecting the style and scale of the surrounding areas;
   c. Utilizes existing City infrastructure while adding population.

(2) **Eligibility.** An Accessory Dwelling Unit is permitted as accessory only to a Single Family Detached use and in accordance with 55-763(g)(1) through (9).
   a. The following types of ADUs shall be permitted:
      i. Detached ADU - An accessory dwelling unit that is located within a structure detached from the primary dwelling unit (PDU) structure, typically a unit above a garage, attached to a garage, a converted garage or stand-alone ADU structure.
ii. **Attached ADU** - An accessory dwelling unit that is connected to part of the structure housing the primary dwelling unit (PDU), typically an addition to a PDU structure.

iii. **Internal ADU** - An accessory dwelling unit that is integrated into the structure housing the primary dwelling unit (PDU), typically a basement or attic level unit within a PDU structure.

b. **Only one ADU is permissible per lot.**

c. **All ADUs shall be installed upon a permanent frost protected foundation and with permanent utility connections.**

d. **All construction shall comply with current building, electrical, mechanical and plumbing codes adopted by the City of Omaha.**

(3) **Site Development Regulations.** All site development regulations shall be followed, unless except as specifically altered set forth below.

a. **The PDU and ADU combined shall comply with all building and impervious coverage maximums.**

b. **An existing structure, at the time of passage of this ordinance, whose height or setback(s) does not meet the ADU requirements may be converted into an ADU but the structure shall not be altered in any manner that would increase the degree of non-compliance.**

c. **A detached ADU shall be setback a minimum of 20 feet behind the front facing plane of the PDU.**

d. **A detached ADU may be located a minimum of 5 feet from the interior side and 8 feet from the rear lot line, if set back 60 feet or more from the front lot line. If proof of no easements is presented, a detached ADU may be located a minimum of 3 feet from the interior side and rear lot lines, if set back 60 feet or more from the front lot line.**

e. **No minimum distance shall be required between the PDU and the ADU.**

(4) **Size.**

a. **The square footage of an internal ADU shall be no larger than the PDU.**

b. **The maximum square footage of an attached or detached ADU shall not exceed 50% of the gross square footage of the PDU or 750 square feet, whichever is less.**

c. **The minimum size of an ADU shall conform to the minimum size required by the current and adopted building code.**

d. **All ADUs shall be limited to a maximum of one bedroom.**

e. **No detached or attached ADU height shall exceed the PDU height.**

(5) **Entrances.**

a. **One ground level, street-facing entrance may be added to a PDU with an attached or internal ADU, if none currently exist. Any additional entrances on facade(s) facing public streets shall not face the street. Street-facing entrances are generally parallel to and easily visible from streets.**
b. Detached structures may have entrances facing public streets, if setback a minimum of 20 feet behind the front facing plane of the PDU. Existing, at the time of passage of this ordinance, pedestrian doorways on detached garages may be converted to an ADU entrance, regardless of setback or orientation.

c. No entrances shall be added to façade(s) facing the rear of the lot unless abutting an alley or meeting base zoning district setback requirements.

d. Any other entrance(s) shall face the buildable area of the lot or meet the base zoning district setback requirements.

(6) Parking. The combined ADU and PDU must provide a minimum 2 off street parking spaces.

(7) Design Regulations.

a. The PDU shall not be altered in any way so as to appear from a public street to be a multiple-unit dwelling use.

b. The, primary exterior materials, and finishes of an ADU must generally match or exceed the quality or grade of the PDU.

c. Exterior stairways, that are not enclosed and more than five treads, leading to an ADU entrance shall not be allowed on structure façades facing public streets.

d. The lot serving the ADU and PDU shall only have one driveway per street frontage.

(8) Occupancy.

a. The total combined occupancy of the ADU and the PDU shall not exceed 3 unrelated persons, as defined by OMC 55-19.

b. A rental license is required if either unit is to be offered for rent for compensation.

(9) Ownership.

a. The owner of the lot on which an Accessory Dwelling Unit use is maintained shall occupy either the PDU or the ADU as the owner’s legal and permanent residence. For purposes of this provision, “the owner’s legal and permanent residence” shall mean a property owner who makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means. Leasing of the owner’s unit, under any terms, is prohibited.

b. The property shall be subject to a deed restriction stating that the accessory dwelling shall not be sold separate from the main building.