



Legislation Text

File #: 22-4885, **Version:** 2

Ordinance - Consideration of an Ordinance to Amend Chapter 155, "Zoning" to Revise the Definition of an Accessory Dwelling in Section 155.012; To Repeal Section 155.082(E)(7) in its Entirety; and to Revise Regulations Related to Accessory Dwellings in Section 155.099(B)(35); (OA#22-007)

To consider the proposed ordinance amendment

On December 5, 2022, the Planning and Zoning Commission continued the public hearing and discussed the proposed amendments for accessory dwelling units. During the discussion, the Commissioners requested that City Council consider providing additional opportunities to inform Mansfield's residents on the proposed changes to accessory dwelling units. The Commission made a motion to recommend approval of the amendments by the following vote:

Ayes: 3 - Goodwin, Gilmore, and Thompson
Nays: 2 - Axen and Mainer
Absent: 2 - Groll and Shaw

Staff recommends that the proposed ordinance amendment be tabled indefinitely.

The applicable regulations as found in Section 155.012 (Definitions), in Section 155.082 (Special Exception), and Section 155.099 (Special Conditions) of the Zoning Ordinance for accessory dwellings limits opportunities for their construction and use throughout the community. As designed, the proposed amendments intend to enable and to encourage the construction of accessory dwellings in order to vastly increase land use efficiency; to nurture and sustain complete and lifelong neighborhoods; and to expand the supply and the options for housing without diminishing aesthetics and quality of life considerations.

The Planning and Zoning Commission held a public hearing on September 6, 2022, and recommended denial of the amendments as originally designed.

Those voting in favor of recommending denial were:

Ayes: 7 - Knight, Mainer, Gilmore, Goodwin, Weydeck, Groll, and Axen
Nays: 0

After receiving the recommendation from the Planning and Zoning Commission, the City Council remanded the proposed amendments to the regulations for accessory dwellings back to the Planning and Zoning Commission on September 12, 2022.

On October 3, 2022, the Planning and Zoning Commission received a presentation from the Director of Planning on accessory dwellings. The Planning and Zoning Commission, at the request of the Director of Planning, provided guidance and direction on proposed amendments to the regulations for

accessory dwellings.

The proposed amendments to the regulations for accessory dwellings intend to capture, and articulate the community's vision for increasing the supply and the options available for attainable housing. The proposed amendments reflect the guidance and direction as requested on October 3, 2022 from the Planning and Zoning Commission.

Proposed Amendments

As proposed, the following amendments to the provisions found in Chapter 155, Zoning, will provide heightened clarity and improved flexibility with respect to the construction of accessory dwelling units throughout the community's various zoning districts.

Section 155.012, Definitions.

Currently, *Dwelling, Accessory* is defined as "a dwelling unit accessory to and located on the same lot with the main residential building and used as living quarters by domestic servants or caretakers employed on the premises, temporary guests, or family members of the owner of the premises." This definition limits accessory dwellings from functioning as intended and increasing the supply and the options for attainable housing.

As proposed, the existing definition for *dwelling, accessory* would be deleted; and, in its place, a new definition for *Accessory Dwelling Unit (ADU)* would be provided.

The new definition for *Accessory Dwelling Unit (ADU)* would read as follows:

- **"ACCESSORY DWELLING UNIT (ADU).** *A dwelling unit that is subservient to a principal dwelling unit in size, location, and design, often located above garages or in independent buildings towards the rear of a lot. ADU's may be rented provided the property owner lives in the principal dwelling unit or, alternatively, the property owner may live in the ADU and rent the principal dwelling unit.*"

The new definition reinforces that (i) the property owner must reside on the lot and that (ii) the property owner may reside in either the principal dwelling unit or in the accessory dwelling unit.

Section 155.082(E)(7), Special Exception.

The provisions of Section 155.082(E)(7) allow the Zoning Board of Adjustment to review and to consider special exceptions for accessory dwellings. However, the provisions set forth in Section 155.082(E)(7) appear to limit the authority of the Board to only reviewing and considering special exceptions for accessory dwellings in the A, Agricultural District, the PR, Pre-Development District, and the SF, Single-Family Residential Zoning District that does not comply with the provisions in Section 155.099, Special Conditions. Given the frequency of new zoning districts --- and planned developments --- it is important for the community to have adjustments and other exceptions that can be applied equitably across the numerous zoning districts concerning accessory dwelling units. Towards that end, the proposed amendments include deleting the provisions in Section 155.082(E)(7) in their entirety will ensure this and a more predictable environment for interpreting and administering all accessory dwelling unit regulations.

Section 155.099(B)(35), Special Conditions.

The special conditions proposed for accessory dwelling units --- are intended to replace those currently existing in Section 155.099(B)(35). The proposed special conditions are also intended to provide heightened, but more flexible standards for both the design and construction of accessory dwelling units in diverse environments and settings.

A summary of some of the principal revisions to Section 155.099(B)(35) --- as proposed, are as follows:

- Accessory dwelling units are permitted by-right as an accessory residential use in all zoning districts as specified in Section 155.054, Permitted Uses (e.g., the A, Agricultural District, PR, Pre-Development District, SF, Single-Family Residential Zoning District, and PD, Planned Development District) and in the D, Downtown District, and the S, South Mansfield Form-based Development District.
- Accessory dwelling units may only be constructed in the following locations: (i) within the principal dwelling unit; (ii) above a free-standing garage; OR (iii) as an independent, free-standing accessory building or outbuilding.
- The habitable area of accessory dwelling units are limited to a maximum of 1,000 square feet or a maximum of 75 percent of the habitable area of the principal dwelling unit (the habitable area of an accessory dwelling unit is only calculated in terms of enclosed space, excluding garages and other roofed structures such as patios and porches).
- The total habitable area for an accessory dwelling unit is not permitted to exceed the habitable area of the principal dwelling unit on the same lot.
- Accessory dwelling units may not permitted be platted or sold separately from the principal dwelling unit.
- For any property permitted to have two (2) accessory dwelling units, the property owner is required to register the dwelling units with the Department of Regulatory Compliance within 30 days of occupation.
- Accessory dwelling units are limited to a maximum of two (2) units per lot in the A, Agricultural District, PR, Pre-Development District, and SF-12 / 22 Single-Family Residential District.
- Accessory dwelling units and limited to a maximum of one (1) unit per lot in all other zoning districts, including in the PD, Planned Development District, except that a lot a minimum of 12,000 square feet in area may have two (2) units per lot.
- The maximum height of an accessory dwelling unit is two (2) stories.
- The aggregate habitable area of a principal dwelling unit and accessory dwelling unit(s) may not exceed the maximum lot coverage of the zoning district in which the property is located.

- The Director of Planning is authorized to make minor adjustments so that minor deviations may be resolved administratively. Minor adjustments are solely limited to dimensional adjustments that do not constitute a decrease of more than 20 percent for setbacks and architectural design of the accessory dwelling unit.
- Any property owner denied a permit for constructing an accessory dwelling unit under the provisions for accessory dwelling units may appeal to the City Council.

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