



City of Madison

City of Madison
Madison, WI 53703
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Master

File Number: 68079

File ID: 68079	File Type: Ordinance	Status: Passed
Version: 2	Reference:	Controlling Body: Attorney's Office
Lead Referral: PLAN COMMISSION	Cost:	File Created Date : 10/26/2021
File Name: Access Dwelling Units to Permitted Use		Final Action: 12/07/2021

Title: SUBSTITUTE - Amending Tables 28C-1, 28D-2 and 28E-2 to change Accessory Dwelling Units ("ADU") from a conditional use to a permitted use on all districts; Amending Table 28 G-1 to allow ADUs in Agricultural District; Amending MGO 28.151 to change required standards for ADUs; Amending MGO 28.131 to change the maximum area per lot and maximum size of ADUs; Amending MGO 28.211 to clarify the definition of ADUs; Repealing MGO 29.26(1) allowing attached ADUs to be smaller than 500 square feet.

Notes: 6539accessdwellingunits SUB

MAYORAL APPROVAL DATE: 01/13/21

Code Sections:

CC Agenda Date: 12/07/2021

Indexes:

Agenda Number: 19.

Sponsors: Tag Evers, Grant Foster, Patrick W. Heck, Satya V. Rhodes-Conway and Lindsay Lemmer

Effective Date: 12/16/2021

Attachments: 68079 Body Version 1.pdf, Staff Memo_ADUs_10-29-21.pdf, Staff Presentation_ADUs_11-8-21.pdf, Public_Comments_11-08-21.pdf, Public_Comments_11-08-21_Post_3PM.pdf, 68079 Version 1.pdf, 68079 Body Substitute.pdf, Public_Comments_11-18-21.pdf, Public_Comment_11-20-21.pdf, Public_Comments_11-22-21.pdf, Written Public Comment #68079.pdf

Enactment Number: ORD-21-00087

Author: Kate Smith

Hearing Date:

Entered by: jphelps@cityofmadison.com

Published Date: 12/15/2021

Approval History

Version	Date	Approver	Action
1		Michael Haas	Approved as to Form
1		Ryan Pennington	Approve
2		Michael Haas	Approved as to Form
2		Ryan Pennington	Approve

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Attorney's Office	10/26/2021	Referred for Introduction				
	Notes: Plan Commission						
1	COMMON COUNCIL	11/02/2021	Referred	PLAN COMMISSION		11/22/2021	
1	PLAN COMMISSION	11/08/2021					
2	PLAN COMMISSION	11/22/2021	RECOMMEND TO COUNCIL TO ADOPT - PUBLIC HEARING				Pass
	Notes: On a motion by Heck, seconded by Sheppard, the Plan Commission recommended approval of the zoning text amendment to the Common Council by voice vote/other.						
2	COMMON COUNCIL	12/07/2021	Adopt and Close the Public Hearing				Pass
	Notes:						

Text of Legislative File 68079

Fiscal Note

No City appropriation required.

Title

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Body

DRAFTER’S ANALYSIS: Table 28C-1 is amended changing Accessory Dwelling Units (“ADU”) from a conditional use to a permitted use in all Residential Districts, which allows ADU builders to avoid the conditional use permit process if they build within the required standards. Table 28D-2 is amended in the same manner for Mixed-Use and Commercial Districts where single-family detached homes are allowed. Table 28E-2 is also amended changing ADUs from a conditional use to a permitted use in all Downtown Districts where single-family homes are

allowed with the same affect. Table 28G-1 is amended to allow ADUs in the Agricultural District where they were previously not allowed. MGO 28.151 is amended changing several required standards, most notably increasing the permitted size of an ADU from 700 square feet to 900 square feet. Additionally, it requires ADUs to contain no more than two (2) bedrooms. MGO 28.151 is amended to remove suggested guidelines for ADUs. MGO 28.131 is edited to remove the maximum area of accessory structures per lot and instead simplifies the maximum size at ground level for all accessory structures on a lot to 1,000 square feet, a change that will increase the allowable size for detached garages at residences. MGO 28.211 is amended to clarify that ADUs do not need to be subordinate in size of height and floor area to the principal building.

This substitute repeals MGO 29.26(1) which would allow attached ADUs to be smaller than 500 square feet in all structures regardless of their construction year. The minimum dwelling size requirement in MGO 29.26(1) applies only to structures built *before* the Uniform Dwelling Code came into effect, in 1980. Housing built after 1980 does not have the 500 sq. ft. minimum requirement. By repealing this section, allowable attached ADU minimum size is the same for pre and post 1980 structures.

The Common Council of the City of Madison do hereby ordain as follows:

See File No. 68079 Body Substitute in Attachments.

CITY OF MADISON, WISCONSIN

A SUBSTITUTE
ORDINANCE _____

PRESENTED November 2, 2021
REFERRED Plan Commission

Amending Tables 28C-1, 28D-2 and 28E-2 to change Accessory Dwelling Units (“ADU”) from a conditional use to a permitted use on all districts; Amending Table 28 G-1 to allow ADUs in Agricultural District; Amending MGO 28.151 to change required standards for ADUs; Amending MGO 28.131 to change the maximum area per lot and maximum size of ADUs; Amending MGO 28.211 to clarify the definition of ADUs; Repealing MGO 29.26(1) allowing attached ADUs to be smaller than 500 square feet.

68079

Drafted by: Kate Smith
Date: January 12, 2022
SPONSOR: Alders Evers, Foster, Heck,
Mayor Rhodes-Conway

Approved as to form:

DRAFTER'S ANALYSIS: Table 28C-1 is amended changing Accessory Dwelling Units ("ADU") from a conditional use to a permitted use in all Residential Districts, which allows ADU builders to avoid the conditional use permit process if they build within the required standards. Table 28D-2 is amended in the same manner for Mixed-Use and Commercial Districts where single-family detached homes are allowed. Table 28E-2 is also amended changing ADUs from a conditional use to a permitted use in all Downtown Districts where single-family homes are allowed with the same affect. Table 28G-1 is amended to allow ADUs in the Agricultural District where they were previously not allowed. MGO 28.151 is amended changing several required standards, most notably increasing the permitted size of an ADU from 700 square feet to 900 square feet. Additionally, it requires ADUs to contain no more than two (2) bedrooms. MGO 28.151 is amended to remove suggested guidelines for ADUs. MGO 28.131 is edited to remove the maximum area of accessory structures per lot and instead simplifies the maximum size at ground level for all accessory structures on a lot to 1,000 square feet, a change that will increase the allowable size for detached garages at residences. MGO 28.211 is amended to clarify that ADUs do not need to be subordinate in size of height and floor area to the principal building.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Table 28C-1 in Section 28.032 entitled "Residential District Uses" of Subchapter 28C entitled "Residential District Uses" of the Madison General Ordinances is amended as follows:

"Table 28C-1.

Residential Districts																Supplemental Regulations
SR-C1	SR-C2	SR-C3	SR-V1	SR-V2	TR-C1	TR-C2	TR-C3	TR-C4	TR-V1	TR-V2	TR-U1	TR-U2	TR-R	TR-P		
Accessory dwelling unit			Conditional Conditional Permitted Use in All Districts												Y"	

2. Table 28D-2 in Section 28.061 entitled "Mixed-Use and Commercial Districts Uses" of Subchapter 28D entitled "Mixed-Use and Commercial Districts" of the Madison General Ordinances is amended as follows:

"Table 28D-2.

Mixed-Use and Commercial Districts									Supplemental Regulations
	LMX	NMX	TSS	MXC	CC-T	CC	RMX	THV	
Accessory Uses and Structures									

Mixed-Use and Commercial Districts									
	LMX	NMX	TSS	MXC	CC-T	CC	RMX	THV	Supplemental Regulations
Accessory dwelling unit	☞	☞ <u>P</u>	☞ <u>P</u>		☞ <u>P</u>		☞		Y”

3. Table 28E-2 in Section 28.072 entitled “Downtown Districts” of Subchapter 28E entitled “Downtown and Urban District Uses” of the Madison General Ordinances is amended as follows:

“Table 28E-2.

Downtown and Urban Districts						
	DC	UOR	UMX	DR1	DR2	Supplemental Regulations
Accessory Uses and Structures						
Accessory dwelling unit				☞ <u>P</u>	☞ <u>P</u>	Y”

4. Table 28G-1 in Section 28.091 entitled “Special District Uses” of Subchapter 28G entitled “Special Districts” of the Madison General Ordinances is amended as follows:

“Table 28G-1.

	A	UA	CN	PR	AP	MC	Supplemental Regulations
Accessory Uses and Structures							
Accessory dwelling unit	<u>P</u>						Y”

5. Subsection entitled “Accessory Dwelling Unit in Districts Other than the TR-P District” of Section 28.151 entitled “Applicability” of Subchapter 28J entitled “Supplemental Regulations” of the Madison General Ordinances is amended as follows:

“Accessory Dwelling Unit in Districts Other than the TR-P District.

(a) Required Standards.

1. The principal dwelling or the accessory dwelling unit must be owner-occupied except that a temporary absence of up to six (6) months is allowed.
2. The principal dwelling must be a single-family detached dwelling.
3. No more than one (1) accessory dwelling unit may be located on a lot.

4. The number of occupants of the accessory dwelling unit shall not exceed one (1) family or two (2) unrelated individuals.
5. The accessory dwelling unit shall not be sold separately from the principal dwelling.
6. The maximum height of a detached building containing an accessory dwelling unit, including one built above a garage or similar space, shall be twenty-five (25) feet. Height shall be measured as a principal building pursuant to Sec. 28.134(1)(b).
7. The maximum size of an accessory dwelling unit shall be ~~seventy-five percent (75%) of the principal dwelling's floor area, up to a maximum size of seven-nine hundred (7900) square feet.~~
8. An accessory dwelling unit shall contain no more than two (2) bedrooms.
9. ~~The minimum setback requirements shall be those for accessory building or structures of the underlying zoning district.~~
910. Accessory dwelling unit entry ways within a rear or side yard shall be connected to a street frontage by a paved walkway or driveway.
4011. For accessory dwelling units constructed within the principal building, tThe appearance or character of the principal building shall not be significantly altered so that its appearance is no longer that of a single-family dwelling.

~~(b) Suggested Guidelines.~~

1. ~~The exterior finish material of an accessory dwelling unit shall match the type, size and placement of exterior finish material of the principal dwelling.~~
2. ~~The roof pitch shall match the predominant roof pitch of the principal dwelling.~~
3. ~~Trim and projecting eaves shall match those of the principal dwelling.~~
4. ~~Windows shall match those in the principal dwelling in proportion (relationship of width to height) "and orientation (horizontal or vertical)."~~

6. Subsection (1) of Section 28.131 entitled "Accessory Buildings and Structures on Lots Used Exclusively for Residential and Mixed-Use Purposes" of Subchapter 28I entitled "General Regulations" of the Madison General Ordinances is amended as follows:

"(1) All accessory buildings and structures on lots in any district used exclusively for residential and mixed-use purposes shall comply with the following requirements:

- (a) Maximum Area Per Lot. Total area of accessory buildings measured at ground floor: ~~ten percent (10%) of lot area but no more than~~ may not exceed one thousand (1,000) square feet. A larger total building area may be allowed by conditional use approval.
- ~~(b) Maximum Size of Accessory Building. No individual structure shall exceed five hundred seventy six (576) square feet in TR districts and eight hundred (800) square feet in other districts at ground level except by conditional use approval. Accessory buildings shall not exceed the size of the principal building.~~
- ~~(c)~~ Maximum Height. The height of the ~~principle principal~~ building or fifteen (15) feet, whichever is lower. The following are exempt from this requirement:
 1. The maximum height of accessory dwelling units shall be determined by the district requirements for zoning districts where such units are allowed.

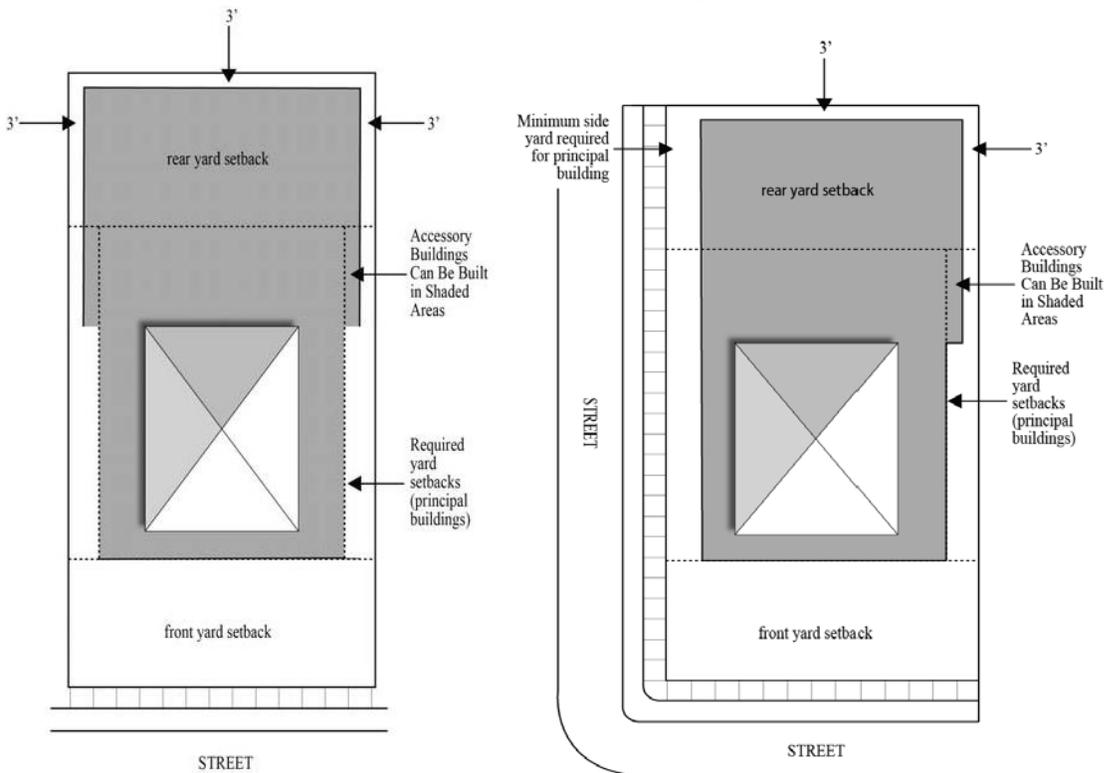
2. The maximum height of carriage houses within historic district may be the same as the original height.

(dc) Reserved.

(ed) Placement. Accessory buildings may be located in the following locations:

1. Within the building envelope.
2. In a rear yard setback, a minimum of three (3) feet from any property line.
3. In a side yard setback, if located behind the rear plane of the principal building at the time of construction, a minimum of three (3) feet from any property line.
4. In the side or rear yard setback of a corner lot, a minimum distance from the street side lot line equal to the setback required for a principal building in the district.
5. In the rear yard setback of a reversed corner lot, no closer to the street side lot line than the front yard setback of the adjacent property, for the first twenty-five (25) feet from the common property line. Beyond this distance, the minimum setback shall be equal to the setback required for a principal building in the district.
6. A minimum of three (3) feet from any principal building and any other accessory building.

Figure I1: Accessory Building Placement Accessory buildings may be located in shaded areas.



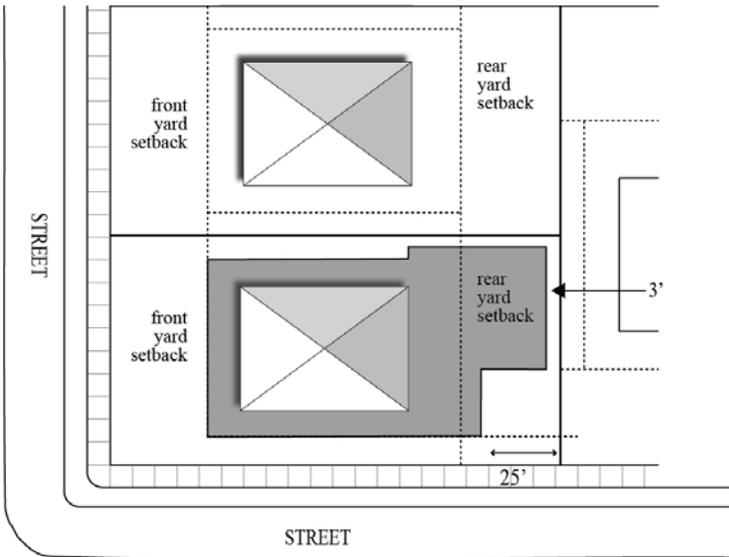


Figure I3: Accessory Building Placement for Reverse Corner Lots. Accessory buildings may be located in shaded areas.

- (fe) Shared Garages. A detached garage may be constructed across a lot line by abutting property owners, where a garage is permitted within three (3) feet of the lot line, provided that:
1. A joint driveway shall lead to the garage; and
 2. The property owners shall provide a joint access and maintenance agreement for the use of the garage.
- (ef) Side and Rear Yard Garage Replacement. A detached garage located in a side or rear yard may be replaced within the existing setbacks provided that:
1. The garage is replaced within one (1) year of demolition.
 2. The location and size of the existing or demolished garage shall be verified by the Zoning Administrator.
 3. The replaced garage shall not exceed twenty-four (24) feet in length or width.
 4. Neither the length, width, nor height of the replaced garage shall be more than two (2) feet greater than the length, width, or height of the demolished garage.
 5. No side of the enlarged structure is moved closer to any lot line with which there is a non-conforming setback.
 6. The replaced garage shall not exceed the maximum size allowed under Sub. (1)(a) above.
- (hg) Garages in Embankments in Front Yards. Where the mean natural grade of a front yard is more than eight (8) feet above curb level, a private garage may be erected within the front yard setback, provided that:
1. The garage shall be located at least five (5) feet from the front lot line; and
 2. At least one-half ($\frac{1}{2}$) of the height of the garage shall be below the mean grade of the front yard.”

7. Subsection entitled "Accessory Building or Structure" of Section 28.211 entitled "Definitions" of Subchapter 28O entitled "Definitions and Rules of Construction" of the Madison General Ordinances is amended as follows:

"Accessory Building or Structure. A subordinate building or structure, the use of which is clearly incidental to that of the main building and which is located on the same lot as the principal building, and is subordinate to the principal building in height and floor area. An Accessory Dwelling Unit does not need to be subordinate to the principal building in regard to height and floor area."

8. Subsection (1) of Section 29.26 entitled "Size of Dwelling and Rooms" of Subchapter entitled "One- and Two-Family Dwellings" of the Madison General Ordinances is repealed.

EDITOR'S NOTE: Section 29.26(1) currently reads as follows:

"29.26 - SIZE OF DWELLING AND ROOMS.

- (1) Every detached single-family dwelling other than a mobile home shall have at least five hundred (500) square feet of floor area on the first floor level."