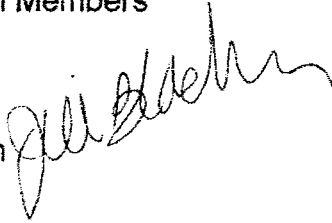


**Additional Information-Agenda #3a(1)**

TO: Mayor Foy and Council Members

DATE: October 14, 2008

FROM: Jill Ridky-Blackburn



RE: Accessory Apartments in Single Family Neighborhoods

Thank you very much for placing this item on the agenda.

The purpose of placing this item on the agenda is to share with you what other communities have put into place for accessory apartments in single family neighborhoods.

Accessory apartments can be a real benefit to a community and a neighborhood however it appears our town should re-look at the provisions currently in place for these dwellings and consider new and improved provisions as other communities have already adopted.

The enclosed document shares information from four other communities, including Charlottesville, Virginia and Ann Arbor, Michigan.

Thank you for your review and consideration.

## **Accessory Apartments in Single Family Homes**

### **Why Allow Accessory Apartments?**

They add to the pool of affordable housing for the town  
They lower neighborhood turnover by allowing homeowners stay in their home for a longer period of time. Accessory apartments may allow for a caregiver.  
They can help to generate additional revenue for the property owner when they become a widow or widower, when there is a divorce, provide for extra revenue and/or safety.

### **Town of Chapel Hill Land Use Management Ordinance**

See Dwelling Units, Single Family – Item 1

### **Issues to Consider**

1. Define why accessory apartments in single family neighborhoods are important.
2. Property owner must reside in the home for the majority of the time each year
3. Cap the number of adults residing the accessory apartment ( i.e. not more than 2 adults )
4. Limit the size of an accessory apartment by developing a formula based on a percentage of the total square footage of the home
5. Provide for safety standards in the apartments, especially related to fire codes.

### **Accessory Apartment Standards in Other Communities**

#### **A. City of Charlottesville, Virginia**

Charlottesville has a Department of Neighborhood Development Services and they have an application process for accessory apartments which the owner certifies they are the owner, they will continue to live on the property while the accessory unit is leased and no more than 2 people shall occupy the accessory apartment. See Attachment A.



**INSPECTIONS DEPARTMENT**

Senior Code Enforcement Officer C. Maggie Bowers  
(919) 968-2718 or [mbowers@townofchapelhill.org](mailto:mbowers@townofchapelhill.org)

Excerpt from the Town of Chapel Hill Land Use Management Ordinance Updated June 15, 2005:

**Dwelling:**

Any building or structure (except a mobile home) that is wholly or partly used or intended to be used for living or sleeping by one or more human occupants.

**Dwelling Units, Single-Family:**

A detached dwelling consisting of a single dwelling unit only. A single-family dwelling shall be classified as a Rooming House if occupied by more than four persons who are not related by blood, adoption, marriage, or domestic partnership.

**Dwelling Units, Two-Family:**

A dwelling or combination of dwellings on a single lot consisting of two (2) dwelling units. Any dwelling unit that is part of a two-family dwelling shall be classified as a Rooming House if occupied by more than four persons who are not related by blood, adoption, marriage, or domestic partnership.

**Dwelling Units, Single-Family – With Accessory Apartment:**

A dwelling or combination of dwellings on a single zoning lot consisting of two (2) dwelling units, provided the floor area of one of the dwelling units does not exceed fifty percent (50%) of the floor area of the other dwelling unit, nor is greater than 750 square feet and further provided the dwelling's exterior design and entry locations give the dwelling the appearance of a single-family dwelling. Any dwelling unit that is part of a two-family dwelling shall be classified as a Rooming House if occupied by more than four persons who are not related by blood, adoption, marriage, or domestic partnership.

**Dwelling Units, Two-Family - Duplex:**

A single dwelling consisting of two (2) dwelling units (other than a "two-family dwelling - including accessory apartment"), provided the two dwelling units are connected by or share a common floor-to-ceiling wall, or, if the two units are arranged vertically, that they share a common floor/ceiling and not simply by an unenclosed passageway (e.g., covered walkway) and provided that each dwelling contains no more than six (6) bedrooms per structure. Any dwelling unit that is part of a two-family dwelling shall be classified as a Rooming House if occupied by more than four persons who are not related by blood, adoption, marriage, or domestic partnership.

**Dwelling Units, Multi-Family:**

A dwelling or combination of dwellings on a single lot consisting of three (3) or more dwelling units.

**Dwelling Unit:**

A room or group of rooms within a dwelling forming a single independent habitable unit used or intended to be used for living, sleeping, sanitation, cooking, and eating purposes by one family only; for owner occupancy or for rental, lease, or other occupancy on a weekly or longer basis; and containing independent kitchen, sanitary, and sleeping facilities; and provided such dwelling unit complies with Chapel Hill's Minimum Housing Code.

**Efficiency Dwelling Unit:**

A dwelling unit in which living and sleeping activities are conducted or intended to be conducted within a single room.

**Family:**

An individual living alone or two (2) or more persons living together as a single housekeeping unit, using a single facility in a dwelling unit for culinary purposes. The term "family" shall include an establishment with support and supervisory personnel that provides room and board, personal care and habitation services in a family environment for not more than 6 residents who are handicapped, aged, disabled, or who are runaway, disturbed or emotionally deprived children and who are undergoing rehabilitation or extended care. The term "family" shall not be construed to include a fraternity or sorority, club, rooming house, institutional group or the like.

**CITY OF CHARLOTTESVILLE CITY CODE**

**Sec. 34-1105. Accessory buildings and structures.**

- (a) No accessory building or structure shall:
- (1) be constructed upon a lot until the construction of the main building has been actually commenced;
  - (2) be used for dwelling purposes (except for accessory apartments, where such apartments are otherwise permitted within a residential zoning district);
  - (3) be located within any front yard; or, on a corner lot, project into the required yard adjacent to any street frontage; or
  - (4) exceed the height of the principal building or structure on the same lot.
- (b) Accessory buildings may be erected in a required rear yard, provide that in any residential zone, accessory buildings and structures (when located within a required rear yard):
- (1) shall not occupy more than thirty (30) percent of a rear yard, and
  - (2) shall not be nearer than five (5) feet to any side or rear lot line. However, when a garage situated within a required rear yard is entered from an alley, the garage shall not be nearer than 10 feet to the property line adjacent to the alley.

**Sec. 34-1171: Standards--accessory apartments**

- (a) In addition to the requirements of Sec. 34-1105, accessory apartments authorized by a provisional use permit shall be subject to the following regulations. Any property containing an accessory apartment shall comply with the following:
- (1) One of the two dwelling units on the subject property must be occupied by the owner of the property.
  - (2) Use and occupancy of each dwelling unit comply with all applicable building code regulations.
  - (3) Notwithstanding any other residential occupancy provisions set forth within this zoning ordinance, no accessory apartment may be occupied by more than two persons.
- (b) In addition to the requirements set forth above in paragraph (a), the following shall apply to interior accessory apartments:
- (1) The accessory apartment may not have its own separate entrance located on any façade of the principal structure that fronts on a public street. No exterior stairs providing access to the accessory apartment shall be visible from any public street.
  - (2) The accessory apartment must be entirely contained within the principal structure.
  - (3) The gross floor area of the accessory apartment may not exceed forty percent (40%) of the gross floor area of the principal structure in which it is located.
  - (4) In addition to the requirements set forth above in paragraph (a), exterior accessory apartments must be located within an accessory structure, and the accessory structure must itself be in compliance with all applicable zoning and building code regulations.



### EXTERIOR ACCESSORY APARTMENT PROVISIONAL USE PERMIT

Please Return To: Department of Neighborhood Development Services  
PO Box 911, City Hall  
Charlottesville, Virginia 22902  
Telephone (434) 970-3182 Fax (434) 970-3359

**A \$100.00 APPLICATION/PERMIT FEE IS REQUIRED**

Property Owner: \_\_\_\_\_

Address: \_\_\_\_\_

Tax Map and Parcel: \_\_\_\_\_

Phone (H) \_\_\_\_\_ (W) \_\_\_\_\_ (F) \_\_\_\_\_

Email: \_\_\_\_\_

Gross (improved) Square Footage of Entire Dwelling: \_\_\_\_\_

Square Footage of Apartment: \_\_\_\_\_

*Per Section 34-1171 of Charlottesville City Code (attached), I certify that I am the homeowner of this property, that I reside on the premises, and that I will continue to live on the property while the accessory unit is leased. I have read the attached regulations and understand that my permit may be revoked if I fail to comply with all provisions. I further certify that no more than two (2) persons shall occupy the accessory apartment. I give my consent to inspectors initiated by the Zoning Administrator to verify compliance with the requirements for provisional uses and grant a right of access for the Zoning Administrator to make such inspections.*

\_\_\_\_\_  
Property Owner Signature

\_\_\_\_\_  
Date

**Note: Accessory apartments are only allowed when clearly subordinate to a single-family detached dwelling. All accessory apartments must be reviewed by the Building Code Official. All accessory apartments must adhere to the Statewide Building Code including ingress, egress, 1 hour fire rated walls, etc. A new Certificate of Occupancy will be required for the property on which the accessory apartment is located and will not be issued until all building codes have been successfully met.**

Office Use Only
Date Received _____ Accepted _____ Denied _____
Zoning Administrator _____
Comments: _____
Date Paid: _____ Amount Paid: _____ Cash/Check _____

Moved by Councilor Phinney, seconded by Councilor Justice and VOTED to waive the Rules to take Item #6526 out of order at this time. 7 years. (NOTE: For purposes of continuity the action taken under Item #6526 will be reported on in its proper consecutive order.)

Item #6524. Moved by councilor Willett, seconded by Councilor Phinney to waive the Clerk reading aloud the proposed order. 7 years.

The order, as written and distributed, was moved by Councilor Justice, seconded by Councilor Chicoine. Moved by Councilor Phinney, seconded by Councilor Hamblen and VOTED to amend the proposed order by striking #1 and replacing it with Attachment A, as amended, and deleting the word: "or members of families who are related by blood, marriage, or adoption. At least one of the related occupants of either the principal dwelling or apartment must be at least 62 years of age or older" from the definition of "Accessory Apartment". 4 years. 3 days (Willett, Chicoine and Robinson).

The order, as amended, was then VOTED resulting in the following:

WHEREAS, the Town Council has determined that allowing accessory apartments in appropriate situations would be beneficial to the community, and

WHEREAS, the Planning Board, at their August 6, 2001 meeting unanimously recommended that the Council amend the Land Use and Development Code to allow accessory apartments,

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Gorham, Maine in Town Council assembled, that the following ordinance be and hereby is adopted:

Ordinance Amending the Land use and Development Code in regard to Accessory Apartments

- 1) Add a new sub section C. Accessory Apartments to Chapter II, Section IV – Residential to read as follows:

"C. Accessory Apartments

Accessory apartments are a permitted use in the UR, SR, R districts, subject to the approval of the Code Enforcement Officer and adherence to the following standards:

- A. The owners of the principal structure must reside in the principal structure of the accessory unit
- B. The number of occupants of the accessory unit is limited to two
- C. The accessory unit shall contain up to a maximum of 660 square feet of living space

# Accessory Apartments

From Weber County Wiki

## 42-1 Purpose and Intent

The purpose of allowing Accessory Apartments within existing dwellings or by addition thereto, subject to conditions by Conditional Use Permit, is to provide for affordable housing for the citizens of Weber County.

### Contents

- 42-1 Purpose and Intent
- 42-2 Conditional Use
- 42-3 General Provisions
- 42-4 Application Procedure
- 42-5 Moderate Income Housing Provision
- 42-6 Non-conforming Accessory Apartments
- 42-7 Applicability to Non-conforming Units

## 42-2 Conditional Use

Accessory Apartments may be permitted, by Conditional Use Permit, in any zone in which single family residential dwelling units are allowed, under the following specifications;

1. Relationship to principal use; appearance. An apartment may be established only accessory to a permitted dwelling. The apartment unit shall have common wall(s), roof, and/or floor(s) with the principal dwelling. The minimum width shall be twenty feet (20) ft. with the liveable floor area of the main home, with an opening from the accessory apartment to the main home, into a common living area of the main home. The opening can be closed off by a door. Basement apartments meet this requirement with the common floor. The stairs which lead to the main floor and open up into the common living space of the main home can be closed off by a door. The accessory apartment opening into a garage or storage is not considered livable space. The outward appearance of the accessory dwelling shall be consistent with the design and character of the principal dwelling in its construction, materials and finish treatment. There shall be no more than one apartment accessory to a permitted dwelling. There shall be no separate address, mailbox or utilities.
2. Floor area. Living area of an accessory apartment shall contain a minimum of four hundred (400) square feet and shall not exceed a maximum of eight hundred (800) square feet; there shall be no more than two (2) bedrooms in such apartments. In no case shall the floor area exceed twenty-five (25) percent of the gross livable floor area of the total structure.
3. Location. An accessory apartment shall be so located upon a lot to comply with all dimensional requirements of the zoning district for new construction. An apartment located within the perimeter of an existing (by location) non-conforming dwelling, shall not be subject to such requirements. No apartment shall be located in a basement or cellar unless such basements or

cellar constitutes a walk-out basement. Additions for the purpose of an accessory apartment shall be made only above or to the side or rear of the principal dwelling.

4. Access. An accessory apartment shall have a minimum of one (1) separate external door access from the principal dwelling located on either the side or the rear of the principal dwelling.
5. Amenities. An accessory apartment shall contain separate amenities from the principal dwelling: kitchen facilities, full bath, electric panel with separate disconnect, telephone service.
6. Parking. In addition to the two (2) parking spaces required for the principal dwelling, two (2) off-street parking spaces shall be provided for an accessory apartment in a designated location on the premises. Such spaces shall be on an area prepared to accommodate vehicle parking.

## **42-3 General Provisions**

In addition to the section above, the following general provisions shall apply:

1. Either the principal dwelling or accessory apartment shall be occupied by the owner of the premises at all times, excepting reasonable vacation absences.
2. Nothing shall prevent the owner of the premises from deed restricting aspects of the use of the apartment as long as such restrictions legally conform to any local, state or federal law or regulation.
3. There shall be no limitation on age of structure, time of ownership, or construction of additions to establish an accessory apartment, except as provided in this section.
4. All provisions of the State of Utah Building Code, as amended from time to time, including the securing of requisite building Land Use Permits, Building Permits, and certificates of occupancy, together with the requirements of all other applicable construction codes or regulations, shall be met to establish an accessory apartment.
5. The Fire Marshal shall review and approve any proposal to establish an accessory apartment to assure adequate fire safety.
6. The Morgan-Weber Environmental Health Department or Sewer Service provider shall review and approve any proposal to establish an accessory apartment to assure the premises conforms to the minimum requirements for sewage disposal.

## **42-4 Application Procedure**

The application for a Conditional Use Permit for an accessory apartment shall follow the guidelines in Chapter 22C. The following provisions shall also apply to the establishment of an accessory apartment:

1. A person seeking to establish an accessory apartment shall file an application for a Conditional Use Permit and pay the associated filing fee. The application is to be accompanied by complete floor plans, elevations, and interior layout drawn to scale, including alterations to be made to the existing dwelling exterior. Also, photographs of the dwelling exterior are to be submitted with the application. The application shall then be reviewed and either approved or denied by the Township Planning Commission in which jurisdiction the property lies.
2. Upon receipt of a Conditional Use Permit and Building Permit, and prior to issuance of a Certificate of Occupancy by the Chief Building Official, the Weber County Zoning Enforcement Officer shall inspect the premises. The Conditional Use Permit shall be reviewed for renewal every two (2) years.

## **42-5 Moderate Income Housing Provision**



In the interest of furthering the goals of providing increased affordable housing stock, it is desirable that provision for accessory apartments be established meeting the affordability guidelines established by the Weber County Moderate Income Housing Plan. Owners are encouraged to establish units in consideration of such guidelines.

1. To determine achievement of affordable housing designation, the owner shall provide a copy of the initial rental agreement indicating either the monthly or annual rent of the unit at the time of issuance of the Certificate of Occupancy.
2. The Planning Department Staff, pursuant to its established administrative requirements, shall review rental agreements every two (2) years as part of the Conditional Use approval in order to assure that the affordability of the accessory apartment is upheld and to keep records on numbers and availability of affordable housing.

## 42-6 Non-conforming Accessory Apartments

Any accessory apartment type unit remaining without a Conditional Use Permit after the date of **May 6, 2006** shall be deemed to be illegal and in violation of the zoning regulations and subject to such enforcement action and penalties which the law may prescribe.

## 42-7 Applicability to Non-conforming Units

Recognizing that there currently exists illegally established units of accessory apartments, provision is made under this subsection to allow such units to apply for and receive Conditional Use Permits for a period of one (1) year from the effective date of this ordinance. Upon expiration of this provision on May 6, 2007 this subsection shall become invalid and be removed from the zoning regulations. Existing units shall be reviewed subject to the following:

1. The request shall meet the provisions set forth in this ordinance.
2. The provisions of this ordinance for the establishment of an approved accessory apartment shall be waived only if found to create no violation of any local, state, or federal ordinance, law or regulation.



The **Accessory Apartments** has been re-formatted from the original for Internet accessibility, and may contain inadvertent errors and/or omissions. It is provided as a public convenience, for informational purposes only. Official Weber County Code Ordinances, in their original format, are available through the Office of the County Clerk/Auditor ([http://www1.co.weber.ut.us/Clerk\\_Auditor/](http://www1.co.weber.ut.us/Clerk_Auditor/)) and at the County Library Branches (<http://www.weberpl.lib.ut.us/content/business/hours/index.php>).

Retrieved from "[http://www1.co.weber.ut.us/wiki/index.php/Accessory\\_Apartments](http://www1.co.weber.ut.us/wiki/index.php/Accessory_Apartments)"

Category: Zoning Ordinance

## Details

**Title** Code City of Ann Arbor, Michigan

### Highlights



\* There is implicit recognition that some continue to discriminate in the provision of housing.

✓ Ann Arbor prohibits housing and other forms of discrimination.



\* There is implicit recognition that there should be alternative financing mechanisms for public infrastructure.

✓ Ann Arbor provides alternatives to impact fees and increased property taxes.



\* There is implicit recognition that the zoning ordinance does not provide for ways to reduce the cost of affordable housing.

✓ Ann Arbor allows accessory housing, home occupations and repairs to non-conforming uses.

**Description** Ann Arbor's City ordinances contain a number of sections that have an impact on affordable housing. The city exempts certain housing from property taxation in Section 1:651 and provides for the financing of infrastructure in Section 1:27. In addition the Code addresses residential occupancy in Section 5:7, accessory housing and home occupations in Section 5:10, non-conforming uses in Section 5:86 and housing discrimination in Section 9.150. In Section 1:651 Ann Arbor exempts certain housing from property taxation. Specifically, housing for the elderly is exempt if the owner pays a service charge of four percent of the contract rents of the previous year, and housing for low- and moderate-income households is exempt if the owner pays a service charge of ten percent of the annual shelter rents. These exemptions are in effect for a period not to exceed 50 years. In order to defray the cost of providing public infrastructure, the city provides two alternatives to property taxation. According to 1:272, the City will finance local public improvements using special assessments. The Council requires the City Administrator to determine the cost of the proposed improvements, which can include storm sewers, sanitary sewers, street grading, graveling and paving, curbs, gutters and sidewalks. The code also describes how costs are to be distributed to property owners. The city provides for an improvement charge to be levied against property owners of newly annexed property (Section 1:278) in order to pay for or reimburse the city for improvements that benefit the property. The City's occupancy code, found in Section 5:7 regulates the number of persons who can live in a residential dwelling unit. The city contends that this provides density control; preserves and enhances residential neighborhoods as stable, quiet places for citizens to live and raise children; protects safety and welfare; and maintains property values and ensures that adequate public and private facilities are available. The City's zoning ordinance also allows certain uses in single family neighborhoods that could impact housing affordability. The city allows accessory apartments in single family dwelling districts under certain conditions. (Section 5:10) The owner must live on the premises. The apartment cannot increase the

original square footage of the house by more than ten percent and cannot exceed 25 percent of the entire structure. In addition, the unit can only be occupied by those related to the owner and no rent can be charged. Ann Arbor also allows some home occupations in these same single family zones. The conditions placed on these uses include that the exterior appearance of the unit cannot show evidence of the home occupation, business vehicle trips cannot exceed a certain level, and parking must be provided on site. The code also lists a number of permitted and non-permitted home occupations. Ann Arbor's Code allows non-conforming uses to be continued which could impact low- and moderate-income housing in non-residential areas. The ordinance allows the continuance of non-conforming uses for an indefinite period unless damaged or destroyed. For residential uses in residential and non-residential areas the level of destruction must exceed 70 percent before the use must be brought into compliance with the code. (Section 5:86) The Ann Arbor City Council provides in Section 9:150 that no person shall be discriminated against because of actual or perceived race, color, religion, national origin, sex, age, height, weight, condition of pregnancy, marital status, physical or mental limitation, source of income, family responsibilities, educational association, sexual orientation, gender identity or HIV status. The ordinance describes a number of prohibited activities including discrimination in leasing or selling of real estate, maintenance of housing, or lending. This site was accessed in May 2003.

**Publication** 2003  
**Date**

