



118 Central Avenue North, New Prague, MN 56071
phone: 952-758-4401 fax: 952-758-1149

MEMORANDUM

TO: PLANNING COMMISSION
CC: KEN ONDICH, COMMUNITY DEVELOPMENT DIRECTOR
FROM: EVAN C. GARIEPY, PLANNER
SUBJECT: INFORMATION REGARDING ACCESSORY DWELLING UNITS
DATE: MAY 21ST, 2026

At the March 16th City Council meeting, when the Unified Development Code (UDC) was up for a second reading and adoption, the City Council removed the language permitting ADUs from the approved UDC.

The noted concern was that, in the City of Blaine, an ADU was proposed to be used potentially to house homeless people and families. The City Council inquired what restrictions can be put on ADUs, such as a minimum rental period of 30 days, or a requirement for rent to be paid (rather than making them available at no cost) to prevent ADUs from use by homeless people or families, and to bring back new language for consideration.

The Council requested the additional information regarding ADUs so that they can be re-considered for inclusion in the UDC. As this is an amendment to the UDC, it will be presented to the Planning Commission first.

Research of Other Cities ADU Regulations

I was unable to find any City that mandates rent is paid to prevent the ADU being used for people transitioning out of homelessness. This stipulation would also prevent family members, such as elderly or college-aged family, from taking residence in an ADU without paying rent. Any loophole, such as an elderly mother paying \$1/month in rent, would be a loophole available for any potential resident.

In the City of Stacy, 25 miles north of the Twin Cities and with a population of about 5,000 people, ADUs can only be allowed by family members, health care providers, or childcare providers – and solely for the purpose of taking place of an ill or disabled resident of the primary house. They mandate that ADUs are temporary and removable, and must take place in a temporary manufactured home or mobile home. This ordinance comes from the Township of Lent, which they merged with in 2023, and has not been revised since that merger. The City/formerly the Township also requires proof of a medical issue requiring care to permit an ADU, and they must renew annually. The City Clerk did not believe there had been any new ADUs in the City since the merge with Lent. I believe that, due to the more urban nature of New Prague, that requiring ADUs to be temporary in the form of manufactured or mobile homes would be detrimental. There are also legal and practical concerns with making sure that

someone within the household is being cared by someone within the ADU, which, in the case of Stacy, means proof of a medical issue from a resident.

City of Blaine

As the City Council mentioned, there are concerns that ADUs were being used to house homeless people and families in Blaine.

There is currently a lawsuit against the City of Blaine, due to the City Council denying a Conditional Use Application for an ADU solely due to the applicant's intent to use the ADU as a transitional home from people facing homelessness to get back on their feet.

The applicant worked closely with a non-profit that they were involved with. They applied to construct a detached ADU in their rear yard, for which any potential residents would be strongly vetted, including interviews and making sure that no residents were in active drug addiction. The residents would be paying rent, capped at 30% of their income. The family would continue to occupy the primary house, including with multiple young children, and they had no concerns regarding the residents they would rent the ADU out to.

A lawyer with the Institute of Justice is assisting the applicant in suing the City, and they "argue that Blaine wrongfully denied [the] application, which should have been authorized under Blaine law, and that the city did so unconstitutionally, because the denial was based on opposing the idea of who would be living in the ADU."

Notably, a portion of the lawsuit filed against Blaine is due to the City's attempt to restrict the definition of "family" of the applicant, as seen in point 101 below. The lawsuit is also based on the City Council's "irrational distinction" between allowing people to construct an ADU for family or market rate rentals, versus below-market rate rentals for low-income residents, as seen in point 105.

In my opinion, the lawsuit against Blaine shows that some of what the Council requested as restrictions cannot be enforced upon ADUs. The proposed ADU in Blaine was going to be rented/leased to people in a long-term, paying rental agreement with the homeowners, who would be occupying rather than renting out the main home.

Additional text from the filed suit:

100. The City Council's denial of Alex and Lynda's CUP application violates Alex and Lynda's right to establish a home because the City Council's desire to prohibit rental at below-market rates to low-income residents arbitrarily interferes with Alex and Lynda's ability to engage in conduct that is deeply rooted in the nation's history and tradition – namely, the right to establish and make a home in the manner in which you desire.

101. The City Council's denial of Alex and Lynda's CUP application violates Alex and Lynda's right to establish a home because the City Council's desire to prohibit rental at below-market rates to low-income residents arbitrarily interferes with Alex and Lynda's ability to engage in conduct that is deeply rooted in the nation's history and tradition – namely, to identify whom you count as "family" notwithstanding any government-created conception or understanding of the term.

105. The City Council’s denial of Alex and Lynda’s CUP application denies Alex and Lynda equal protection of the law because it was based upon an irrational distinction between who may build ADUs and who may not – those who would rate at below-market rates to low-income residents and those who would rent at market rates or to families.

City Attorney Comments

Staff reached out to the City Attorney regarding the concerns of the City Council and in particular if requirements could be added that 1. Rent must be paid and 2. Limit to Family Members or healthcare providers.

The City Attorney advised that requiring for rent to be paid would be very difficult and would have legal risk. There are constitutional arguments against it, and it would be functionally setting a minimum rent.

Regarding restricting ADUs to family members and caregivers, the City Attorney advised not doing so, at minimum until the City of Blaine’s lawsuit is settled.

They also pointed out information regarding the proposed regulation of short-term rentals against ADUs. Short-term rentals are currently a permitted use in all other residential zoning districts, and having this specifically imposed against ADUs requires that it is “reasonable, not arbitrary, and furthers a legitimate government purpose.”

Existing Language Pertaining to ADUs in the UDC

2.001 Rules and Definitions

Accessory Dwelling Unit (ADU) – A smaller, independent residential dwelling unit located on the same lot as a single-family or two-family dwelling.

ADU, Attached – An accessory dwelling unit which involves an addition to the principal structure on a property to allow for the new secondary unit.

ADU, Detached – An accessory dwelling unit which is separate from the principal structure.

Short-Term Rental – A rental dwelling or rental dwelling unit that is offered to transient guests for a period of less than 30 consecutive days.

Proposed Amendments related to ADUs for the Unified Development Code

The language presented was what was drafted for, but taken out of, the final draft of UDC. Deletions to the draft of the language have been ~~struck out~~ and additions have been underlined. All of the following would be an addition to the UDC.

5.001 - Use Chart

Accessory dwelling units – Conditional Permitted in the R-1, R-2 and R-3 Zoning Districts.

6.002 - Character and Building Standards

(F) Accessory Dwelling Units

(1) The following shall apply to all ADUs:

(a) An ADU shall only be allowed with an approved Conditional Use Permit on properties within the R-1, R-2, or R-3 Zoning Districts which have a single-family home present.

(b) Either the home or the ADU shall be occupied by the owner of the property. Proof of owner occupancy shall be recorded to the property.

(c) Utilities for the primary home and ADU shall not be separately metered, and water and sewer for the ADU shall be connected to the existing principal structure. The ability to establish an ADU may be denied by the City of New Prague if it is deemed that water or sewer capacities in the area are insufficient to serve the ADU.

(d) An ADU shall require one (1) additional off-street parking stall located on an improved surface in accordance with Section 6.002 (I).

(e) No more than one (1) ADU shall be permitted on a property, and the primary home and ADU shall share the address number but may be designated as different units (i.e. Unit 1 and Unit 2).

(f) An ADU shall be located on a permanent foundation.

(g) An ADU shall meet all architectural standards of the zoning district including consistency in color and material to the home, if applicable.

(h) The gross floor area of an ADU shall not exceed the gross floor area of the principal structure.

(i) An ADU shall not be sold independently of the principal residential dwelling and may not be placed on a separate tax parcel.

(j) ADUs shall not be utilized for short-term rentals as defined under Section 2.001.

(k) All yard setbacks required of the primary structure shall be met by an attached ADU.

(l) All ADU rental properties shall require a rental license in accordance with City Codes.

(m) All ADUs involving additional ground floor area will require a certificate of survey be submitted with the building permit application.

(2) Detached ADUs

- (a) A detached ADU shall be located within a side yard or rear yard of a lot unless otherwise authorized by a Conditional Use Permit.
- (b) The maximum floor area of a detached ADU shall not exceed the floor area of the principal structure or 1,064 square feet, whichever is less, unless otherwise authorized by a Conditional Use Permit.
- (c) A detached ADU shall adhere to the required side and rear yard setbacks of the underling zoning district.
- (d) A detached ADU shall maintain a minimum 10-foot separation from the primary dwelling.
- (e) The maximum height of a detached ADU shall not be greater than the height of the primary dwelling nor exceed the height maximum of the underlying zoning district.

Recommendation

Staff recommends that the Planning Commission discuss the proposed changes to the UDC relating to ADUs. If the Planning Commission wanted to continue with proposed amendments, a public hearing would be scheduled at the next Planning Commission meeting.