

CLERK'S OFFICE
AMENDED AND APPROVED

Date: 9-30-03

IMMEDIATE RECONSIDERATION
FAILED 9-30-03

Submitted by: Assemblymembers Tremaine,
VanEtten and Tesche
Prepared by: Planning Department
For reading: June 10, 2003

Anchorage, Alaska
AO 2003-97(AMENDED)

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE TITLE 21 BY ENACTING A NEW SECTION 21.45.035—ACCESSORY DWELLING UNIT(S) (ADUs); AMENDING OTHER SECTIONS THEREIN; AMENDING CHAPTER 14.60; AND AMENDING ANCHORAGE MUNICIPAL CODE OF REGULATIONS SECTION 21.20.007 ; TO PERMIT AND REGULATE ADUs.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 21.35.020 is hereby amended by adding the following: *(the remainder of the section is not affected and therefore is not set out.)*

21.35.020 Definitions and rules of construction.

Accessory Dwelling Unit (ADU) means a subordinate dwelling unit added to, created within, or detached from a single-family residence, that provides basic requirements for living, sleeping, cooking, and sanitation.

Section 2. That a new Section 21.45.035 of the Anchorage Municipal Code is enacted to read as follows:

21.45.035 Accessory Dwelling Units (ADUs).

A. *Purpose and Intent.* The purpose and intent of this section is to:

1. fulfill housing policy #15 of *Anchorage 2020: Anchorage Bowl Comprehensive Plan*, which provides that accessory housing units shall be allowed in certain residential zones;
2. provide a means for homeowners, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services;
3. allow more efficient and flexible use of existing housing stock and infrastructure;
4. respond to changing family needs and smaller households by providing a mix of housing;
5. stabilize homeownership and enhance property values;
6. provide a broader range of accessible and more affordable housing within the Municipality; and

7. protect neighborhood stability, property values, and single-family residential appearance of the neighborhood by ensuring that ADUs are installed under the provisions of this title.

B. *Application, Review, and Approval Procedures*

1. For the purposes of this section, *owner* shall mean any person named on the deed, a contract purchaser, or the beneficiary of a trust named on the deed.
2. Any owner operating or seeking to establish an ADU shall obtain a building permit from the building official; in areas of the Municipality where no building permit is required, the owner shall obtain a land use permit. The permit shall constitute an ADU permit.
3. With the permit application, the owner shall submit an affidavit on a form provided by the Municipality, affirming that at least one owner will occupy the principal dwelling or the accessory unit, and that the ADU will conform to the requirements of the permit and the requirements of this chapter.
4. The permit and the affidavit shall be filed as a deed restriction with the Anchorage Recording District to indicate the presence of the ADU, the requirement of owner-occupancy, and conformity with the requirements of the permit and the requirements of this chapter.
5. The Planning Department shall receive a fee from the applicant pursuant to AMCR 21.20.007.
6. For purposes of securing financing, potential owners may request and receive a letter of pre-approval from the Municipality indicating the property is eligible for an ADU permit if the potential owner completes the application process and construction in accordance with this section.

C. *Requirements.* All ADUs shall meet the following requirements:

1. *Purpose.* Requirements for accessory dwelling units address the following purposes:
 - a. ensure that accessory dwelling units maintain and are compatible with the single-family appearance and character of the principal residence, lot, and neighborhood;
 - b. ensure that accessory dwelling units are smaller in size than the principal dwelling on the lot, and preserve yards and open space;
 - c. provide adequate parking while maintaining the single-family residential character of the neighborhood, avoiding negative impacts to on-street parking, and minimizing the amount of paved surface on a site; and

- d. provide clear and flexible standards that make it practical and economical to develop accessory dwelling units that are in compliance with this code, and offer an accessible, affordable housing option to the community.

2. *Requirements for developing an ADU.*

- a. One ADU may be added to or created within a detached single family dwelling on a lot, tract, or parcel, but only if the detached single family dwelling is the sole principal structure on that lot, tract or parcel. ADUs shall be allowed in all zoning districts except R-1 and R-1A.

- b. One ADU detached from a [DETACHED] single family dwelling is permitted on a lot, tract, or parcel, but only if:

1. the lot, tract, or parcel is 20,000 square feet or greater and the ADU is attached to or above a garage and the detached single family dwelling is the only principal structure; or
2. the lot, tract, or parcel abuts an alley; the ADU is above a detached garage, the ADU/garage abuts the alley, and the detached single family dwelling is the only principal structure.

- c. *Lot coverage.* The lot coverage of the principal dwelling unit and all accessory structures combined, including but not limited to the ADU, shall be less than or equal to the maximum lot coverage allowed by the zoning district.

- d. *Uses.*

1. [NO HOME OCCUPATION IS ALLOWED IN THE ACCESSORY UNIT.] An ADU shall not be permitted on any lot with a bed and breakfast, day care, or family residential care.
2. The owner shall occupy either the principal dwelling unit or the ADU as his or her primary residence for more than six months of each year. [THE OWNER SHALL AT NO TIME RECEIVE RENT FROM THE OWNER-OCCUPIED UNIT.]
3. No more than two (2) people may live in the ADU.

- e. *Building Code Requirements.* To ensure that the dwellings meet appropriate health and fire safety standards, the ADU shall be built to the adopted Municipal building code standards for two-family dwellings.

- 1 f. *Size.*
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- 3 1. The gross floor area of the ADU, not including any related
- 4 garage, shall be no more than 35 percent of the total gross
- 5 floor area of the principal dwelling unit, but no [700 SQUARE
- 6 FEET, NOR] less than 300 square feet, shall not [NOR] have
- 7 more than two [ONE] bedrooms; and
- 8
- 9 2. In no case shall the total gross floor area of an ADU be more
- 10 than 35 percent of the total gross floor area of the principal
- 11 dwelling unit, excluding the ADU and garages.
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- 13 g. *Yard setbacks.* An ADU shall not encroach into any required yard
- 14 setback, except where the rear yard abuts an alley. The ADU may
- 15 encroach into the rear yard setback abutting an alley.
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- 17 h. *Parking.* One off-street parking space in addition to the parking
- 18 spaces required for the principal dwelling unit is required for the
- 19 accessory dwelling unit; but in no event shall there be fewer than
- 20 three parking spaces per lot. Notwithstanding the provisions of AMC
- 21 21.55.100, all off-street parking deficiencies shall be corrected.
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- 23 i. *Design and Appearance.*
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- 25 1. All ADUs shall be designed to maintain the appearance of the
- 26 primary unit as a single family dwelling. The accessory
- 27 dwelling unit shall maintain the architectural style and
- 28 character of the single-family residence. Exterior siding,
- 29 roofing, and trim shall match the appearance of the materials
- 30 on the principal dwelling unit. Roof style shall match the
- 31 predominant style of the principal dwelling unit. Exterior
- 32 window trim, window proportions (width to height), patterns,
- 33 and orientation (horizontal to vertical) shall match those of the
- 34 principal dwelling unit.
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- 36 2. The construction of an additional entry door on the side of a
- 37 principal structure facing a street for entrance into an
- 38 accessory dwelling unit is prohibited, unless no other entry
- 39 door already exists on that side. Entrances are permitted on
- 40 the non-street-facing sides of the principal structure.
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- 42 j. *Utilities.* To the extent allowed by law and utility tariff, the ADU
- 43 shall be connected to the water, sewer, gas, and electric utilities of the
- 44 single family dwelling unit. However, lots with on-site water or
- 45 septic systems may have a separate water and/or septic system for the
- 46 ADU.
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3. *Additional requirements for detached ADUs.*

- a. The ADU shall be at least 60 feet from the front lot line, or at least 10 feet (per 21.45.030.B) behind the front plane of the principal dwelling unit.
- b. The maximum height of a detached ADU shall be 25 feet.

D. *Density.* ADUs are not included in the density calculations for a site.

E. *Expiration of Approval of an ADU.* Approval of an ADU expires when:

1. the ADU is altered and is no longer in conformance with this code;
2. the property ceases to maintain the required off-street parking spaces for the accessory and/or principal dwelling units;
3. the owner of the property does not reside in either the principal or the accessory dwelling unit;
4. the ADU is abandoned by the owner through written notification to the Municipality on a form provided by the Municipality; or,
5. the property with an ADU changes ownership.

F. *Transfer.* An ADU permit is not transferable to any other property or any other person. When a property with an ADU is sold or otherwise transferred, the new owner shall file an affidavit of owner-occupancy with the Planning Department within 30 days of the transfer, and pay a processing fee pursuant to AMCR 21.20.007. Failure to file an affidavit by the due date constitutes failure to have a permit in violation of this section. Transfers from one owner to another owner do not require a new affidavit so long as the recipient owner signed the original affidavit.

G. *Prior Illegal Use.*

1. All structures which meet the definition of *Accessory Dwelling Unit* which are not recognized as legal nonconforming structures or uses of structures under chapter 21.55 shall comply with this subsection. Such structures may continue in existence provided the following requirements are met:
 - a. A permit application for an ADU is submitted to the Building Safety Division within six months of [the date of passage of this ordinance].
 - b. The unit complies with the requirements of this section.
2. If the unit does not comply with the requirements of this section at the time the permit application is filed, the administrative official may grant six months to bring the unit into conformance.

3. In addition to any other remedies provided in this code, failure to legalize an existing unit under this subsection shall result in civil penalties as provided at AMC 14.60.030. All owners of illegal units shall also be required to either legalize the unit or remove it.

4. This subsection does not apply to existing legal nonconforming uses of structures established pursuant to 21.55.050.

H. *Variances.* Nothing in this section guarantees any property owner the right to create an ADU unless it conforms to all provisions in this section. Limitations due to natural features, lot size, lot dimensions, building layout, or other physical or environmental factors shall not be reasons for granting a variance from the standards and provisions of this section. No variances shall be granted from the standards and provisions of this section.

Section 3. Anchorage Municipal Code of Regulations section 21.20.007 is hereby amended by adding a new subsection to read as follows: *(the remainder of the section is not affected and therefore is not set out.)*

21.20.07 **Schedule of fees - Miscellaneous fees.**

The fee schedule under this section is as follows:

V. Accessory Dwelling Unit processing fee \$100

Section 4. Anchorage Municipal Code section 14.60.030 is hereby amended by adding the following: *(the remainder of the section is not affected and therefore is not set out.)*

14.60.030 **Fine schedule.**

The fine schedule under this section is as follows:

<u>Code Section</u>	<u>Offense</u>	<u>Penalty/Fine</u>
21.45.035	Violation of ADU Regulations	<u>up to</u> \$300 per day

Section 5. Anchorage Municipal Code section 21.45.070 is hereby amended by adding the following: *(the remainder of the section is not affected and therefore is not set out.)*

H. An Accessory Dwelling Unit may encroach into the rear yard setback abutting an alley.

Section 6. This ordinance shall become effective upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 30th day of
September, 2003.

Dick
Chair

ATTEST:

Balene S. Gustafson
Municipal Clerk



MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM
NO. AM 704-2003

Meeting Date: September 9, 2003

From: Assemblymembers Doug VanEtten and Allan Tesche,

Subject: **AO 2003-97 Accessory Dwelling Units**

AO 2003-97 revises an earlier ordinance (AO 2003-47) which would allow Accessory Dwelling units (ADUs) within certain areas of Anchorage. The new AO 2003-97 incorporates virtually every change suggested by the Planning and Zoning Commission¹ with its recommendation of approval, and is supported by the municipal administration.

ADUs are widely used throughout the United States to provide modest, affordable housing, keep family members together, and to protect residential neighborhoods. Unobtrusive "mother-in-law" apartments over existing garages serviced by alleys, or ADUs attached to or on top of garages on larger lots provide much needed affordable housing in the private sector while enhancing the quality of life in established residential areas. Residential policy #15 of the *Anchorage 2020/Anchorage Bowl Comprehensive Plan* provides that "Accessory housing units shall be allowed in certain residential zones" and mandates implementation strategies for ADUs and related design standards.

Under AO 2003-97, an ADU could be added to a lot or parcel only if a detached, single family dwelling is the sole principal structure on that property. The ADU can be no larger than 35% of the gross square footage of the principal unit and could not exceed 700 square feet. Existing lot coverage limits apply to properties containing ADUs. Additional off-street parking will be required for ADUs. The units "shall be designed to maintain the appearance of the primary unit as a single family dwelling" and "maintain the architectural style and character of the single family residence." Roof styles and other exterior features shall match those of the principal dwelling. The maximum height is 25 feet. All of these requirements ensure ADUs to not degrade the fundamental character, appearance, or function of existing single family neighborhoods. Owner occupancy is required in either the principal or accessory structure. At no time shall rent be collected for the owner-occupied unit.

Existing structures meeting the requirements of the new law are grandfathered if a permit is obtained within six months of enactment. Provisions are made to allow existing units to be brought up to code requirements and allowed. Permits to operate an ADU are nontransferable and may be renewed by new owners after purchase in order to ensure continued compliance with standards.

¹ Only the Commission's recommendation that ADU's be allowed only in special overlay districts enacted under AMC 21.20.120 is rejected. The additional requirement that an overlay district be first enacted before a resident could build a small "mother in law" apartment over a garage is viewed as too bureaucratic, costly, and cumbersome.

1 This ordinance will contribute to implementation of the *Anchorage 2020 Plan* and
2 to assure local residents of affordable housing while protecting residential neighborhoods,
3 enactment of AO 2003-97 is recommended.
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6 Respectfully submitted,
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10 Doug Van Etten
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MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

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AM No. 720 -2003

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Meeting Date: September 9, 2003

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From: Mayor

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Subject: AO 2003-097 Accessory Dwelling Unit Ordinance

This ordinance would amend sections of Title 21, Title 14, and the Anchorage Municipal Code of Regulations to define Accessory Dwelling Units (ADUs), establish the standards and criteria by which ADUs may be erected, and create a schedule of fees and fines for ADUs. Accessory Dwelling Units were identified as an implementation strategy in *Anchorage 2020* to increase the supply of affordable housing.

AO 2003-047 was written by Assemblymember Van Etten and submitted to the Assembly on February 25, 2003. The Planning Department spent several months working with Assemblymember Van Etten and others to revise the original ordinance to address concerns raised by the Planning Department, several Community Councils, and concerned citizens.

This proposed ordinance was heard by the Planning & Zoning Commission on May 12, 2003. The Commission approved the ordinance on June 9, 2003, subject to several changes outlined below:

The Commission's recommended version

1. Created an ADU overlay district, pursuant to 21.20.140.
2. Allowed detached ADUs only over garages that abut an alley at the rear of the property.
3. Removed the provision that allowed detached ADUs on properties greater than 20,000 square feet, as well as two other minor provisions relating to detached ADUs.
4. Added a provision to allow potential owners to get a written determination from the Municipality regarding ADU eligibility for the purposes of securing financing on a property.

AO 2003-97 recommends the following changes to the Commission's recommendations:

1. Removes the overlay district provision.
2. For properties under 20,000 square feet, allows detached ADUs over garages that abut an alley at the rear of the property.
3. For properties greater than 20,000 square feet, allows detached ADUs attached to or above a garage.

The Administration feels that AO 2003-097 is an improvement over AO 2003-047. The ADU concept was recommended in the Anchorage 2020 Plan and we believe it has potential to add to the much needed supply of affordable housing. This ordinance merits the consideration of the Assembly.

1 Reviewed by:

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7 Denis LeBlanc
8 Municipal Manager
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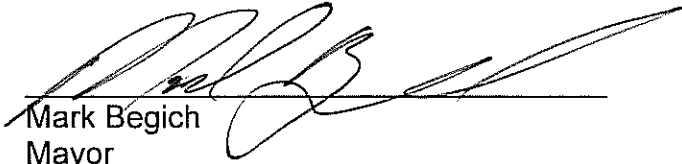
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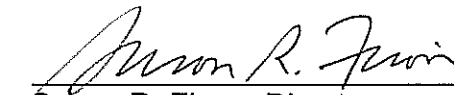


Mary Jane Michael, Executive Director
Office of Economic and Community
Development

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12 Respectfully submitted,

Prepared by:

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16 Mark Begich
17 Mayor
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Susan R. Fison, Director
Planning Department

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20 Attachments: A. Planning and Zoning Commission Resolution 2003-042
21 B. Planning and Zoning Commission Staff Packet dated May 5, 2003
22 C. Planning and Zoning Commission May 12, 2003, Minutes
23 D. Planning and Zoning Commission Staff Packet dated June 9, 2003
24 E. Planning and Zoning Commission June 9, 2003, Minutes
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MUNICIPALITY OF ANCHORAGE

PLANNING AND ZONING COMMISSION RESOLUTION NO. 2003-042

A RESOLUTION RECOMMENDING TO THE MUNICIPAL ASSEMBLY THE APPROVAL OF AN ORDINANCE WHICH WOULD AMEND TITLE 21 TO CREATE AN ACCESSORY DWELLING UNIT OVERLAY DISTRICT, IN WHICH ACCESSORY DWELLING UNITS COULD BE CONSTRUCTED IN ACCORDANCE WITH THE STANDARDS AND CRITERIA INCLUDED IN THE ORDINANCE.

(Case 2003-055)

WHEREAS, *Anchorage 2020 - Anchorage Bowl Comprehensive Plan* calls for Accessory Dwelling Units in Policy #15; and

WHEREAS, an ordinance was introduced by Assemblymember Van Etten, AO 2003-47, which amends Title 21 by adding a section allowing Accessory Dwelling Units (ADU); and

WHEREAS, planning staff worked with Assemblymember Van Etten and the Municipal Attorney's Office to create a substitute ordinance which provides standards and guidelines for ADU construction which address neighborhood concerns; and

WHEREAS, notices were published and a public hearing was held on May 12, 2003, on the substitute ordinance.

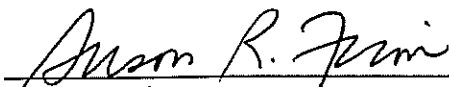
NOW, THEREFORE, BE IT RESOLVED by the Anchorage Planning and Zoning Commission that:

A. The Commission makes the following findings of fact:

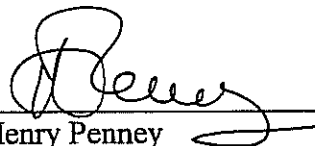
1. The Commission finds that this ordinance fulfills Housing Policy #15 of *Anchorage 2020 - Anchorage Bowl Comprehensive Plan*.
2. The Commission finds that accessory dwelling units are an innovative tool for addressing community housing needs.
3. The Commission finds that there is public concern with blanket application throughout the community without further public input.
4. The Commission finds that an overlay district puts the control over ADUs with the neighborhood and not in the zoning district.

B. The Commission recommends the approval of the substitute ordinance subject to the proposed Commission recommended changes.

PASSED AND APPROVED by the Anchorage Planning and Zoning Commission this 9th day of June 2003.



Susan R. Fison
Secretary



Henry Penney
Chair