

Council Agenda Report

Date: May 8, 2017

Submitted by: Odie Wheeler, Director of Public Works

Prepared by: Pat Escher, City Planner, A.I.C.P.

SUBJECT: Amend Section 9.2 to clarify or define ground floor retail, kitchens, food trucks, accessory dwelling unit, accessory structure, accessory apartments, and to coordinate appropriate definitions with section 4.2.3 A.2.

Recommendation: That Council

- A. Introduce Ordinance No. 1099 by reading title only; and
- B. Schedule May 22, 2017 for second reading, public hearing and adoption of Ordinance 1099.

As the Planning Commission continues to use the UDC it becomes apparent that there are areas which need to be amended to clarify the overall intent of the document and facilitate the review process. The definitions section of the UDC is one such area where Planning Commission has discovered discrepancies and there needs to be some clarification. At their January 3rd hearing, the Planning Commission unanimously recommended that the City Council adopt the proposed text amendments.

- Firstly, there are numerous definitions defining “accessory” that need to be better coordinated within the definition section and with the text portion of the UDC.

Accessory Apartment

In the UDC there is no recognition of buildings with one accessory apartment, which do not conform to the standards of Accessory Dwelling Units or duplex. The UDC defines Multi-family dwelling units as having three or more dwelling units, a Duplex as a two family dwelling and a Single Family dwelling. However, buildings with two units which may or may not be owner occupied exist in the City, but are not recognized by the zoning ordinance. Therefore, Planning Commission is recommending that accessory apartments be defined as follows:

Accessory Apartment- a separate complete living quarter that is totally contained within the structure of a single-family dwelling, or a commercial structure. It is designed and occupied as a residential dwelling unit and includes kitchen, sleeping, and sanitary facilities.

Accessory Building

The current definition of an accessory building allows for accessory uses to be a portion of the main building, but does not clarify at what point it becomes subject to the modified setbacks/bulk requirements for accessory buildings as codified in Section 5.1.3. Therefore, Planning Commission recommends amending the definition, for further clarity, as follows:

Accessory Building- an accessory building is a subordinate building, which is structurally detached, but on the same property as a primary building ~~or a portion of the main building~~, the use of which is clearly incidental to or customarily found in connection with, ~~and~~ (except as otherwise provided in this Ordinance) ~~located on the same lot as the main building or the~~ principal use of the land. If structurally attached, as may be only in the case of an Accessory Dwelling Unit, the accessory unit shall conform to the same yard and bulk requirements as the primary structure.

Accessory Dwelling Unit

Similarly, to the definition for accessory buildings, Planning Commission recommends altering the existing definition of accessory dwelling unit for further clarity as follows:

Accessory Dwelling Unit- a separate complete living quarter that is either ~~substantially completely~~ contained within the structure of an owner occupied, primary, single-family dwelling unit, or a commercial structure, ~~structurally attached to the structure of an owner occupied, primary, single-family dwelling unit, or commercial structure, or located on the same parcel as the principal use.~~ An ADU shall never consist of more than 40 percent of the area of the principal unit, contain more than 900 and less than 300 square feet, have a footprint of greater than 700 feet, or have more than two bedrooms. See also interior ADU, attached ADU and detached ADU.

- Interior ADU- a separate complete living quarter that is completely contained within the structure of an owner occupied, primary, single-family dwelling unit or commercial structure.*
- Attached ADU- a separate complete living quarter that is structurally attached and tied to an owner occupied, primary, single-family dwelling unit or commercial structure and which is subject to the same yard and bulk requirements as the primary structure.*
- Detached ADU- a separate complete living quarter that is structurally detached from, but on the same property as, an owner occupied, primary, single-family dwelling unit or commercial structure and which is subject to the same building restrictions as accessory buildings.*

In order to accommodate the revised definition of Accessory Dwelling Unit, Section 4.3.2 (A) 2 and Section 4.4.4 (A) 1 will also require revision as follows:

2. Primary residence with (one) accessory dwelling unit (ADU)

An accessory dwelling unit (ADU) to a primary residence shall be a Special Exception with Conditions (SC) in the NC-1, NC-2, NC-3, and NC-4 districts and in the R, CMU, and MR districts subject to the following conditions:

- a. The lot shall either meet or exceed the minimum size requirements for a single-family detached lot, or a corner commercial lot in the district where located or be at least 5,000 square feet in size, whichever is greater, the only principal use on the lot at the time of application is a detached single-family dwelling or commercial use which has been approved by the Board of Zoning Appeals, and which is already in operation, and the existing dwelling unit is the principal residence of the applicant(s).
- b. *The owner of the property on which the ADU would be located shall reside in or own a business in at least one of the units on the lot at all times.*
- c. *In no case shall the ADU: be more than 40 percent of the area of the principal unit, contain more than 900 and less than 300 square feet in area, have a footprint greater than 700 square feet, or have more than two bedrooms.*
- d. *There shall be no more than one ADU permitted per existing single-family dwelling or corner commercial business.*
- e. *If the ADU's primary entrance is not the same as that of the principal dwelling unit, it shall be less visible from the street view than the main entrance of the principal dwelling unit and the ADU's stairway may not be constructed on the front of the principal dwelling unit or any side visible from a public right-of-way.*
- f. *At least one off-street parking space is required per ADU. The Board of Appeals may permit off-street parking in setback areas or through tandem parking if the off-street parking would not block access by emergency vehicles to the principal dwelling unit or ADU and it is permitted and occurs in the neighborhood.*

The language is the same for Section 4.4.4 (A) 1, regarding the General, Center, Neighborhood and Gateway sub-districts, and should also be amended accordingly.

- Secondly, in recent months, several inquiries have been made regarding the permissibility of food trucks, both stationary and transient, in the City. Currently, while the UDC does address temporary and/or seasonal uses, it does not address permanent or long term, mobile food uses. Planning Commission has reason to believe that a marked increase in requests for this use is imminent. Therefore, Planning Commission recommends that food trucks be defined as follows:

Food Truck

Food truck- a mobile or stationary truck, van, trailer, wagon or other vehicle which is capable of being moved, is associated with a specific property/use, and which in the Downtown, Core zoning district shall always be stationary, and which sells, distributes or otherwise provides food items prepared in the vehicle. Not to include vegetable/farm

stands, delivery vehicles, non-stationary ice cream trucks, fundraisers, or activities covered under a temporary/seasonal use special exception.

- Thirdly, it has come to the Planning Commission's attention that there are buildings in the downtown that are too deep to sustain a successful retail environment. The UDC currently requires that ground level retail occupy the entire first level. A general rule of thumb, as demonstrated by market studies, shows that the optimum depth for retail depth is between 50 and 75 feet. Currently, there is no provision for tandem uses on the ground level floor in the downtown for buildings that are in an excess of 75 feet, Therefore, Planning Commission recommends to define Ground Floor Retail, and to include in that definition language permitting a second use in the rear of a ground floor, as long as the second use is otherwise permitted in the zoning district.

****Planning Commission notes that should this definition be acceptable to the Council, Section 4.4 and the Permitted Uses Table will need to be amended to allow residential uses on the first floor pursuant to the proposed definition.*

Ground Floor Retail

Ground Floor Retail – Retail space located on the ground floor of a mixed use building, occupying a minimum of the first 50 to 75 feet of forward portion of the building with any use otherwise permitted in the zoning district allowed to fill the rear of the building.

Kitchen

- Lastly, the Planning Commission and the City Attorney, opines that for the purposes of zoning code enforcement, a separate “unit” or “apartment” is demonstrated by the presence of a kitchen. When requiring the conversion of a property back to a permitted use, staff has required that the kitchen be removed. This stance therefore requires the formal definition of a “kitchen”. Staff recommends that a kitchen be defined as follows:

Kitchen – The minimum necessary to establish a section of a dwelling unit as a kitchen will be at least 50 sf of defined floor area, a 220 electrical outlet and associated wiring and/or an active gas line servicing a working stove.

Fiscal Impact: NA

Approved by: Sandra Tripp-Jones, City Manager



PROPOSED ORDINANCE

ORDINANCE NO. 1099

AN ORDINANCE OF THE COMMISSIONERS OF CAMBRIDGE, MARYLAND TO AMEND SECTION 9.2 OF THE CITY'S UNIFIED DEVELOPMENT CODE TO CLARIFY OR DEFINE THE TERMS "ACCESSORY APARTMENT", "ACCESSORY BUILDING", "ACCESSORY DWELLING UNIT", "FOOD TRUCK", "GROUND FLOOR RETAIL", AND "KITCHEN" AND TO AMEND SECTIONS 4.2.3(A)(2)(a) AND 4.4.4(A)(1) OF THE CITY'S UNIFIED DEVELOPMENT CODE TO COORDINATE SUCH SECTIONS WITH THE TERM "ACCESSORY DWELLING UNIT" AS CLARIFIED; PROVIDING THAT THE TITLE OF THIS ORDINANCE SHALL BE DEEMED TO BE A FAIR SUMMARY, AND GENERALLY RELATING TO THE CITY'S UNIFIED DEVELOPMENT CODE.

WHEREAS, on January 3, 2017 the City of Cambridge Planning Commission (the "Planning Commission") held a public hearing and issued recommendations regarding the proposed text amendments to the City's Unified Development Code (the "UDC") set forth herein; and

WHEREAS, the Planning Commission unanimously recommended that the Commissioners of Cambridge (the "Commissioners") approve the text amendments to Section 9.2 of the UDC to clarify or define the terms "accessory apartment", "accessory building", "accessory dwelling unit", "food truck", "ground floor retail", and "kitchen" and to Sections 4.2.3(A)(2)(a) and 4.4.4(A)(1) of the UDC to coordinate such sections with the term "accessory dwelling unit" as clarified; and

WHEREAS, the Commissioners find that it is in the best interest of the City of Cambridge (the "City") to amend Section 9.2 of the UDC to clarify or define the terms "accessory apartment", "accessory building", "accessory dwelling unit", "food truck", "ground floor retail", and "kitchen" and to amend Sections 4.2.3(A)(2)(a) and 4.4.4(A)(1) of the UDC to coordinate such sections with the term "accessory dwelling unit" as clarified; and

WHEREAS, upon the consideration of the recommendations of the Planning Commission and the staff of the Department of Planning & Zoning, as well as the comments made during the Planning Commission's January 3, 2017 public hearing, the Commissioners find that the proposed amendments are needed to promote and protect the public's health, safety, and welfare; and

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of Cambridge that the City's Unified Development Code be and it is hereby amended as follows:

SECTION 1. Section 4.2.3 (Standards for Conditional and Special Exception Uses) is amended as follows:

The following conditions and specific standards apply to land uses designated C (Conditional), SE (Special Exception) and SC (Special Exception with Conditions) in Tables 1 and 2 of this Ordinance. The applicable conditions shall be satisfied during the period of the use and occupancy.

A. Residential Uses

2. Primary residence with (one) accessory dwelling unit (ADU)

An accessory dwelling unit (ADU) to a primary residence shall be a Special Exception with Conditions (SC) in the NC-1, NC-2, NC-3, and NC-4 districts and in the R, CMU, and MR districts subject to the following conditions:

- a. The lot shall either meet or exceed the minimum size requirements for a single-family detached lot or a corner commercial lot in the district where located or be at least 5,000 square feet in size, ~~whichever is greater~~, the only principal use on the lot at the time of application is a detached single-family dwelling or commercial use which has already been approved by the Board of Zoning Appeals, and which is already in operation, and the existing dwelling unit is the principal residence of the applicant(s).

SECTION 2. Section 4.4.4 (Standards for Conditional and Special Exception Uses) is amended as follows:

The following conditions and specific standards apply to land uses designated C (Conditional), SE (Special Exception) and SC (Special Exception with Conditions) in Table 2 of this Ordinance. The applicable conditions shall be satisfied during the period of the use and occupancy.

A. Accessory Dwelling Unit (ADU) to a Primary Residence

Subject to the following conditions, an ADU to a primary residence shall be a Special Exception Use with Conditions (SC) in the General, Center, Neighborhood and Gateway subdistricts:

1. The lot shall either meet or exceed the minimum size requirements for a single-family detached lot or a corner commercial lot in the district where located or be at least 5,000 square feet in size, whichever is greater, the only principal use on the lot at the time of application is a detached single-family dwelling or commercial use which has already been approved by the Board of Zoning Appeals, and which is already in operation, and the existing dwelling unit is the principal residence of the applicant(s).

SECTION 3. Section 9.2 (Terms and Definitions) is amended as follows:

§ 9.2 Terms and Definitions.

Accessory Apartment – a separate complete living quarter that is totally contained within the structure of a single-family dwelling, or a commercial structure. It is designed and occupied as a residential dwelling unit and includes kitchen, sleeping, and sanitary facilities.

Accessory Building – an accessory building is a subordinate building, which is structurally detached, but on the same property as a primary building or a portion of the main building, the use of which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this Ordinance) located on the same lot as the main building or the principal use of the land. **If structurally attached, as may be only in the case of an Accessory Dwelling Unit, the accessory unit shall conform to the same yard and bulk requirements as the primary structure.**

Accessory Dwelling Unit – a separate complete living quarter that is either substantially completely contained within the structure of an owner occupied, primary, single-family dwelling unit, or a commercial structure, **structurally attached to the structure of an owner occupied, primary, single-family dwelling unit, or commercial structure,** or located on the same parcel as the principal use. **An ADU shall never consist of more than 40 percent of the area of the principal unit, contain more than 900 or less than 300 square feet, have a footprint of greater than 700 feet, or have more than two bedrooms. See also interior ADU, attached ADU, and detached ADU.**

- **Interior ADU** – a separate complete living quarter that is completely contained within the structure of an owner occupied, primary, single-family dwelling unit or commercial structure.
- **Attached ADU** – a separate complete living quarter that is structurally attached and tied to an owner occupied, primary, single-family dwelling unit or commercial structure and which is subject to the same yard and bulk requirements as the primary structure.
- **Detached ADU** – a separate complete living quarter that is structurally detached from, but on the same property as, an owner occupied, primary, single-family dwelling unit or commercial structure and which is subject to the same building restrictions as accessory buildings.

Food Truck – a mobile or stationary truck, van, trailer, wagon, or other vehicle which is capable of being moved, is associated with a specific property/use, and which in the Downtown/Waterfront Development Zoning District – Core -Subdistrict shall always be stationary, and which sells, distributes, or otherwise provides food items prepared in the vehicle. **Not to include vegetable/farm stands, delivery vehicles, non-stationary ice cream trucks, fundraisers, or activities covered under a temporary/seasonal use special exception.**

Ground Floor Retail – Retail space located on the ground floor of a mixed-use building, occupying a minimum of the first 50 to 75 feet of forward portion of the building with any use otherwise permitted in the zoning district allowed to fill the rear of the building.

Kitchen – The minimum necessary to establish a section of a dwelling unit as a kitchen will be at least 50 square feet of defined floor area, a 220-volt electrical outlet and associated wiring and/or an active gas line servicing a working stove.

SECTION 4. The recitals to this Ordinance are incorporated herein and deemed a substantive part of this Ordinance.

SECTION 5. In this Ordinance, unless a section of the City Code of Laws is expressly repealed in its entirety and reenacted, new or added language is underlined and in boldface type, and deleted text is crossed out with a single strikethrough. Language added after the date of introduction is in bold, italicized font and language deleted after the date of introduction is crossed out with a double strikethrough.

SECTION 6. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance, it being the intent of the Commissioners that this Ordinance shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion hereof.

SECTION 7. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 8. The title of this Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

AND BE IT FURTHER enacted and ordained that this Ordinance shall become effective on the tenth (10th) day following the date of passage.

ATTEST: THE COMMISSIONERS OF CAMBRIDGE

Sandra Tripp-Jones, City Manager

By: _____
Victoria Jackson-Stanley, Mayor

Introduced the __ day of _____, 2017
Adopted the __ day of _____, 2017
Effective the __ day of _____, 2017