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# MILWAUKIE ADU CODE AUDIT SUMMARY

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To: Alma Flores, Community Development Director, City of Milwaukie

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Figure 1: An Accessory Dwelling Unit (ADU).

## What is an ADU?

An Accessory Dwelling Unit (ADU), also known as a granny flat, carriage house, in-law unit, accessory apartment, au-pair suite, guest house, or backyard cottage, is a self-contained home with its own kitchen, bathroom, and sleeping area, located on the same property as a larger, principal dwelling.

ADUs can be detached, attached, or internal to the primary home. They represent an opportunity to diversify the housing market, and use urban land more efficiently. They can provide housing

options that can match peoples’ needs at different life stages and incomes, allowing people to age in community by helping to provide adaptability and financial resiliency.

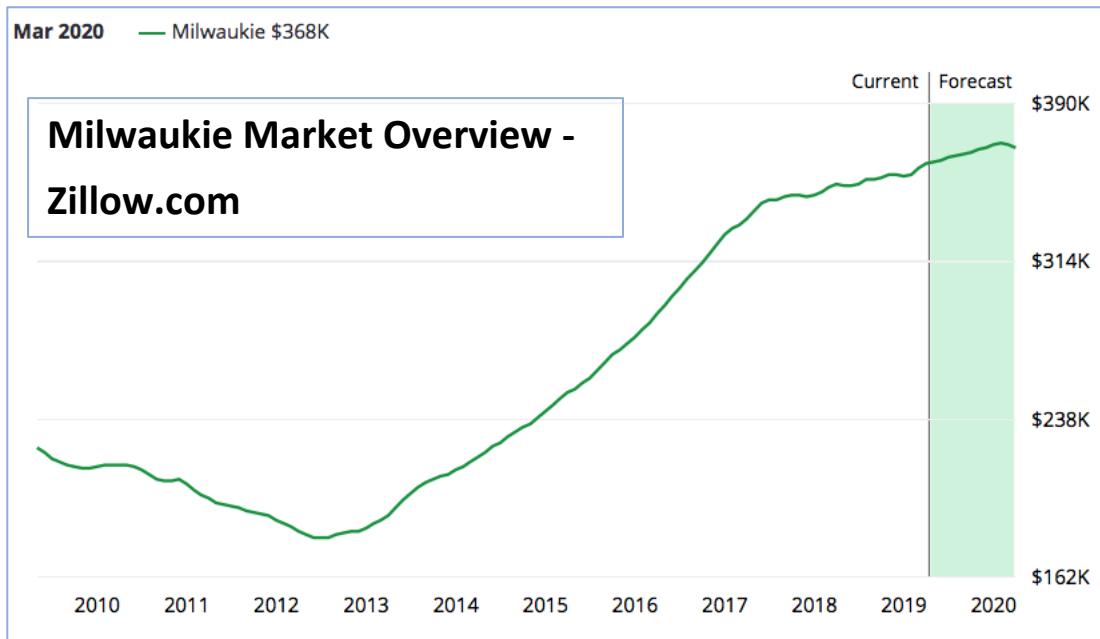


Figure 2: Milwaukie market price changes, 2010 to 2019 and projected.

## Introduction: Project Purpose & Goals

As the Orange Line has arrived for service in Milwaukie, Milwaukie’s housing market has also “arrived” as the city has become an increasingly desirable place to live for regional buyers and renters. Reflecting this, housing values in Milwaukie have nearly doubled since 2012. Now, nearly a third of Milwaukie households spend over 50% of their income on housing. As more and more residents become cost-burdened, and with fierce competition for the limited housing options available on the market, many Milwaukie residents are being priced out of the community.

This local manifestation of the Portland region’s housing crisis represents an opportunity to capitalize on market strength to expand housing options in Milwaukie, with affordable units that fit the neighborhood, allowing locals to add income that enables them to stay in their community.

Towards this end, Cascadia Partners has partnered with the City of Milwaukie to provide a rapid assessment of the existing zoning code standards and fees related to Accessory Dwelling Units (ADU), and develop recommendations aimed at enabling the development of more cost-effective ADUs in the city. The City has identified the key issues to address regarding ADU's to be: Parking, Street/Sidewalk Improvement Requirements, SDC's and Building Code obstacles, to name a few.



## Process Description

Cascadia has complemented existing in-house research with an audit of the existing regulations that an ADU must comply with to receive plan approval to build in Milwaukie. This includes the identification of code, incentive, fee, and other regulations that are acting as an impediment to the development of ADUs in Milwaukie. City staff provided Cascadia with zoning excerpts that pertain to ADUs, and a summary of relevant fees.

Cascadia then tested various scenarios for the development of ADUs in the context of the existing housing market in Milwaukie with guidance of City Staff and the ADUWG, in order to identify regulatory and market forces at work that may be acting as a drag on the feasibility of the development of ADUs. Development of ADUs includes: units in basements, attached garages, or other conversion of or additions to an existing structure (attached); and new or converted stand-alone structures (detached).

Pro formas have been produced to test ADU development under the current regulatory structure, as well as under proposed new code resulting from changes recommended through this process. These pro formas have been used to perform sensitivity testing of the existing and proposed code in order to determine potential effects on unit pricing in the market.



Figure 3: An ADU that has been successfully designed, permitted, constructed, and lived in.

## Background Research

Cascadia Partners performed a significant amount of background research into ADUs, including: a detailed look at case studies of ADU regulations in other cities provided by Milwaukie city staff and performed by Cascadia Partners; a detailed review of Metro's Build Small Coalition ADU zoning code audit report; and critical consideration of the guidance from the Oregon Department of Land Conservation and Development (DLCD) on the implementation of Senate Bill 1051 and House Bill 4031.

### ADU Best Practices

The review of existing best practices from other jurisdictions revealed a number of take-aways, including:

- Allowing ADUs to be accessory to any single-family (detached or attached), or multi-family residence
- Allowing lot coverage up to 60%



- Allowing the height to be controlled by the base zoning, and not separately regulated, if outside of setbacks
- Allowing ADUs up to 14-15' in height within setbacks
- Allowing ADUs up to 1,200 sq ft in size
- No size restriction on internal ADUs not accessible on the interior from the primary unit
- ADUs are exempt from density restrictions
- Allow ADUs to be located within setbacks
- Allow on-street parking to count towards parking minimums
- ADUs do not trigger street improvements
- Waive SDCs for ADUs
- Expedite ADU review and permitting processing

#### [Metro/Build Small Coalition ADU zoning code audit report \(September, 2018\)](#)

This report summarizes the results of a code audit conducted of ADU regulations in cities across the Portland metro region, in order to better understand the relationship between regulatory conditions and ADU production outcomes in each jurisdiction.

The regulatory barriers that the study recommends removing in order to reduce barriers to ADU production include:

- Owner-occupancy requirements
- Occupancy limits
- Design standards, especially those requiring “similar” materials and character as the primary dwelling
- Off-street parking requirements
- ADU height limits
- ADU size limits
- Property line setback requirements
- SDCs that pose significant financial barriers
- Lot size restrictions
- Restrictions on the number of doors facing the street
- Standards for ADUs that are more restrictive than standards for other types of accessory structures or additions to primary structures
- Infrastructure requirements, including frontage improvements, sewer service, and water service
- Lack of easily-accessible, widely-promoted public information on standards and incentives for ADUs



### [DLCD guidance on implementing the ADU requirements of OR SB 1051 and HB 4031](#)

This report, from March of 2018, provides guidance to cities and counties on the implementation of the portions of this legislation that apply to ADUs, including model code language. Its primary recommendations include:

- Allow at least one, and consider allowing two, ADUs per each single family dwelling
- Apply the same, or less restrictive, development standards to detached ADUs as those for other accessory buildings
- Consider limits to impermeable surfaces rather than simply lot coverage by structures, in order to address stormwater concerns
- Allow any legal nonconforming structure to contain or be converted to an ADU as long as the development does not increase the nonconformity
- Only use clear and objective design standards; such standards do not contain words like “compatible” or “character”
- Do not use any special design standards for ADUs above and beyond those required of primary structures
- Do not require any additional parking for ADUs
- As an alternative to requiring off-street parking for ADUs, local governments can implement a residential parking district if there is an on-street parking supply shortage
- Do not require owner occupancy of either the primary or accessory dwelling unit, as these are difficult to enforce, and can impair the ability to obtain financing
- Do not require ADUs to have separate sewer and water connections, as these create barriers to building ADUs; allow property owners to provide separate connections if they want to
- Review SDCs to ensure they match the true impact of ADUs so that they do not represent a barrier to development
- Allow ADUs to exceed the size limit (of 800 square feet per Accessory Dwelling) if they result from the conversion of a level or floor of the primary dwelling unit, such that the ADU is allowed to occupy the entire level or floor, even if the floor area of the resulting Accessory Dwelling would be more than 800 square feet

### **Code Audit and Sensitivity Analysis Results**

A code audit using pro-forma-based sensitivity testing was performed in order to determine the potential price points for ADUs, and thus their ability to provide workforce housing and/or serve as “mortgage helpers” that could help their owners remain in community and avoid displacement due to rising costs of living, changes in income, or other circumstances.



## Physical Scenarios

In order to perform the sensitivity analysis testing, three physical scenarios were chosen for analysis.

1. **One main house.** A large single-family house was chosen based on recent market activity in Milwaukie. This scenario includes a single new-build 2,350 sq ft home on a 7,000 square foot lot in the R7 zone with 4 bedrooms and 2.5 bathrooms, which would have sold for \$575,750.
2. **One main house + one ADU.** This scenario assumes that the large house is internally divided into one primary and one accessory dwelling unit, which could be converted from existing basement space or from some other portion of the original structure. What remains is a 1,550 sq ft primary home that might be worth \$395,250, and an attached 800 sq ft ADU that might be worth \$195,800.
3. **One main house + two ADUs.** This scenario assumes that the primary home has been divided up into a primary unit and an internal, attached ADU; and that additionally, a new detached ADU has been constructed as a separate structure in the yard.

## Policy Scenarios

In addition to the three physical scenarios, three policy scenarios were also tested:

1. **Existing baseline.** The existing Milwaukie municipal code requirements.
2. **Remove parking requirements.** The costs of constructing an additional parking space were removed from pro formas, to simulate the effect of waiving the requirement that each ADU be served with one dedicated off-street parking space.
3. **Remove parking requirements and fees.** In addition to the costs of parking, the costs of System Development Charges (SDCs), impact fees, and fees in lieu of frontage infrastructure improvements were removed from pro formas. This revealed the reductions in cost that could be achieved if these fees weren't due.

## Tenure Scenarios

For each combination of physical and policy scenario, two tenure scenarios were also tested:

1. **Ownership.** ADUs sold individually, whether as condominium units, as a part of a Tenancy In Common (TIC), a cooperative, or using some other legal instrument allowing for the sale of the ADU separate from the primary dwelling unit.
2. **Rental.** ADUs rented out individually, whether by the owner while they live in another unit on-site, by an owner who lives elsewhere, or by an investor. A variation of this scenario was also tested where the owner lives in an ADU and rents out the primary dwelling unit, in order to fully flesh out the ADU as a mortgage helper strategy.



### Introduction to Area Median Income (AMI) for Milwaukie

To determine the potential policy effects on the provision of workforce housing in Milwaukie, sales and rental price estimates were compared to the Area Median Income (AMI) for Clackamas County, OR. Each year, the United States Department of Housing and Urban Development (HUD) calculates the median income for every metropolitan region and county in the country.

For the calendar year 2017, this figure was \$74,700 for Clackamas County, OR. This annual income supports a maximum monthly housing payment of \$1,868. Estimated monthly rents and mortgage payments were compared against this budget to produce estimates of the “% AMI” that each payment represents.

One identified weakness of this approach is that the countywide AMI is likely higher than a municipal AMI for the City of Milwaukie would be. This is because Clackamas County also includes jurisdictions like Happy Valley that contain a high number of large new-construction homes that are usually purchased by households with two incomes, as well as jurisdictions like Lake Oswego that are traditionally filled mostly with upper-income households.

As a result, it’s especially critical for Milwaukie that the goalposts for workforce housing affordability not simply be set at 100% of AMI. Instead, the goal should be to allow the market to produce housing products that come in at as low a % of AMI as possible, knowing that Milwaukie incomes tend to be lower even than the countywide median.



## Code Audit Sensitivity Testing Results

The results of the code audit sensitivity testing clearly show that, with some proposed policy shifts, ADUs can provide a policy win-win for Milwaukie by providing a pathway to the provision of new workforce housing within existing neighborhoods, and by helping to stabilize those neighborhoods by allowing existing residents to add units with income potential that can act as “mortgage helpers” to allow them to stay in community.

### SENSITIVITY TESTING

*How do different policies affect the price of ADUs?*

	Cost Per Unit	Housing Situation	Monthly Rent Per Unit	
LESS AFFORDABLE ↑ ↓ MORE AFFORDABLE	\$575,800	Standard single-family home	\$0	
	\$395,300	Single-family home	\$0	
	\$195,800	Attached ADU	\$1,160 (62% AMI)	
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	\$395,300	Single-family home	\$0	
	\$195,800	Attached ADU	\$1,160 (62% AMI)	
	\$240,600	Detached ADU	\$1,780 (95% AMI)	
	<b>Remove Parking Requirement</b>			
	\$395,300	Single-family home	\$0	
	\$195,800	Attached ADU	\$1,130 (60% AMI)	
<b>Remove Parking Requirement; Remove SDCs</b>				
\$395,300	Single-family home	\$0		
\$184,800	Attached ADU	\$1,040 (56% AMI)		
\$217,800	Detached ADU	\$1,660 (89% AMI)		

Figure 4: Code audit sensitivity testing results.

## Policy Recommendations

In order to encourage the construction of additional ADUs in Milwaukie, Cascadia Partners offers this comprehensive set of policy recommendations, based on lessons learned from pro forma-based policy sensitivity testing, best practices from other jurisdictions, the results of Metro's ADU code study, and the guidance from DLCD on implementation measures related to SB 1051.

### [ADU quantities and contexts](#)

Allow ADUs to be accessory to both detached and attached (townhome) single-family homes. Allow up to two ADUs on each lot, which could be either internal/attached and/or external/detached from the primary unit. Allow property owners to decide whether the ADUs are to be located in the yard or within an existing home.



Figure 5: A Carriage House ADU located at the property line.



### Review type

A Type II review would be required to place an ADU above 15 feet in height within the setbacks, such as a carriage house, that is, an ADU above a garage with the garage door located at the property/sidewalk line. All other ADUs that meet the clear and objective standards of the proposed code would only be subject to a Type I review (by-right, non-discretionary). Eliminate code language containing the term "compatible", which encourages a subjective interpretation of the code and thus does not qualify as "clear and objective" code language.

### Size

Allow ADUs up to 900 square feet in total area, regardless of the size of the primary home. For the case of ADUs resulting from the conversion of a level or floor of a home (such as the basement, attic, or second story), allow the ADU to fill the entire footprint of the floor or level, regardless of the total size of the floor area of the resulting ADU, up to 1,200 sf in size. For Fair Housing Act (FHA)-accessible/adaptable units, provide a 15% size bonus to the allowable size to encourage greater provision of adaptable, accessible housing that can accommodate an aging and diverse population.

### Lot coverage

Add a 10% bonus in lot coverage for ADUs. Existing code provides for a 5% bonus. 10% is more meaningful, especially on smaller lots where the existing home may come closer to the maximum lot coverage already. 20% is already given for duplex/townhome units, so 10% is a reasonable compromise for ADUs.

### Parking

Remove requirement for one parking space per ADU. If the ADU is displacing the only parking space on a lot, which is required for the primary residence, allow that space to be replaced on-street, and require that the street frontage be brought up to city standards if it will be used to satisfy the parking requirement for the primary dwelling. Also, allow parking in the first twenty feet of driveway behind the sidewalk to count towards the required parking for the primary home.

Add bicycle parking requirements of 1.5 dry, secure bicycle parking spaces per each ADU where no off-street car parking is provided, plus 0.5 guest bicycle parking spaces. All parking requirements are rounded up to the nearest whole number. Secure, dry bicycle parking may be provided either in a separate bicycle parking facility (shed or room in another structure or elsewhere within the same structure), or within the ADU unit area. Guest bicycle parking may be provided anywhere on the lot, or adjacent to the sidewalk in the planter strip between the lot and the street curb, subject to public works requirements including those for minimum clear sidewalk width.

### Design standards

Do not require any design standards for ADUs that aren't also required of single-family homes or duplexes. For example, eliminate requirements for pitched roofs on ADUs, if single-family homes and duplexes are not also required to have pitched roofs. Remove the requirement that only the front door of the primary dwelling unit be allowed to face the street; duplexes are already allowed in these zones, so this requirement serves no purpose.

Add a design standard for ADUs relating to street-facing windows, allow it to count as one of the two design standards that an applicant must meet.

### Privacy standards

Allow for privacy elements to be located either on the applicant's side of a property line, or on the adjacent property owner's side of the line, as long as the desired privacy effect is maintained. If the neighbor already has a sufficiently tall privacy hedge, no need to provide a second. This balances privacy against the quality of life of ADU residents who will want natural light in their living space. Residents desiring greater privacy may use curtains, opaque window treatments, blinds, shutters, and other measures. In the spirit of context-sensitive design, allow for existing privacy features on neighboring sites to be taken into account.

### Other standards

Strike the owner-occupancy requirement, which can make financing and enforcement difficult. Allow ADUs to be constructed and occupied after, during, or prior to the construction or occupation of the primary dwelling unit. Allow any legal nonconforming structure to contain or be converted to an ADU, as long as the development does not increase the nonconformity.

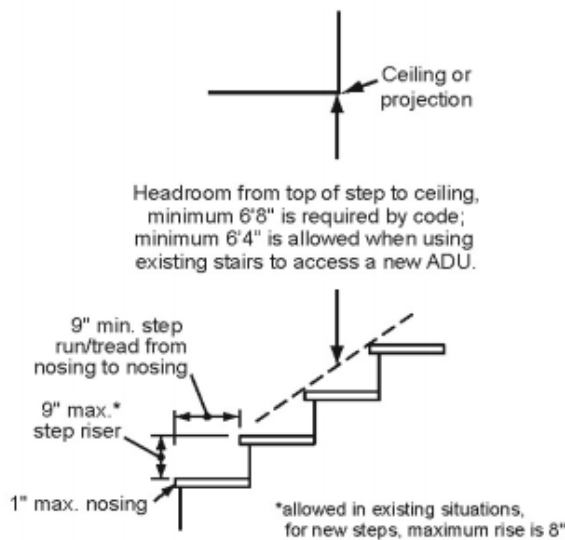


Figure 6: Construction standards, including special standards for stairs in ADUs.



### Construction standards

Allow ADUs to comply with the Oregon Residential Speciality Code (ORSC), as modified by a set of alternative standards that allow for:

- Stairs with 9” deep treads and 9” tall risers
- Minimum head height of 6’4” on stairs and in doorways
- Minimum hallway and doorway width of 30”
- Sloping hallway ceiling minimum height of 6’2” with minimum of 6’8” at center of hallway

These standards are tailored to smaller structures, allowing them to scale proportionately without adversely affecting their livability for most people. Structures seeking to use the FHA-accessibility size bonus would need to comply with the relevant FHA standards, should they exceed these allowable building code minimums.

### Fees and SDCs

Do not trigger or otherwise require street frontage improvements or Fee In Lieu Of Construction (FILOC) due to the construction of ADUs, unless the applicant proposes to shift on-site parking to on-street parking in order to meet the requirement of 1 off-street parking space for each primary dwelling unit. Require no additional sewer or water connections to serve new ADUs, as long as the existing services provide for sufficient capacity based on the relationship between service capacity and fixture count.

Reduce or waive the following SDCs for ADUs in order to encourage their construction:

- Water
- Wastewater
- Stormwater
- Parks

Publicize these incentives for ADU construction far and wide!

## ADU Code Review Status and Next Steps

This project began with a preliminary city-led code audit of all of the existing regulations that an ADU must comply with to receive plan approval in Milwaukie. The results of this audit informed pro forma testing of ADU development scenarios that compared existing conditions with best practices that align with the desired future urban fabric of the City, and identified financial options and incentives that could be provided in partnership with the finance sector.

A set of code change recommendations (red-lined code) has been developed to suggest improvements to encourage the development of more ADUs in Milwaukie (see Attachment 1). The results of this research and testing is documented in this summary memo describing



preliminary findings. This work has been presented in a public forum to inform the final adoption ready code language, and to inform a joint work session presentation to Milwaukie's Planning Commission and City Council of the findings and suggested code changes. The feedback received from the City Council and Planning Commission on the policy change recommendations will be revisited with City Staff and the ADU Working Group (ADUWG). The revised recommendations will be presented City Council for adoption.