

**Agenda Item 23-1243 (Lewis Kuhlman)**

AN ORDINANCE to amend Section 115-390(1)d.3. and to create Section 115-405 of the Code of Ordinances of the City of La Crosse to allow accessory dwelling units.

**Referral Direction**

The Common Council referred this ordinance for 60 days for planning staff to hold two public meetings.

**New Information (for Background, see Staff Report from 12/4/23)**

City Planners hosted two public meetings, one virtual and one in-person. The public meetings opened with a fifteen-minute presentation from planning staff on accessory dwelling units (ADUs). The presentation went over the purpose and intent of allowing ADUs, how staff developed the policy, Wisconsin communities that allowed ADUs, and what is in the draft ordinance. It also included what other uses are allowed in the subject zoning districts. After the presentation, staff took comments and questions from attendees.

The virtual meeting took place via Zoom on Wednesday, January 17<sup>th</sup> from 5:30-6:30pm. There were about seventeen citizens, six planners, five councilmembers, and three members of the media.

CM Hameister asked how the owner-occupancy requirement is enforced, specifically in cases where owner moves without selling. Staff responded that Community Risk Management enforces the zoning code. Zoning code violations are covered Sec. 115-2. CRM is familiar with which properties that are rentals, and the County Land Records can show whether the owner's mailing address matches the property address. Zoning code violations are mostly complaint-driven.

There was a misunderstanding over whether the owner-occupied requirement was enforced with a deed restriction. It is not, but there is a deed restriction prohibiting the independent sale of the ADU. Tim Acklin, CM Hameister, President Kahlow, and Kaitlyn Wieke thought adding owner-occupancy to the deed restriction was a good idea. The ordinance already requires that the parcel be owner-occupied, but a deed restriction would change how that requirement is enforced. While the zoning code and the owner-occupancy requirement is public record, a deed restriction would show up in the title work. However, deed restrictions aren't enforced by CRM—they go to court. Adding a deed restriction would change the owner-occupied requirement from an administrative process with enforcement outlined in the code to a legal process determined by a judge.

CM Hameister asked about Onalaska's experience with ADUs. In a follow up email, Katie Aspenson said the primary concerns were for how water and sewer would be connected, deed restriction, limiting the number of ADUs on a parcel, and setbacks. Onalaska has had a few inquiries but no applications yet. Most communities that La Crosse planning staff researched have less than a handful property owners go through the ADU process. Madison has about 20 ADUs.

Jake Larkin asked if seventeen feet is enough height to build an ADU over a garage. Staff noted that it would probably be a challenge, but that's the limitation in the existing code. Property owners can ask to Historic Preservation Commission to allow carriage houses to go over seventeen feet, so an ADU applicant could go through that process.

Kristin Lettner asked a clarifying question about lot coverage requirements--whether the maximum limit is per accessory building or total. 35% of the rear yard or 1,000 sq. feet is the maximum limit for all accessory buildings combined.

Kaitlyn Wieke asked how long approval would take. If they meet all the requirements, CRM approval would be within 10 business days. Planning staff will be developing a checklist to have other departments review issues such as for utility connection.

Robbie Young observed that there's not a lot of room to add an ADU, because most backyards are already taken up by 2-car garages, and that the cost of tearing down a garage could be cost prohibitive. The maximum area for all accessory uses would stay the same, so there would be tradeoff whether to have a garage, an ADU, or an ADU above a garage.

Lettner had to go through three boards to plant flowers in the boulevard, yet in the proposed ordinance, the ADU doesn't need to go to any boards. Staff explained there is still an internal review for compliances. She feels like there should be a higher standard than planting flowers, that there should be public hearings for each. CM Trost contrasted decision-making process for public vs. private property. She said the ordinance would give private property owners the choice and flexibility to build an ADU on their land and this administrative process lowers the barrier to entry.

Jed Olson citizen spoke in-favor of the ordinance and increased housing options in the city. He was in favor of more housing to add more families in the school district. CM Hameister discussed with Superintendent Engel how more housing options could help the school district. Lettner mentioned a study that concluded that increasing housing density would not add many students, though.

Planning staff mentioned that the City is doing a housing study and that ADUs are just one tool in the housing toolbox. ADUs are not a silver bullet. CM Trost agreed. ADUs are responding to the decline in average household size. People are having few children and people are living longer and staying in homes. There are more housing solutions, and this is just one small piece.

Olson shared a personal story of his family's first house being an ADU after having trouble finding a place to live in a city on the West Coast with little affordable housing. The elderly owner of that property became a friend and helped his family integrate into the community.

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The in-person meeting took place at The Nature Place on Thursday, January 18<sup>th</sup> from 5:30-6:30pm. There were about ten citizens, three planners, CM Trost, and three members of the media.

Barry Smyth asked what is the number of unrelated people that could stay in an ADU. Staff explained that the maximum number of unrelated people would be the same as it is now for each zoning district.

Bill Harnden asked if you could install an ADU on an attached garage. While some communities allow attached ADUs, this ordinance only allows detached ADUs. In the case of creating another dwelling unit as part of the primary building, a person may have to seek a rezoning.

Jason Lawton is building a carriage house and considering converting it to an ADU. Staff had mentioned that the side yard setback was six feet to be consistent with the primary structure. He asked if the primary structure had a setback less than six feet, could the ADU be less. He would likely need to request a variance. However, CM Mindel introduced an amendment to exempt already existing accessory buildings from the setbacks, so that could allow Lawton to go ahead without a variance.

Melissa Crooke asked about long-term enforcement. Planning staff explained how CRM enforces the zoning code. Crooke asked if owner-occupancy requirement would be removed and open it up to landlords. Staff shared that some Wisconsin communities require owner-occupancy and others don't. If a community finds ADUs desirable and things are going well, they could change the requirements.

Crooke asked why an ordinance change is necessary rather than a case-by-case public hearing. The City would still need to create enabling legislation for a case-by-case review. With 2017 Act 67, the Common Council doesn't have discretion over CUPs—if it meets the requirements, the State says it must be approved. Later, Harnden suggested that ADUs be reviewed on a case-by-case basis.

CM Trost referenced slides on why one would want an ADU, and shared discussions with NRC on owner occupancy. She expressed sensitivity of neighbors and concern over owner-occupancy. This ordinance symbolizes community support for housing choices and giving decisions back to property owners.

David Morrison asked about allowing ADUs on lots smaller than 7,200 sq. ft. It could be feasible, and staff's intention of sharing the minimum lot size was to alleviate worries about splitting lots.

Morrison also asked whether tiny houses on wheels would be allowed. They would not, because they're more like an RV. There are different codes for standard and modular homes. Of the Wisconsin communities researched, none prohibited modular homes.

Crook asked if there be a separate address would be a separate address and how would that work on the deed. Deeds go by the parcel and there can be more than one address on a parcel. Crook followed up with a question on the impact of stormwater. Staff explained that the impermeable surface area is no more than what is currently allowed in the code.

Morrison asked why there is no minimum size or minimum parking requirement. Staff explained that the building code already has a minimum size, so adding it here is unnecessary. For parking, it is left up to the property owner to decide. There is already a minimum requirement for primary structures and the intent it to make room for people, not cars.

Crook asked if a child of the owner living on the property is considered owner-occupied. The owner would be the person(s) included on the deed. "Owner-occupied" is clearly defined outside the zoning code (the owner owns the home in which they live), so a definition is not necessary. Smyth asked if it must be their primary residence—it does.

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About twenty-seven citizens participated in the public meetings. Thirteen people including three council members shared comments or questions. Five people supported changing the way owner-occupancy is enforced to a deed restriction. Three people supported changing the approval process to a public hearing. Four people spoke favorably about accessory dwelling units.

### **Staff Recommendation**

**Approval as Amended** – ADUs have the potential to increase affordable housing units within the existing city limits while having the least impact on a neighborhood's appearance and character.

**Routing J&A 1.30.2024**