Passed 8-0 (Chopra left early)

ORDINANCE 17-29
TO AMEND TITLE 20 (UNIFIED DEVELOPMENT ORDINANCE)
OF THE BLOOMINGTON MUNICIPAL CODE -
Re: Adding Section 20.05.0333 (CU-14 [Conditional Use- Accessory Dwelling Units]), Amending Section 20.02.030 (Residential Estate [RE]; Conditional Uses), Section 20.020.070 (Residential Core [RC]; Conditional Uses), Section 20.02.110 (Residential Single-family [RS]; Conditional Uses) and Amending Section 20.11.020 ("Defined Words")

WHEREAS, Accessory Dwelling Units ("ADUs") are not allowed within the boundaries of the City of Bloomington ("City"); and

WHEREAS, there is a housing need for the City's workforce, seniors, families with changing needs, and others for whom ADUs could present an affordable housing option; and

WHEREAS, the City wishes to promote and encourage a variety of housing options for all its residents; and

WHEREAS, adding an ADU standard will add sustainable and affordable housing options to the City's housing options; and

WHEREAS, Title 20 of the Bloomington Municipal Code should be revised to ensure compatibility of ADUs with residential neighborhoods; and

WHEREAS, the Council requests that the Housing and Neighborhood Development Department contact neighborhoods with covenants limiting or restricting ADUs to encourage those neighborhoods to revise their covenants to remove such prohibitions or restrictions; and

WHEREAS, the Council requests that the Planning and Transportation Department report annually to the Council on the number and location of ADUs approved subsequent to the effective date of this ordinance. The report shall include an assessment of the impact of ADUs on neighborhoods; and

WHEREAS, On June 12, 2017, the Plan Commission considered ZO-09-17, and made a positive recommendation in favor of the amendments to the UDO, as described herein;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. Section 20.02.030, entitled "Residential Estate (RE); Conditional Uses," shall be amended by adding the term "Accessory Dwelling Units *."

SECTION 2. Section 20.02.070, entitled "Residential Core (RC); Conditional Uses," shall be amended by adding the term "Accessory Dwelling Units *."

SECTION 3. Section 20.02.110, entitled "Residential Single-family (RS); Conditional Uses," shall be amended by adding the term "Accessory Dwelling Units*."

SECTION 4. A new section, Section 20.05.0333, entitled "CU-14 (Conditional Use - Accessory Dwelling Units)," shall be created, added to the Table of Contents, and shall read as follows:

20.05.0333 CU-14 (Conditional Use – Accessory Dwelling Units)

Purpose: This Accessory Dwelling Unit ("ADU") section is adopted to permit the creation of legal ADUs that are compatible with residential neighborhoods while also adding housing options for the City's workforce, seniors, families with changing needs, and others for whom ADUs present an affordable housing option.

This conditional use section applies to the following zoning districts:

RC RE RS

(a) Applicability: This section applies to the construction, remodeling and continuing use of an ADU as part of a single family dwelling use.
(b) Maximum Number: Not more than one (1) ADU may be located on one (1) lot.
(c) Number of Residents: No more than one family, as defined in 20.11.020, shall reside on a lot. Provided, however, units lawfully in existence prior to the enactment of this ordinance where the number of residents located on one (1) lot lawfully exceed that provided by the definition of family in 20.11.020 shall be grandfathered.
(d) Existing Planned Unit Developments: For any Planned Unit Development that permits detached single family dwellings, and which was approved before the effective date of this section, ADUs shall be considered a conditional use subject to the requirements of this section.
(e) Minimum Lot Size: ADUs shall not be established on a lot that is less than the minimum lot size of the zoning district.
(f) Proximity: An ADU shall be located on a lot that is at least three hundred (300) feet from another ADU approved under this chapter. Distance shall be measured lot line to lot line. Provided, however, the Board of Zoning Appeals or Hearing Officer may approve an ADU located on a lot that is closer than three hundred (300) feet from another ADU where such proximity does not result in an undue concentration of ADUs leading to adverse impacts on a block or neighborhood.
(g) Site Plan: A single family dwelling unit that includes an ADU shall be treated as a single-family dwelling unit in entirety for purposes of site plan review.
(h) Utilities: All ADUs must be connected to the public water main and sanitary sewer, when adjacent to property, per City of Bloomington Utilities' Rules & Regulations or Construction Specifications. Where water or sanitary sewer mains are not adjacent to property and the primary dwelling on the lot utilizes a septic system, the ADU may utilize the septic system per Monroe County Health Department Standards.
(i) Design Standards:
    (1) Detached ADU: Detached ADUs shall meet the architectural and foundation requirements for a single family dwelling within the applicable zoning district as found in 20.05.016.
    (2) Maximum square footage of habitable space:
        (A) Attached ADU: Six hundred (600) square feet or no more than 35% of structure, whichever is less;
        (B) Detached ADU: Four hundred forty (440) square feet.
    (3) Maximum bedrooms: In no case shall an ADU include more than one (1) room that may be used as a bedroom.
    (4) Minimum Setbacks:
        (A) Attached ADUs: Per requirements for the primary structures of Chapter 20.02: Zoning Districts.
        (B) Detached ADUs:
            (i) Front Setbacks: Can be as close to the street as the primary dwelling.
            (ii) Side Setbacks: Shall comply with the requirements for accessory structures of Chapter 20.02.
            (iii) Rear Setbacks: The rear setbacks for ADUs shall be at least ten (10) feet from any property line. However, where an ADU is located on a lot that abuts an alley, the rear setback may be no less than five (5) feet.
            (iv) Existing single-story detached accessory structures petitioned to be converted to ADUs shall be exempt from these setback requirements pursuant to Chapter 20.08.060.
    (5) Maximum Height:
        (A) Attached ADUs: Per requirements for the primary structures of Chapter 20.02: Zoning Districts.
        (B) Detached ADUs: Twenty-five (25) feet
    (6) If located within a historic district, any exterior changes or new construction must be in compliance with the district's guidelines and any required Certificate of Appropriateness must be obtained pursuant to Section 8.08.020, prior to review by the Board of Zoning Appeals or Hearing Officer.

(j) Owner Occupancy: ADUs shall only be permitted on a property where either the primary dwelling unit or the ADU is owner occupied. For the purposes of this section, the owner is defined as the individual, family, or group who holds the property tax homestead deduction for the property in accordance with Indiana state law.

(1) The owner of each property on which an ADU is located shall sign an affidavit pledging agreement with the terms of this Section. The affidavit shall specify which dwelling unit (either the primary dwelling unit or the ADU) the owner will occupy. If at any time the owner moves from one dwelling unit to the other, the owner shall file an updated affidavit. Otherwise, all affidavits shall be filed annually with the Planning and Transportation Department.

(2) Any primary dwelling or ADU used as a rental unit shall register with the Department of Housing & Neighborhood Development (HAND) and receive appropriate certification prior to occupancy.

(k) Enforcement: Violations of the terms of this section shall result in revocation of the conditional use approval for the ADU as well as fines per Section 20.10.040.

(l) Commitments: Before obtaining a conditional use approval for an ADU, an applicant shall record a commitment, consistent with the standards of Section 20.09.110, stating the following:

(1) The ADU shall not be sold separately from the primary unit.

(2) The conditional use approval shall be in effect only so long as the primary dwelling unit, or the ADU, is occupied by the owner(s) of record as their primary residence. If at any time the conditional use approval is revoked or is no longer in effect, the ADU must be removed from the property. This can include, but is not limited to removal of any second kitchen on the lot, including all kitchen appliances and cabinets

SECTION 5. Section 20.11.020, entitled "Defined Words," shall be amended by deleting the term "Dwelling, Accessory Unit" and replacing it with the following:

Dwelling, Accessory Unit. "Accessory dwelling unit" means a residential dwelling unit but not a mobile home, camper, or recreational vehicle, located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. Accessory dwelling units shall only be established in accordance with the standards set forth in the Unified Development Ordinance.

SECTION 6. Section 20.11.020, entitled "Defined Words," shall be amended by deleting the term "Dwelling, Multifamily" and replacing it with the following:

Dwelling, Multifamily. "Multifamily dwelling" means any building, group of buildings or portion thereof containing two or more individual dwelling units where each unit is provided with an individual entrance to the outdoors or to a common hallway and in which the number of families in residence does not exceed the number of dwelling units provided. Multifamily dwelling units shall not include "Dwelling, Single-family Attached" or "Dwelling, Accessory Unit" as separately defined in this chapter.

SECTION 7. Section 20.11.020, entitled "Defined Words," shall be amended by deleting the term "Dwelling, Single-family Attached" and replacing it with the following:

Dwelling, Single-family Attached. "Single-family attached dwelling" means a dwelling type consisting of two dwelling units attached side by side under one roof, that are located on separate lots, and that share a common wall, with each unit designed for and occupied by a single family, as defined in this chapter. A Single-family attached dwelling may also include a "Dwelling, Accessory Unit."

SECTION 8. Section 20.11.020, entitled "Defined Words," shall be amended by deleting the term "Family" and replacing it with the following:

Family. "Family" means an individual or a group of people all of whom are related to each other by blood, marriage, or legal adoption, and any other dependent children of the household. In the RE, RS, and RC zoning districts, and in single-family residential portions of planned unit developments, "family" also includes a group of no more than three adults, and their dependent children, living together as a single housekeeping unit in a dwelling unit or a combination of a single family dwelling unit and accessory dwelling unit. In all other districts, "family" also includes a group of no more than five adults and their dependent children, living together as a single housekeeping unit in a dwelling unit.

SECTION 9. Section 20.11.020, entitled "Defined Words," shall be amended by deleting the term "Dwelling, Single-family Detached" and replacing it with the following:

Dwelling, Single-family Detached. "Single-family detached dwelling" means a single building per lot containing a single residential dwelling unit, including a "Dwelling, Manufactured Home," designed for and occupied by one family which is completely separate from any other building. The term "single-family detached dwelling" does not include a "Dwelling, Mobile Home." A single-family detached dwelling may also include an "Accessory Dwelling Unit."

SECTION 10. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 11. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor, and after any required waiting and/or notice periods under Indiana law.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 6th day of September, 2017.

Susan Sandberg
SUSAN SANDBERG, President
Bloomington Common Council

ATTEST:

NBolden
NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 17th day of October, 2017.

NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 17th day of October, 2017.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends Title 20 (the Unified Development Ordinance) of the Bloomington Municipal Code in two key ways. First, it adds a new section, Section 20.05.110, to provide for Accessory Dwelling Unit ("ADU") Standards. This addition will permit a limited number of ADUs within single-family zoning districts. The goal of limiting the number of ADUs is to allow the City to have a better understanding of the impact of ADUs on a neighborhood and to determine any unintended consequences. Second, the ordinance amends Section 20.11.020 to modify terms related to the new section on ADUs.

Note: The Common Council amended this ordinance by way of Amendment 02. Amendment 02 made a number of changes to Ord 17-29 in the interest of providing further protections for single-family zoning districts in which Accessory Dwelling Units (ADUs) may be located. First, the amendment shifted the allowance for ADUs from a "by-right" allowance capped at 30 ADUs, to a conditional use without a cap. The amendment shifted the allowable number of bedrooms in an ADU from two to one and the number of unrelated people constituting a family as the sum of persons living in the primary dwelling and the ADU. Additionally, the amendment made changes to rear setback requirements. The amendment retained the general requirement that ADUs should be located on a lot that is at least 300 feet from another ADU, but provided that ADUs may be located closer where the BZA or Hearing Officer finds that such proximity does not result in an undue concentration of ADUs leading to adverse impacts on a block or neighborhood. Furthermore, the amendment required the owner of property upon which an ADU is located to file an annual affidavit with the Planning and Transportation Department pledging agreement with the ADU requirements. Lastly, the amendment deleted a no-longer relevant "Whereas" clause referring to an ADU cap and adds two new clauses: one requesting that the HAND department reach out to neighborhoods with covenants limiting or restricting ADUs to encourage removal of such restrictions and a clause requesting that the Planning and Transportation Department report back to the Council annually on the number and location of ADUs approved and an assessment of the impact of ADUs on neighborhoods.

Note further: In accordance with IC § 36-7-4-607(e), this ordinance as amended by the Council was returned to the Plan Commission with a Statement of Reasons for the amendments.

Distributed to: Mayor, Clerk, Council Administrator, Legal, Controller, Planning, HAND

****ORDINANCE CERTIFICATION****

In accordance with IC 36-7-4-605 I hereby certify that the attached Ordinance Number 17-29 is a true and complete copy of Plan Commission Case Number ZO-09-17 which was given a recommendation of approval by a vote of 6_Ayes, 2_ Nays, and __0__ Abstentions by the Bloomington City Plan Commission at a public hearing held on June 12, 2017.

Date: June 16, 2017

Terri Porter, Secretary
Plan Commission

Received by the Common Council Office this 16th day of June, 2017.

Nicole Bolden, City Clerk

Appropriation Ordinance # _____

Fiscal Impact Statement Ordinance # _____

Resolution # _____

Type of Legislation:

Appropriation	End of Program	Penal Ordinance
Budget Transfer	New Program	Grant Approval
Salary Change	Bonding	Administrative Change
Zoning Change	Investments	Short-Term Borrowing
New Fees	Annexation	Other

If the legislation directly affects City funds, the following must be completed by the City Controller:

Cause of Request:

Planned Expenditure	_____	Emergency	_____
Unforeseen Need	_____	Other	_____

Funds Affected by Request:

Fund(s) Affected		
Fund Balance as of January 1	$	$
Revenue to Date	$	$
Revenue Expected for Rest of year	$	$
Appropriations to Date	$	$
Unappropriated Balance	$	$
Effect of Proposed Legislation (+/-)	$	$
Projected Balance	$	$

Signature of Controller

Will the legislation have a major impact on existing City appropriations, fiscal liability or revenues?

Yes _____ No _____

If the legislation will not have a major fiscal impact, explain briefly the reason for your conclusion.

If the legislation will have a major fiscal impact, explain briefly what the effect on City costs and revenues will be and include factors which could lead to significant additional expenditures in the future. Be as specific as possible. (Continue on second sheet if necessary.)

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****ORDINANCE REPORT****

In accordance with IC 36-7-4-607(e) I hereby certify that the attached Ordinance Number 17-29 and amendment 02 to said Ordinance is a true and complete copy of Plan Commission Case Number ZO-09-17 which was passed by a vote of 6 Ayes, 0 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on October 2, 2017.

The City of Bloomington Council ("Council") amended Ordinance Number 17-28 on September 6, 2017 and pursuant to IC 36-7-4-607(e), the Council returned the amendment to the Plan Commission for its consideration, accompanied by a written statement of the reasons for the amendment of the original proposal.

Date: October 5, 2017

Terri Porter

Terri Porter, Secretary Plan Commission

Received by the Common Council Office this 16th day of October, 2017.

N Bolden

Nicole Bolden, City Clerk