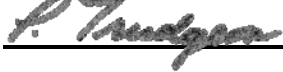


  
**REQUEST FOR COUNCIL ACTION**

DATE: 10/10/2011  
ITEM NO: 9 . a

Department Approval



City Manager Approval



Item Description: Request by Roseville City Council for approval of a **zoning text amendment** to allow accessory dwelling units in LDR-1 Districts as permitted rather than conditional uses (**PROJ-0017**)

1 **1.0 BACKGROUND**

2 At the regular City Council meeting on May 23, 2011, the City Council directed  
3 Community Development staff to prepare an amendment to the zoning code which would  
4 regulate accessory dwelling units (ADUs) as permitted uses (i.e., allowed with permits)  
5 rather than as conditional or interim uses. Council reviewed a draft proposal at its July  
6 25, 2011 meeting and found it to be consistent with what they had envisioned, with a few  
7 modifications which have been incorporated into the revised amendment shown in **bold**  
8 and ~~strikethrough~~ text in Attachment B.

9 **2.0 SOME NOTES ABOUT THE PROPOSED AMENDMENT**

- 10 2.1 ADUs have been discussed until now as being limited to 600 square feet. Initially, this  
11 figure, which is really quite small for a 1-bedroom apartment, was chosen as a way to  
12 practically limit the number of occupants. Since the current proposal includes a codified  
13 limit of 2 occupants, holding to the small ADU size limitation becomes somewhat less  
14 important. After some research, Planning Division staff feels that 650 square feet is a  
15 more moderate (though still small) size for a 1-bedroom unit, and so this is the unit size  
16 that has been incorporated into the draft amendment.
- 17 2.2 The format of the ADU address suffix is really just suggested as a possibility, but it  
18 attempts to address the desire to provide guidance for emergency responders and to  
19 standardize the format. The proposal would inform emergency responders that a “Unit A”  
20 is somewhere within the house structure, but not in the more obvious principal unit,  
21 whereas a “Unit B” will be found in a detached building. Suggestions for other possible  
22 address identifiers are welcome.
- 23 2.3 Although the proposed TEXT AMENDMENT is fairly simple, it involves several pages of  
24 changes. For this reason, an ordinance summary is included with this staff report as  
25 Attachment C for approval to be published in lieu of the full ordinance.

26 **3.0 PUBLIC HEARING**

27 The duly-noticed public hearing for this proposed zoning code TEXT AMENDMENT was  
28 held by the Planning Commission on August 3, 2011; minutes from the public hearing  
29 are included with this staff report as Attachment A. After reviewing the proposal, the  
30 Planning Commission voted (5–1) to approve the TEXT AMENDMENT. Although no  
31 members of the public were present for the public hearing, one person has occasionally

32 called Planning Division staff to inquire about the status of the proposed amendment  
33 because he has an interest in possibly creating an ADU in his home.

34 **4.0 RECOMMENDATION**

35 Based on the comments in Sections 2–3 of this report Planning Division staff concurs  
36 with the recommendation of the Planning Commission to approve the proposed TEXT  
37 AMENDMENT to the Zoning Code.

38 **5.0 SUGGESTED ACTION**

39 5.1 Pass an ordinance adopting the proposed amendments to Chapters 1004, 1009, and 1011 of  
40 the Zoning Code.

41 5.2 By motion, approved the proposed ordinance summary for publication.

**Prepared by:** Associate Planner Bryan Lloyd (651-792-7073)

Attachments: A. 8/3/2011 public hearing minutes C. Ordinance summary  
B. Draft ordinance

1 **PROJECT FILE 0017**

2 **Request by Roseville City Council for approval of a ZONING TEXT AMENDMENT to allow**  
3 **accessory dwelling units in LDR-1 Districts as permitted rather than conditional uses.**

4 Chair Boerigter opened the Public Hearing at 8:34 p.m.

5 Associate Planner Bryan Lloyd highlighted and briefly summarized staff's proposed zoning text  
6 amendments for Accessory Dwelling Units (ADU's) in LDR-1 Districts as permitted rather than as  
7 Conditional Uses (CU's). Mr. Lloyd advised that these recommended amendments were based on  
8 practical application of the existing language with the two (2) applications having already come  
9 forward; suggesting they be considered as permitted uses with applicable permits for their regulation  
10 to a higher standard without going through the CU approval process.

11 Recommended amendments were included in the packet materials as detailed in the Request for  
12 Planning Commission Action dated August 3, 2011; and based on the comments of Section 2-3 and  
13 input received from tonight's public hearing.

14 Member Boguszewski advised that his only question was related to Chapter 1011.12, Section B.6.b-d  
15 as it addressed a maximum occupancy of two (2) people (line 9), noting that the previous language  
16 used square footage guidelines, and those now seemed to be removed. Member Boguszewski  
17 questioned the rationale for that change; and why staff was recommending square footage guidelines  
18 and moving toward occupancy as the limiting number.

19 Associate Planner Lloyd advised that the initial thinking had been specifically related to limiting the  
20 size of ADU's and noted that the size limitation had not been removed, but was addressed in lines 29  
21 – 30 of the document. However, Mr. Lloyd advised that the 650 square footage was an arbitrary  
22 number and seemed to staff to be more moderate than a one-bedroom unit, and addressed the intent  
23 to keep the ADU's smaller in size in order to limit the number of people without having to actually  
24 count how many people were residing in an ADU. Upon receipt of the two (2) applications to-date,  
25 staff found that one of those spaces applying for an ADU was already larger than the 650 square foot  
26 limit; and raised questions of how to limit the number of people at any one house; and make the  
27 requirements be more explicit for that intent while allowing for some size limit.

28 Chair Boerigter questioned why the 650 square feet only addressed living area and why storage space  
29 was excluded.

30 Associate Planner Lloyd advised that, while a more simple approach could be used to quantify the  
31 allowed unit size, he would recommend making it larger than 650 square feet if storage areas,  
32 hallways, and the like are to be included in the area figure, given staff's experience with applications  
33 received to-date. Mr. Lloyd noted that both of those applications had been for existing space above a  
34 garage, and questioned why a stairway should count against the ADU's living space; or knee-wall  
35 storage areas that were not livable or usually heated or insulated spaces.

36 Chair Boerigter questioned if the applicant made that determination.

37 Associate Planner Lloyd advised that, previous to the new Zoning Code being adopted, if an  
38 applicant called the office and questioned the actual use for living space, it required staff to be aware  
39 of what was specifically being considered. With the new ordinance in place, Mr. Lloyd advised that it  
40 was obvious upon staff's receipt of the application.

41 Chair Boerigter addressed the revocation section (page 3, line 64) related to occupancy and sought  
42 clarification on implications for those two (2) applications received to-date. Chair Boerigter sought  
43 staff's rationale in making the permit expire if the home was sold.

44 Associate Planner Lloyd advised that the overall intent was that both units would no longer be  
45 available as an ADU until they made application for a new ADU Occupancy Permit as detailed. Mr.  
46 Lloyd advised that the requirement for the ADU permit's expiration when the home was sold was to  
47 allow the new homeowner to be explicitly aware of what they were required to do, that it was not just  
48 an automatic ADU without them processing such an application and making it available as an ADU  
49 again. Mr. Lloyd noted that, obviously, while the ADU's physical space remained in place, it  
50 couldn't be used as an ADU without following the process and could not legally be rented out. Mr.  
51 Lloyd noted that this was intended to serve as an educational opportunity for new property owners.

52 Member Boguszewski questioned staff's interpretation of the City Council's intent in requesting  
53 these revisions and what they were trying to achieve with these amendments currently being  
54 considered. Member Boguszewski questioned if a permit was less time consuming than the CU  
55 process.

56 Associate Planner Lloyd advised that he believed that the intent was to simplify the process for  
57 achieving an ADU on a property. Mr. Lloyd alluded to conversations among Councilmembers related  
58 to CU's and ADU's and whether an ADU was more appropriate than an Interim Use permit, at which  
59 time staff clarified the distinct differences in the two and how the ADU could better achieve the  
60 intent being desired by the City Council. Mr. Lloyd noted that the ADU permit approval process  
61 would be handled administratively unless there was an appeal of the administration decision by staff  
62 to deny an ADU due to a proposed application not being consistent with code requirements. Mr.  
63 Lloyd advised that the neighbors would be made aware of the permit process.

64 Member Boguszewski questioned if the permit fee had been determined at this time and whether it  
65 would be reasonable.

66 Associate Planner Lloyd advised that, at this time, the permit fee was yet undetermined, but that the  
67 permit form was being developed, and would be determined by staff for presentation with the annual  
68 fee schedule for review and adoption by the City Council.

69 Chair Boerigter asked staff to address the changed setback requirements (lines 38-39).

70 Associate Planner Lloyd reviewed various scenarios for an ADU on a primary structure or on an  
71 attached garage, and advised that, for consistency, staff was recommending that since an ADU would  
72 be occupied, it be treated differently than setbacks for other accessory structures, such as an  
73 unoccupied garden shed; and in order to address its proximity to neighboring properties and to retain  
74 their privacy.

75 Member Strohmeier questioned if staff was aware of any other municipalities that allowed ADU's as  
76 permitted uses.

77 Associate Planner Lloyd advised that some cities provided them as CU's and some by permit;  
78 however, he noted that the norm seemed to be some type of permit process to inform and involve  
79 neighbors in the process, especially as ADU's became more common as permitted uses in residential  
80 districts.

81 Member Gisselquist questioned the criteria used by staff to determine whether to approve or deny a  
82 permit; and what type of neighborhood notice was provided, or if approval was based on the  
83 applicant meeting ordinance requirements and staff approval of the permit without notification of  
84 neighbors.

85 Associate Planner Lloyd advised that the permit process was an administrative process by staff,  
86 similar to the process for a deviation or minor variance; and provided a series of conditions that must  
87 be satisfied for approval of a request. If criteria was met, Mr. Lloyd advised that the application was

88 approved. Mr. Lloyd noted that the application process would address any contextual problems that  
89 staff may not be aware of, allowing the neighbors an opportunity to be notified and provide  
90 comment, as well as allowing the property owner seeking an ADU permit to work with their  
91 neighbors toward resolution of any issues in advance of issuing the permit. If there were more serious  
92 problems needing addressed, Mr. Lloyd advised that staff could then deny the permit.

93 Chair Boerigter closed the Public Hearing at 8:50 p.m.; no one appeared for or against.

94 Member Gisselquist expressed curiosity as to why the City Council was seeking these revisions,  
95 noting that to-date only two (2) applications had been received and while not minding the process for  
96 an ADU, he questioned if this revised language would cause more people to apply or make it easier  
97 when an occasional ADU came forward. Member Gisselquist rhetorically questioned if an ADU  
98 permit expired for a unit built above a garage, and whether expiration of the permit upon sale of the  
99 home helped or hurt the resale opportunities and values for a homeowner.

100 **MOTION**

101 **Member Boguszewski moved, seconded by Member Cook to RECOMMEND TO THE CITY**  
102 **COUNCIL approval of amendments to Chapters 1004, 1009 (for the deletion of the existing**  
103 **CONDITIONAL USE standards) and Chapter 1011 of the City Code; as detailed in the**  
104 **Request for Planning Commission Action dated August 3, 2011; and based on the comments in**  
105 **Sections 2 and 3 of the report.**

106 **Ayes: 5**

107 **Nays: 1 (Gisselquist)**

108 **Motion carried.**

City of Roseville

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SELECTED TEXT OF SECTIONS 1004 (RESIDENTIAL DISTRICTS), 1009 (PROCEDURES), AND 1011 (PROPERTY PERFORMANCE STANDARDS) OF TITLE 10 “ZONING CODE” OF THE ROSEVILLE CITY CODE

THE CITY OF ROSEVILLE ORDAINS:

**SECTION 1. Purpose:** The Roseville City Code is hereby amended to allow and regulate accessory dwelling units as permitted uses in the LDR-1 zoning district.

**SECTION 2. Section 1004 is hereby amended as follows:**

<b>Table 1004-1</b>	<b>Accessory building</b>
Minimum rear yard building setback	5 feet <sup>b</sup>

**b** Accessory buildings containing an Accessory Dwelling Unit shall have the same rear yard setback as required in Table 1004-3 for principal buildings.

<b>Table 1004-2</b>	<b>LDR-1</b>	<b>LDR-2</b>	<b>MDR</b>	<b>HDR-1/ HDR-2</b>	<b>Standards</b>
Dwelling unit, accessory	<b>CP</b>	<b>ENP</b>	<b>PNP</b>	NP	Y

**SECTION 3. Section 1009 is hereby amended as follows:**

**1009.02 Conditional Uses**

**D. Specific Standards and Criteria:**

~~1. Accessory Dwelling Units (ADU):~~

- ~~a. An ADU shall be located on a lot occupied by a one family dwelling.~~
- ~~b. No more than one ADU shall be allowed on a lot.~~
- ~~c. The one family dwelling on the lot shall be owner occupied.~~
- ~~d. A detached ADU may be located above a detached garage of the one family dwelling or within a separate accessory building meeting the standards for accessory buildings.~~
- ~~e. Dimensional Standards:
 
  - ~~i. i. Maximum height of a detached ADU, including one built above a garage: 30 feet (as typically measured to mid-point of pitched roof).~~
  - ~~ii. ii. Maximum unit size: 75% of the principal dwelling’s floor area, up to a maximum size of 600 square feet of living area.~~
  - ~~iii. iii. Setback requirements: Attached ADUs shall meet the standards for principal buildings; detached ADUs shall meet the setback requirements for accessory buildings.~~~~

- 29 ~~f. The entryway to a detached ADU shall be connected to a street frontage with a~~  
 30 ~~paved walkway.~~
- 31 ~~g. The appearance or character of the principal building shall not be significantly~~  
 32 ~~altered so that its appearance is no longer that of a one-family dwelling.~~
- 33 ~~h. Design Standards for Detached ADUs:~~
- 34 ~~i. Material: The exterior finish material shall match in type, size, and~~  
 35 ~~placement, the exterior finish material of the principal dwelling unit.~~
- 36 ~~ii. Roof pitch: The roof pitch shall match the predominant roof pitch of the~~  
 37 ~~principal dwelling unit.~~
- 38 ~~iii. Details: Trim shall match the trim used on the principal dwelling unit.~~  
 39 ~~Projecting eaves shall match those of the principal dwelling unit.~~
- 40 ~~iv. Windows: Windows shall match those in the principal dwelling unit in~~  
 41 ~~proportion (relationship of width to height) and orientation (horizontal or~~  
 42 ~~vertical).~~
- 43 2.1. Animal Boarding, Animal Day Care, Kennel
- 44 3.2. Bank, Financial Institution
- 45 4.3. Bed and Breakfast Establishment
- 46 5.4. Building Height Increase
- 47 6.5. Caretakers Dwelling
- 48 7.6. College, Post-secondary School
- 49 8.7. Communications Equipment - Shortwave Radio and TV Antennas
- 50 9.8. Community Residential Facility, State Licensed, Serving 7-16 Persons
- 51 10.9. Day Care Center
- 52 11.10. Day Care Facility, Group Family
- 53 12.11. Dormitory
- 54 13.12. Drive-through Facilities
- 55 14.13. Garden, Public or Community (flower or vegetable), greater than 10,000 square  
 56 feet
- 57 15.14. Grocery Store
- 58 16.15. Health Club, Fitness Center
- 59 17.16. Hospital
- 60 18.17. Learning Studio
- 61 19.18. Liquor Store
- 62 20.19. Live-work Unit
- 63 21.20. Maintenance Facility
- 64 22.21. Manufactured Home Park
- 65 23.22. Manufacturing and Processing, Outdoor Activities/Storage

- 66        ~~24.23.~~ Motor Fuel Sales, Motor Vehicle Repair, Body Shop  
 67        ~~25.24.~~ Motor Vehicle Rental/Leasing  
 68        ~~26.25.~~ Motor Vehicle Dealer  
 69        ~~27.26.~~ Multi-family, Dwellings with 8 or more Units per Building  
 70        ~~28.27.~~ Nursing Home/Assisted Living Facility  
 71        ~~29.28.~~ Off-site Parking  
 72        ~~30.29.~~ One-family Attached Dwelling (townhome, rowhouse)  
 73        ~~31.30.~~ Park and Ride Facility  
 74        ~~32.31.~~ Pawn Shop  
 75        ~~33.32.~~ Place of Assembly  
 76        ~~34.33.~~ Renewable Energy Systems  
 77        ~~35.34.~~ Transit Center

78            **SECTION 4. Section 1011 is hereby amended as follows:**

79        **1011.12 Additional Requirements for Specific Uses in All Districts**

80            **B. Residential Uses, Accessory:**

81            1. Accessory Dwelling Units (ADU):

- 82            a. An ADU shall be located on a lot occupied by a one-family dwelling.  
 83            b. No more than one ADU shall be allowed on a lot.  
 84            **c. ~~The one-family dwelling on the lot~~Either the principal dwelling unit or the**  
 85            **ADU shall be owner-occupied and both dwelling units shall be under unified**  
 86            **ownership.**  
 87            **d. Maximum occupancy of an ADU shall be limited to 2 people.**  
 88            **e. An ADU shall be assigned a unique address identifier to differentiate it**  
 89            **from the principal dwelling. An attached ADU shall be identified by “Unit**  
 90            **A” and a detached ADU shall be identified by “Unit B” following the**  
 91            **primary property address (e.g., 1234 Elm Street Unit B).**  
 92            **f. A detached ADU may be located above a detached garage ~~of the one-family~~**  
 93            **~~dwelling~~ or within a separate accessory building meeting the standards for**  
 94            **accessory buildings established in §1004.02 of this Title.**  
 95            **g. A property shall have a minimum of 1 additional, conforming, off-street**  
 96            **vehicle parking space above and beyond the number of parking spaces**  
 97            **required for the principal dwelling unit in the zoning district.**  
 98            **h. Home Occupations: Home occupations are permitted in ADUs, provided**  
 99            **that the combined impacts of home occupations in the ADU and the**  
 100            **principal dwelling unit conform to the standards and limitations**  
 101            **established in §1011.12B2 of this Title.**



- 102 e.i. Dimensional Standards **for All ADUs:**
- 103 i. Maximum height of ~~a detached an~~ -ADU, including one built above a
- 104 garage: **shall not exceed 30 feet (as typically measured to mid-point of**
- 105 **pitched roof) the standards for principal or accessory buildings, as**
- 106 **applicable.**
- 107 ii. ~~Maximum unit~~**Unit size: An ADU shall include at least 300 square feet**
- 108 **of living area up to a maximum of 650 square feet of living area, but**
- 109 **in no case shall an ADU exceed 75% of the principal dwelling's floor**
- 110 **four season living area (exclusive of the ADU), up to a maximum size of**
- 111 **600 square feet of living area. For the purposes of this provision, "living**
- 112 **area" shall include kitchen areas, bathrooms, living rooms, bedrooms**
- 113 **(including the closet which defines the bedroom), and other rooms,**
- 114 **and shall exclude utility rooms, hallways, entryways, storage areas,**
- 115 **and garages.**
- 116 ~~iii.~~**iii. An ADU shall include a maximum of 1 bedroom.**
- 117 ~~iv.~~**iv. Setback requirements: Attached-All ADUs shall meet the standards for**
- 118 **principal buildings; notwithstanding this requirement, detached ADUs**
- 119 **shall meet the setback requirements for accessory buildings not be located**
- 120 **closer to the front property line than the principal building.**
- 121 f.j. The entryway to a detached ADU shall be connected to a street frontage with a
- 122 paved walkway.
- 123 g.k. **Design Standards for Attached ADUs:** The appearance or character of the
- 124 principal building shall not be significantly altered so that its appearance is no
- 125 longer that of a one-family dwelling.
- 126 h.l. Design Standards for Detached ADUs:
- 127 i. **Material:** The exterior finish material shall match in type, size, and
- 128 placement, the exterior finish material of the principal dwelling unit.
- 129 ii. **Roof pitch:** The roof pitch shall match the predominant roof pitch of the
- 130 principal dwelling unit.
- 131 iii. **Details:** Trim shall match the trim used on the principal dwelling unit.
- 132 Projecting eaves shall match those of the principal dwelling unit.
- 133 iv. **Windows:** Windows shall match those in the principal dwelling unit in
- 134 proportion (relationship of width to height) and orientation (horizontal or
- 135 vertical).
- 136 m. **Permit Required: A lifetime, non-transferrable ADU Occupancy Permit**
- 137 **shall be required from the Community Development Department to allow**
- 138 **an ADU to be rented. For the purposes of this provision, a "rented" ADU is**
- 139 **one that is being occupied by a person or persons other than the family (as**
- 140 **defined in §1001.11 of this Title) occupying the principal dwelling unit.**
- 141 **Each property owner seeking to rent an ADU, or occupy an ADU while**
- 142 **renting the principal dwelling unit, shall apply for a new ADU Occupancy**
- 143 **Permit according to the procedure established herein. In addition to**
- 144 **receiving an ADU Occupancy Permit, the property shall be in compliance**
- 145 **with the City's rental registration requirements.**

- 146           **i. Application:** The owner of property on which an ADU is proposed  
 147 shall file a permit application by paying the fee set forth in Chapter  
 148 314 of this Code and submitting a completed application form and  
 149 supporting documents as set forth on the application form. The  
 150 Community Development Department will review the application to  
 151 determine whether the application is complete and the subject  
 152 property is eligible to receive the requested ADU permit.
- 153           **ii. Notification:** Upon the determination that a complete application has  
 154 been submitted and that the property is eligible to receive the  
 155 requested ADU permit, property owners within a radius of 100 feet  
 156 shall be notified in writing by the Community Development  
 157 Department of the application and that they have 7 days in which to  
 158 share comments or concerns about the application before the  
 159 Community Development Department issues the permit.
- 160           **iii. Conditions:** The City may impose conditions on the issuance of an  
 161 ADU permit. Such conditions must be directly related to, and must  
 162 bear a rough proportionality to, impacts created by the ADU.
- 163           **iv. Revocation:** If a permitted ADU or the property for which an ADU  
 164 permit has been issued should fail to meet the requirements of the  
 165 permit, and/or if a property for which an ADU permit has been issued  
 166 should become ineligible for such permit, the issued ADU permit may  
 167 be revoked upon the determination by the Community Development  
 168 Department that the noncompliance and/or ineligibility issue(s)  
 169 cannot or have not been resolved. If an ADU permit is revoked,  
 170 occupation of the ADU by a person or persons other than the family  
 171 (as defined in §1001.11 of this Title) occupying the principal dwelling  
 172 unit shall cease within 60 days of the date of the revocation.
- 173           **v. Appeals:** Determinations pertaining to the continuing compliance  
 174 and/or eligibility of an ADU permit or the property for which an ADU  
 175 permit has been issued are subject to appeal according to the  
 176 procedure for appeals of administrative decisions established in  
 177 Section 1009.08 of this Title.
- 178           **vi. Expiration:** An ADU permit shall expire upon transfer of the property  
 179 to a new owner. Continued use of an ADU on a property which has  
 180 been transferred to a new owner shall require the new owner to apply  
 181 for a new ADU permit.

182           **SECTION 5. Effective Date:** This ordinance amendment to the Roseville City Code  
 183 shall take effect upon passage and publication.

184 Passed this 10<sup>th</sup> day of October 2011

City of Roseville

ORDINANCE SUMMARY NO. \_\_\_\_

**AN ORDINANCE AMENDING SELECTED TEXT OF SECTIONS 1004 (RESIDENTIAL DISTRICTS),  
1009 (PROCEDURES), AND 1011 (PROPERTY PERFORMANCE STANDARDS) OF TITLE 10 “ZONING  
CODE” OF THE ROSEVILLE CITY CODE**

The following is the official summary of Ordinance No. \_\_\_\_ approved by the City Council of Roseville on October 10, 2011:

The Roseville City Code, Title 10, Zoning Code, has been amended to allow and regulate accessory dwelling units as permitted uses in the LDR-1 zoning district.

A printed copy of the ordinance is available for inspection by any person during regular office hours in the office of the City Manager at the Roseville City Hall, 2660 Civic Center Drive, Roseville, Minnesota 55113. A copy of the ordinance and summary shall also be posted at the Reference Desk of the Roseville Branch of the Ramsey County Library, 2180 Hamline Avenue North, and on the Internet web page of the City of Roseville ([www.ci.roseville.mn.us](http://www.ci.roseville.mn.us)).

Attest: \_\_\_\_\_  
William J. Malinen, City Manager