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2021 GROUP A PROPOSED CHANGES TO THE I-CODES

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Virtual Committee Action Hearings

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**2021 GROUP A – PROPOSED CHANGES TO THE
INTERNATIONAL PROPERTY MAINTENANCE / ZONING
CODE**

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TENTATIVE ORDER OF DISCUSSION 2021 PROPOSED CHANGES TO THE INTERNATIONAL PROPERTY MAINTENANCE CODE

The following is the tentative order in which the proposed changes to the code will be discussed at the public hearings. Proposed changes which impact the same subject have been grouped to permit consideration in consecutive changes.

Proposed change numbers that are indented are those which are being heard out of numerical order. Indentation does not necessarily indicate that one change is related to another. Proposed changes may be grouped for purposes of discussion at the hearing at the discretion of the chair. Note that some PM code change proposals may not be included on this list, as they are being heard by another committee.

IPMC

PM1-21
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PM3-21
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 F117-21 Part II
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IZC

 FS97-21 Part III
 G44-21 Part IV
Z1-21

Z1-21

IZC: (New), 501.1, TABLE 801.2.1, 801.2.3, 801.2.3.1 (New), SECTION 903 (New), 903.1 (New), 903.1.1 (New), 903.1.2 (New), 903.2 (New)

Proponents: Mike Nugent, Chair, representing ICC Building Code Action Committee (bcac@iccsafe.org)

2021 International Zoning Code

Add new definition as follows:

ACCESSORY DWELLING UNIT (ADU). An additional, subordinate dwelling unit on the same lot, that is entirely within a dwelling unit, attached to a dwelling unit, or in a detached structure.

Revise as follows:

501.1 Residential zone. Allowable residential (R) zone uses shall be:

Division 1. The following uses are permitted in an R, Division 1 zone: Single-family dwellings, publicly owned and operated parks, recreation centers, swimming pools and playgrounds, police and fire department stations, public and governmental services, public libraries, schools and colleges (excluding colleges or trade schools operated for profit), public parking lots, *private garages*, buildings accessory to the above permitted uses (including private garages, accessory dwelling units and *accessory living quarters*), and temporary buildings.

Division 2. The following uses are permitted in an R, Division 2 zone:

Any use permitted in R, Division 1 zones and two-family dwellings.

Division 3. The following uses are permitted in an R, Division 3 zone:

All uses permitted in R, Division 2 zones, multiple-unit dwellings, such as apartment houses, boarding houses, condominiums and *congregate residences*.

**TABLE 801.2.1
OFF-STREET PARKING SCHEDULE**

USE	NUMBER OF PARKING SPACES REQUIRED
Assembly	1 per 300 gross square feet
Accessory dwelling unit (ADU)	1 per accessory dwelling unit
Dwelling unit	2 per dwelling unit
Health club	1 per 100 gross square feet
Hotel/motel	1 per sleeping unit plus 1 per 500 square feet of common area
Industry	1 per 500 gross square feet
Medical office	1 per 200 gross square feet
Office	1 per 300 gross square feet
Restaurant	1 per 100 gross square feet
Retail	1 per 200 gross square feet
School	1 per 3.5 seats in assembly rooms plus 1 per faculty member
Warehouse	1 per 500 gross square feet

For SI: 1 square foot = 0.0929 m².

801.2.3 Location of on lot. The parking spaces required by this code shall be provided on the same lot as the use or where the exclusive use of such is provided on another lot not more than 500 feet (152 m) radially from the subject lot within the same or less-restrictive zoning district.

Add new text as follows:

801.2.3.1 Accessory dwelling unit parking. Vehicular access to the required parking space shall not be obstructed by the parking space for the occupants of the primary dwelling unit.

SECTION 903 ACCESSORY DWELLING UNITS (ADU).

903.1 General. Accessory dwelling units shall be permitted in residential zones.

903.1.1 Approval. Applications for an ADU are subject to the requirements for a conditional use permit as per Chapter 12 and shall meet the following criteria:

1. The applicant must demonstrate that the ADU complies with all development and design standards of this Section.
2. The applicant must demonstrate that the proposed new construction or modifications to existing construction comply with the applicable building and fire safety codes.

903.1.2 Occupancy permit, control. No occupancy of the ADU shall take place without an occupancy permit issued by the code official appointed by the authority having jurisdiction. The initial occupancy permit shall remain in force for a period of 2-years from the date of issue, provided that there is continued ownership. Thereafter, succeeding permits may be issued by the code official for each succeeding 2-year period, provided that the structure and use continue to comply with the relevant provisions of Section 903, the building and fire safety codes, and the conditional use special permit. Occupancy permits shall not be transferable upon new ownership or a change in occupancy.

903.2 Conditions. ADUs shall be permitted without requiring a change of zoning where in compliance with all of the following:

1. Only one ADU shall be permitted for each primary dwelling unit.
2. The owner of a property containing an ADU shall reside in either the primary dwelling unit or the ADU, as of the date of permit approval.
3. An ADU shall have a separate house number from the primary dwelling unit.
4. ADUs shall be secondary in size and function to the primary dwelling unit and shall comply with all of the following limits.
 - 4.1. Not less than 190 square feet (17.65 m²) in area.
 - 4.2. Not more than 50 percent of the area of the primary dwelling unit.
 - 4.3. Not more than 1,200 square feet (111 m²) in area.
5. An ADU shall be provided with a separate entrance than that serving the primary dwelling unit.
6. An ADU shall have a maximum number of two bedrooms.
7. Off-street parking shall comply with Section 801.

8. The location of a detached ADU shall comply with Section 803.

9. An ADU shall be provided with adequate provisions for electricity, water supply and sewage disposal.

Reason Statement: Accessory dwelling unit (ADU) is a term already in use across the United States – including Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Hawaii, Idaho, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Utah, Vermont, Virginia, Washington, and Wisconsin. However, the definition of an ADU and associated code requirements vary significantly not only state to state, but from jurisdiction to jurisdiction. The International Zoning Code (IZC) should provide definition and framework of requirements in an effort to create a uniform understanding of ADUs. It is also important to note the lack of building and codes standards has created circumstances where the requirements are being determined through local and state legislative processes, instead of ICC's code change process, which is a consensus process driven by the knowledge and experience of code officials.

This code change proposal does not address requirements associated with life safety, nor how to construct a new ADU, nor how to renovate an existing structure to add an ADU; those requirements must be codified in the IBC, IRC, and IEBC through separate proposals in their respective code development cycles. The following explanations provide context for these definitions and IZC requirements.

Two definitions are created, the first recognizing the common parlance of an Accessory Dwelling Unit (ADU) and pointing to the second definition, which describes the use more accurately as a subset of a dwelling unit, and positions it next to the dwelling unit definition.

The content of the definition for an ADU was developed based on similarities found in existing Zoning ordinances in effect around the United States, and distinguishing the difference between an ADU and a Two-Family Dwelling; i.e., the subordinate nature of the size and function to the primary or second dwelling unit. Though subordinate is not a defined term in Chapter 2, there is precedent in the I-Codes for using the term (Refer to Accessory Building – “an incidental subordinate building...” and Home Occupation – “the partial use of a home for commercial or nonresidential uses by a resident thereof, which is subordinate and incidental...”)

The definition is intended for integration throughout the I-Codes, as further code development cycles address specific code regulations for the IBC, IEBC, and IRC depending on the type of ADU proposed. This definition recognizes that an ADU features the same components of a dwelling unit in terms of living, sleeping, eating, cooking and sanitation which presently can only be defined in the I-Codes as a dwelling unit. The reality is that the application of the ADU concept in different jurisdictions is inconsistent, and at times may allow deviation from the full requirements the code prescribes for a two-family dwelling unit arrangement. It is necessary to recognize the unique circumstances wherein an ADU must comply with those two-family dwelling unit requirements, and when alternative arrangements are acceptable that do not compromise the health, safety, and welfare of the Public. The definition also recognizes that the ADU can either be within the primary dwelling unit (such as in the basement of a single-family home) or a detached accessory structure (similar to a detached garage).

The definition avoids non-enforceable provisions such as if the ADU is rented, the relationship between the person(s) in the ADU and the primary dwelling, and characteristics that would preclude placement within the IBC, IEBC, IRC, and IZC.

The additional language in Chapter 5 recognizes that an ADU can be created within any residentially zoned parcel, regardless of whether that is in a single-family (Division 1), two-family (Division 2), or multi-family (Division 3) zone. In practice there are examples of ADUs being subordinate to single-family dwellings (the most common example), one or both units of a two-family dwelling (less common), within Townhouses (3-stories or less), and within Townhouses (4 stories). It is ultimately the responsibility of the IBC, IEBC, an IRC to regulate ADU design within those contexts.

The off-street and on-lot parking requirements are proposed as 1 per ADU. Where the code requires two parking spaces per dwelling unit, the subordinate use (the ADU) is lesser in size than the primary dwelling (see 903.2). There is debate about the impact on parking demands in existing neighborhoods, so requiring some parking but not at the same level as the primary dwelling unit was determined the best option to address all concerns (source: <https://accessorydwellings.org/2014/07/16/do-adus-cause-neighborhood-parking-problems/>).

Section 903 creates conditions to ensure that an ADU is subordinate to the primary dwelling unit.

Section 903.1.2 occupancy permit, control proposes a two-year renewal cycle for the occupancy permit and renewal upon sale of the property. This is to allow for regular, routine inspections of the ADU as well as ensuring any new owner understands the requirements and restrictions of the ADU.

Section 903.2 conditions propose nine (9) requirements that ensure the ADU does not become a “duplex” or second single-family home on the same lot. Should these conditions not be met, the proposed ADU must be remain considered as a separate dwelling unit with all applicable regulations of the IBC, IEBC, or IRC in effect.

- Item 1 re-affirms the subordinate nature of the ADU to the primary dwelling unit;
- Item 2 establishes an Owner-occupancy requirement;
- Item 3 requires a separate address for the ADU from the primary unit.
- Item 4 sets size parameters for the ADU.

- The minimum square footage of 190 SF aligns with the IBC minimum for an efficiency unit.
- The maximum size is based on a comparison of requirements in effect in CO, OR, MA, CA, and VA which ranged from 750 SF to 1,400 SF;

most between 1,000 SF and 1,200 SF.

- A similar comparison between percentages of the primary unit showed 30% to 50% with more jurisdictions favoring the higher value.
- Item 5 requires a separate entrance to prevent a house that has a second kitchen (such as a recreation room in a basement with a cooking area), but are not an ADU from being mandated to meet the ADU requirements.
- Item 6 limits the unit to two bedrooms to minimize parking demands while still allowing the ADU to address housing market demands and cost concerns.
- Item 7 is a pointer to the parking requirements in Section 801.
- Item 8 is a pointer to the multiple buildings on a single lot requirements of Section 803.
- Item 9 recognizes the need for an ADU to have adequate utilities.

The BCAC is working on a proposal to add accessory dwelling units in the IEBC and IRC Group B proposals.

This proposal is submitted by the ICC Building Code Action Committee (BCAC).

BCAC was established by the ICC Board of Directors in July 2011 to pursue opportunities to improve and enhance assigned International Codes or portions thereof. In 2020 the BCAC has held several virtual meetings open to any interested party. In addition, there were numerous virtual Working Group meetings for the current code development cycle, which included members of the committee as well as interested parties. Related documents and reports are posted on the BCAC website at BCAC.

Cost Impact: The code change proposal will not increase or decrease the cost of construction

The proposal creates an allowance whereby a someone can build an accessory dwelling unit within a residentially zoned district, where it would otherwise not be permitted. No one is under any obligation to build an ADU, nor are they required to plan for the construction of a future ADU.

For someone choosing not to construct an ADU where these code provisions will not be applicable, there are no cost implications.

For someone choosing to construct an ADU where these code provisions are applicable, the cost of construction will increase proportionally to the size of the project, and to create additional off-street parking. According to an article titled Calculating the Costs of Building an ADU published on the BuildinganADU.com blog, the average cost for an ADU from 2016-2019 based on their research is as follows:

- Detached New Construction: \$305/SF
- Basement ADU: \$265/ SF
- Attached ADU: \$300/ SF
- Garage Conversion: \$297/ SF
- Detached New Construction Above a Garage: \$212/ SF