

Council Bill/General Ordinance No.

Sponsor: \_\_\_\_\_

AN ORDINANCE

AMENDING Chapter 35, "ZONING AND LAND DEVELOPMENT," Section 35-1203, "DEFINITIONS," of the Moline Code of Ordinances, by repealing subsection (104), "Family," in its entirety and enacting in lieu thereof one new subsection (104), "Family," dealing with the same subject matter; amending ARTICLE III, "ZONING," by enacting one new DIVISION 9 entitled "ACCESSORY DWELLING UNITS"; and amending Chapter 8, "BUILDINGS AND OTHER CONSTRUCTION AND BUILDING SERVICES," Section 8-7202(c), of the Moline Code of Ordinances, by repealing Section 8-7202(c) in its entirety and enacting in lieu thereof one new Section 8-7202(c), dealing with the same subject matter.

WHEREAS, the City of Moline ("City") is a home rule municipal corporation organized and operating in accordance with the Constitution and laws of the State of Illinois; and

WHEREAS, the City has investigated ways to expand housing options, including providing new housing models that are accessory structures to principal dwelling units; and

WHEREAS, the City now desires to adopt regulations allowing for the introduction of accessory dwelling units to principal dwelling units as a way to provide close proximity housing options for family caregivers and extended family members, as well as a broader range of housing options for individuals and families; and

WHEREAS, Notice of a public hearing on the City's petition for amendments to the City's definition of "Family" and establishing regulations for accessory dwelling unit text in the City of Moline Zoning and Land Development Code, as amended ("Code"), was published in the \_\_\_\_\_ on \_\_\_\_\_, 2022; and

WHEREAS, a public hearing was convened by the Plan Commission on \_\_\_\_\_, 2022, on which date the Plan Commission closed the public hearing and, pursuant to the findings of fact attached as *Exhibit A* and, by this reference, made a part of this Ordinance, recommended approval of the proposed text amendment concerning the definition of "Family" and establishing regulations for accessory dwelling units.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

**Section 1** – The foregoing recitals are hereby incorporated into this Ordinance as though fully set forth in this Section 1.

**Section 2** – That pursuant to Section 35-2203 of the Moline Code of Ordinances, Chapter 35, "ZONING AND LAND DEVELOPMENT," Section 35-1203, "DEFINITIONS," of the Moline Code of Ordinances, is hereby amended by repealing subsection (5) "Accessory building

or use” and subsection (104), “Family,” in its entirety and enacting in lieu thereof one new subsection (104), “Family,” dealing with the same subject matter, which shall read as follows (additions in **bold and underlined** and deletions in ~~bold and strikethrough~~):

**“SEC. 35-1203. DEFINITIONS.**

[. . .]

**(5) Accessory building or use:**

a. Accessory Structure. A subordinate structure, **including Accessory Dwelling Units, as further defined in Division 9 of this Ordinance**, including detached but located on the same lot of record as the principal structure, the use of which is incidental and accessory to that of the principal structure.

b. Accessory Use. A structure or use that: (a) is clearly incidental to and customarily found in connection with a principal building or use; (b) is subordinate to and serves a principal building or a principal use; (c) is subordinate in area, extent, or purpose to the principal building or principal use served; (d) contributed to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and (e) is located on the same lot as the principal building or use served, **including Accessory Dwelling Units, as further defined in Division 9 of this Ordinance**.

(104) **Family**. One or more persons each related to them by blood, marriage, or adoption (including foster children), together with such relative of the respective spouses who are living with the family in a single dwelling and maintaining a common household. A family may also be composed of not to exceed ~~three~~ **five** persons not so related, provided that such unrelated persons live in a single dwelling and maintain a common household and single household unit. A family includes any ~~domestic servants~~ **person who serves as a caretaker, housekeeper, or other assistance provider to other members of the Family**, and not more than one gratuitous guest residing with said family; such servants or guest shall be included in the unrelated persons attained by this definition, and shall not be in addition thereto. **Notwithstanding the foregoing, nothing herein shall be construed to prevent any group of individuals whose right to live together is protected by provisions of state or federal fair housing laws.**

[. . .]”

**Section 3** – That pursuant to Section 35-2203 of the Moline Code of Ordinances, Chapter 35, “ZONING AND LAND DEVELOPMENT,” ARTICLE III, “ZONING,” of the Moline Code of Ordinances, is hereby amended by enacting one new DIVISION 9 entitled “ACCESSORY DWELLING UNITS,” which shall read as follows:

**“DIVISION 9. ACCESSORY DWELLING UNITS.**

**SEC. 35-3900. DEFINITIONS.**

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(1) **Accessory Dwelling Unit** means a Dwelling Unit that is accessory to an existing principal Detached Dwelling, and is, for all purposes of this Division 9 and this Article III, an Accessory Use and Accessory Structure, as those terms are defined in Section 35-1203(5) of this Ordinance.

(2) **Attached** means an Accessory Dwelling Unit that expands an existing principal Detached Dwelling.

(3) **Conversion** means an Accessory Dwelling Unit that converts space within an existing Dwelling Unit or converts an existing freestanding accessory structure[ , existing as of the adoption date of this Section] into an Accessory Dwelling Unit. [; provided, however, that any such existing freestanding accessory structure to be a Conversion must have been continually located on the property for at least 20 years, as of the adoption date of this Section.]

(4) **Garage Attached** means an Accessory Dwelling Unit that expands an existing accessory Garage.

(5) **Garage Conversion** means a new Accessory Dwelling Unit that converts either part of or an entire accessory Garage to a Dwelling Unit.

**SEC. 35-3901. GENERAL LIMITATIONS AND REQUIREMENTS.**

(a) Accessory Dwelling Units are special uses permitted only in the R-2 One Family Residence District, and subject to the development standards set forth in Sec. 35-3915 and other requirements of this Division 9.

(b) Accessory Dwelling Units must fall within one of the defined categories set forth in Section 35-3900 and in no event be allowed as new construction.

(c) The property owner of a property with an Accessory Dwelling Unit must permanently reside in either the principal Detached Dwelling or the Accessory Dwelling Unit.

(d) The architectural design of an Accessory Dwelling Unit, subject to the standards set forth in Table 35-3902(a) and (b) of this Division 9, must be compatible with its principal dwelling unit, including without limitation, the following:

1. *Height:* The height of the proposed Accessory Dwelling Unit must be visually compatible with the principal Detached Dwelling on the property and with structures on immediately adjacent properties.

**Commented [SD1]:** Plan Commission needs to determine which works better.

**Commented [SD2]:** The Plan Commission needs to consider whether the age requirement is necessary, since the language makes clear that it must be an existing accessory structure.

**Commented [SD3]:** The intent with these requirements is to maximize visual compatibility and limit options for out of context architectural design. The Plan Commission needs to consider whether these standards reach that desired result, are too much, or not enough.

2. *Proportion of front facade:* The relationship of the width to the height of the front elevation of a proposed Accessory Dwelling Unit must be visually compatible with the principal Detached Dwelling on the property and with structures on immediately adjacent properties, public ways, and places to which it is visually related.

3. *Proportion of openings:* The relationship of the width to height of windows of a proposed Accessory Dwelling Unit must be visually compatible with the principal Detached Dwelling on the property and with structures on immediately adjacent properties, public ways, and places to which it is visually related.

4. *Rhythm of solids to voids in front façades:* The relationship of solids to voids in the front facade of a proposed Accessory Dwelling Unit must be visually compatible with the principal Detached Dwelling on the property and with structures on immediately adjacent properties, public ways, and places to which it is visually related.

5. *Rhythm of entrance, porch, and other projections:* The relationship of entrances and other projections of a proposed Accessory Dwelling Unit to sidewalks shall be visually compatible with the principal Detached Dwelling on the property and with structures on immediately adjacent properties, public ways, and places to which it is visually related.

6. *Relationship of materials and texture:* The relationship of the materials and texture of the facade of a proposed Accessory Dwelling Unit must be visually compatible with the predominant materials used on the principal Detached Dwelling on the property and on structures on immediately adjacent properties to which it is visually related.

7. *Roof shapes:* The roof shape of a proposed Accessory Dwelling Unit must be visually compatible with the principal Detached Dwelling on the property and with structures on immediately adjacent properties to which it is visually related.

8. *Walls of continuity:* The façades and appurtenances of a proposed Accessory Dwelling Unit such as walls, fences, and landscape masses must, when it is a characteristic of the area, form cohesive walls of enclosure along a street to ensure visual compatibility with the principal Detached Dwelling on the property and with structures on immediately adjacent properties, public ways, and places to which such elements are visually related.

9. *Directional expression of front elevation:* A proposed Accessory Dwelling Unit must be visually compatible with the principal Detached Dwelling on the property and with structures on immediately adjacent properties, public ways, and places to which it is visually related in its directional character, whether this be vertical character, horizontal character, or non-directional character.

(e) In any instance where an Accessory Dwelling Unit is leased to an occupant, no such lease will be for a period of less than six consecutive calendar months, and the lease

Council Bill/General Ordinance No.  
Page 5 of 7

will be filed with the Building Division within seven business days of the beginning of the lease term.

(f) No Accessory Dwelling Unit will be made available for short-term rentals of less than six consecutive calendar months, and will not be registered or otherwise included as a listing with any third party service that advertises short-term rental properties.

**SEC. 35-3902. ACCESSORY DWELLING UNIT DEVELOPMENT STANDARDS.**

**Table 35-3902(a)**

| Standard                                    |        | Conversion   | Attached  | Garage Conversion                                    | Garage Attached  |
|---|--------|--|---|--|--|
| Maximum Footage                             | Square | If within a Principal Dwelling Unit: 600 or 30% of the Gross Floor Area of the Principal Dwelling Unit, whichever is greater |   |  |  |
|   | Square | If within an existing Accessory Structure, other than a Garage: 100% of the Gross Floor Area of the Accessory Structure      | 600 or 30% of the Gross Floor Area of the Principal Dwelling Unit, whichever is greater | 100% of the Gross Floor Area of the Accessory Garage | 600  |
| Minimum Footage                             | Square | Not less than 10% of the Gross Floor Area of the Principal Dwelling Unit   | Not less than 15% of the Gross Floor Area of the Principal Dwelling Unit                | N/A  | 300  |
| Maximum Height                              |        | N/A  | No taller than existing principal dwelling unit, but in no event taller than 20-feet    | N/A  | No taller than existing principal dwelling unit, but in no event taller than 20-feet |
| Minimum Number of Off-Street Parking Spaces |        | One  | One   | One  | One  |

In addition to the standards above, the following additional requirements apply to all Accessory Dwelling Units, and may be subject to review by and approval from the City Building Official, or his or her designee.

Table 35-3902(b)

| Standard  | Conversion  | Attached  | Garage Conversion   | Garage Attached   |
|---|---|---|---|---|
| <b>Manufactured Structure</b>                                 | N/A   | Yes, but must match architectural style and building materials of Principal Dwelling Unit   | N/A   | Yes, but must match architectural style and building materials of Principal Dwelling Unit   |
|   | No  | No  | No  | No  |
| <b>Separate Driveway for Accessory Dwelling Unit</b>          | No  | No  | No  | No  |
| <b>Tree Removal/Tree Preservation</b>                         | As required under Sec. 35-4106 of the City Code, and on a case by case basis with specific conditions in SUP with attached approved site plan                                 | As required under Sec. 35-4106 of the City Code, and on a case by case basis with specific conditions in SUP with attached approved site plan                                 | As required under Sec. 35-4106 of the City Code, and on a case by case basis with specific conditions in SUP with attached approved site plan                                 | As required under Sec. 35-4106 of the City Code, and on a case by case basis with specific conditions in SUP with attached approved site plan                                 |
| <b>Roof Decks</b>   | No  | No  | No  | No  |
| <b>Outdoor Living Areas</b>                                   | Must be oriented away from neighboring Dwelling Units on neighboring properties, and on a case by case basis with specific conditions in SUP with attached approved site plan | Must be oriented away from neighboring Dwelling Units on neighboring properties, and on a case by case basis with specific conditions in SUP with attached approved site plan | Must be oriented away from neighboring Dwelling Units on neighboring properties, and on a case by case basis with specific conditions in SUP with attached approved site plan | Must be oriented away from neighboring Dwelling Units on neighboring properties, and on a case by case basis with specific conditions in SUP with attached approved site plan |
| <b>Additional Setback Requirements</b>                        | On a case by case basis with specific conditions in SUP with attached approved site plan  | On a case by case basis with specific conditions in SUP with attached approved site plan  | On a case by case basis with specific conditions in SUP with attached approved site plan  | On a case by case basis with specific conditions in SUP with attached approved site plan  |
| <b>Separate Utility Meter</b>                                 | Subject to Building Official and utility review and requirements  | Subject to Building Official and utility review and requirements  | Subject to Building Official and utility review and requirements  | Subject to Building Official and utility review and requirements  |
| <b>Limit of One Entry Door from Street</b>                    | Subject to Building Official review and requirements  | Subject to Building Official review and requirements  | Subject to Building Official review and requirements  | Subject to Building Official review and requirements  |
| <b>Carbon Monoxide Detector</b>                               | Subject to Building Official review and requirements  | Subject to Building Official review and requirements  | Subject to Building Official review and requirements  | Subject to Building Official review and requirements  |
| <b>External Steps to Second Floor Accessory Dwelling Unit</b> | Subject to Building Official review and requirements  | Subject to Building Official review and requirements  | Subject to Building Official review and requirements  | Subject to Building Official review and requirements  |
| <b>Regrading</b>  | Subject to Building Official review and requirements  | Subject to Building Official review and requirements  | Subject to Building Official review and requirements  | Subject to Building Official review and requirements  |

**SEC. 35-3903. APPLICATION REQUIREMENTS AND PROCEDURES.**

All applicants for a special use permit for an Accessory Dwelling Unit in the R-2 One Family Residence District must:

(a) file an application and obtain approval for a special use permit pursuant to the requirements of Section 35-2206 of this Code;

(b) file an application and obtain approval for a Site Plan pursuant to the requirements of Section 35-2105 of this Code; and

(c) file an application, prior to construction of the Accessory Dwelling Unit, and obtain approval of a rental housing inspection, after construction of the Accessory Dwelling Unit, pursuant to the requirements of Chapter 8, Article VII, Division 2, of the Moline Code of Ordinances, as amended.

**SEC. 35-3904. RESTRICTIVE COVENANT.**

(a) Prior to issuance of a building permit to construct an Accessory Dwelling Unit, the owner(s) shall file with the Rock Island County Recorder of Deeds a covenant by the owner(s) to the City stating that the owner(s) agree to restrict use of the Accessory Dwelling Unit in compliance with the requirements of this Division and notify all prospective purchasers and subsequent owners of the property of these requirements by providing a copy of this Division.

(b) The covenant will run with the land and be binding upon the property owner, their heirs and assigns, and upon any parties subsequently acquiring any right, title, or interest in the property. The covenant will be in a form prescribed by the Community & Economic Development Director that includes the legal description of the property. The property owner(s) will return the original covenant with recording stamp to the Community & Economic Development Director before a building permit for the Accessory Dwelling Unit is issued.

(c) At the request of a property owner and upon an inspection finding that an Accessory Dwelling Unit has been removed from the property, the Community & Economic Development Director will record, or cause to be recorded, a release of any previously recorded covenant for the Accessory Dwelling Unit.

**SEC. 35-3905. ENFORCEMENT; VIOLATIONS AND PENALTIES.**

(a) The City Administrator will have the authority to enforce the provisions of this Division, and may assign responsibility for administration and enforcement of this division to such department or departments of the City as may be appropriate. The City Administrator is authorized to recommend reasonable and necessary policies, rules and regulations to carry out the provisions of this Division, which will be approved by resolution or ordinance of the City Council. This Division is not intended to, nor shall its effect be, to limit any other enforcement remedies, which may be available to the City under any other code, law, rule or regulation.



(b) In addition to any other legal and equitable remedies available to the City, including, without limitation, removal of an Accessory Dwelling Unit from the City’s rental property registration list, any person who commits an offense, violates, neglects, refuses to comply with, or assists or participates in any way in the violation of any of the provisions or the requirements of this Division will be fined not less than five hundred dollars (\$500.00) and not more than seven hundred fifty dollars (\$750.00) for each violation. Each day a violation continues will constitute a new and separate offense.”

**Section 4** – That pursuant to Section 1-1103 of the Moline Code of Ordinances, Chapter 8, “BUILDINGS AND OTHER CONSTRUCTION AND BUILDING SERVICES,” Section 8-7202(c), of the Moline Code of Ordinances, is hereby amended by repealing Section 8-7202(c) in its entirety and enacting in lieu thereof one new Section 8-7202(c), dealing with the same subject matter, which shall read as follows (additions in **bold and underlined** and deletions in ~~**bold and underlined**~~):

**“SEC. 8-7202. REGISTRATION OF RESIDENTIAL RENTAL PROPERTY.**

[. . .]

(c) **Exemptions.** The following property is exempt from the registration requirement of this division:

(1) Property declared as condominium property under the Illinois Condominium Property Act, 765 ILCS 605/1 et seq., and amendments thereto;

(2) Property owned and managed by the Moline Housing Authority, a municipal corporation;

(3) Property containing facilities licensing under state or local law for operation as an assisted or shared living, nursing home or long-term care facility, a convalescent home, or any other facility providing residential care to persons with mental health and/or developmental disabilities;

(4) Hotels and motels, bed and breakfast establishments, community reception establishments;

(5) Property containing only one (1) dwelling unit, **not including Accessory Dwelling Units;**

(6) Property containing only two (2) dwelling units, one (1) of which is occupied by the owner of the property, **not including Accessory Dwelling Units.**

Commented [SD4]: Double check Duplex issue

[. . .]”

**Section 5** - That if any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**Section 6** – That all prior ordinances and resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

**Section 7** – That this ordinance shall be in full force and effect from and after passage, approval, and if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

\_\_\_\_\_  
Mayor

September 20, 2022  
Date

Passed: September 20, 2022

Approved: September 27, 2022

Attest: \_\_\_\_\_  
City Clerk

**EXHIBIT A**  
Findings of Fact

