

CITY PLANNING COMMISSION AGENDA

STAFF: HANNAH VAN NIMWEGEN

FILE NO:
CPC CA 19-00027 – LEGISLATIVE

PROJECT: ACCESSORY DWELLING UNITS (ADUs)

An ordinance amending Chapter 7 (Planning, Development and Building) of City Code defining and establishing standards for accessory dwelling units

APPLICANT: CITY OF COLORADO SPRINGS - PLANNING AND DEVELOPMENT

PROJECT SUMMARY:

Code Change Description: The proposed ordinance adds and adjusts language to multiple sections of City Code Chapter 7 related to accessory dwelling units.

Highlights of the proposed changes include:

1. Allowing for ADUs to be permitted in additional zone districts including R (Residential Estate), R-1 9000 (Single-Family Residential), R-1 6000 (Single-Family Residential), OR (Office Residential) and OC (Office Complex);
2. Establishing two types of ADU's – detached and integrated;
3. Increasing the maximum square footage of an ADU;
4. Requiring owner occupancy in single-family zoning;
5. Reducing minimum lot size requirements for construction of an ADU accessory to the principal residential structure;
6. Increasing the maximum height from 25 feet to 28 feet and limiting that height to 20 feet where an ADU is not adjacent to an existing alley;
7. Removing the 20-foot minimum separation requirement between the principal dwelling and the ADU; and
8. Updating and adding ADU related definitions for clarification and simplification.

A more detailed summary of the language is found in the following sections of this report. The full language of the ordinance is attached as **FIGURE 1**. Added language is indicated in **BOLD** and language to be removed from the Code is indicated by a ~~STRIKETHROUGH~~.

BACKGROUND

The original accessory dwelling unit ordinance was adopted by the City Council in 2003 (Ordinance 03-74). The ordinance allowed detached ADUs to be constructed in conjunction with a primary residence within the R-2 (Two-Family Residential), R-4 (Multi-Family Residential), R-5 (Multi-family Residential), SU (Special Use) and C-5 (Intermediate Business) zone districts. The ordinance was adopted to provide flexibility to property owners to construct an additional detached dwelling on a property rather than requiring that unit to be attached or part of the principal structure. The ADU section of City Code was partially amended in 2012 modifying several of the standards.

For the past few years, staff has fielded inquiries about expanding the allowances for ADUs. Through the citizen input on PlanCOS and several additional plans, the same request had been made—expand the allowances for ADUs. With implementation of PlanCOS and these other

plans in mind, staff began to research ADU allowances in early 2018. Staff reviewed other cities as models to examine how communities are utilizing ADUs. Through this research, staff determined that many communities allow, in their own respective capacities, ADUs within single-family zone districts and many city codes have been updated in past years to expand the use of and size of ADUs.

In addition to implementing strategies to meet the goals of PlanCOS, expanding the ADU code also:

1. Supports “aging in place”, giving seniors and retirees housing in their neighborhood but with smaller living accommodations;
2. Provides families with disabled adult children the opportunity to live independently but within close proximity of family members;
3. Creates options for adult children or family members seeking affordable housing;
4. Allows homeowners an additional wealth building opportunity and/or providing retirement income;
5. Adds housing stock to developed areas using existing public infrastructure;
6. Provides housing choice and options for those who may not desire living in an apartment complex or may not want larger home and property to maintain.

A map of zone districts demonstrating where ADUs are currently permitted and where this proposed ordinance would expand their allowance is attached as **FIGURE 2**. With the proposed ordinance’s expansion to single-family zone districts, approximately 68,000 new parcels would become eligible for an accessory dwelling unit. Even if only 2% of these parcels construct and ADU, a home has been created for at least 1,360 citizens of Colorado Springs. During Mayor John Suthers 2018 State of the City address he stated, “I would suggest we make it a community goal to build, preserve and create opportunities to purchase an average of 1,000 affordable units per year over the next five years.” City Planning recognizes these units will not be built overnight, but also believes it is imperative to explore all available options and accessory dwelling units are an often overlooked opportunity.

The purpose for the ordinance is three-fold:

1. Expand the allowance of ADUs into single-family zone districts while preserving the integrity of the neighborhood;
2. Establish two types of ADUs and their respective standards;
3. Adjust, clarify, and simplify existing ADU standards to reduce perceived “red tape.”

Analysis and Research:

Staff reviewed other cities’ accessory dwelling unit codes and examined their regulations and definitions. A comparison matrix is attached to this memo and titled **FIGURE 3**. Through this research, staff determined that many communities allow, in their own respective capacities, ADUs within single-family zone districts and many city codes have been updated in past years to expand the use of and size of ADUs. Below is a listing of all communities researched:

Denver, CO	Castle Rock, CO
Golden, CO	Portland, OR
Fort Collins, CO	Salt Lake City, UT
Boulder, CO	Sacramento, CA
Lakewood, CO	Austin, TX

Aurora, CO	Boise, ID
Longmont, CO	Mukilteo, WA
Loveland, CO	Honolulu, HI

While multiple questions were asked to each community, Staff focused on a few primary topics which were understood to be applicable in Colorado Springs. These topics included: number of ADUs per residential lot, required off-street parking, owner occupancy requirement, ADU size allowance, zone districts which they are permitted in, and compatibility with the primary structure. Of those communities surveyed, most only allow one ADU per residential lot, require one to two off-street parking spaces to be dedicated to the ADU, and require some level of architectural compatibility with the primary structure or neighborhood. About half of those surveyed require the property owner to reside in one of the two units.

STAKEHOLDER PROCESS AND INVOLVEMENT:

After conducting research on other communities, Staff analyzed existing obstacles within the code particularly regarding the number of requested variances for recently constructed ADUs. Most of the requested variances were regarding ADU height, size, and separation from the principal residence. To help understand the real-world application of the standing code and the need for these variances, Staff formed and convened a citizen steering committee to provide input. The ADU Steering Committee included Councilmember Gaebler, Planning Commissioner Reggie Graham, CONO (Council of Neighbors and Organizations), ONEN (Organization of North End Neighbors), OWN (Organization of Westside Neighbors), in addition to a few skilled tradesmen and property owners who recently constructed accessory dwelling units. The steering committee met a number of times mid-2018 and discussed known issues with the standing code and aspects of the proposed changes. Much of the conversation focused on the allowance of ADUs within single-family zone districts. The committee generally agreed that adjusting the allowed building height and incorporating an owner occupancy requirement would minimize perceived impacts to single-family neighborhoods.

The proposal was presented at a joint meeting between the ADU Steering Committee and the Code Scrub Committee on two occasions; first on December 18, 2018 and most recently the group met to discuss the draft ordinance on March 4, 2019. All were mainly in agreement with the draft presented. However, one member voiced concerns that their HOA was not fully supportive of ADUs in single-family zone districts.

As part of the public outreach process, the City posted ADU information on the proposed revisions to the accessory dwelling unit ordinance on the City’s website in early February 2019. The City Communications Department also posted information on the ordinance and neighborhood meetings on the City’s Facebook page, the PlanCOS Facebook page, the City’s NextDoor account, and an email was sent to all 1,400 recipients of the PlanCOS email distribution list. A webpage dedicated to explaining the proposal, answers to frequently asked questions, the draft ordinance, and general information about ADUs can be found at <https://coloradosprings.gov/adu>.

City staff also provided interviews to two local news networks that were broadcast on local channels 5 (NBC) and 21 (FOX) as well as providing a radio interview that was shared with local networks and broadcast on the KRDO radio station.

Presentations and briefings on the proposed changes were given to a group of homeowner association members (approximately 12 in attendance) at a CONO sponsored event on February 14, 2019. Staff also spoke with the Human Service Commission and the Commission

on Aging who are looking into housing options for the aging population and those groups studying housing diversity. Staff also presented to the Historic Preservation Board and the Old North End Association on how this ordinance would interact with the Historic Preservation Overlay.

Three (3) public open houses were held, February 20, 2019 at Deerfield Hills Community Center (southeast); February 25, 2019 at Prairie Hills Elementary School (north) and February 26, 2019 at the City Auditorium (central). Approximately 120 – 140 citizens participated in the public open houses. The proposed Code changes were presented through a series of 17 informational boards, a staff presentation, and question and answer opportunity. Representations of those boards are attached as **FIGURE 4**. Comment cards were passed out at each meeting and attendees were encouraged to write any questions, concerns, or thoughts about the proposal and for Staff's attention.

While there have been a number of questions regarding the proposed changes; the citizens present at the neighborhood forums appeared generally supportive. Support for ADUs in single-family residential neighborhoods was bolstered by the reiteration of covenant compliance and the language related to owner occupancy. Most felt that the requirement of owner occupancy would prohibit the proliferation of ADUs within neighborhoods as well as ensuring an ownership presence on the property, avoiding absentee property owners. All received citizen comment cards, emails, and other correspondence is attached as **FIGURE 5**.

However, not all are in support of this ordinance and opposition has been voiced. This opposition has been specific to allowing ADUs in single-family residential zoning districts, mainly stating that this changes the nature of a "single-family zone district." Another concern heard was that allowing ADUs in single-family zones will increase the proliferation of short term rentals. There was also some concern voiced related to the variety of housing types and the price point for those rentals, and the negative impacts to existing, mature, single-family areas.

All citizens that signed in at one of the forums who also left their contact information were made aware of the Council work session, and will be notified of the City Planning Commission hearing and the City Council formal hearing.

ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:

Summary of Ordinance

The proposed draft ordinance is attached. As previously mentioned, the largest change is the introduction of ADUs to single-family districts. However, Staff is proposing alterations to other aspects of the ADU code. The new language is broken out into several sections:

7.2.201: DEFINITIONS ENUMERATED:

7.2.302: DEFINITIONS OF USE TYPES:

7.3.103: PERMITTED, CONDITIONAL AND ACCESSORY USES:

7.3.104: AGRICULTURAL, RESIDENTIAL, SPECIAL USE AND TRADITIONAL NEIGHBORHOOD DEVELOPMENT ZONE DISTRICT DEVELOPMENT STANDARDS

7.3.105: ADDITIONAL STANDARDS FOR SPECIFIC USES ALLOWED IN RESIDENTIAL ZONES:

7.3.203: PERMITTED, CONDITIONAL AND ACCESSORY USES:

FIGURE 6 is a document which was used at the public information meetings comparing what is currently permitted and the proposed changes. Below is a brief explanation of the language and its impacts on how accessory dwelling units will be permitted in the future if the ordinance is adopted:

Under the current code, there is one definition for an accessory dwelling unit as follows:

ACCESSORY DWELLING UNIT: A dwelling unit allowed in specific zones that is subordinate to the principal residential unit on the lot and which is located upon the same lot as the principal unit. An accessory dwelling unit is under the same ownership as the principal unit and it may be used for either residential or home occupation uses, subject to standard City restrictions related to home occupations.

The proposed amendment updates the definition to also include two types of ADUs—detached and integrated. An integrated unit is an accessory dwelling located inside of or attached to the principal dwelling sharing common walls and a connection (**FIGURE 7**). A detached unit is one that is located within an accessory structure detached from the principal unit (**FIGURE 8**).

Under the current code, ADUs are permitted only within the A, (Agricultural), R-2 (Two-Family Residential), R-4 (Multi-Family Residential), R-5 (Multi-family Residential), SU (Special Use), and C-5 (Intermediate Business) zone districts at a maximum finished living area not to exceed seven hundred fifty (750) square feet and a maximum building height of 25 feet. The current language also stipulates minimum lot size, parking, and setbacks for the ADU.

Integrated and detached ADUs, under this proposal, would be permitted as accessory to the principal single-family residence in the R, R1-6000 and R1-9000 residential zone districts where they have not been permitted in the past. Expansion of the allowance in commercial zones includes the OR (Office Residential) and OC (Office Commercial) zones. Any commercial zone where a single-family detached dwelling on an individual lot is a permitted use will also be permitted an ADU under the proposal.

In order to minimize impacts to neighborhoods, the proposed ordinance requires owner occupancy in single-family zoning if an ADU is added to the property. A definition of owner occupancy has been created for this ordinance and states that the property owner must occupy one of the two units, as their primary residence, for not less than six months each year. This is to prohibit a property owner from renting-out both units in their absence and ensuring accountability by the owner. Language has been added allowing waivers of the owner occupancy requirement for circumstances including the support of military service, an economic hardship such as job relocation, and other similar unforeseen events. Limits have been applied to the waivers and are stipulated in proposed section 7.3.105.M.b. In order for subsequent owners to be aware of said restrictions, before a building permit is issued for the ADU in the single-family zones, the owner will be required to file a declaration of restrictions against the property. This declaration will let future owners know that both units cannot be used as rental units. This recorded document will be noted as an attachment to future property title.

Code Section 7.3.105.M will continue to stipulate required off-street parking minimums, one accessory dwelling unit per lot, and that mobile homes and travel trailers (RV) cannot be used as accessory dwellings. In addition, specific size, height and setback requirements for each type are clearly outlined within this same section.

All size requirements for the ADUs are now to be measured utilizing the existing definition of Floor Area as follows:

FLOOR AREA: The total horizontal area of the floors of a building measured from the exterior walls, or from the centerline of a wall separating two (2) buildings, but not including interior parking spaces and maneuvering areas, or any space where the floor to ceiling height is less than seven and one-half feet (71/2').”

With that measurement and definition in mind, a detached unit would be permitted to be a size not to exceed 50% of the floor area of the principal structure up to a maximum of 1,250 square feet. This maximum cap on size and ratio will help preserve scale of the structures on the property. When the principal structure is 1,500 square feet or smaller, the maximum ADU size is capped at 750 square feet. The maximum allowed ADU height varies by zone district and the pitch of the ADU's roof. The maximum height is proposed at 28 feet; 20 feet in a residential zone when the structure is not adjacent to an existing alley.

The integrated units will be permitted at a maximum size of 40% of the floor area of the principal structure in single-family zones and 50% in the two-family, multi-family and commercial zones. There is no maximum size cap proposed for integrated as scale of separate structures is not an issue with the integrated unit. However, the criteria for the integrated unit does require internal connectivity be maintained to the main unit which will allow easier conversion to one unit if a future owner prefers to utilize the structure as one large unit instead of two. The height and setbacks for the integrated unit are determined by the zone district and the existing structure.

Language is incorporated to stress the fact that the provisions proposed do not supersede private covenants and that it is the obligation of the property owner to comply with private covenants. Through stakeholder outreach, it has been determined that there are a number of Homeowners' Associations that do not permit ADUs and that a few associations are in the process of amending their covenants. Covenant compliance is the obligation of the property owner. Likewise, enforcement of private covenants is the responsibility of formal/informal organizations (such as HOAs) or property owners if there is organized association.

PlanCOS and Other Supportive Plans

This proposal implements a strategy to meet a goal of PlanCOS, and will be the first code amendment recommended by PlanCOS! Some Councilmembers, Planning Commissioners, and stakeholders stressed the importance and expectation of implementing these strategies. The proposed ordinance is a near-term action implementing actions identified in PlanCOS including:

- Strategy VN-2.A-6: Update the City's zoning code, processes, and standards to support the construction of additional accessory dwelling units and micro homes.
- Strategy TE-1.C-3: Ensure an adequate supply of attainable housing for the workforce across all industries, and that it is conveniently located near hubs of employment and/or public transportation.
- Implementation strategy stating the “Incorporation of options to effectively integrate additional housing design options and choices in additional areas of the city, including smaller and potentially more affordable units such as accessory dwelling units (ADUs)”.

An analysis summary of PlanCOS is attached as **FIGURE 9**.

Staff met with individual Councilmembers as a way to update and brief members on the proposal. City Planning staff also presented the proposed draft ordinance at a City Council Work

Session on March 11, 2019. Questions that were asked of staff regarded police and fire impacts of adding additional units to service and how this ordinance relates to short term rentals. Overall, it is believed that adding additional units within areas already covered by police and fire service will have less impact than new units requiring new fire and police stations to be constructed. Regarding short term rentals, this ordinance does not further restrict a property owner's ability to operate a short term rental. An ADU or the primary unit may be listed as a vacation rental, but the owner would still need to occupy the one of those two units in single-family zone districts. The appropriate permitting and applications would still be required.

A few concerns of the proposed ordinance were also voiced. Largely, regarding the preservation of traditional "single-family" neighborhoods. A few council members perceive a change in the definition of the single-family zone districts by allowing two dwelling units on one residential lot. However, it was discussed that, to some, this primary concern is spurred by detached ADUs in single-family zone districts and the apprehension is lessened by the idea of only allowing integrated ADUs in single-family zones. It was also mentioned that if detached ADUs were to remain allowed in single-family zones under the proposed ordinance, it should be required that a new ADU is architecturally consistent with the primary residence and/or properties in the vicinity. Concerns were also raised about the potential size of a detached ADU in single-family neighborhoods.

At least one council member asked why this proposal is moving quickly. To that, the Planning Commission, Council and PlanCOS stakeholders and committees all stressed that they do not want PlanCOS "to sit on a shelf and collect dust" and support the quick implementation of the plan. Staff is attempting to prioritize and move forward with this important implementation.

During the work session meeting, support for expanding the allowance of ADUs was also asserted. It was stated that Colorado Springs is facing a housing crisis and all options should be explored to lessen the impact of rising housing costs. It was stated that actions need to be taken sooner rather than later.

In addition to PlanCOS, ADUs are specifically mentioned as opportunities to meet the goals of the following plans:

- 2016 Infill and Redevelopment Action Plan
- 2014 Affordable Housing Needs Assessment
- Mill Street Neighborhood Plan (**FIGURE 10**)
- Age Friendly Colorado Springs
- 2019 Community Development Action Plan

STAFF RECOMMENDATION:

CPC CA 19-00027 - CODE AMENDMENT

Recommend to the City Council adoption of an ordinance amending Chapter 7 (Planning, Development and Building) City Code defining and establishing standards for accessory dwelling units.