

Options for ADUs in Single-Family Zone Districts:

Below are potential options for implementing an ADU program within single-family zone districts. The most significant question to be considered is: should accessory dwellings be allowed as a matter of right, should they necessitate a permit through the City Planning department, or should there be no change in single-family zones? Secondly, if accessory dwelling units are allowed within single-family zone districts, should the accessory dwelling unit be allowed to house a second “family” as defined by the zoning code, should the entire property be limited to one “family,” or should the use of an accessory dwelling unit be restricted to those with a familial relationship to the property owner? The potential options are described in detail below and are intended to assist with addressing the questions above. Essentially, the breakdown is as follows:

1. Permitted by right (attached/integrated) for either two families, one family, or require a familial relationship
2. ADU permit review and approval (attached, integrated, detached) for either two families, one family, or require a familial relationship
3. Conditionally permitted (attached, integrated, detached) for either two families, one family, or require a familial relationship
4. Any of the above but with the creation of an ADU Zone District Overlay including new subdivisions
5. No change to the single-family zone districts—continue to allow partial dwelling units for the use of one family as additional living space

It is important to note that while the zoning code may change to allow additional dwelling units, those dwelling units will need to be constructed according to applicable building codes. City Planning held meetings with representatives of the Pikes Peak Regional Building Department (PPRBD) to fully understand what would be required of a homeowner to create an accessory dwelling unit on their property and to ensure a proposed ADU code would not conflict with the International Residential Code (IRC) or other codes enforced by PPRBD. Dependent on the type of dwelling unit to be created, IRC could require significant retrofitting to existing structures which may be cost prohibitive to some homeowners. The requirements for a homeowner to construct an accessory dwelling unit according to the IRC are detailed with each potential option.

Further, below are pertinent definitions as they are written within zoning code sections 7.2.201 and 7.2.302 to support the discussion:

- **FAMILY:** As used in this Zoning Code, an individual, two (2) or more persons related by blood, marriage, adoption, or similar legal relationship, or a group of not more than five (5) persons who need not be so related, plus domestic staff employed for services on the premises, living together as a single housekeeping unit in one dwelling unit. The definition of "family" shall apply regardless of whether any member of such group receives outside services for mental, emotional, or physical disability.
- **DWELLING UNIT:** Any room or group of rooms, including a kitchen and sanitary facilities, located within a building and forming a single habitable area with facilities that are used or intended to be used for living, sleeping, cooking and eating.

- BATH FACILITIES: A room which includes a toilet and shower or bath.
- KITCHEN: A room with the necessary facilities to store, prepare, and cook food that includes a two hundred twenty (220) volt outlet for an electric stove or connection for a gas or propane stove.
- PERMITTED USE: Any use of land or a structure which is allowed by right in a zone district and subject to the requirements and provisions of this chapter.
- CONDITIONAL USE: A land use which is an allowed use in a zone district but has operating and/or physical characteristics which require careful consideration and public review of the impact upon the neighborhood and the public facilities surrounding the proposed location. Conditional uses are subject to special requirements and the approval of the Planning Commission.

In addition to the zoning code definitions previously listed, the International Residential Code has separate—but similar—definitions to support the discussion. Part of the proposed ordinance would help align definitions existing in the zoning code and definitions in the IRC. These definitions are sourced from the 2015 IRC, Chapter 2, Section R202:

- ACCESSORY STRUCTURE: A structure that is accessory to and incidental to that of the dwelling(s) and that is located on the same lot.
- ADDITION: An extension or increase in floor area or height of a building or structure.
- DWELLING: Any building that contains one or two dwelling units use, intended, or designed to be built, used, rented, leased, let, or hired out to be occupied, or that are occupied for living purposes.
- DWELLING UNIT: A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
- BATHROOM GROUP: A group of fixtures, including or excluding a bidet, consisting of a water closet, lavatory, and bathtub or shower. Such fixtures are located together on the same floor level.
- GUESTROOM: Any room or rooms used or intended to be used by one or more guests for living or sleeping purposes.
- KITCHEN: Kitchen shall mean an area used, or designated to be used, for the preparation of food.
- FIRE SEPARATION DISTANCE: The distance measured from the building face to one of the following:
 - To the closest interior lot line
 - To the centerline of a street, an alley, or public way.
 - To an imaginary line between two buildings on the lot
 The distance shall be measured at a right angle from the face of the wall.
- LODGING HOUSE: A one-family dwelling where one or more occupants are primarily permanent in nature, and rent is paid for guestrooms.

For the below discussion, the term “family” shall refer to the City of Colorado Springs’ zoning code definition of family found in code section 7.2.201 and iterated above. The term “familial relationship” shall refer to the following provisional definition:

“A connection or association by family or relatives, in which a family member or relative has a material interest. Family or relatives include father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, or fiancée.”

The above definition helps describe a potential requirement to only allow those with a blood or marriage relationship to the property owner that is more restrictive than our existing definition of family which includes unrelated individuals and domestic help. The above definition is not intended to replace the zoning code’s definition of a “family,” but to describe a more specific relationship to the property owner for the sake of the below discussions.

All of the below descriptions also assume the proposed requirement for the property owner to live on the property will be carried forward.

Option 1: Accessory Dwelling Units are a permitted use in single-family zone districts as integrated or attached units.

Option 1A: Two families (as defined in the zoning code) on one property—one family in each dwelling unit.

This option would allow a property owner to rent a second dwelling unit on their property to another group of individuals not exceeding the zoning code’s definition of family. Potentially this could allow 10 unrelated individuals to reside on one property—no more than 5 unrelated in either unit.

Potential pros: This gives the property owner flexibility on potential renters. This option also has potential to serve a larger group of Colorado Springs residents by increasing the number of rentals allowed to house a domestic family. For example, a family of four or five could rent their basement ADU to another family of four or five.

Potential cons: Increases the number of unrelated individuals who can live on one property by increasing the number of dwelling units. Consequently increasing the potential number of vehicles and other perceived nuisances. This option could also require significant retrofitting to an existing structure to meet IRC requirements (described in more detail below).

Option 1B: One family (as defined in the zoning code) occupying the entire property.

This option would allow a property owner to rent a second dwelling unit on their property to another group of individuals as long as the total number of people residing at the property did not exceed the zoning code’s definition of a family. This option does not increase the total number of unrelated individuals that can live at one property, and does allow for domestic staff, such as a live-in nurse or nanny, to reside on the property as part of a housekeeping unit. For example, an elderly couple could rent their attached ADU to their live-in nurse and her two children.

Potential pros: Though lesser than Option 1A, this gives the property owner flexibility on potential renters. This option also has potential to serve a large group of Colorado Springs residents by increasing the number of available rentals in general. Also helps ease densification concerns because the total number of unrelated individuals allowed to reside on one property is not changing.

Potential cons: This option still allows for two small households per property, and many of the commonly perceived nuisances may still occur such as additional vehicles, noise, and utility usage. This option could also require significant retrofitting to an existing structure to meet IRC requirements (described in more detail below).

Option 1C: Requiring a familial relationship to the property owner.

This option would allow a property owner to create a separate dwelling unit for family members in need such as aging parents, dependent adult children, or boomerang children. This option does not increase the total number of unrelated individuals which can live at one property, but it could facilitate an increase in the number of related individuals residing on one property.

The zoning code's definition of family does not establish a maximum number of related people who may live on one property, however, other occupancy limitations would apply. For instance, city code section 6.12.303 *Space, Use and Location* has the following limitations:

A. Space Required: Every dwelling unit shall contain at least:

- 125 square feet _ 1 person
- 200 square feet _ 2 persons
- 275 square feet _ 3 persons
- 350 square feet _ 4 persons
- 425 square feet _ 5 persons
- 500 square feet _ 6 persons
- 560 square feet _ 7 persons
- 620 square feet _ 8 persons
- 680 square feet _ 9 persons
- 740 square feet _ 10 persons

And a minimum of forty (40) square feet for each additional person. The required floor space shall be calculated on the basis of total habitable room area. In no case shall more than eight hundred fifty (850) square feet be required for one family.

Additionally, the IRC establishes minimums for habitable spaces. Each habitable room shall be not less than 70 square feet in size, and the ceiling shall be at least seven feet in height.

For example, a family of four could rent their attached ADU to a family of seven as long as there was a familial relationship between the two and the space being rented met the above requirements. Or a family of five could rent their attached ADU to their aging parents.

Potential pros: This gives a property owner an opportunity to care for, or assist a family member in need by allowing this alternative housing option. There is also less perceived nuisance to the public if the group of individuals are all related.

Potential cons: The external impacts of a certain number of individuals may be the same regardless if those individuals are related—i.e. related individuals will have cars, make noise, and use utilities similar to unrelated individuals. This option could also require significant retrofitting to an existing structure to meet IRC requirements.

The IRC requires full dwelling units—meaning the unit must include a full kitchen with a permanent cooking appliance, a full bathroom, and at least one bedroom with a closet—to be separated by 1-hour fire rated assemblies, as well as independent mechanical, electrical, air, and plumbing systems. An existing home may require considerable retrofitting to accommodate an ADU particularly if the unit was an attic or basement conversion requiring all supporting construction to become fire rated.

Option 2: Accessory Dwelling Units require a permit review through the City Planning Department. This permit review could be administrative, require notification to adjacent property owners, and would be appealable to the City Planning Commission. A homeowner could propose either an attached, integrated, or detached unit.

Option 2A: Two families (as defined in the zoning code) on one property—one family in each dwelling unit.

This option would allow a property owner to rent a second full dwelling unit on their property to another group of individuals not exceeding the zoning code's definition of family.

Potential pros: This gives the property owner flexibility on potential renters. This option also has potential to serve a larger group of Colorado Springs residents by increasing the number of rentals allowed to house a domestic family.

Potential cons: Increases the number of unrelated individuals who can live on one property by increasing the number of dwelling units. Consequently increasing the potential number of vehicles and other perceived nuisances.

Option 2B: One family (as defined in the zoning code) occupying the entire property.

This option would allow a property owner to rent a second dwelling unit on their property to another group of individuals as long as the total number of people residing at the property did not exceed the zoning code's definition of a family. This option does not increase the total number of unrelated individuals that can live at one property, and does allow for domestic staff, such as a live-in nurse or nanny, to reside on the property as part of a housekeeping unit.

Potential pros: Though lesser than Option 2A, this gives the property owner flexibility on potential renters. This option also has potential to serve a large group of Colorado Springs residents by increasing the number of available rentals in general. Also helps ease densification concerns because the total number of unrelated individuals allowed to reside on one property is not changing.

Potential cons: This option still allows for two small households per property, and many of the commonly perceived nuisances may still occur such as additional vehicles, noise, and utility usage.

Option 2C: Requiring a familial relationship to the property owner.

This option would allow a property owner to create a separate dwelling unit for family members in need such as aging parents, dependent adult children, or boomerang children. This option does not increase the total number of unrelated individuals which can live at one property, but it could facilitate an increase in the number of related individuals residing on one property. The zoning code's definition of family does not establish a maximum number of related people who may live on one property, however, other occupancy limitations would apply. Those limitations are outlined in Option 1C.

The permit review process does not currently exist and would need to be established with an accessory dwelling unit code. However, many cities have opted to allow ADUs through a special review process that includes notification to adjacent property owners, an evaluation period, and a decision which is appealable to a higher authority such as the City Planning Commission. Criteria for decisions would need to be established, but could be similar to the review criteria of a Conditional Use application found in zoning code section 7.5.704:

- A. Surrounding Neighborhood: That the value and qualities of the neighborhood surrounding the conditional use are not substantially injured.
- B. Intent of Zoning Code: That the conditional use is consistent with the intent and purpose of this Zoning Code to promote public health, safety and general welfare.
- C. Comprehensive Plan: That the conditional use is consistent with the Comprehensive Plan of the City.

Potentially, a property owner could propose a detached accessory dwelling unit through this special permit review process. This could capture properties that may be able to accommodate a detached ADU with little to no impact on nearby property owners (e.g. large lots, lots with alley access and detached garages). Since a permit review process could require public notification, those nearby neighbors would have the opportunity to voice concern of a proposed detached ADU and appeal a decision they found unfavorable.

As mentioned in Option A, the IRC requires full dwelling units to be separated by 1-hour fire rated assemblies, as well as independent mechanical, electrical, air, and plumbing systems. An existing home may require considerable retrofitting to accommodate an ADU particularly if the unit was an attic or basement conversion requiring all supporting construction to become fire rated. A detached dwelling unit must provide a 1-hour fire rated assembly when it is located closer than ten feet from a property line or within 10 feet of the primary structure.

Option 3: Accessory Dwelling Units require Conditional Use approval by the City Planning Commission. The Conditional Use process would require notification to adjacent property owners with the application's submittal and for the public hearing, a review period for staff consideration, and would be appealable to the City Council. A homeowner could propose either an attached, integrated, or detached unit.

Option 3A: Two families (as defined in the zoning code) on one property—one family in each dwelling unit.

This option would allow a property owner to rent a second full dwelling unit on their property to another group of individuals not exceeding the zoning code's definition of family.

Potential pros: This gives the property owner flexibility on potential renters. This option also has potential to serve a larger group of Colorado Springs residents by increasing the number of rentals allowed to house a domestic family.

Potential cons: Increases the number of unrelated individuals who can live on one property by increasing the number of dwelling units. Consequently increasing the potential number of vehicles and other perceived nuisances.

Option 3B: One family (as defined in the zoning code) occupying the entire property.

This option would allow a property owner to rent a second full dwelling unit on their property to another group of individuals as long as the total number of people residing at the property did not exceed the zoning code's definition of a family. This option does not increase the total number of unrelated individuals that can live at one property, and does allow for domestic staff, such as a live-in nurse or nanny, to reside on the property as part of a housekeeping unit.

Potential pros: Though lesser than Option 3A, this gives the property owner flexibility on potential renters. This option also has potential to serve a large group of Colorado Springs residents by increasing the number of available rentals in general. Also helps ease densification concerns because the total number of unrelated individuals allowed to reside on one property is not changing.

Potential cons: This option still allows for two small households per property, and many of the commonly perceived nuisances may still occur such as additional vehicles, noise, and utility usage.

Option 3C: requiring a familial relationship to the property owner.

This option would allow a property owner to create a separate dwelling unit for family members in need such as aging parents, dependent adult children, or boomerang children. This option does not increase the total number of unrelated individuals which can live at one property, but it could facilitate an increase in the number of related individuals residing on one property. The zoning code's definition of family does not establish a maximum number of related people who may live on one property, however, other occupancy limitations would apply. Those limitations are outlined in Option 1C.

The Conditional Use application process and standards currently exist within zoning code section 7.5.701 through 7.5.708. Little to this section of code would need to be amended to accommodate accessory dwelling units. Potentially, zoning code section 7.5.707 *Expiration of Approval* could be amended to allow a discontinuance of the use for more than a one-year period. For instance, if an ADU is constructed and may only be used by family members, the family member residing in the ADU may pass away or move and it may be longer than a year before another member of the family needed the space. An appropriate amount of time for vacancy before a Conditional Use for an ADU expires would need to be determined.

Conditional Use approvals run with the land and allow for ownership and tenant transfers. The review criteria of a Conditional Use application found in zoning code section 7.5.704 and could work for the consideration of an accessory dwelling unit:

- A. Surrounding Neighborhood: That the value and qualities of the neighborhood surrounding the conditional use are not substantially injured.
- B. Intent of Zoning Code: That the conditional use is consistent with the intent and purpose of this Zoning Code to promote public health, safety and general welfare.
- C. Comprehensive Plan: That the conditional use is consistent with the Comprehensive Plan of the City.

Potentially, a property owner could propose a detached accessory dwelling unit through a Conditional Use application process. This could capture properties that may be able to accommodate a detached ADU with little to no impact on nearby property owners (e.g. large lots, lots with alley access and detached garages). Since the Conditional Use review process would require public notification with the application's submittal and with the public hearing, nearby neighbors would have the opportunity to voice concerns of a proposed detached ADU during the review process and to the City Planning Commission, and could appeal a decision they found unfavorable to the City Council.

Largely, the difference between Options 2 and 3 is the initial level of review authority. A permit review process could have an administrative level of review where an initial decision is made by staff whereas a Conditional Use must be reviewed and decided on by the City Planning Commission.

IRC requirements mentioned earlier would apply as appropriate for an integrated, attached, or detached dwelling unit.

Option 4: Accessory Dwelling Units may be allowed through any of the previously mentioned methods, but the property must also be located within an Accessory Dwelling Unit Overlay Zone. A homeowner could propose either an attached, integrated, or detached unit dependent of the process of review.

Any overlay zone may be established over areas which are zoned single-family residential but have characteristics which lend themselves to supporting accessory dwelling units. These neighborhood characteristics could be the presence of alleys, on-street parking availability, adjacency to two-family, multi-family, or commercial zone districts, the presence of detached garages, or the presence of lots over a certain size.

Similar to the North Nevada Overlay Zone, staff could put together a code amendment which would establish the overlay over the chosen areas of the City. This process could require several public input meetings within each area proposed for an overlay zone, as well as other methods to gather the public's thoughts, opinions, and concerns. This code amendment would be considered by the City Planning Commission and presented to the City Council for adoption.

Though, if there is not a desire to add an ADU overlay over existing areas of the city, an overlay could be applied to new subdivisions which are still in the review process with City Planning.

Potential pros: This option allows neighborhood characteristics to be considered more so than previous options. Also has potential to capture only new subdivisions.

Potential cons: Underserves areas of town that may not fit the determined characteristics but could still accommodate some level of accessory dwelling unit.

IRC requirements mentioned earlier would apply as appropriate for an integrated, attached, or detached dwelling unit.

Option 5: There is no change to single-family zone districts.

Currently, dwelling unit is defined as, “any room or group of rooms, including a kitchen and sanitary facilities, located within a building and forming a single habitable area with facilities that are used or intended to be used for living, sleeping, cooking and eating.” The zoning code also defines “bath facilities” and “kitchen.” Specifically, a kitchen is defined as, “a room with the necessary facilities to store, prepare, and cook food that includes a two hundred twenty (220) volt outlet for an electric stove or connection for a gas or propane stove.” Many homeowners in single-family zone districts construct units that are similar to ADUs, but are missing a 220 volt outlet, gas, or propane connection in the kitchen area. Because kitchen is defined as having that element, without it, the space is not a complete kitchen. Further, without a complete kitchen there is not a full second dwelling unit.

City Planning refers to these spaces as “fake ADUs” or “extra living space.” There is not a prohibition from renting these spaces just as there is not a prohibition against renting a single room in a home. Many homeowners instead allow countertop appliances such as hot plates, grills, 110 volt stove tops, microwaves, and other similar appliances. Also, because these are not full dwelling units, only one grouping of individuals meeting the definition of a family could reside on the property. City Planning could establish an affidavit to be signed by the property owner with their building permit request stating they understand the definition of a family applies and are aware the unit could not be rented to a group of individuals that would surpass the number of allowed individuals on the entire property.

Further, according to the IRC, these “fake ADUs” do not constitute as an independent living space and does not trigger fire-rated separation between units or independent mechanical, electrical, air, and plumbing systems.

Potential pros: Still allows homeowners the flexibility to rent a space within their home to a set of individuals as long as there were no more than five unrelated individuals living on the entire property. Also still allows homeowners to hire a live-in nurse or nanny and provide them with a separate living quarter. This option would not require a homeowner to retrofit their home with fire rated separations between dwelling units and independent mechanical, electrical, air, and plumbing systems.

Potential cons: While this option allows a property owner flexibility in how their home is used, there is a question whether these types of units are unsafe because the retrofit would not be triggered.