

Proposed Amendments Re: Accessory Dwelling Units to the Boulder Code of Ordinances

Ordinance 2021-7

Whereas, the Utah Legislature has adopted new requirements for the regulation of accessory dwelling units, including a mandate that internal accessory dwelling units be permitted by-right within the footprint of most primary dwelling units;

Whereas, it is the Town’s policy, stated in its general plan, to promote housing opportunities for all persons and, more specifically, to maintain diverse community structure by creating housing opportunities for seasonal workers and low to moderate income individuals;

Whereas, the Town’s general plan policy might be implemented, in part, by permitting internal accessory dwelling units and clarifying the regulations for external accessory dwelling units; and

Whereas, the Town’s current regulation of accessory dwelling units is now inconsistent with state law and should also be revised for efficiency and defensibility in administration;

Be it now ordained by the Boulder Town Council that:

§ 153.011 DEFINITIONS. be amended by inserting the following new and revised definitions in alphabetical

Accessory Building: A subordinate building detached from, but located on the same lot as the principal use, the use of which is clearly incidental and accessory to that of the principal use. An Accessory Building ~~shall be no larger than 1000 square feet and shall contain no living facilities, including cooking facilities, and shall not be used as a dwelling unit.~~ External accessory dwellings are separately defined.

~~Accessory Dwelling Unit for Employees, Commercial.~~ A dwelling unit for an employee ~~of or the owner and which~~ that is on the same lot as a commercial use. It may be internal to a commercial structure or external. It must be approved as part of the CUP for a new commercial use or, where it is proposed to add an accessory dwelling to an existing commercial use, approved via an amendment to the existing CUP. Nonconforming commercial uses may not add an accessory dwelling.

Accessory Dwelling Unit, External An accessory dwelling unit that is in a separate structure, but on the same lot as the primary dwelling to which it is accessory, and, when rented, is rented for 30 or more consecutive days. For the purposes of this definition, an ADU may be attached to the primary dwelling via a sidewalk and/or a breezeway, or through a garage, but must have a separate entrance.

Accessory Dwelling Unit, Internal. An accessory dwelling unit created: (i) within a primary dwelling; (ii) within the footprint of that primary dwelling at the time the internal accessory dwelling unit is created; and (iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

Accessory Use. A use that is clearly subordinate and customarily incidental to, and located on the same parcel lot as an authorized permitted or conditional use the principal use to which it is accessory. ~~Accessory Use may include the parking of one (1) vehicle or piece of equipment owned by the owner of the parcel and used in the conduct of a business or activity, as allowed and licensed by the Town. (Amended by the Adoption of Ord. #47 passed 6/19/2002).~~

Mobile Home. ~~A transportable, factory built home, designed as a year-round residential dwelling, and built prior to June 15, 1976, the effective date of the National Manufactured Housing Construction and Safety Standards Act of 1974. A transportable structure in one or more sections with the plumbing, heating, and electrical systems contained within the unit, which when erected on a site, may be used with or without a permanent foundation as a family dwelling. See [Utah Code 57-16-3](#)~~

Primary Dwelling. A single-family dwelling that: (i) is detached; and (ii) is occupied as the primary residence of the owner of record.

Single-Family Dwelling: A building arranged or designed to be used for and containing one dwelling unit. An internal accessory dwelling unit may be included as part of any single-family dwelling, in accord with state law and all applicable requirements of this ordinance.

§ 153.117 TABLE OF USES. be amended as follows:

use	zoning district				
	GM	LDR	MDR	HDR	C
Accessory Dwelling Unit, for Employees, Commercial	PC				
Accessory Dwelling Unit for Rental	PC	PC	PC	PC	See §153.116[E]
Accessory Dwelling Unit—Guest	P	P	P	P	
<u>Internal Accessory Dwelling Unit</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>External Accessory Dwelling Unit</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	

§ 153.120 OFF-STREET PARKING REQUIREMENTS. be amended as follows:

Table 3 - Table of Required Off-Street Parking

use	Required Off-Street Parking
	<u>number of off-street parking spaces required</u>
single family dwelling	2 per <u>primary</u> dwelling unit
<u>accessory dwelling unit</u>	<u>1 in addition to the spaces required for the primary dwelling</u>

§ 153.152 SITE DEVELOPMENT PLAN REQUIREMENTS. be amended as follows:

Add a new Item 2, as below, renumber the other items accordingly:

2. proof of ownership of the lot on which the CUP is requested and, where the application for a CUP is presented by a representative, the owner's written authorization for the representative to submit the application;

§153.203 ACCESSORY DWELLING UNITS. be deleted in its entirety and replaced with the following:

[A] Is there a limit on the number of ADUs per primary dwelling? Yes. There may be only one ADU for each primary dwelling, whether internal or external.

[B] Are there limits on the occupancy of ADUs? Yes.

[1] The property owner may occupy either the primary dwelling or the ADU. ADUs (internal or external) may not be rented for fewer than 30 consecutive days.

[2] An ADU may be converted to a short-term rental ONLY via approval of a CUP for a short-term rental, as provided by §153.204 and other provisions of this ordinance.

[C] Is there a maximum size for ADUs? Due to state law, there are different answers for external and internal ADUs.

[1] EADUs in the GM and LDR zoning districts shall not exceed 1000 SF in size.

[2] EADUs in the MDR shall not exceed 800 SF in size.

[3] EADUs in the HDR shall not exceed 600 SF in size.

[4] IADUs must fit within the footprint of the primary dwelling at the time the application for a building permit for the IADU is established.

[D] What about the added load an ADU may place on the wastewater system for the primary dwelling? Due to state law, there are different answers for external and internal ADUs.

[1] The applicant must demonstrate that the existing on-site wastewater disposal system is adequate to support an EADU or that the existing system will be upgraded before a certificate of occupancy for the EADU is issued.

[2] An IADU may not be established in a primary dwelling that is served by a failed on-site wastewater system.