



PLANNING DEPARTMENT

ADU Ordinance Amendment Project | Frequently Asked Questions and Answers

NARRATIVE:

The proposed City of Colorado Springs' Accessory Dwelling Unit ("ADU") Ordinance is part of the City's effort to ensure diversified housing solutions that allow our neighborhoods and community to grow in a way that is appropriate and addresses housing affordability. Recent state legislation recommends the City allow ADUs in any location where a single-family detached home is permitted and prohibits the City from enacting or enforcing local laws that would unduly restrict ADUs.

Throughout the ordinance development process, the City has received important remarks and questions regarding the state-mandated legislation and the ordinance itself. To better inform those interest in the ordinance or the guiding legislation, City Planning staff has assembled the following questions and answers to clarify various facts.

FREQUENTLY ASKED QUESTIONS WITH ANSWERS:

What is an accessory dwelling unit?

An accessory dwelling unit or ADU is subordinate or incidental to the principal residential dwelling unit on the lot and remains under the same ownership as the principal unit. ADUs may be integrated, attached, or detached dwelling units, and must provide complete independent living facilities for one or more individuals, and must provide facilities for living, sleeping, eating, cooking, and sanitation.

Can this Proposed Ordinance be modified by City Planning Commission or City Council?

All legislative items, such as ordinances, are approved by City Council. Per the UDC, the City's Planning Commission has an advisory role in this decision-making process and will considers public testimony and makes a recommendation to City Council. City Council can modify any aspect of the proposed ADU ordinance.

Colorado Springs is a home rule City. Why is the State dictating our local zoning regulations?

The City of Colorado Springs is a home rule city and is not accepting that the State is dictating anything to the City as to its status as home rule. Housing affordability is an issue that our Mayor and City Council have on their agendas to address and would have worked on this project outside of the State's efforts. Many of the ideas are acceptable 'best practices' for regulating ADUs and so it is not a coincidence that this ordinance and the state legislation have some of the same attributes. The State's legislation provided guidance, and this ADU ordinance responds to those concepts and ideas.

Will this solve the "housing affordability crisis?"

There have been less than 30 ADUs permitted in the past 5 years. Even if the number doubled, this would minimally modify the housing shortage crisis affecting Colorado Springs and all of Colorado.

What happens once the ADU ordinance is implemented? Can it be changed?

Should the proposed ADU ordinance be adopted, all new ADUs would be subject to the adopted ordinance on the established effective date. The ordinance may be changed in the future, as actions of the current City Council cannot restrict future City Councils. In simpler terms, a future City Council can choose to adopt a new ordinance the modifies previous ordinances.

Will properties with ADUs be allowed to also obtain a Short-Term Rental (“STR”) permit?

No. Under the proposed ADU ordinance, no structure on a property containing an ADU shall be allowed to obtain or operate an STR.

Will an ADU (attached, detached and integrated) be subject to architectural or design review?

Yes, all ADUs will be subject to an architectural compatibility review to determine whether the design, colors, and materials of an ADU are comparable to the primary structure. Should an ADU be proposed on a property that is a designated historic property or be located in a zone district where the primary structure is subject to architecture or design review requirements imposed by the City than the ADU would also be subject to those requirements too.

Utility service connection impacts?

Each ADU must submit a utility service plan to Colorado Springs Utilities (“CSU”), which will illustrate service connect designs and compliance with all applicable utility service connection and extension standards. Under the proposed ADU ordinance, all proposed ADUs will be required to provide a statement of service authorization as part of the building permit submittal.

What is the different between “Lot Coverage” and “The gross floor area of the accessory structure(s) may not exceed the gross floor area of the primary structure”? How will these two standards limit ADUs?

Lot Coverage – The City’s Unified Development Code (“UDC”) establishes a variety of dimensions standards to govern the buildout of property in the city. Lot coverage, specifically, is a dimensional standard set for each zone district which represents the percentage equal to (1) the total surface area of the lot covered by improvements, including but not limited to building footprints, decks, or patio covers, divided by (2) the total area of the entire lot.

Gross Floor Area of Accessory Structures – Also under the UDC, use specific regulations are often established. For accessory structures, there is a use standard that limits the total gross floor area of all accessory structures on a lot from exceeding the gross floor area of a primary structure. This use-specific regulation has no direct correlation to any dimensional standard requirement.

Per the proposed ADU ordinance, the gross floor area of a detached ADU would not be included in the sum of the gross floor area of accessory structures. This exclusion was built into the ordinance to allow for additional development flexibility.

Will new ADUs be subject to impact fees (i.e. PLDO, CDI, School, etc.)?

The proposed ADU ordinance does not change the triggers for imposing impact fees. Under the proposed ADU ordinance, new ADUs are not exempt from paying City established impact fees at time of building permit. Impact fees are an alternative mechanism to facilitate adequate public facilities are provided in the city and also ensures development pays its share of the costs generated by a proposed use or development project.

The role of agency partners (i.e. CSU, Fire Marshal, SWENT, etc.) in the permitting ADUs?

Prior to development, an ADU must obtain a building permit under the proposed ordinance. Building permits In the City of Colorado Springs are administered by Pike Peak Regional Building Department (“PPRBD”). Through permitting process, agencies (i.e. CSU, Fire Construction Services, SWENT, etc.) participate in the review of each project to ensure compliance with all City Codes, include, but not limited to the UDC, Fire Code, Building Code, and conformity with all applicable Colorado laws.

Will an existing primary structure be allowed to become an ADU? If so, will the ADU ordinance standards apply?

In certain unusual and unique instances, a current primary structure may be converted into an ADU. Both the new primary structure and converted ADU must comply with all applicable development and use standards.

Why is the maximum height of an ADU proposed to align with the primary structure?

The City has determined that the maximum height allowed for an ADU should be consistent with the maximum height allowed for the primary structure to avoid a conflict with the state-mandated legislation. The state legislation stipulates that any design or development standard applied to an ADU shall not be more restrictive than the standards applied to the primary structure and, in some cases, other accessory structures of a similar building type. The current height limitation for some ADU's is very difficult to administer.

The City has said that per the State legislation, HOAs or other common interest communities cannot prohibit or impose unreasonable restriction on ADUs. How has “unreasonable restriction” been defined? What about a property that has a deed restriction prohibiting ADUs?

While not well defined under the state-mandated legislation (HB-24-1152), it does give some explanation of how “unreasonable restriction” is intended to be interpreted. Ultimately, this term will undoubtedly be determined by the courts. Similar to restrictive covenants, the City does not enforce deed restrictions or covenants and can offer no guidance on those situations.