



Accessory Dwelling Units

Estes Park Community Development Department

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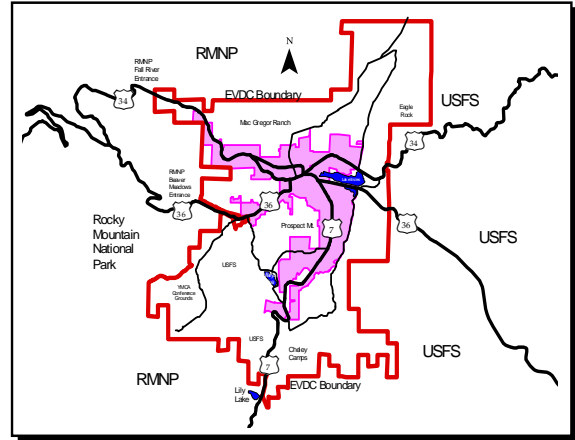
DATE: September 16, 2008

REQUEST: To amend existing regulations regarding Accessory Dwelling Units. Primary changes include long-term rental and detached units.

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PROJECT DESCRIPTION/BACKGROUND:

This is a request to change the existing accessory dwelling unit regulations. The impetus for this change is a directive from the Estes Valley Board of Adjustment.



What is an Accessory Dwelling Unit? An accessory dwelling unit (ADU) is a structure that provides independent living facilities for one or more persons, or a self contained housing unit secondary to the main residence.

How is an ADU different from a duplex? ADU's are different from traditional duplexes in the following ways:

- (1) Units in a duplex are relatively equal in size.
- (2) ADU's are limited in size to be subordinate to the main residence.
- (3) Both units in a duplex can be rented.

Three Types of ADU. Staff is proposing three varieties of ADU's: integrated, attached, and detached. Generally speaking, the larger the lot, the more independent the unit may be from the main house.

How many? On a national level, municipalities that allow ADU's see an application for about 1 per 1,000 homes in a year.

Why are we proposing these changes?

Impetus. In June 2006, the Estes Valley Board of Adjustment reviewed an appeal to staff decision regarding an accessory dwelling unit, as identified by Staff. The applicant stated the design was not an ADU, but only a "wet bar." Staff disagreed because the design added up to an area that could stand-alone as a separate household. The Board of Adjustment agreed with

Staff's assessment, and directed Staff to correct the "grey area" in the code of when a wet bar becomes a kitchen.

In addition, ADU's help provide several benefits and serve many purposes:

- Household sizes are getting smaller (average size in Estes Park is 2.2 persons, below the national average of 2.9). ADUs can help fill this niche in the housing market.
- ADUs are a good way to provide seasonal employee housing dispersed throughout the community.
- Provide housing nearer to employment (reduce number of employees driving up from "the valley").
- Help reduce regulatory barriers that limit affordable housing opportunities.
- Assist older homeowners in maintaining their independence by providing additional income to offset property taxes and the costs of home maintenance and repair.
- Allow for "mother-in-law" suites (or, conversely, allow younger generation to move in with older generation).
- Allow on-site property caretaker for second-home owners.
- Provide guest quarters.
- Implement the following Comprehensive Plan Community Wide Policies:

Growth Management Policies:

- 3.1 Encourage infill of older core areas in order to reduce infrastructure costs and to stabilize residential neighborhoods.

Housing:

- 5.1 Encourage a variety of housing types and price ranges.
- 5.2 Encourage housing for permanent residents of all sectors of the community that is integrated into and dispersed throughout existing neighborhoods.
- 5.6 Encourage housing infill within the existing urban area.
- 5.7 Identify affordable housing opportunities on an ongoing basis.
- 5.8 Regularly evaluate regulations and eliminate unnecessary requirements.

Economics:

- 7.1 Maintain a unique blend of businesses, residents and visitors, without negatively affecting the natural beauty of the Estes Valley.
- 7.9 Build on the strength of the retirement community.

Research. To research this issue, Staff has:

- (1) Attended a Colorado APA sponsored training session;
- (2) Sponsored a session at the Mountain Resort Town Planners Conference;

- (3) Sent a request to the Colorado APA email “list serve” (received 27 responses from around the state);
- (4) Discussed with the building department, utility providers, Larimer County Health Department, and State Division of Water Resources;
- (5) Internet research (AARP, various municipalities);
- (6) Held several “focus group” discussions with local builders, designers, realtors, and Homeowners Associations; and,
- (7) Scheduled meetings with the Estes Park Housing Authority (September 10), Sunrise Rotary and League of Women’s Voters (scheduled for November).

Common Features of an ADU ordinance. This research has shown “common threads” in ADU ordinances, with the following being common elements:

- (1) Owner occupancy required in one unit.
- (2) Long-term rentals usually allowed in one of the units, but not both.
- (3) Most allow ADU’s as attached or detached.
- (4) Normal setbacks apply.
- (5) Only one ADU per lot.
- (6) Parking requirement.
- (7) Maximum size limit.
- (8) Orientation of entrance.
- (9) Design standards.

Current regulations. The Estes Valley Development Code currently allows ADU’s in all single-family residential districts if the lot is 1.33 times the required minimum lot size. For example, a lot in the “E-1” one-acre zone district would need to be 1.33 acres; a lot in the “RE-1” 10-acre zone district would need to be 13.33 acres. With this current restriction, fewer than 1 in 3 residents could have an accessory dwelling unit (see Lot Size Analysis below).

Other current regulations are that a unit must be “integrated within the principal unit”, cannot exceed 800 s.f., cannot be rented separately, and there are no architectural standards.

Lot Size Analysis:

Zone District	Minimum Lot Size	Number of Lots	Number of Nonconforming Lots	Percentage	Number that are 1.33 minimum size	Percentage
R	1/4 acre	590	264	45%	157	27%
E	1/2 acre	1501	699	47%	409	27%
E-1	1 acre	1701	876	51%	379	22%
RE	2 1/2 acre	654	285	44%	235	36%
RE-1	10 acre	352	229	65%	98	28%
Total		4798	2353	49%	1278	27%

Larimer County allows “accessory living” space elsewhere in the county, though no separate rental is allowed. Detached accessory living areas must go before the Larimer County Planning Commission and require approval of the Larimer County Board of County Commissioners.

Proposed regulations. The principal changes include allowing in all single-family districts (except the 8 unit/acre “R-1” district), allowing lease of one unit, allowing detached units, and adoption of architectural standards.

Utility Providers.

Town of Estes Park Building. The Building Department provided input regarding the definition of a dwelling unit, and stated that detached units would need to ensure adequate fire separation; the draft language satisfies their concerns.

Town of Estes Park Utilities. Planning Staff has discussed this issue with the Town of Estes Park Utilities Department, who had no concerns.

Larimer County Health. The Larimer County Health Department had comments regarding water and sanitary sewer, which have been incorporated into the draft language.

State Division of Water Resources. The Division of Water Resources has provided a letter stating that every property with a well permit is different. Some well permits clearly allow or prohibit multiple units. Others are not so clear. Staff has attempted to address this in the draft language: either the well permit clearly allows an ADU, or a letter from the Division will be required.

Builders. All builders that we met with and have discussed this with have been in favor of the proposed changes. One builder expressed concern about the size limitation, and suggested that smaller houses – with smaller value - would be the properties that could benefit the most from allowing the separate rental, but would be the most restricted in terms of size of the unit. Another question was how would this affect short-term rentals (draft language would prohibit short-term rentals on properties with an ADU).

Architects/Designers. All architects/designers we met with expressed concern about the review process, and most were opposed to architectural standards (one felt that minimal standards could be acceptable). The concern about the review process was that it would be too lengthy for integrated/attached units, and subject to neighbor scrutiny for detached units. They expressed fear that a person that has a right to build a detached unit could have their proposal denied in the face of neighborhood opposition. A common statement about architectural standards was that if people wanted those kind of protections, they could move to a neighborhood that has architectural requirements. Another comment was that if the principal house and garage are not subject to architectural standards, why should an ADU?

Homeowners Associations. On the Friday before Labor Day, Staff invited sixteen Homeowners Associations and the Association for Responsible Development to discuss the proposed changes. Nine people representing four associations attended.

Of these, three people expressed significant concern, which seemed to center on the rental of units. Of note, the three that expressed this concern all lived in the same neighborhood, which prohibits ADUs. Other concerns expressed: Who would regulate rentals, and it's is a mistake for the town to not regulate the individual rentals; why would there not be a full tap fee; concern

that eight people would live in one of these units; and concern that an ADU next door would devalue neighboring properties. Another person expressed strong support for the changes.

Staff has talked with a resident of Stanley Heights, who expressed concern that the units could be sub-let for less than 90 days. Staff believes this possibility has been addressed in section (8). Staff has received correspondence from the Arapahoe Estates Property Owner’s Association, which stated the changes “will not directly impact Arapaho Estates” as their neighborhood covenants prohibit these. Staff has also received questions from the Koral Heights Property Owner’s Association, which were addressed via email. No further correspondence has been received.

Board of Realtors. Planning Staff presented the code changes to the Estes Valley Board of Realtors, who expressed no concern. Staff asked the group what their opinion was regarding impact to adjoining neighbors, and the consensus was that an ADU, either attached or detached, rented or not, would have no negative impact on adjoining properties.

Other. Staff has scheduled meetings with the Estes Park Housing Authority (Sept 10), Sunrise Rotary (Nov. 25) and the League of Women Voters (Nov. 12).

§ 5.2 ACCESSORY USES (INCLUDING HOME OCCUPATIONS) AND ACCESSORY STRUCTURES

A. **General Standards.**
 (No changes proposed)

B. **Accessory Uses/Structures Permitted in the Residential Zoning Districts.**
 1. *Table of Permitted Accessory Uses and Structures.*

**Table 5-1
 Accessory Uses and Structures Permitted in the Residential Zoning Districts**

Accessory Use	Residential Zoning District								Additional Requirements
	"Yes" = Permitted				"No" = Not Permitted				
	RE-1	RE	E-1	E	R	R-1	R-2	RM	
Accessory Dwelling Unit:									§5.2.B.2.a
Integrated	Yes	Yes	Yes	Yes	Yes	No	No	No	
Attached	Yes	Yes	Yes	Yes	No	No	No	No	
Detached	Yes	Yes	Yes	No	No	No	No	No	

2. *Additional Requirements for Specific Accessory Uses/Structures Permitted in the Residential Zoning Districts.*
 a. Accessory Dwelling Units.

- (1) Where Permitted. Accessory dwelling units (ADU) shall consist of living quarters integrated within, attached to, or detached from the principal single-family detached dwelling on the lot. Mobile homes, recreational vehicles and travel trailers shall not be used as accessory dwelling units.
- (2) Defined.
 - (a) General. An accessory dwelling unit is any accessory structure, either attached or detached from principal structure, that provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Cooking facilities shall include any area used, or designated to be used, for the preparation of food.
 - (b) Integrated Accessory Dwelling Units are accessory dwelling units that share common living area with the principal dwelling unit and have interior access to and from the principal dwelling unit. A separate exterior access to the accessory dwelling unit may be included, but is not required.
 - (c) Attached Accessory Dwelling Units are accessory dwelling units that are attached to the principal dwelling unit. These may or may not have interior access to the principal dwelling unit. A separate exterior access to the accessory dwelling unit may be included, but is not required. Attached dwelling units must be architecturally compatible with the existing structure and at least 12 feet along one wall of the accessory dwelling unit must be contiguous to a wall of the principal dwelling unit.
 - (d) Detached Accessory Dwelling Units are accessory dwelling units that are wholly detached from the principal dwelling unit. At least one exterior wall of the ADU shall be closer to the principal dwelling unit than any exterior wall of the ADU may be to any property line.
- (3) Review. All accessory dwelling units shall be subject to development plan review process, as set forth in Chapter 3, except as outlined below.
 - (a) All integrated and attached ADUs shall require staff level development plan review.
 - (b) All detached ADUs shall require Planning Commission review.
 - (c) All ADUs shall comply with standards set forth below.
- (4) Ownership. The principal dwelling unit and accessory dwelling unit shall be under the same ownership.
- (5) Limit on Number. There shall not be more than one (1) accessory dwelling unit on a lot in addition to the principal single-family dwelling.
- (6) Occupancy. The cumulative number of individuals that reside in the principal and accessory dwelling units shall not exceed the number allowed for a single household. See definition of "Household Living" in §13.2.C.28.

- (7) Home Occupations. Subject to existing regulations, home occupations shall be allowed in either the principal dwelling or in the Accessory Dwelling Unit. In no circumstance, however, shall a home occupation(s) occupy both units. Traffic generated by the ADU shall be included in all home occupation traffic calculations, as required by Section 5.2.B2d.
- (8) Limit on Tenancy. Either the principal dwelling unit or the accessory dwelling unit may be used be leased by the owner. The lease term shall be a minimum of ninety (90) days. The non-leased dwelling unit shall be occupied by the owner.
- (9) Size of Accessory Unit. No accessory dwellings shall exceed forty-nine percent (49%) of the size of the floor area of the principal dwelling unit or one thousand (1,000) square feet, whichever is less. Only habitable area of the accessory dwelling unit shall be counted toward this maximum. For example, an accessory dwelling located above a garage shall not count the garage area in the maximum square footage.
- (10) Utilities. All accessory dwelling units shall be conditioned upon the provision of adequate public facilities, as outlined below.
- (a) All electrical, phone, and cable wiring serving the accessory dwelling unit shall be placed underground.
- (b) Sewage Disposal. Accessory dwelling units shall be served by either the Upper Thompson Sanitation District or the Estes Park Sanitation District. When the development site cannot physically be served by the UTSD or EPSD, or the development site is outside the existing or planned service areas the accessory dwelling unit may be served by an on-site sewage treatment system provided however, the Larimer County Health Department approves the service to the ADU.
- (c) Water. Accessory dwelling units shall be connected to the Town of Estes Park Water System. When the development site cannot physically be served by the Town of Estes Park Water System or the development site is outside the Town's existing or planned water service area the accessory dwelling unit may be served by individual or shared wells, provided however, at the time of application for properties utilizing wells either a well permit that specifically allows service for the proposed multiple dwellings, or a letter of interpretation from the Colorado Division of Water Resources indicating that the applicant's well permit is authorized for the proposed accessory dwelling.
- (11) Access.
- (a) Except on corner lots where a second driveway can meet all driveway separation standards set forth in Appendix D, the accessory dwelling unit shall utilize the same access point as the principal dwelling.
- (b) Except as required by this Section, road standards set forth in Appendix D of the Estes Valley Development Code shall not apply to ADUs.
- (12) Off-Street Parking.

- (a) At least one (1) off-street parking space shall be provided for each bedroom located in an accessory dwelling unit. Parking space dimensions shall comply with standards set forth in Section 7.11.
- (b) Parking shall not be located in the yard setback areas.
- (c) All parking areas shall be landscaped to screen from off-site.
- (d) Where covered parking is used in conjunction with an ADU it shall be calculated with the cumulative accessory use square footage.
- (e) Parked vehicles shall be located in approved locations.
- (f) Section 5.2.B2f "Storage or Parking of Vehicles, Recreational Equipment and Recreational Vehicles" applies to Accessory Dwelling Units. Occupants of the accessory dwelling unit shall be allowed to park vehicles on the site. The total number of vehicles on the lot shall not exceed the limit provided for in Section 5.2.B2f.

(13) Site Design.

- (a) All General Development Standards set forth in Chapter 7 shall apply to all accessory dwelling units, except where modified by this Section.
- (b) Landscaping requirements set forth in Sections 7.5.F "Buffering and Screening" and 7.5.G2e "Perimeter Planting Requirements" shall apply.

(14) Architectural Requirements.

- (a) Exterior lighting shall be concealed, with no bulb/light source visible from off site.
- (b) The design of the Accessory Dwelling Unit shall be compatible with the design of the principal dwelling unit by use of similar exterior wall materials, window types, door and window trims, roofing materials and roof pitch and colors.
- (c) The exterior finish material must be the same or visually match in type, size and placement of the exterior finish of the primary residence.
- (d) The roof pitch must be substantially the same as the predominant roof pitch of the primary residence.
- (e) Eaves must project from the building walls at substantially the same distance as the eaves on the primary residence.
- (f) Trim must be substantially the same in type, size and location as the trim used on the primary residence.
- (g) Windows must substantially match those in the primary residence in proportion (width and height) and orientation (horizontal and vertical).

(i) The entrance to an Accessory Dwelling Unit shall not face the front of the lot, and not be directly visible to the public, unless it can be demonstrated that no other reasonable alternative exists. Entrances shall be treated architecturally in such a way as to be de-emphasized in comparison to the principal dwelling unit. Uses of relatively smaller porches, overhangs or trim for the Accessory Dwelling Unit entrance are examples for creating this architectural hierarchy.

(j) The Decision-Making Body shall have authority to grant exceptions and modifications to these standards, provided they find the requested modifications and/or waivers:

1. Advances the goals and purposes of this Code; and
2. Either results in less visual impact, more effective environmental or open space preservation, relieves practical difficulties in developing a site, or results in the use of superior engineering and/or architectural standards than those required by this Code.

(15) Covenant Required.

(a) Accessory dwelling units provided pursuant to this Section shall be deed-restricted to assure the unit remains an accessory dwelling unit, and that the property owner agrees to the requirements of this code.

(b) Removal of the covenant shall require approval of the applicable Board and shall require a finding of exceptional practical difficulties or undue hardship if the restrictions are not removed; or, the property is subdivided under the terms of the EVDC, with the two dwellings being located on their newly created lots. Removal of the deed restriction shall not become effective until the plat is recorded.

(c) The mechanism used to restrict the unit shall be approved by the Town or County Attorney.

(d) The applicant shall submit the signed and notarized covenant with the building permit application, along with applicable recording fee. Staff shall submit the document for recording, and provide a copy of the recorded document to the property owner.

(16) Fees.

(a) Building permit fees apply for all accessory dwelling units.

(b) Building permit applications for all accessory dwelling units are subject to all applicable impact fees, including transportation capital expansion fees applicable to a multi-family land use type as defined in Section 9.5 of the Larimer County Land Use Code.

(c) Water and sewer fees shall apply as determined by the utility provider.

(17) Other Regulations.

(a) A permitted accessory dwelling unit shall comply with all other applicable site and building design, height, access and other standards for principal dwelling units in the zoning district in which the accessory dwelling unit will be located.

(b) In the case of any conflict between the accessory dwelling unit standards of this Section and any other requirement of this Code, the standards of this Section shall control.

(c) Accessory dwelling unit square footage shall be included in cumulative accessory building square footage calculations.

(d) Accessory dwelling units shall comply with applicable building codes.

D. General Dimensional and Operational Requirements.

(No changes proposed)

§ 13.3 DEFINITIONS OF WORDS, TERMS AND PHRASES

~~3. *Accessory Dwelling Unit* shall mean a second dwelling unit integrated with a single-family detached dwelling that is located on the same lot as the single-family detached dwelling. "Accessory Dwelling Unit" does not include mobile homes, recreational vehicles or travel trailer.~~

3. *Accessory Dwelling Unit* shall mean any accessory structure, either attached or detached from principal structure, that provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Cooking facilities shall include any area used, or designated to be used, for the preparation of food. See Section 5.2.B2 "Accessory Dwelling Unit."