



Accessory Dwelling Units

Estes Park Community Development Department

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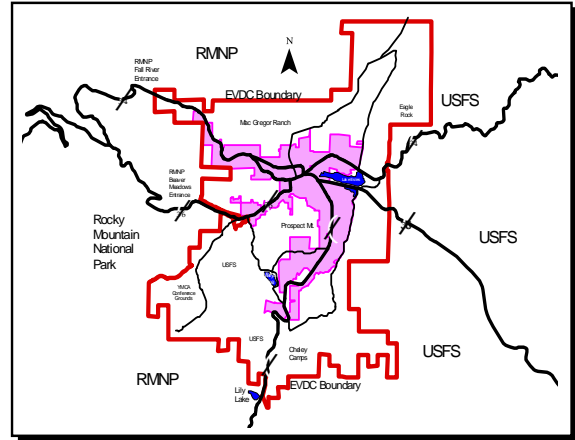
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DATE:

Planning Commission -
March 13, 2008;
September 16
October 21;
November 18;
December 16;
January 20, 2009;
February 17;
March 17

Town Board – TBD

Board of County Commissioners - TBD



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

STAFF CONTACT: Dave Shirk

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.

Subsequent to the February 2009 Planning Commission hearing, Staff has removed the detached option.

How many? On a national level, municipalities that allow ADU's see an application for about 1 per 1,000 homes in a year (based on a survey of 47 communities that allow ADUs, per Municipal Research and Services Center of Washington "Accessory Dwelling Units Issues and Options" report).

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:

- 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 (Staff believes this would be the most common use).
- ADUs could provide seasonal employee housing dispersed throughout the community.
- 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.
- 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.

- Implement the Comprehensive Plan "recommended actions" number A.5 Housing, which states in part "there may be opportunities to modify zoning classifications to allow accessory units that serve as affordable housing units."

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%
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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. Approximately 1/3 of these requests are for units that were illegally built when this use was prohibited, and 15% of all zoning violations in Larimer County over the last three years have been illegal “second homes.”

Brief History. The first town zoning code in 1947 allowed two-family dwellings on all residentially zoned lots at least ½ acre in size.

The 1986 code, which was in effect through 1999, allowed ADU’s in all single-family zone districts, without a minimum lot size. That code required units be integrated, could not exceed 800 s.f., and could not be rented.

Larimer County allowed “guest houses” to be built in the county until the adoption of the Estes Valley Development Code. Guest houses could not have cooking facilities.

Proposed regulations. The principal changes include removal of the “1.33” requirement, 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 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 Meetings. In addition to the above noted meetings, Staff has presented this proposal to the:

- Estes Park Housing Authority (Sept 10)
- Sunrise Rotary (Nov. 25)
- League of Women Voters (Feb. 9)

Staff is also trying to arrange a presentation to the Chamber of Commerce, though scheduling conflicts has hindered this attempt.

§ 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	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	§5.2.B.2.a
Integrated	Yes	Yes	Yes	Yes	Yes	No	No	No	
Attached	Yes	Yes	Yes	Yes	Yes	No	No	No	
Detached	Yes	Yes	Yes	Yes	Yes	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 or 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) An accessory dwelling unit is a second dwelling unit either in or added to an existing single-family detached dwelling on the same lot as the principal dwelling, for use as a complete, independent living facility with provisions within the accessory unit for a kitchen, eating, sanitation/bathing, and sleeping. Such a dwelling is an accessory use to the main dwelling.

(b) An accessory dwelling unit may or may not have interior access to the principal dwelling unit. Exterior access to the accessory dwelling unit may be included, but is not required. At least 12 feet along one wall of the accessory dwelling unit must be contiguous to a wall of the principal dwelling unit.

(3) Review. All accessory dwelling units shall be subject to development plan review process, as set forth in Chapter 3. All accessory dwelling units require review and approval of the Estes Valley Planning Commission and 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.

[Staff suggests that because rental is not an option, the need for owner occupancy is not necessary.]

(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. Vacation homes shall not be an allowed use on lots with an accessory dwelling unit. No accessory dwelling unit shall be leased separately from the principal dwelling unit.

(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 (excluding attached garage) or one thousand (1,000) square feet, whichever is less. For example, if the principal dwelling unit is one thousand (1,000) square feet, an accessory dwelling unit could be four hundred and ninety (490) square feet, for a total of fourteen hundred and ninety (1,490) square feet.

(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) The accessory dwelling unit shall utilize the same access point as the principal dwelling unit.

(b) Road standards set forth in Section 7.12 of the Estes Valley Development Code shall not apply to ADUs.

(c) General Site Access standards set forth in Appendix D shall apply to all accessory dwelling units, except that accessory dwelling units shall not count toward the limit on number of dwellings on a private driveway.

(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. This requirement shall be in addition to the parking required for a single-family dwelling unit (2).

(b) Parking space dimensions shall comply with standards set forth in Section 7.11.

(c) Parking shall not be located in the yard setback areas.

(d) All parking areas shall be landscaped to screen from off-site.

(e) Where covered parking is used in conjunction with an ADU it shall be calculated with the cumulative accessory use square footage.

(f) Parked vehicles shall be located in approved locations.

(g) 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 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.

~~(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.~~

~~(d) 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) Land-Use Affidavit Required.

(a) The applicant shall submit a signed and notarized land-use affidavit that states the applicant has read and understands all requirements set forth in the Estes Valley Development Code and agrees to all conditions of approval.

(b) The land-use affidavit shall be approved by the Town or County Attorney.

(c) The applicant shall submit the signed and notarized land-use affidavit 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 but not limited to 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.

(d) Accessory Dwelling Units shall be subject to development plan review fees set forth in the current Development Review Fee Schedule.

(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.

§ 6.3 CONTINUATION OF NONCONFORMING USES OR STRUCTURES

A. **Authority to Continue.** Nonconformities shall be allowed to continue in accordance with the requirements of this Chapter.

B. **Repairs and Maintenance.** Repairs and normal maintenance required to keep nonconforming uses and structures in a safe condition shall be permitted, provided that no alterations shall be made except those allowed by this Chapter or required by law or ordinance.

C. **Alteration/Extension of Nonconforming Uses and Structures.**

1. *Alteration/Extension of Nonconforming Uses Prohibited.* Subject to the provisions of this Chapter, a nonconforming use shall not be altered or extended. The extension of a nonconforming use to a portion of a structure which was built for the nonconforming use at the time of adoption of this Code is not an extension of a nonconforming use.

2. *Alteration/Extension of Nonconforming Structures Limited.* Except as allowed in §6.3.C below, a structure conforming as to use, but nonconforming as to height, setback or coverage, may be altered or extended, provided that the alteration or extension does not result in a new violation of this Code or increase the degree or extent of the existing nonconformity. (See §3.6, "Variances"; a variance may be sought to permit alterations or extensions to a nonconforming structure not otherwise allowed by this Chapter.)

§ 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 is a second dwelling unit either in or added to an existing single-family detached dwelling on the same lot as the principal dwelling, for use as a complete, independent living facility with provisions within the accessory unit for a kitchen, eating, sanitation/bathing, and sleeping areas. Such a dwelling is an accessory use to the main dwelling.

*****End of proposed Code changes*****

Review Criteria. Per Section 3.3: All applications for text or Official Zoning Map amendments shall be reviewed by the EVPC and Board(s) for compliance with the relevant standards and criteria set forth below and with other applicable provisions of this Code.

1. The amendment is necessary to address changes in conditions in the areas affected;

Staff comment: Code changes are necessary to address changes in demographics of the Valley, which has seen a decrease in household size, an increase in the average age, and an increase in the need for affordable/employee housing.

2. The development plan, which the proposed amendment to this Code would allow, is compatible and consistent with the policies and intent of the Comprehensive Plan and with existing growth and development patterns in the Estes Valley; and

Staff comment: The proposed changes would help implement several adopted policies set forth in the Estes Valley Comprehensive Plan, as set forth in the Staff report.

3. The Town, County or other relevant service providers shall have the ability to provide adequate services and facilities that might be required if the application were approved.

Staff comment: Each proposal would have to demonstrate ability to provide adequate public facilities.

Findings.

1. The amendment is necessary to address changes in conditions in the areas affected;
2. The proposed amendment to this Code is compatible and consistent with the policies and intent of the Comprehensive Plan and with existing growth and development patterns in the Estes Valley; and
3. The Town, County or other relevant service providers shall have the ability to provide adequate services and facilities that might be required if the application were approved.