

## Questions about Accessory Dwelling Units (ADUs)

### **1. What is the definition of a dwelling unit?**

[Article 11](#) of the Denver Zoning Code defines a dwelling unit as “one or more Rooms constituting a unit for permanent occupancy, having but one kitchen together with facilities for sleeping, bathing, and which unit occupies a structure or a portion of a structure.” See DZC 11.12.2.1.B.1.

### **2. What makes a dwelling unit an accessory dwelling unit (ADU)?**

A dwelling unit is considered an accessory dwelling unit (ADU) if it is a second, subordinate dwelling unit located on the same zone lot as a primary single unit dwelling.

An ADU can either be attached to the primary dwelling unit, or it can be a separate, detached structure. For example, it can be a basement apartment in a single unit house or a detached cottage near the alley.

Accessory dwelling units are not permitted in all zone districts, and must meet the limitations established in Article 11 of the Denver Zoning Code

### **3. What is the difference between a primary dwelling unit and an accessory dwelling unit (ADU)?**

The primary activity that occurs on the zone lot is the primary use, and any additional use of that zone lot that is related to the primary use is called an accessory use. A zone lot will always have a primary use, but it won't always have an accessory use. The accessory use must always be clearly incidental, subordinate, and customary to or associated with the primary use.

An ADU may either be attached to the primary dwelling unit, or it may be in a separate, detached structure.

### **4. What is the purpose of the square footage limitation for an ADU?**

When Denver developed the Zoning provisions applicable to ADUs, there was an interest in ensuring that ADUs would only be used as intended – for a use accessory to the primary residential use.

### **5. Does an attached ADU have to contain a separate bathroom?**

Yes, otherwise it wouldn't be considered a dwelling unit.

### **6. How do I know if I live in a zone district that allows me to have an ADU accessory to a single-unit home?**

All Denver Zoning Code districts that permit more than single unit development, such as two-unit, row house, multi-unit or mixed-use districts, also permit accessory dwelling units. In addition, the Denver Zoning Code districts that include a '1' designator at the end (i.e., 'E-SU-B1') also permit accessory dwelling units. Denver Zoning Code districts that include a '2' designator at the end (i.e., 'U-SU-A2') permit accessory dwelling units on certain corner lots. Use the online [Accessory Dwelling Units Map](#) to determine whether you are in a Denver Zoning Code district that permits accessory dwelling units.

**7. I want to build an ADU on my zone lot. My neighbor is zoned to get an ADU, but my house is not. How did this happen, and can I change it?**

Your neighbor may have applied to rezone to a district that allows ADUs. . You can apply to rezone your property by submitting a [rezoning pre-application form](#). Note that City Council must approve all rezonings.

**8. Does the address of a dwelling unit make a difference as it its eligibility to become an ADU?**

No. Regardless of whether a dwelling unit is a primary dwelling unit or an ADU, each separate dwelling unit should have its own address; whether that address is a unit number or a “½” designation is up to addressing, and is not relevant for zoning purposes.

**9. Do different rules apply to conversions than to newly built ADUs?**

No. In a zone district that permits ADUs, a garage, other accessory structure, or portion of the primary structure that meets all zoning standards for a new ADU may be converted into an ADU.

### Using Accessory Dwelling Units (ADUs) as Short-Term Rentals (STRs)

**1. What guidelines apply if I want to rent an ADU as a short-term rental (STR)?**

In 2019, Denver’s Zoning Administrator published a [Denver Zoning Code Interpretation](#) providing additional context around DZC sections 11.12.7.7, 11.8.10, and Former Chapter 59 zoning and answering select questions about the use of ADUs as STRs.

**2. Can I live in an ADU and conduct a STR in the associated Primary Dwelling Unit?**

No. Accessory uses, including short-term rentals, are intended to be subordinate to the primary use of the property which would not be the case if the primary dwelling unit was used exclusively as a short-term rental, with the owner/resident living in an accessory unit. Therefore, you must maintain the primary dwelling unit as your primary residence to operate a short-term rental within either the primary dwelling unit or a permitted ADU. For more, see the [Denver Zoning Code Interpretation](#).

**3. Can I live in the Primary Dwelling Unit and conduct a STR in an attached or detached ADU?**

Yes. This would align with the provisions applicable to all accessory uses that require the primary use of the zone lot to occur in the primary dwelling unit and the accessory use to occur in the ADU. For more, see the [Denver Zoning Code Interpretation](#).

**4. Can I live in an attached or detached ADU and conduct a STR use in the attached or detached ADU?**

No. If you are living in the ADU, you are not maintaining the primary dwelling unit as your primary residence because your primary residence is in the ADU. For more, see the [Denver Zoning Code Interpretation](#).

**5. I currently live in the primary dwelling unit on a zone lot and rent out my detached ADU as a short-term rental. As my children grow up and move away, can I eventually move into my ADU and rent out my primary dwelling unit as the short-term rental when I need less space for myself?**

No. Once you move into the ADU, you are no longer the primary resident of the primary dwelling unit – the ADU is your primary residence now. Further, a short-term rental is an accessory use only, so using the structure where the primary dwelling unit is located for an accessory use is prohibited. You may, however, use the primary dwelling unit as a long-term rental, which would be categorized as a primary residential use.

**6. Can I live in one unit of a duplex that I own and rent the other unit as a short-term rental?**

No.

Duplexes contain two independent primary dwelling units. This means that the two units do not have a primary-accessory relationship that would qualify one as a primary dwelling unit and the other as an accessory dwelling unit.

Short-term rental accessory use is limited to the dwelling unit's primary resident. This means that only the primary resident in each of the two primary dwelling units would be allowed to rent their respective dwelling unit as a short-term rental. Because a person may not have more than one primary residence, it would be impossible for the primary resident of one dwelling unit to also claim the other dwelling unit as a primary residence where the short-term rental would be the accessory use.

Note that for zoning purposes, ownership of the two units is not relevant. Even if a duplex is sold on one deed, one unit still cannot be used as a short-term rental by the person living in the other unit.

**7. What differentiates a duplex from a single structure that contains an attached ADU?**

A duplex typically contains two similarly-sized dwelling units with entrances on the street, while a single unit house with an attached ADU includes a smaller subordinate dwelling unit that doesn't have its own prominent street entrance (like a basement apartment or similar).

If one of the two dwelling units in a duplex is clearly subordinate to the other (much smaller, no separate entrance to the street, etc.) it may sometimes be possible to re-permit the whole structure as a single unit dwelling primary residential use with an subordinate accessory dwelling unit residential use. In this scenario, the structure will no longer be considered a duplex.

If the two dwelling units are similar in size and can be independently used, then the structure contains two primary dwelling units and can only be permitted as a duplex. In this case, each of the primary dwelling units may only be used as a short-term rental by the primary resident in each dwelling unit.

**8. Can I buy two neighboring condo units and use one as my primary residence and one as a short-term rental?**

No. Two neighboring condo units are two independent primary dwelling units with neither one having a subordinate relationship to the other. As such, neither would qualify as an accessory dwelling unit to the other primary dwelling unit, and only the primary resident of each dwelling unit would be able to conduct a short-term rental in that dwelling unit.

**9. Can a tiny house parked in my driveway be considered an ADU and rented out as a STR?**

No. A tiny house or similar structure that is not built on a permanent foundation or connected to the water and sewer system cannot be considered as an ADU.

## Questions about CPD, the Planning Process, and Policy Changes

**1. What is Denver’s Comprehensive Plan?**

Adopted in May 2019, [Comprehensive Plan 2040](#) is the 20-year vision for Denver and its people, and reflects the voice of thousands who have shared their hopes, concerns and dreams for the future. City leaders will use the recommendations of this plan to guide the decisions that shape our city over the next 20 years.

**2. What is Blueprint Denver?**

[Blueprint Denver](#) is a citywide land use and transportation plan that was first adopted in 2002 and updated in 2019. The plan covers a 20-year period, and calls for growing an inclusive city through:

- complete neighborhoods and complete transportation networks;
- a measured, common-sense approach to new growth;
- and for the first time, land-use decisions through the lens of social equity.

Each year, Community Planning and Development will measure outcomes related to the plan goals, policies, and strategies in Blueprint Denver.

**3. How does CPD do its planning?**

Making Denver livable for its people now and in the future is the overarching vision that guides all [planning efforts](#) — whether they cover a small area, such as a transit station or neighborhood, or the entire city. Each plan is the result of a collaborative public process, led by city planners and involving residents, business owners, community groups and other stakeholders.

Plans represent a long-term, broad vision for a community and function as guides for future land use and urban design, ensuring orderly and appropriate neighborhood development, including such elements as buildings, streets, parks and public spaces. Although plans are not law, they do lay the foundation for city regulations like zoning and urban design standards. Whether creating plans on a small or citywide scale, our goal is always to achieve a balanced, multi-modal transportation system, land use that accommodates future growth, and open space throughout the city.

**4. Are planning and zoning decisions made neighborhood by neighborhood or on a city-wide basis?**

It is a combination of both. Typically, planning projects are long-term and have several steps. Community-level consultation is one of these steps, which then lead to recommendations and eventually specific projects and code changes. However, planning professionals also take city-wide concerns into account when developing plans. Equitable planning requires both neighborhood-level outreach and city-wide policies.

**5. Does the recent Group Living Amendment to the Denver Zoning Code affect the use of ADUs as STRs?**

No. The Group Living Amendment increases the number of unrelated long-term residents that are allowed to live together in a dwelling unit; it doesn't change anything related to short-term rentals. There is currently no limit on the number of guests allowed at a short-term rental.

**6. Does CPD plan to evaluate or revise zoning regulations for ADUs?**

Yes. In the fall of 2021, CPD is kicking off the "ADUs in Denver" project to look at rules for ADUs in the Denver Zoning Code and propose updates to make it easier to create ADUs as an additional housing option in zone districts where they are currently allowed and to ensure that ADUs fit well in different neighborhood conditions.

The ADUs in Denver project will include discussion on the use of ADUs for short-term rentals. Please email CPD planner Josh Palmeri at [josh.palmeri@denvergov.org](mailto:josh.palmeri@denvergov.org) if you would like to be involved in the ADUs in Denver project or receive project updates.

### Further Resources

**1. Where can I read the short-term rental and zoning laws?**

Denver's [short-term rental ordinance](#) is located in Chapter 33, Article III of the Denver Revised Municipal Code (D.R.M.C.). Short-term rentals must also comply with agency rules adopted by the Department of Excise and licenses, tax provisions, and applicable provisions of the [Denver Zoning Code \(DZC\)](#).

For more information about the laws, rules, and regulations that govern short-term rentals, please visit the Department of Excise and Licenses [website](#).

**2. Where can I read the zoning limitations that apply to all accessory uses?**

[Article 11](#) of the Denver Zoning Code covers Use Limitations and Definitions. Division 11.7 – Accessory Use Limitations – contains the provisions applicable to all accessory uses.

**3. Where can I read the zoning limitations that apply to short-term rental uses?**

[Article 11](#) of the Denver Zoning Code covers Use Limitations and Definitions. Division 11.7 – Accessory Use Limitations – covers the provisions applicable to all accessory uses. Section 11.8.10 contains the provisions applicable specifically to short-term rentals.