

# ADUS (ACCESSORY DWELLING UNITS) IN DENVER

Background Report  
OCT 2021



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## INTRO

What will this project include?

In this project, city planners will look at how the Denver Zoning Code regulates ADUs (accessory dwelling units). This project is not expected to change where in the city ADUs are allowed but will look at how they are designed, how they fit in with different types of neighborhoods and block patterns, and how updates to the zoning code may reduce barriers to creating ADUs.

Why do this work?

As our city grows and changes, the way people live is changing too. Many people want...

- a separate space where elderly parents or kids living at home can still have independence,
- a space that can be rented out to generate income,
- or just to rent a smaller, more affordable space.

Creating an ADU can have a big impact helping residents grow their home equity and earn new income to remain comfortably in their homes long-term. These smaller dwelling units are also a low-impact way for neighborhoods to expand their range of housing choices and add some gentle density.

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Remove barriers to constructing accessory dwelling units and create context-sensitive form standards.

**GOALS: 1, 6**

*The zoning code already allows ADUs in some areas of the city. ADUs can be attached to the main home, such as a basement unit, or detached. ADUs offer a housing option for residents looking for something smaller than a home, such as seniors who want to age in place. There are opportunities to remove barriers—especially since the cost of constructing a detached ADU is high—and to better calibrate form standards for detached ADUs by neighborhood context.*

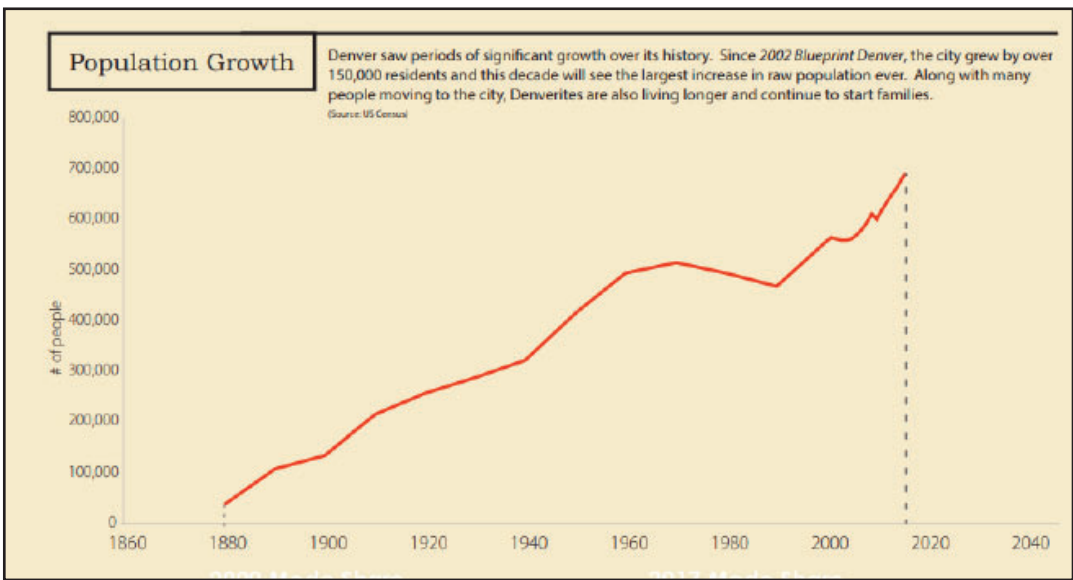
- A.** Evaluate existing barriers to ADU permitting and construction and revise codes and/or fees to remove or lessen barriers for homeowners. Consider programs and resources to help reduce barriers to ADUs for homeowners, especially in neighborhoods that score high in Reducing Vulnerability to Displacement.
- B.** Revise the zoning code to allow ADUs as accessory to more uses than only single-unit homes.
- C.** Revise detached ADU form standards to be more context-sensitive, including standards for height, mass and setbacks.
- D.** Establish context-specific patterns or templates to facilitate the approval process of detached ADUs.

*Blueprint Denver 2019 identifies several policies and strategies to make it easier to build ADUs.*

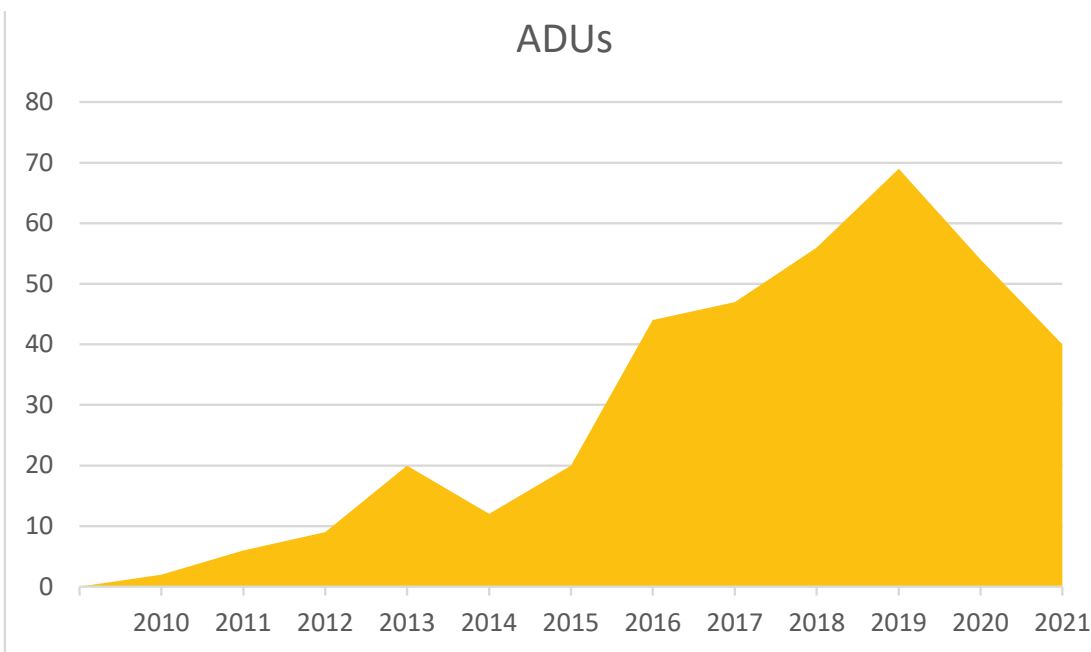
# WHY NOW?

Denver's population is rapidly growing and we need to make it easier to provide a range of housing options, and ADUs are part of the solution. ADUs are becoming increasingly popular throughout Denver, as rezoning requests suggest, and more and more folks are interested in figuring out ways to add housing to their property. Whether it's for distant in-laws to visit, as a rental property, or an expanded family arrangement; the need for accessible housing is more pressing than ever. With the plan guidance of Blueprint Denver 2019, many single-unit residential properties are now eligible for a rezoning to allow ADUs on their property. But the

rezoning is only the first hurdle. Once your property is zoned for an ADU, you then must go through the process of design, permitting, and construction. This project is intended to make the processes as clear and as cost effective as zoning will allow. The building form standards for a Detached ADU are quite restrictive and can impose many cost implications that make for difficult design decisions in building an ADU. This project will look at which restrictions can be lifted or alleviated, while still creating outcomes that are sensitive to the neighborhood context.



*The newly released 2020 census confirms that the city of Denver grew by 19.2% in the last decade, adding 115,364 residents, bringing the population to 715,522. Source: Census 2020*



*Number of ADU permits per year since 2010 (2020 is only 8mo of data.) Source: CPD Denver*

## PROCESS AND TIMELINE

The ADUs in Denver project will remain relatively small in scope, focusing on removing barriers to ADUs where they are currently allowed. By focusing exclusively on the built outcomes of ADUs, we are able quickly implement and accomplish some of our blueprint goals, with emphasis on a one-year timeline.

## HISTORY OF ADUs

ADUs are not at all that new to Denver. They have been around since the origins of Denver, in the form of a 'carriage house'. A carriage house was a separate living quarters for the storage of horse drawn carriages and for servants of the main house to live, some date back as far as the 1880's. They were small scale separate buildings at the rear of the property, usually accessed from the alley, in order to easily pull in a carriage. Servants of the main house would live above the carriage storage, in a loft or a full second story. Many of Denver's more historic and affluent neighborhoods have existing carriage houses on their property and over time many have been converted into separate sell-able parcels. You can find many historic carriage homes in Denver's older neighborhoods like Baker, Capitol Hill, Curtis Park, City Park West, Congress Park, Cole, Whittier, Speer, Country Club, West Washington Park, and Platt Park.

### What happened to the ADUs?

It's difficult to pinpoint exactly when ADUs fell out of favor in the eyes of Denver's zoning. In 1925 Denver adopted its first zoning code, which only consisted of 3 districts: residential, hotel, and office. The residential district didn't have any limitations to the number of units that were allowed on a property. But in 1954, a new zoning code introduced Single-Unit (SU) only districts, and began to limit the number of dwelling units on a property to just one in these districts and began stipulating that 'a family' could only live in a single dwelling.

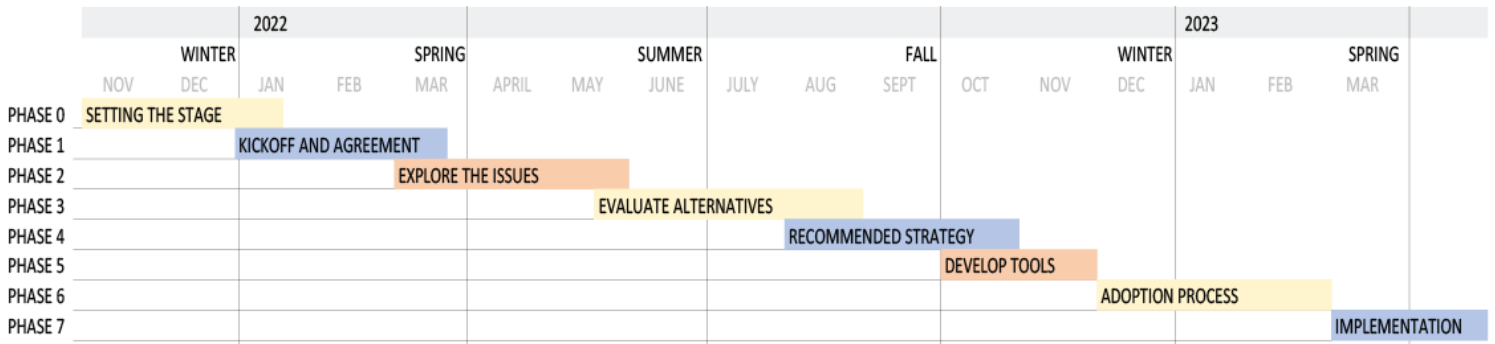
The project will consist of an advisory committee made up of a diverse group of community representatives and knowledgeable ADU experts to help guide staff in making decisions on zoning code updates to ADUs. Focus groups will be established to tackle specific issues such as suburban context ADUs and short-term rental concerns. Public meetings will invite a larger discussion and help inform communities of the changes proposed.



*The Grant Street Mansion at 1115 Grant Street in Capitol Hill was built in 1892 and included a carriage house. Source: Denver Public Library*



*Today, the Grant Street Mansion is listed in the National Register of Historic Places. Source: Google Streetview*

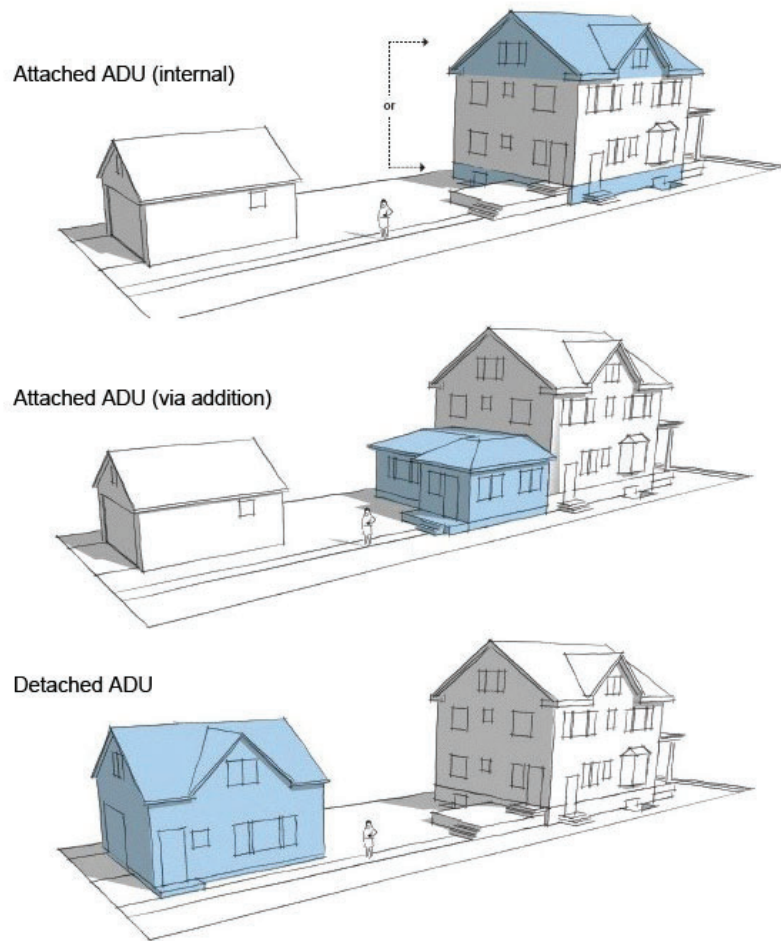


The one-year process and timeline will involve many phases to explore issues, evaluate alternatives, draft strategies and develop tools, conduct public hearings, and begin implementation.

## WHAT IS AN ADU TODAY?

Accessory Dwelling Units (ADUs) are secondary and subordinate units to a primary dwelling unit. They are secondary in their use classification, as they must be secondary to a 'primary dwelling use'. They may not be sold off as a separate property, unlike a duplex which is a 'two-unit dwelling use' or two separate primary uses. Currently, ADUs are only allowed with a single-unit primary use, meaning that you cannot have an ADU with a duplex or a row-home.

ADUs may be attached or detached. Detached ADUs are the most thought of type of ADU. They are a separate building at the rear of the lot which usually provides living space above a garage, similar to Denver's historic carriage houses. Detached ADUs are regulated by the 'Detached ADU' building form standards and regulate building size by lot size. New attached ADUs are often less common, but can be a viable solution for smaller lot sizes or where existing structures already fill their lots. Attached ADUs are often found in basements with separate entries, or on a second or third level with exterior stairways. They can also be built as additions to the main house. See the graphic at right for examples of each.



Today's ADUs take many forms, including occupying basements or upper level floors, or as separate living spaces attached to or detached from the primary house. Source: City of Saint Paul, MN

## ADU CONCERNS

Many residents are worried that a nearby ADU could impact their quality of life. Some of these concerns are summarized below:

### Short-term Rentals

- ADUs may be rented out as a short-term rental as long as the owner of the ADU lives on the property and maintains permanent residence there.
- Short-term rental income can help offset construction costs of an ADU. But a short-term rental is sometimes seen as a negative by neighbors.
- In our brief surveys of ADU owners, many of them did short-term rent out their unit for a few years, just after construction, but eventually became tired of the requirements and turned their unit into a long-term rental.

### Safety Concerns

- Some neighbors fear that adding ADUs to their alley will increase automobile traffic and crime.
- In reality, the additional traffic is minimal. Adding ADUs, and the gentle density they bring to alleys can increase their safety by adding more eyes on the alley which helps to prevent crimes of opportunity and deter loitering.

### ADUs Without Alley Access

- Concerns about allowing ADUs on lots without alley access are growing as ADU interest begins to spread away from our urban center.
- Most of Denver's urban neighborhoods have alley access to the rear of the lot, but in our more suburban neighborhoods, alleys are less common.
- Special consideration should be given to the zoning regulations in this context, especially rear setbacks (how close you can build to the rear-lot line of a property) which about a neighboring property.



*An example of an alley improvement due to ADU development. Source: CPD*



*One possible example of ADUs without alleys. Source: CPD*

### Displacement

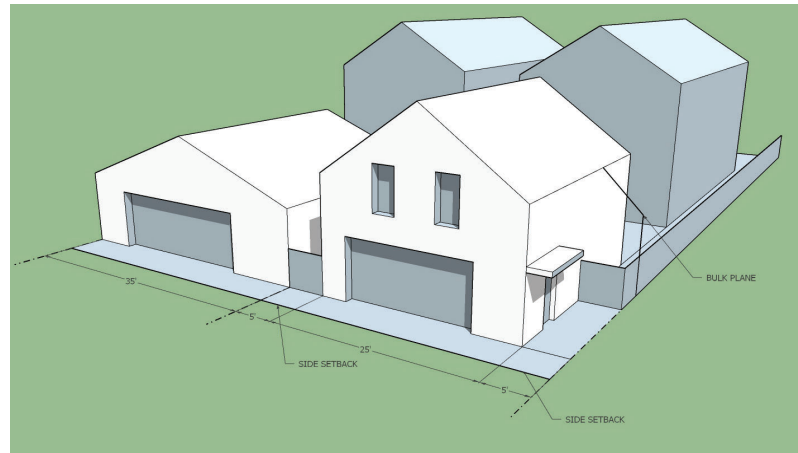
There is some concern that ADU construction will increase property values and taxes throughout a neighborhood, causing displacement, but officials in Denver, Portland and San Diego note that 'property values depend on many factors and properties with ADUs have little if no impact on the value of properties without ADUs.'

## Not Enough Parking

- Some residents are concerned about ADUs exacerbating parking demand.
- Currently there is no off-street parking requirement for single unit dwellings or ADUs.

## Loss of Privacy

- Many neighbors fear the loss of privacy in their backyards due to an ADU next door.
- The zoning code regulates side setbacks and a 'bulk plane' that help encourage windows to face the alley and the primary structure to prevent infringement on neighboring properties.



The detached ADU standards require setbacks and bulk plane standards that help protect privacy and shadow impacts on neighboring properties. Source: CPD

# ADU BENEFITS

Many organizations have researched the benefits of ADUs, some of which are provided below from AARP:

### ADUs are able to house people of all ages

- An individual's housing needs change over time, and an ADU's use can be adapted for different household types, income levels, employment situations and stages of life.
- ADUs offer young people entry-level housing choices.
- ADUs enable families to expand beyond their primary home.
- ADUs provide empty nesters and others with the option of moving into a smaller space while renting out their larger house or letting an adult child and his or her family reside in it.

### ADUs are community compatible

- ADUs offer a way to include smaller, relatively affordable homes in established neighborhoods with minimal visual impact and without adding to an area's sprawl.

ADUs provide gentle density, a more dispersed and incremental way of adding homes to a neighborhood than other options, such as multi-story apartment buildings. As a result, it's often easier to get community support for ADUs than for other housing types.

## Big houses are being built, small houses are needed

Do we really need more than three times as much living space per person as we did in 1950? Can we afford to buy or rent, heat, cool and care for such large homes?

YEAR	1950	2017
Average square footage of new single-family homes	983	2,571
Number of people per household	3.8	2.5
Square feet of living space per person	292	1,012

Fact: ADUs house more people per square foot of living area than single-family homes do.

Source: National Association of Home Builders and U.S. Census Bureau (Average Household Size)

### ADUs are just the right size

- Generally measuring between 600 and 1,000 square feet, ADUs work well for the one and two-bedroom homes needed by today's smaller, childless households, which now account for nearly two-thirds of all households in the United States.

### ADUs are good for the environment

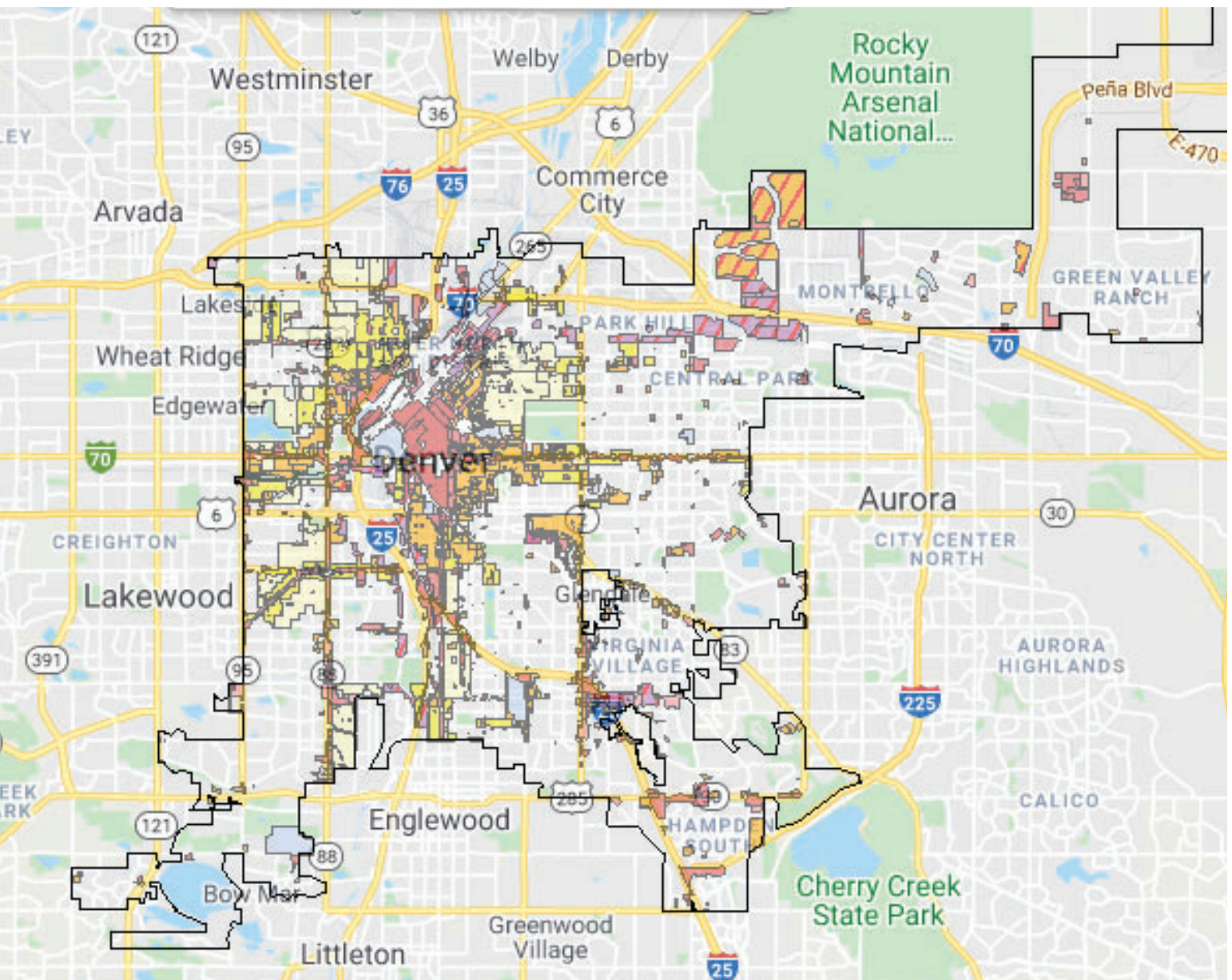
- ADUs require fewer resources to build and maintain than full-sized homes.
- ADUs use significantly less energy for heating and cooling. (Of all the ADU types, internal ones tend to have the lowest building and operating costs.)

# CURRENT ADU ALLOWANCES

The Denver Zoning Code regulates where detached and attached ADUs are allowed and includes building form standards regarding height, minimum lot size and depth, setbacks, parking, floor area, and structure length. The zoning code also includes limitations on ADUs that further define the circumstances under which they can be built. The regulations are summarized below and should be re-evaluated to consider more context sensitive standards that could help reduce barriers to ADU construction. Besides

zoning requirements, ADUs must meet all building and fire code standards for new construction.

In order to rezone a property to allow an ADU, a property owner must submit an application and pay a minimum \$1,000 review fee. Some property owners, intimidated by the process, pay additional fees to hire a consultant to administer the application for them. The rezoning process takes 4-6 months and includes a staff analysis of the rezoning's consistency with zoning code criteria and involves public hearings.



A map of where ADUs are currently allowed, which only covers about 20% of the entire City. Source: CPD

## Zone Districts

The zoning code defines numerous residential zones specifying building forms that are allowed and minimum lot sizes, which are categorized based on their neighborhood context (urban, urban edge, and suburban). Many of these residential districts, particularly single-unit and two-unit districts, allow urban and suburban house forms and have a counterpart district that also allows ADUs. For example, the U-SU-A district allows urban houses on a minimum zone lot area of 3,000 square feet, while the U-SU-A1 district includes similar standards as U-SU-A but also allows ADUs. A few row-house and multi-unit zone districts also allow ADUs, however, an ADU is permitted as ‘accessory only to a primary single unit dwelling’. Additionally, no more than one ADU is allowed per zone lot and ADUs are not permitted when there is more than one primary structure on the same zone lot.

## Height & Bulk Plane

Detached ADUs are limited to a maximum height of 1.5 stories and 24'. A bulk plane that rises 10 feet vertically from the side interior or side street zone lot line, then slopes 45 degrees, also applies to detached ADUs, which essentially requires a sloped roof form on smaller lots. The height limit allows ADUs to be built above garages while the bulk plane limits their mass and the amount of shade they cast. However, the bulk plane requirements can also limit the design of ADUs and can increase the cost of their construction.

## Lot Size & Depth

The minimum lot size and depth for ADUs are defined by the zone districts where they are allowed. The Urban and Urban Edge zone districts that allow detached ADUs range in size from 3,000 to 10,000 square feet and do not specify a minimum lot depth required for detached ADUs. However, the S-SU-F1 zone district, which is the only Suburban district that allows ADUs, requires a minimum zone lot area of 8,500 square feet and only allows detached ADUs on lots that are at least 150' deep.

## Rules that discourage ADUs

- ADU-specific regulations that don't also apply to primary dwellings (e.g., owner-occupancy requirements)
- complex design compatibility criteria and approval steps
- off-street parking requirements beyond those required for the primary dwelling
- restrictions that limit ADUs to certain geographic areas, particular zoning categories or to large lots
- caps on square footage relative to the primary house that make it easy to add an ADU to a large home but hard or impossible to add one to a small home

Source: AARP - ABC's of ADUs

Furthermore, ADUs are only allowed on lots that meet the minimum lot size required by the detached ADU building form standards that apply to a particular zone district. This means that a property owner can't build a detached ADU if their property is smaller than the minimum lot size required even if they are in a zone district that allows ADUs. For example, if a property is zoned U-SU-H1, which requires a minimum lot size of 10,000 square feet, and the lot is 9,500 square feet, a detached ADU is not allowed.

## Setbacks

The zoning code requires detached ADUs be located in the rear 35% of the zone lot depth with 3- to 5-foot side setbacks, depending on lot width, and 5-foot rear setbacks. Increasing the setbacks on larger lots and/or lots without alleys could help create a more context sensitive ADU. However, increasing the setbacks could reduce the develop-able area for a detached ADU to less than the maximum size allowed.



Elevation drawing of an ADU, showing the bulk-plane, height, and setback dimensions. Source: CPD

### Off-street Parking Requirements

Similar to single unit dwellings that don't require a minimum of off-street parking spaces, ADUs also don't require parking. However, if an alley is present, the zoning code requires any off-street parking for an ADU to be located off the alley. Street access (a driveway) to parking is only allowed if there is no alley present. However, an additional driveway from the street, separate from a driveway serving the main house, is not allowed. The driveway shall be shared between the dwelling units. Alleys are prominent in many Denver neighborhoods and the majority of ADU rezonings thus far approved have been on alleys. While parking availability is often a concern with added density, requiring off-street parking for ADUs can result in additional costs and site constraints that inhibit ADU construction. ADUs are also subject to rules regarding the maximum number of cars allowed per property.

### ADU Floor Area

The maximum floor area allowed for an ADU depends on the size of the lot in addition to other standards. Limiting the size of a detached ADU can help ensure it is smaller than the main house and doesn't overwhelm or shadow neighboring houses, but it can also limit the diversity of households that can live in an ADU. Detached ADUs are also limited to a maximum building length of 36 feet regardless of lot size.

Lot Size	Maximum Size of ADU
6,000 sq ft or smaller	650 sq ft
6,001-7,999 sq ft	864 sq ft
8,000 sq ft or larger	1,000 sq ft

## Building Coverage

Building coverage per zone-lot is defined by the primary building form standards and includes all accessory structures. The smallest lots allow a maximum 50% building coverage while most lots are limited to 37.5% coverage. The detached ADU form allows an exception from the 37.5% building coverage standard allowing the lesser of 50% or 500 square feet if a minimum of 80% of the street level gross floor area of the detached ADU is used for vehicle storage and there is a at least 15 feet of separation between the ADU and the main house.

## Owner-Occupancy Regulations

The zoning code requires owners of properties with an ADU to maintain permanent residency in either the primary or accessory dwelling unit. This prevents property owners from renting out both units and can help ensure a sense of ownership and maintenance, but it can also be an inflexible constraint preventing someone from making income from the property if they move elsewhere or inherit the property while living in a different jurisdiction, for example.

Denver further requires a minimum of 200 square feet of gross floor area per occupant in ADUs to prevent overcrowding, which means 1-5 residents could occupy an ADU, depending on its maximum allowed size. While this may seem reasonable, Denver recently amended the zoning code to increase the number of people who could occupy a primary dwelling unit, and now the city generally defines a Household as any number of related persons; up to 5 adults of any relation plus related children and domestic employees; 8 “handicapped” adults; or 8 adults 55+ years of age. These numbers apply to all primary dwelling units, including apartments, regardless of size. The per-person square footage requirement for ADUs, vs. primary residences, may unnecessarily restrict the household types that can rent ADUs.



*An example of a primary house and ADU on a 6,270 sq ft lot in the E-SU-D1x zone district. Source: CPD*



*Most detached ADUs are built above garages, but off-street parking isn't required. Source: CPD*



*Owners of ADUs must reside in either the primary house or the ADU and can't rent out both units. Source: CPD*

# PEER CITIES

## California

A series of laws enacted over the past five years have systematically eliminated most explicit and implicit legal barriers to ADU construction across the entire state. Los Angeles is the epicenter of ADU production, accounting for 11,500 of the 26,600 California ADUs permitted from 2017-2019. The distribution of ADUs are random across space, but fairly predictable across time. Access to jobs, near employment centers and transit options, is the most important predictor of ADU production. If production continues at 2019 levels, one in ten LA houses will have a modern ADU by 2026. Some city characteristics, like job access and being in the coastal region, help explain high ADU permitting rates. But the majority of the variation across cities cannot be easily explained. The differences may result from city outreach efforts, regulatory practices, or be an artifact of city reporting practices. Alternately, there could be strong “contagion” effects, with ADUs catching on in some places a few years earlier than others nearby.

## Berkeley, California

Berkeley was one of the first cities to pass supportive ADU legislation, but over the years very little construction resulted. To help spur ADU construction locally, a Berkeley City Council Member established an advisory ADU Task Force. The Task Force membership includes local community members who are also realtors, architects, planners, developers, mortgage specialists, and ADU advocates. It has been working collaboratively with the broader Berkeley community and City Council to advance ADU policy and construction in the city. Berkeley’s first revisions to its ADU ordinance were adopted in 2017, and, in response to local advocacy efforts, the City updated its ordinance again in 2018. The amended ordinance increased maximum ADU sizes from 750 to 850 sq. ft., and eliminated the parking requirement. This is because the 2016 state laws prohibit parking requirements for ADUs within half a mile of public transit, and all Berkeley homes are located within



*Berkeley ADU. Source: McDunn ADUS*

half a mile of transit. Berkeley also allows 4’ side and rear setbacks for ADUs, which is smaller than most jurisdictions across the state. In addition, the City does not have minimum lot size requirements and allows ADUs on single family parcels in all zoning districts with few exceptions. To clarify the development process for applicants, the Berkeley Planning Department posted ADU guidance documents on-line, including a flow chart, table of development standards, and responses to frequently asked questions.

## San Diego, California

San Diego stands out for its efforts to educate homeowners and assist with finance, particularly for low-income residents. Some of the important features of its ADU (Companion Unit) program are eliminating the owner occupancy requirement, relaxing parking requirements, and expanding the zones where ADUs are permitted. Additionally, the City allows large maximum ADU sizes (up to 1,200 square feet), construction of Junior ADUs, and has eliminated development impact fees. The City has also conducted extensive community outreach to describe the regulations and ADU development process to homeowners and posted several on-line resources for the public. These include a helpful 42-page ADU handbook and a fact sheet with information



*San Diego ADU. Source: The San Diego Union Tribune*

about ADU development standards and responses to frequently asked questions. Another important feature is that San Diego has established subsidy programs to assist homeowners with ADU development. During the 2018-2019 fiscal year, the City set aside a \$300,000 fund to help homeowners cover water and sewer fees. The City has increased the amount of available funding to \$800,000 for the 2019-2020 fiscal year. In addition, the City's Housing Commission has launched a pilot program to build 40 ADUs of varying sizes and designs for low income tenants. The ADUs are being built adjacent to single-family dwellings on land that the Commission owns. The purpose of this program is to identify costs, development timelines, the construction process, and potential hurdles in advance of launching their loan program in Spring 2020 to help low income homeowners build ADUs on their property.



*Seattle ADU. Source: City of Seattle.gov*

### **Seattle, Washington**

In 2019 City Council voted unanimously to enact legislation that will make it easier for homeowners to build in-law suites, garage apartments, and backyard cottages or ADUs. The adopted changes amount to the most progressive ADU policy in the US. By boosting the addition of ADU homes in the three-quarters of Seattle's residential land reserved for expensive, single-detached houses. Two ingredients set Seattle's policy apart: an allowance for not just one but two ADUs per lot, and a size limit on new houses. The only other major North American city that permits two ADUs in single-dwelling zones is Vancouver, BC. This flexibility maximizes opportunities for smaller, less expensive homes in neighborhoods otherwise filled with big, stand-alone houses. The legislation's house size limit of 2,500 square feet on a typical lot will make it more attractive to add ADUs to existing houses instead of tearing those houses down. When teardowns do inevitably occur, the size cap will provide a new incentive to build ADUs along with the new house.

Seattle also got rid of their two biggest ADU barriers: parking quotas and the requirement for property owners to live on site. For cottages, the legislation bumps up allowed size, height, and backyard coverage, making it easier to build family-friendly homes and lowers the minimum lot size to 3,200 square feet. To avoid discriminating against non-traditional family arrangements, it raises the limit on unrelated occupants per lot from eight to twelve.

The council rejected an amendment that would require a year of property ownership before granting a permit. Council also refrained from enacting a proposed outright ban on using ADUs for short-term rentals. Seattle already caps all short-term rentals at two per owner. Fully banning short term rentals in ADUs would quash flexibility and dissuade homeowners from building them.

## Portland, Oregon

Portland's residential districts do not have alleys.

Although Portland has had an ADU program in place for several years, ADU development was not effectively promoted until 1998, when the city amended its laws to relax the regulations governing ADUs. The amendments eliminated the minimum square footage and owner-occupancy requirements. ADUs are now allowed in all residential zones with relaxed development standards.

Portland's regulations permit the construction of ADUs on lots with a single-family home, as long as they are smaller, supplementary to the primary residence, and no more than 800 square feet. They can be created by conversion of an existing structure or by construction of a new building. An early assistance process is available to help with project development for ADUs created through the conversion of an existing structure. ADUs that meet all the standards are permitted by right and do not require a land use review. No additional parking is required for accessory units. Portland's ADU program guide outlines ways to bring existing nonconforming units into compliance. The city considers ADUs to be more affordable than



Portland, Oregon DADU. Source: Radcliff Dacanay



Portland, Oregon DADU. Source: accessorydwelling.org

other housing types because of the efficiency of the units in using fewer resources and reducing housing costs. City planner Mark Bello notes that allowing more ADUs did increase the housing supply, and that city residents viewed ADUs positively and were satisfied with the changes made. He also added, "There were no significant negative issues that arose from liberalizing Portland's code."