

ORDINANCE NO. 19-_____

AN ORDINANCE AMENDING MULTIPLE SECTIONS OF ARTICLE 2 (BASIC PROVISIONS, DEFINITIONS AND LAND USE TYPES AND CLASSIFICATIONS) AND MULTIPLE SECTIONS OF ARTICLE 3 (LAND USE ZONING DISTRICTS) OF CHAPTER 7 (PLANNING, DEVELOPMENT AND BUILDING) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO ACCESSORY DWELLING UNITS

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Section 201 (Definitions Enumerated) of Part 2 (Definitions) of Article 2 (Basic Provisions, Definitions And Land Use Types and Classifications) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

7.2.201: DEFINITIONS ENUMERATED:

* * *

~~Accessory Dwelling Unit: A dwelling unit allowed in specific zones that is subordinate to the principal residential unit on the lot and which is located upon the same lot as the principal unit. An accessory dwelling unit is under the same ownership as the principal unit and it may be used for either residential or home occupation uses, subject to standard City restrictions related to home occupations.~~

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~~Kitchen: A room with the necessary facilities to store, prepare, and cook food that includes a two hundred twenty (220) volt outlet for an electric stove or connection for a gas or propane stove.~~

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Section 2. Section 302 (Definitions of Use Types) of Part 3 (Land Use Types and Classifications) of Article 2 (Basic Provisions, Definitions and Land Use Types and Classifications) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

7.2.302: DEFINITIONS OF USE TYPE:

* * *

~~2. ACCESSORY DWELLING UNIT: A dwelling unit allowed in specific zones that is subordinate to the principal residential unit on the lot and which is located upon the same lot as the principal unit. An accessory dwelling unit is under the same ownership as the principal unit and it may be used for either residential or home occupation uses, subject to standard City restrictions related to home occupations.~~

2. ACCESSORY DWELLING UNIT: A dwelling unit that is subordinate to the principal dwelling unit, that is located upon the same lot as the principal dwelling unit, and that remains under the same ownership as the principal dwelling unit. There are two (2) types of accessory dwelling units:

a. Integrated: An accessory dwelling unit that is located inside of, or attached by a shared common wall, the principal dwelling unit that maintains a connection or access between the accessory dwelling unit and the principal dwelling unit.

b. Detached: An accessory dwelling unit located within an accessory structure. A detached accessory dwelling unit follows accessory structure standards unless alternate standards are provided for in Section 7.3.105(M) of this Code.

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10. SINGLE-FAMILY DWELLING DETACHED: One dwelling unit located on one site, with no physical or structural connection to any other **principal** dwelling unit and used exclusively for occupancy by one family.

a. * * *

b. **A single-family dwelling detached may include an integrated accessory dwelling unit, subject to the provisions of Section 7.3.105(M) of this Code.**

* * *

~~12. TWO FAMILY DWELLING: A single building with no physical or structural connection to any other building which consists of two (2) attached dwelling units with each unit used exclusively for occupancy by one family. Often referred to as a duplex.~~

12. TWO-FAMILY DWELLING: A single building which consists of two (2) dwelling units, which are attached units that share a wall or as a multi-story building in which one unit is located over the other unit; one unit not being accessory to the other and each unit is used for occupancy by one (1) family. Two-family dwellings are often referred to as duplexes. A single-family dwelling detached with an integrated accessory dwelling unit is not included in this definition.

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Section 3. Section 103 (Permitted, Conditional and Accessory Uses) of Part 1 (Residential Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

7.3.103: PERMITTED, CONDITIONAL AND ACCESSORY USES:

* * *

Use Types	A	R	R-1 9000	R-1 6000	R- 2	R- 4	R- 5	SU	TND
Residential use types:									

* * *										
-Accessory Dwelling Unit	P					P	P	P	P	P
<u>Accessory Dwelling Unit - Detached</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Accessory Dwelling Unit - Integrated</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * *										

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Section 4. Section 104 (Agricultural, Residential, Special Use and Traditional Neighborhood Development Zone District Development Standards) Part 1 (Residential Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

7.3.104: AGRICULTURAL, RESIDENTIAL, SPECIAL USE AND TRADITIONAL NEIGHBORHOOD DEVELOPMENT ZONE DISTRICT DEVELOPMENT STANDARDS:

Standard	A	R	R-1 9000	R-1 6000	R-2	R-4	R-5	PUD 1	SU	TND ^{1,5} .6,8
Minimum lot area:										
Single-family detached (lot area per unit)	5 acres	20,000 sq. ft.	9,000 sq. ft.	6,000 sq. ft.	5,000 sq. ft.	5,000 sq. ft.	4,000 sq. ft.		5,000 sq. ft.	
Single-family and accessory dwelling unit					7,000 sq.-ft.	6,000 sq.-ft.	6,000 sq.-ft.	-	6,000 sq.-ft.	
<u>Single-family with Accessory Dwelling Unit - Detached</u> ?	<u>5 acres</u>	<u>20,000 sq. ft.</u>	<u>9,000 sq. ft.</u>	<u>6,000 sq. ft.</u>	<u>5,000 sq. ft.</u>	<u>5,000 sq. ft.</u>	<u>4000 sq. ft.</u>	-	<u>5,000 sq. ft.</u>	<u>Per DP</u>
<u>Single-family with Accessory Dwelling Unit - Integrated</u> ?	<u>5 acres</u>	<u>20,000 sq. ft.</u>	<u>9,000 sq. ft.</u>	<u>6,000 sq. ft.</u>	<u>5,000 sq. ft.</u>	<u>5,000 sq. ft.</u>	<u>4,000 sq. ft.</u>	-	<u>5,000 sq. ft.</u>	<u>Per DP</u>

Notes:

1. * * *
9. **See subsection 7.3.105(M) of this Code regarding additional standards.**

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Section 5. Section 105 (Additional Standards for Specific Land Uses Allowed in Residential Zones) of Part 3 (Residential Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

7.3.105: ADDITIONAL STANDARDS FOR SPECIFIC LAND USES ALLOWED IN RESIDENTIAL ZONES:

* * *

M. — ~~Detached Accessory Dwelling Units: A development plan is not required for the construction of an accessory dwelling unit, but a site plan shall be submitted for review and must meet the following standards:~~

1. — ~~Minimum Lot Area: The subject lot must meet the minimum lot area required as described in section 7.3.104 of this part.~~

2. — ~~Maximum Footprint: Maximum footprint or finished living area of a detached accessory dwelling unit may not exceed seven hundred fifty (750) square feet. Decks or porches attached to an accessory dwelling unit are not included in this calculation. If the accessory dwelling unit is constructed over a garage, the garage area will not be included as part of the maximum floor space of the accessory dwelling unit.~~

3. — ~~Number Of Units: Only one detached accessory dwelling unit is allowed per lot.~~

4. — ~~Setbacks: A detached accessory dwelling unit must meet the following setbacks:~~

a. — ~~Rear Yard: Five feet (5') if a freestanding dwelling unit or if located above a garage with the overhead door not facing the alley. Ten feet (10') if the dwelling unit is above a garage and the overhead doors are facing the alley.~~

~~b. Front Yard: Must be located behind rear corners of principal dwelling unit. If on a corner lot, it must meet the front yard setbacks of the zoning district.~~

~~c. Side Yard: Per zone district requirements for the principal dwelling unit.~~

~~d. From A Principal Dwelling Unit: Minimum twenty foot (20') setback from the principal dwelling unit, as measured from the closest exterior wall, not to include decks on either the principal or accessory structure. In no instance shall the principal dwelling or the accessory dwelling be physically connected through any means unless all standards of this Zoning Code are met.~~

~~5. Height: Maximum building height of detached accessory dwelling unit: Twenty five feet (25').~~

~~6. Off Street Parking Requirements: Minimum one parking space in addition to the minimum parking required for the principal structure.~~

~~7. Additional Standards:~~

~~a. Home occupations may be allowed within an accessory dwelling unit, subject to home occupation review and approval.~~

~~b. Mobile homes, travel trailers and recreational vehicles shall be prohibited for use as an accessory dwelling unit.~~

~~8. Conversion Of Existing Detached Garages Into Detached Dwelling Units: The detached garage must meet the minimum setbacks as required in subsection M4 of this section. If a portion of the detached garage building does not meet the development standards, a nonuse variance will be required in accord with article 5, part 8 of this chapter.~~

M. Accessory Dwelling Units: Both detached and integrated accessory dwelling units are permitted as an accessory use to a principal dwelling subject to the following requirements.

1. Detached and Integrated Standards: The following standards apply to the establishment of both a detached and/or integrated accessory dwelling unit:

a. Owner-occupancy Requirement:

(1) In the A, R, R-1 9000 and R-1 6000 zones, except as otherwise provided in this section, for an accessory dwelling unit to be occupied, either the principal dwelling unit or the accessory dwelling unit must be occupied by the owner for not less than six (6) months of each year.

(2) No zoning enforcement action pursuant to section 7.5.1001, *et seq.*, of this Code, may be brought against a tenant by the City for a failure of the owner to meet the owner-occupancy requirement.

(3) The Owner-occupancy requirement shall not apply to active-duty military personnel.

(4) In the R-2, R-4, R-5, SU, OR, OC and C-5 zones, the owner shall not be required to occupy either the principal structure or the accessory dwelling unit.

(5) For purposes of the Owner-occupancy requirement, the word "occupied" shall not be considered as though followed by the words "or intended, arranged, or designed to be used or occupied."

b. **Waiver of Owner-occupancy Requirement:** The Manager may waive the owner-occupancy requirement for temporary absences of up to two (2) years, upon a determination that failure to waive the requirement would create an unreasonable hardship. The Manager may grant an additional one (1) year extension to the original waiver upon the expiration of the original waiver.

(1) The Manager may determine failure to waive the occupancy requirement is an unreasonable hardship if:

(A) Enforcement of the requirement would create an economic hardship;

(B) The property is listed and actively marketed for sale; or

(C) The occupancy requirement is unreasonable due to temporary relocation by the owner for employment or medical treatment, death of the owner, divorce or legal separation of the owner and a non-owner spouse or similar circumstances.

(2) The Manager's determination to waive or to not waive the owner-occupancy requirement shall be final agency action.

c. **Restriction on Subdivision:** In the A, R, R-1 9000 and R-1 6000 zone districts, the accessory dwelling unit shall not be sold separately from the principal dwelling unit, nor shall the lot on which an accessory dwelling unit is situated be subdivided unless subdivision is permissible in accordance with all provisions of Article 3 and Article 7 of this chapter.

(1) Before a building permit may be issued for an accessory dwelling unit, the owner shall record with the El Paso County Clerk and Recorder a declaration of restrictions in a form prescribed by the Manager.

(2) The declaration of restrictions shall prohibit the owner and the owner's heirs or assigns from selling the accessory dwelling unit separately from the principal dwelling unit. Such restriction shall be binding upon and run with the land.

(3) The declaration of restrictions shall lapse upon removal of the accessory dwelling unit. Upon request of the owner and confirmation by the City that the accessory dwelling unit has been removed, the Mayor shall execute a recordable release of the declaration of restrictions and provide the release to the owner. The owner shall be responsible for recording the release and paying all costs of recordation.

d. **Off-Street Parking:** A minimum of one (1) off-street parking space in addition to the minimum parking required for the principal structure shall be required.

e. **Access:** All accessory dwelling units shall have a thirty-six (36) inch wide clear access path from the front property line or from the property line where the principal dwelling unit gains its access (although the clear access path may be gated). An accessory dwelling unit may share a clear access path with the principal dwelling unit.

f. **Prohibited Units:** Mobile homes, travel trailers and recreational vehicles shall be prohibited for use as an accessory dwelling unit.

g. No more than one (1) accessory dwelling unit shall be located on any lot.

h. Affidavit Required: The owner shall swear an affidavit stating that the owner has notified the adjacent property owners of the owner's intent to construct an Accessory Dwelling Unit at least ten (10) days prior to submitting an application for a building permit, and that to the owner's knowledge no restrictive covenants that prohibit an accessory dwelling unit are recorded against the property. The original signed affidavit shall be submitted together with the application for building permit.

2. Accessory Dwelling Unit – Detached: The following standards apply to the establishment of a detached accessory dwelling unit:

a. Maximum floor area: The floor area of a detached accessory dwelling unit shall not exceed fifty percent (50%) of the floor area of the principal structure or one thousand two hundred and fifty (1,250) square feet, whichever is less; except that where the floor area of the principal structure is less than one thousand five hundred (1,500) square feet, the maximum size of the accessory dwelling unit shall not exceed seven hundred and fifty (750) square feet.

b. The floor area of a detached accessory dwelling unit may exceed the footprint of the principal structure.

c. Maximum height:

(1) In the A, R, R-2, R-4, R-5, SU, TND, OR, OC and C-5 zone districts:

(A) With roof pitch of 6:12 or greater – twenty-eight feet (28') maximum (measured to roof peak)

(B) With a roof pitch less than 6:12 (including flat roof) – twenty-five feet (25') maximum (measured to top of roof line)

(2) In the R-1 9000 and R-1 6000 zone districts:

(A) If the property is not abutting a public or private alley: twenty feet (20') maximum (pitched or flat roof).

(B) If the property is abutting a public or private alley (alley must be abutting full length of one lot line):

(i) 6:12 or Greater – twenty-eight feet (28') (measured to roof peak)

(ii) Less than 6:12 (including flat roof) – twenty-five feet (25') (measured to top of roof line)

(3) The maximum floor area or height requirements of this subsection shall not be subject to a variance.

d. Design:

(1) In the R, R-1 6000, R-1 9000 zone districts:

(A) An accessory dwelling unit shall be designed to maintain the architectural design, style, appearance and character of the principal structure or principal structures in the vicinity. Consistent elements may include façades, roof pitches, siding, eaves, and window treatments or a combination of other elements approved by the Manager.

(2) In the A, R-2, R-4, R-5, SU, TND, OR, OC and C-5 zone districts there are no design standards.

e. Setbacks:

(1) Rear Yard: Five feet (5') if a freestanding dwelling unit or if located above a garage with the overhead door not facing an alley. Ten feet (10') if the dwelling unit is above a garage and the overhead doors are facing an alley.

(2) Front Yard: Per zone district requirements for the principal dwelling unit.

(3) Side Yard: Per zone district requirements for the principal dwelling unit.

f. Pre-fabricated homes (i.e. tiny homes) are permitted for use as an accessory dwelling unit if placed on a permanent foundation and connected to metered utility services.

g. Conversion of Existing Detached Garages into Detached Dwelling Units: The detached garage must meet the minimum setbacks for a detached dwelling unit as required in this section.

3. Accessory Dwelling Unit – Integrated: The following standards apply to the establishment of an integrated accessory dwelling unit:

a. Permitted only within single-family dwelling detached, and are not permitted in any other structure, including but not limited to, two-family dwellings, multi-family dwellings, or commercial buildings.

b. Maximum floor area of integrated unit:

(1) In the A, R, R-1 9000 and R-1 6000 zone districts: floor area shall not exceed forty (40%) of floor area of the principal structure.

(2) In the R-2, R-4, R-5, SU, OR, OC and C-5 zone districts: floor area shall not exceed fifty (50%) of floor area of the principal structure.

(3) The maximum floor area requirement of this subsection shall not be subject to a variance.

c. Maximum height: Maximum height of the principal structure as determined by the zone district.

d. Design:

(1) In the R, R-1 6000, R-1 9000 zone districts, integrated accessory dwelling units shall not involve design modifications to the exterior of the principal structure that indicates their presence from the front of the principal structure known. External stairs are not allowed to provide access to a second-story accessory dwelling units.

(2) In the A, R-2, R-4, R-5, SU, TND, OR, OC and C-5 zone districts, there are no design standards.

e. Setbacks: Minimum setbacks of the principal structure as determined by the zone district.

f. Internal Connectivity: An integrated unit must maintain interior access to the principal dwelling unit either through a common doorway or stairway. Interior accesses may be locked if the integral unit has exterior access.

g. **Exterior Access:** An integrated unit may have a separate exterior access. Any separate exterior access shall be restricted to the side or rear of the principal structure.

4. In any case where a provision of this subsection is found to be in conflict with any other provision of this code, or any adopted secondary code, the provision which establishes the higher or more restrictive standard shall apply.

5. **Covenant Compliance:** The provisions of this subsection do not supersede private covenants regarding accessory dwelling units.

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Section 6. Section 203 (Permitted, Conditional and Accessory Uses) of Part 2 (Commercial Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

7.3.203: PERMITTED, CONDITIONAL AND ACCESSORY USES:

Use Types	OR	OC	PBC	C-5	C-6	PIP-1	PIP-2	M-1	M-2	PF	PK	PCR	APD	TND
Residential use types														
<u>Accessory Dwelling Unit</u>				P										P
<u>Accessory Dwelling Unit - Detached</u>	P	P		P										P
<u>Accessory Dwelling Unit - Integrated</u>	P	P		P										

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Section 7. Any person violating Paragraph M of Section 105 (Additional Standards for Specific Land Uses Allowed in Residential Zones) of Part 3 (Residential Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) shall be subject to the remedies provided in Section 1005 (Remedies) of Part 10 (Zoning Enforcement) of Article 5 (Administration and Procedures) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended.

Section 8. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 9. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2019.

Finally passed: _____

Council President

Mayor's Action:

- Approved on _____.
- Disapproved on _____, based on the following objections:

Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:

Sarah B. Johnson, City Clerk