



Town of Blue River

Memorandum

TO: Mayor Decicco & Members of the Board of Trustees

FROM: Town Manager Michelle Eddy

DATE: November 17, 2024

SUBJECT: **Accessory Dwelling Units (ADUs)**

Mayor & Trustees

Below is information that has been collected concerning accessory dwelling units (ADUs). Included are the current regulations; a 2016 survey of residents; a section of the 2021 Comprehensive Plan identifying ADUs; a memo from Attorney Widner for discussion in 2022; and proposed regulations.

Current regulations:

Currently ADUs are not permitted. This includes apartments over garages, “lock-off” apartments separating an area within a single family home as a separate living unit. It is known that units exist within the community. Some were permitted prior to the change in law in 2002 and some have been created without permits and despite certificates of occupancy prohibiting space from being used as living space.

Article 20 Accessory Apartments

Sec. 16A-20-10. Purpose and Applicability.

(a) The purpose of this Article is to permit the construction of *accessory apartments* in single-family dwellings within R-1 zone districts subject to the criteria and conditions set forth below.

(b) The provisions of this Article shall apply only to R-1 building sites which exist on *lots* created by the elimination of a *lot line* formerly existing between two (2) *lots*, thus combining two (2) former *lots* into one (1) *lot*.

Sec. 16A-20-20. Reserved.

Sec. 16A-20-30. Location and Design.

An *accessory apartment* shall be incorporated into the primary residence on the property or a garage serving the primary residence. Residences which contain *accessory apartments* shall be designed so as to retain a single-family character. An *accessory apartment* may have a separate kitchen and may have a separate entrance from that of the residence with which it is associated.

Sec. 16A-20-40. Number of Units Allowed.

(a) Where *accessory apartments* are permitted, no more than one (1) accessory apartment shall be permitted on each lot or parcel. In order to maintain the single-family character of neighborhoods where *accessory apartments* are permitted, a maximum of ten percent (10%) of the single-family dwellings in each subdivision filing at build-out shall be approved for *accessory apartments*.

(b) No *accessory apartments* may be constructed without the express approval of the Board of Trustees

indicated on the plat by the signature of the Mayor and Town Clerk, nor may any *accessory apartment* be constructed within five hundred (500) feet of an existing or approved *accessory apartment*. The Board of Trustees may decrease this requirement, or modify the ten-percent limitation set forth above, when it is determined that sufficient buffering exists to limit the impact of units in close proximity. Buffering may consist of topographic, landscape or other physical features such as roads or vacant properties.

Sec. 16A-20-50. Size of Units Allowed.

Where *accessory apartments* are allowed, the square footage in the *accessory apartment* shall not exceed forty-five percent (45%) of the square footage contained in the primary residence, Town of Blue River, Colorado Land Use Code Page 81
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excluding garage space, or not more than six hundred (600) square feet, whichever is less. In calculating the number of square feet in an *accessory apartment* to determine compliance with this Chapter, any garage or storage space associated with the *accessory apartment* shall be excluded.

Sec. 16A-20-60. Water and Sewer.

Prior to approval of an *accessory apartment*, the property owner shall provide proof of adequate water and sewer service to both the primary residence and the *accessory apartment*. If the unit is served by well and septic, approval of the County Environmental Health Department must be obtained.

Sec. 16A-20-70. Parking.

Each *accessory apartment* shall be provided with off-street parking only in a designated paved or graveled area with no more than two (2) spaces. The required parking may be in tandem or in a garage.

Sec. 16A-20-80. Compliance with Building and Fire Codes.

Where approval of an *accessory apartment* is sought by an owner for a *dwelling unit* existing before adoption of this Article, the *dwelling unit* shall be inspected and shall comply with applicable requirements of the Building and Fire Codes.

Proposed Regulations

It proposed to allow accessory dwelling units with the following suggested regulations.

1. Meets the current defined regulations identified in the Land Use Code.
2. ADU must be built within the buildable area.
3. Must meet septic or sewer requirements.
4. May not exceed 5 vehicles parked in the driveway or proper parking space.
5. It is recommended that for an ADU to be permitted, it may not be used as a short-term rental. It is recommended that the short-term rental license (if one exists) would be voided for the main home as well. Property may have an ADU for a long-term lease only and main home may not be used as a short-term basis.
6. Create a permitting and inspection process for any existing ADUs to bring them into compliance and ensure they meet current building codes.

2021 Comprehensive Plan

Short-term Rentals/Housing

Trend/Issue	Key Strategies & Priority Actions
Housing	<p>The Town should monitor the forms occupancy of residences (e.g., short and long-term rentals, full-time residents, and second homeowners) to best track and measure the community character. This information could be used in designing regulatory and other tools to best preserve the desired community character.</p> <p>Accessory dwelling units should be considered as a tool to address long-term rental housing shortages. A review of the existing code and potential impacts should be conducted. Preserving the community character should be an important consideration when evaluating the potential for accessory dwelling units. Accessory dwelling units should not be allowed for short-term rental.</p> <p>Encourage the Town to explore all factors that contribute to housing challenges within the Town. The Town should consider creating a mix and balance of full-time residents, second homeowners, short and long-term renters, and visitors to maintain the community character of Blue River.</p>

Survey Monkey-Zoning

Results

Number of respondents as of 6/21/16: 141

1. Are you aware of the current laws regarding short/long-term rentals?
 - a. Yes-78.01%
 - b. No- 21.99%

2. Do you support the ability of people in your neighborhood to rent part of their homes on a long-term basis?
 - a. Yes- 68.84%
 - b. No- 31.16%

3. Would you be willing to consider short-term/long-term lock-offs or accessory apartments with regulation?
 - a. Yes- 64.03%
 - b. No- 35.97%

4. Do you have a lock-off or accessory apartment currently? (Please note that all answers are anonymous and there will be no retribution to answering this question.) The goal is to assess how many exist.
 - a. Yes- 17.14%
 - b. No- 82.86%

5. Do you currently rent your home as a whole either short-term or long-term?
 - a. Yes- 20.57%
 - b. No- 79.43%

6. Do you feel that the flexibility to rent long-term or short-term fulfills a community need?
 - a. Yes- 70.21%
 - b. No- 29.79%

7. Please provide any comments: See Attached

What Is an ADU?

Accessory dwelling units (ADUs) are **secondary living units** that are located on the same property (lot) as a primary living unit. Usually, the secondary unit is smaller than the primary structure, but is not required to be without regulations.

ADUs must be permitted, built, inspected, and approved with habitation in mind.

What an ADU is NOT

- A room(s) that is/are rented out; such room rental is a short-term rental.
- Secondary structures that are not permitted for habitation — garages, pool houses, cabanas, workshops – are not ADUs.
- Separately transferable ownership unit (unless unit is created as a condo within common interest community).

ADU Forms

- A Second Dwelling Unit located *within* an Existing Primary Dwelling Unit. Might commonly be called “basement suite,” “apartment,” “studio,” or “lock-off dwelling.”
- A Second Dwelling Unit separated from the Primary Dwelling Unit. Might be called a detached “granny flat,” “in-law unit.”
- A Second Dwelling Unit within/on top of an accessory garage that serves the Primary Dwelling Unit.



Potential ADU Residential Use

- Short Term Rental
- Long Term Rental
- Living quarters for relatives, guests, etc.

ADU *Community* Impacts

- Additional Parking
- Additional Trip Generation/Road Use and Wear
- Additional Trash
- Greater Intensity of Residential Activity (noise, etc.)
- Loss of open, unbuilt land

ADU *Community* Benefits

- Provides greater residential dwelling units in community (may help address housing shortage)
- May provide for lower cost housing options (studio, apartment, etc. may help attainability for lower earning occupants)
- Increased Property Taxes
- More retail sales (buyers) for any commercial/retail businesses

ADU Owner Benefits

- Revenue generation through rent.
- Property value increase.

Government Control Over ADUs

- Government:
 - does not need to allow ADUs.
 - can restrict ADUs to certain areas, to certain sized lots, and to certain zone districts.
 - can limit *number* of ADUs in the community or within an area of the community (e.g., cap or spacing; may require lottery or other allocation method).
 - can limit form of ADU (e.g., must be apartment within existing primary dwelling unit or may prohibit any above garage ADUs).
 - can limit size, height, and location on lot of ADU (total square feet, ratio to existing primary dwelling unit, subordinate to primary dwelling unit)
 - can regulate character and appearance (prohibit trailers, regulate architecture)

- can regulate form of ADU rental (e.g., restrict to long term rental and prohibit short-term rental or control frequency of short-term rental)
- can require restrictions on the primary dwelling unit as a condition of building or creating ADU (e.g., prohibit short term rental of primary dwelling unit when ADU is created or constructed)
- once ADU is allowed and it is created or constructed, cannot “put the genie back in the bottle” but can further regulate if reasonable.

Some Planning Issues to Consider When Considering ADUs

- Not all lots may be large enough or shaped appropriately to accommodate an ADU.
- The form of ADU needs regulation similar to housing standards for primary dwelling units (building and safety codes).
- Not all landowners will embrace ADU allowances. Some may vehemently oppose due to perception or reality that additional units will change the character of the neighborhood.
- Due to high costs of construction, ADUs may be of lesser quality and architectural design than primary dwelling unit absent regulation setting minimum standards.
- Setting minimum standards for construction of ADUs to enhance quality and/or lessen impacts can adversely affect attainability and housing costs for community. Tiny houses are often considered as a means of creating an ADU
- ADUs can alter drainage patterns to detriment of adjacent and downslope lots absent planning, design, and review increasing costs of construction.

Further Information:

<https://planning.org/knowledgebase/accessorydwellings/>

<https://planning.org/planning/2021/summer/whats-blocking-an-adu-boom/>

<https://www.cali-adu.com/blog/how-to-build-an-adu.html>

<https://www.aarp.org/livable-communities/housing/info-2019/accessory-dwelling-units-adus.html>

Although related to California’s significant efforts to integrate ADUs in communities, the following resource contains many references of interest:

<https://www.hcd.ca.gov/policy-research/accessorydwellingsunits.shtml>