

AGENDA ITEM SUMMARY

City Council



STAFF

Noah Beals, Development Review Manager

SUBJECT

Second Reading of Ordinance No. 009, 2025, Amending the Land Use Code to Align with Two Adopted State House Bills Concerning Accessory Dwelling Units and Parking for Multi-Unit Dwellings and to Clarify and Correct Certain Provisions.

EXECUTIVE SUMMARY

This Ordinance, adopted on First Reading on January 21, 2025, by a vote of 6-1 (Nay: Ohlson) adopts revisions, clarifications, and organization to the Land Use Code provisions that address specific areas that are the subject of two Colorado State House Bills passed last year. HB24-1152 requires the ability to build an ADU in more areas of the City, and HB24-1304 removes the minimum parking requirements for new multi-unit and residential mixed-use development. This item also includes clean-up to the Land Use Code.

Attached to this AIS is Section 10 of the Ordinance, which shows the changes adopted on First Reading. Since this Ordinance was adopted on First Reading, staff has identified the need to clarify the definitions in Section 7.2.2 of the Land Use Code related to the identification of an ADU. **As a result, staff is requesting that Council move to amend the Ordinance on Second Reading to fix these conflicting definitions in the manner described below.**

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading with the amendment proposed below.

DISCUSSION

Requested amendment to definitions related to ADUs:

I move that Section 22 of Ordinance No. 009, 2025 be amended as follows:

1. To the definition of *Accessory dwelling unit (ADU), detached*, add to the end of the second sentence the words “as provided in Section 3.1.9”.
2. To the definition of *Accessory dwelling unit (ADU), attached*, add to the end of the first sentence the words “and attached thereto”, and add to the end of the second sentence the words “as provided in Section 3.1.9”.
3. Add to the end of the current Land Use Code definition of *Dwelling, single-unit*, a comma and the phrase “whether or not it also contains an attached accessory dwelling unit.”
4. Add to the current Land Use Code definition of *Dwelling, single-unit detached*, before the phrase “by any means”, a comma and the phrase “whether or not it also contains an attached dwelling unit.”
5. Add to the end of the current Land Use Code definition of *Dwelling, two unit*, a comma and the phrase “not considering any attached accessory dwelling units, and meeting the description of a Duplex under Section 3.1.5.”

Here is how these definitions would read after the requested amendment:

Section 22. ARTICLE 7 RULES OF MEASUREMENT and DEFINITIONS, DIVISION 7.2 DEFINITION, SECTION 7.2.2 DEFINITIONS is hereby amended to read as follows:

...

Accessory dwelling unit (ADU), detached shall mean an additional, subordinate dwelling unit created on a lot with a primary dwelling unit. The additional unit is smaller than the primary dwelling unit (except when the accessory dwelling unit is in an existing basement), as provided in Section 3.1.9. The accessory dwelling unit includes its own complete independent living facilities, including facilities for living, sleeping, eating, cooking, and sanitation. It is designed for residential occupancy by one or more people, independent of the primary dwelling unit.

Accessory dwelling unit (ADU), attached shall be defined as an additional, subordinate dwelling unit created on a lot with a primary dwelling unit and attached thereto. The additional unit is smaller than the primary dwelling unit (except when the accessory dwelling unit is in an existing basement), as provided in Section 3.1.9. The accessory dwelling unit includes its own complete independent living facilities, including facilities for living, sleeping, eating, cooking, and sanitation. It is designed for residential occupancy by one or more people, independent of the primary dwelling unit. The unit may have a separate exterior entrance or an entrance to an internal common area accessible to the outside.

...

Building Footprint, the outline of the total area that is covered by a building's perimeter occupied or obstructed from ground to sky by the structure or portion of the structure, as measured to the exterior face at or above-grade including exterior walls on all levels, to the furthest edge of roofs, and to the furthest edge of any other above-grade surfaces. This does not include structures or portions of structures with surfaces located no more than 30-inches above grade; fences and retaining walls; or detached ground-mounted mechanical equipment serving permitted uses.

...

Occupant, shall mean a person who occupies habitable space in a dwelling unit or any portion thereof.

...

Dwelling, single-unit shall mean a dwelling containing no more than one (1) dwelling unit, **whether or not it also contains an attached accessory dwelling unit.**

...

Dwelling, single-unit detached shall mean a single-unit dwelling that is not attached to any other dwelling or building, **other than an attached accessory dwelling unit,** by any means, including mobile homes and manufactured housing situated on a permanent foundation.

Dwelling, two-unit shall mean a dwelling containing two (2) dwelling units, **not considering any attached accessory dwelling units, and meeting the description of a Duplex under Section 3.1.5.**

...

First Reading Background/Discussion:

The list of updates is summarized into 34 specific areas; see the attached summary. These include changes to the following sections:

- Article 2 Zone Districts Sections: 2.1.2, 2.1.3, 2.1.4, 2.1.5, 2.1.6, 2.2.1, and 2.2.3
- Article 3 Building Types Sections: 3.1.6, 3.1.7, 3.1.9, and 3.1.10
- Article 4 Use Standards Sections: 4.2, 4.3.1, and 4.3.3
- Article 5 General Development and Site Design Sections: 5.9.1 and 5.10.3
- Article 6 Administration and Procedures Sections: 6.4.3 and 6.21.4
- Article 7 Rules of Measurement and Definitions Section: 7.2.2

The housing updates to the Land Use Code in 2022 and 2023 initially proposed adding ADUs as a use to all residential zone districts. Due to strong opposition from community members, in the Land Use Code updates adopted and effective in 2024, ADUs were not expanded to all residential zone districts and remained the same from the 1997 Land Use Code. Since the adoption of the housing updates to the Land Use Code, the Colorado General Assembly passed HB24-1152. This bill requires jurisdictions within a metropolitan planning organization with a population of at least 1,000 residents to allow ADUs. Specifically, an ADU may be built on lots where a single-unit dwelling exists or where a single-unit dwelling could be built. State law requires jurisdictions to comply with this bill by June 2025. Most of the proposed changes in this Ordinance are to bring the Land Use Code into compliance with this legislation. The following is a summary of the requirements of HB24-1152:

- Permit ADUs where the Land Use Code permits single-unit dwellings.
- ADU must be built on the same lot as a primary dwelling.
- ADU may be attached or detached to the primary dwelling.
- Allow existing accessory buildings to be converted into an ADU.
- Allow an ADU to be at least 750 square feet in size.

- May not require setbacks to be greater than minimum for the primary dwelling.
- May not require more restrictive design standard than are applied to the primary dwelling.
- May not require a new off-street parking space for the ADU.
- May not require owner occupancy of one of the units on the lot.
- ADU proposals must be reviewed and decided by local government staff based solely on objective standards and cannot be elevated to an elected or appointed public body including a hearing officer.

In addition to these requirements, the bill also allows subject jurisdictions to:

- Require that a historic preservation commission to offer a recommendation to the local government staff.
- Restrict an ADU from being used as a short-term rental.
- Apply and enforce safety codes.
- Require a statement from the water service provider regarding the capacity of the service.

The proposed changes will bring the Land Use Code into compliance with these requirements.

HB24-1152 also includes provisions for local governments to become a certified "accessory dwelling unit supportive jurisdiction." The certification requirements address items that are programmatic in nature and not code related. These include fee waivers, working with designers and builders to create pre-approved plans, and enabling more home ownership. These provisions are not a requirement of the bill; therefore, they are not included in this Ordinance. Instead, becoming an "accessory dwelling unit supportive jurisdiction" is the subject of the agenda item at the March 25, 2025, work session.

Along with the passage of HB24-1152 the General Assembly passed HB24-1304, regarding minimum parking requirements for multi-unit and residential mixed-use development projects. This bill requires jurisdictions within a metropolitan planning organization to eliminate minimum parking requirements for multi-unit dwellings and residential mixed-use development projects. The associated code changes in this Ordinance strike out all minimum parking requirements for these residential uses. This does not affect single-unit, institutional, and commercial parking standards.

HB24-1304 does not impact other requirements for off-street parking spaces. For instance, if a multi-unit project does provide off-street parking, such spaces will still be required to meet minimum size, accessibility, EV readiness, and landscaping requirements.

Other proposed code changes in this Ordinance include clean-up items that provide clarification, such as deleting duplicative standards, updating references, and combining tables.

CITY FINANCIAL IMPACTS

No financial impacts to the City are anticipated as a result of these changes.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Staff presented the proposed changes to the Planning and Zoning Commission (P&Z) at their November work session and public hearing.

The P&Z discussion included several clarifying questions:

Is there a limit to the number of ADUs on a property?

Yes, the proposed Code would limit to only one ADU per property.

Is there code language that continues to allow water services to extend from the primary building?

Yes, the Municipal Code provides criteria to allow water utilities to extend from the primary building in the Utilities section (see Chapter 26 Article 3 Division 3 Section 26-94 of Municipal Code).

Is there concern ADUs will be built and not be used as dwelling units?

No, the current Code does not allow any new ADUs to be used as short-term rentals, and this does not change.

Does the code language allow for different types of ADUs?

Yes, both attached and detached ADUs are permitted. Attached includes conversions of existing areas in the primary house including basements and new additions.

P&Z spent the most time discussing proposed code language that effectively would prohibit water/sewer in an accessory building with one exception for an ADU. P&Z had expressed that there are many reasons to have water/sewer in an accessory building and the added costs associated with ADUs could be overbearing. They expressed this change would need more public engagement and at this time they would not be supportive of prohibiting water/sewer for all other accessory buildings. Staff acknowledge this code language could be removed at this time.

P&Z also discussed the removal of parking requirements for multi-unit and residential mixed-use projects. There was acknowledgment by the Commission that the State requirement placed the need for housing over a need to provide off-street parking.

Overall, the Commission unanimously agreed to recommend approval of the proposed code changes, provided the prohibition on water/sewer services for accessory buildings being removed.

The Land Use Code language presented to Council for 1st reading aligns with the P&Z recommendation with the language prohibiting water/sewer services for accessory buildings being removed.

PUBLIC OUTREACH

Staff did not conduct any public outreach for these Land Use Code updates. These updates were referenced in the Development Newsletter and agenda publication of the Planning and Zoning Commission.

ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration
2. Changes made on First Reading to Section 10