

Accessory Dwelling Units

UDC TEXT AMENDMENT

CASE NUMBER: PLN-15-00016

PREPARED BY: Logan Graves

MEETING DATES: October 19, 2015 – Planning Commission Preliminary Review

November 16, 2015 – Planning Commission

November 23, 2015 – City Council

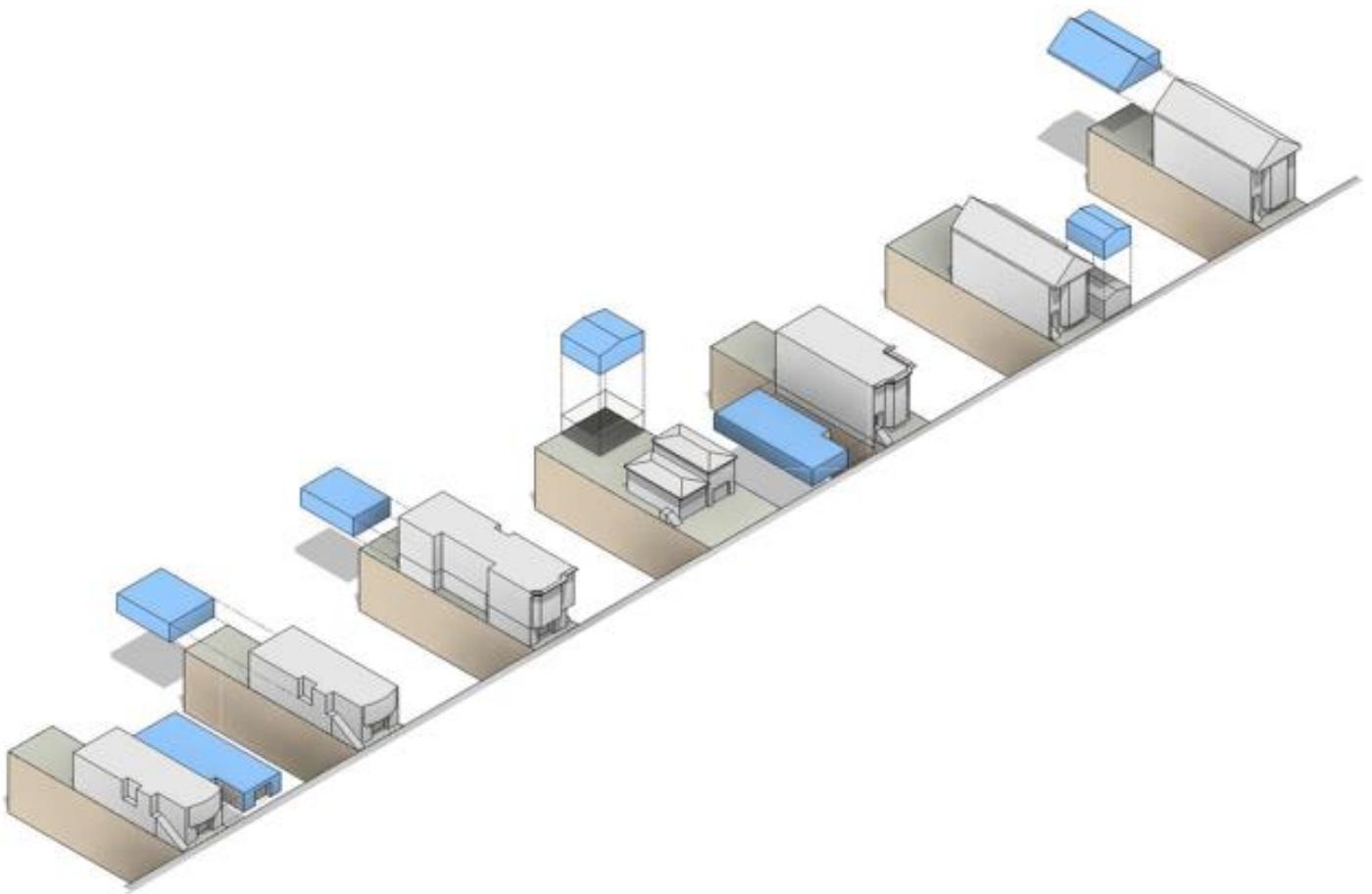
RECOMMENDATION: The City of Cheyenne Planning Commission recommended approval by a unanimous vote of 5-0 at a Public Hearing held on November 16, 2015.

OVERVIEW

During the 2015 UDC Annual Review, the Development Office received a citizen initiated proposal to loosen the City’s zoning regulations to allow more accessory dwelling units (ADUs) City-wide. Specifically, the proposed text amendment makes ADUs a use permitted after administrative review in fifteen zoning districts.

ACCESSORY DWELLING UNITS

ADUs are self-contained apartments that homeowners build onto their existing property, as an interior, attached or detached unit. ADUs are also known as granny flats, mother-in-law apartments, basement apartments, garage apartments, backyard cottages and secondary units, all of which vary considerably in form but serve a similar function. ADUs are subordinate in size and location to the main house and typically include independent kitchens, bathrooms, sleeping areas and a private entrance.



ADUS DEPICTED IN BLUE

SOURCE: MODIFIED FROM OPEN SCOPE’S ACCESSORY DWELLING HANDBOOK, AVAILABLE AT [HTTP://OPENSCOPESTUDIO.COM/PORTFOLIO/ACCESSORY-DWELLING-UNIT-HANDBOOK/](http://openscopestudio.com/portfolio/accessory-dwelling-unit-handbook/)

BENEFITS OF ACCESSORY DWELLING UNITS

Accessory dwelling units have significantly grown in popularity across the nation in recent times. Several cities have reworked or are currently changing their zoning regulations to allow more ADUs. Cheyenne, like many of these cities, is experiencing significant demographic shifts where its household composition is changing and its population is aging. Single-family homes dominate the landscape but are difficult to modify to respond to these evolving needs and changing lifestyles. Accessory dwelling units offer a growth model that can incrementally increase the supply of housing in a very unobtrusive way, and permitting this type of dwelling unit could help Cheyenne better respond to the needs of emerging lifestyles, affirm contextual values, and help achieve the City's most pressing goals.

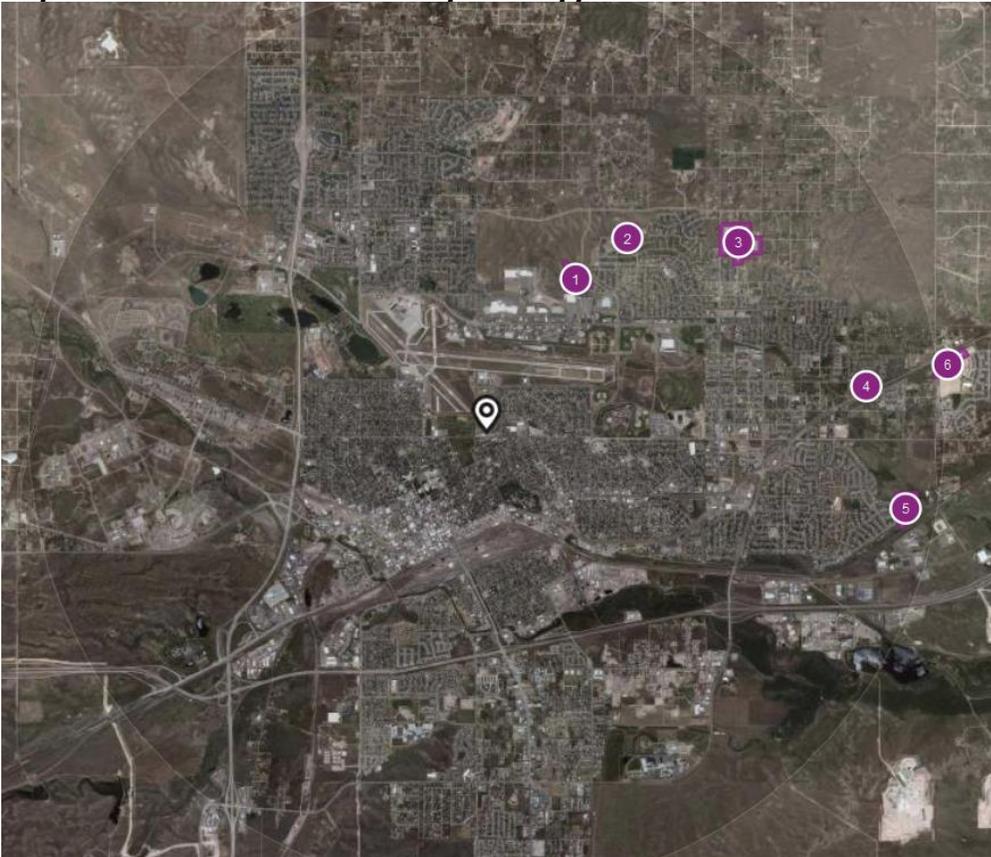
The benefits offered by ADUs are vast and aid several civic purposes:

- They create affordable housing options for both renters and homeowners;
- They maximize the use of existing infrastructure;
- They discourage sprawl and help alleviate pressure on open space;
- They concentrate development and support the goals of infill and revitalization;
- They serve families through all stages of their life cycle and enable residents to age in place;
- They increase the number of small units available for rent, often times in the most desirable parts of the city;
- They have significant environmental benefits when considering energy and resource usage;
- They encourage greater diversity and act as a conduit for richer interaction in existing neighborhoods, and;
- They do all these things while respecting the appearance, character, and scale of single-family neighborhoods.

Most impressive is the potential for infilling and increasing density in existing single-family residential zones, effectually increasing Cheyenne's housing supply without contributing to urban sprawl. According to PlanCheyenne, the City's Master Plan, 13,637 to 17,516 new housing units will need to be added to the City by the year of 2035 in order to accommodate projected growth rates. That is approximately 681 to 875 units per year that will need to be constructed. From 2000 to 2010, Cheyenne has increased by an average of 340 housing units per year. Assuming construction rates remain similar to what they have in the last decade, alternative sources of housing such as ADU production will need to be utilized in order to help alleviate possible issues related to housing shortages.

Moreover, large-scale housing projects often occur at the fringe or edge of town as illustrated by a few residential projects that recently were approved by the City (see Map 1). Fringe development coupled with the large amount of land needed to accommodate such developments make ADUs all the more attractive. For example, the projects identified in Map 1 will result in 987 additional residential units; taken together, these projects will amount to approximately 200 acres of land consumption.

Map 1: Recent Residential Development Approvals



1. FRONTIER RIDGE APARTMENTS
20.9 Acres
336 Units
2. THE BLUFFS, 10TH
16.76 Acres
57 Lots
3. THOMAS HEIGHTS
52 Acres
193 Lots
4. CARTER COTTAGES
3.04 Acres
44 Units
5. CHUCKER RIDGE
12.75 Acres
37 Lots
6. SADDLE RIDGE, 7TH
15.74 Acres
90 Lots
7. SADDLE RIDGE, 8TH (NOT SHOWN)
65.25 Acres
230 Lots

ADUs can counteract this impressive rate of land conversion by making more intensive use of single-family parcels, allowing residents to build into cities, rather than beyond them. A quick look at Google Earth reveals large swaths of unutilized land in the backyards of single-family lots that could be reconceptualized and used for this alternative form of housing.

Block w/o Alley



Block w/ Alley



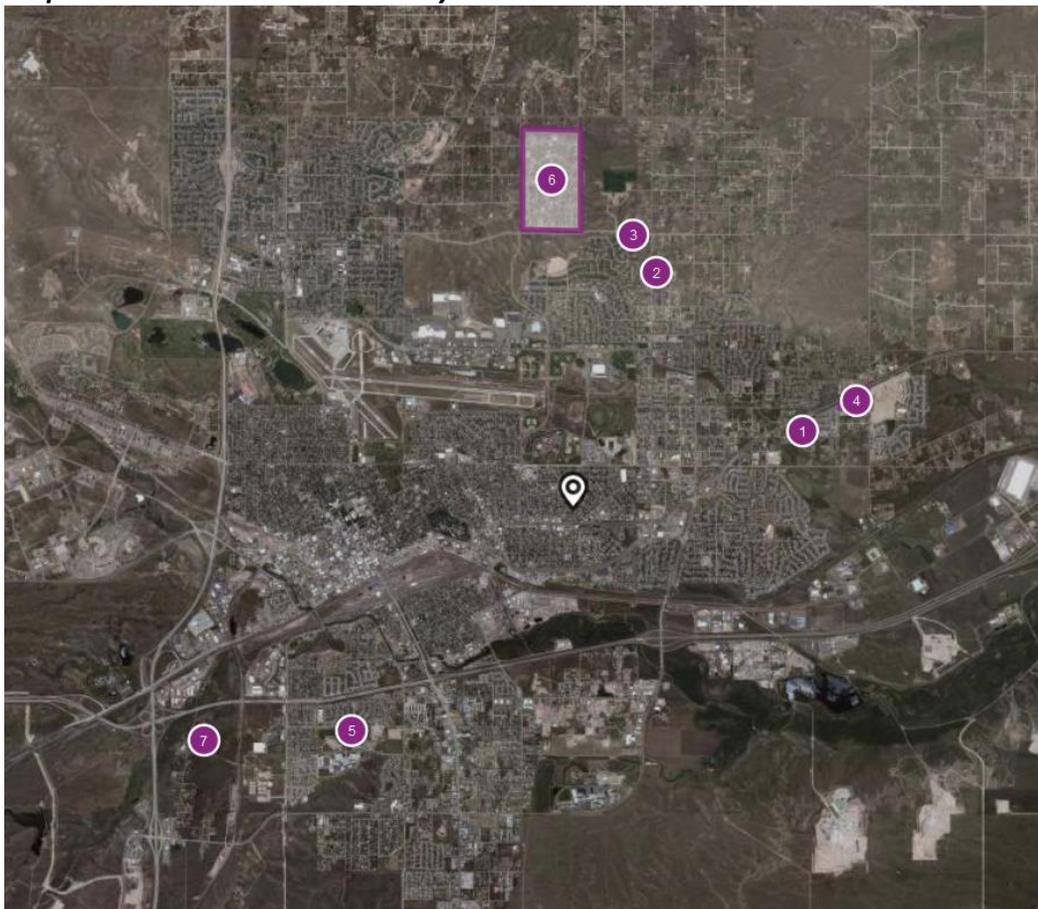
LOCAL CONCERNS

The concerns and attitudes of local stakeholders in Cheyenne are important to take into account. Although a survey was not administered, common concerns related to ADUs consist of doubts about infrastructure capacity; loss of on-street parking; worries about absentee-owners and irresponsible tenants; fears of changes to neighborhood character; and the potential for additional noise and impacts of privacy. These concerns most likely vary across different neighborhoods and vary in terms of magnitude. Staff is sensitive to these real or perceived concerns and believes these things can be addressed through regulatory standards.

CURRENT ZONING REGULATIONS

- Currently only five zoning districts permit ADUs as shown in Table 5-1. On the ground this means only a small fraction of lots are ADU eligible, as illustrated in Map 2. For the remainder of lots, legal construction is impossible which can result in illegal construction or conversion without City permits. It is estimated there are over 400 nonconforming accessory dwelling units in the City. Thus the absence of an ordinance permitting accessory dwelling units does not necessarily discourage them.

Map 2: Zone Districts that currently allow ADUs



1. AR Zone	4 Lots Undeveloped Not Currently ADU Eligible*
2. AR Zone	1 Lot Developed ADU Eligible w/ CUP
3. NR-2 Zone	10 Lots Undeveloped Not Currently ADU Eligible*
4. AR Zone	25 Lots Undeveloped Not Currently ADU Eligible*
5. NR-2 Zone	32 Lots Undeveloped Not Currently ADU Eligible*
6. AR Zone	127 Lots Developed ADU Eligible w/ CUP
7. AR Zone	2 Lots Developed ADU Eligible w/ CUP
Total =	201 Lots 130 ADU Eligible w/ CUP *71 Lots are not currently eligible for ADU production because they are undeveloped.

PROPOSED ZONING REGULATIONS

- The overarching purpose of the proposed text amendment is to identify the constraints most limiting to legal ADU construction, in order to develop a land use policy that is meant to balance the housing needs and preferences of all constituents. With this in mind, the single most influential factor limiting ADU construction and conversion in Cheyenne is the restricted number of zoning districts. The recommendation by staff therefore is to open up all residential zoning districts to this type of housing development.
- The zones affected by the proposed text amendment are AG Agricultural; AR Agricultural Residential; RR Rural Residential; LR-1 Low-Density Residential-Established; LR-2 Low-Density Residential-Developing; MR-1 Medium-Density Residential-Established; MR-2 Medium-Density Residential-Developing; HR-1 High-Density Residential-Established; HR-2 High-Density Residential-Developing; NR-1 Neighborhood Residential- Moderate Density; NR-2 Neighborhood Residential- Medium Density; NR-3 Neighborhood Residential- High Density; CBD Central Business District; MUR Mixed-Use Residential Emphasis and MUB Mixed-Use Business Emphasis. ADUs will be permitted in these districts as a use permitted after Administrative Review.

IMPACT OF PROPOSED CHANGES

The proposed relaxation of code across all residential districts will create consistency and a sense of fairness and simplicity. Moreover, the regulations governing ADUs will correctly identify which lots are eligible and feasible for ADU construction. The regulations should adequately balance the addition of this entitlement with the checks and balances provided by the standards governing the setbacks, height, size, location and character of accessory dwelling units. The goal is not to not make the UDC overly restrictive, but rather institute practical limitations that keep ADUs in scale, clearly subordinate to the main dwelling on the property so as not to change the character of the neighborhood.

Taken together, the standards in place will likely restrict the number of single-family lots that are ADU eligible. Other limiting factors include construction costs and permit fees. Also, any covenants specifically prohibiting ADUs would take precedence. Staff surveyed three municipalities with similar ADU regulations, about the prevalence of ADU construction following their code amendments. Their responses are as follows:

City	Population	ADUs Constructed/ Year
Arvada, Colorado	~ 112 k	20-30
Cody, Wyoming	~ 10 k	4
Longmont, Colorado	~ 90 k	4-5
Cheyenne, Wyoming	~ 62 k	4-24 (expected)

Arvada staff shared the results from a survey they administered to 47 cities. The results indicated that other ADU ordinances generate on average about 1 ADU per 1,000 homes. With approximately 20,000 single family homes, Cheyenne could expect approximately 20 ADU permits per year.

The purpose of the administrative review is to provide a more detailed review that will determine compatibility of the ADU in terms of building scale, form and site design. This case-specific review will provide more control and oversight from the outset and provide staff the ability to maintain an inventory of units which will help with enforcement issues down the road. Overall, the expanded ADU policy should lead to a very gradual increase in the number of legal units and will substantially improve the safety and quality of units over time.

RECOMMENDED ACTIONS

Below are the standards currently in place (in bold) as well as some discussion and possible substitute language in response to the feedback received by Planning Commission.

5.7.3 Accessory Dwelling Units

In districts where accessory dwelling units are allowed as permitted, administrative or conditional uses, they shall meet the following standards in addition to all other lot and building standards for the district.

- a. The accessory dwelling unit may be in the principal building or any permitted accessory building, however all applicable lot and building type standards for the district shall apply.**
 - Comment: Building type standards include height, size, setbacks, and coverage. This standard requires compliance with all applicable district zoning requirements, ensuring ADUs will not alter the character of a neighborhood.
- b. Only one accessory dwelling unit may be created per principal dwelling in any residential zone.**
 - Comment: There is no definition of principal dwelling in the UDC which could result in different interpretations on this standard. For instance, would lots with a duplex be considered a principal dwelling and qualify for an ADU? Would a duplex count as two principal dwelling units thereby allowing the addition of two accessory dwelling units on the lot? The language should be clear and precise, leaving no room for interpretation. The intent behind this standard most likely is to permit one accessory dwelling unit per detached one-unit dwelling lot, and prohibit ADUs on lots with multi-dwelling buildings, attached dwellings and semi-attached dwellings.
 - Recommended Substitute Language: One accessory dwelling unit is permitted per detached one-unit dwelling lot in any zoning district where accessory dwelling units are allowed as permitted, administrative or conditional uses. Accessory dwelling units are prohibited on lots with multi-dwelling buildings, attached dwellings and semi-attached dwellings.
- c. The property owner must occupy either the principal unit or the accessory dwelling unit as their permanent residence.**
 - Comment: From a regulatory perspective, owner occupancy could be difficult to enforce and manage. Most cities retain the provision as a tool to protect neighborhoods from absentee-landlords. However, there are a few cities who have removed the owner occupancy requirement all together. One reason being the interest commercial investors have taken in ADUs.
 - Comment: One option that could help with the management of occupancy would be to require the property owner to record a "Notice of ADU Regulations" with the Laramie County real estate office. This would inform future property owners of the owner occupancy restriction without being an encumbrance on the property.

- Optional Substitute Language: After approval by the Development Office, the property owner will record with the Laramie County real estate office a "Notice of ADU Regulations" on subject property, and will provide the Development Office a copy of such filing.

Option 1. Leave standard as it currently reads.
Option 2. Modify standard to eliminate owner occupancy requirement.
Option 3. Require filing of a "Notice of ADU Regulations".

d. In no case shall an accessory dwelling unit be more than 35 percent of the principal dwelling unit up to a maximum of 1,200 square feet. This limitation is in addition to all other lot and building standards applicable in the district.

- Comment: The 35% cap does not align with the size limitation used for other types of accessory structures. Accessory buildings under Section 5.7.1 are allowed to be up to 40% of the square footage of the principal building. This seems to indicate the code emphasizes use rather than form. Staff recommends the regulations be more standardized and maintain the 40% size cap to be consistent with all other accessory building regulations. In addition, the percentage control method is problematic when considering basement apartments. This size limitation could greatly limit the feasibility of converting basements into apartments due to size constraints.
- Recommended Substitute Language: In no case shall an accessory dwelling unit be more than 40 percent of the principal dwelling unit up to a maximum of 1,200 square feet. This limitation is in addition to all other lot and building standards applicable in the district. Square footage calculations, as contained herein, exclude any related garage, porch or similar area. Exception: the size of a basement apartment may occupy the entire floor area of the existing basement.

e. The accessory dwelling unit shall not include any design elements on principal or accessory buildings that alter the character of the lot, building type or district in general.

- Comment: This is a standard provision ensuring the ADU is contextually appropriate.

f. An accessory building used for an accessory dwelling unit shall match the primary and secondary materials, and the architectural style and details of the principal building.

- Comment: There are several cities that do not require ADUs to match the exterior appearance of the principal building. Because of the sizable investment ADUs represent, homeowners seemingly have enough incentive to make them look appealing and contextually appropriate for the neighborhood. Additionally, this standard appears to single out ADUs while offering no such constraints on other types of accessory structures such as detached garages or sheds. Moreover, design compatibility requirements could preclude "prefab" designs or lower-cost standardized plans, as well as the use of materials that don't match the principal building but which are considered high quality materials.
- Optional Substitute Language: An accessory building used for an accessory dwelling unit shall be designed to preserve or complement the architectural design, style and appearance of the principal building.

- Option 1.** Leave standard as it currently reads.
- Option 2.** Modify standard to eliminate the design compatibility requirement.
- Option 3.** Modify standard to include proposed language which would allow more flexibility in terms of architectural design of the ADU.

- g. One off-street parking space shall be provided in addition to that which is required for the principal dwelling, and it shall be located on a discrete portion of the lot.**
 - o Comment: This is a standard provision. Parking is a requirement for all housing types.

REVIEW

Currently it is very difficult to add an ADU in Cheyenne. Regulations that make the legal addition of ADUs difficult, if not impossible, will likely lead to units that lack enforcement of health and safety standards or will deprive the City of much-needed housing. The recommendations proposed herein seek to incentivize a diversity of household types in a low-impact way. The proposal to loosen the regulations to allow more ADUs is in accordance with the general goals and policies of PlanCheyenne and presents a great opportunity to address an emerging issue. Overall the proposed code changes will likely facilitate a modest increase of code-complying units in areas where their impacts can be minimized. Staff recommends approval of the ordinance.