

Accessory Dwelling Units

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Consideration of amending the Dallas Development Code pertaining to accessory dwelling units.

https://dallascityhall.com/departments/sustainabledevelopment/planning/Pages/Accessory_Dwelling_Units.aspx

GOAL

To develop a proposal amending the development code which would allow accessory dwelling units “by-right” and form regulations for an “opt-out” process should City Council approve the “by-right” regulations.

INTENT

The intent of this item is to glean, from ZOAC, advice to be forwarded to CPC who will then provide an opinion to the Housing and Homelessness Committee (HHC) as to what changes may or may not be necessary to the Accessory Dwelling Units provisions in the Dallas Development Code. ZOAC is being requested to determine:

- Is the way ADUs are currently allowed appropriate? or
- Do amendments need to be made to the current regulations? or
- Should ADUs be allowed by right and if so, should there be an opt-out process?

Whether or not ZOAC determines amendments are necessary, input from ZOAC on the develop of amendments to allow ADUs by right and an opt-out process would be helpful for consideration to CPC and HHC. When the input is forwarded to HHC, the committee will determine whether code amendments should be crafted. At which time, the item would be sent back to ZOAC/CPC for the creation of the amendments. If the proposed code amendments warrant property owner notification, it would happen then.

BACKGROUND:

- On June 27, 2018, City Council approved two code amendments to allow accessory dwelling units via 1) Board of Adjustment (BDA) granting a special exception to authorize an accessory dwelling unit as a rental accommodation ([Sec.51A-4.209](#))(6)(E)(ii)(aa), and 2) Accessory Dwelling Unit (ADU) Overlay process and regulations ([Sec.51A-4.510](#))(c).
- On February 24, 2020, the Housing & Homelessness Solutions (HHS) Committee discussed accessory dwelling units. Some committee members asked staff to research a “by-right” and “opt-out” process for accessory dwelling units. Other members expressed a desire to maintain existing regulations. Staff was asked to discuss options with ZOAC and CPC.
<https://dallastx.swagit.com/play/02242020-548>

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- Since Council approval of the two processes to allow ADUs in 2018, the BDA has granted two accessory dwelling units for rent, both in January 2020. There has been no neighborhood request to begin the overlay process.
 - On July 23, 2020, staff presented to ZOAC a “by-right” and “opt-out” process for accessory dwelling units along with a summary from the community survey that represented all 14 districts in the City of Dallas.
 - On August 20, 2020, staff present to ZOAC a “by-right” option and an “opt-out” process and provided policy updates on various research cities.

UPDATED INFORMATION 10/1/2020

Community Engagement

Two virtual community meetings have been set up to continue the dialogue and receive community input on allowing accessory dwelling units “by-right”. The meetings will be held via videoconference and are scheduled for October 6th from 6pm to 7:30pm and October 7th from 12pm to 1:30pm. Listed below is the link for both meetings.

October 6, 2020 - 6pm to 7:30pm

Click on the link below to attend the meeting via videoconference

<https://dallascityhall.webex.com/dallascityhall/onstage/g.php?MTID=ebe845f32e51f498c1d377665f8d9b6d8>

Or via teleconference by calling (408) 418-9388

Event number (access code): 146 735 4522

October 7, 2020 - 12pm to 1:30pm

Click on the link below to attend the meeting via videoconference

<https://dallascityhall.webex.com/dallascityhall/onstage/g.php?MTID=edc2d05edf28049ad22298568156e76b0>

Or via teleconference by calling (408) 418-9388

Event number (access code): 146 540 3958

Board of Adjustment Cases

Over the last five years the Board of Adjustment has heard twenty-one cases for either an additional dwelling unit or an accessory dwelling unit. Nineteen were requests for an additional dwelling unit of which seventeen were approved, and two were denied. Two were requests for accessory dwelling units which were approved.

How many ADUs currently exist in the City

Currently, there are two ADUs which received BDA approval in January 2020. There are likely other ADUs existing but there is no way to count them because no building permits have been issued. Staff discussed this with the Code Compliance Department to determine whether 311 service requests or Code

Compliance records might illuminate this issue. Code Compliance manages both the Short-Term Rental Registration and the Single Family Rental Registration programs. However, neither program collects data on whether the rental unit is located in an ADU.

With regards to 311 service requests, there is no direct way to report an illegal ADU. The closest request type is “Illegal Land Use,” which only includes unit types such as single family, multifamily, condo, or businesses. There is no data kept during service calls that would allow staff to determine how many ADUs are reported or exist.

Property Owner Notifications

The “by-right” option would require property owner notification prior to the public hearings for consideration at City Plan Commission and City Council for the areas that it would affect. Notification would be required to zoning districts that allow single family use but not duplex use and to Planned Development Districts for single family uses but not duplex use. Single family is defined as one dwelling unit on a lot. Unlike other code amendments, this change is fundamentally altering the classification of the zoning district from single family to essentially what is similar to a Duplex District. State law requires zoning changes to be noticed. Notices would be required to be mailed to property owners within the affected districts as well as those within a 500 foot buffer.

Staff has completed an analysis of existing single family zoning districts, including PDs that allow only single family uses. At a minimum 239,655 lots would require notification, plus all properties within 500 feet of the affected property (200 feet as required by state, 500 feet per Dallas Development Code).

Per a discussion with a planner at The City of Plano, the amendment allowing ‘backyard cottages’ was considered a text amendment and they did not mail property owner notification.

Austin considers ADUs a “Two family residential use” and are allowed by right in SF 3, SF 5, SF 6, and MF 1-6 districts, all of which allow duplex use. They simply added ADUs to districts that already allowed duplexes. Several single family districts in Austin (LA, RR, SF-1, SF-2, SF-4A, SF-4B) do not permit ADUs.

CURRENT CODE:

Accessory Dwelling Unit Regulations

- Unit cannot be sold separately from main dwelling unit
- Additional electrical utility service allowed on a lot with an ADU
- Owner occupancy required; either the primary dwelling unit or the ADU
- Non-owner-occupied unit on the lot must be registered with the Single Family Rental Registration Program of the City annually if rented
- Parking
 - At least one off-street parking space is required; except
 - No additional parking is required if ADU is located within 1,200 feet of a DART bus or transit stop

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- May be attached or detached
 - Maximum floor area is 700 sq. ft. or 25% of main structure, whichever is greater
 - If detached
 - Minimum floor area is 200 sq. ft.
 - Cannot be located in front of the main structure
 - Height
 - Maximum height of structure containing the ADU cannot exceed the height of the main dwelling unit
 - If ADU is located over a detached garage, maximum height is the maximum height allowed in that zoning district
 - Side and Rear Yard Setbacks
 - Setbacks of the zoning district if over 15' height;
 - 3' side yard setback if less than 15' height and located in rear 30% of the lot
 - 3' rear yard setback if less than 15' height

Accessory Dwelling Unit Overlay

- Neighborhood driven petition process
- Similar to a Neighborhood Stabilization Overlay (NSO)
- Allowed only in an area that allows single family uses and does not expressly prohibit accessory dwelling units

Board of Adjustment (BDA) Regulations

- BDA special exception to allow an accessory dwelling unit as a rental accommodation
- BDA grants special exception if accessory dwelling unit will not adversely affect neighboring properties
- If granted:
 - Subject property must be deed restricted to require owner occupancy on the premises
 - Board may determine if an additional parking space is required
 - Must register the rental property with the Single Family Rental Registration Program of the City annually

POTENTIAL AMENDMENTS:

ADUs “By-Right”

“By-right” option would allow an accessory dwelling unit to be built on property with a single family use in any area that allows single family uses, unless expressly prohibited. If City Council were to approve a “by-right” ordinance, staff proposes an effective date of seven months post Council approval. This would allow for the “opt-out process”, as discussed below, to be pursued. However, Council could choose not to approve an “opt-out” process and a post effective date of the “by-right” ordinance would not be necessary. If ADUs are ultimately allowed ‘by-right” a property owner would need to obtain a building permit for the ADU.

Current regulations for accessory dwelling units would remain for the “by-right” option.

Opt-Out Process:

An “opt-out” process would provide for a neighborhood-driven process to create an overlay that would not allow accessory dwelling units to be built “by-right” in that neighborhood.

The “opt-out” overlay process might look similar to the Neighborhood Stabilization Overlay (NSO) process that we currently have in place. For example:

- Must contain at least 50 single family structures in a compact, contiguous area, or be an original subdivision if the subdivision contains fewer than 50 single family structures.
- Neighborhood Committee formed
 - Owners of at least 10 properties within the proposed overlay
- Neighborhood Committee requests petition form from the department
- Department staff holds neighborhood meeting
 - Notices are sent to all property owners within the proposed overlay at least 10 days prior to the meeting
- Staff provides petitions to the neighborhood committee at the neighborhood meeting
 - Petition includes: map of overlay area, name and address of property owner, and statement that by signing the petition the signers are indicating their support of the district
- Neighborhood Committee collects petition signatures
 - 30 days from neighborhood meeting
 - 75% or more signatures required
- Neighborhood Committee submits petition to department
- Staff verifies and determines complete petition and application
- **CPC**
 - Application is heard by CPC for their input and recommendation
- **City Council**
 - Application is heard by City Council for final decision
 - If approved, the “by-right” option to allow accessory dwelling units will go into effect seven months from the approval date of the ordinance. However, City Council could make this time frame less/more than what is referenced. During that time, no building permit application can be processed for ADUs during this time
 - If a neighborhood wants to proceed with the “opt-out” process after the effective date, the permits for ADUs will not be restricted, and a property owner can apply for building permits for an ADU throughout the process

ADU “Opt-Out”/ “Opt-In” Post Effective Date of the “By-Right” Ordinance

In the event that the ADU “by-right” option is approved by City Council and a neighborhood decides to “Opt-Out” after the effective date of the “by-right” ordinance, then the following would occur:

Opt-Out Overlay: A neighborhood can go through the process to exclude the right to allow accessory dwelling units in that neighborhood. A neighborhood with existing legal ADUs could not pursue an “opt-out” process as it would make existing ADUs nonconforming.

Opt-In By Right: A neighborhood could go through the process to reverse an “opt-out” overlay. To reverse the “opt-out” overlay, after the effective date of the “by-right” option, would require 75% of signatures from the neighborhood. If a neighborhood had put an “opt-out” overlay in place and later decides they do not want the ADU “opt-out” overlay, they would go through the petition process to remove the overlay.

RESEARCH

Other Cities Research from 2017

	Austin	Baltimore	Boston	Columbus	El Paso	Fort Worth 2	Philadelphia	Phoenix 1	San Antonio	San Jose	San Diego	*Vancouver, Canada	*Atlanta	*Birmingham	*Decatur
Additional Dwelling Unit allowed in Single Family District by right	√	X	X	√	√	√	√	√	√	√	√	√	√	√	√
ADU in Rental Allowed in Single Family District	√	X	X	√	√	X	√	X	√	√	√	√	X	X	X
If allowed:															
Attached and Detached	√			√	√		√		√	√	√	√			√
Owner Occupancy on same lot	X			√	√		√		√	√	√	X			√
ADU size regulations	√			√	√		√		√	√	√	√			√
Lot size, set back requirements	√			√	√		√		√	√	√	√			√
Additional or separate utility and sewer connections allowed				X			X		X						
Parking requirements	√			√	√		X		√	√	√	√			√
Design requirements	X			X	√				√	√	√	√			
ADU - Accessory Dwelling Unit															
* Not an Index City															
Empty - Unknown															
√ - Yes															
X - No															
1. Phoenix City Code states that a guest room may not contain any cooking facility.															
2. Accessory Dwelling Unit cannot be rented in a one family district. In Urban Residential District (UR), a transition zone between low density single-family neighborhoods and high-density commercial area, a range of housing options are allowed.															

	Allen	Arlington	Cedar Hill	Duncanville	Garland	Grand Prairie	Irving	Mesquite	McKinney	Plano	Richardson	University Park	Highland Park
Additional Dwelling Unit allowed in Single Family District by right	X	√	√	√	√	√	√	√	√	√	√	√	√
Rental Allowed in Single Family District by right	X	X	X	X	X	X	X	X	X	X	X	X	X
Note: Surrounding cities except Allen, allow an additional dwelling unit. Per the respective City Codes, the additional dwelling unit can be used for family or as a servant quarter, not for income/rental purpose.													
ADU- Accessory Dwelling Unit													
√ - Yes													
X - No													
Empty - Unknown													

Accessory Dwelling Unit: Overview in Other Cities – Updated:

Texas

Austin:

Austin has allowed Accessory Dwelling Units (ADUs) since 2001. A council-initiated amendment in 2015 aimed to make secondary units more widely available across the city. The goal was to add needed additional housing units that could be more affordable and provide an income stream for the property owner. ADUs that are built in central locations utilize existing infrastructure and have minimal impact to the “character” of a single family neighborhood. Austin’s City Council was prompted to approve the resolution to amend the code based on demographic information which assessed that 34% of households in Austin were single person households, and that there is a need for more relatively affordable units, and a need to provide options for multi-generational families and seniors. From 2007-June 2014, there were 230 ADU/secondary dwelling units built. Since the 2015 amendment an estimated 400 permits a year have been approved.

There are several requirements for a lot to build an accessory dwelling unit:

- 1) Maximum 1,100 square feet or 15% of the lot size, whichever is smaller
- 2) Must be detached and separated by 10’
- 3) 1 parking space required unless within ¼ mile of a transit stop
- 4) Rentable – long term or no more than 30 days per year short term
- 5) 2 separate water meters if renting one of the units
- 6) Maximum 30’ height
- 7) Maximum 2 stories – 2nd story must be less than 550 square feet
- 8) May be sold separately
- 9) Allowed in some single-family zoning districts: SF-3, SF-5, SF-6 zoning area, because they allow for single family residential use as well as duplex, two-family, townhouse, or condominium residential use

San Antonio:

Has allowed Accessory Dwelling Units (ADUs) since 2001. There are several requirements for a lot to build an accessory dwelling unit.

- 1) The property owner, which shall include title holders and contract purchasers, must occupy either the principal unit or the accessory dwelling as their permanent residence, and shall at no time receive rent for the owner-occupied unit.
- 2) No accessory dwelling shall be constructed, used or occupied unless and until an accessory dwelling permit is issued.
- 3) The accessory dwelling shall be connected to the central electrical, water and sewer system of the principal structure.
- 4) The total number of occupants in the accessory dwelling unit combined shall not exceed three (3) persons.
- 5) The accessory dwelling shall not exceed eight hundred (800) square feet of gross floor area in any single-family residential zoning district other than the "FR" zoning district, or one thousand two hundred (1,200) square feet in the "RE" zoning district.

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- a) The building footprint for the ADDU shall not exceed forty (40) percent of the building footprint of the principal residence. The "building footprint" shall include porches but shall not include patios.
 - b) Total floor area of the ADDU shall not exceed eight hundred (800) square feet or be less than three hundred (300) square feet.
 - c) An ADDU shall not contain more than one (1) bedroom.
 - d) Only one (1) accessory unit shall be permitted per lot.
 - e) Parking areas shall be located behind the front yard.
- 6) In order to maintain the architectural design, style, appearance and character of the main building as a single-family residence, the ADDU shall have a roof pitch, siding and window proportions identical to that of the principal residence.
- 7) Accessory detached dwelling units shall require a minimum setback from the rear and side property lines of five (5) feet.
- a) The gross floor area of the accessory apartment shall not exceed thirty-five (35) percent of the total living area of the principal dwelling unit.
 - b) Occupancy of the accessory apartment shall not exceed one (1) person per two hundred (200) square feet of gross floor area.
 - c) Attached accessory dwelling units shall be in compliance with the required setbacks of the primary structure required by the underlying zoning district.

Plano: Approved an ordinance to allow accessory dwelling units/ backyard cottages February 25, 2019.

- Minimum-required property size to 6,000 square feet.
- Must have at least one more off-street parking space.
- Must include a complete bathroom, kitchen and sleeping area.
- Must be located behind the main dwelling unit and 10 feet away from main structure
- Cannot exceed the height of that main house
- Property owner must reside on the property
- Must be at least 400 square feet and no larger than 1,100 square feet, or 50% of the main dwelling unit (whichever is more restrictive)

California:

In 2017, California passed a statewide law to clarify ADU rules and stimulate the development of ADUs. This law allowed for cities to adopt their own ordinances and fine tune certain parts of the State law. Several new state measures overriding municipal limitations on the structures took effect Jan. 1, 2020. New policy also dictates that owner-occupancy of ADUs isn't required, homeowners can add two units per lot, and parking minimums are capped near transit. The new law allows ADUs up to 800 square feet as well as an additional junior ADU attached to the primary residence on a property. Side and rear setbacks for ADU buildings will also be reduced to 4 feet, and applications will not require LA City Planning Commission review.

Los Angeles- has deferred entirely to the State law since January 1, 2017, revised in 2019. ADUs can be developed on any site that is zoned for residential use and contains an existing or proposed single-family home.

San Francisco- San Francisco's ADU Program allows two different types of ADUs: 1) "Waiver" ADUs – all multi-family buildings and single-family homes that need one or more waivers from the Planning Code for

requirements like exposure, open space, or rear yards; and 2) “No-Waiver” ADUs – single-family homes that do not need waivers from the Planning Code.

Illinois:

Since February 2020, the adoption of the HB 4869 bill would prohibit any unit of local government from banning second living units on a residential property. The legislation as proposed leaves it up to the municipality how to regulate ADUs’ size and location, but it explicitly bars local governments from enacting regulations that would have the effect of prohibiting new ADUs.

Chicago- Chicago’s ADUs (structures separate from the main house would be limited to 700 square feet. They could not be used for short-term rentals such as Airbnb. And it would require backyards be preserved in accordance with neighborhood standards. City building standards and permit rules still apply. The ordinance contains no requirement for parking to serve the new units.

Evanston- Evanston expanded its code provisions for ADUs, also called “coach houses” to allow coach houses on any residential lot, not only those with single-family homes. The code also allows for permitted construction of a coach house on any residentially-zoned lot, rather than just behind single-family homes. The code also waives the requirement that an additional parking space be provided for a coach house if the property is within 1,500 feet of a bus stop or train station or if it meets city-specified affordability requirements. Ease height limits for coach houses outside historic districts based on side yard setbacks provided, but set a maximum height limit of 28 feet.

Tennessee:

Memphis- Since 2010, ADUs are governed by the size of lot on which they sit. Accessory structures may be as close as 5 feet to the rear property lines and adhere to the required side setback for the zoning district. Most districts require a 5-foot side setback. If the accessory structure contains a garage facing an alley, it must be either 5 feet or at least 20 feet from the alley to prevent parked cars impeding the alley. Accessory structures must be lower than the principal dwelling. Any portion of an accessory structure over 20 feet in height must be 20 feet from the rear lot line.

Nashville- Nashville’s ADUs adopted in 2011 (See Ordinance No. BL2011-900) means a detached dwelling unit separate from the principal structure on a lot located within residentially zoned neighborhoods as well as a Historic Overlay District. The dwelling shall be clearly subordinate in size, height, and purpose to the principal structure, it shall be located on the same lot as the principal structure but may be served by separate utility meter(s) and is detached from the principal structure. A detached accessory dwelling can be an independent structure, or it can be a dwelling unit above a garage, or it can be attached to a workshop or other accessory structure on the same lot as the principal structure.

Georgia

Atlanta- Accessory dwelling units were revised in 2019 to allow for accessory dwelling units in three zoning districts.

- R-4 Single Family Residential District allows for accessory dwelling units
 - Permitted where the total number of dwelling units on any parcel, including the accessory dwelling unit, does not exceed two
 - No parking required
 - Minimum yard requirements for R-4
 - Minimum lot requirements: lot size can be no less than 9,000sq ft and a frontage of not less than 70 ft
- R-4A Single Family Residential District allows for accessory dwelling units
 - Permitted where the total number of dwelling units on any parcel, including the accessory dwelling unit, does not exceed two.
 - No parking required
- R-5 Two -Family Residential District allows for single-family or two-family dwelling.
 - Permitted accessory dwelling units, where the total number of dwelling units on any parcel, including the accessory dwelling unit, does not exceed two.
 - No parking required
 - The distance between an accessory dwelling unit and the primary dwelling on adjacent properties may be no less than the distance between the accessory dwelling unit and the primary structure on its lot.