

12.30.190 Accessory Apartments **12.30.190 Accessory Dwelling Units (ADUs)**

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A. Accessory Apartments. The purpose of this ordinance is to provide regulations and design standards for accessory ~~apartments~~ **dwelling units** in residential zones. Accessory ~~apartments~~ **dwelling units** may be allowed by conditional use permit (CUP) in order to make housing units available to moderate income households and also to provide economic benefit to homeowners.

B. Definitions

- **ADU:** Accessory Dwelling Unit
- **CUP:** Conditional Use Permit
- **Dwelling Unit:** A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. (IRC2018, Chapter11, Section N1101.6)
- **Internal Accessory Dwelling Unit (IADU):** a second dwelling unit that is part of the home on a parcel (ie. 'mother-in-law' apartment)
- **Detached Accessory Dwelling Unit (DADU):** A second dwelling unit which is a self-contained dwelling unit located on an owner-occupied lot or parcel. It is in a detached building which maintains complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, including a separate kitchen on a year-round basis.
- **Tiny House:** A dwelling that is 400 square feet or less in floor area excluding lofts. (IRC2018, Section AQ102)

C. Occupancy

The occupants of an accessory apartment shall be limited by one of the following family categories:

1. One person living alone; or
 2. Two (2) or more persons all related by blood, by marriage, by adoption; by legal guardianship or foster children; or
 3. Up to four (4) related and/or unrelated persons living as a single housekeeping unit.
 4. Any of the above categories plus a temporary guest. A "temporary guest" is defined as an individual who stays with a family for a period of less than thirty (30) days within any rolling one-year period and does not utilize the dwelling as a legal address for any purpose.
- For purposes of the definition of family, the term "related" shall mean a spouse, parent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, first

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cousin, great-grandparent, and great-grandchild. The term "related" does not include other, more distant relationships.

- 12. • The occupants of the accessory apartment shall not sublease any portion of the accessory apartment to other individuals.
- Owners Not Occupying Residence for Prolonged Periods.

The city recognizes that people in the community occasionally vacate their residences for longer periods of time than merely vacations. If the owners of the residence elect to leave their home, just one family will be living in the residence and there is no longer any need to have the residence licensed as an ADU. The permit can then lapse while the owners are not living in the residence and the permit shall be re-established upon their return using the existing conditional use permit and by renewing the ADU permit.

D. Standards and Conditions

1. Applicable to All ADUs

1. All ADUs

- a. Only one accessory dwelling unit shall be allowed per lot/parcel. You cannot have an interior accessory apartment and a detached ADU. Both the single-family dwelling and any detached accessory dwelling unit shall be owned by the same person(s) or entity and they must share a single water meter, and sewer lateral, whether the accessory dwelling unit is attached, or detached. A single family dwelling and accessory dwelling unit shall each receive a monthly bill from the City for municipal services that shall be sent to the owner of the Lot. The gross livable space for an ADU shall be limited to 1,000 square feet whether it is stand alone or part of a larger Accessory Building.
- b. Parking: A single-family dwelling with an accessory apartment shall provide at least two (2) off street parking spaces for the main dwelling unit, and one (1) off street parking spaces for the accessory unit, for a minimum total of three (3) off street parking spaces. This can include covered parking, garages, but no parking spaces can be counted that are part of the driveway in the front setback between the house and the street. The minimum width of parking areas and driveways shall be paved with concrete or asphalt, except that space used for the accessory unit parking that is not directly connected to the street may be surfaced with masonry, concrete pavers, or as approved by the city engineer, compacted materials such as slag or crushed granite with a four inch (4") minimum thickness placed in accordance with the American Public Works Association standard specifications. This would include only those materials which compact well and do not have small, fine particles that could potentially be tracked into the city right of way. Surface pavement materials must cover the entire area of all driveways and parking spaces. Any tracking that does occur will be the responsibility of the property owner to clean up and maintain - including cleaning of storm drain facilities if necessary.

2. Internal Dwelling Units (IADUs)

- a. Only one accessory apartment IADU may be attached to a single-family dwelling and said area shall be clearly a subordinate part of the dwelling having an independent entrance

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from that of the owners. ~~The accessory apartment shall not occupy any accessory buildings (i.e., guest cottage).~~

- b. The ~~accessory apartment~~IADU shall be designed so that, to the degree reasonably feasible, the appearance of the building remains that of a single-family residence, including retention and enhancement of landscaping. All new entrances shall be located on the side or in the rear of the building.
- c. It shall be prohibited to install separate utility meters. Each ~~accessory apartment~~IADU must have a separate address as directed by the Post Office.
- d. In no case shall an ~~accessory apartment~~IADU ~~comprise more than (50) fifty percent of the building's total floor area nor~~ have more than two bedrooms unless, in the opinion of the Planning Commission a greater amount of floor area is warranted by the circumstances of the particular building. An ~~accessory apartment~~IADU is a complete, separate housing unit that shall be within the original dwelling unit.

3. Detached Dwelling Units (DADUs)

A detached accessory dwelling unit shall not exceed 50% of the building footprint (including garage) of the single family dwelling, up to 1,000 maximum square feet.

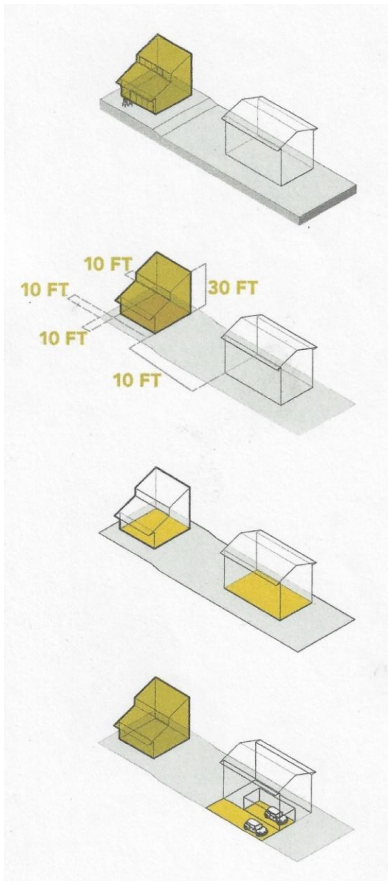
Sight Standards For DADUs

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Lot Size

Minimum Lot Size: 12,000 sq. ft.

Maximum ADU home size: 1,000 sq. ft.

However, if it has a second floor, the total livable space may not exceed 1,000 sq. ft.

Setbacks and Height

This applies to any ADU, or structure that contains an ADU.

Minimum Setbacks: 10 ft. from side, back and main home

Maximum Height (measured at highest point: 15 ft. or if above a shop/garage – 30 ft.)

Maximum Lot Coverage

Maximum: 40% of entire lot

Example

Lot size – 12,000 sq. ft.

40% = 4,800 sq. ft. maximum

Max ADU size – 1,000 sq. ft.

Max Main home size – 3,800 sq. ft.

Total footprint (home + ADU) – 4,800 sq. ft.

Required Parking

2 spaces for the main home

1 space for the ADU

The driveway or any area within the 30' front setback will not be counted as parking space.

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G. Application, Noncompliance and Revocation

2.—

i.—The Planning Commission may grant a conditional use permit for an accessory apartments ADU provided ~~that~~ the following requirements are met, in addition to any conditions placed by the Planning Commission. The granting of a conditional use permit for an accessory apartment ADU shall not exempt the applicant from meeting other applicable ordinances, covenants, codes, or laws recognized by Hyde Park City.

1. A completed letter of application sworn before a notary public shall be provided by the owner(s) stating that such owners will occupy the said dwelling, except for bona fide temporary absences.

1.—

2. A fee to cover public hearing notice, publication and building inspection costs must accompany the application. See current fee schedule.

3. Standard City utility fees for water, sewer, garbage and dispatch fee shall be charged to the ADU in addition to those currently being charged to the owner of the home. The utilities for the ADU may fall under the Landlord / Tenant Utility Ordinance and both agreements must be signed per ordinance.

4. It shall be prohibited to construct an ADU within a mobile home, or on any lot less than 6,000 square feet.

5. The design and size of the ADU shall conform to all applicable standards in the Fire, Building, and Health Codes. The applicant shall obtain all necessary building permits prior to construction of the ADU. If the applicant is unable to comply with the terms of the Building Code and Fire Code, as adopted by Hyde Park City, the request for conditional use permit shall be denied.

6. Occupancy. The occupants of the ADU shall not sub-lease any portion of the ADU to other individuals.

7. Off-street parking shall be provided for all ADU tenants. Off-street parking spaces shall be available for use by all occupants of the ADU. No more than forty percent (40%) of the front yard shall be used for parking. On-street parking is reserved for guests only. A parking plan must be submitted with conditional use permit application.

8. Any other appropriate or more stringent conditions deemed necessary for ADUs in protecting public health, safety, welfare, and the single family character of the neighborhood shall be established by the Planning Commission.

9. The approval of the conditional use permit, including any and all conditions of approval will be recorded by Hyde Park City.

10. The effective period of the conditional use permit for accessory apartments an ADU shall be two years from the date of the original permit. Every two years, a renewal may be granted upon review by the Planning Commission as long as the owner remains the principal resident of the home and that all other conditions met at the time of the original application remain unchanged, valid until:

- a. Owner vacates the option, or
- b. Owner sells the property (the CUP is not transferable), or
- c. Owner no longer resides at the property, or

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- d. Any ordinance is violated, or
- e. Any conditions of the CUP are violated.

a. ~~Notification of revocation of the conditional use permit shall be sent to the owner in the event that it becomes evident that the owner no longer resides at the home.~~ the City deems any of the above occurs. Failure to obtain certification that the owner resides at the home ~~may be the is~~ basis for revocation of the conditional use permit. ~~If revoked, the~~ Planning Commission, at its sole discretion, may require a new application and a demonstration of compliance with all conditions necessary for a renewed conditional use permit.

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b. ~~A floor plan of 1/4 inch to the foot showing the floor in which the accessory apartment will be located shall be provided to the Planning Commission.~~

c. ~~Standard City utility fees for water, sewer, garbage and dispatch fee shall be charged to the accessory apartment in addition to those currently being charged to the owner of the home. The utilities for the accessory apartment shall fall under the Landlord/Tenant Utility Ordinance and agreements must be signed per ordinance.~~

d. ~~It shall be prohibited to construct an accessory apartment within a mobile home.~~

e. ~~No more than twenty percent (20%) of new homes within a subdivision may have an accessory apartment. The final plat of the subdivision must demonstrate that homes with accessory apartments are not located adjacent to nor directly across the street from another home with an accessory apartment.~~

f. ~~Upon sale of the home or change of primary occupant, the conditional use permit shall expire, that is, the conditional use permit is not transferable.~~

~~g. The approval of the conditional use permit, including any and all conditions of approval will be recorded by Hyde Park City.~~

h. ~~A fee to cover public hearing notice, publication and building inspection costs must accompany application. See current fee schedule.~~

i. ~~The design and size of the apartment shall conform to all applicable standards in the Fire, Building, and Health Codes. The applicant shall obtain all necessary building permits prior to construction of the accessory apartment. If the applicant is unable to comply with the terms of the Building Code and Fire Code, as adopted by Hyde Park City, the request for conditional use permit shall be denied.~~

j. ~~Occupancy. The occupants of the accessory apartment shall not sub-lease any portion of the accessory apartment to other individuals.~~

k. ~~Off street parking shall be provided for all accessory apartment tenants. Off street parking spaces shall be available for use by all occupants of the accessory apartment. No more than forty percent (40%) of the front yard shall be used for parking. A single bay garage or carport must be included for new construction of accessory apartments. On street parking is reserved for guests only. A parking plan must be submitted with conditional use permit application.~~

l. ~~Any other appropriate or more stringent conditions deemed necessary for accessory apartments in protecting public health, safety, welfare, and the single family character of the neighborhood shall be established by the Planning Commission.~~

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3.11. Procedures for Revoking an Accessory Apartment License or Conditional Use Permit

a. An ~~accessory apartment~~ ADU conditional use permit shall be revocable for non-compliance with any ~~of the provisions of this ordinance or any other~~ ordinance of the

city. The city shall notify the owner/permittee in writing of its intent to revoke the conditional use permit, and the reasons therefore, at least fourteen (14) days prior to the action being taken. The permittee shall have the opportunity to correct any problems that caused the notice of intent to revoke to be issued during said fourteen-day period and show proof of such correction to have the permit remain in force. The permittee shall have the right to appeal, in writing, any decision regarding the permit to the City Council. The City Council shall consider any appeal on a permit revocation within thirty (30) days of receipt of the appeal. In the event of an appeal the permit shall remain in effect until after the appeal is considered by the City Council.

~~4. Owners Not Occupying Residence for Prolonged Periods.~~

- ~~a. The city recognizes that people in the community occasionally vacate their residences for longer periods of time than merely vacations. If the owners of the residence elect to leave their home, just one family will be living in the residence and there is no longer any need to have the residence licensed as an accessory apartment. The permit can then lapse while the owners are not living in the residence and the permit shall be re-established upon their return using the existing conditional use permit and by renewing the accessory apartment permit.~~

5.12. Variances To Accommodate Accessory Dwellings Prohibited.

- a. No variance shall be approved in order to accommodate an Accessory Dwelling Unit.

HISTORY

Adopted by Ord. 2015-03 on 5/13/2015

Amended by Ord. 2018-09 on 9/26/2018

Amended by Ord. 2018-12 on 11/20/2018

Amended by Ord. 2019-05 on 4/24/2019

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