

3809.03: Accessory Dwelling Units

- A. **Where Permitted:** Accessory dwelling units (ADU) are allowed as an accessory use only in single-family and duplex dwelling units in County zoning districts as specified in Figure 3-2, and residential PUDs unless prohibited by such PUD. When requested on a lot containing a duplex, the lot must be owned in fee simple by the duplex owner requesting the ADU. Accessory apartments are also permitted in single-family dwelling and duplex development in the antiquated zoning districts remaining in effect, including but not limited to the RME and R-25 zoning districts.
1. **Review Process:** ADUs shall be evaluated per the Class 1 development review process for single-family lots, and Class 2 development review process for duplex lots, as outlined in Chapter 12. If a PUD allows an ADU, Caretaker Unit, or Accessory Apartment through a Conditional Use Permit Review, unless otherwise stated, the request shall be reviewed through a Class 2 CUP.
- B. **Detached Historic Structures:** If an applicant is requesting an ADU in a detached historic structure as provided for in this section, the Review Authority must find that the detached ADU meets the criteria to determine the historic nature of the structure as outlined herein.
- C. **Other Code Requirements:** ADUs shall conform to the requirements of this section and the other applicable requirements of this Code and PUDs (where applicable). An ADU shall not be allowed on the same parcel as a caretaker unit. All other restrictions of this Code, including animal restrictions, shall apply as if to one (1) single-family dwelling. For example, if the zoning district restricts a single-family dwelling to two (2) dogs, the dwelling and the accessory apartment combined shall not have more than two (2) dogs.
- D. **Use of Primary and Accessory Units**
1. **General:** Either the ADU or the primary residence shall be restricted to long-term rental to Qualified Occupant(s) as defined in the Summit County Housing Deed Restrictions Guidelines (Guidelines) as duly adopted and amended from time to time, long-term occupancy by relatives of the property owner, or persons meeting the retirement eligibility criteria in the Guidelines. Long-term rental shall mean for a period of at least six consecutive (6) months as the sole residence of the occupant. Short-term rental of the restricted unit on the property is expressly prohibited, and the property owner shall not be permitted to occupy the restricted unit. Rental Procedures for Primary and Accessory Units:
 - a. At such time that an approved unit becomes vacant, the property owner must immediately make reasonable good faith efforts to rent the unit to a Qualified Occupant.
 - b. In the event that the County discovers the unit is not being rented according to the requirements of this section, the property owner shall have 30 days to lease the unit to a Qualified Occupant, and submit a copy of such lease to the County along with the names of the current tenants and their places of employment, or show cause as to why such unit has not been leased in accordance with these regulations.
 - c. The property owner shall be allowed reasonable, good faith discretion in determining if any prospective tenants are suitable, provided that such discretion is not exercised intentionally or inadvertently in a manner to circumvent the intent of these regulations. However, in making such determination, no discrimination in terms of race, creed, gender, sexual orientation or other protected classifications will be tolerated.
 - d. Any ADU not properly leased in accordance with these requirements shall be deemed a violation of the ADU approval and a breach of the covenant restricting the unit. The County shall have the ability to pursue any and all remedies necessary to enforce the requirements of this Section, including revocation of the ADU approval, and the County shall be entitled to all costs, including reasonable attorney's fees, incurred in enforcing the same.
 2. **Recordation of Covenant:** All permits issued for an ADU shall include the requirement that the property owner record a covenant restricting the use and occupancy of the property in accordance with the requirements outlined in this section. The covenant shall grant enforcement power to Summit County or an authorized designee.
- E. **Design Regulations**
1. Where allowed in County zoning districts, an ADU shall be either incorporated into the primary residence on the property or detached from the primary residence, as either a stand-alone structure or associated with a garage or outbuilding. ADUs may also be located in an existing historic detached structure meeting the criteria outlined in Section 3809.03.I; such structures shall be exempt from the design criteria set forth in this subsection 1. To ensure the single-family character of neighborhoods is retained, the following design elements shall be met to ensure the ADU is the subordinate residence on the property:
 - a. **Building Form:** Whether detached or incorporated into the residence, an ADU shall be designed so that

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the ADU is the subordinate dwelling on the property. When incorporated into the residence, the exterior shall not resemble a duplex design (i.e., a structure containing two identical, side-by-side primary dwelling units).

- b. **Size, Location, and Height of Units:** In calculating the floor area of an ADU to determine compliance with this section, any garage space associated with the ADU shall be excluded. In no instance may the ADU be larger than the primary structure on the property. When determining if an ADU is incorporated into the primary residence, the ADU must have the same general roof enclosure and / or architecture as the primary residence and be attached to the primary residence through shared walls with living space, i.e. not solely adjacent to non-habitable space.
 - (i) **Incorporated in the Primary Residence:** When an ADU is incorporated into the primary residence on lots less than 5 acres, the maximum size of the ADU shall not exceed 1,000 square feet. On lots 5 acres or more in size, the maximum size of the ADU shall not exceed 1,400 square feet.
 - i. Exception: When the basement or lower level of an existing home is proposed for conversion to an ADU, the size of the ADU shall not exceed the footprint of the existing basement area.
 - (ii) **Detached ADUs:** When the ADU is detached from the primary residence, the following shall apply:
 - i. **Size:** On lots less than 20,000 square feet, detached ADUs may not exceed 550 square feet. On lots less than 5 acres but greater than 20,000 square feet, detached ADUs may not exceed 1,000 square feet. On lots greater than 5 acres, ADUs may not exceed 1,400 square feet.
 - ii. **Location of Detached ADU:** In order to ensure that detached ADUs appear subordinate to the primary residence, rather than two single-family homes on one lot, development shall be clustered in close proximity.
 - iii. **Height:** When an ADU is incorporated into the primary residence or an existing detached structure, the height limit is that of the underlying zone district; however when the unit is detached, the height limit for the ADU is restricted to 25 feet.
 - iv. **Duplex Lot ADU Setback:** A detached ADU on a duplex lot shall comply with the applicable setback for the zoning district as set forth in section 3505.13.G et. seq. of the Code.

Standards for Detached ADUs	
Size of Property	Max. Size of ADU
< 19,999 sq. ft.	550 sq. ft.
20,000 sq. ft. to 5 acres	1,000 sq. ft.
≥ 5 acres	1,400 sq. ft.
Height Limit	25'

2. An ADU shall have a separate kitchen, with cooking appliances consisting of, at a minimum, a fixed cooktop.

F. **Number of Units Allowed**

In zoning districts where ADUs are permitted, no more than one (1) ADU shall be permitted on each parcel.

H. **Water and Sewer**

- 1. **Central Water and Sewer:** If a proposed ADU is located within an area served by central water and sewer, the property owner shall pay additional water and sewer tap fees or other charges for an ADU if so required by the supplier of the water and sewer service. Such tap fees and any charges shall be paid prior to the issuance of a building permit for an ADU.
- 2. **Well Water:** When an ADU is proposed to be served by a well, the applicant shall identify the source they propose to use for the provision of water and, if water augmentation, water leasing or some other legal form of additional water right for the apartment is necessitated, the applicant shall also provide written confirmation from the entity to provide water that the water augmentation will occur. If a proposed ADU does not have an existing water right (as evidenced by a valid well permit, or court approved water augmentation plan), prior to the issuance of a building permit, the applicant shall submit documentation that they have submitted an application or request for either: 1) a final court decreed water augmentation plan; 2) a water lease; or, 3) some other legal document providing evidence of additional water right for the apartment. Final evidence of adequate water provision shall be provided prior to issuance of Certificate of Occupancy.
- 3. **On-site Wastewater Treatment System (OWTS):** When an ADU is proposed to be served by an OWTS system, the applicant shall ensure that the proposal complies with the requirements set forth by the County's Public Health Department.

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G. Parking

1. Required Parking: Two (2) parking spaces are required for an ADU and shall be provided only in a designated, paved or graveled area. Parking may be tandem, (outside or in a garage) and no administrative relief from the parking requirements is necessary to allow tandem parking.
2. Relief from Setbacks: On a single-family lot, one of the required parking spaces may be located within the setback provided it is a minimum of 5' from all property lines and in compliance with Section 3505.13 *et seq.* of the Code.

J. Compliance with Building and Fire Codes

Where an applicant is requesting a Class 1 permit for an ADU and the apartment was in existence prior to 1988, the unit shall be inspected and shall comply with applicable requirements of the Building and Fire Codes prior to occupancy of the ADU. The Review Authority may add a condition that an existing ADU be brought into compliance with the applicable Building Code and Fire Code by a date certain, not to exceed one (1) year after the date of any approval. If this condition is not met, the Review Authority's approval shall be void.

H. Findings for Approval for ADUs Requiring a Class 2 Review:

An ADU shall be established and occupied in a manner that preserves the residential character of the neighborhood where it is located. To reach this intent, the Review Authority may approve an ADU requiring a Class 2 review only if the application meets all relevant regulations and standards set forth in Section 3809.03 *et seq.* and provided the Review Authority makes the following findings:

- a. The proposed ADU is in harmony and compatible with surrounding land uses and the neighborhood, and would not create a substantial adverse impact on adjacent properties or on services and infrastructure.

I. Historic Structures Used as ADUs

Purpose and Intent: Detached older structures used as ADUs can provide benefits. Permitting older detached structures and using them as ADUs can encourage their rehabilitation, preserve the County's heritage and promote the preservation of structures that might have architectural, historical or cultural significance. Moreover, enhancement of property values and the stabilization of historic neighborhoods, farms, ranches and sites can be achieved.

1. Proof of Historic Nature of Detached, Historic ADUs

Proof of Historic Nature: An applicant must provide proof of the historic nature of a proposed detached structure for use as an ADU to be exempt from the size maximums in 3809 *et seq.*; criteria to determine the historic nature of the structure are as follows:

- a. The structure was built prior to 1960; had previously been or is currently being used as a residence; the original, distinctive character is well preserved; and the integrity of setting and materials is retained. Determination as to the date the proposed structure was built and used as a place of residence shall be based on conclusive evidence. Conclusive evidence can be provided through a combination of at least two (2) of the following:
 1. County Assessor data.
 2. Historic records provided by the applicant.
 3. Dated photographs (e.g., aerial or historical).
 4. Official designation on a national, state or local historic registry (e.g., National Register of Historic Places, Colorado State Register of Historic Properties, Summit County Historic Preservation Advisory Board, Summit Historic Society).
2. Sworn affidavit from someone with personal knowledge of the property.
3. Other evidence deemed credible by the Reviewing Authority.

2. Alterations or Rehabilitation to Preserve Character

Any proposed addition, alteration or rehabilitation to a detached ADU shall generally preserve the original, distinctive character of the building and its site. However, the Review Authority may allow for reasonable changes of the original, distinctive character if such change is being caused by the application of applicable Code requirements, including but not limited to Building Code and Fire Code requirements.

3. Additional Submittal Requirements

In addition to the requirements contained in Section 3809.03, a request for a detached ADU shall also be subject to the following requirements:

- a. **Presubmittal Meeting:** A presubmittal meeting shall be held jointly between a project proponent and the Planning and Building Departments prior to submittal of an application for a detached ADU per the provisions of Section 12000 *et seq.* The purpose of the meeting is to discuss issues that need to be addressed, appropriate building Code requirements and the review schedule.
- b. **Building and Fire Code Reports:** A report or analysis regarding appropriate Building and Fire Code

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requirements shall be submitted by a Colorado licensed design professional. The report or analysis shall indicate the potential need and extent of modifications necessary to the detached ADU to make it habitable per the Building and Fire Codes.

- c. **Narrative on How Original, Distinctive Character Will be Maintained:** A detailed narrative of how the owner will upgrade the appearance of the proposed detached ADU to preserve the historical integrity and original, distinctive character of the existing building and site shall be submitted.

J. **Relationship to Previous Approvals for Accessory Apartments and Length of Validity**

The County's previous approval of a permit for an accessory apartment is valid so long as the use is authorized under Figure 3-2 and so long as the accessory apartment continues to meet the specific conditions or requirements that were in force or specifically applied to the project by the County's previous approval. The Review Authority's approval of an accessory apartment can be revoked in accordance with the provisions of the recorded covenant and/or Section 12000.19, depending on how the Accessory Apartment was originally processed and approved.