

**The following are frequently asked questions (FAQ) regarding the proposed Accessory Dwelling Unit (ADU) Ordinance in Rapid City.**

**1. How are ADU's defined? (Ord. Section 17.50.219B)**

Currently, the proposed definition as refined over the years is “a subordinate permanent dwelling which has its own cooking, sleeping, and sanitation facilities and which is:

1. Within or attached to a single-family residential building; or
2. Within a detached accessory structure associated with a single-family dwelling that is smaller than the primary structure, and that is on a permanent foundation.”

**2. How does allowing ADU's fit with the vision and needs for the community? (Ord. Section 17.50.219A)**

ADU's can diversify the types and increase the number of housing units available in Rapid City. In order to help meet housing needs in Rapid City, the Comprehensive Plan recommends taking action to remove barriers to housing diversity. Specifically, the plan recommends ““Allow for accessory dwelling units specifically in areas with high demand from students or season tourism workers. These units can provide an income source for home owners and contribute to the supply of rental housing. They also provide an opportunity for elderly residents to live close to family members and age in place.” ADU's are recommended in conjunction with clear standards to guide size, occupancy limitations, etc. The proposed ordinance sets forth these criteria.

**3. Can ADU's help meet the demands for affordable housing?**

Accessory Dwelling Units are not the be all-all end all solution; however, they do provide a unique form of housing that can be provided in the market at a range of affordability. Not all ADU's would meet South Dakota Housing requirements for affordability, nor would they be required to, but many would likely fall within affordable or workforce categories.

**4. Are ADU's allowed in Rapid City today?**

No. Existing ADU's in Rapid City are not expressly permitted in the zoning code. Two-family dwelling units and duplexes are sometimes allowed in Low Density Residential District 2, Medium Density Residential District, and High Density Residential District; however, ADU's are not expressly allowed.

**5. Should having an ADU be considered a home owner's property right?**

Some people feel that it is or should be. Another view is that city zoning dictates what rights exist or may be enjoyed by the owners of properties in various areas.

**6. How is an ADU different in community impact than a home that houses a large family with several drivers?**

A family in a single family home with several drivers and many cars could possibly have as much or more impact on parking, traffic and noise issues in the neighborhood as a home with an ADU. If the home is big enough to house a large family, with a possible separated

living area used by family members, there is not any significant difference from a home with an ADU, beyond the fact that the people in the separate dwelling units may not be related. Other impacts on city services, utilities, impact fees and taxes could be viewed in the same light.

### **7. Does it matter if people in an ADU are related to the home owner?**

While ADU's are beneficial for providing the option of multigenerational housing, the proposed ordinance does not require that occupants in the main dwelling and ADU be related. The zoning code establishes a definition of family to pertain to neighborhood living arrangements. The code does not currently restrict living arrangements to related individuals in any other context, and it is not proposed in this ordinance. See question 8.

### **8. How many people should be permitted to occupy an ADU?**

The best way to limit residential occupancy is to follow the legal definition of a family in the Rapid City Code, which is:

“One or more persons related by blood, marriage or adoption, or a group not to exceed 5 persons none of whom are related by blood or marriage, occupying the premises and living as a single nonprofit housekeeping unit as distinguished from a group occupying a boarding or lodging house, hotel, club or similar dwelling for group use. A family shall be deemed to include domestic servants employed by the family.”

### **9. What are the beneficial outcomes of adopting an Ordinance to allow ADU's?**

- a) It offers flexibility in living situations
- b) It provides a unique tier of affordable housing (in a neighborhood rather than an apartment complex)
- c) It provides additional income to homeowners
- d) It's already being done; let's legalize it
- e) It's neighborhood friendly
- f) It provides security for elderly homeowners
- g) It increases overall population in the city (good for business)
- h) It promotes wise land use by increasing density in developed areas

### **10. Why do other cities choose to adopt ADU ordinances?**

The main reason most cities that permit accessory apartments is to meet the realistic needs for diversified housing choices and responding to the needs and demands within the community.

### **11. How much enforcement is needed and what methods should be used?**

The level of enforcement will depend on the amount of restrictions or requirements that may be adopted into the code. With code regulations, it is anticipated that there will always be some non-compliant situations that will require enforcement. It will be important to determine a proper balance between too much regulation and not enough.

Enforcement methods could include initial letters mailed by the Community Development Department regarding known violations, with an invitation to meet to resolve issues. Hopefully a method can be put into place in the City Code that will allow for some non-compliant situations to be resolved before the City must result to taking legal action.

**12. How much will enforcement cost the City?**

This is an unknown factor, but following the experience of other cities, it will require a larger effort up-front to get the existing known situations reviewed and permitted. After this is in place, it will be a matter of dealing with individual applications and responding to complaints of non-permitted apartments.

**13. Will the permitting and enforcement of ADU's create the need for new personnel?**

See numbers 11 and 12 above. It is anticipated that existing personnel will provide sufficient staff to accommodate the review, registration and enforcement needs related to ADU's in Rapid City.

**14. Do we know how many existing ADU situations there are?**

No. Without having some kind of registration or permitting system, it is very difficult to know how many there are.

**15. How will we handle existing ADU situations that may be unable to comply with new regulations? (Ord. Section 17.50.2190)**

That depends on how non-compliant the situation is. Some situations may need to be shut down, whereas others could ultimately be permitted. The proposed ordinance makes it relatively easy for existing ADU's to be registered, wherein their existing non-conformities will be acknowledged. If changes are proposed at the property over time, those changes must comply with Rapid City codes and regulations.

**16. Should ADU's be permitted by conditional use approval?**

An ADU that meets all of the code criteria should be a permitted use. Criteria that may need to be waived, such as lot coverage, should be done through a variance request from the Zoning Board of Adjustment.

**17. Should duplexes and ADU's be treated the same?**

This is an important consideration. Duplexes may or may not have an owner occupying one of the units, whereas this is considered one of the most common requirements for accessory apartments. There is currently an ability to have duplexes in Low Density Residential District -2 if the area regulations and other criteria are met. The differing impacts on a neighborhood of having a duplex or a single-family home with an accessory apartment are mostly focused on the owner occupancy issue.

**18. Should ADU's be inspected beyond initial construction / permitting?**

No. Other homes/residential units are not inspected after they have been completed.

**19. Should older, existing ADU's be required to meet current building codes?**

Building code compliance will be required only for new development additions or upgrades that would otherwise require a building permit.

**20. Should firewall separation be required between the ADU and the main dwelling?**

No. This is generally required for a duplex, but not normally required for attached accessory dwellings. It is a substantial cost that would need to be required for most existing situations that might cause difficulties for compliance. An attached accessory dwelling is considered a part of the same home and structure, and normally the main dwelling unit is required to have access to it.

**21. Should there be a permit / registration fee? If so, how much?**

A nominal registration fee could make sense for all new situations, to go against the cost of the review of plans. However, it may be best to allow and encourage existing situations to register for free, which may have more successful results. After initial registration we can determine if further review and approval is needed.

**22. Should permitting / registration be renewed?**

No. Most permits issued by Community Development do not require renewal once approved. Requiring renewals will cause a greater staff effort to manage and enforce.

**23. Can we identify the impacts of taxes and utility fees not paid by ADUs ?**

This is very difficult to do. Since it is an apartment, the impacts should be looked at similarly to those of other apartments in the community. In various apartment situations, taxes are not paid by the renters. Utilities connection fees are paid by the owner or developer, and the renter normally pays for utility services.

**24. Should ADU's be allowed in certain residential zones and not others? (Ord. Section 17.50.219D)**

The proposed ordinance would allow permitted ADU's in every residential zoning district. Two-unit dwellings are currently allowed in every residential zoning district except Low Density Residential District – 1. It's important to remember that some neighborhoods with covenant agreements may restrict this use. Furthermore, in the West Boulevard Historic District, an ADU that necessitates an adverse effect to a historic structure would not be recommended.

**25. Should detached ADU's be permitted?**

An accessory dwelling that is in a detached secondary structure that is smaller than the primary structure, does not necessarily have any different impact to the neighborhood than one that is in a basement. Existing setback requirements for accessory buildings will regulate whether there is enough room on the lot for a detached situation.

**26. Should there be a minimum lot size for homes with an ADU? (Ord. Section 17.50.219G)**

It could be justifiable to limit the approval of accessory apartments to properties that meet a minimum lot size, however this will most likely not work for many existing situations. The proposed ordinance requires that a property that cannot meet the 6,500 square foot minimum lot size would be limited to an interior (basement/attic) ADU.

**27. Should the number of permitted ADU in a neighborhood or zone be limited?**

It would be very challenging to manage a program of the amount of existing and potential new situations that could occur in a certain area. Also, determining the boundaries of certain areas doesn't assist with the actual spread of locations, since the majority of accessory apartments approved in one area could be adjacent to a majority of the same in another area.

**28. Should a home permitted for an ADU be owner occupied? (Ord. Section 17.50.219C)**

Yes. This is a common requirement that most communities allowing accessory apartments seem to have. The on-sight oversight of the home owner seems to be an effective way, in most cases, to assure a more positive and successful situation than what could occur if both dwellings were rented.

**29. Should more than 1 apartment be permitted in/with a home if conditions permit? (Ord. Section 17.50.219E)**

No. The proposed ordinance restricts the use of one ADU and one primary single-family residence per property.

**30. How much off-street parking should be required for homes with an ADU? (Ord. Section 17.50.219J)**

At least one off-street parking space per dwelling unit should be provided.

**31. Should the ADU unit size be limited to not exceed a percentage of the lot? (Ord. Section 17.50.21G)**

The proposed ordinance restricts the size of a new ADU to be 10% of the lot size. Deviations from this requirement must be requested through a variance from the Zoning Board of Adjustment.

**32. What living areas should be required in an ADU? (Ord. Section 17.50.219K)**

The proposed ordinance requires living areas for eating, sleeping and sanitation facilities separate from the principal dwelling unit.

**33. Are separate utility meters required for each dwelling unit?**

No, separate meters are not required for an ADU under the proposed ordinance.

**34. How will emergency services personnel differentiate the primary unit from the ADU during a call for service? (Ord. Section 17.50.219I)**

An ADU must have a separate address number from the primary structure.

**35. Who can develop, operate, and occupy an ADU? (Ord. Section 17.50.219C;M)**

The owner of the property must reside full time on the property, either in the primary structure or the ADU. The ADU cannot be sold or detached by deed. ADU's must be rented for periods of 28 days or more. ADU's are not to be used for short term (vacation) rentals under this ordinance.

**36. How will they look within the neighborhood? (Ord. Section 17.50.219N)**

New ADU's exceeding 500 square feet must have a residential appearance. The intent of the proposed ordinance is to maintain the character of existing neighborhoods while allowing for increased housing supply.

**37. Where can they be located? (Ord. Section 17.50.219F)**

ADU's are intended to fit in with the density and character of existing and new residential neighborhoods. ADU's cannot be located at the front of a lot.

**38. What are the criteria to be eligible for a new ADU? (Ord. Section 17.50.219G)**

Not all lots will be a good fit for an ADU. Zoning criteria must be met for new ADU's (lot size, lot coverage, setbacks, etc.) Each new ADU must provide adequate parking. The standard shall be one off street space for the ADU unless a variance is requested. Only internal ADU's are allowed on lots less than 6,500 sq. ft.

**39. How will they be regulated?**

The registration/permitting process will require site plans and floor plans. All construction and remodeling shall comply with City codes. Historic Review is required for exterior alterations in a historic district. The fee (if any) will be set by Council Resolution.