



ZONING CODE REVISIONS (ADU)

Update Prepared for, November 19th 2018 Planning Commission hearing continued from April 19th, May 7th, May 21st, July 30th, and September 4th, and October 1st, 2018.



NOVEMBER 19, 2018
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PLANNING DEPARTMENT

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Date: November 19, 2018
To: Members of the Hood River Planning Commission
From: Dustin Nilsen, AICP; Director of Planning
Re: Accessory Dwelling Unit (ADU) Regulations

At the conclusion of the September 4th, 2018 Planning Commission hearing, the Commission settled its preliminary discussions regarding proposed revisions of the Accessory Dwelling Unit (ADU) regulations. Overall, the sentiment of the Commission was to limit a number of the existing standards perceived as obstacles to development with the intent of facilitating the construction of additional ADU's. Planning Commission was able to come to a majority opinion on the revisions including the following points.

- 1). The Commission agreed to the elimination of the primary residency requirement, the mandatory 12-month leases to qualifying occupants (family, gorge employee, or local assistance), and to limiting the regulation of tenure to only short-term rental requirements already found in the code which prohibit the use of an ADU as a short-term rental.
 - 1a). The Commission acknowledges and understand that the consequences of amending the primary residency requirement and 12-month lease requirement would allow two dwelling units in the R-1 where neither serve as an owner's primary residence and where two rental . (R-1 is the only residential zone that does not allow a duplex by right with no residency requirement, so this is of no change to the other zones).
- 2). The Commission agreed to the elimination of one space per ADU parking requirement, which is a preference toward the DLCDC model regulations, over a customized regulation that allows certain on-street parking adjacent to the site to satisfy the ADU parking requirement (the Bend model).
- 3). The Commission suggests City Council consider its System Development Charges as they relate to Accessory Dwelling Units and adjust the fee to more accurately address their impacts.
- 4). The Commission developed a method for calculating maximum floor area of an ADU
- 5). The Commission addressed code redundancy in the Short-term rental code 17.04.
- 6). The Commission provided a recommendation to clarify the policy relating to principal dwelling owners moving into their own ADU to allow for the Short Term rental of their principal residence and the policy relating to the scenario of, where ADU is allowed, should the owner be prohibited from establishing a short-term rental of the primary dwelling? All relating to the consequence of short-term rental licensing, primary ownership, and the elimination of the year lease provision.

The following is an overview of the policy and regulation discussions.

1). Primary Resident Requirement.

All zones within Hood River, with the exception of R-1 allow, by right, more than one dwelling per lot without any residency requirement. The residency regulation has been identified by a number of policy makers and municipalities as a local obstacle to ADU development.

Item 1 Planning Commission Consensus: specifically discussed the implications of allowing a primary dwelling and accessory dwelling on the same lot, where neither was the primary residence of the owner, and concluded it was acceptable to not require a primary resident in either dwelling.

2). Parking Amendment Consideration.

Planning Commission discussed the option of amending the parking requirements of Accessory Dwelling. Two primary options were discussed including: 1). The use of on street parking to satisfy the ADU requirement and 2). Eliminating the requirement altogether, where no off-street parking would be required regardless of on-street availability.

The options are discussed below.

From the Bend Municipal Code

3.6.200 Residential Uses. Revised 3/18

6. Parking. One parking space must be provided on site for the ADU in addition to the parking required for the primary dwelling unit [2 for reference...]. Required parking spaces for the ADU and primary dwelling unit may be provided in tandem on a driveway.

3.3.300 Vehicle Parking Standards for On-Site Requirements. Revised 5/17 Revised 3/18

B. Credit for On-Street Parking.

1. The amount of off-street parking required may be reduced by one off-street parking space for every on-street parking space abutting the development, up to 50 percent of the requirement, except as specified in subsections (B)(1)(a) and (b) of this section.

a. Uses within the CB Zone shall not receive credit for on-street parking but have the option to pay a fee in lieu of providing off-street parking per BDC 3.3.200.

b. For uses within the MU and MN Zones and in the Bend Central District, the amount of off-street parking required may be reduced by one off-street parking space for every on-street parking space abutting the development, up to 100 percent of the requirement.

2. On-street parking shall follow the established or approved configuration of existing on-street parking, except that angled parking may be allowed for some streets, where permitted by City, ODOT and/or County standards. One on-street parking space shall be defined as follows:

a. Parallel parking, each 24 feet of uninterrupted curb, where allowed;

b. Forty-five-degree diagonal, each with 14 feet of curb, where allowed;

c. Ninety-degree (perpendicular) parking, each with 12 feet of curb, where allowed;

d. Curb space must be connected to the lot that contains the use;

e. Parking spaces will not obstruct a required clear vision area or violate any law; and

f. On-street parking spaces credited for a specific use may not be used exclusively by that use but shall be available for general public use at all times. No signs or action limiting general public use of on-street spaces is permitted.

As mentioned before, staff interviewed three members of the Bend Planning staff who explained the methods used in the calculation. The allowance is a ministerial decision, provides for no notice and is issued by right as permit. It has not been applied to a non-conforming circumstance, where the principal structure does not have the two required spaces.

Considering that Hood River will experience a number of circumstances where existing single-family dwellings do not have the number required parking spaces, a modified version of the Bend code is written to address the parking non-conformity, and to limit the instances where new and widened driveways eliminate on street parking. Section F of the ADU code addresses parking. The proposed revision is included below. Underlined text is used to differentiate proposed language from the existing code.

F. Except as provided for below, One off-street parking space shall be provided in addition to the off-street parking that is required for the primary dwelling pursuant to this Title. If the existing (alt primary) dwelling does not currently have the ~~two~~ required spaces, only the one for the ADU will be required. In no case shall the residential parking requirement be diminished to provide the ADU parking. Further in no case shall a driveway cut be permitted or expanded to accommodate a single off-street parking space that results in the elimination of an on-street parking space(s) or results in more than 50% of the spaces located in the front yard or public right of way setback

1. The off-street parking space required for the ADU may be waived if 1). the primary dwelling has and maintains (alt. provides) the required number of parking spaces and, 2). If public on-street parking is permitted and abutting the lot that contains the ADU, except as specified in subsections (F)(1)(a) of this section.

a. Uses within the Central Business District, Heights Business District or Waterfront, shall not receive credit for on-street parking but have the option to pay a fee in lieu of providing off-street parking per 17.24.

2. On-street parking spaces credited for a specific use may not be used exclusively by that use but shall be available for general public use at all times. No signs or action limiting general public use of on-street spaces is permitted.

Item 2 Parking. Planning Commission Consensus

Planning Commission agreed that a parking reduction was appropriate and voted to follow the DLCD model of eliminating the off-street parking requirement for ADUs altogether. However, Planning Commission expressed the need to notify Council of its split decision on the matter and forward a recommendation that acknowledged the regulation is a policy decision with a number of alternative approaches.

3). System Development Charge Calculation

As mentioned in the May 7th, 2018 Planning Commission hearing, the City's FY2018-19 Adopted Budget includes funding for a comprehensive evaluation of utility rates and system development charges (SDCs) with goals of both sustainable financing of infrastructure as well as consideration of housing affordability impacts to rate payers. The project includes funding of the new stormwater master plan that is still in draft but nearly complete form. On July 23, 2018, the City Council authorized staff to initiate the issuance of the RFP for an independent consultant to perform a Comprehensive Utility Rate and SDC Study.

Item 3). Planning Commission Consensus

Planning Commission was notified that City Council had initiated an SDC and utility rate study to investigate fees as they relate to various housing types. Planning Commission wished to support Council in evaluating fees as they relate to ADUs in order to balance the need for this housing type and to establish an equitable cost share of impacts related to development.

4). ADU Size Area Calculations

The method of ADU measurement was also discussed by the Planning Commission. The definition of floor area is a critical element of calculating coverage requirements, floor area ratio (FAR) and, as noted in some definitions, for calculating parking and shared parking requirements. Most ordinances define floor area as the gross floor area of the entire building measured between the exterior walls, with specified exceptions. Usually, measurement of the gross floor area includes stairwells and elevator shafts. Ordinances differ, however, in their treatment of basements, porches, attics, exterior balconies, penthouses, and parking structures.

Given that many ADUs are entitled through the Planning Department as ministerial approvals prior to the development of structural building plans, that interior changes may occur without planning approval, and because gross floor area methodology is the only calculation commonly referenced in the HRMC (associated with floor area), staff recommends that a max floor area calculation be used and tailored to ADUs.

A suggested criterion of ADU Area suggested by staff in September included below. The definition was built from other adopted definitions including Blacksburg, Virginia; Scottsdale, Arizona; Jacksonville, North Carolina; Maynard, Massachusetts; Wood River, Illinois; and Hot Springs, Arkansas.

G. ADUs shall contain 800 square feet or less. (Calculated as follows)

When contained within an attached or detached accessory structure, ADU area shall be measured by taking the exterior wall dimensions of the building at each floor level intended for ADU occupancy or storage, or in the case of a common wall, from the centerline of such common wall. Area shall exclude attics less than 6 feet in height that are not constructed as occupiable spaces, uncovered decks and patios under 18 inches in height, driveways, and garage parking areas up to 400 square feet.

Item 4). Planning Commission Consensus

Planning Commission discussed staff recommendation and settled on 800 square feet, as measured from the exterior walls, excluding from the calculation 1). Areas under 4 feet in height, 2). Areas that were not built as occupiable spaces, and 3). Exterior areas that remain open to outside elements such as covered breezeways, porches, and covered decks.

Occupiable Space as provided by the Building Science Corporation*

"Any enclosed space inside the pressure boundary (Staff substitution of climate-controlled area*) and intended for human activities, including (but not limited to) all habitable spaces, toilets, halls, laundry areas, closets, and other storage and utility areas".*

****Staff notes there is no limitation on the size of a garage (or storage area) that may be permitted in the Planning Commission regulation.*

5). Redundancy in the Short-term rental code 17.04

Issue was raised with the utility and liability of redundant code references. Within HRMC 5.10, SHORT-TERM RENTAL OPERATING LICENSE, the only reference toward zoning includes a blanket reference that " *To receive approval, an applicant must demonstrate that all approval criteria listed below has been satisfied:a property is in compliance with requirements of HRMC Title 17 (Zoning)*".

Code Section 17.04.115 of the HRMC entitled, "Hosted Homeshares and Vacation Home Rentals", includes an ADU reference that states, "*Rooms within a detached or attached accessory dwelling unit are subject to HRMC 17.23*".

This leaves open the permissibility and status of accessory dwellings to be referenced in 17.23. As the prohibition on short term is exclusively listed in 17.23, staff recommends maintaining the code provision in 17.23 for both utility and transparency of the code.

Item 5. Planning Commission Consensus

Planning Commission was satisfied that the code sections, as scripted together, did not introduce a conflict in administration.

6). Clarify the use of ADUs for owners who want to short term rent their primary dwelling.

Issue was raised with whether owners may temporarily move into an accessory dwelling unit to allow the short-term occupancy of their primary residence and whether a property where an ADU was developed be prohibited from having a short-term rental license.

From HRMC 17.04.115,C. Additional Use Restrictions – Residential Zones (R-1, R-2 and R-3)

1. A hosted homeshare or vacation home rental is only permitted when it is an accessory use to the existing and continued residential use of a dwelling as the primary residence of the property owner. Proof of primary residence shall be provided in accordance with Chapter 5.10 of the Hood River Municipal Code.

Beyond the 90 days in which a hosted home share may be used on a yearly basis, the code does not contemplate the location or destination of where a primary resident would spend the balance of their time outside the primary residence. Currently, a yearlong lease requirement that is part of the existing ADU criteria would prohibit the use of an ADU for an owner of a primary dwelling or a summer rental (summer seasonal rental over 30 days would not be considered short term).

From HRMC 17.23.010(D), “The owner shall sign an affidavit before a notary affirming that the owner occupies either the main dwelling or the ADU and shall show proof of a 12-month lease for the ADU occupant”.

If the lease tenure provision is eliminated, this may open up the opportunity for a primary owner to reside in an ADU while its primary residence is used as a short-term rental.

Item 6). Planning Commission Consensus

Planning Commission came to a consensus that neither the development of an accessory dwelling unit nor the owner’s choice of alterative residency location should impact the ability to allow a short-term rental. However, it was maintained that an Accessory Dwelling Unit shall not be used as a short-term rental.

CHAPTER 17.23 ACCESSORY DWELLING UNITS (ADU)

Legislative History: Ord. 1912 (2006); Ord 2026 (2016)

17.23.010 General Requirements

A. An ADU may be created within, or detached from, any single-family dwelling, whether existing or new, as a subordinate use, where permitted by this chapter in the R-1, R-2, R-3, C-1 and C-2 Zones.

B. Only one ADU may be created per parcel or ownership accessory to a single-family dwelling (no townhouse or duplex).

C. An application for an ADU shall be processed as a ministerial decision.

D. Only the property owner, which includes title holders and contract purchasers, may apply for an ADU. The property owner ~~need not occupy the primary or accessory dwelling as the principal residence. ** must occupy the primary dwelling or the ADU as their principal residence for at least six months out of the year (case by case basis for exceptions). A primary residence shall be the residence where the owner is registered to vote, used as the primary residence for tax purposes or other proof that the residence is primary. The owner shall sign an affidavit before a notary affirming that the owner occupies either the main dwelling or the ADU and shall show proof of a 12-month lease for the ADU occupant.~~

E. ~~The ADU occupant shall provide proof that at least one occupant is locally employed (Gorge — Hood River, Wasco, Skamania, and Klickitat counties), a relative or on a local assistance program for the rent.~~

F. ~~No off-street parking shall be required for an Accessory Dwelling Unit One off-street parking space shall be provided in addition to the off-street parking that is required for the primary dwelling pursuant to this Title. If the existing dwelling does not currently have the two required spaces, only the one for the ADU will be required. In no case shall the residential parking requirement be diminished to provide the ADU parking~~

G. ADU's shall contain 800 square feet, as measured from the exterior walls, excluding from the calculation 1). Areas under 4 feet in height, 2). Areas that were not built as occupiable spaces**, and 3). Exterior areas that remain open to outside elements such as covered breezeways, porches, and covered decks.

***Occupiable Space As provided by the Building Science Corporation

Any enclosed space inside the pressure boundary* (Staff substitution of climate-controlled area*) and intended for human activities, including (but not limited to) all habitable spaces, toilets, halls, laundry areas, closets, and other storage and utility areas.

H. All other applicable standards including, but not limited to, setbacks must be met.

I. ~~Upon sale of the property, a new owner shall be required to reregister the ADU, paying a reauthorization fee set by resolution of City Council.~~

J. If a garage or detached building does not currently meet setbacks, it may not be converted to an ADU.

~~J.~~ K. All applicable standards in the City's building, plumbing, electrical, fire and other applicable codes for dwelling units must be met.

~~K.~~ L. The owner of the property shall accept full responsibility for sewer and water bills.

~~L.~~ M. An ADU may not be used as a transient rental, hosted homeshare, or vacation home rental.

~~N.~~ The application and permit fee for an ADU shall be 1% of the building permit fee plus an amount to be set by resolution of the City Council.

~~O.~~ Beginning January 1st of each year the City will undertake an annual review of ADU permits to ensure compliance.