



ZONING CODE REVISIONS ADU

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



AUGUST 30, 2018

DUSTIN NILSEN, AICP, HOOD RIVER PLANNING
211 2nd Street Hood River, OR 97031



CITY OF HOOD RIVER

PLANNING DEPARTMENT

211 2nd Street, Hood River, OR 97031 Phone: 541-387-5210

Date: August 30, 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 April 16th, 2018 Planning Commission hearing, staff was directed to further develop two particular aspects of the proposed revisions of the Accessory Dwelling Unit (ADU) regulations. The first revision was to develop code language that would make explicit the method of area calculations that control the size of Accessory Dwelling Units; and the second was to investigate options for on and off-street parking standards that would allow for great parking flexibility.

At its May 7th, 2018 meeting, these matters were discussed in greater detail before the Planning Commission, which continued discussions to May 21st, and then July 30th, 2018. At the conclusion of the July meeting Planning Commission's provided preliminary input on the following five policy issues. Planning Commission was able to provide consensus on three of the five issues.

- 1). Consider the amendment the existing one space per ADU parking requirement, through a customized regulation, that incorporates the use of on-street parking, based on the Bend model, and, as an alternate, consider the elimination of an ADU parking requirements (based on the DLCD model).
- 2). Suggest City Council consider its System Development Change as it relates to Accessory Dwelling Units and adjust the fee to more accurately address their impacts.
- 3). Develop a method for calculating maximum floor area of an ADU
- 4). Address code redundancy in the Short-term rental code 17.04.
- 5). Clarify the regulation relating to principal owners moving into an ADU to allow for Short Term rental of their principal residence.

Two outstanding matters to be addressed on September 4th, 2018 included:

- 1). Consequences of amending the primary residency requirement and the impact of allowing two units in the R-1 where neither serve as an owner's primary residence. (The only residential zone that does not allow a duplex).
- 2). Where an ADU is allowed, should the owner be prohibited from establishing a short-term rental of the primary dwelling in order to occupy ADU? Consequence of short term rental licensing, primary ownership, and the elimination of the year lease provision.

1). Parking Amendment Consideration.

Using on street availability as a basis for the off-street parking reduction.

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 off 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 and in no case shall a new 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 (2) 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 1). 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 ADU's. 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.

2). System Development Charge Calculation

As mentioned in the May 7th, 2018 Planning Commission hearing, The City's FY2018-19 Adopted Budget includes \$100,000 for a comprehensive evaluation of utility rates and system development charges 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 2). 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 ADU's in order to balance the need for this housing type and to establish an equitable cost share of impacts related to development.

3). 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 ADU's 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 ADU's.

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

G. ADU's shall contain 800 square feet or less. (Calculated as followed)

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 3). Planning Commission Consensus

Planning Commission 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.

4). 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, CHAPTER 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 4). Planning Commission Consensus

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

5). Clarify the use of ADUs for principal 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.

From 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).

“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 5). Planning Commission Consensus

Planning Commission deferred this conversation to September 4th, 2018.

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.

***Note R-1 is the only zone that does not allow a duplex. Amendments to the residency requirement may have the impact of allowing a duplex (or two units) where neither of which serve as a primary residence.*

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. 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 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 and in no case shall a new 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 required spaces located in the front yard or public right of way setback

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G. ADU's shall contain 800 square feet or less. (Calculated as followed)

When contained within a free-standing building, area shall be measured by taking the exterior wall dimensions of the building at each floor level intended for occupancy or storage, or in the case of a common wall, from the centerline of such common wall. Gross floor 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.

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.~~

I. 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.~~