



ITEM: NIGHTLY RENTAL LMC DISCUSSION

AUTHOR: Bret Howser
DEPARTMENT: Administration
DATE: March 18, 2025
TYPE OF ITEM: Discussion

SUMMARY:

The Planning Commission will discuss proposed change to the Land Management Code with respect to regulations on nightly rentals primarily in single family residential zones.

BACKGROUND:

The Council asked the staff to revisit nightly rental regulations as an action step on the FY 2025 Strategic Plan. Staff gathered with Mayor Calloway, who had specific proposals in mind for these alterations. The following analysis represents those proposed changes.

If the Planning Commission wishes to move forward with these proposed changes, or any related ones, Staff will draft the LMC amendment and give notice of a hearing scheduled for April 1, at which meeting the Commission may make an official recommendation to the Town Council.

ANALYSIS:

Nightly Rental LMC Changes:

- 1) R-2 and R-3 Zones: nightly rentals allowed (with HOA approval where there is HOA)
- 2) R-1 Zone:
 - a. Subdivisions with HOA, nightly rentals allowed by HOA approval
 - b. Subdivisions w/o HOA
 - i. cap on total units by "Neighborhood Group" (NG)
 1. NG-A: Timbercrest, Cedar Breaks Mountain Homesites Unit B
 2. NG-B: Ski Haven Chalets Units A, B & C, Cedar Breaks Mountain Homesites, Cedar Breaks Mountain Homesites Unit A & C, Ski Haven Estates Unit A
 3. NG-C: Brian Head Unit 1, Cedar Breaks Mountain Estates Units A, B & C, Sunset Mountain
 4. NG-D: Navajo Ridge, Brian Head Unit 3, Mountair Evergreens, Ski View Estates
 5. NG-E: Woodbridge, Ridge View Estates, Red Rock View, Aspen View, Brooke Hill, Ridgeline Estates, Eagles Roost
 6. Unsubdivided areas and single-family lots subdivided by meets and bounds will be included in a contiguous Neighborhood Group as determined by the Planning & Zoning Administrator.
 - ii. Units must be at least XYZ ft apart (Mayor suggests 200 ft)
 - iii. Cap is XY% of built units (Mayor suggests 40%)

- 3) Any neighborhoods where no cap applies? Anywhere no nightly rentals allowed at all? (or let HOAs handle that?)

The Planning Commission is not charged with making recommendations on changes to other parts of the Town Code (outside of the LMC), but for informational purposes the following regulations may also be considered by the Town Council with respect to nightly rentals.

Proposed Nightly Rental Licensing Changes:

- 1) Maximum occupancy shift from square footage to per room calculation
- 2) Fractional ownership, require all owners to sign off on nightly rental license
- 3) Fees for fire inspection, tiered up for repeat inspections
- 4) Consider increasing the Disproportionate Cost of Service Fee for public safety officer
- 5) Create a nightly rental affordable housing fee (staff investigating the legality)

STAFF RECOMMENDATION:

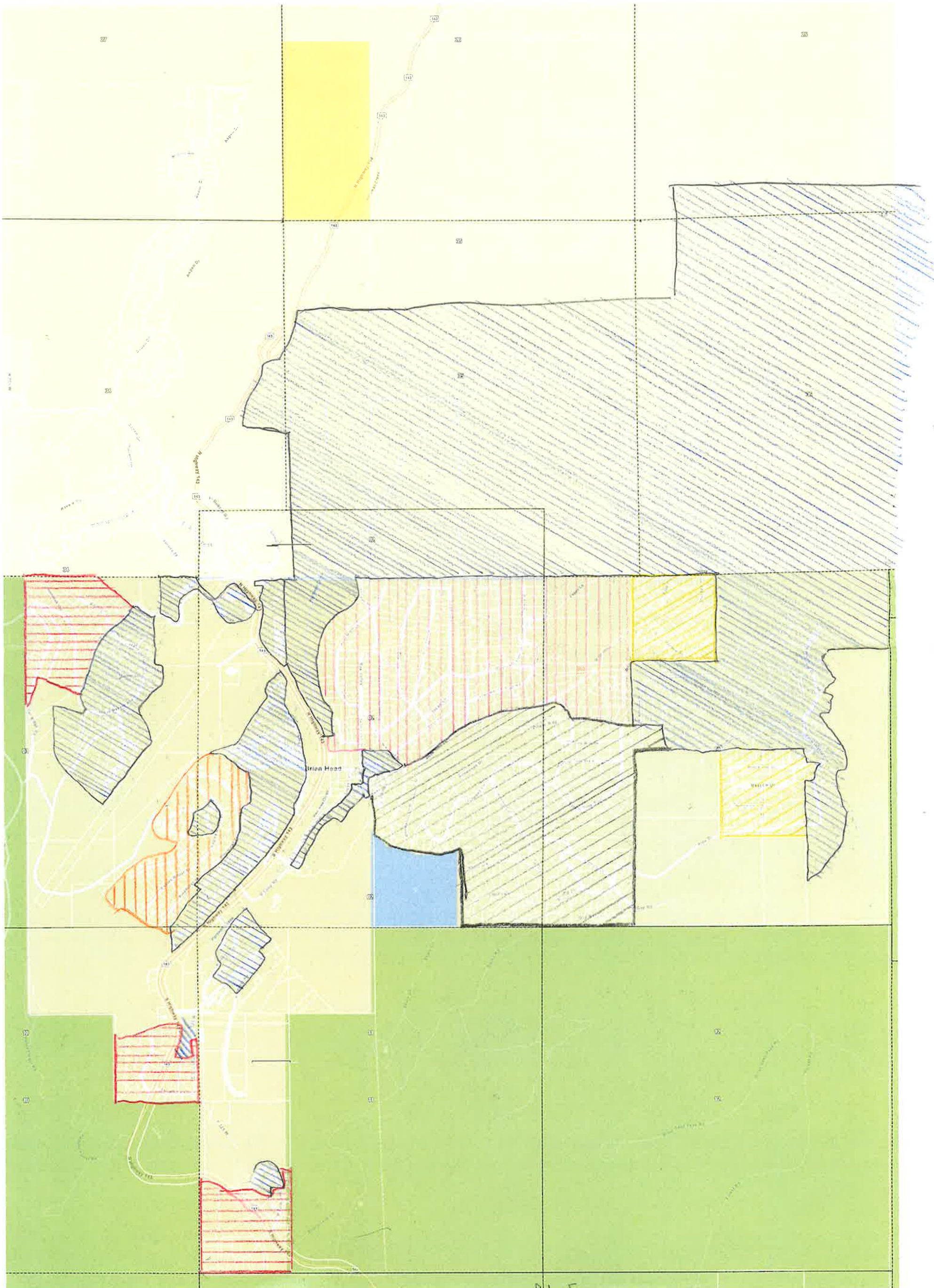
This is a policy decision for the Council, with Planning Commission recommendation. Staff has no administrative input at this point.

PROPOSED MOTION:

No motion necessary, item is discussion/informational only

ATTACHMENTS:

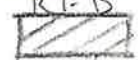
A – Neighborhood Group map



HOAA



RI-A
RI-B



RI-C
RI-D



RI-E





ITEM: ACCESSORY DWELLING UNIT (ADU)

AUTHOR: Greg Sant
DEPARTMENT: Planning and Building
DATE: March 11, 2025
TYPE OF ITEM: Discussion

SUMMARY:

The Commission will discuss new policies for ADU's by looking at communities that have currently addressed this issue and then deciding if Brian Head Town might change how they approach the subject.

BACKGROUND:

An accessory dwelling unit (ADU) is a secondary living space on a property that shares a lot with the main house. ADUs can be a basement apartment, a garage conversion, or an addition to the house. They can also be stand-alone structures in the backyard.

Purpose

- **Additional living space:** For family members, guests, or young adults returning home
- **Rental income:** Can be rented out to generate income
- **Affordable housing:** Can help make housing more affordable for homeowners and tenants
- **Community:** Can help foster familial bonds and community

Types of ADUs

- **Detached:** Also called backyard cottages, granny flats, or laneway houses
- **Garage conversion:** A garage converted into living space
- **Addition:** Added onto the house, sharing walls and utilities
- **Basement conversion:** Also called basement apartments or in-law suites
- **Internal:** Part of the primary house converted to an ADU

Legality

ADUs are legally part of the same property as the main house and cannot be bought or sold separately.

Zoning

Cities and counties often have zoning regulations that permit ADUs in certain areas.

Our current Land Management Code (LMC) allows ADU's as follows:

In 9-7-1(C), Mother-in-law and guest houses are a conditional use and are addressed as follows: Mother-in-law / guest house is an accessory use on a lot that is **equal to or greater than one acre** and shall comply with accessory structure requirements in this title with a **maximum of one mother-in-law/guest house per property**. (ord. 18-006, 6-11-2018 amd. ord. 20-006, 7-14-2020)

Accessory Structures are defined in our LMC as follows: **Non-habitable accessory structures**, subordinate to and located on the same lot with a primary structure, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or common roof to the main structure may be permitted.

In addition, the accessory structures must meet the following requirements per 9-12-7(J):

1. Must have a minimum of ten feet (10') of clearance from other structures.
2. Structure cannot be located within the setback (notwithstanding, setback exceptions that apply to the primary structure as outlined in chapter 7 of this title, in the applicable zone, also apply to accessory structures).
3. Must meet snow load requirements.
4. Required to have footings or foundation for accessory structures over 450 square feet.
5. Structures being used as a garage for vehicle storage must meet all applicable International Building Code requirements.
6. Shipping containers, intermodal containers, or railroad boxes may not be used as accessory structures. (Ord. 21-006, 05-25-21)
7. No more than three (3) accessory structures are allowed on a single lot of up to one (1) acre. Additional accessory structures may be allowed on lots larger than one acre, not to exceed two (2) accessory structures per additional acre.
8. Except for a building accessory to an agricultural use, the footprint of an accessory structure must not exceed fifty percent (50%) of the footprint of the primary structure. In no case shall an accessory structure's footprint exceed three thousand (3,000 sq. ft.) in size. (amd. ord. 24-014, 10-8-24)
9. Maximum height of accessory structures shall be limited as follows:

Size Of Accessory Structure	Maximum Structure Height
a. 0 - 200 sq. ft.	15'
b. 201 - 400 sq. ft.	19'
c. 401 - 1,000 sq. ft.	24'
d. 1,001 - 1,500 sq. ft.	27'
e. >1,501 sq. ft.	As determined by the Land Use Authority and not to exceed 32"
- f. If the proposed accessory structure sits at a lower elevation than the primary structure, an addition of one foot (1') of height may be allowed for each one foot (1') of elevation difference up to five feet (5') of additional height following a determination of the Land Use Authority that the height of the accessory structure does not conflict with the Town's General Plan or detract from the intended character of the zone. (ord. 17-006, 8-8-2017, amd. ord. 24-014, 10-8-24) c. Under no circumstances shall an accessory structure exceed eighty percent (80%) of the height of the primary structure. (ord. 17-006, 8-8-2017).

ANALYSIS:

Staff have looked at 4 other communities to see how they regard the ADU issue: Springville, Park City, Millcreek and Hurricane. Please review the Matrix that is attached. In this Matrix there were 5 policy positions that were common among the 4 cities:

1. The Use of the ADU is Secondary to the Primary/Main Home on the property.
2. All Design Guidelines/Standards used for the Primary/Main Home will be followed for the ADU.
3. Utilities for the ADU will come from the Primary/Main Home and there will NOT be a separate meter for the ADU for Utilities.
4. Property Owner must reside on the property in order to qualify to build an ADU.
5. ADU is subject to the same building codes (IRC) as is required for any building permit in Town.

In addition, unlike our LMC, the ADU can be **Habitable** in each of these cities. The Planning Commission needs to answer the following questions regarding the Towns' intentions on ADU's:

1. What is the reason to allow them in our jurisdiction?
2. In what Zone will they be allowed?
 - A. Secondary use to the primary use of the main home?
 - B. How close to each other in the neighborhood?
 - C. Minimum Lot Size?
3. How big can they be?
4. How tall can they be?
5. Where on the lot can they be located?
 - A. Can there be more than 1 ADU on a lot?
 - B. Setbacks?
6. What will the design standards be for these units (they could be less than 1,000 s.f.)?
7. What will the parking requirements be?
8. How will the utilities for the new unit be handled?
9. Can the lot owner use the ADU as a short-term rental?
 - A. Can they live in the ADU and rent out the main house (Long Term or Short-term?)?
10. How will ownership work for the ADU?
 - A. Does the Owner have to Occupy the Home?
 - B. Can it be subdivided eventually and sold separately?
11. How will the ADU's be regulated or monitored for compliance after initial permit?
12. Is the ADU subject to the same building codes (IRC) as is required in the rest of the Town? (i.e. mobile homes, modular homes etc.)

STAFF RECOMMENDATION:

Staff recommend that the Planning Commission consider changing the LMC to allow ADU's to be Habitable. Furthermore, Planning Commission should give Staff direction on how they would like to proceed with this change.

PROPOSED MOTION:

No motion necessary, item is discussion/informational only

ATTACHMENTS:

A - ADU Matrix

B - ADU Research

ADU Discussion for Brian Head

March 11, 2025

Discussion Questions		Research Cities Answers			
		Millcreek	Hurricane	Springville	Park City
1.	What is the reason to allow them in our jurisdiction?	Affordable	STR-Afford.	Affordable	No Mention
2.	In what Zone will they be allowed?	R-1 or A-1	Per Zone	Varies	No Mention
	A. Secondary use to the primary use of the main home?	2nd ary	2nd ary	2nd ary	2nd ary
	B. How close to each other in the neighborhood?	No Mention	No Mention	No Mention	4 in 300'
	C. Minimum Size Lot:	6k to 8k sf	No Mention	6,000 sf	No Mention
3.	How big can they be?	50% Prim	Per Zone	1,500 sf	400-1000
4.	How tall can they be?	24 ft.	No Mention	No Mention	No Mention
5.	Where on the lot can they be located?	Rear Yard	No Mention	No Mention	No Mention
	A. Can there be more then 1 ADU on a lot?	No Mention	No w/o CUP	No	No
	B. Setbacks?	SFD req.	Per Zone	Per Zone	No Mention
6.	What will the design standards be for these units? (Since probably will be less than 1,000 s.f.)	Same	Same	Same	Same
7.	What will the parking requirements be?	1 Stall	No Mention	Required	1 Stall
8.	How will the utilities for the new unit be handled?	From Main	From Main	From Main	From Main
9.	Can the lot owner use the ADU as a short-term rental?	No	Yes	No	No
	A. Can they live in ADU and rent out the main house (LT or ST?)?	No Mention	Yes-for LTR	Yes	No Mention
10.	How will ownership work for the ADU?	Owner Occupancy is required no matter what			
	A. Does the Owner have to Occupy Home?	Yes	Either one	Either one	Yes
	B. Can it be subdivided eventually and sold separately?	No	No Mention	No Mention	No
11.	How will the ADU's be regulated or monitored for compliance?	Bus. License	Bus. License	Rec. Perm.	Deed Rest.
12.	Is the ADU subject to the same building codes (IRC) as is required in the rest of the Town? (i.e. mobile homes, modular homes etc.)	Yes	Yes	Yes	Yes
		No Mention	No Mention	No	No Mention

Those highlighted in Yellow are common in all Towns or Cities that were looked at in the research.

Analysis and Case Studies

Staff researched the following towns and cities on how they address the ADU topic: Millcreek, Hurricane, Springdale, and Park City. In every town/city the following issues come up and are handled in a variety of ways:

1. What is the reason to allow them in our jurisdiction?
2. In what Zone will they be allowed? Secondary use to the primary use of the main home? How close to each other in the neighborhood (will there be a limit to how many lots can have one in each neighborhood)?
3. How big can they be?
4. Where on the lot can they be located? Can there be more than 1 ADU on a lot?
5. How tall can they be?
6. What will the design standards be for these units (they could be less than 1,000 s.f.).
7. What will the parking requirements be?
8. How will the utilities for the new unit be handled?
9. Can the lot owner use the ADU as a short-term rental? Can they live in the ADU and rent out the main house (Long Term or Short-term)?
10. How will ownership work for the ADU? Can it be subdivided eventually and sold separately?
11. How will the ADU's be regulated or monitored for compliance after initial permit (Building)?
12. Is the ADU subject to the same building codes (IRC) as is required in the rest of the Town? (i.e. mobile homes, modular homes etc.)

From Millcreek – ADU's for Housing Affordability – No STR's

What is an ADU?

An ADU is a second residence on the same lot as a single-family home. There are three types of ADU:

Internal – an *internal* ADU is a residence located within the *existing* footprint of a home. Traditionally, these ADUs have been called mother-in-law apartments.

Attached – an *attached* ADU is a residence constructed as an *addition* to an existing home.

Detached – a *detached* ADU is a residence in a separate structure on the same lot as the existing home. A detached ADU can be a new building, or an existing building could be converted into an ADU in certain circumstances.

Why are we allowing ADUs?

Over the course of nearly two years of public engagement, we found that many residents want ADUs, and many others are concerned about the impact ADUs might have in our neighborhoods. Our [General Plan](#) calls on us to “strive for a variety of housing choices in types, styles, and costs of housing throughout Millcreek.” We are in the midst of a housing crisis, and it is becoming increasingly expensive to live in Millcreek. ADUs are a part of a multi-pronged strategy to promote more opportunities for affordable housing in Millcreek.

Where are ADUs allowed? How big can they be?

ADUs are allowed only in a R-1 (single-family residential) or A-1 (agriculture) zone. In addition, the following requirements apply:

Lot Size – an internal or attached ADU is only allowed on lots that are at least 6,000 square feet in area. A detached ADU requires a lot that is at least 8,000 square feet in area.

Location – A detached ADU must be in a rear yard. An exterior door to an internal or attached ADU must be on the side or rear of the residence.

ADU Size – A detached ADU can only be up to 50 percent of the size of the existing residence.

ADU Occupancy – Attached and detached ADUs can house no more than two adults, and any number of children.

How close can an ADU be to my house?

Attached ADUs are subject to the side and rear yard requirements of any single-family home. A *new* detached ADU must be at least 5 feet from the side or rear property line of the property it’s on. An ADU conversion of an *existing detached structure* is possible, provided that the setbacks of the existing structure do not change, and the structure meets all building and fire codes.

How tall can a detached ADU be?

A detached ADU may be as tall as any detached accessory structure. In most cases, the maximum height of an ADU is 24 feet. Structures with a height greater than 14 feet must be further set back. If someone converts an existing nonconforming structure into an ADU, they cannot increase the height of the existing structure.

What are the design standards? Where can windows and doors be located?

Our ADU regulations are designed to allow ADUs in a manner that is least impactful as possible to surrounding residents. Transparent windows, doors, exterior lights, and

balconies must face away from a neighboring residential property. In addition, ADUs are prohibited on slopes greater than 30%. Finally, ADUs are subject to the building envelope and lot coverage requirements in the City's Residential Compatibility Overlay Zone (RCOZ). While there are options for exceptions to RCOZ for primary dwellings, the new ADU ordinance does not allow exceptions to RCOZ to accommodate an ADU.

Where will everyone park?

All ADUs are required to have at least one off-street parking stall, and no ADU parking is allowed on the street. If someone wishes to convert their garage into an ADU, that is only possible if the lot can accommodate at least one additional parking space for the ADU, and they must replace their garage parking with at least one covered stall.

What about utilities?

Because ADUs are accessory to the main single-family homes, ADUs are not allowed to have separate utility meters. All utilities must be serviced from the main single-family home.

Do I have to live in the home I own in order to have an ADU on my property?

Yes. ADUs are only eligible on lots that have owner-occupied dwellings. Upon approval, the city will record a notice on the property title stating that the eligibility for an ADU is contingent upon owner occupancy.

Can I use an ADU as a short-term rental?

No. Short-term rentals in ADUs are prohibited. ADUs are designed to promote housing flexibility in Millcreek neighborhoods.

What are the permit and license requirements?

Any ADU will require a building permit. As part of a building permit, the City Engineer, a Planner, and the Fire Marshal will review the project for compliance with all applicable building, fire, zoning, and engineering requirements. Anyone who wishes to rent an ADU must also obtain a Millcreek Business License. If an existing building doesn't comply with current setback, height, or coverage requirements, an attached ADU or an ADU conversion may require a permit from the Land Use Hearing Officer.

From Hurricane City – ADU used as STR – Owner must live Onsite

- **CHAPTER 41. - ACCESSORY DWELLING UNITS**

- **Sec. 10-41-1. - Purpose.**

The purpose of this chapter is to establish use and development regulations for accessory dwelling units (ADU). These regulations are intended to ensure that limited use of ADUs allowed in a residential zone do not disturb the single-family residential character of a neighborhood.

(Ord. 2018-04, 4-5-2018; Ord. No. [2022-10](#), 5-19-2022; Ord. No. [2022-62](#), 2-16-2023)

- **Sec. 10-41-2. - Scope.**

The requirements of this chapter shall apply to all ADUs in single-family zones. Such requirements shall not be construed to prohibit or limit other applicable provisions of this title, this Code, and other laws.

(Ord. 2018-04, 4-5-2018; Ord. No. [2022-10](#), 5-19-2022; Ord. No. [2022-62](#), 2-16-2023)

- **Sec. 10-41-3. - Permitted use.**

Only one ADU is allowed as a permitted use as listed in [sections 10-13-3](#) and [10-14-3](#), except where a second ADU is allowed as a conditional use pursuant to chapter 7 of this title. ADUs shall be subject to the development standards of this chapter. Relevant definitions may be found in chapter 3 of this title.

(Ord. 2018-04, 4-5-2018; Ord. No. [2022-10](#), 5-19-2022; Ord. No. [2022-62](#), 2-16-2023)

- **Sec. 10-41-4. - Development standards; permitted use.**

The development standards set forth in this section shall apply to any ADU allowed as a permitted use.

A. Definition; setbacks and size. An ADU is an accessory use to the main residential dwelling unit. Setbacks and size and lot coverage limitations established for accessory buildings in each zone shall apply, except that an ADU shall meet the same setbacks for primary units on the street side yard.

B. Egress and life safety requirements. The dwelling unit must meet egress and life safety requirements of the International Residential Building Code.

C. Ownership. The owner or a member of the family of the property owner shall reside on the property as their primary residence as a condition for an ADU to be rented. For long-

term occupancy, the property owner may live in the ADU or the primary building. Only the ADU may be used as a short-term rental pursuant to [chapter 51](#) of this title.

D. *Limit*. Generally, only one ADU may be established on one residential property. However, two accessory dwelling units may be allowed by a conditional use permit pursuant to chapter 7 of this title.

E. *Entrance*. An ADU may have its own outside entrance.

F. *Landscaping*. Landscaping shall be provided and maintained to minimize impact on neighboring properties, to retain residential character, and to provide a visual buffer for onsite parking in relation to adjacent properties and the street. Landscaping may include, but shall not be limited to, planting trees in the park strip.

G. *Secondary use*. An ADU shall be clearly incidental and secondary to the primary use of the dwelling for residential purposes.

H. *Maximum size*. An ADU, if it is detached, must meet the size limitations for the zone or have been granted a conditional use permit.

I. *Residential hosting*. One ADU may be used per residential lot for residential hosting pursuant to [chapter 51](#) of this title.

(Ord. 2018-04, 4-5-2018; Ord. No. [2022-10](#), 5-19-2022; Ord. No. [2022-62](#), 2-16-2023)

- **Sec. 10-41-5. - Compliance with development standards.**

A. Residential properties with ADUs found to be in violation of the development standards set forth in [section 10-42-4](#) of this title shall be subject to all applicable remedies set forth in chapter 9 of this title to ensure compliance.

B. In order to ensure ADUs meet the development standards, a permit must be issued by the City for any use of the unit described in [section 3-9-2](#) or [chapter 51](#) of this title.

(Ord. 2018-04, 4-5-2018; Ord. No. [2022-10](#), 5-19-2022; Ord. No. [2022-62](#), 2-16-2023)

From Springdale – ADU’s for Housing Affordability – No STR’s

10-22-9: - ACCESSORY DWELLING UNITS:

A. *Accessory dwelling units defined*: An accessory dwelling unit (ADU) is a second dwelling unit on an owner-occupied single-family property that is clearly incidental and accessory to the primary structure on the property.

B. *Classes of ADUs:* ADUs can be either internal or external.

1. An internal ADU is a separate dwelling unit located entirely within the footprint of a single-family dwelling on a residentially zoned property. Internal ADUs must meet the standards in U.C.A. § 10-9a-530.
2. An external ADU is a dwelling in a separate structure on the same residentially zoned property as a single-family dwelling, and which is detached from the single-family dwelling.

C. *Allowed zones:*

1. Internal ADUs are allowed in all residential zones.
2. External ADUs are only allowed in the VR zone and VR subzones.

D. *General standards:* All ADUs must conform to the following standards:

1. The ADU must contain complete cooking and bathroom facilities that are separate from the facilities located in the main residence.
 - a. The cooking facility in the ADU must contain:
 - (1) A sink and water faucet,
 - (2) Capacity for food refrigeration, and
 - (3) A permanent, built-in stove top, range, or other similar device for cooking food.
 - b. The bathroom facility in the ADU must contain:
 - (1) A sink and water faucet,
 - (2) A toilet, and
 - (3) A shower or bathtub.
2. The owner of the property must occupy either the main residence or the ADU.
3. One off-street parking space must be provided for the ADU, in addition to parking required for the primary dwelling on the property.
4. ADUs must meet all applicable Fire and Building Codes.
5. The lot where the ADU is located must maintain the single-family appearance and character of the neighborhood. ADUs should be compatible in design and appearance with the main residence on the property.

6. Only one ADU per property is permitted.
7. The lot where the ADU is located must be at least 6,000 square feet in size.
8. ADUs shall not be used for transient lodging.
9. The total number of residents that reside in accessory dwelling unit may not exceed the number allowed for "family," as defined in section 10-2-2.
10. If a garage or carport is converted to an ADU, the property owner must replace any parking spaces contained in the garage or carport which are required by code with an equal number of parking spaces elsewhere on the property in a manner that complies with all land use standards.
11. An ADU shall not be permitted within a mobile home.
12. A property owner may not install power or culinary water utility meters that serve only the ADU. The ADU must be served by the same power and culinary water utility meters as the primary dwelling on the property.

E. Specific standards:

1. *Internal ADUs:* The following standards apply to internal ADUs only:
 - a. The ADU must be rented for periods of 30 consecutive days or more.
2. *External ADUs:* The following standards apply to external ADUs only:
 - a. The ADU must be rented for periods of 90 consecutive days or more.
 - b. The structure containing the ADU is limited to 1,500 square feet in area, measured in the same manner as any other structure in the residential zones.

F. Permit required: Prior to renting or offering to rent an ADU, a property owner must obtain an accessory dwelling unit permit from the Town.

1. The ADU permit is reviewed and approved by the DCD.
2. The DCD shall issue the ADU permit, only after finding all of the standards in this section and all other applicable land use standards have been met.
3. The Town shall record a notice of the permit with the Washington County Recorder, as detailed in U.C.A. § 10-9a-530(6).

G. In addition to other remedies available to the Town, the Town may hold a lien against a property that contains an ADU if the property owner violates any standards for operation of an ADU. The amount, notice, and procedure for the lien shall be in accordance with state law.

From Park City - ADU's for Housing Affordability – No STR's

Accessory dwelling units (ADUs) are permitted in most of Park City, Utah, as long as they meet certain regulations. ADUs can be attached to a single-family home or detached garage.

Size

- ADUs must be between 400 and 1,000 square feet
- ADUs cannot be larger than one-third of the main home's square footage

Bedrooms

- ADUs cannot have more than two bedrooms

Parking

- Each ADU bedroom requires one additional parking space

Number

- No more than four ADUs can be located within a 300-foot radius

Rental

- ADUs must be rented for more than 30 days

Property ownership

- The same person or entity must own the single-family dwelling and any detached ADU
- The single-family dwelling and ADU must share a water meter and sewer lateral

Nightly rentals

- Property owners of homes with ADUs must record a deed restriction with the county prohibiting nightly rentals