

Accessory Dwelling Unit Model Code

1. **Purpose.** Accessory dwelling units are allowed in certain situations to:
 - a. Create new housing units while respecting the look and scale of single-dwelling development;
 - b. Support more efficient use of existing housing stock and infrastructure;
 - c. Offer environmentally friendly housing choices with less average space per person and smaller associated carbon footprints;
 - d. Provide housing that responds to changing family needs, smaller households, and increasing housing costs; and
 - e. Provide accessible housing for seniors and persons with disabilities.

2. **Definition.** An accessory dwelling unit (ADU) is a smaller, secondary home on the same lot as a primary dwelling. ADUs are independently habitable and provide the basic requirements of shelter, heating, cooking, and sanitation. There are two types of ADUs:
 - a. Garden cottages are detached structures. Examples include converted garages or new construction.
 - b. Accessory suites are attached to or part of the primary dwelling. Examples include converted living space, attached garages, basements or attics; additions; or a combination thereof.

Comment: Alternative name possibilities are listed here.

3. **Eligibility.** An ADU may be added to a house on any residentially zoned lot.

Comment: Some codes restrict ADUs to certain zoning designations, lot sizes, and/or geographic areas within the jurisdiction. Such restrictions significantly constrain the number of eligible properties and suppress the number of ADUs that can (legally) get built under the code.

4. **Number.** One ADU is permitted per residentially zoned lot.

Comment: Vancouver, BC allows both a garden cottage and an accessory suite on a residentially zoned lot. This has not been tested to our knowledge in the US, but seems like a promising idea.

Possible additional language: "Where more than one house is allowed on a single lot through a planned development process at the same or similar density as would be allowed by subdivision, one ADU is permitted per house."

5. **Creation.** An ADU may be created through new construction, conversion of an existing structure, addition to an existing structure, or conversion of a qualifying existing house to a garden cottage while simultaneously constructing a new primary dwelling on the site.

Comment: It's not uncommon for jurisdictions to limit ADUs to certain types (ie. internal or detached) or to properties where the primary dwelling is of a certain age. Such restrictions constrain ADU development, since property-specific conditions (ie. existence of basement, size of lot) often limit the type of ADU that can be created.

6. **Density.** ADUs are exempt from the residential density standards of this code.
7. **Approval.** Applications for ADUs must meet the following criteria. Requests to adjust these standards are handled through a [] process.
- a. The applicant must demonstrate that the ADU complies with all development and design standards of this section.
 - b. The applicant must demonstrate that the proposed modifications comply with applicable building and fire safety codes

Comment: It's appropriate to require a land use process for adjustments to code standards. But when discretionary land use processes or conditional use permits are required for every ADU, this becomes a significant barrier to ADU development. Land use fees and process time, neighbor notification requirements, and approval unpredictability make an already expensive and challenging project even less accessible to owner-builders (see Martin Brown's post on barriers to ADU development). In practice, many prospective ADU builders never take the first step if the code doesn't support as-of-right development.

8. **Occupancy and Use.** Occupancy and use standards for an ADU shall be the same as those applicable to a primary dwelling on the same site.

Comment: ADU codes that place more restrictions on tenure (ownership vs. rental), short-term rental, affordability and/or home business than would apply to a primary dwelling on the same lot result in less ADU construction. Owner-occupancy requirements make properties with ADUs unsuitable for income-based valuation by appraisers, constraining their value and making them more difficult to finance. Affordable housing restrictions on ADUs sound appealing, except that deed restrictions and tenant income screenings are (unsurprisingly) obstacles for mom-and-pop landlords (fortunately, ADUs provide a surprising amount of market-based affordable housing without subsidy or use restriction). An in-depth discussion of how these restrictions limit ADU development is provided in ADUs and Don'ts.

9. **Design.** Design standards for ADUs are stated in this section. If not addressed in this section, base zone development standards apply.
- a. **All ADUs (accessory suites and garden cottages)** must meet the following requirements:
 - i. **Size.** An ADU may be no more than 800 square feet or the size of the primary dwelling, whichever is less.

Comment: In addition to a total size cap (typically 600sf - 1,000sf), some codes also cap ADUs to a certain percentage of the size of the primary dwelling. Note that such constraints effectively act as a small house penalty: limiting the size of ADUs on lots where the primary dwelling is already fairly small, but having no impact when the primary dwelling is big.

Possible additional language: "The size of a basement accessory suite occupying the entire footprint of a home built prior to ____ may be up to [1,000 - 1,200] square feet."

- ii. **Parking.** No additional parking is required for an ADU. Existing required parking for the primary dwelling must be maintained or replaced on-site.

Comment: Parking requirements for ADUs can significantly increase costs and remove lots from consideration where it is impractical to add a parking space. A major survey of Oregon ADUs revealed no evidence that ADUs contribute to neighborhood parking problems.

- b. **Accessory suites** must meet the following additional requirements:
 - i. **Location of entrances.** Only one entrance may be located on the facade of the primary dwelling facing the street, unless the primary dwelling contained additional entrances before the accessory suite was created. An exception to this regulation is entrances that do not have access from the ground such as entrances from balconies or decks.
 - ii. **Exterior stairs.** Fire escapes or exterior stairs for access to an upper level accessory suite shall not be located on the front of the primary dwelling.
- c. **Garden cottages** must meet the following additional requirements:
 - i. **Height.** The maximum height allowed for a garden cottage is the lesser of [20-25] feet or the height of the primary dwelling.

Comment: Definitions of height vary from code to code. If they go to the peak of the roof, consider a higher height limit. If they go to the average height of the roof, consider a lower height limit.

- ii. **Building setbacks.** Garden cottages must be located at least six feet behind the primary dwelling, unless the garden cottage is in an existing detached structure that does not meet this standard.
- iii. **Building coverage.** The building coverage of a garden cottage may not be larger than the building coverage of the primary dwelling.
- iv. **Yard setbacks.** No portion of an existing building that encroaches within a required yard setback may be converted to or used as a garden cottage unless the building complies with setback exemptions (ie. for garages, properties abutting alleys...) available elsewhere in the code.

Miscellaneous Topics

Design Compatibility

Some cities, including Seattle, WA, Vancouver, BC, and Eugene, OR, don't have any special requirements that ADUs match the exterior appearance of the primary dwelling. There's a good case for this, especially since ADUs represent a sizable investment and builders have plenty of market incentive to make them look appealing and appropriate for the neighborhood. Design compatibility requirements often single out ADUs while offering no such constraints on other types of accessory structures (ie. garages, art studios...). For these reasons, compatibility guidelines are not included in this model code.

However, since design compatibility requirements are quite common and sometimes help build public acceptance for ADUs, following is some implementing language that could be appended to Sections 9.b and 9.d:

(Add to Section 9.a. – All ADUs)

- iii. **Exterior finish materials.** Exterior finish materials must visually match in type, size and placement, the exterior finish materials of the primary dwelling.
- iv. **Roof pitch.** The roof pitch must be the same as the predominant roof pitch of the primary dwelling.
- v. **Windows.** If the street-facing façade of the ADU is visible from the street, its windows must match, in proportion and orientation, the windows of the primary dwelling.
- vi. **Eaves.** If the primary dwelling has eaves, the ADU must have eaves that project the same distance from the building. If the primary dwelling does not have eaves, no eaves are required for the ADU.

(Add to Section 9.c. – Garden cottages)

- v. **Exemptions.** Garden cottages are eligible for either of the following exemptions:
 - 1. **Design compatibility.** Exceptions to Sections 9.a.iii.-vi. are granted for garden cottages that:
 - a. Are under 500 square feet and under 18' average height, or
 - b. Meet Community Design Standards, defined elsewhere in the code.

Comment: These exceptions provide design latitude for smaller garden cottages and an alternative path in cases where the primary dwelling is ugly and/or out of character with neighboring homes.

- 2. **Alteration.** If a garden cottage is proposed for an existing detached accessory structure that does not meet one or more of the standards of Sections 9.a.iii.-vi., the structure is exempt from the standard(s) it does not meet. Alterations that would move the structure out of conformance with standards it does meet are not allowed. If any floor area is added to a detached accessory structure, the entire structure must meet the standards of Sections 9.a.iii.-vi.

Impact Fees

Although not typically included in zoning code language, the way building permits and impact fees (sometimes called 'system development charges') are calculated for ADUs can have a big effect on how many get built. This is especially true if such fees represent a significant percentage of the total project cost (particularly likely with relatively inexpensive ADU conversions). Finally, high fees can steer ADU development 'under the radar screen,' where there's no permitting or inspection at all – and a greater likelihood of dangerous life/safety conditions for residents.

It's common for jurisdictions to charge reduced impact fees for ADUs. Portland's decision in 2010 to waive impact fees on ADUs to meet public policy goals played a significant role in the subsequent increase in ADU development. Depending on municipal policy goals, there may well be a case for setting ADU fees below what would be charged for a standard single family home or dropping them altogether

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