



## ACCESSORY DWELLING UNITS: PERFORMANCE STANDARDS FOR ADMINISTRATIVE APPROVAL

The *Zoning Regulations* were amended on March 7, 2013 to allow an Accessory Dwelling Unit (ADU) in association with a Principal Dwelling Unit on the same lot or parcel in the rural and residential zoning districts of unincorporated Johnson County.

### **Administrative Review:**

ADUs may be allowed in all Rural, Planned Rural, Residential, and Planned Residential zoning districts on any lot, tract, or parcel where a single-family dwelling is allowed; subject, however, to the below referenced performance standards.

### **Performance Standards:**

#### **a. Owner Occupancy Required:**

- 1) The Property Owner shall occupy either the Principal Dwelling Unit or the ADU as their domicile, unless otherwise allowed by this section. The Property Owner shall submit proof of such domicile to the Zoning Administrator as evidenced by voter registration or other such means accepted by the Zoning Administrator.
- 2) Notice: The Property Owner shall record against the subject property a written notice with the Johnson County Department of Records and Tax Administration. The notice shall alert future owners or lessors of the subject lot, tract, or parcel of the limitations of Section 7(D) of this Article and that the lawful existence of the ADU is predicated upon the occupancy of either the ADU or the Principal Dwelling Unit by the current Property Owner as their domicile.
- 3) Waiver: The Zoning Administrator may waive the owner-occupancy requirement of Section 7(D)(2)(a)(1) of this Article for Property Owner absences of less than one (1) year that meet one of the following qualifying conditions:
  - a) the Property Owner requires off-premises care or treatment;
  - b) the subject property enters probate or has a decedent's estate matter requiring additional time to resolve; or
  - c) the Property Owner experiences an unforeseen life change such as a change of employment or transfer.

The waiver is subject to renewal by the Zoning Administrator on an annual basis if the above qualifying conditions continue to be met. However, more than one annual renewal will be reviewed with greater scrutiny in order to uphold the intent of these regulations that ADUs shall be owner occupied.

- 4) Definitions: For purposes of this section: a) "Property Owner" means the deed holder and/or contract purchaser of the lot, tract, or parcel; b) "domicile" means the place where a person resides and has their true fixed permanent home, and to which place they have, whenever they are absent, the intention of returning, and from which they have no present intent of moving; and c) "owner occupancy" means that a Property Owner, as reflected in the deed records, makes his/her legal domicile at the site.

- b. **Size of Lot, Tract or Parcel:** An ADU shall be located on a lot, tract, or parcel no smaller than two (2) acres in size.
- c. **Maximum Number:** There shall be no more than one ADU per lot, tract, or parcel.
- d. **Method of Establishment:** An ADU may be established through one of the following methods, among others:
  - 1) converting floor area within the existing Main Building to an ADU;
  - 2) adding floor area to the existing Main Building that is dedicated to an ADU;
  - 3) constructing a new Main Building in which a portion of the floor area is dedicated to an ADU;
  - 4) converting all or a portion of the floor area within an existing accessory structure to an ADU;
  - 5) adding floor area to an existing accessory structure that is dedicated to an ADU; or
  - 6) constructing a new accessory structure in which all or a portion of the floor area is dedicated to an ADU.

Nothing herein shall be construed, however, to alleviate the necessity of first obtaining county approval of the ADU.

- e. **Detached ADUs:** The structure occupied by a Detached ADU shall be considered a type of accessory structure and shall be constructed in accordance with all County building codes and in accordance with all applicable requirements of these regulations, unless otherwise allowed or restricted by this section. An ADU, however, may occupy an existing accessory structure, in whole or in part, that has been determined by the Zoning Administrator to be a legal nonconforming structure with respect to building height, setbacks, or the like, as long as construction of the ADU does not extend or increase such nonconformity and as long as the ADU meets all other requirements of this section and these regulations.
- f. **Attached ADUs:** The structure occupied by an Attached ADU shall be considered to be part of the Main Building and shall be constructed in accordance with all County building codes and in accordance with all applicable requirements of these regulations, unless otherwise allowed or restricted by this section. An ADU, however, may occupy a Main Building that has been determined by the Zoning Administrator to be a legal nonconforming structure with respect to building height, setbacks, or the like, as long as construction of the ADU does not extend or increase such nonconformity and as long as the ADU meets all other requirements of this section and these regulations.
- g. **Maximum Size:**
  - 1) Attached ADUs: The Livable Area of an Attached ADU shall not exceed 50 percent of the Livable Area of the Principal Dwelling Unit prior to the establishment of the ADU.
  - 2) Detached ADUs:
    - a) The Livable Area of a Detached ADU shall not exceed 900 square feet.
    - b) Detached ADUs shall meet and count towards the size and number limitations regarding accessory buildings and structures as set forth in Article 18, Section 6 (B) and (C) of these regulations.

**h. Height and Yard Requirements:**

- 1) Detached ADUs: Detached ADUs are considered by these regulations to be a type of accessory building and, therefore, shall be constructed in accordance with the applicable accessory building height and yard requirements.
  - a) Detached ADUs shall not be located in the Front Yard.
  - b) Detached ADUs shall be located a distance no greater than 200 feet from the Main Building.
- 2) Attached ADUs: Attached ADUs are considered by these regulations to be part of the Main Building, and, therefore, shall be constructed in accordance with the applicable main building height and yard requirements of the underlying zoning district.

**i. Supplementary and Accessory Uses and Accessory Structures:**

- 1) Supplementary and accessory uses and accessory structures are allowed on a lot, tract, or parcel containing an ADU if they are in accordance with the requirements of these regulations.
- 2) It is the intent of these regulations that the addition of an ADU shall not significantly increase the levels and intensities of accessory and supplementary uses on the property and that the Property Owner shall control the distribution of these accessory and supplemental uses and structures to ensure that they are in compliance with the requirements of these regulations.
- 3) The below referenced uses shall be allowed on a lot, tract, or parcel that also contains an ADU only in the following manner:
  - a) Home Occupations: Home occupations shall be allowed in the ADU or the Principal Dwelling Unit, or both, in accordance with Article 18, Section 5 of these regulations, provided that all home occupations located on the property shall jointly meet, and shall not jointly exceed, all restrictions and limitations as set forth in Section 5 of this Article.
  - b) Transient Uses: ADUs are intended for long-term use only. ADUs shall not be used as a Tourist Home including bed and breakfast purposes unless the ADU is authorized by the approval of an Accessory Dwelling Unit Permit (ADU Permit) in accordance with Section 7(D)(3) of this Article. Rental of an ADU for a period of less than 90 consecutive days is prohibited.

**j. Parking and Driveway Requirements:**

- 1) Parking Spaces: A minimum of one parking space shall be provided on the lot, tract, or parcel for an ADU. Principal Dwelling Unit parking shall be provided as required by the underlying zoning district.
- 2) Driveway Entrances: The ADU shall utilize existing driveway entrances unless a driveway entrance is approved by the County Engineer. To the greatest extent feasible, existing driveways and parking areas shall be utilized.
- 3) Fire Safety: All portions of a detached ADU shall be located a distance of no greater than 200 feet from a driveway that provides continuous access from the ADU to a driveway entrance approved by the County Engineer.

**k. Appearance Standards:**

- 1) The design of all ADUs shall uphold the single-family character of the property and the ADU shall be subordinate in size, location, and appearance to the Principal Dwelling Unit, unless otherwise allowed in this Section. The ADU shall be compatible in appearance with adjacent properties and the neighborhood.
- 2) When evaluating a proposed ADU, the appearance elements set forth in “a” thru “h”, below, should be considered by the Zoning Administrator, during review of an ADU Certificate application, to ensure that the ADU will be compatible with and have minimal, if any, impact on adjoining properties and the neighborhood’s character and to ensure that the other appearance standards set forth in Section 7(D)(2)(k)(1) of this Article have been met. The Appearance Elements shall be used as a non-exclusive indicator of whether the requirements of the Appearance Standards of this section have been satisfied. It is not intended that the Appearance Elements shall be utilized on a purely mathematical basis, by adding up the eight elements’ pros and cons. Rather, the significance of individual elements may vary when applied to different applications, and the Zoning Administrator shall conduct a weighing and balancing of the elements, and may assign more significant weight to some elements rather than to others, as deemed appropriate under the facts of each particular situation. Further, the Zoning Administrator may also utilize other factors deemed relevant, in addition to the Appearance Elements, to assist in such person’s review and determination.
  - a) Height and Bulk: What is the predominate height of homes and accessory buildings in the neighborhood (e.g., one or two stories)? How does the height of the ADU compare with the height of the Principal Dwelling Unit? Does the ADU have a larger bulk or greater height than the Principal Dwelling Unit?
  - b) Setbacks and Separation: Are homes set back the same distance from the street or are they staggered? Is there a typical or established house and lot pattern? Is there a typically wide or narrow space between homes?
  - c) Exterior Color and Materials: Is there one material or color that is predominantly used for homes in the neighborhood? How does the materials and colors of the ADU compare with the Principal Dwelling Unit. Do they match or harmonize? Are they contrasting?
  - d) Roofs: What do most of the roofs in the neighborhood look like (e.g., materials, color, or pitch)? How does the roof of the ADU compare with the roof of the Principal Dwelling Unit? What architectural details are found on the Principal Dwelling Unit (e.g., dormers, overhangs, and eaves)? Does the ADU have the same detailing?
  - e) Entryways: Is the entryway to the ADU oriented away from the main street? Is the ADU entryway on a different façade or building plane than the Principal Dwelling Unit entryway? Is the ADU entryway smaller with less architectural detailing (e.g., porches, arches, columns, or overhangs) than the Principal Dwelling Unit entryway?
  - f) Accessory Buildings: Where do most of the homes have their garages (e.g., attached, detached, or in the front, back, or side of the house)? Do lots typically have only one structure or several (e.g., sheds, garages, pools, or barns)? Are the accessory structures decorative or utilitarian (e.g., gazebo versus barn)? Does the design (e.g., color, exterior materials, and roof pitch) of the accessory structures typically match the design of the homes?

- g) Location and Orientation of Improvements: Where is the best ADU location to minimize impacts, including privacy on adjoining properties (e.g., views from windows)? Are exterior doorways and outdoor living areas such as porches or balconies oriented toward the interior of the property? Are exterior improvements (e.g., patios, pools, and gazebos) associated with the ADU located to minimize impacts and maintain the privacy of neighboring residences?
  - h) Landscaping and Screening: Is landscaping, fencing, or a combination of both typically used to define lot lines and separate homes? Are front yards well-landscaped or is the most prominent feature a paved parking area? Is there heavy or light vegetation in the back yard areas (e.g., trees or hedges)? Is the ADU screened with fencing, landscaping, open space separation, or other buildings or structures in a manner that maintains the privacy of adjacent parcels and reduces visual impacts on neighboring parcels?
- I. Variances and Existing Conditional Use Permits:**
- 1) If the construction of the Main Building or ADU requires or required approval of a variance from the height, yard, or the like, requirements of these regulations, then an ADU shall only be allowed if authorized by the approval of an Accessory Dwelling Unit Permit (ADU Permit) as provided in Section 7(D)(3) of this Article.
  - 2) If there is a conditional use permit (CUP) in effect that includes the subject property, then an ADU shall only be allowed if authorized by the approval of an Accessory Dwelling Unit Permit (ADU Permit) as provided in Section 7(D)(3) of this Article.
- m. Other Regulations and Codes:** The ADU and all modifications to the Main Building shall be constructed in accordance with any and all applicable governmental codes and regulations, including but not limited to the County environmental, building, and fire codes.

**NOTE: The preceding standards apply to administratively approved ADUs but can also be used for the review of ADU Permits.**