

**PLANNING AND ZONING COMMISSION ACTION ITEM
STAFF SUMMARY
APRIL 6, 2022 PLANNING AND ZONING COMMISSION MEETING**

DATE: April 6, 2022

AGENDA ITEM NUMBER: 4

ACTION TO BE CONSIDERED:

Consideration of Resolution No. PZ 01-22, Series of 2022.

A RESOLUTION RECOMMENDING AMENDMENTS TO THE ACCESSORY DWELLING UNIT PROVISIONS OF THE DILLON MUNICIPAL CODE.

(PUBLIC HEARING)

SUMMARY:

The Town Council is considering the establishment of an incentives program (“Incentives Program”), to encourage occupancy of Accessory Dwelling Units (“ADUs”) by members of the local workforce. If adopted by the Town Council, the Incentives Program would authorize the Town’s payment or reimbursement of water and sewer connection fees paid or due in connection with the establishment of a lawful ADU, upon the property owner’s execution and recording of a deed restriction requiring the ADU to be rented to and occupied by members of the local workforce in perpetuity (“Deed Restriction”).

There has been prepared a draft ordinance to amend the regulations for ADUs contained in Article IV of Chapter 16 of the Dillon Municipal Code (the “Code”), attached to the resolution as Exhibit A, in order to accommodate the Incentives Program, including the creation of an exception to the six (6) month minimum length of ADU lease requirement. The draft ordinance would also amend the ADU provisions of Article IV of Chapter 16 to clarify that two (2) kitchens are not permitted in any dwelling unit not containing a lawful ADU.

Discussion Item:

The Commission is asked to consider if amending the Code further as it relates to detached ADU’s not above garages should be consider. The most recent ADU Code amendment allows for a “cottage” style ADU with the following provisions:

“(6) If the accessory dwelling unit is proposed for construction in an accessory structure other than a freestanding or attached garage, satisfactory proof that the accessory structure will be:

- a. Affixed to a permanent foundation;
- b. No greater than six hundred (600) square feet in size; and
- c. Set back at least thirty (30) feet from all lot lines.”

(Sec. 16-4-40. - Application requirements for accessory dwelling units.

https://library.municode.com/co/dillon/codes/municipal_code?nodeId=DIMUCO_CH16ZO_ARTIVSUZOPR_DIV1MI_S16-4-40APREACDWUN)

Staff has received some feedback on the 600 square foot limitation with the feeling the size limitation restricts such cottages too small causing them to be impractical to construct.

Does the Commission desire to consider recommending a larger sized cottage unit? If such a recommendation is desired, the Commission could move to approve the Resolution with a proposed new condition of approval.

BUDGET IMPACT: To Be Determined

STAFF RECOMMENDATION: Town staff recommends approval of Resolution PZ 01-22, Series of 2022.

MOTION FOR APPROVAL:

I move we approve Resolution PZ No. 01-22, Series of 2022.

ACTION REQUESTED: Motion or Motion to Approve as Amended, Second, Roll Call Vote. Resolutions require the affirmative vote of a majority of the members present.

DEPARTMENT HEAD RESPONSIBLE: Ned West, Sr. Town Planner

RESOLUTION NO. PZ 01-22
Series of 2022

**A RESOLUTION RECOMMENDING AMENDMENTS TO THE
ACCESSORY DWELLING UNIT PROVISIONS OF THE DILLON
MUNICIPAL CODE.**

WHEREAS, the Town and Summit County at large are experiencing a severe shortage of housing for the local workforce at all income levels; and

WHEREAS, the Town Council is considering the establishment of an incentives program (“Incentives Program”), to encourage occupancy of Accessory Dwelling Units (“ADUs”) by members of the local workforce; and

WHEREAS, if adopted by the Town Council, the Incentives Program would authorize the Town’s payment or reimbursement of water and sewer connection fees paid or due in connection with the establishment of a lawful ADU, upon the property owner’s execution and recording of a deed restriction requiring the ADU to be rented to and occupied by members of the local workforce in perpetuity (“Deed Restriction”); and

WHEREAS, there has been prepared a draft ordinance to amend the regulations for ADUs contained in Article IV of Chapter 16 of the Dillon Municipal Code (the “Code”) in order to accommodate the Incentives Program, including the creation of an exception to the six (6) month minimum length of ADU lease requirement; and

WHEREAS, the draft ordinance would also amend the ADU provisions of Article IV of Chapter 16 to clarify that two (2) kitchens are not permitted in any dwelling unit not containing a lawful ADU; and

WHEREAS, pursuant to Section 16-1-60 of the Code, the Planning and Zoning Commission of the Town of Dillon (the “Planning Commission”) has reviewed the draft ordinance, and held a duly-noticed public hearing thereon, at which hearing evidence and testimony were entered into the record; and

WHEREAS, based on the evidence, testimony, and documents made part of the record of the public hearing, the Planning Commission recommends the Town Council adopt the draft ordinance to amend the regulations ADUs contained in Article IV of Chapter 16 of the Dillon Municipal Code.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING
COMMISSION OF THE TOWN OF DILLON, COLORADO, AS FOLLOWS:**

Section 1. Pursuant to Section 16-1-60 of the Dillon Municipal Code, the Planning Commission hereby recommends that the Town Council adopt the ordinance to amend the regulations for Accessory Dwelling Units contained in Article IV of Chapter 16 of the Dillon Municipal Code attached hereto as Exhibit A.

APPROVED AND ADOPTED THIS 6TH DAY OF APRIL, 2022, BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO.

**PLANNING AND ZONING COMMISSION,
TOWN OF DILLON**

By: _____
Alison Johnston, Chairperson

ATTEST:

Michelle Haynes, Secretary to the Commission

EXHIBIT A

ORDINANCE NO. ___-22
Series of 2022

**AN ORDINANCE AMENDING CHAPTERS 13 AND 16 OF THE DILLON
MUNICIPAL CODE REGARDING ACCESSORY DWELLING UNITS**

WHEREAS, the Town and Summit County at large are experiencing a severe shortage of housing for the local workforce at all income levels; and

WHEREAS, by Resolution No. ___-22, Series 2022, the Town Council adopted an incentives program to encourage occupancy of Accessory Dwelling Units (“ADUs”) by members of the local workforce (the “Incentives Program”); and

WHEREAS, the Incentives Program authorizes the Town’s payment or reimbursement of water and sewer connection fees paid or due in connection with the establishment of a lawful ADU, upon the property owner’s execution and recording of a deed restriction requiring the ADU to be rented to and occupied by members of the local workforce in perpetuity (“Deed Restriction”); and

WHEREAS, the Town Council now desires to amend the Chapters 13 and 16 of the Dillon Municipal Code to accommodate the Incentives Program, including the creation of an exception to the six (6) month minimum length of ADU lease requirement, and the clarification of water and sewer connection fees and monthly charges applicable to ADUs; and

WHEREAS, the Town Council further desires to amend the ADU provisions of Article IV of Chapter 16 to clarify that two (2) kitchens are not permitted in any dwelling unit not containing a lawful ADU; and

WHEREAS, the Planning and Zoning Commission studied a draft of this Ordinance in a public hearing at its regular meeting on April 6, 2022, at which public hearing evidence and testimony were received, and after such public hearing recommended that the Town Council adopt the same by Resolution No. PZ 01-22, Series of 2022; and

WHEREAS, the Town Council held a public hearing on this Ordinance on _____, at which evidence and testimony were received, and after such public hearing finds that the Ordinance should be adopted.

NOW, THEREFORE, BE IT ORDAINED, BY THE TOWN COUNCIL OF THE TOWN OF DILLON, COLORADO, AS FOLLOWS:

Section 1. Section 16-4-35 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 16-4-35. Accessory dwelling units.

(a) No person shall construct, operate, or hold out for rent an accessory dwelling unit in, or on a lot containing, a townhouse or multi-family dwelling, structure, or complex.

(b) Except as provided in Subsection (d), no person shall construct, operate, or hold out for rent an additional accessory dwelling unit in any primary dwelling unit, or on any lot, already containing an accessory dwelling unit.

(c) No person shall construct, operate, or hold out for rent an accessory dwelling unit in a single-family dwelling without first complying with the applicable requirements of Sections 16-4-40 and 16-4-45.

(d) No person shall construct, operate, or hold out for rent an accessory dwelling unit in a primary dwelling unit of a duplex without first complying with the applicable requirements of Sections 16-4-40 and 16-4-45.

(e) No person shall construct, operate, or hold out for rent an accessory dwelling unit above a freestanding or attached garage on a lot containing a single-family dwelling or duplex, without first complying with the applicable requirements of Sections 16-4-40 and 16-4-45.

(f) No person shall construct, operate, or hold out for rent an accessory dwelling unit in an accessory structure other than a freestanding or attached garage, unless such person first complies with the applicable requirements of Sections 16-4-40 and 16-4-45.

(g) No person shall construct, operate, or hold out for rent an accessory dwelling unit in any structure not affixed to a permanent foundation meeting the requirements of the building code. This prohibition includes, without limitation, tough sheds, storage sheds, and recreational vehicles.

(h) No person shall construct, operate, or hold out for rent an accessory dwelling unit on any lot zoned Commercial (C), Core Area (CA), Mixed Use (MU), Residential High Density (RH), Parks and Open Space (POS), or Urban Reserve (UR).

(i) Nothing in this Section shall prohibit a property owner from offering a room for rent in a residential structure; provided that, such room for rent shall not be locked off from the remainder of the residential structure, or contain kitchen facilities, ~~not shared with the remainder of the residential structure.~~

Section 2. Section 16-4-45 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 16-4-45. Accessory dwelling unit review criteria; post approval requirements.

(a) The Development Review Committee reviewing the Level II Development Permit application shall deny an application for a proposed accessory dwelling unit under the following circumstances:

(1) The proposed accessory dwelling unit is prohibited under Section 16-4-35;

(2) Failure of the property owner to receive written consent from the jurisdictional owners' association, if applicable;

(3) For accessory dwelling units proposed for a primary dwelling unit of a duplex, failure of the property owner to receive consent of the party wall neighbor;

(4) For accessory dwelling units within a single-family dwelling unit or primary dwelling unit of a duplex, the habitable portion of the proposed accessory dwelling unit exceeds one-third (1/3) the size of the heated living area of the applicable primary dwelling unit;

(5) For an accessory dwelling unit proposed for construction in an accessory structure other than a freestanding or attached garage, failure to provide satisfactory proof that the accessory structure will be (1) affixed to a permanent foundation meeting the requirements of the building code, (2) no greater than six hundred (600) square feet in size, and (3) set back at least thirty (30) feet from all lot lines;

(6) The proposed design is incompatible with the neighborhood and the principal structure; and

(7) The application fails to provide for two (2) additional parking spaces with sufficient snow storage.

(b) If the proposed accessory dwelling unit is approved by the Development Review Committee ~~Planning Commission~~ in accordance with subsection (a), then prior to certificate of occupancy for the accessory dwelling unit, and before the accessory dwelling unit may be offered for rent, the property owner shall:

(1) Pay all required water and sewer tap fees required pursuant to Chapter 13 of this Code; provided that, if the accessory dwelling unit is proposed for incorporation into a structure that has not yet been constructed, the Town Manager in the Town Manager's sole discretion may require water and

sewer tap fees ~~to shall~~ be paid prior to issuance of a building permit for the new structure;

(2) Pass a final inspection by the building department to ensure the accessory dwelling unit meets all applicable building and fire code requirements;

(3) Enter into a restrictive covenant with the Town that, when recorded, will prevent the accessory dwelling unit from being subdivided or sold separately from the lot or the primary dwelling unit;

(4) Enter into a deed restriction with the Town that, when recorded, will prevent the accessory dwelling unit from being utilized as a for short-term rental, meaning the unit may not be rented for periods of fewer than six (6) months; provided, however, that the Town Manager in the Town Manager's sole discretion may waive the minimum lease length requirement for good cause shown, which may include without limitation leases to traveling nurses, project contractors, and seasonal workers, so long as the occupant will work at a business located in Summit County an average of at least thirty (30) hours per week during the term of the occupant's lease; and

(5) If the accessory dwelling unit is proposed for construction in an accessory structure other than an existing freestanding or attached garage, provide an Improvement Location Certificate so that the Town may confirm compliance with the setback provisions of this Article.

(c) The property owner shall submit a copy of the certificate of occupancy for the accessory dwelling unit to the Town Planner within thirty (30) days of the owner's receipt of the same.

Section 3. Section 16-4-48 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 16-4-48. - Accessory dwelling unit enforcement provisions.

(a) The Town Manager is authorized to order an inspection by the Building Official of any premises on which the Town Manager has reasonable cause to believe that any person has constructed, is operating, or holding out for rent an accessory dwelling unit in violation of this Article.

(b) If the Town Manager orders an inspection in accordance with Subsection (a), the owner of the premises shall allow the Building Official entry to the premises during business hours upon reasonable notice of the inspection. If the Building Official is denied entry, or if the owner is not present for the inspection so as to grant the Building Official entry, the Building Official shall have all remedies at law to gain entry to the premises.

(c) The Building Official shall inspect the premises for building, fire, and life safety issues; and for any fixtures, improvements, or personal property relevant to whether the owner has constructed, is operating, or holding out for rent an accessory dwelling unit in violation of this Article. The Building Official shall prepare an inspection report for evaluation by the Town Manager.

(d) Upon receipt of the inspection report, the Town Manager shall determine, based on the totality of the circumstances, whether there exists on the subject premises an accessory dwelling unit in violation of this Article. In coming to such determination, the Town Manager shall consider all information relevant to whether a portion of the premises is designed to be used as a complete dwelling unit, independent from the primary unit, with permanent provisions within the unit for cooking, eating, sanitation, and sleeping. ~~the following factors:~~

~~(1) Whether there exists on the premises a second kitchen facilities not shared with the primary unit; and~~

~~(2) Any other information relevant to whether a portion of the premises is designed to be used as a complete dwelling unit, independent from the primary unit, with permanent provisions within the unit for cooking, eating, sanitation, and sleeping.~~

(e) Subsection (d) notwithstanding, a premises without a Town-approved ADU shall be considered in violation this Article if two (2) kitchens are discovered on such premises. For purposes of this Section, “kitchen” means a distinct area containing kitchen facilities.

~~(f)~~ (e) The Town Manager shall promptly provide the property owner with written notice of the Town Manager's determination. If the Town Manager determines the property owner has constructed, is operating, or holding out for rent an accessory dwelling unit in violation of this Article, then the written notice shall include:

(1) The violation or violations applicable to the premises and property owner;

(2) An order that the violation or violations must be remedied within a reasonable amount of time;

(3) Information regarding how the violation or violations may be remedied for Code compliance;

(4) The enforcement action the Town plans to take if the violation or violations are not remedied within the time specified; and

(5) The property owner's right to appeal the Town Manager's determination that the property owner has constructed, is operating, or holding out for rent an accessory dwelling unit in violation of this Article.

(g) The property owner in receipt of the Town Manager's written notice may appeal the Town Manager's determination to the Planning Commission pursuant to Section 16-1-130 of this Code. Failure of the property owner to comply with the requirements of Section 16-1-130 within ten (10) days of the date of the written notice shall constitute a waiver of the property owner's right to appeal the Town Manager's determination, and the Town Manger's determination and pursuant orders shall be deemed final.

(h) (f) Failure of any person to comply with a final order of the Town Manager pursuant to this Section shall constitute a violation of this Code punishable under the general penalty provisions of Chapter 1, Article IV. In addition, the Town Manager shall have all remedies in this Code, at law, and in equity to enforce Section 16-4-35 through Section 16-4-48 of this Article.

Section 4. The following entries of Table 13.2 of Section 13-2-70 of the Dillon Municipal Code are hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

1. Single-Family Residential Units	
Single-family homes, each unit of a duplex dwelling, townhouse or similar type multi-family units with individual services, individually billed mobile homes, mobile homes on a single lot and mobile homes established as permanent residences. Each single-family residence shall not have more than 3 bedrooms or 3 baths. NOTE: Occupation of the dwelling or a portion of the dwelling by more than 1 <u>single independent housekeeping unit</u> family is not included in the base EQR value. <u>Accessory Dwelling Units and Additional apartments</u> or rental rooms are not included in the base EQR value.	1.00
Add for each additional bedroom over 3, per bedroom.	0.1
Add for each additional bathroom over 3, per bathroom.	0.1
2. Multi-Family Residential Units	
Apartments, condominiums, townhouses with a common sewer service and similar dwellings in the same complex, <u>accessory dwelling units on property zoned Residential Low Density (RL) or Residential Medium Density (RM)</u> , additional apartments in single family units and small cabins in courts not associated with motels. NOTE: Only 1 kitchen is permitted per unit. A kitchen is defined as any area having facilities for cooking and associated dishwashing facilities. Includes common laundry facilities or individual laundry hookups. Swimming pools and hot tubs are additive in accordance with Classification D.1. Common clubhouse facilities are additive in accordance with Classification A.2.f. A bath is defined as any area having a toilet.	

Section 5. The following entries of Table 13.3 of Section 13-3-140 of the Dillon Municipal Code are hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

1. Single-Family Residential Units	
Single-family homes, each unit of a duplex dwelling, townhouse or similar type multi-family units with individual services, individually billed mobile homes, mobile homes on a single lot and mobile homes established as permanent residences. Each single-family residence shall not have more than 3 bedrooms or 3 baths. NOTE: Occupation of the dwelling or a portion of the dwelling by more than 1 <u>single independent housekeeping unit</u> family is not included in the base EQR value. <u>Accessory dwelling units and</u> Additional apartments or rental rooms are not included in the base EQR value.	1.00
Add for each additional bedroom over 3, per bedroom.	0.1
Add for each additional bathroom over 3, per bathroom.	0.1
2. Multi-Family Residential Units	
Apartments, condominiums, townhouses with a common sewer service and similar dwellings in the same complex, <u>accessory dwelling units on property zoned Residential Low Density (RL) or Residential Medium Density (RM)</u> , additional apartments in single family units and small cabins in courts not associated with motels. NOTE: Only 1 kitchen is permitted per unit. A kitchen is defined as any area having facilities for cooking and associated dishwashing facilities. Includes common laundry facilities or individual laundry hookups. Swimming pools and hot tubs are additive in accordance with Classification D.1. Common clubhouse facilities are additive in accordance with Classification A.2.f. A bath is defined as any area having a toilet.	

Section 6. Severance Clause. If an article, section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts may be declared invalid or unconstitutional.

Section 7. Repeal. All other ordinances, or parts of any ordinances or other Code provisions in conflict herewith are hereby repealed.

Section 8. The repeal or modification of any provision of any prior ordinance by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 9. Effective Date. This Ordinance shall take effect five days after publication following final passage.

**INTRODUCED, READ AND ORDERED PUBLISHED BY TITLE ONLY THIS
____ DAY OF _____, 2022.**

**PASSED, ADOPTED AND APPROVED AND ORDERED PUBLISHED BY TITLE
ONLY THIS ____ DAY OF _____, 2022.**

TOWN OF DILLON,
a Colorado municipal corporation

By: _____
Carolyn Skowyra, Mayor

ATTEST:

Adrienne Stuckey, Town Clerk