

Boulder moves forward with looser ADU rules tied to rent restrictions

Parking reductions, bigger sizes allowed in exchange for affordability

City Council voted unanimously late Wednesday night to move forward with new rules for accessory dwelling units in Boulder that will allow less parking and bigger structures in exchange for limited rent, in an attempt to provide housing for the city's middle-income earners.

Most of the 11 regulation changes — including expanding occupancy and allowing ADUs in more zones — will apply to either market-rate or rent-restricted units. But key changes in parking requirements and size will only apply to affordable dwellings.

The compromise comes from a proposal by councilmen Sam Weaver and Bob Yates advancing the [arguments of community members](#) that the hoped-for proliferation of ADUs [should provide affordable housing](#). Capping rents provides much-needed middle-income housing, Weaver said. "It keeps it in the target range of the people we claim to be trying to serve."

Limits will be lifted from the city's table for maximum affordable rents, with the target set at rents theoretically affordable to those earning 75 percent of area median income. The rents change each year, based on federal calculations. In 2018, a 75 percent AMI rent for a one-bedroom is \$1,528.

Although rents will be capped, there is no requirement for income verification. Anyone can rent the cheaper ADUs, regardless of how much they make. Councilwomen Jill Adler Grano and Mirabai Nagle argued that essentially negates any affordability.

"I get the intent," Grano said, "but it's not meeting the target audience, so I don't think it's helping affordability in any meaningful way. So why are we doing it?"

Grano argued, as have ADU advocates, that the structures, by way of their smaller size, are naturally more affordable. The median rent for an ADU in Boulder is \$1,350, below the proposed affordable threshold, and 75 percent of ADU tenants earn below \$80,000 per year.

The purpose of the limits is to preserve that affordability, councilmember Yates countered. "ADUs are affordable now," he said. "What we're trying to do is ensure they are affordable in the future."

Landlords found to be leasing affordable ADUs above the allowed rent will face steep penalties. They will be forced to repay tenants, with interest, the amount they overcharged, and then match that with a fine to the city, directed to the affordable housing fund.

It will be up to property owners which type of ADU to have: market-rate (Type 1) or rent-limited (Type 2). ADUs can be converted to the other type at any time, but if affordable ADUs are changed to market-rate, they will have to comply with Type 1 requirements by adding a parking spot and walling off the extra square footage allowed to affordable ADUs.

Under the new rules, all detached ADUs get a size bump. Currently limited to 450 square feet, council agreed to bump that to 550 square foot, about the size of the average garage, to allow above-garage units. Those owners that choose to rent-limit their exterior ADUs can go up to 800 square feet.

Interior ADUs, such as those in basements or attics, are now limited to the lesser of one-third the size of the total house or 1,000 square feet. Those limits will remain for non-affordable ADUs, while rent-capped ones will be allowed to take up half the size of the principal dwelling or 1,000 square feet, whichever is less.

No new ADUs will be allowed as short-term rentals, though owners currently using them as such will be able to continue doing so. Also gone is a five-year waiting period for newly built homes before an ADU can be licensed. Critics worried that removing the rule would encourage speculative development.

Some council members contended that would be OK. "I'd rather have a smaller main house and an ADU," said Mayor Suzanne Jones, even if the motive is profit, because that way "we get more housing."

A six-month amnesty period will allow illegal ADUs to apply for licenses without incurring a penalty. After that, permit fees will double and then possibly triple. Other considerations were given, too, including variances for landmarked homes. Council member Lisa Morzel also suggested that a process be created to allow ADU owners to sell them to their renters.

The changes will go to a third reading and possibly a fourth because of all the conditions proposed by council, at the suggestion of City Attorney Tom Carr. Subsequent considerations have not been scheduled.

It remains to be seen how community members will feel about the changes. Many ADU advocates said [affordability restrictions](#) would prevent them from creating ADUs; similar measures in other cities have not encouraged development, though Boulder's are structured differently.

City staff predicted that a total and complete loosening of regulations, without an affordability component, [would result in an additional 381 ADUs](#). There are currently 231 in the city, less than half of 1 percent of all housing.

"No compromise is 100 percent what people want," said councilman Weaver. "But (this) is a huge step" toward creating more housing.

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