

ORDINANCE NO. 2017-032

AN ORDINANCE AMENDING TITLE 17 OF THE CASTLE ROCK MUNICIPAL CODE BY ADDING A NEW CHAPTER 17.61 CONCERNING ACCESSORY DWELLING UNITS

WHEREAS, the Town of Castle Rock is a home rule municipal corporation and is empowered to adopt ordinances as are necessary and convenient to protect the health, safety and welfare of the community, and

WHEREAS, the Town has received requests to allow accessory dwelling units within the Town, which are currently prohibited under the Castle Rock Municipal Code, and

WHEREAS, the Town's Comprehensive Master Plan encourages a variety of housing types, including mixes of styles, density and compatible design to satisfy a wide range of needs for creation of more housing choices, and

WHEREAS, the Planning Commission and Town Council have conducted the required public hearings in accordance with the applicable provisions of the Town of Castle Rock Municipal Code.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO:

Section 1. Amendment. Title 17 of the Castle Rock Municipal Code is amended to add a new Chapter 17.61 Accessory Dwelling Units, to read as follows:

**Chapter 17.61
Accessory Dwelling Units**

17.61.010	Title and citation
17.61.020	Purpose and intent
17.61.030	Definitions
17.61.040	Applicability and compliance
17.61.050	Regulations and restrictions
17.61.060	Non-conforming accessory dwelling units
17.61.070	Violations; penalties
17.61.010	Title and citation.

This Chapter may be cited as the "Accessory Dwelling Unit Regulations."

17.61.020 Purpose and intent.

A. The intent of permitting accessory dwelling units is to provide (i) alternative housing options to make more efficient use of existing housing stock and infrastructure, (ii) flexible use of space for property owners, and (iii) a mix of housing type that responds to changing family dynamics. Because accessory dwelling units do not require additional land, they can be incorporated into established neighborhoods more easily than other forms of housing.

B. Irrespective of any provision in this Chapter, to the extent any PD zoning regulations expressly preempt any conflicting Town regulations, the provisions of the PD zoning regulations shall govern and control.

17.61.030 Definitions.

As used in this Chapter, the following terms shall have the indicated meanings:

Accessory Dwelling Unit (ADU) means a dwelling unit that is (i) located within an existing Primary Dwelling Unit, inclusive of an attached garage, or (ii) ~~a new addition~~ new structure added to the Primary Dwelling Unit, or (iii) a detached structure on the same lot or tract as the Primary Dwelling Unit.

Code means the Castle Rock Municipal Code.

Director means the Director of Development Services, or his or her designee.

Primary Dwelling Unit means a separate dwelling unit that is the larger of the dwelling units on a lot or tract that contains an Accessory Dwelling Unit.

17.61.040 Applicability and compliance

A. Accessory Dwelling Units must comply with all provisions of this Chapter 17.61 and any applicable PD zoning regulations. In the event of a conflict between this Chapter and the PD zoning regulations, the more restrictive provision(s) shall apply, except ~~as allowed in~~ as provided in 17.61.050.B.8 as to the size of an ADU.

B. Accessory Dwelling Units are prohibited in ~~will be allowed in all residential zoned properties except~~ (i) properties zoned Mobile Home–MH, (ii) any residentially zoned property that contains an existing/proposed duplex, triplex, condo, townhouse, or multifamily units, ~~and~~ or (iii) where expressly prohibited in PD zoning regulations.

C. Accessory Dwelling Units may be allowed in all residential zone districts upon approval of a Use By Special Review (“UBSR”) in accordance with 17.38.050. However, no UBSR is required if the ADU is within an existing structure and no additional square footage is added to the structure to establish the ADU.

17.61.050 Regulation and restrictions.

A. A building permit meeting all Town regulations must be obtained for all Accessory Dwelling Units.

B. The Town may issue a building permit authorizing the construction and use of an Accessory Dwelling Unit, provided the following conditions apply:

1. Number. No more than one (1) ADU may be created or maintained on a single lot or tract.

2. Owner Occupancy.

a. The property owner, as evidenced in the Douglas County public records, must occupy either the Primary Dwelling Unit or the Accessory Dwelling Unit, or both.

b. In the event the property is not owned by a natural person(s), then an individual with ownership or direct interest in the entity, as demonstrated to the Director, may be considered a property owner.

c. The Director may waive this Owner Occupancy requirement for temporary absences of less than one (1) year provided that the owner has maintained the permitted use for a minimum of two years and submits proof of temporary absence.

3. Dual Rental Prohibited. At no time may both the Primary Dwelling Unit and Accessory Dwelling Unit be renter occupied. Prior to issuance of a building permit for an ADU, the property owner shall record a deed restriction, in a form acceptable to the Director, prohibiting the concurrent renting of both the Primary Dwelling Unit and the Accessory Dwelling Unit.

4. Subdivision. Accessory Dwelling Units may not be subdivided or otherwise conveyed into separate ownership from the Primary Dwelling Unit on the lot or tract.

5. Utilities.

a. No separate water or sewer taps will be allowed for the ADU.

b. All billing for water, sewer and storm water services will be billed to the Primary Dwelling Unit account holder. As a condition to issuance of a building permit, the account holder shall certify to the Town that they will be responsible for all utility charges incurred by the ADU.

c. Should an ADU require the enlargement of the Primary Dwelling Unit's existing water tap, the applicant shall pay the incremental System Development Fees

(as set forth in Chapter 13.12 of the Code) based on the new tap size, together with any connection fees.

6. HOA Compliance. It shall be the obligation of the property owner to obtain compliance with any homeowner association requirements for the ADU. The Town will not independently verify such compliance.

7. Design. An ADU shall be designed to maintain the architectural design, style, appearance and character of the Primary Dwelling Unit, and must be consistent with the existing façade, roof pitch, siding, eaves, window treatment and color of the Primary Dwelling Unit. The ADU shall be permanently affixed to an engineered foundation. All district zoning regulations applicable to the construction and placement of structures shall apply to ADUs.

8. Size. The floor area of an ADU located interior to the Primary Dwelling Unit shall not exceed 50% of Primary Dwelling Unit. The interior floor area of a detached ADU or a new ADU addition to the Primary Dwelling Unit shall not exceed ~~800~~500 square feet, unless the PD zoning regulations establish a different ~~interior space~~-limitation, in which event the PD zoning regulations governing size shall apply.

9. Entrance. If an ADU is created by an addition to an existing Primary Dwelling Unit that requires a new separate outside entrance, only one entrance may be located visible from the street upon which the property is addressed. The additional entrance may be located on the side of, or in the rear of the Primary Dwelling Unit.

10. Deviation from stated conditions. A request for deviation from the applicable regulations to install features that facilitate access and mobility for disabled persons shall be considered by the Board of Adjustment pursuant to Chapter 17.06 of the Code.

11. Pets. The restriction on the number of animals allowed under the Code shall be per lot, irrespective of the number of dwelling units located on the lot.

12. Prohibited structures. Mobile homes, recreational vehicles and travel trailers are prohibited as Accessory Dwelling Units.

17.61.060 Non-conforming accessory dwelling units.

A prior legal non-conforming ADU shall be governed by Chapter 17.16 of the Code.

17.61.070 – Violations; penalties.

A. Any person who violates any of the provisions of this Chapter shall be punished by a fine of not more than \$1,000.00.

B. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation is committed, continued or permitted by any such person.

C. In addition to receiving any fines or other monetary remuneration, the Town shall have the right to seek injunctive relief for any and all violations of this Chapter and all other remedies provided at law or in equity.

Section 2. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect the remaining provisions of this ordinance.

Section 3. Safety Clause. The Town Council finds and declares that this ordinance is promulgated and adopted for the public health, safety and welfare and this ordinance bears a rational relation to the legislative object sought to be obtained.

APPROVED ON FIRST READING this 5th day of December, 2017 by a vote of __ for and __ against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2018, by the Town Council of the Town of Castle Rock by a vote of __ for and __ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jennifer Green, Mayor

Approved as to form:

Approved as to content:

Robert J. Slentz, Town Attorney

Bill Detweiler, Director of Development Services