# Accessory Dwelling Units (ADUs): Article 2 & Article 9

## Task Description and Purpose

### Description:

* Amend Accessory Dwelling structures and Accessory family dwelling unit sections to comply with state law.

### Town Staff Notes

* Seeking a full review of existing and pending state law to better position Coventry for expected growth in this area. Our current code is overly restrictive as it mandated 20 acre minimum and a special use permit, which is in conflict with state law. This will require the development of more reasonable performance standards to guide ADU growth in a predictable fashion.
* The Town's current regulations include performance standards, but only for attached ADUs. There are no existing standards for detached ADUs.
* Some of the existing performance standards are outdated or inadequate and require revision.

## Sections of Coventry Code Affected:

* Definitions [Article 2]
* General Development Regulations. [Article 9. 255-920]
* Zoning District Use and Dimensional Regulations [Article 6. 255 – Attachment 1]

### Changes:

* Remove definitions for Accessory dwelling Structures and Accessory Family Dwelling Units and add definition of ADUs (per state law).
* Remove Article 9 - Supplementary Regulations § 255-920. General development regulations -sub sections – G & H **and amend to include** new sub-section G Accessory Dwelling Units
* Remove Accessory Dwelling Structures from ARTICLE 6 – Zoning District Use and Dimensional Regulations - § 255-600. Schedule of Zoning District Use Regulations – Attachment 1, Table 6-1.
  + ADU’s, as an accessory use to properties which the primary use is residential, are not tied to specific zoning districts but are instead tied to the use of the property. Furthermore, ADU’s are regulated in accordance with the below performance standards which were modeled to reflect state law changes pertaining to ADU’s. As such it was necessary to remove Accessory Dwelling Structure’s from the District Use Table, and it is not recommended to revise the table to include ADU’s.
* Consider adding a permitted uses section to the zoning ordinance that would reflect those required under RIGL 45-24-37.

### Suggested and Required\* Language Amendments

*Grey Text: language amendments that are required for compliance with state law.\**

#### ARTICLE II Definitions - § 255-210. Specific definitions.

~~ACCESSORY DWELLING STRUCTURE — An accessory residential structure that constitutes a dwelling unit under these definitions and which is located on the same lot as the principal residence.[Amended 5-14-2018 by Ord. No. 04-18-322 ]~~

**ACCESSORY DWELLING UNIT. — A residential living unit on the same lot where the principal use is a legally established single-family dwelling unit or multi-family dwelling unit. An ADU provides complete independent living facilities for one or more persons. It may take various forms including, but not limited to: a detached unit; a unit that is part of an accessory structure, such as a detached garage; or a unit that is part of an expanded or remodeled primary dwelling.**

~~ACCESSORY FAMILY DWELLING UNIT (AFDU)/IN-LAW APARTMENT — An area, room or combination of rooms located in or attached to an existing principal residence that constitute a separate and distinct accessory dwelling unit for use by one or more family members of the owner of the principal residence. The principal means of ingress and egress to an accessory family dwelling unit shall be through the living area within the principal residence and shall not rely on a separate exterior entrance.[Amended 5-14-2018 by Ord. No. 04-18-322 ]~~

#### ARTICLE IX - Supplementary Regulations - § 255-920. General development regulations.

1. ~~Accessory dwelling structures.~~ **~~[Added 5-14-2018 by Ord. No. 04-18-322 ]~~**
   1. ~~Accessory dwelling structures are prohibited on any lot containing less than 20 acres.~~
   2. ~~Multiple accessory dwelling structures on a single lot are not permitted. Accessory dwelling structures shall comply with all planning, building and zoning requirements for a principal structure.~~
2. ~~Accessory family dwelling unit (AFDU)/in-law apartment.~~ **~~[Added 5-14-2018 by Ord. No. 04-18-322 ]~~**
   1. ~~AFDU by right. AFDUs located in an owner-occupied, single-family residence shall be permitted as a reasonable accommodation for family members in all residential zones subject to the following conditions in accordance with R.I.G.L. § 45-24-37(e):~~
      1. ~~The AFDU shall only be occupied by a family member;~~
      2. ~~The family member occupying the AFDU must be 62 years of age or older or disabled;~~
      3. ~~The exterior appearance of the principal structure shall remain that of a single- family home;~~
      4. ~~An internal means of entry and egress shall be maintained between the principal residence and the AFDU at all times;~~
      5. ~~No additional exterior entrances shall be added absent a compelling need, such as code compliance or to accommodate an occupant's disability. If a compelling need for an exterior entrance arises, the entrance will be located on the side or rear of the structure;~~
      6. ~~Any septic system located on site shall be approved by the Department of Environmental Management to handle waste associated with the AFDU; and~~
      7. ~~An AFDU under this section shall only be valid where the owner of the principal residence has recorded a notarized declaration in the Coventry land evidence records and filed a copy of that declaration with the Coventry Zoning Official. The AFDU declaration shall be on forms prepared by the Coventry Office of Planning and Development.~~
   2. ~~AFDU by special use permit. AFDUs that do not meet the criteria for an AFDU by right, as outlined above, because they involve expansion of the existing principal residence, may be approved by special use permit in accordance with Article 4, subject to the following conditions:~~
      1. ~~The AFDU shall only be occupied by a family member;~~
      2. ~~The exterior appearance of the principal structure shall remain that of a single- family home;~~
      3. ~~An internal means of entry and egress shall be maintained between the living area of the principal residence and the AFDU at all times;~~
      4. ~~No additional exterior entrances shall be added absent a compelling need, such as code compliance or to accommodate an occupant's disability. If a compelling need for an exterior entrance arises, the entrance will be located on the side or rear of the structure;~~
      5. ~~Any septic system located on site shall be approved by the Department of Environmental Management to handle waste associated with the AFDU; and~~
      6. ~~An AFDU under this section shall only be valid once a special use permit has been granted by the Zoning Board and recorded in the Coventry land evidence records.~~
   3. ~~A structure that would otherwise meet the definition of an accessory dwelling structure cannot be made into an AFDU by connecting it to a principal residence with a walkway, hallway, breezeway or other similar structure.~~
   4. ~~The identity of the occupant of the ADFU shall be named and an affidavit signed verifying that this person will be the only occupant.~~
   5. ~~All building permit applications for renovations or additions to construct an ADFU shall include a plan describing how the ADFU will be converted back into living space for the principal dwelling unit when the ADFU is terminated.~~
   6. ~~Any AFDU obtained under this section shall automatically terminate when:~~
      1. ~~The ADFU is no longer occupied by a qualified family member(s); or~~
      2. ~~Title to the principal residence is transferred, whichever occurs first.~~
   7. ~~Upon termination of an AFDU, either where it is no longer occupied by a qualifying family member or as a result of a transfer of title, the owner-occupant of the principal residence shall notify the Coventry Zoning Official, in writing, and record an appropriate document in the land evidence records noting the termination of the AFDU.~~
   8. ~~Once an AFDU has terminated, occupancy of the AFDU shall no longer be permitted~~

~~unless a subsequent AFDU declaration is recorded to renew the AFDU for another family member.~~

* 1. ~~AFDUs originally approved by special use permit under Subsection H(2) may be renewed through the AFDU declaration process under Subsection H(1), provided that no further expansion of the principal dwelling is proposed.~~
  2. ~~At no time shall either the AFDU or the principal residence be occupied by a non-family member of the owner of the property.~~

1. Accessory Dwelling Units (ADUs)
   1. Eligibility. One ADU per lot is allowed under the following circumstances:
      1. On an owner-occupied property as a reasonable accommodation for family members with disabilities; or
      2. On a lot with a total lot area of twenty thousand square feet (20,000 sq. ft.) or more for which the primary use is residential; or
      3. Where the proposed ADU is located within the existing footprint of the primary structure or existing accessory attached or detached structure and does not expand the footprint of the structure.
   2. Dimensional Requirements[[1]](#footnote-1)
      1. ADU’s shall comply with the dimensional standard of the district in which it is located
      2. The maximum unit size for an ADU is as follows: [[2]](#footnote-2)
         1. A studio or one (1) bedroom ADU of [900 sq. ft. or 60% of the floor area] of the principal dwelling, whichever is less.
         2. A two (2) bedroom ADU of at least [1200 sq ft or 60% of the floor area] of the principal dwelling, whichever is less.
2. Use Standards.
3. ADU’s cannot be offered or rented for tourist or transient use (defined as occupancy less than 30 days) or through a hosting platform.
4. Procedural Requirements
5. ADU’s shall be allowed as part of applications for new primary dwelling units or subdivisions. For proposed ADU’s as part of a larger development proposal, such ADU shall not be counted toward the density of the proposal.
6. Any application that includes ADU’s may be considered through a unified development review process.
7. An ADU which does not meet the requirements under section 255-920.G shall be reviewed through an application for a special use permit.[[3]](#footnote-3)
8. ADU’s are exempt from utility assessment and/or tie in fees.
9. Prohibited requirements. The town shall not restrict or regulate the following as they relate to the construction and/or approval of ADU’s.[[4]](#footnote-4)
   1. Restrict tenants based on familial relationships or age unless necessary to comply with the terms of a federal subsidy related to affordability;
   2. Application or permitting fees that exceed those that would be charged for an application or permit for a new single-family dwelling;
   3. Required infrastructure improvements in connection with the ADU unless such improvements are required by a state agency or to comply with building code requirements or to address capacity or upgrades necessary to accommodate the ADU;
   4. Discriminate against protected populations under fair housing laws;
   5. Dimensional requirements or other development standards that exceed requirements for an accessory structure in the same zoning district;
   6. Require additional lot area, lot frontage, or lot width requirements for conforming lots or legal nonconforming lots of record solely to accommodate an ADU;
   7. Require zoning relief for ADU applications proposed within an existing footprint of the primary or accessory structure which is a legal nonconforming structure in order to address the existing dimensional nonconformity;
   8. Require more than one (1) off street parking space per bedroom of the ADU;
   9. Restrict ADUs to lots with preexisting dwellings or otherwise prohibit ADUs as part of applications for new primary units or subdivisions;
   10. Prohibit an ADU that otherwise meet requirements of this section and the applicable dimensional requirements from having up to two (2) bedrooms;
   11. Require that an ADU be exclusively occupied by low-or moderate-income households unless ADU is part of inclusionary zoning or comprehensive permit application;
   12. Revoke the permitted status, or otherwise require the disassembly of a legally established ADU upon transfer of title or occupancy;
   13. Prohibit or restrict ADUs as part of applications for new primary dwelling units or subdivisions. When proposed ADUs are part of a larger development proposal, the city/town shall not count such ADUs toward density of the proposal for purposes of limiting the number of dwelling units allowed.

#### ARTICLE VI – Zoning District Use and Dimensional Regulations - § 255-600. Schedule of Zoning District Use Regulations – Attachment 1, Table 6-1.

**Table 6-1**

1. **Residential.**

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **Use** | **RR5** | **RR3** | **RR2** | **R20** | **VRC** | **VMC** | **GB** | **BP** | **I1** | **I2** | **Comments** |
| 01 | Single-family  detached dwelling | P | P | P | P | N | N | N | N | N | N |  |
| ~~02~~ | ~~Accessory living quarters in-law~~  ~~apartments~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~N~~ | ~~N~~ | ~~N~~ | ~~N~~ |  |
| ~~03~~ | ~~Accessory family~~  ~~dwelling unit~~ | ~~N~~ | ~~N~~ | ~~N~~ | ~~N~~ | ~~N~~ | ~~N~~ | ~~N~~ | ~~N~~ | ~~N~~ | ~~N~~ | ~~Lot must have 20~~  ~~acres~~ |

### State Law References

*§45-24-31. Definitions.*

(2) Accessory dwelling unit (ADU). A residential living unit on the same lot where the principal use is a legally established single-family dwelling unit or multi-family dwelling unit. An ADU provides complete independent living facilities for one or more persons. It may take various forms including, but not limited to: a detached unit; a unit that is part of an accessory structure, such as a detached garage; or a unit that is part of an expanded or remodeled primary dwelling.

*§45-24-37. General provisions – Permitted uses.*

(e) Notwithstanding any other provision of this chapter, an accessory dwelling ("ADU") that meets the requirements of §§ 45-24-31 and 45-24-73 (a) shall be a permitted use in all residential zoning districts. An ADU which meets the requirements of §§ 45-24-31 and 45-24-73(a) shall be permitted through an administrative building permit process only.

*§45-24-73. Design standards required for accessory dwelling units; Consistent statewide treatment of accessory dwelling units required.*

(a) Pursuant to § 45-24-37, one accessory dwelling unit (ADU) per lot shall be allowed by right under the following circumstances:

(1) On an owner-occupied property as a reasonable accommodation for family members with disabilities; or

(2) On a lot with a total lot area of twenty thousand square feet (20,000 sq. ft.) or more for which the primary use is residential; or

(3) Where the proposed ADU is located within the existing footprint of the primary structure or existing accessory attached or detached structure and does not expand the footprint of the structure.

(b) Uniform standards.

(1) A municipality may establish a maximum unit size for an ADU but such limitation must allow, subject to applicable dimensional requirements:

(i) A studio or one bedroom ADU of at least nine hundred square feet (900 sq. ft), or sixty percent (60%) of the floor area of the principal dwelling, whichever is less; and

(ii) A two (2) bedroom ADU of at least twelve hundred square feet (1,200 sq. ft.), or sixty percent (60%) of the floor area of the principal dwelling, whichever is less.

(2) For all ADU applications, a municipality shall not:

(i) Restrict tenants based on familial relationships or age unless such restriction is necessary to comply with the terms of the federal subsidy related to affordability;

(ii) Charge application or permitting fees for the creation of an ADU that exceed those that would be charged for a new single family dwelling;

(iii) Require infrastructure improvements in connection with the ADU, including, but not limited to, separate water or sewer service lines or expanded septic system capacity unless such improvements and/or modifications are required by an applicable state agency for compliance under state law or regulation, or to comply with building code requirements, or to address capacity or upgrades necessary to accommodate the ADU;

(iv) Discriminate against populations protected under state and federal fair housing laws;

(v) Impose dimensional requirements or other development standards on ADUs that in any instance exceed the requirements for an accessory structure in the same zoning district;

(vi) Require additional lot area, lot frontage or lot width for conforming lots or legal nonconforming lots of record solely to accommodate an ADU;

(vii) Require zoning relief for ADU applications proposed within an existing footprint of the primary or accessory structure which is a legal nonconforming structure in order to address the existing dimensional nonconformity;

(viii) Require more than one off-street parking space per bedroom of the ADU;

(ix) Limit ADUs to lots with preexisting dwellings, or otherwise prohibit ADUs as part of applications for new primary dwelling units or subdivisions.;

(x) Prohibit an ADU that otherwise complies with this chapter and applicable dimensional regulations from having up to two (2) bedrooms;

(xi) Require an ADU to be exclusively occupied by a household that is low-or moderate-income or less as defined by § 42-128-8.1, unless such ADU is part of an inclusionary zoning or comprehensive permit application; or

(xii) Revoke the permitted status or otherwise require the disassembly of a legally established ADU upon transfer of title or occupancy.

(3) An application for an ADU which is not allowed by right under this section, shall not, by itself, be reviewed as a minor land development or major land development project.

(4) A municipality shall allow ADUs as part of applications for new primary dwelling units or subdivisions. For proposed ADUs that are part of a larger development proposal, a municipality shall not count such ADUs toward density of the proposal for purposes of limiting the number of dwelling units allowed in such development proposal.

(i) Municipalities may utilize a unified development review process for any application that includes ADUs, regardless of whether a city or town has opted into the current unified development review statute.

(5) As part of the approval process, municipalities may exempt ADUs from all or part of utility assessment and/or tie in fees.

(6) Private restrictions on ADUs imposed by condominium associations, homeowner associations, or similar residential property governing bodies, which conflict with the provisions of this section or the definition of an ADU as set forth in § 45-24-31, shall be void as against public policy. Provided, however, if ADUs are allowed by condominium association covenants, homeowner association covenants, or similar residential property governing bodies, they shall be deemed in compliance with this subsection.

(7) The development of ADUs shall not be restricted by any locally adopted ordinance or policy that places a limit or moratorium on the development of residential units in land zoned for residential use.

(8) ADUs shall not be offered or rented for tourist or transient use or through a hosting platform, assuch terms are defined in § 42-63.1-2.

1. The state law does not require specific dimensional standards be set for ADUs. This section is provided as a best practice and to ensure that municipalities are aware that they are permitted to set unit size restrictions, but those restrictions are limited by state law. [↑](#footnote-ref-1)
2. Per RIGL § 45-24-73(b) a one bedroom or studio ADU cannot be restricted to be smaller than 900 square feet or 60% of the floor area of the principal dwelling, whichever is less. Municipalities do not have to restrict the size of an ADU, but if they chose to, it cannot be restricted to be smaller than this threshold. Per RIGL § 45-24-73(b) a two-bedroom ADU cannot be restricted to be smaller than 1,200 square feet or 60% of the floor area of the principal dwelling, whichever is less. Municipalities do not have to restrict the size of an ADU, but if they chose to, it cannot be restricted to be smaller than this threshold. [↑](#footnote-ref-2)
3. Applications that meet the requirements of 1.1.a(1), (2), or (3) as presented above under the section that would be inserted into the zoning ordinance structure are to be permitted by an administrative building permit process. Municipalities may permit ADUs beyond the minimum requirements outlined in those three categories. If the municipality decides to be more permissive than the minimum requirements, they can require a special use permit for such units with specific and objective criteria or they can permit the unit by right under specific requirements. The suggested mechanism in this template is a special use permit with specific and objective criteria. RIGL § 45-24-73(b)(3) prohibits the municipality from using minor or major land development process applications for ADUs that would not otherwise be part of a development project. [↑](#footnote-ref-3)
4. Although these restrictions are not required to be included in the text of the ordinance, they are listed here so that it is clear what can and cannot be regulated through the ordinance on ADUs. These can be listed as specific prohibited restrictions, or a municipality can use this list to ensure their ordinance does not contain any of these restrictions. [↑](#footnote-ref-4)