



Planning & Zoning Planner's Report

TO: Adrienne Senter
FROM: Lynn M. Patterson, Consulting Planner for City of Hapeville
RE: Accessory Dwelling Unit Code Sections for Neighborhood
DATE: February 8, 2019

BACKGROUND

The Planning Commission requested staff research relevant neighboring community codes as they relate to accessory dwelling structures for a discussion on running water/use of accessory structure as accessory dwelling units.

ADU SUMMARIES

Atlanta

- Allows ADUs in R-5 - two-family residential, only.
- Allows guest houses, which are defined as dwellings without kitchens, in districts R-1 through R-5 (and assumedly all corresponding SPIs).
- ADUs are restricted to 750 sq. ft. or less, 25% of the yard or less, and count towards maximum FAR. They have further specific yard setback requirements laid out in the code.
- The city's zoning review board recently passed ordinance 18-O-1581 which expands allowable zones to include the high density R-4 and R-4A - single-family residential zones. It is pending city council review.

East Point

- Allow non-habitable accessory structures, defined as not having a 220 volt power supply, ventilation hood, or gas line, in most residential districts.
- With a special use permit, residential parcels may have habitable accessory structures.

- To gain a permit, the property must be owner-occupied, the unit must be aesthetically similar to the main building, an extra parking space must be provided, the structure must take up less than half of the rear yard lot and be less than half the size of the primary structure.
- A use permit and building permit are both required to build a habitable accessory structure, and the use permit must be renewed every three years. The use permit requires Planning and Zoning committee recommendation, Planning and Community Development department recommendation, and a public meeting with City Council approval.
- The accessory structure cannot be built or moved in to while the main house is under construction.

College Park

- Does not allow ADUs.
- In addition to banning any overnight habitation in any accessory structure, the city also bans the construction of any accessory units with functioning plumbing.

Decatur

- Allows ADUs in nearly all residential districts, save RS-17, a high density residential district. It also allows ADUs in the PO - professional office district.
- ADUs must be between 300 and 800 sq. ft., no more than 40% of the floor area of the main building, and take up no more than 30% of the rear yard.
- ADUs are limited to 2 beds and 2 baths, or 2 occupants.
- A permit is required to build an ADU, where the applicant must deliver a sworn, notarized statement stating the owner will occupy one of the dwelling units for 8 months out of each year, and will receive no rent for such unit.

Sandy Springs

- Allows guest houses in RE – residential estate and RD – residential detached districts.
- A guest house is defined as a dwelling unit accessory to the principal dwelling on a single unit detached lot. It may have a kitchen.
- Must be less than 50% of the principal dwelling unit's first floor area or 1,200 sq. ft.
- Explicitly allowed to be above a garage.

CODE

Atlanta

- Sec. 16-29.001(10) *Dwellings, lodgings and related terms*
 - "(a) Dwelling unit (*apartment*): A room or rooms connected together, constituting a separate, independent housekeeping establishment for a family, for owner occupancy or rental or lease on weekly or longer terms, physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent kitchen and sleeping facilities."
 - "(c) Guest house: a lodging unit for temporary guests in an accessory building. No such lodging unit shall contain independent kitchen facilities."
- Sec. 16-29.001(12) *Dwellings and lodgings: uses and structural types*
 - "(a)(7) Dwelling: Accessory - A detached dwelling unit meeting the height requirement of section 16-28.004 and having a floor area of 750 square feet or less on the same lot as a primary dwelling. Accessory dwelling units are distinct dwelling units as defined in section 16-29.001(10)(a) with independent kitchen facilities."
- "Sec. 16-28.004. - Accessory Uses and Structures

The following regulations and requirements apply to accessory uses and structures:

- i. Except as otherwise specifically provided in this part, use of accessory buildings as dwellings or lodgings is prohibited.
- ii. Accessory buildings shall be constructed concurrent with or after construction of principal buildings.
- iii. Accessory buildings in R-1 through R-5 districts shall not exceed 20 feet in height, shall not cover more than 25 percent of the area of the rear yard, and shall not contain a total floor area greater than 30 percent of the main structure. For purposes of calculating the total floor area of the main structure, the definition of residential floor area set forth in the first sentence of [section 16-29.001\(13\)\(a\)](#) shall apply, except where modified by the provisions of [16-24.008](#). For purposes of calculating the total floor area of the accessory building, all gross floor area of the accessory building shall be included whether or not it is conditioned or habitable."
 - 16-29.001(37) states ADUs count towards maximum FAR.
- iv. "Amenity areas' as defined in [section 15-06.001\(c\)](#) that lie within subdivisions reviewed and approved pursuant to part 15, shall be authorized as accessory uses and structures in the R-1 through R-5 districts, and in single and two-family subdivisions in the RG and MR districts, and may be used and platted as an irregular lot within such subdivisions provided said lot continues to be used exclusively for an amenity area pursuant to part 15. Should such lot cease to be used as an amenity area, it shall be used only for the purposes of "open space" within the meaning of [section 15-06.001\(z\)](#)."

- R-1 through R-5 allow guest houses. Only zone R-5 - Two Family residential - allows ADUs. Per Section 16-07:
 - Only one per lot, which may not be used so long as the primary structure is under construction and is not in use.
 - Requires minimum 4 foot side yards, must be behind the primary structure relative to the road, cannot exceed 50% of the net lot area.
 - The distance between an accessory structure and the primary dwelling on adjacent properties may be no less than the distance between the accessory dwelling unit and the primary structure on its lot (this is likely to be repealed)
- However, the city's Zoning Review Board passed ordinance 18-O-1581 to allow ADUs in R-4 and R-4A, both Single-Family Residential districts
 - R-4 protects single-family communities and encourages growth on lots of medium size and at a density of not more than one dwelling unit per 9,000 sq. ft.
 - R-4A provides the same atmosphere, but denser at 7,500 sq. ft. per housing unit.

East Point

- Sec 10-2027.7. - Non-habitable accessory structure
 - May not be rented to another party
 - Require building permits if greater than 200 sq. ft.
 - "(9) The accessory structure may not contain a 220 volt power supply, ventilation hood or gas line."
- Sec. 10-2027.10. states accessory buildings and structures may be used for the home occupation, which is limited to members of the resident family only
- Sec. 10-2130. - Habitable accessory structure. (Under Special Use Permits)

"Habitable accessory structures may be rented to another party so long as one of the dwelling units on the property is owner-occupied. The units must be aesthetically compatible with the principal structure, include one additional on-site parking space, and be limited to half the size of the primary structure. The habitable accessory structure may not take up more than half the rear yard of the lot. The use must remain single-family and the lot may not be subdivided nor may the unit be sold separately. A use permit is required for all habitable accessory structures. In the event a use permit application is approved, a building permit will also be required.

Criteria:

- (1) Full kitchen permitted.
- (2) An accessory structure must be aesthetically compatible with principal structure.
- (3) The accessory structure cannot be built or moved onto any lot before construction of the main house unless a building permit has been issued for the construction of the main house.
- (4) The owner of the property must reside either in the principal structure or the accessory structure on premises.
- (5) The lot must be a minimum of 5,000 square feet.
- (6) The property must have a minimum of three unobstructed parking spaces.
- (7) The accessory unit can only have one kitchen and may have a 220 volt power supply, a ventilation hood or gas line.
- (8) The height must not exceed the height of the main house or 35 feet, whichever is less.
- (9) The total floor area cannot exceed 50 percent of the floor area of the principal structure or exceed 50 percent of the rear lot coverage. All utilities for the structure must be fed from the primary structure.
- (10) The structure must be at least 6 feet away from the principal structure.

(11) The structure must be at least three feet from all property lines and at least 15 feet from any structure on adjoining property.

(12) If the property is adjacent to an alley, it can be located on the property line."

- The Special Use Permit process necessitates a public meeting in front of the Planning and Zoning committee and City Council, plus a recommendation from the Planning and Community Development Department. SUPs expire every three years. (Sec 10-2085, 2086, and 2087).
- The legislation enabling ADUs dates to September 2016

College Park

- R-1 through R-5 make no mention of accessory *dwellings* but do allow accessory structures.
- AG-1 - Agricultural District - explicitly prohibits the habitation of accessory buildings
- Article XX, Sec. 3(a) Yard Regulations, Accessory Buildings
 - Buildings may only be 20 ft. high, and all accessory buildings must be collectively smaller than 864 sq. ft.
 - (7) "No accessory building shall have any plumbing of any kind, including but not limited to running water or drainage into any sewer or septic system."
 - (9) "No accessory building shall be used for human habitation, including but not limited to overnight accommodations for any person."

Decatur

6.8.1. - In General

- A. Accessory uses are permitted in conjunction with an allowed principal use. Allowed accessory uses include those listed in this Section and additional accessory uses as interpreted by the Zoning Administrator.
- B. Accessory buildings must share utility services and meters with the main building.
- C. Accessory buildings may have a ½ bath or a kitchen, but cannot contain both a full bathroom and a kitchen. Habitation is not permitted in an accessory building unless it is identified as an accessory dwelling unit (see Sec. 6.8.3.A.).
- D. Dimensional standards for accessory buildings and structures are included with the principal structure standards for each district (Article 3. Residential Districts and Article 4. Mixed Use and Commercial Districts). No more than two accessory buildings are allowed per lot, excluding structures less than 100 square feet.
- E. Accessory buildings shall not exceed 1,000 square feet of total floor area, including garages and other enclosed storage areas. Such buildings shall not exceed 25 feet in height and two stories.
- F. Allowed accessory uses and structures include the following:
 - 1. Accessory dwellings units (ADU).
 - 2. Accessory uses administered by a place of worship that are related directly to the place of worship.
 - 3. Accessory uses administered by an institution that are related directly to the campus or institution, including parks, athletic fields, stadiums, playgrounds, bookstores, soda shops, art galleries, restaurants, cafeterias, card and souvenir shops, clinics, medical and dental offices, boarding and rooming houses, clubs, sororities, fraternities, and temporary lodging facilities.
 - 4. Garden sheds.
 - 5. Greenhouses.
 - 6. Home occupations.
 - 7. Home offices and studios.
 - 8. Multilevel parking facilities.
 - 9. Parking facilities, structured or hard-surfaced as accessory to a building.
 - 10. Private garages.
 - 11. Swimming pools and tennis courts.

6.8.3. - Standards for Specific Accessory Uses

A. Accessory Dwelling Unit (ADU)

1. The design and size of the ADU shall conform to all codes which are required for any new construction.
2. Only one ADU may be created per principal dwelling unit.
3. The property owner must occupy either the principal dwelling unit or the ADU as their permanent residence for at least 8 months out of each year, and at no time receive rent for the owner-occupied unit.
4. An ADU may be developed in or adjacent to either an existing or new principal dwelling.
5. In no case can an ADU be more than 800 square feet of floor area, or less than 300 square feet, excluding any related garage area or other ancillary storage, or shall it exceed 40% of the floor area of the principal dwelling; nor have more than 2 bedrooms or 2 occupants.
6. ADUs are subject to the parking requirements of Sec. 7.1.
7. Application for a building permit for an ADU must be made to the Zoning Administrator and must include a sworn, notarized statement from the property owner stating that the owner will occupy one of the dwelling units on the premises, except for bona fide temporary absences, for 8 months out of each year and shall receive no rent on such unit.
8. The equipment of an accessory building or equipment of part of a principal building with one or more of the following or similar items, systems or equipment shall be considered prima facie evidence that such accessory building or such part of the principal building is a separate and distinct dwelling unit and is subject to the regulations of the zoning district in which it is located: utility services; utility meters; mailboxes; kitchen equipment such as sink, stove, oven, and/or cabinets.
 - 6.2 shows ADUs are allowed in all residential areas other than RS-17, high density single-family residential, and are allowed in PO, Professional Office.
 - 2.1.5.D Rear Yard Standard states accessory buildings shall not occupy more than 30% of the required rear yard.
 - ADUs were introduced in 2016.

Sandy Springs

Sec. 7.8.6 - Guest House

A. Defined and Basic Use Standards Defined: a dwelling unit accessory to the principal dwelling on a single unit detached lot.

i.No more than one guest house per lot allowed.

ii.A separate kitchen facility is allowed.

iii.Heated floor area must be less than 50% of the principal dwelling unit first-floor heated floor area, or must be less than 1,200 square feet, whichever is less.

iv.Principal building setbacks apply.

v.Height may be no greater than 2 stories and 24 feet

vi.The location is limited to the rear yard and must meet all district setbacks.

vii.A guest house may be located over a garage, provided its location and size meet the requirements of the use standards above.

The above ordinance was adopted in April 2018.

Sec. 7.2. states Guest Houses are allowed in zones RE, Residential Estate, and RD, Residential Detached.