



GEM COUNTY LAND USE AND DEVELOPMENT CODE UPDATE

ACCESSORY DWELLING UNIT (ADU) AMENDMENTS

April 10, 2024 | Public Review Draft

REVISIONS OVERVIEW

- *Changed “secondary dwelling” to “accessory dwelling”*
- *Added a definitions section*
- *Added allowance for both detached and attached units*
- *Removed 5-acre lot minimum*
- *Changed to be allowed in all zone districts that allow for a residential use*
- *Increased maximum ADU size from 1,100 sf to 1,800 sf*
- *Clarified septic and well requirements*

Proposed Redlines

11-2-2: DEFINITIONS:

DWELLING: A building or portion thereof, containing one or more living units, and which complies with the structural requirements of the adopted building code.

DWELLING UNIT: A Single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

DWELLING, ACCESSORY DETACHED: A self-contained living unit that includes its own cooking, sleeping, and sanitation facilities, and that is located within a separate structure than the principal dwelling. Accessory dwelling unit does not include a motorhome, camper, recreational vehicle, tiny home on wheels, or other similar dwelling on wheels.

DWELLING, ACCESSORY ATTACHED: A self-contained living unit that includes its own cooking, sleeping, and sanitation facilities, that is integrated into the principal dwelling unit with a clearly defined, separate exterior entrance.

11-6-5: PROVISIONS FOR UNIQUE LAND USES:

(NOTE: This section is intended to replace 11-6-5 Section “L” of the existing Gem County Code)

L. Dwelling, Accessory:

1. Purpose: The intent of this subsection is to provide an opportunity for the development of permanent, single-family, independent living dwellings for Gem County residents; to provide a type of affordable housing alternative; to provide economic support for resident families through small rental units; and to implement policies in the housing and land use chapters of the comprehensive

plan that call for a diversity of housing types. The purpose is to provide such development opportunities while still maintaining the residential character of the surrounding neighborhood. To ensure that no avoidable adverse impacts on the public health, safety, and general welfare result from the creation of an accessory dwelling, the county prescribes standards for the approval of such units.

2. Permitted: One (1) permanent accessory dwelling is permitted on the same property in conjunction with, and clearly subordinate to, an existing single-family dwelling, in accordance with the standards listed in this section. Accessory dwelling units shall be permitted in all zone districts that allow for a residential use.
3. Recorded Restrictions: Before a building permit for an accessory dwelling unit is issued, the property owner shall file with the county recorder's office and submit to the Development Services Department a declaration or agreement of restrictions containing a reference to the deed under which the property was acquired by the owner and stating that:
 - a. The accessory dwelling unit shall not be sold separate from the principal dwelling unit;
 - b. The accessory dwelling unit is restricted to the maximum size allowed per the development standards; and
 - c. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.
4. Subdivision: Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit.
5. Maximum Size: The living area of accessory dwelling units shall not exceed 1,800 square feet in gross floor area.
 - a. Existing residences may be converted to an accessory dwelling if the new principal dwelling is proposed to be larger than the accessory dwelling.
6. Wastewater: The accessory dwelling unit shall be connected to a wastewater system approved by the Southwest District Health Department.
7. Domestic Water: The accessory dwelling shall connect to the existing domestic water supply. Modifying or expanding the existing water connection to accommodate both dwellings is permitted. Certificate of augmentation shall be submitted where an existing well is being augmented to accommodate the additional dwelling.
8. Location of Accessory Dwelling Unit.
 - a. The accessory dwelling units may be located within or attached to the principal dwelling; as a detached structure; or integrated into (above or beside) a detached structure, such as a garage.
 - b. Detached accessory dwelling units shall be located no further than two hundred (200) feet from the principal dwelling and no closer than ten (10') feet to the principal dwelling unless restricted by a physical site constraint or some other barrier beyond the owners control.
9. Access to the Accessory Dwelling Unit.
 - a. The driveway serving the accessory dwelling unit shall be shared with the principal dwelling. If combining driveways is prohibited by a physical site constraint or some other

barrier beyond the owner's control, a separate driveway permit may be allowed as authorized by the road and bridge department.

- b. Addressing and access for each dwelling unit shall be clearly indicated ~~onsite~~ at each entrance, with separate addresses for each dwelling unit, for emergency response purposes. Addressed for accessory dwelling units shall include an "A" for attached and "D" for detached.
- c. The Road and Bridge Department shall ensure all proposed access is compliant with required emergency access requirements prior to issuing access permits.

10. Parking: A minimum of one (1) off road parking space shall be provided for each ADU.

11. Prohibitions: Accessory dwelling units are not permitted under the following conditions:

- a. Where more than one dwelling unit already exists;
- b. Where there is a previously approved temporary dwelling under Title 11, Chapter 19.
- c. Where the principal dwelling may be considered to have an accessory dwelling unit, either conforming or non-conforming, already within or attached to the dwelling. This includes, but is not limited to, attachment via breezeway or other shared space.
- d. On an illegal parcel.
- e. Temporary structures such as a motorhome, camper, recreational vehicle, tiny home on wheels, or other similar dwelling on wheels may not be utilized as accessory dwelling units.

12. Code Compliance: In cases where an existing garage, shop, or single-family dwelling is to be converted to an accessory dwelling, the area designated for the accessory dwelling must be brought into compliance with current international residential code standards, as determined by the building official.