



**TO:** City Council Land Use, Transportation, and Infrastructure Committee  
**FROM:** Abe Barge, Principal City Planner  
**DATE:** November 4, 2021  
**RE:** Denver Zoning Code (as amended through July 26, 2021) text amendment to correct the maximum building footprint for a detached accessory dwelling unit building form in single-unit Urban Edge Neighborhood Context (E-SU-) zone districts.

**Staff Report and Recommendation**

Based on the review criteria for text amendments stated in Denver Zoning Code (DZC) Section 12.4.11 (Text Amendment), CPD staff recommend that the Land Use, Transportation, and Infrastructure committee move the Denver Zoning Code text amendment to correct the maximum building footprint for a detached accessory dwelling unit form in E-SU- zone districts forward for consideration by the full City Council.

**Summary and Purpose**

This amendment to the Denver Zoning Code is sponsored by Community Planning and Development. It corrects an error introduced into the zoning code when drafting the now-adopted 2021 Bundle of Denver Zoning Code Text Amendments. The error inadvertently reduced the maximum building footprint for detached accessory dwelling units on zone lots greater than 6,000 square feet in size in all single-unit Urban Edge Neighborhood Context (E-) zone districts:

- E-SU-B1
- E-SU-D1
- E-SU-D1x
- E-SU-G1

The table below outlines the history of the drafting error in the Denver Zoning Code Section 4.3.4.5 detached accessory dwelling unit building form standards for E-SU- zone districts. The final row indicates the proposed correction.

	Maximum Building Footprint for Detached Accessory Dwelling Unit Building Form by Zone Lot Size	
	Zone Lots Greater Than 6,000 Square Feet and Up To 7,000 Square Feet	Zone Lots Greater Than 7,000 Square Feet
<b>Prior to Bundle Drafting</b> (consistent with all other detached ADU tables in the code)	864 square feet	1,000 square feet
<b>After Bundle Drafting &amp; Adoption</b> (these reduced maximums reflect a drafting error that was not marked as a proposed code change)	650 square feet	864 square feet
<b>Proposed Amendment</b> (corrects the error and restores consistency with other detached ADU tables in the code)	<del>650</del> <u>864</u> square feet	<del>864</del> <u>1,000</u> square feet

Several applications to construct detached accessory dwelling units in E-SU- zone districts are impacted by this error and are not able to proceed unless the code is amended. Properties within areas rezoned to E-SU- zone districts through recent City Council initiatives are also impacted by the error. If City Council adopts proposed legislative map amendment 2020I-00158 to rezone portions of the East Colfax neighborhood to the E-SU-D1x zone district, those properties would be impacted by the error unless City Council also adopts this text amendment (note that this text amendment intends to follow the same City Council adoption schedule as map amendment 2020I-00158).

Additional information regarding this code error and proposed text amendment is available in the Code Maintenance Bundles section on Community Planning and Development’s Text Amendments web page at [www.denvergov.org/textamendments](http://www.denvergov.org/textamendments).

### **Adoption Process to Correct an Error or Mistake of Fact in Code Language**

This proposed text amendment is using the procedure outlined in Denver Zoning Code Section 12.4.11.3.D.2, allowing the Executive Director of Community Planning and Development to submit a proposed text amendment that is necessary only to correct an error or mistake in fact in code language directly to the Council Committee for its consideration. Therefore, the Denver Planning Board has not considered or made a recommendation on this proposed text amendment.

### **Public Process**

	<b>Date</b>
Markup draft of proposed text amendment posted for public review	<b>10/07/2021</b>
Notification of proposed text amendment sent to City Council and all Registered Neighborhood Organizations (RNOs)	<b>10/07/2021</b>
Community Planning and Development staff presentation to Inter-Neighborhood Cooperation Zoning and Planning Committee (INC ZAP)	<b>10/23/2021</b>
Notification of City Council Land Use, Transportation and Infrastructure (LUTI) Committee meeting to City Council and all Registered Neighborhood Organizations (RNOs)	<b>10/26/2021</b>
City Council Land Use, Transportation and Infrastructure (LUTI) Committee meeting	<b>11/09/2021</b>
<i>City Council First Reading</i>	<b>11/22/2021 (tentative)</b>
<i>Notification of City Council public hearing to City Council and all Registered Neighborhood Organizations (RNOs)</i>	<b>11/26/2021 (tentative)</b>
<i>City Council Public Hearing</i>	<b>12/20/2021 (tentative)</b>

### **Public Comments**

As of the date of this staff report, CPD has received no written comments on this proposed text amendment.

### **Planning Board**

As described above, this proposed text amendment is using the procedure outlined in Denver Zoning Code Section 12.4.11.3.D.2 to correct an error or mistake of fact in the code. As a result, the Denver Planning Board has not considered or made a recommendation on this proposed text amendment.

## **Criteria for Review and Staff Evaluation for DZC Text Amendment**

The criteria for review of this text amendment are found in Denver Zoning Code Section 12.4.11. These criteria are summarized as follows:

1. Consistency with Adopted Plans
2. Public Health, Safety and General Welfare
3. Uniformity of District Regulations and Restrictions

### **1. Consistency with Adopted Plans**

#### ***Denver Comprehensive Plan 2040 (2019)***

The proposed text amendment promotes *Comprehensive Plan 2040's* goals, including:

- **Comprehensive Plan: Land Use Goals**
  - Strategy 2-A: (*paraphrased*) [P]roposed revisions should ensure that the Denver Zoning Ordinance will be flexible and accommodating of current and future land use needs...
  - Strategy 3-B: Encourage quality infill development that is consistent with the character of the surrounding neighborhood...
- **Comprehensive Plan: Neighborhood Goal**
  - Strategy 1-E: Modify land-use regulations to ensure flexibility to accommodate changing demographics and lifestyles.

#### ***Blueprint Denver (2019)***

The proposed text amendment promotes the following *Blueprint Denver* recommendations and concepts:

- **Blueprint Denver: Land Use and Built Form General Recommendation**
  - Recommendation 03: "Ensure the Denver Zoning Code continues to respond to the needs of the city, while remaining modern and flexible." (Blueprint page 73)
- **Blueprint Denver: Land Use and Built Form Housing Recommendation**
  - Recommendation 05: "Remove barriers to constructing accessory dwelling units and create context-sensitive form standards." This recommendation also directs the city to "Evaluate existing barriers to ADU permitting and construction and revise codes and/or fees to remove or lessen barriers for homeowners." (Blueprint page 84)

- **Blueprint Denver Equity Concepts**

Blueprint Denver recommends that text amendments to the zoning code be guided by equity concepts. This proposed text amendment to correct a zoning code error will have a neutral or positive impact on Blueprint Denver's three equity concepts:

- **Improving Access to Opportunity.** By correcting a code provision that could prevent approval of accessory dwelling unit projects that are consistent with Blueprint Denver land use and built form housing recommendations, this text amendment promotes Blueprint Denver's vision for more equitable access to amenities and quality-of-life infrastructure throughout the city.
- **Reducing Vulnerability to Displacement.** By correcting a code provision that could prevent approval of accessory dwelling unit projects that are consistent with Blueprint Denver land use and built form housing recommendations, this text amendment will help ensure consistent availability of a housing options across neighborhoods in Denver.
- **Expanding Housing and Jobs Diversity.** By correcting a currently incorrect code provision that could prevent approval of accessory dwelling unit projects that are consistent with Blueprint Denver land use and built form housing recommendations, this text amendment will help existing residents remain in place and promote homeownership by sharing costs to help build wealth and improve economic mobility.

## **2. Public Health, Safety and General Welfare**

This Text Amendment furthers the general public health, safety, and welfare of Denver residents and homeowners by providing clarity and predictability in the zoning regulations, by removing regulatory barriers and by ensuring consistent application of adopted plans.

## **3. Uniformity of District Regulations and Restrictions**

This text amendment corrects an error to ensure that zoning regulations remain uniform in their application to buildings and land uses within each zone district.

## **CPD Recommendation**

Based on the review criteria for text amendments stated in Denver Zoning Code (DZC) Section 12.4.11 (Text Amendment), CPD staff recommend that the Land Use, Transportation, and Infrastructure committee move the Denver Zoning Code text amendment to correct the maximum building footprint for a detached accessory dwelling unit form in E-SU- zone districts forward for consideration by the full City Council.

## **Attachments**

1. Markup draft of DZC text amendment



## Denver Zoning Code Text Amendment Article 4 Detached ADU Building Footprint Error Correction LUTI REVIEW DRAFT – 11/04/2021

This document provides a marked up draft of a proposed text amendment to the Denver Zoning Code to correct two discrete numerical errors adopted with the 2021 Bundle of Denver Zoning Code Text Amendments on June 28, 2021. The error resulted in a misstatement of the maximum building footprint for a detached accessory dwelling unit building form on some lot sizes in single-unit Urban Edge Neighborhood Context (E-) zone districts.

### Review Draft Document Conventions

- Text in red underline is proposed new language.
- Text in ~~red strikethrough~~ is proposed deleted language.
- Only pages with changes relevant to this text amendment are included in the review file. You may wish to look at other sections for additional context.
- While efforts are made to ensure document quality, cross-referenced section numbers, figure numbers, page numbers, and amendment numbers may appear incorrect since both new and old text appears in a draft. These will be corrected in the final, “clean” version of the text amendment that is filed for adoption by City Council.
- Additionally, please note that coordination will continue throughout the process to ensure constancy of approach and administration with other ongoing text amendments.

Please send any questions or comments by to Abe Barge at [abe.barge@denvergov.org](mailto:abe.barge@denvergov.org).

## DETACHED ACCESSORY DWELLING UNIT

<b>HEIGHT</b>		E-SU-B1	E-SU-D1	E-SU-D1x	E-SU-G1	E-TU-B	E-TU-C	E-RH-2.5 E-MU-2.5
<b>A</b>	Stories (max)	1.5	1.5	1.5	1.5	1.5	1.5	1.5
<b>A</b>	Feet (max)	24'	24'	24'	24'	24'	24'	24'
<b>B</b>	Bulk Plane Vertical Height at Side interior and side street zone lot line	10'	10'	10'	10'	10'	10'	10'
	Bulk Plane Slope from Side Interior and Side Street Zone Lot Line	45°	45°	45°	45°	45°	45°	45°

<b>SITING</b>		E-SU-B1	E-SU-D1	E-SU-D1x	E-SU-G1	E-TU-B	E-TU-C	E-RH-2.5 E-MU-2.5
<b>ZONE LOT</b>								
	Zone Lot Size (min)	4,500 sf	6,000 sf	6,000 sf	9,000 sf	4,500 sf	5,500 sf	4,500 sf
	Exception from Maximum Building Coverage	See Section 4.3.7.5						
	Additional Standards	See Section 4.3.4.3						
<b>SETBACKS</b>								
	Location of Structure	Located in the rear 35% of the zone lot depth						
<b>C</b>	Side Interior and Side Street (min)	Lots 30' wide or less: 3' Lots greater than 30' wide: 5'						
<b>D</b>	Rear (min)	5'	5'	5'	5'	5'	5'	5'
<b>PARKING</b>								
	Vehicle Access	From Alley; or Street access allowed when no Alley present See Sec. 4.3.7.6 for exceptions						

<b>DESIGN ELEMENTS</b>		E-SU-B1, E-SU-D1, E-SU-D1x, E-SU-G1 By Zone Lot Size			E-TU-B, E-TU-C, E-RH-2.5, E-MU-2.5
<b>BUILDING CONFIGURATION</b>		6,000 sf or Less	Greater than 6,000 sf and up to 7,000 sf	Greater than 7,000 sf	
	Building Footprint (max)	650 sf	650864 sf	8641,000 sf	1,000 sf
<b>E</b>	Overall Structure Length (max)	36'	36'	36'	36'
	Rooftop and/or Second Story Decks	Not allowed - See Section 4.3.5.2			

<b>USES</b>		E-SU-B1; E-SU-D1, -D1x; E-SU-G1; E-TU-B, -C; E-RH-2.5; E-MU-2.5
		Uses Accessory to Primary Residential Uses Only See Division 4.4 for permitted Uses Accessory to Primary Residential Uses
		See Sections 4.3.5 - 4.3.7 for Supplemental Design Standards, Design Standard Alternatives and Design Standard Exceptions