



TO: Denver City Council
FROM: Abe Barge, Principal City Planner
DATE: December 20, 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 City Council adopt the Denver Zoning Code text amendment to correct the maximum building footprint for a detached accessory dwelling unit form in E-SU- zone districts.

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
Prior to Bundle Drafting (consistent with all other detached ADU tables in the code)	864 square feet	1,000 square feet
After Bundle Drafting & Adoption (these reduced maximums reflect a drafting error that was not marked as a proposed code change)	650 square feet	864 square feet
Proposed Amendment (corrects the error and restores consistency with other detached ADU tables in the code)	650 <u>864</u> square feet	864 <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 is following the same City Council adoption schedule as map amendment 2020I-00158, including a planned public City Council adoption hearing on December 20, 2021).

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.

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

	Date
Markup draft of proposed text amendment posted for public review	10/07/2021
Notification of proposed text amendment sent to City Council and all Registered Neighborhood Organizations (RNOs)	10/07/2021
Community Planning and Development staff presentation to Inter-Neighborhood Cooperation Zoning and Planning Committee (INC ZAP)	10/23/2021
Notification of City Council Land Use, Transportation and Infrastructure (LUTI) Committee meeting to City Council and all Registered Neighborhood Organizations (RNOs)	10/26/2021
City Council Land Use, Transportation and Infrastructure (LUTI) Committee meeting <u>Moved forward to City Council for Public Hearing</u>	11/09/2021
City Council First Reading	11/22/2021
CPD Notification of City Council public hearing to City Council and all Registered Neighborhood Organizations (RNOs)	11/29/2021
City Council Public Hearing	12/20/2021

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 City Council adopt the Denver Zoning Code text amendment to correct the maximum building footprint for a detached accessory dwelling unit form in E-SU- zone districts.

Attachments

1. Markup draft of DZC text amendment