

12-306-1 ACCESSORY DWELLING UNITS.

12-306-1.01 Purpose

Accessory Dwelling Units are allowed in certain situations to create additional housing options for a relative/family member, caregiver, or farm employee while maintaining the rural character of unincorporated Douglas County.

12-306-1.02 Occupancy.

- a. The Accessory Dwelling Unit shall be occupied by one of the following for not less than three years following the issuance of the certificate of occupancy for the Accessory dwelling Unit:
 - (1) a relative/family member,
 - (2) a caregiver, or a
 - (3) farm employee.
- b. An Affidavit of Occupancy shall be provided to the Zoning and Codes Director prior to the issuance of a Certificate of Occupancy.
- c. The length of occupancy can be reduced in the instance that the Accessory Dwelling Unit was occupied initially by a relative and the relative is deceased or the Accessory Dwelling Unit was initially occupied by a caregiver and the recipient of the care no longer lives in the home or is deceased.

12-306-1.03 Means of Establishment

An Accessory Dwelling Unit may be established by one of the following means:

- a. Conversion of existing space within a principal dwelling or construction of an addition to a principal dwelling.
- b. Conversion of existing space within an accessory structure or construction of an addition to an accessory structure.
- c. Construction of a separate accessory structure which will include the Accessory Dwelling Unit.

12-306-1.04 Standards that apply to all Accessory Dwelling Units:

- a. One Accessory Dwelling Unit is permitted on a vested parcel, platted lot or a Residential Development Parcel, which contains a dwelling. This dwelling will be considered the principal dwelling.
- b. An Accessory Dwelling Unit shall not be allowed within, or attached to, a mobile home but may be allowed within a manufactured home.
- c. All Accessory Dwelling Units, whether new construction or conversion of existing space, shall comply with the Douglas County Construction Codes.
- d. An Accessory Dwelling Unit may be located within a structure which the Zoning and Codes Director has determined is a legal nonconforming structure with respect to building height or setbacks provided any addition to the structure does not extend or increase the degree of nonconformity.
- e. The Accessory Dwelling Unit, if located in a newly constructed detached accessory structure, shall be located a minimum distance of 25 ft from the primary structure.

- f. An Accessory Dwelling Unit that is located within, or attached to, the principal dwelling may utilize the same septic system as the principal dwelling provided the septic system is adequately sized per the Douglas County Health Department requirements.
- g. Solid waste management systems for Accessory Dwelling Units must comply with the Douglas County Sanitary Code.
- h. The Accessory Dwelling Unit and the principal dwelling unit shall share a common access point on the adjacent road unless site conditions prohibit the use of the shared access point. In that case, a separate entrance requires approval by the County Engineer. To the greatest extent feasible, existing access points shall be utilized.
 - 1) A shared access point/driveway must be used whenever possible to maintain the appearance of a single dwelling.
- i. An Accessory Dwelling Unit may have an area of up to 1,000 sq ft. This area may be increased to 1,400 sq ft provided the area of the Accessory Dwelling Unit is not greater than 80% of the area of the primary dwelling.
- j. Separate sale or ownership of an Accessory Dwelling Unit is prohibited, unless the parcel or lot is subdivided in accordance with the Subdivision Regulations, creating a separate lot or Residential Development Parcel for each dwelling.
- k. The accessory dwelling unit shall not be used as a short term lodging use such as a bed & breakfast.
- l. An Accessory Dwelling Unit is subject to the same occupancy limits as the principal dwelling. (one family, or group living as a household unit--limited to 4 adults if any of the residents are not related).
- m. The following area requirements apply to a detached Accessory Dwelling Unit:
 - 1) A minimum of 3 acres outside the regulatory floodplain must be provided for the septic systems of the principal dwelling and Accessory Dwelling Unit (6 acres total) if the dwellings are served by Rural Water or other public water source.
 - 2) A minimum of 5 acres outside the regulatory floodplain must be provided for the septic systems of the principal dwelling and Accessory Dwelling Unit (10 acres total) if the dwellings are served by well water.

12-306.1.05 Additional Standards for Accessory Dwelling Units in the AG-2 and CP Districts:

- a. The Accessory Dwelling Unit, if detached, should be located behind the front plane of the principal dwelling whenever possible.
- b. Either the Accessory Dwelling Unit or the principal dwelling shall be occupied by the owner of the property.

12-306.1.06 Accessory Dwelling Unit Permit:

Accessory Dwelling Units must be permitted by the Zoning and Codes Director prior to their

establishment. This process is administrative unless the Accessory Dwelling Unit is located on a property which also has a Conditional Use or a Type 2 Home Occupation.

- a. The Permit application, available from the Zoning and Codes Office, shall be provided to the Zoning and Codes Office along with a plot plan with the following information, at a minimum:
 - 1) Locations of both the principal and accessory dwellings;
 - 2) Property boundaries. For large properties, the boundaries in the area of the dwellings may be shown;
 - 3) The distance between the structures and the property boundaries.
 - 4) Location of access drive.
 - 5) Area and height of the principal and accessory dwellings.
 - 6) Locations of the septic system(s);
- b. The Zoning and Codes Director shall review the application to insure compliance with the Accessory Dwelling Unit Standards and the required setbacks.
- c. When approved, the permit is completed with the filing of an Affidavit of Occupancy with the Zoning and Codes Director.
 - 1) The affidavit shall note that the occupant of the Accessory Dwelling Unit shall be either a relative/family member, caregiver, or farm employee for not less than 3 years after the Certificate of Occupancy is issued for the Accessory Dwelling Unit.
 - 2) In the AG-2 and CP Districts, the affidavit shall also note the requirement that one of the dwelling units is to be occupied by the owner of the property.
- d. Accessory Dwelling Unit Permit requiring Board of County Commission Approval.
A permit for an Accessory Dwelling Unit on a property with a Conditional Use Permit or a Type 2 Rural Home Occupation Business may not be administratively approved, but requires approval by the Board of County Commissioners.
 - 1) The permit application shall be reviewed by the Zoning and Codes Director for compliance with the standards in this section and a recommendation forwarded to the Board of County Commissioners.
 - 2) The Board of County Commissioners may approve the Accessory Dwelling Unit in addition to the other uses on the property if they determine the combined uses are compatible with nearby land uses.
 - 3) The applicant shall provide written notice of the Accessory Dwelling Unit as noted below:
 - i. The applicant shall obtain a list of property owners within 2,640 ft of the vested parcel, Residential Development Parcel, or platted lot on which the Accessory Dwelling Unit is proposed from the Douglas County Clerk's Office. If the notification area includes land within the corporate limits of a city, the list shall

extend 400 feet into the city. If the notification area extends into the adjacent County, notice must be sent to property owners in the adjacent County.

- ii. The applicant shall mail a letter which contains the information below to the property owners on the list to advise them of the proposed Accessory Dwelling use and provide them the opportunity to contact the applicant or the Zoning and Codes Department if they have questions:

“An Accessory Dwelling Unit at _____(ADDRESS)_____ is in the process of being permitted by Douglas County. The property at _____(ADDRESS)_____ also contains _____(NAME OF BUSINESS)_____ a Type 2 Rural Home Occupation Business or Conditional Use and therefore requires approval of the Douglas County Board of County Commissioners. Please contact me at _____(PHONE NUMBER, EMAIL ADDRESS)_____ with any questions regarding this registration or the Douglas County Zoning and Codes Department at 785-331-1343 for information.”

- iii. A copy of the notification letter, the certified property owner list, and certification of the dates the letters were mailed to the addresses on the list shall be included with the Accessory Dwelling Unit registration materials noted in Section 12-306-1.06(a).
 - iv. The Accessory Dwelling Unit permit application will be placed on a Board of County Commissioner’s agenda for consideration a minimum of 20 days following the date of the letter.
- 4) When approved, the permit is completed with the filing of an Affidavit of Occupancy with the Zoning and Codes Director that includes the legal description of the property and identifies the structure as an Accessory Dwelling Unit subject to the standards in Section 12-306-1 of the Zoning Regulations.
- i. The affidavit shall note that the occupant of the Accessory Dwelling Unit shall be either a relative/family member, caregiver, or farm employee for not less than 3 years after the Certificate of Occupancy is issued for the Accessory Dwelling Unit.
 - ii. In the AG-2 and CP Districts, the affidavit shall also note the requirement that one of the dwelling units is to be occupied by the owner of the property.

12-306-2 ACCESSORY STRUCTURES:
12-306-2.01 Construction and Use

Accessory structures shall be constructed in conjunction with or after the principal building and no accessory structure shall be used when the main building on the eligible parcel is not being used with the following exceptions:

- a. A temporary Certificate of Occupancy has been issued by the Zoning and Codes Director for use as storage or temporary dwelling during an active building permit.
- b. An accessory structure located without a principal structure on a Residential Development Parcel (RDP) as a result of a Certificate of Survey may continue to be used until the Residential Development Parcel has transferred to different ownership; however, the use will be regulated as a nonconforming use per Section 12-308-2.