

DRAFT ORDINANCE FOR ACCESSORY DWELLING UNITS FOR THE CITY OF MILLCREEK

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ALL LANGUAGE IN THIS DRAFT ORDINANCE IS SUBJECT TO CHANGE

Changes to Chapter 19.04 Definitions

"Accessory Dwelling Unit (ADU)" means a residential dwelling unit occupied as a separate dwelling unit on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. A mobile home or other portable structure does not qualify as an ADU.

"Building Footprint" means the perimeter of the building at the outer edge of the outside walls.

"Attached ADU" means an ADU that is entirely contained within or added to the building footprint of the principal dwelling or that shares a wall and roof with the principal dwelling.

"Detached ADU" means an ADU located in an accessory building on the property and not attached to or within the principal dwelling unit.

"Mother-in-law" means an ADU contained entirely within the footprint of the principal dwelling unit or shares a wall and roof with the principal dwelling unit and where both dwellings are accessible from one entrance. Additional entrances may be allowed if a mother-in-law apartment is currently existing on the lot an ADU permitted.

"Owner Occupancy" means the following:

1. An individual who is listed on a recorded deed as an owner of the property;
2. Any person who is related by blood, marriage or adoption to an individual who is listed on a recorded deed as an owner of the property; or
3. An individual who is a trustor of a family trust who possesses legal ownership of the property.

"Principal Dwelling" means the larger of the two dwellings on the property as measured by the building footprint.

common interior floor, where the units are one above the other. A common wall may be located within an attached garage used for the storage of private automobiles.

To be removed from City Code

~~19.04.290 Guest House~~

~~"Guest house" means a separate dwelling structure located on a lot with one or more main dwelling structures and used for housing of guests or servants, and not rented, leased or sold separate from the rental, lease or sale of the main dwelling~~

Chapter 19.89 ACCESSORY DWELLING UNITS

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19.89.010 Purpose

A. Accessory Dwelling Units (ADUs) in single-family residential zones are an important tool in the overall housing goals and needs of Millcreek and allow for alternative and flexible housing options in owner-occupied single-family residences. The purposes of the ADU standards of this code are:

1. Create new housing units while respecting the appearance and scale of single-family residential development.
2. Provide more housing choices in residential districts.
3. Allow more efficient use of existing housing stock.
4. Provide housing options for family caregivers, adult children, aging parents, and families seeking smaller households.
5. Offer a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship, and services.

6. Broaden the range of affordable housing throughout the city.

19.89.020 Applicability

A. Any property owner may file an application to have an ADU either attached or detached if the property meets the following requirements:

1. The property is owner occupied, see definition 19.04.XXX
2. The lot area is 8,000 square feet or greater.
3. The use of the lot at the time of application and any point thereafter is single-family.
4. The lot does not currently have an ADU on the property.
5. The lot is not a flag lot.
6. The lot is in an R-1 or A-1 zone.

19.89.030 Permitted & Conditional Uses & Limitations

Zone	Use	Permitted or Conditional Use	Use Limitations or Specific Requirements
R-1	Attached ADU	Permitted	See 19.89.050 for Design Standards
A-1	Attached ADU	Permitted	See 19.89.050 for Design Standards
R-1	Detached ADU	Conditional	See 19.89.050, 19.89.051 for Design Standards & 19.89.040 for Application Process
A-1	Detached ADU	Conditional	See 19.89.050, 19.89.051 for Design Standards & 19.89.040 for Application Process

19.89.040 Application Process

A. Attached ADU

1. Application for a site plan review shall be submitted to the Millcreek Planning and Zoning Department and must include a minimum the following:

a. An application for an ADU shall be made by the property owner or certified agent thereof in writing upon the form(s) designated by the director or director's

designee.

b. Accompanying Documents. Each application shall include: to-scale site plans, proof of owner occupancy, existing floor plans of all buildings on the lot, architectural plans, engineering plans, landscape plan, and parking plan, unless waived by the director or the director's designee. Such plans may be conceptual but shall provide reasonable accuracy and specifications to allow for full understanding.

c. Fee. The initial application fee for any ADU shall be paid. The payment of a partial application fee, or the submittal of plans for a pre-submittal review shall not constitute a complete application.

d. Complete Applications. Only applications deemed complete by the City Staff shall be processed. Complete applications include appropriate application forms and signatures as required in A above, the required associated drawings, as required in B above, and such drawings shall meet City standards unless a waiver is being sought as part of the application.

2. The application review for an attached ADU shall, at a minimum, consist of the following:

a. The director or the director's designee shall administer an application review procedure in which the proposed use and the proposed site development plan are evaluated for compliance with all applicable ordinances and codes.

b. Referral of the application to all affected entities.

c. Staff reviewing the application may involve other City Departments for additional considerations or conditions to adequately meet all applicable requirements.

3. The director, director's designee or staff shall present a review, summary, and conclusion of the application. A Final letter shall be issued to the applicant electronically or by mail.

B. Detached ADU

1. Applications for a detached ADU shall follow 19.84 Conditional Uses in addition to the following:

a. A parking plan must be submitted before the application is deemed complete.

b. Proof of owner occupancy must be submitted before an application is deemed complete.

complete.

B. Appeals

1. All applications to appeal a land use decision for an ADU shall follow the requirements of 19.84.070.

19.89.050 Development Standards for ADUs

		Specific Use Limitations or Specific Requirements
Minimum Lot Area	8,000 Square Feet	
Maximum Area of ADU	The total area of an ADU shall not exceed fifty percent (50%) of the square footage of the habitable area of the	The square footage of an attached garage shall not be included in the gross square footage unless the accessory

	primary residence grade level footprint and in no case exceed eight hundred fifty (850) square feet.	dwelling unit is located in a basement that includes habitable space below the garage.
Lot Coverage Total	See 19.71.040 Table 1	
Maximum Number of Bedrooms	2	
Maximum Number of ADUs	1 ADU per lot that can meet the standards of 19.89.050.	
Entrance for ADU	Located in Side or Rear Yard	Corner lots may not have an ADU entrance facing a public street.
Off-Street Parking	1 per Bedroom of each ADU.	Creation of additional off-street parking spaces, excluding previously existing driveways, is prohibited in the front yard of a subject property; Additional parking stalls or driveways created to accommodate an ADU are subject to standards of Title 14.
Occupancy Limit in ADU	2 related or unrelated adults and their children.	

- A. An accessory dwelling unit shall not be sold separately or subdivided from the principal dwelling unit or lot;
- B. The design and size of the ADU shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire, health, and any other applicable codes. When a new ADU is proposed in an existing home, the entire ADU shall be brought up to all minimum standards, as inspected and approved by city staff;
- C. The installation of separate utility meters is prohibited. If required, separate utilities may be installed upon approval from the utility company and public works director.
- D. ADUs shall be required to install perimeter fencing.
- E. Landscaping shall be designed to obstruct visual impact from adjoining properties. In considering detached ADUs, the planning commission may require additional buffering requirements if it finds that such requirements will mitigate detrimental effects in 19.84;
- F. An ADU shall comply with the regulations of the underlying zone and Chapter 19.71 MKZ.
- G. Design Standards. Accessory buildings shall incorporate at least one of the exterior materials used in the main building for 20 percent of all facades of the structure, or

shall be clad in wood, vinyl, or cementitious fiberboard siding. Accessory buildings must have a pitched roof unless the main building has a flat roof, in which case an accessory building may have a flat roof or a pitched roof. Maintain same color of the primary structure for at 50% of the perimeter facing facades for the ADU.

19.89.051 Additional Development Standards for Detached ADUs

		Specific Use Limitations or Specific Requirements
Location	Rear Yard	See 19.04.570
Maximum Area of ADU	The total area of an ADU shall not exceed fifty percent (50%) of the square footage of the habitable area of the primary residence grade level footprint and in no case exceed eight hundred fifty (850) square feet.	
Setbacks Side and Rear	8 Feet Minimum	
Setback from Main Building	8 Feet Minimum	
Maximum Height	1 story with a maximum height of 20 feet.	See additional setbacks for heights greater than 14 feet 19.14.070 (B)
Lot Coverage for Rear Yard	25%	

- A. Any detached ADU shall be a permanent structure. Trailers, mobile homes, and other portable structures especially structures with wheels shall not be permitted as detached ADUs.
- B. Any detached ADU is not eligible for 19.71.040 Option B Deviations From General Standards Based on Neighborhood Compatibility or 19.14.050 Option C Special Exception; Planning Commission Review.

19.89.060 Affidavit

A. All applications for ADUs shall include a notarized affidavit, signed by the property owner of record, stating that said owner of record lives and will continue to live in either the principal dwelling unit or the approved ADU as his or her permanent residence and acknowledges all regulations required to operate an ADU. Prior to final approval of the ADU, the affidavit shall be recorded against the property with the Salt Lake County Recorder.

19.89.070 Inspection

- A. Prior to final approval of an attached or detached ADU an inspection from the City is required and must be attached with the final approval that the ADU meets the minimum standards, as inspected and approved by city staff.

19.89.080 Existing Accessory Dwelling Units

A. That portion of a single-family residence which meets the definition of an ADU or any detached ADU which was in existence prior to _____, 2020, may continue in existence provided the following requirements are met:

- B. An application for an accessory dwelling unit is submitted within eighteen (18) months of _____, 2020; and has been issued a final approval from Millcreek City.

19.89.090 Change of Ownership

A. If the owner of record on a property changes and is not accompanied by a new ADU application, or if the owner of record is no longer permanently residing in the principal dwelling unit, the ADU shall be immediately vacated, and shall no longer be used as an ADU.

19.89.010 Termination

A. If property owner is found to be in violation of this title the City may revoke the use of an ADU on the property.

Changes to Chapter 19.14

19.14.020 Permitted Uses

Permitted uses in the R-1 zones are as follows:

ZONE	PERMITTED USES
All R-1 Zones	Accessory uses and buildings
	Agriculture

	Home business, subject to MKZ 19.85;
	Home daycare/preschool, subject to MKZ 19.04.293
	Household pets
	Residential facility for persons with a disability
	Short-term rentals provided a valid Millcreek business license has been issued and in good standing with respect to the property;
	Attached Accessory Dwelling Unit, subject to MKZ 19.89;
R-1-6, R-1-7, R-1-8, R-1-10, R-1-15	Single-family dwelling
R-1-21, R-1-43	Guesthouse, the square footage must be less than one thousand two hundred square feet
	Maximum of four horses for private use only, not for rental
	Single-family dwelling

19.14.030 Conditional Uses

Conditional uses in the R-1 zones are as follows:

ZONE	CONDITIONAL USES
All R-1 zones	Cemetery
	Day care/preschool center, subject to MKZ 19.76.260
	Golf course
	Home day care/preschool, subject to MKZ 19.04.293
	Planned unit development
	Private educational institutions having an academic curriculum similar to that ordinarily given in public schools
	Private nonprofit recreational grounds and facilities
	Public and quasi-public uses

	Residential facility for elderly persons
	Temporary buildings for uses incidental to construction work, which building must be removed upon the completion of the construction work. If such buildings are not removed within ninety days upon completion of construction work or thirty days after notice, the building will be removed by the City at the expense of the owner.
	Detached Accessory Dwelling Unit, subject to MKZ 19.89;
R-1-3, R-1-4	Single-family dwelling
R-1-5	Single-family project developments The planning commission may approve a detailed development plan for the entire single-family project in an R-1-3, R-1-4, R-1-5 zone, pursuant to MKZ 19.84. Thereafter, the development services division director may, as authorized by the planning commission, approve use permits for individual residential uses, provided that the plans comply with all requirements and conditions of the approved development plan.
R-1-6, R-1-7, R-1-8, R-1-10	Nursery and greenhouse, provided that there is no retail sales
R-1-15	Pigeons, subject to health department regulations
	Sportsman's kennel with a minimum lot area of one acre
R-1-21, R-1-43	Animals and fowl for family food production
	Bed and breakfast homestay
	Nursery and greenhouse; provided, that there is no retail sales
	Pigeons, subject to health department regulations
	Sportsman's kennel with a minimum lot area of one acre

Changes to Chapter 19.48

19.48.020 Permitted Uses

Permitted uses in the A-1 zone include:

- Accessory uses and buildings customarily incidental to permitted uses;

- **Attached Accessory Dwelling Unit, Subject to MKZ 19.89**

- Agriculture;
- Animals and fowl for family food production;
- Apiary;
- Aviary;
- Farm devoted to the raising and marketing, on a commercial scale, of chickens, turkeys or other fowl or poultry, rabbits, chinchilla, beaver, nutria, fish or frogs;
- Home business, subject to MKZ 19.85;
- Home daycare/preschool, subject to MKZ 19.04.293;
- Household pets;
- Raising and grazing of horses, cattle, sheep or goats, provided that such raising or grazing is not a part of, nor conducted in conjunction with, any livestock feedyard, livestock sales yard, animal byproduct business, or commercial riding academy;
- Residential facility for elderly persons;
- Residential facility for persons with a disability;
- Short-term rentals provided a valid Millcreek business license has been issued and in good standing with respect to the property;
- Single-family dwelling;
- Worm farming (minimum lot area one acre)

19.48.030 Conditional Uses

Conditional uses in the A-1 zone include:

- **Detached Accessory Dwelling Unit, Subject to MKZ 19.89**

- Airport;
- Bed and breakfast homestay;
- Campgrounds;
- Cemetery;
- Day care/preschool center, subject to MKZ 19.76.260;
- Dwelling group.

1. The development shall comply with the maximum allowable density for the A-1 zone.
2. The distance between the principal buildings shall be equal to the total side yards required in the zone; provided, however, that at the option of the developer, the distance between the principal structures may be reduced to ten feet, provided that the difference between ten feet and the required side yards is maintained as permanently landscaped open space elsewhere on the site. The distance between principal buildings and the nearest perimeter lot line shall not be less than fifteen feet unless demonstrated by the development plan that the yard required for a principal building in the district in which located is more appropriate. The distance between the building and a public street shall be

not less than the front yard required in the zoning district, except for corner lots the side yard which faces on a public street shall be not less than twenty feet.

3. Access shall be provided by a private street or right-of-way from a public street; the private street or right-of-way shall not be less than twenty feet wide for one or two rear dwelling units and not less than thirty feet wide for three or more dwelling units.
4. A minimum of two parking spaces shall be provided for each dwelling unit. Parking spaces and vehicular maneuvering areas shall be designed to comply with city standards.
5. Every dwelling in the dwelling group shall be within sixty feet of an access roadway or drive.
6. The development plan shall provide landscaping as specified in MKZ 19.77. Solid visual barrier fences shall be provided along all property lines unless the planning commission approves otherwise by deleting or modifying the fence requirement.
7. The development shall be approved by the development services director and the City fire service provider before final approval is given by the planning commission.

- Fruit and/or vegetable stand, provided that the products are produced on the premises;
- Golf course;
- Home daycare/preschool, subject to MKZ 19.04.293;
- Milk processing and sale, provided that at least fifty percent of the milk processed or sold is produced on the premises;
- Nursery and/or greenhouse, excluding retail sales;
- Nursing home;
- Pigeons, subject to health department health regulations;
- Planned unit development;
- Plant for storage or packing of fruit or vegetables produced on the premises;
- Private educational institution having an academic curriculum similar to that ordinarily given in public schools;
- Private nonprofit recreational grounds and facilities;
- Public and quasi-public uses;
- Radio and television transmitting and relay station and tower, excluding business office or studio, except such control room studio facilities as required for emergency broadcasts in the event of a national or local disaster;
- Sportsman's kennel (minimum lot area one acre);
- Temporary buildings for uses incidental to construction work, which buildings must be removed upon completion or abandonment of the construction work. If such buildings are not removed within ninety days upon completion of construction and thirty days after notice, the buildings will be removed by the City at the expense of the owner;
- Two-family dwelling

Changes to Chapter 19.84 Conditional Uses

As a part of adopting a new ADU ordinance, Millcreek is proposing to adopt a new language for conditional use permits. This language has not been drafted at this point.

DRAFT