

ACCESSORY DWELLING UNIT



Checklist and Information

The following checklist is intended to provide general information for citizens interested in applying for an ADU permit. Please see chapter 20.45 of the Missoula Municipal Code and adopted building code for specific requirements and more information.

Accessory Dwelling Units, known as ADUs, are small interior apartments or separate backyard houses associated with single dwelling units. They are also known as mother-in-law apartments or backyard cottages. Title 20, Missoula Zoning Code defines an accessory dwelling unit below.

***Accessory Dwelling Unit.** A separate dwelling unit within a primary residence or a separate dwelling unit that occupies an accessory building that shares a parcel with a primary residence. As the name implies, accessory dwelling units are an accessory use to the principal use of the property.*

There are three types of accessory dwelling units:

- Interior accessory dwelling unit - created within an existing or new house. Example, basement apartment.
- Interior addition accessory dwelling unit - added to the floor area of an existing house.
- Detached accessory dwelling unit – a dwelling unit that is separate from the primary dwelling unit. A garage apartment or alley house is an example.

Does my zoning district allow ADU's?

Internal accessory dwelling units are allowed in R215, R80, R40, R20, RT10, R8, R5.4 RT5.4, R3, RT2.7, RM2.7, RM1, RM1.5 RM0.5, RMH, B, C and M1R zoning districts.

Detached accessory dwelling units and Internal Addition ADUs are allowed in RT5.4, RT2.7, RM2.7, RM1, RM1.5 RM0.5, RMH, B, C and M1R zoning districts.

Detached accessory dwelling units and Internal Addition ADUs are allowed as a conditional use (See 20.85.070) in R215, R80, R40, R20, RT10, R8, R5.4 and R3 districts.

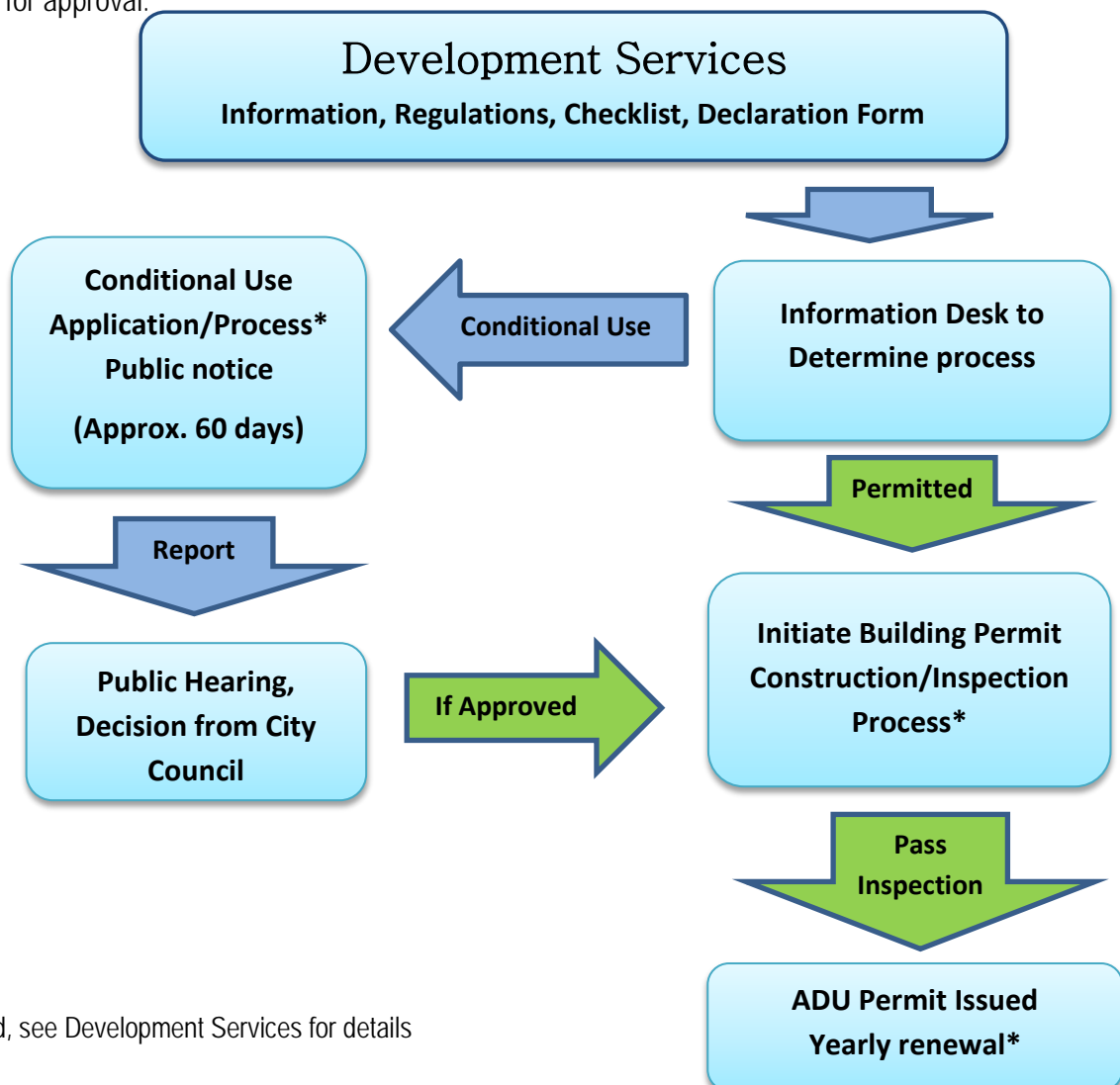
Accessory dwelling units are not allowed in Special Districts or Planned Unit Developments (PUDs) unless explicitly regulated within the Special District or PUD.

Is there only one other house on the lot and is the lot big enough? – ADUs are allowed only on parcels occupied by a single detached house or lot line house and meet the minimum parcel area of the zoning district. For example a minimum of 5,400 sq. ft. is required in the R5.4 zoning district.

Do covenants restrict ADU's? - If the property is located in an area with development covenants or a homeowners association, it is the responsibility of the property owner to determine if an ADU is allowed. Development or protective covenants may restrict your ability to create an ADU. A declaration statement confirming owner occupancy and absence of covenant restrictions on ADU is required. A form is available at Development Services.

A grace period for registering illegal ADUs with the City exists until June 5, 2014. After that date, the City of Missoula will pursue action on confirmed illegal ADU's.

- Will the owner reside in either the primary dwelling unit or ADU?** – The owner(s) of the property must occupy either the primary dwelling unit or the ADU. Owner occupancy is defined as a property owner, as reflected in title records, who makes his or her legal residence at the site. A declaration form is available at Development Services.
- Is the property infrastructure adequate?** – Utilities on a property must be sized adequately to handle an additional dwelling unit. It is highly recommended that a property owner check with the various utility agencies (natural gas, electricity, water, sewer) to better understand utility requirements and options.
- Does the ADU conform to Building Code?** – ADUs must meet Building Code requirements (see Development Services for further details and information). Below are some of the potential Building Code requirements:
 - Separate heating/cooling system
 - Electrical code requirements
 - Egress requirements
- Is there adequate off-street parking?** - In multi-dwelling zoning districts one off-street space is required for an ADU. In single-dwelling districts (R215, R80, R40, R20, RT10, R8, R5.4 and R3) one dedicated off street parking space is required in addition to two for the principal dwelling unit to total three.
- ADU Review Process** – The ADU approval process length can vary depending on project circumstances. If a conditional use approval is required, the process may take a few months and may require additional conditions be met for approval.



* Fee required, see Development Services for details

ACCESSORY DWELLING UNIT



Frequently Asked Questions

Are permits required?

Yes. Construction of a new accessory dwelling unit (attached or detached) and renovations of existing structures to include an ADU will be subject to all permitting requirements of the City of Missoula. A conditional use approval is also required for Interior Attached ADUs and Detached ADUs in single-dwelling zoning districts.

What is a second dwelling unit?

A second dwelling unit differs from an ADU in that it is one of two primary dwelling units on a parcel. A second dwelling can be a unit that is detached or attached to another unit (i.e. a duplex or two-unit house), and may be conforming, non-conforming, or illegal. Reference to structures that appear to be ADUs that were established prior to 2009 are more appropriately termed second dwelling units because the term ADU did not exist in Missoula's zoning ordinance until 2009.

Conforming second units - A second unit conforms because it was constructed according to all current requirements of the zoning district. This development type could occur in any residential district as long as the parcel area is sufficient to meet the requirement of 2x the minimum area per unit size along with the other required development standards.

Non-conforming second units – A second unit is non-conforming (and legal) because it was legally constructed meeting all the zoning regulations in place at the time of construction. This could occur in situations where zoning did not exist when the structure was first established but zoning was applied later or upon annexation or through changes to zoning over time.

Illegal second units – A second unit may be illegal if it was constructed without appropriate permits and does not meet the current zoning requirements.

How is a primary dwelling with an attached ADU different than a duplex (two-unit house)?

Accessory dwelling units have specific design standards, are limited in size, are not included in the land area calculation, need only one parking space, and require owner occupancy. Duplex units are not subject to the accessory dwelling unit regulations.

Can an ADU be placed on a parcel with two or more primary residences?

No. A parcel containing more than one primary residence is not eligible to add an ADU.

Who can occupy the accessory dwelling unit?

The property owner, a family member, or a renter may occupy either the primary residence or the accessory dwelling unit, however; the property owner must occupy either the primary or accessory dwelling unit.

How will owner occupancy be enforced?

Land owners eligible and choosing to have an ADU on their parcel must file a deed restriction stating they will occupy one of the units on site. The deed restriction must be approved by the City Attorney's Office and filed with the County Clerk and Recorder's Office prior to building permit approval of the ADU.

Once the deed restriction is on file, enforcement will be complaint-based. A complaint against the ADU/property-owner will set in motion a compliance process by a City Code Compliance Official, and if necessary the City Attorney's office, until the deed-restriction is honored.

Are there design standards for ADUs?

Yes. The complete list of current standards can be found in the Missoula City Zoning Ordinance, Title 20 (Ch. 20.45.060).

Are there area size limits for ADU's?

Yes. In most cases the floor area of an ADU may not exceed 600 square feet. See the Missoula City Zoning Ordinance, Title 20 (Ch. 20.45.060) for further details.

What if I have an existing second dwelling unit not approved through a permit process?

The Development Services Office will determine if the dwelling is considered a second unit or an accessory dwelling unit. If it is considered a second unit (as described above) the general standards of the zoning district or the nonconforming uses chapter (Ch.20.80 Nonconformities) may apply. Appropriate permits must be obtained and documentation filed to make the unit legal.

The City Council has a great interest in the safety of citizens renting existing dwelling units that have not received proper permits so created a grace period in the permitting process to encourage those property owners with units to seek approval of a permit in order to bring them up to current safety standards.

The City Building Division currently has a voluntary housing inspection program. The purpose of the program is to improve the quality of residential structures in the City of Missoula. The inspection will cover a checklist of items that constitute a substantial health and safety risk to the occupants and owners, and can be requested by landowners, agents, or tenants. To obtain an inspection, fill out a request form provided by the City Building Division (552-6044) and pay an original inspection fee of \$15.00.