

New ADU and Occupancy Limit Laws in Colorado

BY AMY BRIMAH



This article discusses two recent laws regarding accessory dwelling units and occupancy limits, considers how they could add housing options, and offers practical takeaways.

Recent changes in Colorado law regulating accessory dwelling units (ADUs) and occupancy limits will, in theory, result in more affordable housing options and housing types to accommodate a variety of income ranges. House Bill 24-1007 could result in additional housing options by eliminating residential occupancy limits in a single dwelling. House Bill 1152 intends to incentivize construction of new accessory dwelling units (ADUs), also creating the potential for additional housing stock. Further, both the construction of ADUs and the elimination of occupancy limits create income opportunities for owners of residential real estate. This article explains the key provisions of each law and suggests opportunities for practitioners.

The Need for Statewide Law Regarding Occupancy Limits and ADUs

The recent laws addressing occupancy limits and ADUs aim to address housing needs in Colorado by permitting certain housing options statewide that previously may have been prohibited by local ordinances.

ADUs provide for additional living quarters on single-unit detached dwelling lots. They typically have kitchen and bathroom facilities and may be attached or detached from the primary dwelling unit. In the early 20th century, ADUs, single-room occupancy units (SROs), and SRO hotels were fairly common and provided housing options across different price points. Boarding homes were a prevalent housing option during this time, with one-half to one-third of urban residents living in a boarding arrangement before the 1920s.¹ SROs typically provided lower-cost housing options, while SRO hotels and ADUs were popular options across all socioeconomic levels. For example, both the Plaza Hotel and the Waldorf Astoria in New York City were previously used as SRO hotels

“
The number of ADUs in the housing supply directly affects the number of housing units available for occupancy. Adding new ADUs may partially fill the missing options in the housing market that were previously served by ADUs, SROs, and SRO hotels.
”

and were available for long-term residential lease.² SRO hotels operated throughout the country, including in Denver, and were a part of the housing stock.

ADUs, SROs, and SRO hotels suffered similar fates in that they became almost impossible to build due to local regulations and zoning

restrictions. “Euclidean”³ zoning laws (the separation of land uses within a given municipality by type, e.g., residential, commercial, retail, and industrial) introduced in the 1920s began to phase out these housing types. By 2000, approximately 1 million SRO units had been lost from the housing market.⁴ The loss of SROs and SRO hotels resulted in a substantial decrease in low-cost housing options in the United States and coincided with an increase of the unhoused population.⁵ Similarly, zoning ordinances prohibiting ADUs removed a type of affordable housing, although ADUs continued to be constructed illegally in some communities to meet housing demands for decades after ADUs were prohibited under land use codes.⁶

The number of ADUs in the housing supply directly affects the number of housing units available for occupancy. Adding new ADUs may partially fill the missing options in the housing market that were previously served by ADUs, SROs, and SRO hotels. Several states have allowed more ADUs to be built as a strategy to encourage the development of more affordable housing options with limited impact on existing infrastructure. For example, California adopted statewide ADU laws in 2016, and ADUs are now permitted by right.⁷ California has continued to update and expand its ADU laws as a way to expand housing options.⁸ As a result, ADU growth has been substantial in California, with ADUs accounting for more than 21% of permits for residences statewide in 2023.⁹ Similarly, Oregon (2017),¹⁰ Vermont (2020),¹¹ Washington (2023),¹² Montana (2023),¹³ and now Colorado (2024)¹⁴ have also passed laws that generally require use-by-right approvals for ADUs in most areas. Other states have adopted less expansive versions of ADU laws that continue to allow restrictions on ADUs at the local level.¹⁵

Permitting construction of new ADUs and eliminating restrictions on occupancy limits is unlikely to completely restore the housing that was eliminated by zoning laws and building

code regulations. However, these initiatives could pave the way for lower-cost housing solutions to help fill the gaps created when these housing types were prohibited.

The Occupancy Limits Law

House Bill 24-1007, Concerning Residential Occupancy Limits (the occupancy law), effective July 1, 2024,¹⁶ declared that “occupancy limits and the increased availability of housing are matters of mixed statewide and local concern.”¹⁷ When a matter is of statewide or mixed state and local concern, the state law supersedes any conflicting local ordinances.¹⁸ Before the law took effect, some local ordinances imposed occupancy limits based on familial relationships.¹⁹

The occupancy law prohibits local governments from limiting the number of unrelated people who may live together in a “single dwelling.”²⁰ Occupancy limits may now only be based on demonstrated health and safety concerns, such as international building code standards, fire code regulations, wastewater or water quality standards, or affordable housing program guidelines.²¹ For example, the International Building Code applies in communities that have not adopted their own building codes, so occupancy limits in those communities could be limited accordingly (requiring at least 150 square feet of space for the first occupant and at least 100 square feet of space for each additional occupant) as a health and safety standard.²² Previous limitations imposed by local governments were generally not directly related to health or safety concerns.²³

The occupancy law applies to all city, town, and county governments in Colorado, including all home rule or statutory cities or towns; home rule or statutory counties; territorial charter municipalities; and consolidated cities and counties, regardless of population size or location.²⁴ The occupancy law will have no impact on common interest communities that regulate occupancy limits in their declarations. Additionally, the occupancy law does not currently apply to private parties (such as landlords) and will have no impact on leaseholds where a private party elects to limit occupancy in the terms and conditions of the lease.



“
The ADU law
requires subject
jurisdictions to
allow one ADU as
an accessory use
to a single-unit
detached dwelling
unit, subject only to
an administrative
approval process, in
any part of the subject
jurisdiction that
allows single-unit
detached dwellings.
”

The Colorado Department of Local Affairs (DOLA) recommends that local governments amend their local land use codes and regulations to comply with the occupancy law. However, eliminating prior restrictions by amendment is not required, and a local government is compliant so long as it does not enforce any occupancy restrictions that contradict the occupancy law standards. As an alternative or stopgap measure, DOLA encourages local governments that have not amended their land use codes to not enforce limits on the number of unrelated persons occupying a dwelling unit.²⁵ DOLA also recommends that any public-facing local government materials be consistent with the occupancy law.

The ADU Law

House Bill 24-1152, Concerning Increasing the Number of Accessory Dwelling Units (the ADU law),²⁶ became effective on June 30, 2025. Similar to the occupancy law, the ADU law declared that “increasing the housing supply through the construction or conversion of accessory dwelling units is a matter of mixed statewide and local concern.”²⁷ The ADU law will therefore preempt conflicting local ordinances.²⁸

The ADU law defines an ADU as an internal, attached, or detached dwelling unit that provides independent living facilities for one or more individuals, is located on the same lot as the primary residence, and has living, sleeping, eating, cooking, and sanitation facilities.²⁹ An ADU could be created as a separate space within a single-unit detached dwelling unit, as an addition to a single-unit detached dwelling unit, or as a separate detached unit on the same parcel of land.

The ADU law will, in theory, create the opportunity to substantially increase the number of housing units in Colorado by permitting ADUs as a use-by-right in most circumstances. This, in turn, may help solve several issues related to housing in Colorado, including affordability, equity, and environmental concerns, among others. The legislature noted that municipalities that have removed barriers to the construction of ADUs, such as parking requirements, owner occupancy requirements, and restrictive size and design limitations, saw permits for ADUs increase from 10% to 20% of total new housing permits

and had an overall increase in total housing supply.³⁰ Additionally, in other places around the country that have adopted use-by-right laws for ADUs, housing options for the elderly, disabled, empty nesters, and young workforce have increased.³¹

The ADU law's public policy justifications include providing affordable housing and increasing housing units with minimal impacts to infrastructure; generating rental income for homeowners; providing means for intergenerational living; reducing water use; reducing greenhouse gas emissions; reducing household energy and transportation costs; and providing affordable and equitable home ownership opportunities.³²

The ADU law applies to all "subject jurisdictions."³³ A subject jurisdiction is (1) a municipality³⁴ with a population of 1,000 or more that is within a metropolitan planning organization (MPO) or (2) the portion of a county that is both within a census designated place with a population of 40,000 and within an MPO. The five MPOs in Colorado are Denver Regional Council of Governments, Grand Valley, North Front Range, Pikes Peak Area Council of Governments, and Pueblo Area Council of Governments. Approximately 67 jurisdictions in Colorado are subject jurisdictions.

A local government that is not a subject jurisdiction had the opportunity to opt into the ADU law as an "accessory dwelling unit supportive jurisdiction" by obtaining a certification from DOLA before June 30, 2025.³⁵ Only certified ADU-supportive jurisdictions, whether optional or mandatory, will be eligible to receive funds from DOLA's ADU grant program.³⁶ Likewise, only residents of ADU-supportive jurisdictions are eligible for Colorado Housing and Finance Authority (CHFA) financing for the development of ADUs.³⁷

ADU Approval Process and Objective Standards

Under the ADU law, the process to obtain approval for an ADU has been simplified. The ADU law requires subject jurisdictions to allow one ADU as an accessory use to a single-unit detached dwelling unit, subject only to an administrative approval process, in any part of the subject

jurisdiction that allows single-unit detached dwellings.³⁸ The administrative approval process may not require a public hearing, recommendation, or decision by an elected or appointed public body or a hearing officer.³⁹ Previously, if an ADU was not permitted by the applicable zoning regulations, owners had to have their property rezoned to permit an ADU through a lengthy process that may or may not have resulted in an approval for an ADU.

Additionally, the ADU law requires that subject jurisdictions have objective standards for the approval process. Objective standards for the approval process are defined in the ADU law as those that (1) allow for consistent compliance determinations regardless of the decision maker; and (2) do not require a subjective determination,⁴⁰ including, without limitation, that an ADU application be consistent with master plans or other development plans, that the ADU be compatible with the land use or development of the surrounding area, or that the ADU be consistent with the "public welfare, community character, or neighborhood character."⁴¹

Key Prohibitions Under the ADU Law

Subject jurisdictions may not require the construction of a new off-street parking space in connection with construction or conversion of an ADU, except in limited circumstances, such as when the existing parcel does not have off-street parking and on-street parking is prohibited.⁴²

The ADU law does not allow subject jurisdictions to have an owner occupancy requirement for either the ADU or any other dwelling on the same lot, except in certain circumstances. The subject jurisdiction may require the owner to reside on the parcel when the ADU application is submitted if the ADU is constructed or converted after the primary dwelling unit.⁴³ If the primary and ADU are simultaneously constructed, a jurisdiction could not impose an owner occupancy requirement. Local governments may also require owner occupancy of the ADU if the owner is applying for a "short-term rental on the parcel" through a local ordinance.⁴⁴

A subject jurisdiction is also not allowed to apply a restrictive design or dimension standard⁴⁵ for an ADU.⁴⁶ However, the subject jurisdiction may prohibit the construction of ADUs that are

under 500 square feet or over 800 square feet, or require that an ADU not be larger than the principal dwelling on the same lot.⁴⁷

What the ADU Law Does Not Restrict

The ADU law does not prohibit a subject jurisdiction from adopting or enforcing standard procedures related to historic districts,⁴⁸ life safety codes,⁴⁹ or requirements to pay impact fees or other development charges⁵⁰ in connection with an ADU application or approval. The ADU law also does not restrict the application of locally adopted building, fire utility, or stormwater codes.⁵¹ Nor does it restrict subject jurisdictions from requiring will-serve letters for water or wastewater as a permitting condition for an ADU.⁵²

The ADU law does not apply to "exempt parcels," which are parcels that are (1) not served by domestic water and sewer or are served by a well permitted for a single dwelling unit, (2) historic properties not within a historic district, or (3) in a floodplain.⁵³

Additionally, because the requirement to permit an ADU as an accessory use under the ADU law only applies to single-unit detached dwelling units, the ADU law does not apply to housing types such as duplexes, other side-by-side units, or stacked units.

ADUs and STRs. The ADU law contains the first-ever Colorado statutory definition of a short-term rental (STR). For purposes of the ADU law, an STR is defined as the rental of a lodging unit for less than 30 days. A lodging unit is any property or portion of a property that is available for lodging that is not a hotel or motel unit.⁵⁴ Despite defining an STR, the ADU law does not restrict subject jurisdictions from regulating STRs on either the ADU or any other dwelling unit.⁵⁵ This means that a local government can apply its own definition of an STR for purposes of regulating STRs in ADUs,⁵⁶ and they may enact or apply existing ordinances and local laws (including owner-occupancy requirements) concerning the STR of an ADU or any other dwelling on the same lot as an ADU.⁵⁷ As a result, other than making more housing units available, whether for owner occupancy, rental occupancy, or short-term occupancy, the ADU law will not impact STR regulation.

ADUs and Common Interest Communities

The ADU law applies to property that is part of a planned unit development or a common interest community within subject jurisdictions. In other words, in subject jurisdictions, ADUs may not be restricted by planned unit development resolutions or ordinances or common interest community declaration of covenants.

The ADU law specifically prohibits a planned unit development resolution or ordinance that is (1) more restrictive than the local law applicable to ADUs that are not within a planned unit development or (2) in any way prohibited by the ADU law.⁵⁸ Any such resolution or ordinance adopted before the ADU law took effect will not be interpreted or enforced in any manner prohibited by the ADU law.⁵⁹ Moreover, any provisions of a common interest community declaration, bylaw, or rule that restricts or attempts to restrict ADUs as an accessory use to any single-unit detached dwelling are deemed void as a matter of public policy.⁶⁰ However, a common interest community may implement “reasonable restrictions” on ADUs. A “reasonable restriction” is a requirement that does not unreasonably increase the cost of construction or effectively prohibit the construction of an ADU consistent with the ADU law.⁶¹

Select Subject Jurisdiction Progress in Updating ADU Laws

In November 2024, the City and County of Denver enacted the measure known as the Citywide Accessory Dwelling Units, which amended the Denver Zoning Code, the zoning maps, and former Chapter 59 zoning to permit ADUs in all residential areas.⁶² These changes allow ADUs on 70% of Denver’s residential land, compared to 36% before the amendments became effective on December 16, 2024.⁶³

The City of Colorado Springs approved amendments to its Unified Development Code to align with the ADU law and to permit ADUs in all areas that permit single unit detached dwellings.⁶⁴ The City of Boulder approved amendments to its Land Use Code to change the standards for ADUs and related details to comply with the ADU law.⁶⁵ These amendments

eliminate Boulder’s previous requirement of a minimum lot size of 5,000 square feet for an ADU.⁶⁶


Practical Takeaways

Practitioners have opportunities to advise clients to apply for funds through the DOLA grant program to reduce the cost of constructing an ADU. The grant program provides grants to ADU-supportive jurisdictions for activities that promote the construction of ADUs.⁶⁷ Practitioners may also advise lenders on the availability of funds from CHFA for income-eligible borrowers to construct or convert ADUs. Moreover, the ADU law does not require owner occupancy, so there are opportunities to advise owners who may want to lease their ADUs. For those who advise common interest communities, a practitioner may advise associations on the lack of enforceability of ADU restrictions for single-unit dwellings.

Conclusion

As matters of mixed statewide and local concern in Colorado, occupancy limits and construction or conversion of ADUs are now regulated at the state level. The ADU law requires many local governments to develop an objective standard

for the administrative approval process for an ADU on single dwelling lots and to eliminate subjective standards that may be related to neighborhood character. This less restrictive and more uniform approval process, along with the DOLA grant and CHFA components of the ADU law, may spur the development of ADUs.

Because the occupancy law does not limit landlords from imposing occupancy limits, that law’s potential impact is unclear. Many landlords will likely still want to limit the number of unrelated persons occupying the leased premises, while others may wish to maximize rent revenue by permitting as many renters as can reasonably fit in the premises. However, changes to the occupancy law may result in creative solutions for employee housing, senior living, and group living, restoring housing once provided by SROs and SRO hotels. 



Amy Brimah is the founding attorney of Brimah LLP in Denver. Her practice includes assisting owners, developers, and investors with their commercial real estate interests—(303) 985-8500, amy@brimahlaw.com.

Coordinating Editors: Amy Brimah, amy@brimahlaw.com; Josh McMahon, jmcMahon@anm-law.com

NOTES

1. Pinto and Florence, AEI Housing Center, *The Decline of SROs and Its Consequences for Housing Affordability* 3 (May 28, 2024), <https://www.aei.org/wp-content/uploads/2024/05/The-history-of-SROs-FINAL-v2.pdf>.
2. *Id.*
3. The term “Euclidean zoning” derives from the ruling in *Vill. of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926). For a more detailed discussion of zoning laws and their impact on housing, see Brimah, “The Future of Exclusionary Zoning and Land Use in Colorado,” 52 *Colo. Law.* 34 (Dec. 2023), <https://cl.cobar.org/features/the-future-of-exclusionary-zoning-and-land-use-in-colorado>.
4. Pinto and Florence, *supra* note 1 at 2.
5. *Id.*
6. Sage Computing, Inc., *Accessory Dwelling Units: Case Study*, prepared for the Office of Policy Development and Research, US Department of Housing and Urban Development (June 2008), <https://www.huduser.gov/portal/publications/adu.pdf>.
7. For a summary of changes to California laws, see California Department of Housing and Community Development, *Accessory Dwelling Unit Handbook* 13-17 (Jan. 2025). Similar to Colorado, California requires objective standards. *Id.* at 17.
8. *Id.* at 1.
9. *Id.* at 4.
10. Oregon Department of Land Conservation and Development, *Guidance on Implementing the Accessory Dwelling Units (ADU) Requirement Under Oregon Senate Bill 1051, Updated to Include HB 2001 (2019)* (Mar. 2018, updated Sept. 2019), https://www.oregon.gov/lcd/Publications/ADU_Guidance_updatedSept2019.pdf.
11. Vermont Agency of Commerce and Community Development, *Accessory Dwelling Units*, <https://accd.vermont.gov/adu>.
12. Wash. Rev. Code § 36.70A.696, <https://app.leg.wa.gov/rcw/default.aspx?cite=36.70A.696>.

13. Little, "Montana Accessory Dwelling Units," Montana Energy Code Compliance Best Practices Newsletter (Fall 2023), https://deq.mt.gov/files/Energy/Energy%20Code/Fall%202023%20Best%20Practices%20_AS-110723.pdf.

14. Colorado Department of Local Affairs, Division of Local Government, Accessory Dwelling Units, <https://dlg.colorado.gov/accessory-dwelling-units>.

15. Sheild and Luberoft, "Learning From State Efforts to Encourage Accessory Dwelling Units," Joint Center for Housing Studies of Harvard University (Nov. 9, 2023), <https://www.jchs.harvard.edu/blog/learning-state-efforts-encourage-accessory-dwelling-units>. See also Sheild and Luberoft, "Accessory Dwelling Units: Lessons for Massachusetts From Around the Country," Joint Center for Housing Studies of Harvard University (Nov. 2023), https://www.jchs.harvard.edu/sites/default/files/research/files/harvard_jchs_adus_sheild_luberoft_2023.pdf?mod=article_inline.

16. CRS § 29-20-111; https://leg.colorado.gov/sites/default/files/2024a_1007_signed.pdf.

17. CRS § 29-20-111(2).

18. *City of Longmont v. Colo. Oil & Gas Ass'n*, 369 P.3d 573, 579 (Colo. 2016).

19. Colorado Department of Local Affairs, Division of Local Government, Guidance on HB 24-1007 Concerning Residential Occupancy Limits, <https://cdola.colorado.gov/guidance-on-hb-24-1007-concerning-residential-occupancy>.

20. CRS § 29-20-111(3). CRS § 29-20-111 does not define "single dwelling."

21. CRS § 29-20-111(3)(a), (b).

22. CRS § 29-10-111(3)(a).

23. Colorado Department of Local Affairs, *supra* note 19.

24. CRS § 29-20-111(3), (4).

25. Colorado Department of Local Affairs, *supra* note 19.

26. https://leg.colorado.gov/sites/default/files/2024a_1152_signed.pdf.

27. CRS § 29-35-101(b).

28. *City of Longmont*, 369 P.3d at 582.

29. CRS § 29-35-102(2).

30. CRS § 29-35-101(1)(XII).

31. Sage Computing, Inc., *supra* note 6.

32. CRS § 29-35-101.

33. CRS § 29-35-102(21).

34. CRS § 29-35-102(16) defines "municipality" as a home rule or statutory city or town, territorial charter city or town, or city and county.

35. CRS § 29-35-104.

36. CRS § 29-35-105.

37. CRS § 24-46-104.

38. CRS § 29-35-103.

39. CRS § 29-35-102(5)(a)(II).

40. CRS § 29-35-102(17).

41. CRS § 29-35-102(17)(b)(III).

42. CRS § 29-35-103(2), (3).

43. CRS § 29-35-103(2)(b).

44. CRS § 29-35-103(2)(b)(II).

45. CRS § 29-35-102(18) defines "restrictive design or dimension standard" as a standard in local law that requires an architectural style, building material, or landscaping that is more restrictive for an ADU than for a single-unit detached dwelling in the same zone district. The definition also addresses size, setbacks, and factory-built structures.

46. CRS § 29-35-103(2)(b)(III).

47. CRS § 29-35-103(3)(c).

48. CRS § 29-35-102(9).

49. CRS § 29-35-103(3)(h)(i).

50. CRS § 29-35-103(3)(f)(I).

51. CRS § 29-35-103(3)(h)(i).

52. CRS § 29-35-103(3)(m).

53. CRS § 29-35-102(9).

54. CRS § 29-35-102(19).

55. CRS § 29-35-103(3)(g).

56. CRS § 29-35-102(19)(b).

57. CRS § 29-35-103(3)(g).

58. CRS § 24-67-105(5.3)(a).

59. CRS § 24-67-105(5.3)(b).

60. CRS § 38-33.3-106.5(4)(a).

61. CRS § 38-33.3-106.5(4)(c).

62. <https://denvergov.org/Government/Agencies-Departments-Offices/Agencies-Departments-Offices-Directory/Community-Planning-and-Development/Denver-Zoning-Code/Text-Amendments/Citywide-ADUs>.

63. *Id.*

64. <https://coloradosprings.gov/adu>. On April 8, 2025, the city council approved the Accessory Dwelling Unit Ordinance (Ord. #25-45), which repealed the prior regulations governing ADUs and accessory family suites and replaced them with streamlined regulatory standards that allow for the development of an ADU on any property with a single-family detached dwelling.

65. <https://bouldercolorado.gov/services/accessory-dwelling-units>.

66. https://bouldercolorado.gov/sites/default/files/2024-03/ADU_Attachment_April2024.pdf.

67. CRS § 29-35-101.

CBA ETHICS HOTLINE

A Service for Attorneys

The CBA Ethics Hotline is a free resource for attorneys who need immediate assistance with an ethical dilemma or question. Inquiries are handled by individual members of the CBA Ethics Committee. Attorneys can expect to briefly discuss an ethical issue with a hotline volunteer and are asked to do their own research before calling the hotline.

**To contact a hotline volunteer,
please call the CBA offices at 303-860-1115.**

