



Development Review Committee

1020 East Pioneer Road
Draper, UT 84020
August 5, 2021

To: Draper City Planning Commission
Business Date: August 12, 2021

From: Development Review Committee

Prepared By: Todd A. Draper, AICP, Planner III
Planning Division
Community Development Department
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Re: City Initiated Accessory Dwelling Unit Text Amendment

Application No.: TEXTMAP-0113-2021
Applicant: Draper City
Project Location: City Wide
Current Zoning: City Wide
Acreage: City Wide
Request: Request for approval of a Text Amendment in order to modify Draper City Municipal Code (DCMC) Sections 9-3-040, 9-30-010, 9-30-020, 9-31-010, 9-31-020, 9-31-030, 9-31-040, 9-31-050, and 9-31-060, and to enact Sections 9-5-210, 9-31-045, 9-31-070, 9-31-080, and 9-31-090 for the purpose of amending and enacting regulations pertaining to definitions, second kitchens in single-family dwellings, and accessory dwelling units (ADUs).

BACKGROUND AND SUMMARY

This application is a request for approval of a Text Amendment that includes multiple changes to Title 9 of the DCMC related to definitions, the regulation of second kitchens in single-family dwellings, and ADUs. These ordinance changes are necessary in part to bring the DCMC into compliance with the requirements of H.B. 82 passed by the Utah State Legislature during the 2021 legislative session.

ANALYSIS



Text Amendments. This report will review the modifications being proposed. The legislative copy of the changes can be found in Exhibit B of this report. Additions to the text are indicated in blue, deletions in red, and unchanged text in black.

DCMC Section 9-3-040: Definitions: The definition for an accessory dwelling unit (ADU) is proposed to be changed to match the definition in state code. This is necessary in order to add context for the new definition for an internal accessory dwelling unit (I-ADU) that is also proposed. A similar definition utilizing the general definition for an ADU is being proposed for a detached accessory dwelling unit (D-ADU), which also clarifies the intent that D-ADUs are only allowed in conjunction with an owner occupied primary dwelling. Other terms proposed for addition to the definitions chapter include, dwelling occupant, dwelling unit footprint, primary dwelling and rental dwelling. All of the additional terms proposed for addition to the definitions section follow the same definitions in state law. A definition for owner of record is also proposed to be added before the ordinance is presented to the City Council in order to more succinctly define the applicable level of ownership necessary for the primary dwelling to be considered as owner occupied.

DCMC Section 9-5-210: Accessory Dwelling Unit (ADU) Permits: This section is proposed to be added to the administrative and development review procedures chapter in order to provide a process for review and approval of ADU permits and for renewing, transferring and revocation of the same. ADU permits would be a new type of permit issued by the Planning and Zoning Division and the Zoning Administrator. The section lays out the application submittal requirements, and provides objective standards under which the Zoning Administrator or their designee can make decisions regarding the approval and issuance of the initial ADU permit. A simplified process for permit renewal including the issuance of a renewal certificate and the transfer of a permit to a new owner are also provided. Provisions are also included for appeals of the Zoning Administrator's decision, and details regarding revocation, surrender, and expiration of permits. ADU permits are to be renewed annually and the initial permit must be exercised by obtaining a building permit for the construction of the ADU within 180 days of the initial permit issuance.

DCMC Section 9-30-010: Purpose: The purpose statement in *DCMC Chapter 30: Second Kitchen in a Single-Family Dwelling* is proposed to be changed to specifically point out that that approval for a second kitchen does not create an I-ADU.

DCMC Section 9-30-020: DEVELOPMENT STANDARDS; PERMITTED USE: Proposed updates to this section include the addition of other primarily single family residential zones where second kitchens would be allowed, and an update to the interior access requirements to strengthen the requirement that a second dwelling unit or I-ADU is not created.

DCMC Section 9-31-010: Purpose: The purpose statement for *DCMC Chapter 31: Accessory Dwellings* is proposed to be significantly shortened, to simply denote that the chapter

provides regulations for I-ADUs and D-ADUs in specific residential zones.

DCMC Section 9-31-020: Scope: The scope of the accessory dwellings chapter is proposed to be expanded to include both I-ADUs and D-ADUs. The permitted locations for I-ADUs are proposed to be regulated in accordance with State code and prohibited locations within primarily single family zoned areas are identified on a map included as a new exhibit attached to Chapter 31. The minimum lot size required for a D-ADU is proposed to be adjusted uniformly across all zones to 12,000 square feet.

DCMC Section 9-31-030: Definitions: This section is proposed to be retitled as 9-31-030: *General Regulations:* as all pertinent definitions within Title 9 of the DCMC are proposed to be relocated into Section 9-3-040. The new general standards section proposed is intended to accomplish the following:

- Prevent instances of properties having more than one ADU.
- Restrict primary dwellings from more than one I-ADU, or adding an I-ADU into another detached structure.
- Prohibit I-ADUs from being added to single-family dwelling located on lots less than 6,000 ft² in size.
- Prohibit I-ADUs within mobile homes.
- Prohibit I-ADUs on properties with failing septic systems.
- Prohibit the installation of separate utility meters for I-ADUs and D-ADUs.
- Prohibit rental of an I-ADU for a period of time that is less than 30 days.
- Require an initial permit and review for the development of an ADU and an annual renewal of the permit for operation thereafter.

DCMC Section 9-31-040: Development Standards: This section is proposed to be retitled as *D-ADU Development Standards* and provides requirements specific for the development and use of a D-ADU. The requirements remain generally unchanged from the previous requirements for ADUs including the requirement that they be detached from the main dwelling unit. Changes to the current ordinance requirements include:

- Clarification that the D-ADU must comply with the same setback and height requirements as a main building in the zone they are located in.
- A prohibition against locating a D-ADU in a front yard.
- Clarification regarding the addition of parking onto the property for the D-ADU that is not in conflict with required parking for the primary dwelling.
- Clarification that driveways serving parking spaces for D-ADUs must comply with other requirements of ordinance.
- Additional clarification that garage space does not count when calculating the maximum size of a D-ADU for each individual property.

DCMC Section 9-31-045: I-ADU Development Standards: This section is a new section proposed to be enacted in order to provide specific development standards for I-ADUs. These standards are designed to enact the standards for I-ADUs allowable under state code.

These new proposed standards include:

- The specific requirement that the I-ADU be contained within the existing footprint of the single-family dwelling.
- Additional clarification that second kitchens approved under the provisions of Chapter 30 of the DCMC do not constitute an I-ADU, but that single-family dwellings that have a second kitchen can convert the second kitchen into an I-ADU by filing an application to do so and complying with the provisions of DCMC Chapter 31.
- A requirement to provide parking for the I-ADU that mirrors the same requirements as the D-ADU.
- A requirement to replace any parking spaces located in a garage or carport that are eliminated through the creation of an I-ADU.
- General requirements as permitted by the changes to state law with respect to compliance with applicable building, health, and fire codes.
- A prohibition against exterior modifications which would alter the appearance of the home to appear as other than a single-family dwelling.

DCMC Section 9-31-050: Additional Kitchens: This section is proposed to be retitled *Second Kitchens* to match the terminology used in DCMC Chapter 30. The new proposed language maintains the ability to add a second kitchen into a D-ADU with an added emphasis that a second dwelling unit or living accommodation may not be created. These kitchens are mainly intended for the purpose of entertaining guests or as accessory to other recreational or leisure facilities located on the grounds.

DCMC Section 9-31-060: Notice of Accessory Dwelling Unit: This section is proposed to be updated to match the state code standards for I-ADUs, but is proposed to be applied to all ADUs. The basic standards for the notice include a description of the primary dwelling and statements intended to notify future property owners regarding the existence and approval of an ADU on the property and the requirement that the ADU may only be used in accordance with the land use regulations of the City.

DCMC Section 9-31-070: Nonconforming Units: This section is proposed to provide clarification as to the status of legally existing ADUs within Draper City established prior to the enactment of the proposed ordinance revisions and the effective date of the changes in state code requiring the city to permit I-ADUs within primary residential zones. This section clarifies that legal non-conforming units may continue to operate under the applicable provisions in effect at the time they were established. Additionally this section permits these legal non-conforming units to obtain a separate street address and install a mailbox without affecting their legal non-conforming status. Allowing for accurate street addressing addresses a health and safety issue for emergency response, and separate mailboxes can help with alleviating privacy concerns between the separate households.

DCMC Section 9-31-080: Violations: This section is proposed to be enacted to both specify particular actions of a property owner which would constitute a violation of the ADU

requirements and provide enforcement provisions for ADUs that are consistent with state law. Details are included regarding the requirements for issuing a written notice of violation, the minimum cure periods in state law that an applicant has to correct a violation, and procedures for an owner to file a written objection to a notice of violation. Procedures for the hearings of a written objection before the Zoning Administrator are outlined, as are the procedures for and circumstances under which fines and liens can be imposed, for violations of the ADU provisions of the ordinance.

DCMC Section 9-31-090: Exhibits: This section is proposed to be enacted in order to attach a map within the ADU chapter, identifying areas and properties in the city which would be prohibited from creating an I-ADU within a primary single-family dwelling. Zone A on the map indicates the areas where I-ADUs would be prohibited, including areas with lots under 6,000 ft² in size which under state law the city can prohibit outright. Areas within Zone A on the map also represent properties and neighborhoods which staff has identified as having characteristics that if I-ADUs were permitted, would most likely result in negative impacts to existing residents of those neighborhoods. The total area proposed for exclusion is equal to approximately 15.8% of the total area of the city zoned primarily for residential use, which is below the maximum amount of 25% permitted by state law. Zone B on the map represents an area of the city where ADUs within a single-family dwelling may be regulated to some extent by prior city ordinances in accordance with the development agreement under which the area was developed. The map provided with this report is a draft map developed by staff with preliminary input from staff and the City Council. The draft map is still in development and additional alterations based on feedback from the public, the Planning Commission, and the City Council may occur at the direction of staff, the Planning Commission, or the City Council prior to passage of the Text Amendment.

Criteria For Approval. The criteria for review and potential approval of a Text Amendment request is found in Sections 9-5-060(E) of the DCMC. This section depicts the standard of review for such requests as:

2. Text Amendments:

- a. Whether the proposed amendment is consistent with goals, objectives and policies of the city's general plan;*
- b. Whether a proposed amendment furthers the specific purpose statements of the zoning ordinance;*
- c. Whether the proposed amendment is appropriate given the context of the request and there is sufficient justification for a modification to the zoning ordinance;*
- d. The proposed amendment will not create a conflict with any other section or part of this title or the general plan;*
- e. Whether the potential effects of the proposed amendment have been evaluated and determined not to be detrimental to public health, safety, or welfare and represents an overall community benefit; and*

f. The extent to which a proposed text amendment implements best current, professional practices of urban planning, design, and engineering practices.

REVIEWS

Planning Division Review. The Draper City Planning Division has completed their review of the Text Amendment submission. Comments from this division, if any, can be found in Exhibit A.

Engineering and Public Works Divisions Review. The Draper City Engineering and Public Works Divisions have completed their reviews of the Text Amendment submission. Comments from these divisions, if any, can be found in Exhibit A.

Building Division Review. The Draper City Building Division has completed their review of the Text Amendment submission. Comments from this division, if any, can be found in Exhibit A.

Fire Division Review. The Draper City Fire Marshal has completed his review of the Text Amendment submission. Comments from this division, if any, can be found in Exhibit A.

Legal Division Review. The Draper City Attorney has completed his review of the Text Amendment submission. The request complies with federal and state laws and Draper City ordinances. Comments from this division, if any, can be found in Exhibit A.

Noticing. Notice has been properly issued in the manner outlined in the City and State Codes.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission review the request, receive public comment, and make a recommendation to the City Council based on the findings listed below and the criteria for approval, or denial, as listed within the staff report.

The findings for a positive recommendation are as follows:

1. The proposed amendment is consistent with goals, objectives and policies of the city's general plan;
2. The proposed amendment furthers the specific purpose statements of the zoning ordinance;
3. The proposed amendment is appropriate given the context of the request

- and there is sufficient justification for a modification to the zoning ordinance;
4. The proposed amendment will not create a conflict with any other section or part of this title or the general plan;
 5. The potential effects of the proposed amendment have been evaluated and determined not to be detrimental to public health, safety, or welfare and represents an overall community benefit; and
 6. The proposed text amendment implements best current, professional practices of urban planning, design, and engineering practices.

The findings for a negative recommendation are as follows:

1. The proposed amendment is not consistent with goals, objectives and policies of the city's general plan;
2. The proposed amendment does not further the specific purpose statements of the zoning ordinance;
3. The proposed amendment is not appropriate given the context of the request and there is not sufficient justification for a modification to the zoning ordinance;
4. The proposed amendment will create a conflict with another section or part of this title or the general plan;
5. The potential effects of the proposed amendment have been evaluated and determined to be detrimental to public health, safety, or welfare and does not represent an overall community benefit; and
6. The proposed text amendment does not implement best current, professional practices of urban planning, design, and engineering practices.

MODEL MOTIONS

Sample Motion for Approval – I move that we forward a positive recommendation to the City Council for the Text Amendment, as requested by Draper City for the City Initiated Accessory Dwelling Unit Text Amendment, application TEXTMAP-0113-2021, based on the findings and subject to the conditions listed in the Staff Report dated August 5, 2021.

Sample Motion for Modified Approval– I move that we forward a positive recommendation to the City Council for the Text Amendment, as requested by Draper City for the City Initiated Accessory Dwelling Unit Text Amendment, application TEXTMAP-0113-2021, based on the findings and subject to the conditions listed in the Staff Report dated August 5, 2021 and as modified by the findings and conditions below:

1. List any additional findings and conditions...

Sample Motion for Denial – I move that we forward a negative recommendation to the City

Council for the Text Amendment, as requested by Draper City for the City Initiated Accessory Dwelling Unit Text Amendment, application TEXTMAP-0113-2021, based on the findings and subject to the conditions listed in the Staff Report dated August 5, 2021.



DEVELOPMENT REVIEW COMMITTEE ACKNOWLEDGEMENT

We, the undersigned, as duly appointed members of the Draper City Development Review Committee, do acknowledge that the application which provides the subject for this staff report has been reviewed by the Committee and has been found to be appropriate for review by the Draper City Planning Commission and/or City Council.

Chris Diep

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Draper City Building Division

EXHIBIT A

DEPARTMENT REVIEWS

REVIEWS ARE NOT MEANT TO BE AN ALL INCLUSIVE LIST OF POSSIBLE COMMENTS OR CONDITIONS.

Planning Division Review.

1. The proposed modifications provide needed updates to Title 9 of the Draper City Municipal Code for the orderly development of Accessory Dwelling Units within the City in response to the changes in law enacted by the State Legislature set to be effective on October 1st, 2021.

EXHIBIT B

LEGISLATIVE DRAFT

9-3-040: DEFINITIONS:

...

ACCESSORY DWELLING UNIT (ADU): ~~A subordinate residential dwelling, detached from the primary dwelling unit, which has a kitchen, living/sleeping area, and sanitation facilities.~~ A habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

ACCESSORY DWELLING UNIT, DETACHED (D-ADU): An accessory dwelling unit, detached from a primary single-family dwelling.

ACCESSORY DWELLING UNIT, INTERNAL (I-ADU): An accessory dwelling unit created:

- A. Within a primary dwelling;
- B. Within the footprint of the primary dwelling at the time the internal accessory dwelling unit is created; and
- C. For the purpose of offering a long-term rental of 30 consecutive days or longer.

DWELLING OCCUPANT: One or more persons living in a dwelling unit.

...

DWELLING UNIT FOOTPRINT: The perimeter footing or foundation of the dwelling unit.

DWELLING, PRIMARY: A single-family dwelling that is detached and is occupied as the primary residence of the owner of record.

DWELLING, RENTAL: A building or portion of a building that is used or designated for use as a residence by one or more persons; and

- A. Available to be rented, loaned, leased, or hired out for a period of one month or longer; or
- B. Arranged designed, or built to be rented, loaned, leased, or hired out for a period of one month or longer.

...

OWNER OF RECORD: ...

...

9-5-210: ACCESSORY DWELLING UNIT (ADU) PERMITS:

- A. Purpose: This section sets forth procedures for issuing, renewing, transferring and revoking permits for an ADU under the provisions of chapter 31 of this title.
- B. Authority: The zoning administrator is authorized to review and approve applications for an ADU.
- C. Initiation: The property owner or their agent may request approval of an initial ADU permit to establish an ADU on the owner's property.
- D. Procedure: Applications for approval of an initial ADU permit, or for changes to an existing ADU, shall be considered and processed as provided in this section:
 - 1. A complete application shall be submitted to the office of the zoning administrator in a form established by the administrator along with any fee established by the city's consolidated fee schedule. The application shall include at least the following information:
 - a. The name, address and telephone number of the property owner and the property owners agent, if any.
 - b. Scaled site plans illustrating:
 - (1) Property boundaries and dimensions;
 - (2) Layout of existing and proposed buildings and parking; and
 - (3) Building setbacks from property lines.
 - c. Floor plans of all floors.
 - d. For new proposed construction: architectural elevation drawings of all four sides of the structure including details of proposed colors and materials; or
 - e. For existing structures: digital photographs of all four sides of the existing building.
 - f. A copy of the current sewer bill for the primary dwelling. For properties where the primary dwelling is not connected to sewer provide evidence of septic system maintenance including pumping records for the previous 12 months.
 - g. Other information as needed or requested by the zoning administrator to demonstrate that the use conforms to applicable provisions of this title.
 - 2. After the application is determined to be complete, the zoning administrator shall review the application and approve, approve with conditions, or deny the

- application pursuant to the standards set forth in subsection 9-5-210(E) below. As part of the review process the zoning administrator may forward a copy of the application and any related materials to other agencies. Any conditions of approval shall be limited to conditions needed to conform to the approval standards.
3. After making a decision the zoning administrator shall give the applicant written notice of the decision.
 4. An annual renewal of each ADU permit issued under the provisions of subsection 9-31-030(H) and this section shall be required.
 - a. The application for the annual renewal shall consist of a signed and notarized affidavit from the property owner, on a form approved by the city attorney, attesting to the following:
 - (1) They are the current property owner of record;
 - (2) They continue to occupy the primary dwelling on the property as their primary residence;
 - (3) The ADU remains in compliance with applicable ordinances and all conditions under which it was approved;
 - (4) They will continue to use the ADU only in a manner that complies with applicable ordinances and all conditions of the initial ADU permit.
 - b. When an ADU permit is renewed the zoning administrator shall issue a certificate of renewal inclusive of the next annual date on which the certificate and ADU permit shall expire if not renewed.
 5. ADU permits issued under the provisions of subsection 9-31-030(H) and this section may be transferred to a new owner of the property.
 - a. An application for transfer of an ADU permit shall consist of a signed and notarized affidavit from the new owner, on a form approved by the city attorney, attesting to the following:
 - (1) They are the current property owner of record;
 - (2) They occupy the primary dwelling on the property as their primary residence;
 - (3) The ADU remains in compliance with applicable ordinances and all conditions under which it was approved;

- (4) They will continue to use the ADU only in a manner that complies with applicable ordinances and all conditions of the initial ADU permit.
 - b. Before transfer of an ADU permit to a new owner may occur, an inspection of the property by the city for verification of continued compliance with applicable ordinances and conditions of the initial ADU permit shall be required.
 - c. When an ADU permit is transferred to a new owner the zoning administrator shall issue a new ADU permit in the name of the new owner inclusive of all conditions of the initial ADU permit.
- 6. A record of all ADU permits shall be maintained in the office of the zoning administrator.
- E. Approval Standards: The following standards shall apply to the issuance of an ADU permit. An ADU must:
 - 1. Be allowed as a permitted use in the applicable zone and not otherwise be restricted from the property by the provisions of chapter 31 of this title;
 - 2. Comply with development standards of the applicable zone and the applicable development standards of chapter 31 of this title;
 - 3. Comply with applicable regulations of general applicability and regulations for the specific use as set forth in this title;
 - 4. Comply with applicable provisions of State Code.
 - 5. Comply with any other applicable requirements of this code.
- F. Appeal of Decision: An adversely affected party may appeal a decision of the zoning administrator regarding the approval or denial of an ADU permit to the appeals and variance hearing officer in accordance with the provisions of section 9-5-180 of this chapter.
- G. Effect of Approval: Approval of an ADU permit shall authorize the property owner to establish an accessory dwelling unit on the property in compliance with the requirements of chapter 31 of this title subject to any conditions of approval.
- H. Revocation: An ADU permit may be revoked by the zoning administrator if in their determination, actions taken under the permit do not conform to the approved plans, specifications, or conditions of the permit; the permit was procured by false representation; the permit was issued by mistake; or that other applicable provisions of this title are being violated.

1. Written notice of revocation shall be served upon the owner, and may be delivered directly to the owner, owner's agent, contractor, tenant, any person employed at the site, or be posted in a prominent location on or near the site.
2. After the written notice of revocation is served no further construction pertaining to the creation of an ADU may continue.
3. After the written notice of revocation is served no new agreement for tenancy or extension of an existing tenancy agreement beyond the original term of the agreement may be entered into by the property owner.
4. If the permit was issued by mistake, the property owner shall meet with the zoning administrator to discuss in what respect the mistake was made and the specific conflicts between the permit as issued and applicable ordinances, resolutions, regulations, and requirements.
 - a. If the mistake pertains to details regarding the construction of the ADU and compliance would not require substantial alteration to the existing construction of the ADU, the plans and construction of the ADU shall be modified to conform to all applicable requirements and the ADU permit may be reinstated by the zoning administrator.
 - b. If the mistake pertains to details regarding the construction of the ADU and compliance would require substantial alteration to the existing construction of the ADU, the zoning administrator shall negotiate changes to the plans and construction which would more nearly conform to applicable requirements. A new ADU permit may be issued by the zoning administrator based on compliance with the negotiated changes to the plans and construction.
 - c. For all other mistakes made in the issuance of an ADU permit not related to the construction of the ADU, a new ADU permit may not be issued except in conformance with applicable ordinances, resolutions, regulations, and requirements.
5. For ADU permits revoked due to failure to comply with the approved plans, specifications, or conditions of the permit or when other applicable provisions of this title are being violated, a written notice of violation shall be provided either prior to or in conjunction with the notice of revocation. The zoning administrator may not issue a new ADU permit or reinstate the original ADU permit unless the violations noted in the notice of violation are corrected and compliance with the plans, specifications and conditions of the permit are achieved.

- a. The written notice of violation shall comply with the requirements listed in 9-31-080(D).
- b. If an owner files a written objection to the written notice of violation the zoning administrator shall provide the required notice and hold a hearing as specified in 9-31-080(F) to determine whether the specific violation described in the written notice of violation has occurred.
- I. Properties for which an ADU permit has been revoked may be subject to the recordation of a notice of non-compliance against the property and shall be prohibited from renting, leasing, hiring or loaning the accessory dwelling unit.
- J. Surrender: The holder of an ADU permit may voluntarily obtain the applicable building permit or demolition permit to remove an ADU, restore the property to use as a single-family dwelling, and surrender the ADU permit to the city. If the property owner desires the kitchen associated with the ADU to remain, compliance with the requirements of chapter 30 of this title is required. Once the restoration to a single-family dwelling is complete the City shall record a notice of release from any notice of accessory dwelling unit previously recorded, and record a separate notice of second kitchen if necessary.
- K. Expiration: An ADU permit shall expire if not exercised by obtaining a building permit for the construction of the ADU within one-hundred eighty (180) days of the initial ADU permit issuance. ADU permits shall be renewed annually and renewals shall expire one year from issuance.

9-30-010: PURPOSE:

The purpose of this chapter is to establish use and development regulations for a second kitchen within a single-family residence. These regulations are adopted for the following purposes:

- A. To allow city residents to have a second kitchen within a single-family dwelling unit for use by the family residing within the dwelling unit for the purpose of entertaining, recreation or convenience, accessory to the first kitchen within the dwelling unit.
- B. ~~Approval of a~~ To prohibit the use of a second kitchen within a single-family dwelling ~~unit shall not be an approval of that functions like~~ a second dwelling unit or internal accessory dwelling unit (I-ADU) in violation of ~~without the required approvals for such as prescribed under~~ chapter 31 of this title.

9-30-020: DEVELOPMENT STANDARDS; PERMITTED USE:

- A. A second kitchen in a single-family residence (dwelling unit) may be allowed in an A5, A2, RA1, RA2, RH, R3, R4, R5, MPC, or RSD zone if all of the following requirements are met:
1. The residence ~~shall have~~ has only one front entrance.
 2. The residence ~~shall have~~ has only one address.
 3. An interior access ~~shall be~~ is maintained to all parts of the residence to assure that an second dwelling unit or I-ADU ~~accessory unit or apartment~~ is not created. There shall be no keyed and dead bolt locks or other manner of limiting or restricting access between both kitchens and other common areas within the single-family ~~from the second kitchen to the remainder of the~~ residence.
 4. The residence ~~shall have~~ has no more than one electrical meter.
 5. ~~A~~The second kitchen ~~shall~~ exists only as part of the single-family dwelling primary structure and ~~shall~~ is not ~~be~~ installed in an accessory or "out" building except as permitted with a detached accessory dwelling unit (D-ADU) pursuant to section 9-31-050.
 6. Construction of any such kitchen shall meet standards of the current building codes adopted by the city.
- B. A second kitchen shall not be established in a single-family residential structure ~~which with~~ an I-ADU ~~accessory dwelling, whether or not such~~

9-31-010: PURPOSE:

The purpose of this chapter is to establish use and development regulations for internal accessory dwelling units (I-ADUs) and detached accessory dwelling units (D-ADUs) within specified residential zones. ~~These regulations are adopted~~

- ~~A. To allow city residents to accommodate guests on the residential property in the same manner and purpose as the main dwelling;~~
- ~~B. To accommodate an ADU in single dwelling zones that allow only one dwelling structure per parcel with minimal impacts on the neighborhood in terms of traffic, noise, parking, congestion, and compatible scale and appearance of surrounding residential buildings; and~~
- ~~C. To establish uniform standards of use and development of ADUs.~~

9-31-020: SCOPE:

The requirements of this chapter shall apply to ~~any~~ I-ADUs and D-ADUs within the city. ~~ADUs shall be a permitted use in all residential zoning districts or when a single parcel unit is approved in the RM1 and RM2 zoning districts, but only when the minimum lot areas as required in section 9-10-090, table 9-10-3 of this title, is satisfied. ADUs are also permitted in residential special districts (RSD) if the minimum lot area of the single unit parcel is twelve thousand (12,000) square feet.~~

- A. I-ADUs shall be a permitted use in all primary residential zoning districts except in the restricted areas identified on the map included as exhibit A in section 9-31-090 of this chapter.
- B. D-ADUs shall be a permitted use in all primary residential zoning districts, master planned community zones (MPC), and residential special districts (RSD) on individual lots or parcels twelve-thousand square feet (12,000 ft²) or greater in size that contain no more than one single-family dwelling.

9-31-030: ~~DEFINITIONS:~~ GENERAL REGULATIONS:

~~As used in this chapter:~~

~~ACCESSORY DWELLING UNIT (ADU): A subordinate residential use detached from the primary dwelling unit, which has a kitchen, living/sleeping area, and sanitation facilities.~~

~~DWELLING LOT: A parcel with one dwelling unit.~~

~~DWELLING OCCUPANT: One or more persons living in a dwelling unit.~~

~~DWELLING UNIT: One or more rooms in a single dwelling designed for or occupied as living quarters which provide sleeping and sanitary facilities and which includes at least one kitchen, and where all rooms are for exclusive collective use by the occupants and the property is under one deed of title.~~

~~DWELLING UNIT FOOTPRINT: The perimeter footing or foundation of the dwelling unit.~~

~~PARCEL: A lot legally subdivided and assigned a county assessor's parcel number (APN). (Ord. 1132, 2-17-2015)~~

- A. D-ADUs may not be permitted for any property containing an I-ADU. As a condition of approval for any application for a D-ADU, the property owner shall agree to waive any right to construct an I-ADU on the same property unless the D-ADU is first removed from the property. This condition shall be included in the recorded notice of accessory dwelling unit required by section 9-31-060 of this chapter.

- B. Primary dwellings are not permitted to contain more than one I-ADU. I-ADUs are not permitted within a D-ADU or other detached structure.
- C. I-ADUs shall not be permitted in single-family residential dwellings located on lots or parcels that are six-thousand square feet (6,000 ft²) or less in size.
- D. I-ADUs are not permitted within mobile homes.
- E. I-ADUs are not permitted within a primary dwelling unit serviced by a failing septic system.
- F. Separate utility meters may not be installed for any I-ADU or D-ADU.
- G. An I-ADU shall not be rented, loaned, hired or leased for a time period of less than thirty (30) consecutive days.
- H. An Accessory Dwelling Unit (ADU) Permit issued by the zoning administrator shall be required for the development and use of any I-ADU or D-ADU and shall be renewed annually each year. ADU permits shall be subject to the application procedures of section 9-5-210 and shall only be issued once all regulations and standards of this section and sections 9-31-040 or 9-31-045 as applicable to the specific type of ADU are met.
- I. The primary dwelling shall be occupied by the owner of record as their primary residence and may not be separately rented, or offered for rent.

9-31-040: D-ADU DEVELOPMENT STANDARDS:

The development standards set forth in this section shall apply to each D-ADU:

- A. Separate Structure: A D-ADU is a separate structure from the primary dwelling unit. ~~Second kitchens within a dwelling unit's footprint are not considered an ADU and are subject to requirements found in chapter 30 of this title.~~
- B. Conditions: A D-ADU may only be established in accordance with the applicable requirements of section 9-31-030 and in compliance with the all of ~~be allowed under~~ the following conditions:
 - 1. Only one D-ADU shall be allowed per ~~dwelling~~ lot or parcel.
 - 2. A D-ADU shall comply with the same setbacks for a main building in ~~not be within the building front, rear, or side yard setbacks for~~ the zoning district in which the ~~dwelling~~ lot or parcel is located.

3. ~~An~~ D-ADU shall be located within the rear yard area of the lot or parcel and is prohibited within the front yard area~~not be built prior to the completion of the dwelling unit.~~
4. ~~An ADU shall provide at~~At least one additional parking stall~~than~~ above the minimum required for the primary dwelling unit shall be provided on site and be reserved for exclusive use by occupants of the D-ADU in its zoning district. The parking stall(s) provided for use of the occupants of the D-ADU may not be located in tandem with parking stalls designed to serve the primary dwelling unit and shall be accessible from the street by a driveway constructed of ~~a hard surface, such as~~ concrete or asphalt. Driveways must conform to all requirements of section 9-10-075 and other applicable requirements of this title.
5. ~~No separate mailbox, street address, or water, sewer, electric or gas utility metering shall be allowed for an ADU.~~
56. ~~An~~ The total square footage of a D-ADU shall not exceed fifty percent (50%) of the primary dwelling unit's total square footage~~of habitable space not including the garage.~~
67. ~~An~~ D-ADU shall comply with all building construction and fire codes in effect at the time the D-ADU is constructed, created or subsequently remodeled, including the obtaining of required building and other permits.
78. The architectural design, color pallet, and materials ~~for an~~ of a D-ADU shall match those of the primary dwelling unit.
89. The height of an D-ADU shall conform to the height limit specified for main buildings in the zoning district in which it is located.

9-31-045: I-ADU DEVELOPMENT STANDARDS:

The development standards set forth in this section shall apply to each I-ADU:

- A. Existing Structure: An I-ADU shall be contained within the existing footprint of the primary dwelling structure. Second kitchens within the primary dwelling's footprint are not considered an I-ADU and are subject to requirements found in chapter 30 of this title. An existing second kitchen located within a primary dwelling can be converted as part of an application for the creation of an I-ADU in compliance with all other standards for I-ADUs listed in this chapter.

B. Conditions: An I-ADU may only be established in accordance with the applicable requirements of section 9-31-030 and in compliance with the all of the following conditions:

1. Only one I-ADU shall be allowed per lot or parcel.
2. At least one additional parking stall above the minimum required for the primary dwelling unit shall be provided on site and be reserved for exclusive use by occupants of the I-ADU. The parking stall(s) provided for use of the occupants of the I-ADU may not be located in tandem with parking stalls designed to serve the primary dwelling unit and shall be accessible from the street by a driveway constructed of concrete or asphalt. Driveways must conform to all requirements of section 9-10-075 and other applicable requirements of this title.
3. If an I-ADU is created within a garage or carport attached to the primary dwelling the parking spaces contained within the garage or carport that are removed shall be replaced in conformance with current parking and access standards.
4. The I-ADU shall comply with all applicable building, health and fire codes in effect at the time the I-ADU is constructed, created or subsequently remodeled. An applicant for an I-ADU shall obtain all required building and other permits.
5. In accommodating an I-ADU within the primary dwelling, the exterior of the primary dwelling may not be changed or altered in a manner that would alter the appearance of the primary dwelling from that of a single-family dwelling.

9-31-050: ~~ADDITIONAL~~ SECOND KITCHENS:

~~An additional~~ second kitchen in an I-ADU may be allowed for the purpose of entertainment or recreation as long as the second kitchen ~~is not intended to serve a~~ does not create a separate dwelling unit or living accommodation within the I-ADU.

9-31-060: NOTICE OF ACCESSORY DWELLING UNIT:

- A. As part of the ADU permit process, the owner of the property shall execute a "notice of accessory dwelling unit" affidavit ~~that defines the approved use and all restrictions or conditions of approval.~~ The city shall record the notice with the county recorder as a use condition on the property. The notice shall be in a form approved by the Draper City attorney. Once recorded, a copy of the notice shall be delivered to the owner of the property.
- B. The notice of accessory dwelling unit shall include:

1. A description of the primary dwelling;
2. Either of the following statements as applicable to the type of ADU permit being issued:
 - a. The primary dwelling contains an I-ADU and that the I-ADU may only be used in accordance with the land use regulations of Draper City; or
 - b. That the primary dwelling is permitted the use of a D-ADU located on the property and that the D-ADU may only be used in accordance with the land use regulations of Draper City.

9-31-070: NONCONFORMING UNITS:

- A. Accessory dwelling units, including I-ADUs or D-ADUs, legally established prior to October 1, 2021 which do not conform to one or more provisions of this chapter may continue to operate under the applicable provisions in effect at the time they were established in accordance with chapter 6 of this title. Nonconforming ADUs shall also be required to obtain and maintain an ADU permit under the procedures of section 9-5-210.
- B. Existing legal nonconforming ADUs without separate street addressing or mailboxes, shall be permitted under this section to obtain and display a separate street address and add the accompanying mailbox to the property without affecting their nonconforming status. All addressing must receive approval from both Draper City and the Salt Lake County Addressing department.

9-31-080: VIOLATIONS:

Violations of the requirements of this chapter shall be enforced consistent with the provisions of this title and applicable provisions of State Code and may include liens and fines as per Utah Code Annotated 10-9a-530(5) as amended.

- A. It shall be a violation of this ordinance for a property owner to rent, or offer to rent an ADU, or to offer to do the same, without acquiring or maintaining an ADU permit as required by this chapter.
- B. It shall be a violation of this ordinance for a property owner to rent, or offer to rent an ADU, or offer to do the same, for a time period shorter than the minimum period specified in ordinance.

- C. It shall be a violation of this ordinance for a property owner to continue to rent, lease, hire, or loan an ADU, if the primary dwelling associated with the ADU ceases to be owner occupied.
- D. Written Notice of Violation: Whenever an owner of the property containing an ADU has violated any of the provisions of this chapter the city shall provide a written notice of violation. The written notice of violation shall:
 - 1. Describe the specific violation;
 - 2. Provide the owner an opportunity to cure or correct the violation that is:
 - a. Not less than 14 days after the day on which the notice of violation is sent, for violations of 9-31-080(B) above;
 - b. Not less than 30 days after the day on which the notice of violation is sent for any other violation;
 - 3. Include a statement that if the property owner fails to cure or correct the violation within the given time period that the City may hold a lien against the property in the applicable amount as specified in the consolidated fee schedule for each day of violation after the day on which the opportunity to cure the violation expires;
 - 4. Provide notification to the property owner that they may file a written objection to the violation within 14 days after the day on which the written notice of violation is post-marked or posted on the property;
 - 5. Indicate the department name and an address where the owner may file the written objection;
 - 6. The notice shall be mailed to the property owner of record, to any other individual designated to receive notice in the owner's license or permit records, and a copy of the notice shall be posted on the property.
- E. Notice of lien: A written notice of lien issued under this section shall:
 - 1. Comply with the requirements of Utah Code Annotated, section 38-12-102
 - 2. State that the property is subject to a lien;
 - 3. Specify the lien amount, as specified in the consolidated fee schedule for each day of violation after the day on which the opportunity to cure the violation expires;

4. The notice shall be mailed to the property owner of record, to any other individual designated to receive notice in the owner's license or permit records, and a copy of the notice shall be posted on the property.
- F. If an owner files a written objection to the written notice of violation in accordance with 9-31-080(D) the zoning administrator shall provide notice and hold a hearing in accordance with the provisions of Utah Code Annotated 10-9a-530(5)(d) to conduct a review and determine whether the specific violation described in the written notice of violation has occurred. If the zoning administrator determines that the specific violation in the notice of violation has occurred the city may impose a lien on the property as described in section 9-31-080(E) of this title.
- G. If an owner does not file a written objection to the written notice of violation in 9-31-080(D) and does not cure or correct the violation within the time period provided in the notice, the city may impose a lien on the property as described in section 9-31-080(E) of this title.
- H. If an owner cures a violation within the time period prescribed in the written notice of violation, the city may not hold a lien against the property, or impose any penalty or fee on the owner, in relation to the specific violation described in the written notice of violation.

9-31-090: EXHIBITS:

Exhibit A

