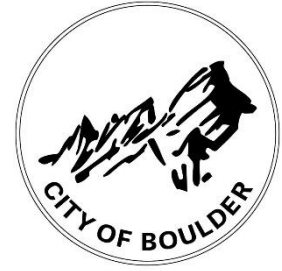


# ACCESSORY DWELLING UNIT UPDATE EVALUATION

2019 - 2022



## PURPOSE

The most recent changes to Boulder’s Accessory Dwelling Unit (ADU) regulations were adopted in Ordinance 8256 on December 4, 2018 and went into effect on February 1, 2019. The intent of this document is to evaluate how the ADU update met the desired outcomes of the code change project, and to inform future updates.

### 2018 Project Purpose Statement

The city, with the community, will craft a proposal for incremental changes to the relevant regulations addressing accessory units to simplify the regulations and remove apparent barriers to the construction of this housing type in ways that are compatible with neighborhoods.

The ADU Update project was intended to achieve the following:

- Provide additional flexibility to homeowners to stay in their homes by allowing for options that may either create supplemental revenue sources or allow for aging in place on the property.
- Increase workforce and long-term rental housing opportunities while balancing potential impacts to existing neighborhoods.

## SUMMARY OF 2018 CHANGES

City Council adopted the following changes in Ordinance 8256:

### Changes to types of ADUs and where they are allowed

- Established “detached accessory dwelling unit” and “attached accessory dwelling unit” terms instead of “owner accessory dwelling unit” and “accessory dwelling unit,” respectively.
- Allowed attached ADUs in RMX-1 and RMX-2 as a conditional use, where previously prohibited, and allowed detached ADUs in the RL-2, RM-2, RMX-2, P, and A districts, where previously prohibited.
- Increased the saturation limit for properties in the RL-1 and RL-2 district from 10 percent to 20 percent. Removed the specific saturation limit for the RE, RR-1, RR-2, and A zoning districts. Included cooperative housing units in the calculation of saturation.
- Removed requirement that the principal structure must be at least five years old before an ADU can be approved.

### Changes to licensing or occupancy requirements

- Modified occupancy standard from two person maximum to a combined maximum occupancy with principal structure, excluding dependents.
- Clarified rental license requirement for long-term rentals.

- Prohibited short-term rental of either principal dwelling unit or ADU.
- Removed automatic expiration if ADU not established with rental license within 180 days.
- Removed specifications for removing or transferring an ADU.

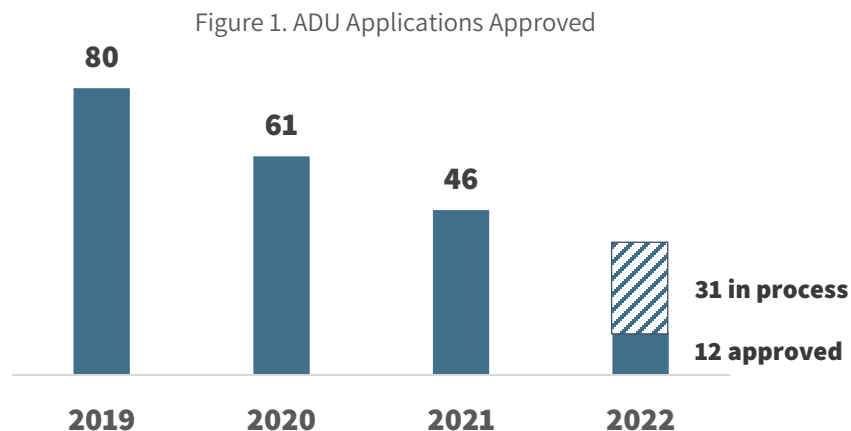
### Changes to size or design of ADUs

- Established unique method of measurement and definition of floor area for ADUs.
- Allowed flexibility for required parking to not meet the typical setback and paving requirements.
- Reduced minimum lot size required for ADUs from 6,000 to 5,000 square feet.
- Removed minimum size of attached ADU.
- Removed requirement to share utility hookups and meters with principal unit.
- Allowed greater flexibility for attached units to be created in other forms than internal conversion, such as additions.
- Incorporated new flexibility for affordable ADUs to reduce parking requirements and increase the size of the ADU.
- Incorporated new flexibility for designated historic properties to reduce parking requirements, increase size, and an increased saturation limit of 30%.
- Established size limit of 550 square feet for detached ADUs, where the previous requirement was 450 square feet.
- Removed some design requirements for detached ADUs including garage door design, architectural consistency with principal structure, and maximum building coverage of 500 square feet.

## ADUS BY THE NUMBERS

### Number of approved applications

Accessory dwelling units have been allowed in Boulder since 1983. 441 accessory dwelling units are currently approved in the city. A total of 200 ADU applications were approved between February 1, 2019 and July 31, 2022. Of these, 96 have completed construction as of July 31, 2022. 44 have been issued a building permit, and 32 have building permits at some stage in the building permit review process. See chart below for the number of applications approved each year since the 2018 ordinance went into effect. A chart with the number of application approved since 1983 is available in the appendix.

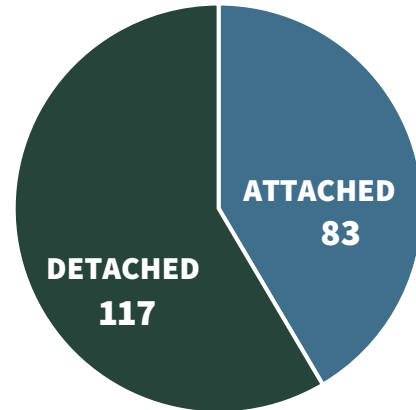


### ADU types

Approximately 42% (83) of approved ADUs between February 1, 2019 and July 31, 2022 were attached and 58% (117) were detached. The adopted code changes also provided flexibility for the size and parking requirements for affordable ADUs.

Since the changes were adopted, 127 ADUs approved during this time are market-rate units and 73 are affordable ADUs.

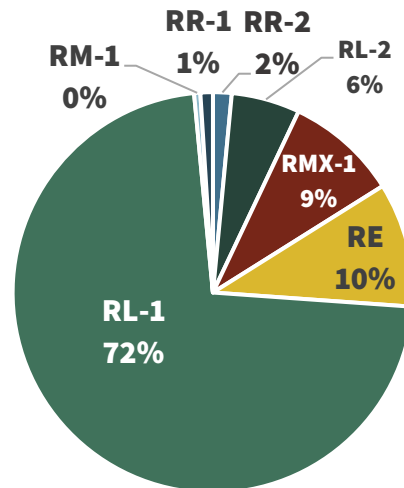
Figure 2. Types of Approved ADUs



### Zoning district location and lot size

The 2018 changes to the ADU regulations expanded the zoning districts where ADUs are allowed. The majority (72%) of ADUs that were permitted during this time were in the RL-1 zoning district, which already permitted both attached and detached ADUs prior to the changes. About 10% of recently approved ADUs were in the RE district, 9% in RMX-1, 6% in RL-2, 2% in RR-2, 1% in RR-1, and less than 1% in RM-1. Despite allowing ADUs in the RMX-2, A, and P districts, none were approved in these areas between 2019 and 2022.

Figure 3. Approved ADUs Zoning District Locations



The average lot size of properties approved with an ADU during this time is 10,298 square feet and the median is 7,899 square feet. The 2018 changes reduced the minimum lot size from 6,000 to 5,000 square feet, which allowed 12 properties with lot sizes smaller than 6,000 square feet to develop an ADU.

## ADU size

The 2018 changes increased the allowable size of detached ADUs from 450 square feet to 550 square feet, but did not modify the allowable size of attached ADUs (1/3 of the structure or 1,000 square feet). The average size of approved ADUs between 2019 and 2022 was 640 square feet. The average size of detached ADUs during this time was 547 square feet and the average size of attached ADUs was 773 square feet. Detached market-rate ADUs were an average of 492 square feet and detached affordable ADUs averaged 634 square feet. For attached ADUs, market-rate units were an average of 763 square feet and affordable units were 796 square feet.

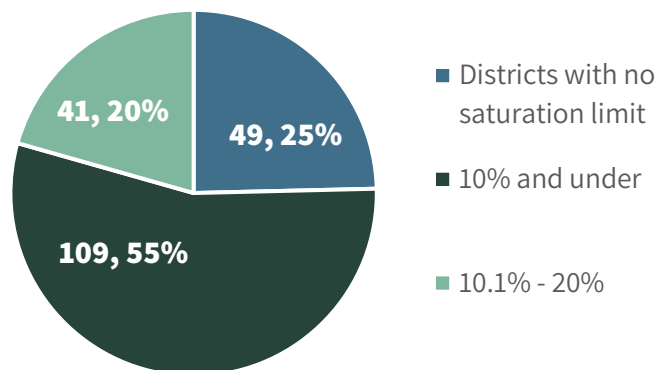
Figure 4. ADU Sizes

ADU size (sf)	
MEDIAN: 582	
AVERAGE: 640	
<b>Detached ADU size (sf)</b> Average: 547 <b>Average affordable: 634</b> <b>Average market-rate: 492</b>	<b>Attached ADU size (sf)</b> Average: 773 <b>Average affordable: 796</b> <b>Average market-rate: 763</b>
Allowed: Market rate – 550 sf Affordable – 800 sf Historic – 1,000 sf	Allowed: Market rate - lesser of 1/3 or 1,000 sf Affordable/Historic – lesser of 1/2 or 1,000 sf

## Saturation limits

The updated regulations modified the applicability of the saturation limit to only the RL-1 and RL-2 zoning districts and increased the limit from 10 to 20%. As of July 31, 2022, 15 properties remain on the waiting list because the saturation limit of their neighborhood area exceeds the limit of 20%. Of the 200 ADU applications approved since 2019, 41 of them exceeded the previous saturation limit of 10% and therefore would have not been allowed prior to the changes. However, 55% of applications had a saturation limit less than 10%, the previous limit, and 25% of applications do not have an applicable saturation limit due to their zoning district.

Figure 5. Approved ADU Saturation Limits



## ADU variances

The code changes eliminated a variance option for a building coverage limit that was removed and maintained an existing variance option for floor area. Four ADUs applied for variances and received unanimous approval from the Board of Zoning Adjustment. Each of these variances was requested to increase floor area of an attached ADU in an existing basement. The sizes of these requests ranged from 1,027 to 1,500 square feet.

## POTENTIAL OR WITHDRAWN ADU APPLICATIONS

In addition to reviewing data related to approved ADU applications, it is also important to understand what barriers may still exist for residents interested in establishing an ADU, as well as what issues commonly cause applicants to withdraw an ADU application that they have submitted to the city.

### ADU inquiries

Inquire Boulder is the city's online customer service portal used by members of the public to submit issues or questions. Staff looked at questions submitted to the Planning & Development Services department in the Inquire Boulder system related to ADUs to better understand what initial questions are most frequent for people interested in building an ADU. From January 1 through September 15, 2022 a total of 218 tickets were received related to ADUs. The inquiries were tagged by general topic and the following lists the frequency of each topic.

- Saturation rate (39)
- Is an ADU allowed (29)
- General (19)
- Building code (18)
- Size (16)
- Existing application (15)
- Setbacks (13)
- Owner occupancy (9)
- Building coverage (6)
- Flood (6)
- Process (6)
- Short term rental (6)
- Height (5)
- Removal (5)
- Survey (5)
- Application requirements (3)
- Compatible development (3)
- Neighbor concern (3)
- Parking (3)
- Solar (3)
- Access (2)
- Affordable (1)
- Building permit fee (1)
- Interior connection (1)
- Open space (1)

### Discussions with applicants who withdrew their ADU application

City staff also contacted all households that withdrew an ADU application from the city's permitting system since February 1, 2019. Feedback from these households was varied. One architect described the owner occupancy requirement being a challenge for properties that are simultaneously remodeling a main living area and building an ADU. "We needed to renovate the main house as it was uninhabitable. But we couldn't show owner occupancy because we couldn't live in it. Even if we were planning on occupying as a main home, we could not live there during renovations." Other households identified the following variables as a reason to withdraw an ADU application:

- One year time limit from ADU permit to complete building permit
- Need of a lockable separation for the unit
- HOA disapproval of building an ADU
- The complexity of the process and requirements for building an ADU

# SURVEY RESULTS

## Survey background

In 2022, the City of Boulder’s Housing and Human Services Department, in partnership with the Planning and Development Services Department, conducted a survey about accessory dwelling units (ADUs) within the city. The purpose of the survey was to understand how these units contribute to housing opportunities within the city and to determine how the program might be improved. A similar survey was conducted both in 2012 and 2017, so changes in the uses of ADUs, attitudes about them, and major barriers can be assessed over time.

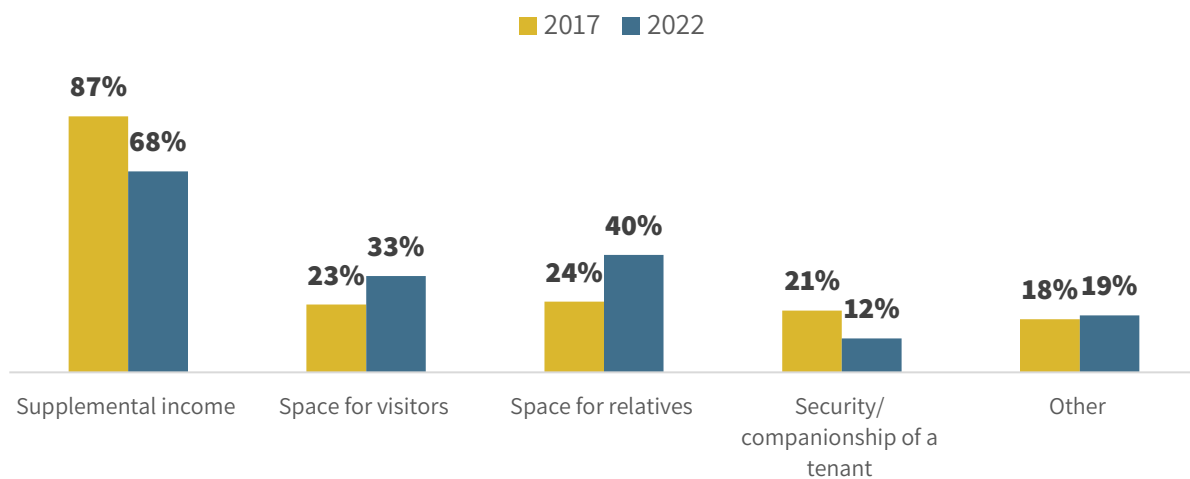
Immediately following the implementation of the regulatory changes in 2019, there was a corresponding spike in ADU applications. As a result, the 2022 version of this survey was sent to 439 households, a 47% increase in households surveyed compared to the 2017 survey.

The 2017 survey instrument was used as the starting point for the 2022 survey, with a few changes made to reflect the 2019 regulatory updates. All 439 households in the City’s records shown to maintain an ADU in 2022 were selected to receive the survey. These households were mailed a survey packet which included the survey, a cover letter explaining the survey, and a postage-paid pre-addressed envelope in which to return the completed paper survey. In contrast to previous survey instruments, the 2022 survey included a QR Code and URL to allow households to complete the survey online. A reminder postcard was also sent to all 439 households. This postcard included the original QR Code and URL. Of the 439 households to which a survey was mailed, 212 households responded to the survey, for a 48% response rate.<sup>1</sup>

## Highlights of the survey results

**While two-thirds of respondents (68%) report that supplemental income through rental of ADU was the primary benefit of maintaining an ADU, the overall proportion of those identifying supplemental income as the primary benefit has decreased by 20% since 2017.**

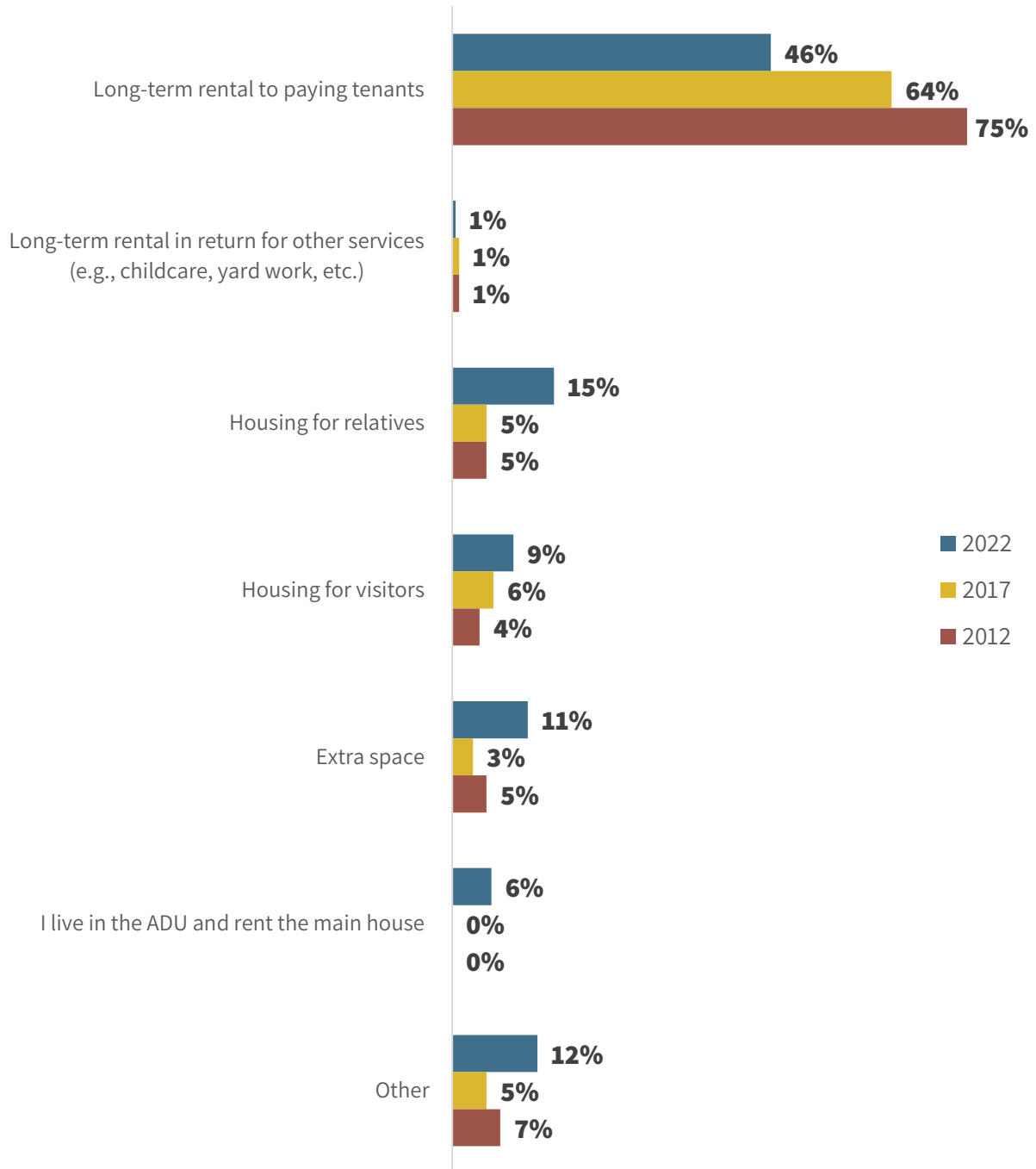
Figure 6. What do you consider to be the primary benefits of maintaining an ADU?



<sup>1</sup> Initial mailing sent August 31. Postcard reminder sent September 17. Survey closed October 10.

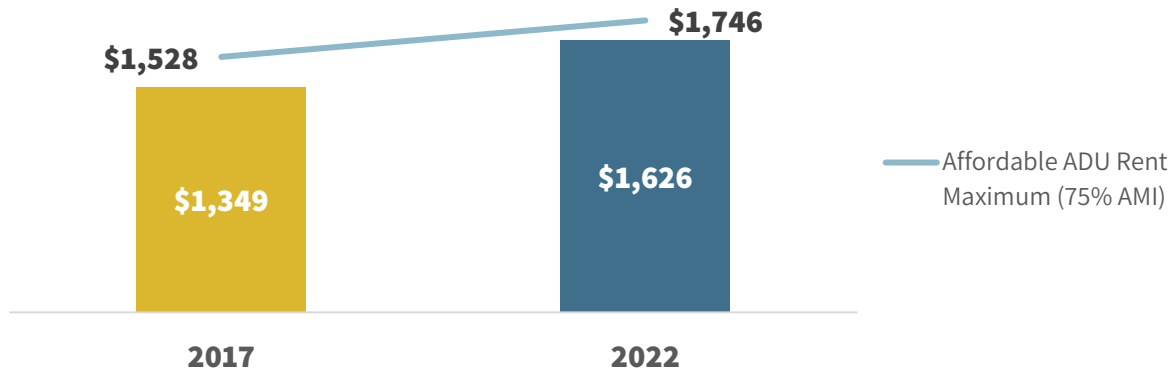
**The proportion of survey respondents currently renting their ADU to long-term paying tenants has decreased by 29% since 2012.** Using ADUs as housing for relatives, visitors, or simply extra space, all increased since previous surveys.

Figure 7. Current Use of the ADU (How do you currently use your ADU?)



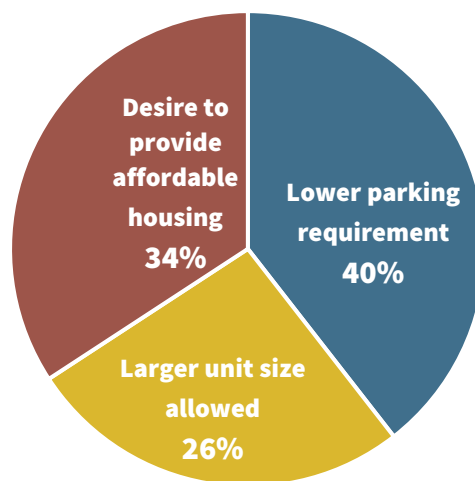
**Between 2017 and 2022, average reported rents among ADU owners have risen by 21% from \$1,349 in 2017 to \$1,626 in 2022.** Average rents for ADUs have remained lower than the Affordable ADU maximum rents, as defined by the City of Boulder. Conversely, average rents for all types of housing have increased by 27% throughout Colorado, according to data collected by [Apartment List](#).

Figure 8. Average Reported Rents among ADU Survey Respondents and Affordable ADU Rent Maximum (set by City of Boulder at 75% Area Median Income), 2017 and 2022



**Among those survey respondents who pursued an affordable ADU, 40% did so primarily because of the lower parking requirement allowed for an affordable rental.** Thirty-four percent (34%) of respondents with an Affordable ADU pursued this designation because of a desire to provide long-term affordable housing in the city. As noted above in this evaluation, the 2018 regulatory changes allowed a lower parking requirement and larger unit size for Affordable ADUs.

Figure 9. What was the primary reason for pursuing an Affordable ADU?





**Very few survey respondents report neighbor disapproval or complaints of ADUs.** 93% reported neighbors generally approving or not mentioning the existing ADUs. This rate of approval is essentially unchanged since 2017.

**A majority of survey respondents support the elimination of the off-street parking requirements (55%) and for removing the saturation limit (68%) for ADUs.** Since 2017, opinions about both ADU ordinance changes have remained similar.

Figure 10. Support eliminating the off-street parking requirement?

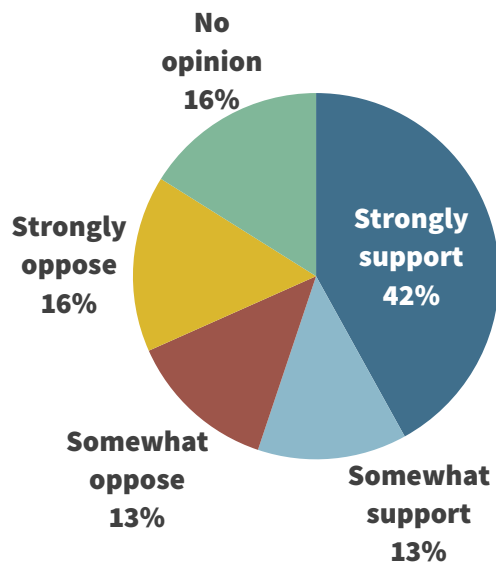
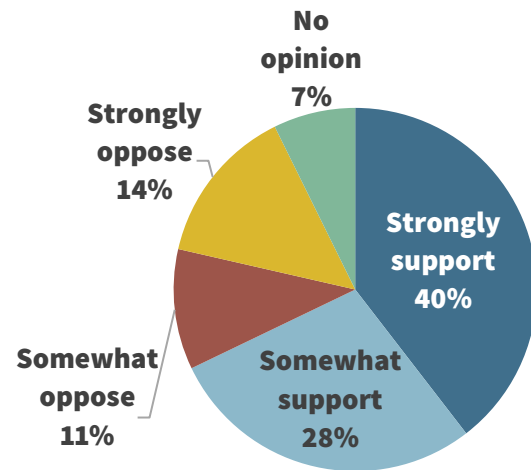
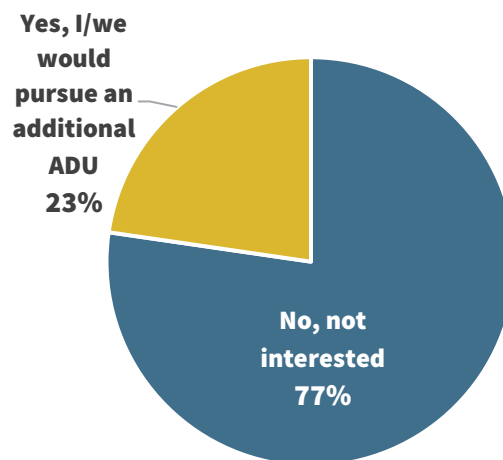


Figure 11. Support eliminating the saturation limit?



**Over three-quarters of survey respondents (77%) would *not* be interested in developing an additional ADU if permitted.**

Figure 12. Would you develop an additional ADU if permitted?



## Summary of qualitative survey feedback

The final question of the survey asked survey respondents to share details or additional information about their “ADU Experience.”

Many respondents described the importance of having an ADU as a source of supplemental income. As one respondent described, “*the supplemental income from my long-term tenant in my ADU helped me afford to have my child and I stay in our home following my divorce.*” Another respondent described the ability to move from the City’s affordable housing program to market rate homeownership because of the supplemental income from an ADU. “*My wife and I are teachers, we moved to our house from the city’s affordable housing program. If we didn’t have an ADU, we could not afford our home.*”

Other survey respondents described the ability to flexibly use the ADU over time, either for growing or changing families, or to be able to “age in place.” As one participant describes, “*choosing to have an ADU seemed a practical solution for a large house with good separation of space...It makes so much sense, to respectfully create a few more separate and independent living spaces within the City of Boulder.*”

Most of the disapproving or complaints surrounded the actual process of applying for a permit. Several respondents described challenges with the ADU permitting process. “*The planning process is byzantine in this town.*” Others voiced concerns about the concept of using ADUs in Boulder as a solution for affordable housing. One respondent described the cost of building an ADU as a barrier mostly to enter. “*Excessive costs make building an ADU very inaccessible for the majority of homeowners in Boulder.*”

## INTERNAL STAKEHOLDER INPUT

To further inform this evaluation, planners, zoning staff, housing staff, project specialists, and licensing staff met to discuss the ADU process and regulations. Key issues identified by internal staff included:

- **Saturation limit:** This is a significant barrier for people trying to understand whether they can build an ADU. It is the most frequently asked question related to ADUs by members of the public. It is also an administrative burden for staff to calculate each time it is requested.
- **One year approval expiration:** The requirement to establish the ADU within one year frequently causes issues. Staff recommended increasing the expiration time to 3 years, like most other approvals.
- **Process:** Issues frequently arise due to the two-step process of ADU approval followed by building permit approval. Although there is a desire to make the ADU process simple, homeowners often run into problems they were unaware of when they get to the building permit stage. There is a disconnect in the process and a perception that the ADU application can be relatively informal, but then applicants run into bigger surprises and that causes even more frustration at building permit. With the increased number of applications, additional staff is needed to support ADU review as staff is already under-resourced for the number of ADU applications coming in.
- **Design standards:** This is often where projects run into issues, and where the bulk of application requirements stem from (for instance, needing floor plans of the entire house or elevations to determine zoning compliance). Perhaps eliminate unique design standards for

ADUs and use compatible development standards only and review the same way any accessory building would be reviewed.

- **Parking:** The 2018 code changes improved this issue, but some properties still run into issues providing ADU parking. Some applicants have chosen to build affordable ADU to eliminate the parking requirement, but many do not know about that option or are resistant to it. Parking requirements are not well communicated, as many applicants do not show parking spaces on their applications initially.
- **Size:** The maximum floor area is a common issue. Applicants almost always measure floor area incorrectly. The measurement should be made consistent with the rest of the code. If ADU regulations were not so specialized and were more uniform with other code standards, processing time would be reduced.
- **Height:** Potentially allow for variance option.
- **Addressing:** The addressing assignment of Unit A and Unit B is happening too early in the process. This can cause issues and needs to happen at building permit completion instead.
- **Owner occupancy:** Need additional code clarity about when the verification of owner occupancy happens, whether ownership by an LLC is permissible, what to do in case of people renovating the main house and building an ADU at the same time so no one is living on-site, align principal residence definition with licensing definitions.
- **Rental licensing:** Owner occupancy requirements can be challenging for applicants who move out for one year and have to entirely disassemble their ADU. Homeowners can run into licensing issues after an ADU is approved through both planning and building permit.
- **Declarations of use:** Since 2018 updates no longer require transfer of ownership, many owners have outdated declarations of use, and some are hesitant to sign a new one because now it says they cannot do short term rentals in their ADU.
- **Contractor licensing:** In building permit process, if someone has the intent to rent an ADU they must use a licensed contractor, but this is not very clear. Many homeowner contractor licenses need clarification on how much can be done with a homeowner permit.
- **Language updates:** The term “incidental” is ambiguous (ADU must be incidental to the principal residence) and has required interpretation, need to clarify this. Remove reference to “amendments” as the process is just to submit another application.
- **Short term rentals:** Enforcement issue once an ADU is approved, notification should be alerted that short term rental license is forfeited.
- **Public notice:** ADU applications, unlike all other administrative applications except solar access exceptions, require public notice to be sent to adjacent neighbors and posted on the property. Neighbors are often confused why they are being notified if there is not a public hearing or opportunity to provide input on the outcome.
- **After-the-fact approvals:** Some clarification for applicants on these approvals would be helpful.
- **Other challenges:** There are several challenges with energy code and fire code compliance that land use code changes for ADUs will not be able to fix.
- **Other improvements:** Could create video tutorials or handouts for the website that answer frequent questions.

## EVALUATION CONCLUSIONS

### Did the 2018 updates remove apparent barriers to ADU construction?

There appear to have been several changes that had an impact on the number of ADUs approved. Based on the number of ADU applications approved before and after the changes, it does appear that the 2018 update removed several barriers that were present in the previous regulations.

- **Saturation limit:** Increasing the saturation limit from 10% to 20% allowed the construction of 41 ADUs that would not have previously been permitted.
- **Maximum size:** About three-quarters (87) of 117 detached ADUs approved are larger than the previous 450 square foot limit, which was increased to 550 square feet in 2018, with additional flexibility for unit size up to 800 square feet for affordable ADUs, or 1,000 square feet for historic properties.
- **Minimum lot size:** Reducing the minimum lot size seems to have had a more limited impact, with 12 properties under 6,000 square feet approved since the requirement was reduced to 5,000 square feet.
- **Zoning districts:** Allowing ADUs in additional zoning districts had a small impact. Two detached ADUs were approved in the RL-2 district, where they were previously prohibited.

In addition to these methods that can be enumerated through data points, several changes were mentioned in survey results or stakeholder interviews that appear to have removed barriers to ADUs. For instance, staff noted that parking restrictions had become a less frequent issue after the code changes went into effect which provided flexibility on the location of the required ADU parking space.

### Are there other improvements that could be made?

Despite the impact that the 2018 ADU regulation changes had on the number of ADUs in Boulder, the analysis in this evaluation has illuminated several additional improvements that could be made to both the regulations and the process.

**Eliminate saturation limits.** Because saturation limits are the most frequent inquiry made to city staff regarding ADUs, and because the incremental increase from 10% to 20% did allow for additional ADUs to be constructed, elimination of the saturation limit is recommended to eliminate both perceived and actual barriers to ADUs. Eliminating the saturation limit would have a significant impact on initial public understanding of whether an ADU would be permitted on their property. In addition, the administrative burden of calculating the saturation limit for all of these inquiries is frequently cited by both the public and staff as a major issue related to ADUs.

**Reconsider floor area maximum and method of measurement.** Over three-quarters of the detached ADUs that were constructed since 2019 would not have previously been permitted due to maximum floor area. Modifying the allowed square footage by only 100 square feet made arguably the most significant change in the number of ADUs allowed. These ADUs were still subject to all of the typical zoning requirements that ensure compatible residential development, such as solar access, interior side wall articulation, bulk plane, and building coverage requirements. Further increasing the allowed floor area of ADUs could allow for more ADUs to be constructed in Boulder. In addition, the measurement of ADU floor area was one of the most frequently cited issues and least clear parts of the code. Removing the unique method of measuring floor area from the code would significantly reduce review time and increase clarity for both applicants and city staff.

**Extend approval expiration period.** A commonly raised issue by both applicants and staff was the requirement to establish the ADU within one year of approval. Based on construction delays and permit review times, this is often challenging for applicants to meet. A longer expiration period could be explored to provide additional flexibility.

**Variance option for height.** One issue with the code that has been raised by recent applications is the lack of flexibility to adapt existing structures for ADUs due to code language regarding height. This issue could be addressed by simply adding an option for applicants to pursue a variance to exceed 25 feet in height for existing structures. This would allow for limited cases that could encourage the adaptive reuse of existing structures through an established public process.

**Code clarification.** Numerous aspects of the regulations came up repeatedly in both internal and public discussions of issues with the ADU rules. In addition, the ADU standards in the land use code are lengthy, repetitive, and difficult to understand. Simple language changes would greatly improve the user-friendliness of the code and increase efficiency in the ADU application process. In addition to generally reorganizing the standards, some specific changes could add clarity:

- **Separation between attached units:** A frequent misunderstanding in reviewing attached ADU applications is the requirement for lockable separation between the ADU and principal structure. This requirement comes from the definition of “dwelling unit” and is not listed within the ADU regulations themselves, causing confusion for applicants. Several of the withdrawn applications noted this issue as one of the reasons to withdraw their application. More clarity about the requirements for separation would be helpful.
- **Limited accessory units:** Only one unit exists in the city that is classified as this type of ADU, yet additional standards complicate the ADU standards. These specific standards could be removed and the city could work to determine the appropriate status of the single remaining property with this type of ADU.
- **Owner occupancy:** The issue of owner occupancy came up in many avenues while developing this evaluation. In particular, confusion about whether and how LLCs can prove owner occupancy has been raised many times. This issue should be clarified in the code language.

**Process improvements.** Aside from changes to the land use code, based on the internal stakeholder interviews, survey results, and city inquiries, it is clear that several potential improvements could be made to the city’s process of approving ADUs.

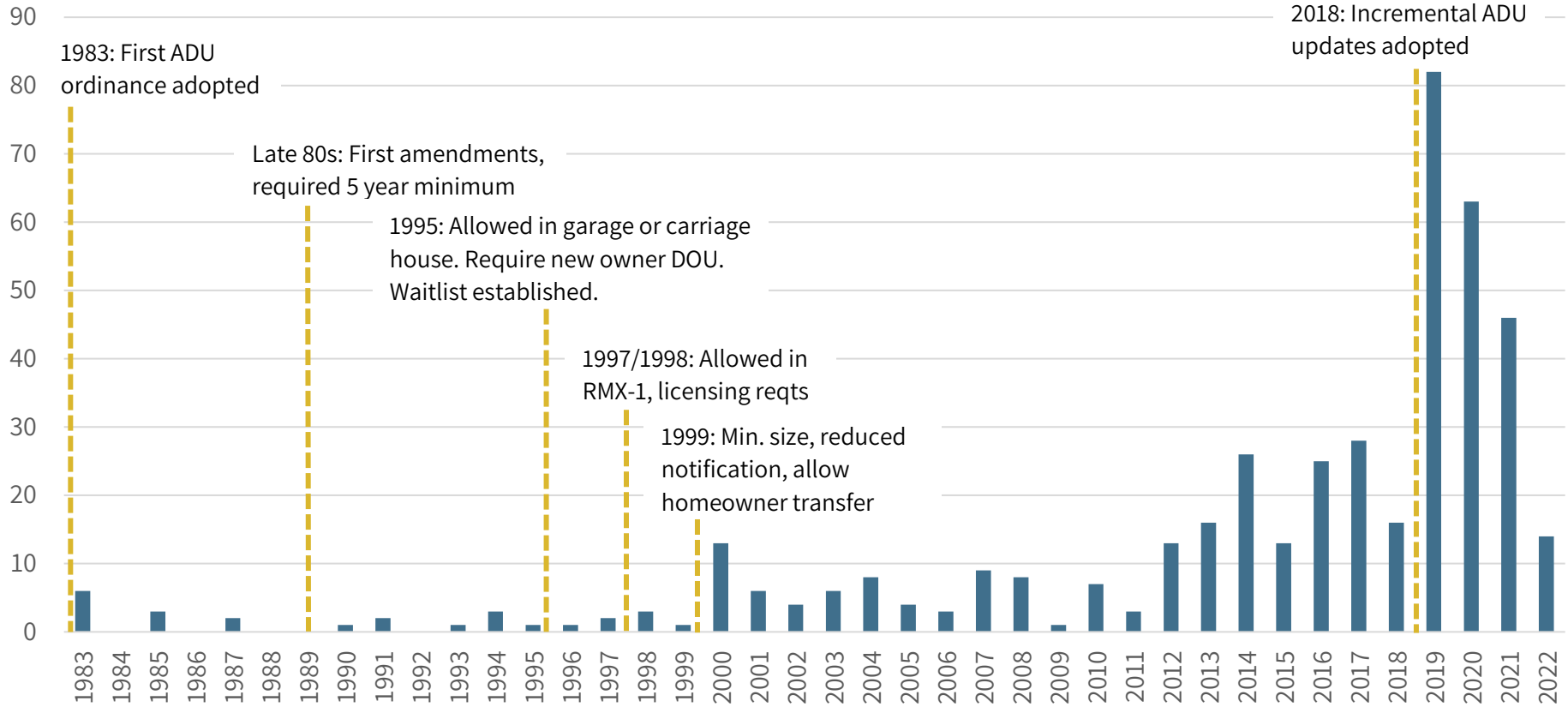
- **One-step review:** Currently, ADUs are reviewed as a separate administrative application prior to building permit review. Based on discussions with staff, it appears that the level of detail required for the ADU application often leads applicants to assume that no issues would arrive at the point of later submitting a building permit. However, the building permit is a much more detailed review of building code compliance and often a more detailed review of zoning requirements, and applicants sometimes run into unforeseen issues at that stage. This is understandably frustrating and confusing for ADU applicants. If some of the other initial barriers to ADUs such as saturation limits were to be removed, the ADU process could be more seamlessly integrated into the building permit process and eliminate the need for a two-step process. Consider combining the ADU review with the building permit review.
- **Addressing:** Currently, properties are given a “Unit A” and “Unit B” address immediately after ADU approval. This has caused numerous issues for applicants and is difficult to undo if the

ADU is not ultimately constructed. This step should instead occur upon the letter of completion for the building permit or change of use approval.

- **Declaration of use:** Currently, all ADUs are required to record a declaration of use for their property when the ADU application is approved. These declarations of use reference current code requirements. However, as the regulations change, the recorded declarations of use become obsolete. Properties are subject to current regulations as they change regardless of the recorded declaration of use. Changes to this process should be considered.
- **Self-service handouts or videos:** While the City of Boulder website currently includes a thorough explanation of the ADU process and requirements, residents frequently contact the city when they have trouble understanding where an ADU would be allowed and what the requirements might be. Updates could potentially be made to handout and application materials to clarify commonly misunderstood information. In addition, there may be opportunities to develop video explanations to further assist residents in understanding the requirements.

# APPENDIX: ADUS APPROVED SINCE 1983

## Accessory Dwelling Units Approved and Regulatory Changes 1983-2022



Note: 2022 data is through July 31, 2022.