

DIVISION 11.7 ACCESSORY USE LIMITATIONS AND STANDARDS

The Summary Use and Parking Tables in Articles 3 through 9 reference any limitations and standards applicable to allowed primary, accessory, or temporary uses. This Division contains general standards applicable to all accessory uses across multiple zone districts and neighborhood contexts.

SECTION 11.7.1 GENERAL PROVISIONS APPLICABLE TO ALL ACCESSORY USES

11.7.1.1 General Allowance for Accessory Uses

Any use that complies with the conditions listed in this Division 11.7 may be operated as an accessory use to a primary use permitted by right, a use subject to limitations, or to a use by Special Exception review unless specifically prohibited. In this Section 11.7.1, the term "use by right" also includes these two other types of uses. Some zone districts allow certain specific accessory uses as listed in the Divisions 11.7, 11.8 and 11.9 below. Accessory uses need not be enclosed, unless specifically stated herein.

11.7.1.2 General Conditions for All Accessory Uses

All accessory uses, except accessory dwelling unit uses, must comply with all of the following general conditions. Accessory dwelling units, where permitted, must comply with the specific conditions stated in Section 11.8.2 instead of these general conditions.

- A. Such use shall be clearly incidental and customary to and commonly associated with the operation of the primary use by right.
- B. Such accessory use shall be operated and maintained under the same ownership and on the same zone lot as the use by right; provided, however, that in all Mixed Use Commercial Zone Districts, lessees or concessionaires may operate the accessory use; and provided further that in nonresidential structures owned and operated by a place for religious assembly in a Residential Zone District, non-profit lessees or concessionaires may operate the accessory use.
- C. Such use shall not include residential occupancy in a detached accessory structure offered for rent or for other commercial gain. Residential occupancy in a detached accessory structure is allowed by members of a household occupying the primary structure, or domestic employees and the immediate families of such employees.
- D. The area of specific accessory uses shall be calculated as follows:
 1. **Pool tables.** The area occupied shall be calculated by adding 3 feet to each dimension of such pool table to include the area of play.
 2. **Pinball, video games and other similar amusement devices.** The area occupied shall be calculated by adding three feet to the area directly in front of the device.
 3. **Dance floors.** The area shall be the sum total of all of the areas of the dance floor and any stage or area used for the playing or performance of recorded or live music.
- E. The growing of medical marijuana is prohibited as accessory to a primary nonresidential use established in a Residential Zone District. This subsection 11.7.1.2.E shall expire on November 1, 2012.

11.7.1.3 Limitations in the Principal Structure

A. Applicability

Section 11.7.1.3's limitations on accessory uses in the principal structure shall apply to all accessory uses operated partially or entirely within the structure containing the use by right. A

11.7.1.1

limitation in Section 11.7.3.1.B shall not apply when it conflicts with a limitation specific to an accessory use found in Divisions 11.8, 11.9 or 11.10.

B. Limitations in the Principal Structure

If an accessory use is operated partially or entirely within the structure containing the use by right, the gross floor area within such structure utilized by the accessory use (except loading docks, and dining rooms for the exclusive use of occupants or persons employed in the structure) shall not be greater than:

1. In a Residential Zone District, 20 percent of the gross floor area, but not to exceed 300 square feet, of a single unit dwelling use, two-unit dwelling use, or multi dwelling unit use in a structure containing 8 or less dwelling units.
2. In a Residential Zone District, 10 percent of the gross floor area occupied by a use by right other than a single unit dwelling use, two-unit dwelling use, or a multiple unit dwelling use in a structure containing 8 or less dwelling units.
3. In a Mixed Use Commercial Zone District or Industrial Zone District, 20 percent of the gross floor area of the structure containing the primary use by-right.

11.7.1.4 Prohibited Accessory Uses in Residential Zone Districts

In a Residential Zone District, the following accessory uses are specifically prohibited:

- A. The sale, lease, trade or other transfer of firearms or ammunition by a firearms dealer in Residential Zone Districts.
- B. The accessory parking/storage of vehicles, trailers, commercial vehicles, and RVs are governed by Division 10.9, Parking, Keeping and Storage of Vehicles, of this Code.

DIVISION 11.8 USES ACCESSORY TO PRIMARY RESIDENTIAL USES - LIMITATIONS AND STANDARDS

The Summary Use and Parking Tables in Articles 3 through 9 reference any limitations and standards applicable to allowed primary, accessory, or temporary uses. This Division contains limitations and standards applicable to specific uses accessory to primary residential uses across multiple zone districts and neighborhood contexts. In addition to meeting the general conditions and standards applicable to all accessory uses in Division 11.8 above, the following specific accessory uses shall comply with this Division's use-specific standards.

SECTION 11.8.1 UNLISTED ACCESSORY USES

11.8.1.1 In all Zone Districts:

- A. The Zoning Administrator shall determine and impose limitations on accessory uses not otherwise listed as allowed in an applicable Use Table in Articles 3 through 9, or not otherwise covered by the standards in this Article 11.
- B. All such determinations shall be reviewed according to the procedures and review criteria stated Section 12.4.6, Code Interpretation & Determination of Unlisted Uses. In addition to the criteria stated in Section 12.4.6, the Zoning Administrator shall determine whether a proposed accessory use is common and customary to a specific use by right, and if the use or structure is incidental to the specific use by right.
- C. The Zoning Administrator may impose limitations on the proposed accessory use, which shall be uniform throughout the zone district, and taking into consideration the intensity of the accessory use, the numbers of accessory uses, the space required by the accessory use, and the effect on adjacent property.
- D. Matters that may be regulated according to this Section 11.8.1 shall include, but shall not be limited to the following:
 1. Numbers of animals, except as specifically listed in Section 11.8.6, maintained as accessory to a primary residential use; or
 2. Types and intensity of repairs accessory to a use by right.

SECTION 11.8.2 ACCESSORY DWELLING UNIT ("ADUS")

11.8.2.1 All Zone Districts

In all Zone Districts where permitted with limitations:

A. Accessory to Primary Single Unit Dwelling Uses Only

Where specifically permitted in a zone district, an attached or detached accessory dwelling unit is allowed as accessory only to a primary single-unit dwelling use in accordance with the following requirements. In case of conflict between the specific requirements for accessory dwelling units stated below and the conditions stated in this Division 11.8 applicable to accessory uses or structures generally, the more specific requirements in this subsection shall apply to the accessory dwelling unit use.

B. General Building Requirements

1. Mobile homes, recreational vehicles, and travel trailers shall not be used as accessory dwelling units.
2. All attached or detached accessory dwelling units shall comply with the Denver Building and Fire Code.

3. ADUs established in a detached accessory structure shall comply with the Detached ADU Building form standards in the applicable zone district.

C. Structural and Location Requirements

All attached or detached accessory dwelling units shall meet the following requirements:

1. The primary single-unit dwelling use shall not be altered in any way so as to appear from a public street to be a multiple-unit dwelling use.
2. The structure housing an accessory dwelling unit shall not be served by a driveway separate from that serving the primary single-unit dwelling.
3. The accessory dwelling unit may be accessed by a separate outside stairway located in conformance with all building and zoning requirements, except outside access stairways shall not be located on the front facade of the building housing the primary dwelling use.
4. Roof and exterior wall materials and finishes for a detached structure housing the accessory dwelling unit shall be comparable in composition and appearance to that of the primary single unit dwelling structure on the zone lot.
5. Wherever feasible, water and sewer shall be supplied to both the primary single unit dwelling use and the attached or detached accessory dwelling unit use through single taps, and electric and/or gas utilities shall be supplied through a single meter.

D. Special Allowance for ADUs on Existing Carriage Lots

Accessory dwelling unit uses may be established on a carriage lot, even in the absence of a primary single unit dwelling use on such carriage lot, provided the accessory dwelling unit use complies with the standards in this Section 11.8.2 and with all applicable standards in Section 12.10.4 Development on Carriage Lots.

11.8.2.2 All SU Zone Districts

In all Single Unit (SU) Zone Districts, where permitted with limitations:

1. The accessory dwelling unit use shall be operated and maintained under the same ownership as the primary single unit dwelling use.
2. Accessory dwelling units shall not be sold apart from the primary dwelling unit.
3. The owner of the zone lot on which an ADU is maintained shall occupy either the primary dwelling unit or the ADU as the owner's legal and permanent residence. For purposes of this provision, "the owner's legal and permanent residence" shall mean a property owner who makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means.
4. An accessory dwelling unit use, whether detached or attached, shall not exceed a maximum size as stated in the following table, unless otherwise specifically allowed by this Code.

ZONE LOT OR CARRIAGE LOT SIZE	MAXIMUM FLOOR AREA OF ACCESSORY DWELLING UNIT USE
6,000 ft ² or less	650 ft ²
6,001 - 7,000 ft ²	864 ft ²
More than 7,000 ft ²	1,000 ft ²

5. In order to avoid overcrowding of the accessory dwelling unit, the accessory dwelling unit shall contain a minimum of 200 square feet of gross floor area per occupant.

SECTION 11.8.3 DOMESTIC EMPLOYEES

In all Zone Districts, where permitted with limitations:

- 11.8.3.1 Housing of one or more domestic employee(s), as defined in Article 13, is allowed as accessory to all primary residential household living uses.

SECTION 11.8.4 GARDEN

11.8.4.1 All Zone Districts

In all Zone Districts, where permitted with limitations:

- A. A garden shall be maintained, including necessary watering, pruning, pest control, and removal of dead or diseased plant material.
- B. Detached accessory structures incidental to the garden use, such as accessory storage or utility buildings, gazebos, trellis, or accessory greenhouse structures, are permitted subject to compliance with all applicable building form standards in the subject zone district.
- C. The growing of medical marijuana shall comply with the following:
 - 1. No more than 6 plants may be grown for each patient registry identification card holder residing in a dwelling unit, not to exceed 12 plants per dwelling unit.
 - 2. Growing and/or storage of medical marijuana shall occur within a completely enclosed structure.
 - 3. Growing and/or storage of medical marijuana shall not occur in a common area associated with the dwelling unit.
 - 4. Growing shall be for personal use only by patient registry identification card holders residing in the dwelling unit; retail or wholesale sales of goods or products derived from the growing of medical marijuana and any off-site distribution of such plants or derived products are prohibited.

This subsection 11.8.4.1.C shall expire on November 1, 2012.

11.8.4.2 All Residential Zone Districts

In a Residential Zone District, where permitted with limitations:

- A. Retail or wholesale sales of goods or products derived from a garden accessory to a primary residential use are prohibited in a Residential Zone District.

SECTION 11.8.5 GREENHOUSE

11.8.5.1 All Zone Districts

In all zone districts, where permitted with limitations:

- A. The growing of medical marijuana shall comply with the following:
 - 1. No more than 6 plants may be grown for each patient registry identification card holder residing in a dwelling unit, not to exceed 12 plants per dwelling unit.
 - 2. Growing and/or storage of medical marijuana shall occur within a completely enclosed structure.
 - 3. Growing and/or storage of medical marijuana shall not occur in a common area associated with the dwelling unit.
 - 4. Growing shall be for personal use only by patient registry identification card holders residing in the dwelling unit; retail or wholesale sales of goods or products derived from

the growing of medical marijuana and any off-site distribution of such plants or derived products are prohibited.

This subsection 11.8.5.1.A shall expire on November 1, 2012.

11.8.5.2 All Residential Zone Districts

In a Residential Zone District, where permitted with limitations:

- A. Retail or wholesale sales of goods or products derived from a greenhouse accessory to a primary residential use are prohibited in a Residential Zone District.
- B. Retail or wholesale sales of goods or products derived from a greenhouse is allowed when the greenhouse is accessory to a primary nonresidential use in a Residential Zone District only, including but not limited to a permitted Public, Institutional and Civic Use.

SECTION 11.8.6 KEEPING OF HOUSEHOLD ANIMALS

In all Zone Districts, where permitted with limitations:

A. Types of Animals Allowed

The keeping of domestic animals is allowed as accessory to a by right dwelling unit use subject to compliance with the following standards regarding number and kinds of animals:

KIND OF ANIMAL ALLOWED	PERMITTED NUMBER OF ANIMALS ALLOWED / STANDARDS
Dogs	3 maximum
Cats	5 maximum
Combination of dogs and cats	No more than 5 dogs and cats combined provided there are no more than 3 dogs as part of the total.
Rabbits	2 maximum
Pigeons or doves	25 maximum
Horses	No more than 1 horse for each 1/2 acre of zone lot area
Small rodents--Rats, mice, guinea pigs, hamsters and other similar animals	No numerical limit, however, the raising or breeding of these animals for resale is prohibited
Fish	No numerical limit, however, the raising or breeding of these animals for resale is prohibited
Small reptiles and amphibians. The types of these animals is regulated by chapter 8 of the Revised Municipal Code	No numerical limit, however, the raising or breeding of these animals for resale is prohibited.
Domestic Honey Bees	2 hives per zone lot; hives must be in rear 1/3 of zone lot with a 5 foot setback from side and rear zone lot lines; the hives must be screened so that the bees must surmount a six foot barrier, which may be vegetative, before leaving the property; no outdoor storage of any bee paraphernalia or hive materials not being used as a part of a hive.

B. Animal Keeping Exceptions

In addition to the animals permitted specifically by this Section 11.8.6, the Zoning Administrator may authorize, upon application in specific cases, an exception permitting the keeping of animals in connection with the operation of a primary residential use. Such exception shall be subject to the procedures stated in Section 11.8.1 for determination of unlisted accessory uses, including any terms and conditions fixed by the Zoning Administrator; and subject to compliance with the additional conditions stated in this paragraph below.

- 1. The application shall be filed in the name of the land owner.
- 2. The owner/tenant seeking the exception must occupy the subject property as his/her primary residence.

3. The animal shall be kept solely as a pet; a hobby; for educational, research, rehabilitation or propagation purposes; or for the production of food products for personal consumption by the resident.
4. The application shall contain provisions which ensure that the exception will not substantially or permanently injure the appropriate use of adjacent conforming property. In determining that this condition will be met, the Zoning Administrator shall consider the following factors:
 - a. The type of animal to be kept;
 - b. The number to be kept;
 - c. The maximum size of the animal;
 - d. The space or area in which the animal is to be kept and whether or not other animals may occupy that same space;
 - e. The methods by which any sanitation problems will be controlled;
 - f. The methods by which abutting residents will be protected from any nuisance; and
 - g. The applicant's intent to allow reproduction.
5. The applicant shall have written approval from the City of Denver Department of Environmental Health.
6. The applicant shall have written approval from the Division of Wildlife, Colorado Department of Natural Resources, if applicable, for species of animals considered to be wildlife.
7. The applicant shall have notified abutting owners about the proposed animal and shall have requested letters of support or petitions of consent from such owners. If any of said owners fail to consent, the Zoning Administrator shall consider the circumstances, including any letters or petitions of opposition. Further, the Zoning Administrator shall give serious consideration to any letter from a physician stating that a resident living nearby is allergic to some feature of the proposed animal and may have a serious reaction if exposed to such animal.
8. Any structure erected for the shelter of such animal shall comply with all regulations for the zone district in which such property is located. If a variance is required for any such structure, an application for a variance must be made to the Board of Adjustment. Any such structure shall be maintained in accordance with the building and housing codes and shall be subject to inspection by the Building Inspection Division and the Department of Environmental Health.
9. An approved exception for an animal shall not be valid until the applicant has executed an agreement listing the terms and conditions fixed by the Zoning Administrator and the applicable conditions set forth above. Such agreement shall be recorded with the Denver City Clerk and Recorder. The permit for an approved exception shall expire at such time as the applicant no longer resides at the property, or discontinues the keeping of subject animal.

SECTION 11.8.7 KENNEL OR EXERCISE RUN

11.8.7.1 All Zone Districts

In all Zone Districts, where permitted with limitations:

- A. Outdoor kennels and exercise runs shall not exceed 200 square feet in area;
- B. The use shall be located not less than 20 feet from any habitable building on an adjacent zone lot;
- C. The use shall be located in the rear one-half of the zone lot;

- D. The use shall be visually screened from adjacent residential property by a solid fence or wall; and
- E. The number of animals allowed on-site shall comply with the limit on the number and kinds of animals stated in Section 11.8.6 of this Code.

SECTION 11.8.8 LIMITED COMMERCIAL SALES, SERVICE ACCESSORY TO MULTI-UNIT DWELLING USE

11.8.8.1 All Zone Districts

In all Zone Districts, where permitted with limitations:

A. Specific Accessory Uses Allowed

One or more of the following commercial sales or service uses may be operated as accessory to a primary multi-unit dwelling use in a single structure containing 50,000 square feet or more gross floor area, provided a Zoning Permit is obtained according to Section 12.4.1 before the establishment of such accessory use or activity:

1. Banking and financial services.
2. Retail sales, repair, service uses, provided such use contains no greater than 10,000 square feet of gross floor area.
3. Eating and drinking establishments, completely enclosed, provided no live entertainment or accessory amusement devices are allowed; and
4. Office, non-dental or non-medical.

B. Applicable Limitations

The specific accessory uses listed above may be allowed, provided such uses:

1. Are provided principally for the convenience of the owner or owners of the zone lot and the tenants thereof;
2. Do not have outdoor signs of any type;
3. Do not have separate outside entrances to the accessory use facing any street;
4. Are not evident from any street; and
5. Are incidental to the use by right.

SECTION 11.8.9 SECOND KITCHEN ACCESSORY TO SINGLE UNIT DWELLING USE

11.8.9.1 All Zone Districts

In all Zone Districts, where permitted with limitations:

- A. A second kitchen in a primary single unit dwelling building, not otherwise allowed as part of a permitted attached accessory dwelling unit use, is allowed as an accessory use provided a zoning permit is procured prior to establishment of the accessory kitchen and subject to compliance with the following standards:
 1. The applicant is the owner of the subject structure and uses the structure as his/her primary residence;
 2. The second kitchen shall be used only by the residents or domestic servants; and
 3. The applicant complies with all provisions of the Denver Building and Fire Code in the construction of the kitchen.

- B. An approved zoning permit for a second kitchen shall not be valid until the applicant has executed an agreement listing the terms and conditions fixed by the Zoning Administrator and the three conditions set forth above. Such agreement shall be recorded with the Denver City Clerk and Recorder.
- C. The permit for an approved exception shall automatically expire and become null and void at such time as the applicant no longer resides at the subject property.

SECTION 11.8.10 YARD AND/OR GARAGE SALES

11.8.10.1 All Zone Districts

In all Zone Districts, where permitted with limitations:

- A. Shall not exceed 72 hours of total duration;
- B. Shall not have more than one such sale in the period from January 1st to June 30th and no more than one such sale in the period from July 1st to December 31st;
- C. Items offered for sale shall not have been bought for resale or received on consignment for the purpose of resale; and
- D. All external evidence of the sale shall be removed immediately upon the conclusion of the sale.