

TOWN OF NEDERLAND, COLORADO

ORDINANCE NUMBER 850

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF NEDERLAND, COLORADO, AMENDING SECTION 16-98 OF CHAPTER 16 OF THE NEDERLAND MUNICIPAL CODE RELATED TO ACCESSORY DWELLING UNITS

WHEREAS, pursuant to C.R.S. § 31-23-301, the Board of Trustees (“Board”) of the Town of Nederland, Colorado (“Town”) possesses the authority to create regulations and restrictions concerning planning and zoning within the Town; and

WHEREAS, in 2022 and 2023, the Town has been working with a consultant, Bohannon Huston, to conduct a housing needs assessment; and

WHEREAS, the housing needs assessment focused on an evaluation of the Town’s current housing stock, the housing needs, and ideas for encouraging and promoting affordable and alternative housing; and

WHEREAS, the Housing Needs Assessment team focused on soliciting input from the community through an interactive map, an in-person workshop, and the Housing Survey; and

WHEREAS, based on the input received through the housing needs assessment, the Housing Needs Assessment team, and a subcommittee of the Planning Commission, made recommendations to the Planning Commission at the September 28, 2023, meeting regarding amendments to Chapter 16 of the Nederland Municipal Code (“Code”) for purposes of increasing the housing stock in the Town; and

WHEREAS, one of the recommended amendments was to allow for the construction of an accessory dwelling unit prior to the completion of a principal dwelling unit and to amend Section 16-98 of the Code, the Planning Commission directed Town Staff to bring forward an ordinance with that recommended amendment; and

WHEREAS, after due and proper notice as required by C.R.S. §§ 31-23-304 and 305, the Planning Commission held a public hearing on October 25, 2023, and other public hearings at meetings following that date; and

WHEREAS, the Planning Commission found that it is advantageous to the Town’s goal of increasing diverse and affordable housing stock to permit and regulate accessory dwelling units and recommended approval of the amendments to Section 16-98 of Chapter 16; and

WHEREAS, the Board of Trustees also held a public hearing on December 5 regarding consideration of this Ordinance; and
2023

WHEREAS, the Planning Commission and Board desire additional amendments to Chapter 16, of the Code, to clarify the regulation of accessory dwelling units based on the housing

needs assessment and to allow for increased housing supply in the Town.

NOW THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Nederland, Colorado, as follows:

Section 1. Findings and Intent. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Board of Trustees of the Town of Nederland.

Section 2. Amendment to Section 16-33 of Chapter 16 of the Nederland Municipal Code. Section 16-33 of the Code, concerning Yard and bulk requirements is amended as follows with additions showing in underline and deletions showing as strike-throughs:

Zoning Districts and Requirements

<i>Yard and Bulk Items</i>	<i>F</i>	<i>MR</i>	<i>LDR</i>	<i>MDR</i>	<i>HDR</i>	<i>NC</i>	<i>CBD</i>	<i>GC</i>	<i>I</i>	<i>P</i>
Minimum lot area per lot and per dwelling unit (sq. ft.)	5 acres ³	1 acre	16,000	8,000	4,000	4,000 ⁴	0	8,000	8,000	0
Minimum lot width (ft.)	330	150	100	70	40	40	0	40	40	0
Maximum lot coverage (% of lot area)	10	15	20	30	40	40	N/A	40	40	100
Minimum setback from a street for all uses (ft.) ¹	50	30	30	25	20	25	0	25	25	0
Minimum front yard setback for all uses (ft.) ¹	50	30	30	25	20	25	0	25	25	0
Minimum side yard setback from an interior lot line										
Principal uses (ft.)	30	20	15	10	5	5	5	10	10	0
<u>Accessory dwelling unit</u> (ft.)	<u>30</u>	<u>20</u>	<u>15</u>	<u>10</u>	<u>5</u>	<u>5</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Accessory uses (ft.)	10	10	10	5	5	5	0 or 10	5	5	0
Minimum rear yard setback										
Principal uses (ft.)	50	40	40	25	15	15	15	15	15	0

<u>Accessory dwelling unit (ft.)</u>	<u>50</u>	<u>40</u>	<u>40</u>	<u>25</u>	<u>15</u>	<u>15</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Accessory uses (ft.)	10	10	10	5	5	5	10	5	5	0
<i>Structure Criteria</i>										
Maximum building height ²										
Principal uses (ft.)	35	35	35	35	35	35	35	35	35	35
Accessory uses (ft.)	25	25	25	20	20	20	20	20	20	25

Design Standards and Guidelines - Section 18

- ¹ Or, in the case of a principal structure only, an established setback line.
- ² Measured to the uppermost point of the roof. See Section 16-6(9).
- ³ One acre equals 43,560 square feet.
- ⁴ Minimum lot area per dwelling unit may be reduced to 2,000 sq. ft. upon approval of the Board of Trustees in the Neighborhood Commercial District through the Planned Unit Development provisions of this Chapter. See Article IV, Section 16-88.

Section 3. Amendment to Section 16-98 of Chapter 16 of the Nederland Municipal Code. Section 16-98 of the Code, concerning Accessory dwelling unit, residential, is amended as follows with additions showing in underline and deletions showing as strike-throughs:

Sec. 16-98. Accessory dwelling unit, residential.

- (a) Accessory dwelling units: Detached and integrated accessory dwelling units are permitted as accessory to a single-family dwelling unit subject to the following requirements and approval of a permit application:
 - (1) General accessory dwelling unit standards. The following standards apply to detached and integrated accessory dwelling unit:
 - a. ~~Primary residence requirement. Either the principal dwelling unit or accessory dwelling unit on the parcel or lot must be owner-occupied.~~
 - a.b. Unity of ownership: The fee ownership of the principal dwelling and accessory dwelling unit shall not be separated.
 - b.e. An accessory dwelling unit shall comply with the locally adopted building code and all other applicable local, state and federal regulations.
 - c.d. Short-term rental: Short-term rental of an accessory unit and short-term rental of a principal dwelling unit on a lot or parcel with an accessory unit are prohibited except as specifically authorized in Chapter 6, Article V of this Code.
 - d.e. No more than one (1) accessory dwelling unit shall be located on any lot.

e.f. Accessory dwelling units must be served with municipal water and municipal sanitary sewer or septic as is applicable.

(2) Accessory dwelling unit-detached. In addition to the general accessory dwelling unit standards in paragraph (a)(1) of this section, the following standards shall apply to detached accessory dwelling units:

- a. Maximum height shall not exceed the maximums as set forth in Section 16-33, and the accessory dwelling unit-detached shall not exceed the height of the principal building.
- b. Maximum total area: The total area of a detached accessory dwelling unit shall not exceed 800 gross square feet.
- c. Setbacks: The accessory dwelling unit shall meet the setbacks of an accessory use and all other yard and bulk requirements set forth in Section 16-33 of this Code. Maximum lot coverage and maximum floor area ratios shall not be exceeded,
- d. Maximum number of bedroom: There shall be a maximum of two bedrooms within an accessory dwelling unit.

(3) Accessory dwelling unit—integrated. In addition to the general accessory dwelling unit standards in paragraph (a)(1) of this section, the following standards shall apply to the integrated accessory dwelling units:

- a. Maximum total area: There shall be no limitation to gross square footage.
- b. Exterior access: An integrated accessory dwelling unit shall have a separate exterior access. This requirement may be met with one airlock type entry to the principal dwelling structure if separate access to the accessory dwelling exists following the initial outside entry of the principal dwelling structure.

(b) Accessory dwelling unit permit applications.

(1) All applicants shall apply on forms provided the Zoning Administrator and shall contain the following information:

- a. A statement of current ownership.
- b. ~~A statement of primary residence as documented by the occupant's: (1) driver's license or Colorado state identification card; and (2) voter registration; motor vehicle registration; or designated residence for tax purposes. An applicant for an accessory dwelling unit may have only one (1) primary residence for purposes of this section. Reserved.~~
- c. A legal description and survey of the property.
- d. A site plan that depicts the principal dwelling unit and the accessory dwelling unit.
- e. A demonstration of compliance with the criteria of this subsection.
- f. A parking plan.
- g. A demonstration of compliance with the provisions of Chapter 13 of the Code as it relates to sewer and water utilities and fees.

- h. A demonstration of approved, inspected septic for all bedrooms, if applicable.
 - i. Payment of the application fee as set forth in Section 4-151 of this Code.
- (2) Review of application.
- a. Approval: The Zoning Administrator or designee reviews the application for substantial compliance with the requirements in this section. Upon approval of the application, the Zoning Administrator will issue a permit.
 - b. The Zoning Administrator or designee may impose conditions of approval on a permit necessary to protect public health, safety, and welfare and or assure compliance with applicable ADU standards and requirements.
 - c. The written decision of the Zoning Administrator or designee shall be issued within thirty (30) days of a complete application.
 - d. Denial: The Zoning Administrator or designee shall deny an application for failure to substantially comply with the requirements in this section.
 - e. Review: Any person aggrieved by the final decision of the Zoning Administrator or designee may seek review to the Planning Commission. The issue before the Planning Commission will be whether the Zoning Administrator or designee exceeded his or her authority in denying the permit.
- (3) An owner or the owners of a lot or parcel with an accessory unit and the principal dwelling unit that were legally established and constructed with a certificate of occupancy on or before January 7, 2020, shall register with the Town and submit payment of the registration fee.
- (4) Transfer: An accessory dwelling unit permit may be transferred to the new owner by application to the Zoning Administrator as set forth in Section 16-98(b).
- (c) Administration and enforcement. It shall be the duty of the Zoning Administrator or designee to administer and enforce the provisions of this Section.

Section 4. Minor Revision or Correction Authorized. The Town Administrator, in consultation with the Town Attorney, is authorized to make minor revisions or corrections to the codified version of the provisions of this Ordinance provided that such revisions or corrections are grammatical, typographical, numerical, or non-substantive and do not alter or change the meaning and intent of this Ordinance.

Section 5. Severability. Should any one or more sections or provisions of this Ordinance or of the Code provisions enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance or of such Code provision, the intention being that the various sections and provisions are severable.

Section 6. Repeal. Any and all Ordinances or Codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such Ordinance or Code or part thereof shall not revive any other section or part of any Ordinance or Code provision heretofore repealed or superseded.

Section 7. Effective Date. After adoption by the Board of Trustees, this Ordinance shall take effect thirty days after the publication of the ordinance.

INTRODUCED, READ, PASSED, ADOPTED, AND ORDERED PUBLISHED THIS 5th DAY OF December 2023, BY A VOTE OF 6 IN FAVOR AND 0 AGAINST.

TOWN OF NEDERLAND, COLORADO

Kelly Giffel
Mayor or Mayor Pro Tem

ATTEST:

Macy Caligaris
Macy Caligaris, Town Clerk



APPROVED AS TO FORM:

Jennifer Madsen
Jennifer Madsen, Town Attorney

I hereby certify that the above Ordinance was adopted by the Board of Trustees of the Town of Nederland at its meeting of December 5, 2023, and ordered published by title only by Mountain Ear newspaper on December 7, 2023.

Macy Caligaris
Macy Caligaris, Town Clerk