

**Pre-Existing Registration  
Process for ADUs & Duplexes  
EN-1 and EN-2 Zone Districts  
Public Meeting**

City of Durango, Colorado

November 13, 2014

# Agenda

- Welcome & Introduction
- Review of Current Regulations for ADUs in EN-1 and EN-2
- Overview of Pre-Existing ADU/Duplex Registration Process
- Questions & Comments
- Next Steps

## To Whom Does this Program Apply?

- Anyone in the EN-1 and EN-2 zone districts with more than one unit on their property that does not have a clear record establishing the legality of the unit
- This includes ADUs on smaller lots, duplexes on lots 7,500 SF or larger, and multi-family units (3 or more units)
- Multi-family units should come in through this process, but will be dealt with at a later date

# What's an ADU/Duplex?

- An Accessory Dwelling Unit (ADU) is a small home that is located on the same lot as a principal (“standard”) home, and may be attached or detached.
- ADUs are units on lots that are less than 7,500 sf
- A Duplex property contains two separate single-family dwelling units that do not share living areas. Duplexes may be attached or detached.
- Duplexes are units on lots 7,500 sf or larger

# Overview of Pre-Existing ADU/Duplex Registration Process



## Issue #1 - Proof of Age

- Its been very difficult and time consuming to determine the age of existing ADUs and Duplexes
- Most of the time the documentation is not available
- Only 2 dates must be determined now:
  - Pre-1941 (Legal Non-Conforming)
  - Pre-1989 (Letter of Acknowledgment)

## Issue #2 - Fees

- Fees have been a point of contention during this process, especially for older units
- No Fees will be charged for units established before 1989
- Units established in 1989 or later will pay fees according to the date the unit was established:
  - 1989 or after – will pay Water Plant Investment Fees (PIFs), Sewer PIFs, Park and School Fees
  - 1997 or after – will also pay Major Street Impact Fees (MSIF)
- The City's Finance Department will start a payment plan program so that applicants can pay back the City fees over a 5-year period

## Issue #3 – Inspections

- Inspections are proving to be difficult for the ADU and Duplex process for the following reasons:
  - Determining which building/zoning codes to use based on unknown age of units
  - Trying to bring older units into compliance with current codes including:
    - Costly/Difficult Improvements: size of egress windows, rise and runs of stairs, etc.
    - Incomplete Inspections: can't inspect plumbing and electrical behind walls or determine if there are fire rated walls, etc.

## Issue #3 – Inspections

- Conducting inspections may lead to a false sense of security because they are incomplete inspections
- For the proposed process the property owner is 100% liable to provide safe living conditions
- A better way of addressing life/safety issues in older units would be for the City to adopt a habitability code, which would cover all rental units, not just ADUs

## Issue #4 - Owner Occupancy

- Either the primary residence or the accessory dwelling unit must be owner occupied. Only one of the units is allowed to be rented out to a non-owner unless an exception is granted pursuant to the provisions of the ADU Ordinance.

## Issue #5 – Number of Occupants

- Duplex: 2 separate units, each unit can have up to 5 unrelated people
- ADU: 2 separate units, a total of 5 unrelated people for the entire property

# Units Built Before 1941

- Previous Proposal

- Legal Non-Conforming
- Inspections with basic life/safety improvements
- Do not need to meet any new ADU standards: lot or unit size, parking, owner occupancy, etc.
- No Fees

- New Proposal

- Legal Non-Conforming Letter Issued
- No life/safety inspections
- Do not need to meet any new ADU standards: lot or unit size, parking, owner occupancy, etc.
- No Fees

## Required Agreements/Permits

- **Pre 1941 Units:**
  - Legal Non-Conforming letter issued by the City and recorded at the County

## Units Built Between 1941-1989

- Previous Proposal
  - LUP Issued
  - Inspections with basic life/safety improvements
  - Applicable fees based on age of unit
  - Some variances may be approved
- New Proposal
  - Pre-Existing Notice of Acknowledgement, if owner wants an LUP then go through 1989 or After process
  - No life/safety inspections
  - Do not need to meet new ADU standards: lot or unit size, parking, etc.
  - No Fees
  - Does need to meet Owner Occupancy and # of occupants

# Required Agreements/Permits

- **Pre 1989 Units:**
  - Notice of Acknowledgment signed by the applicant and City, notarized, and recorded at the County:
    - Constitutes the City's recognition that the unit may remain on the property
    - Does not attest to the safety of the unit by the City since no inspection will be conducted
    - Allows improvements that do not enlarge the structure
    - Damages to the structure less than 50% of the floor area or 67% of the overall fair market value of the property can be repaired. If more than 50% of the floor area or greater than 67% of the fair market value, the structure must be brought into compliance with current code standards.

# Required Agreements/Permits

- Age/Safety Affidavit: Signed by owner, notarized and kept in project file
  - Owner attests that there is a second dwelling unit located on the property which was established prior to 1989. Supporting age documentation shall be provided
  - Owner attests that the unit is safe and habitable based on accepted life safety standards and shall be maintained as such as long as the unit is used
  - Includes a list of basic life safety items that should be maintained

# Required Agreements/Permits

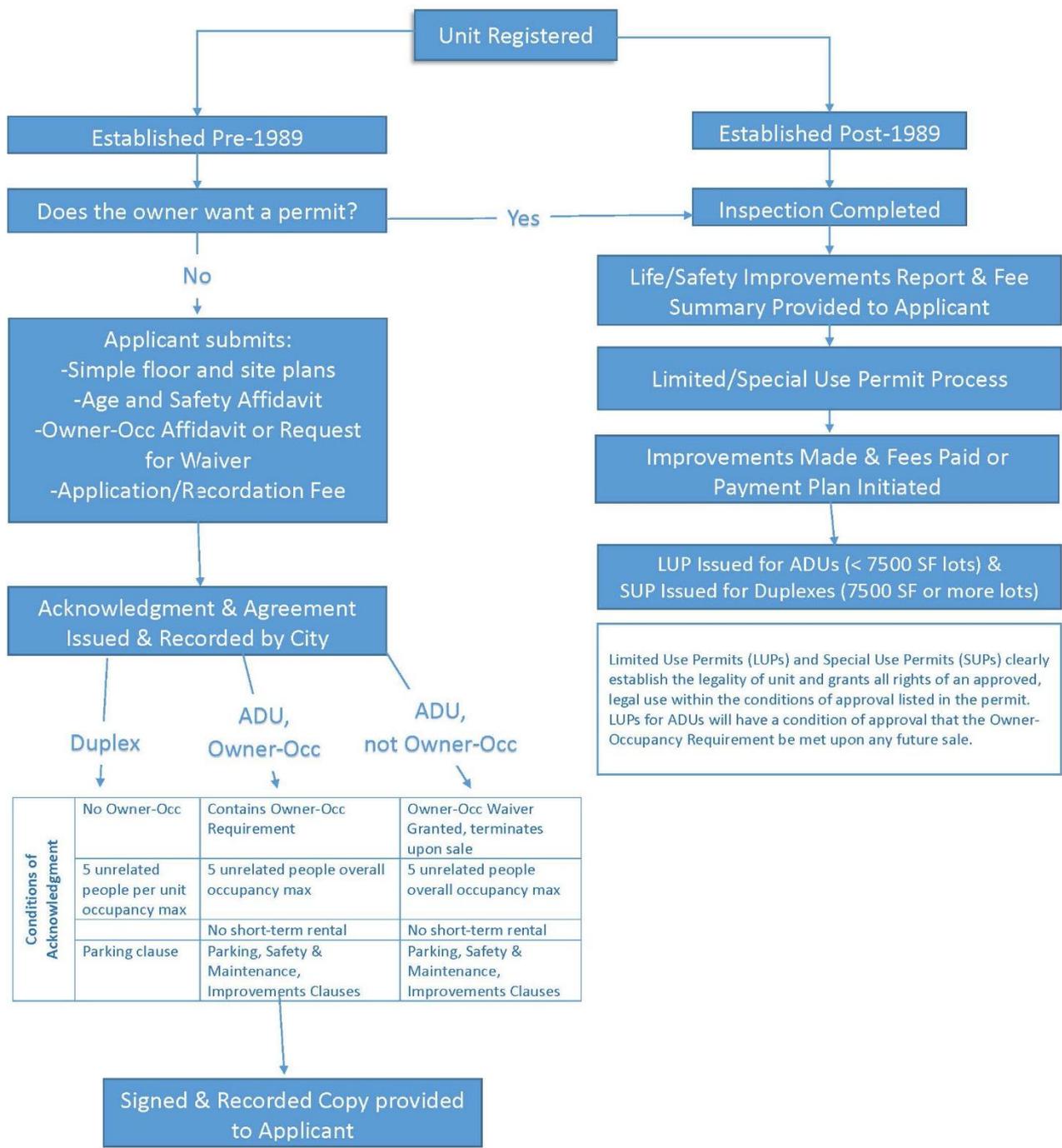
- Owner Occupancy Affidavit: Signed by owner, notarized and kept in project file
  - The property owner must reside in either the principal dwelling or the ADU for more than six (6) months of each year, unless a waiver is granted for the current owner
  - The property owner must notify prospective purchasers of the property of the owner-occupancy requirement
  - Every odd-numbered year prior to March 1, the current property owner shall submit an updated copy of this form to the City
  - Whenever a property with an ADU changes ownership, the new owners shall submit a signed, notarized copy of this form within 60 days of purchase

# Units Built in 1989 or After

- Previous Proposal
  - LUP/SUP Issued
  - Inspections with basic life/safety improvements
  - Pay all fees
  - Some variances may be approved
- New Proposal
  - LUP/SUP Issued
  - Inspections with basic life/safety improvements
  - Pay all fees according to date unit was established
  - Some variances may be approved

## Required Agreements/Permits

- 1989 and After Units:
  - Limited Use Permit (LUP) or Special User Permit (SUP) Issued by the City
  - Owner Occupancy Affidavit: Signed by owner, notarized and kept in project file



Limited Use Permits (LUPs) and Special Use Permits (SUPs) clearly establish the legality of unit and grants all rights of an approved, legal use within the conditions of approval listed in the permit. LUPs for ADUs will have a condition of approval that the Owner-Occupancy Requirement be met upon any future sale.

Conditions of Acknowledgment	No Owner-Occ	Contains Owner-Occ Requirement	Owner-Occ Waiver Granted, terminates upon sale
	5 unrelated people per unit occupancy max	5 unrelated people overall occupancy max	5 unrelated people overall occupancy max
		No short-term rental	No short-term rental
	Parking clause	Parking, Safety & Maintenance, Improvements Clauses	Parking, Safety & Maintenance, Improvements Clauses

Signed & Recorded Copy provided to Applicant

## Example #1 – ADU Established in 1938

- No application fee
- Proof of age of unit is required
- Legal Non-Conforming letter issued by the City and recorded at the County

## Example #2 – ADU Established in 1974

- \$100 application fee
- Age/Safety Affidavit signed by owner and notarized
- Owner Occupancy Affidavit signed by owner and notarized (or waiver issued)
- Notice of Acknowledgement signed by owner and City, notarized and recorded at the County

## Example #3 – ADU Established in 2011

- Unit is less than 600 sf
- \$550 application fee
- Inspection conducted
- Life/Safety improvements made
- \$7,039 fees paid (or enter into payment plan)
- LUP Issued by the City

## Benefits of Going Through This Program

- Neighborhood stability is protected and enhanced through this process
- Owner gets a recorded legal acknowledgment of the unit, clearly established for posterity, whereas now there is much uncertainty
- Owner testifies that the unit is safe and will be maintained as such
- Owner occupancy begins to happen in these units as they change ownership
- City has a better grasp of the housing stock in the community

# Voluntary Registration Period

- **Extended to March 31, 2015**
  - Ability to have variances granted administratively
  - Simplified process
  - No citations into Court for illegal units
  - Longer timelines to bring property into compliance
  - Payment plan for required fees

## Next Steps

- The Online Registration form needs to be filled out for a Planner to contact an owner to start the registration process at:

[www.durangogov.org/adus](http://www.durangogov.org/adus)

# Owner Occupancy

- If the provisions of this subsection are not able to be met, the property owner shall cause the accessory unit to be vacated as a dwelling unit and/or remove the unit and return the property back to its single dwelling status.