

ORDINANCE NO. _____
COUNCIL BILL NO. 19-

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF THE FOLLOWING SECTIONS OF THE COEUR D'ALENE MUNICIPAL CODE: 17.06.630, 17.06.635, 17.06.640, 17.06.650, 17.06.660, AND 17.06.670; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE PUBLICATION OF A SUMMARY OF THE ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF.

WHEREAS, it is deemed by the Mayor and City Council to be in the best interests of the City of Coeur d'Alene that said amendment be adopted;

NOW, THEREFORE,

BE IT ORDAINED, by the Mayor and City Council of the City of Coeur d'Alene:

SECTION 1. *That section 17.06.630 of the Coeur d'Alene Municipal Code be amended as follows:*

A. Subject to subsection B hereof, Aa structure shall be considered to be accessory to and shall not be subject to the same site performance standards as the principal structure on the same lot if one or more of the following conditions applies:

1. The structure is detached and separated from the principal structure by six feet (6') or more.
2. The structure is attached to the principal structure by a breezeway roof with an intervening space of five feet (5') or more, and the space is open on at least two (2) sides.
3. The structure is a private storage garage, fuel storage shed, private noncommercial greenhouse, or a child's playhouse, per subsection 17.06.495C1 of this chapter.

B. A structure shall not be considered to be accessory and shall be subject to the same site performance standards as a principal structure on the same lot if one or more of the following conditions applies:

1. The structure is part of or joined to the principal structure by a common wall, or is not separated by more than six feet (6').
2. The structure has sleeping or living accommodations, in which case the structure must comply with the requirements for an Accessory Dwelling Unit.

SECTION 2. *That section 17.06.635 of the Coeur d'Alene Municipal Code be amended as follows:*

Accessory uses as defined in section 17.06.630 of this chapter include, but are not limited to, those indicated below:

A. Off Street Parking And Loading Facilities: Off street parking and loading facilities serving a principal residential or nonresidential use, whether located on the same lot or on another lot, but only if reserved for the residents, employees, patrons, or other persons participating in the principal use.

B. Open Areas And Swimming Pools: Open areas developed for passive or active recreation, located on the same lot as a principal use.

C. Storage And Service Areas And Buildings: Storage and service areas and accessory buildings, other than those listed elsewhere in this section, if serving a principal use on the same lot.

D. Certain Living Quarters: Living quarters in connection with a principal nonresidential use on the same lot, but only if the residents are required to remain on the premises for employment, protective, conference, or comparable technical purposes, including, but not limited to, caretakers and watchmen. Also includes Accessory Dwelling Units.

E. Temporary Construction Yards: Temporary construction yards and similar facilities which are necessary and incidental to the development of the same lot, or on another of several lots being developed at the same time.

F. Temporary Real Estate Office: A temporary real estate office which is necessary and incidental to, and located on the site of, a subdivision.

G. Home Occupations: Home occupations, as subject to the home occupation regulations set forth in article VIII of this chapter.

SECTION 3. *That section 17.06.640 of the Coeur d'Alene Municipal Code be amended as follows:*

All Accessory structures other than Accessory Dwelling Units and Caretakers Units shall be subject to the height regulations specified in article IV of this chapter and to the spacing and setback regulations specified in article V of this chapter.

SECTION 4. *That section 17.06.650 of the Coeur d'Alene Municipal Code be amended as follows:*

A. Purpose: The purpose of allowing ADUs is to:

1. Provide homeowners with a means of obtaining, through tenants in either the ADU or the principal unit, rental income, companionship, security, and services.

2. Add affordable units to the existing housing.

3. Make housing units available to moderate income people who might otherwise have difficulty finding homes within the City.
4. Develop housing units in single-family neighborhoods that are appropriate for people at a variety of stages in the life cycle.
5. Protect neighborhood stability, property values, and the single-family residential appearance of the neighborhood by ensuring that ADUs are installed under the conditions of this chapter.

B. Applicability: Accessory dwelling units are permitted within all residential and commercial zoning districts, subject to the provisions of this Code.

SECTION 5. *That section 17.06.660 of the Coeur d'Alene Municipal Code be amended as follows:*

A. Maximum Building Height: Maximum building heights for ADUs are:

1. Thirty two feet (32') when built within the buildable area building envelope for the principal structure.
2. ~~Fourteen feet (14') when built in the rear yard with a low or no slope roof or eighteen feet (18') when built in the rear yard with a medium or high slope roof~~One Story ADU Structure: Eighteen feet (18') when built in the rear yard.
3. ADU above a detached garage: Twenty-four feet (24') when built in the rear yard and must meet the second story step back requirement as provided in section 17.06.660(M).
4. Railing, parapets, equipment, and other similar structures/fixtures/architectural elements are included in the maximum height.

B. Setbacks: Setbacks for ADUs are:

1. Setbacks for ADUs in the principal building envelope are:

- ~~1a.~~ a. Front: The front yard requirement shall be twenty feet (20').
- ~~2b.~~ b. Side, Interior: The interior side yard requirement shall be five feet (5'). If there is no alley or other legal access behind a lot, each lot shall have at least one side yard of ten feet (10') minimum.
- ~~3c.~~ c. Side, Street: The street side yard requirement shall be ten feet (10').
- ~~4d.~~ d. Rear: ~~Setbacks for ADUs located in the rear twenty five feet (25') of a lot.~~The rear yard shall be twenty-five feet (25') from the rear property line.

2. Setbacks for ADUs located in the rear twenty-five feet (25') of a lot:

a. Side Yard: ~~All accessory structures shall be~~ at least five feet (5') set back from the side lot line ~~at least five feet (5')~~.

~~(1) — However, an accessory structure may be set back three feet (3') from the side property line provided the roof does not slope toward the side property line.~~

~~(2) — A detached ADU may encroach up to three feet (3') beyond the twenty five foot (25') rear yard and still maintain the above mentioned requirement, provided the height of the detached structure does not exceed eighteen feet (18').~~

b. Rear Yard: ~~All accessory structures shall be~~ at least five feet (5') set back from the rear lot line ~~at least five feet (5')~~.

~~(1) — However, an accessory structure may be set back three feet (3') from the rear property line, provided the roof does not slope toward the rear property line.~~

~~(2i) Lots with an alley in the rear of the lot may have an accessory structure that can be a set back of three feet (3') from the rear property line regardless of how the roof is sloped.~~

~~(3ii) Rear Yard Exception: A detached ADU may encroach up to three feet (3') beyond the twenty five foot (25') rear yard and still maintain the above mentioned-stated requirements, provided the height of the detached structure does not exceed eighteen feet (18') the maximum height set out in section 17.06.660(A) and meets the second story step back requirements of section 17.07.660(M).~~

C. Parking: One additional parking space beyond that required for the principal dwelling is required for an ADU.

D. Owner Occupancy: Either the principal dwelling unit or the accessory dwelling unit must be occupied by a majority owner of the property ~~or an immediate family member of the property owner~~ if a unit is used as a short-term or vacation rental. "Owner occupancy" ~~is defined as~~ means that a property owner, as reflected in title records, ~~who~~ makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means, and ~~actually~~ physically resides at the site more than six (6) months out of any given calendar year.

E. Number Of Occupants: One accessory dwelling unit is permitted as subordinate to an existing single-family dwelling; provided the total number of occupants in both the principal dwelling unit and accessory dwelling unit combined does not exceed the maximum number established for a "family" as defined in section 17.02.055 of this title.

F. Subdivision: ~~An~~ Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit.

G. Size And Scale: The ~~square footage of the~~ accessory dwelling unit shall meet the following: be a minimum of three hundred (300) square feet and a maximum of seven hundred (700) square feet, excluding any garage area; provided, the square footage of the accessory dwelling unit shall not exceed forty percent (40%) of the total square footage of the primary dwelling unit, excluding the garage area, as it exists or as it may be modified.

1. No minimum size.

2. Maximum size shall be eight hundred (800) square feet (finished area; does not include unfinished basements).

3. An ADU shall not exceed seventy-five percent (75%) of the total square footage of the primary dwelling unit, excluding the garage area.

H. Location: The accessory dwelling unit may be added to or included within the principal unit, including a basement, or located in a detached structure. Other Code standards ~~may~~ apply.

I. Entrances for ADUs attached to principal unit: The single-family dwelling containing the accessory dwelling unit shall have only one entrance on each front or street side ~~of the residence~~ for the ADU.

J. Additions: Additions to an existing structure ~~or newly constructed detached structures created~~ for the purpose of developing an accessory dwelling unit, shall be designed consistent with the existing roof pitch, siding, and windows of the principal dwelling unit.

K. Conversion Of Existing Detached Structures/Garages/Sheds: Any existing detached structure may be that is converted into an accessory dwelling unit provided it meets the following: must meet all of the requirements of this section:

1. The structure meets the current adopted Building Code and a building permit can be issued.

2. The structure is not over the property line or in the City's right-of-way.

3. The structure complies with current building and zoning standards if it is to be expanded.

4. The structure cannot be expanded outward or upward, regardless of the provisions of the Non-Conforming Code, without complying with current standards.

5. An existing garage with a valid building permit and a height between eighteen feet (18') and twenty-five feet (25') may be converted into an ADU if it can meet the requirements of item 1 above.

L. Short-Term Rentals: If an accessory dwelling unit (ADU) is going to be used for less than 30-day stays, the owner shall comply with the rules of short-term rental requirements in chapter 17.08, article X of this title.

M. Second Story Step Back: Required for Attached and Detached ADUs in the Rear Yard. A newly constructed or second-story addition to an existing structure within the Rear Yard must have second story step backs that meet the following requirements:

1. The upper step back begins at a height of ten feet (10') on the interior side property line and at fifteen feet (15') on the rear yard property line (see figures below).

2. The step back is at 1:1 measurement, which equates to a forty-five degree (45°) angle.

3. A building permit application must show all dimensions, setbacks, and step backs as shown in the figures below.

4. There is no second story step back requirement on the street side of a corner lot.

5. Eaves are allowed to project two feet (2') into the step back air space.

Figure 1: Side Yard Second Story Step Back

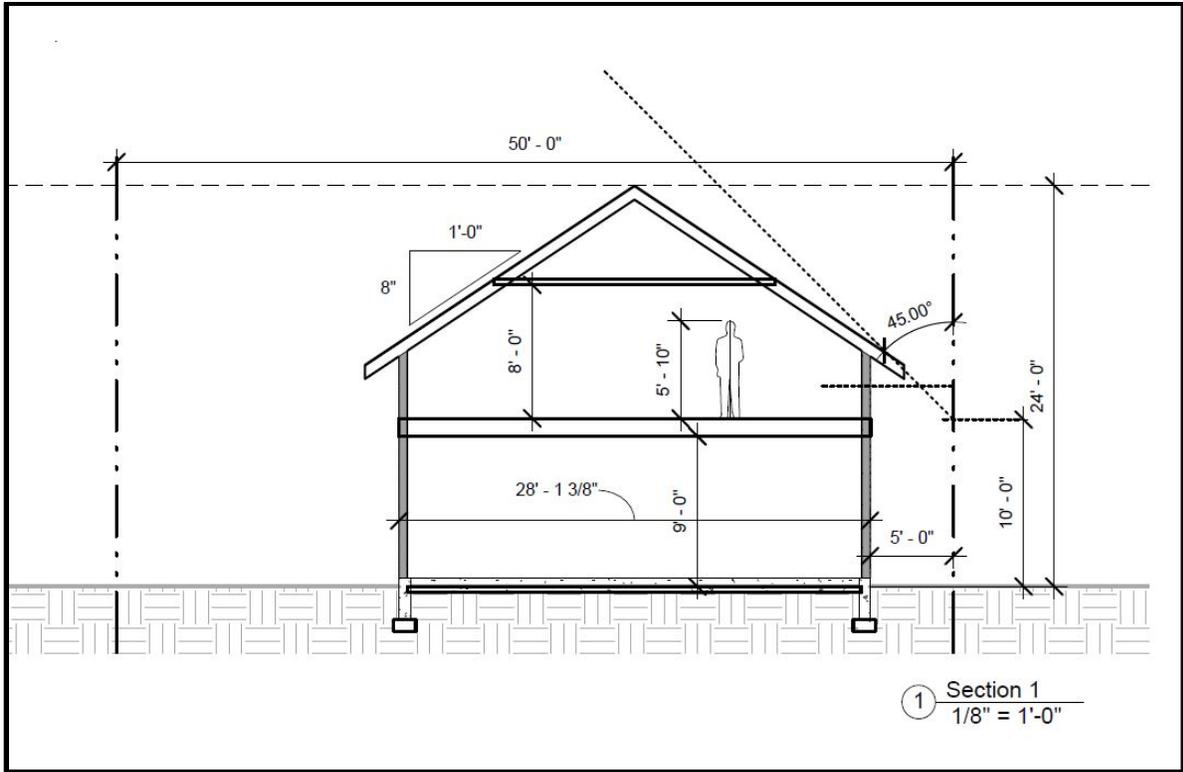


Figure 2: Side Yard Second Story Step Back, 2-Foot Eave Projection Allowed

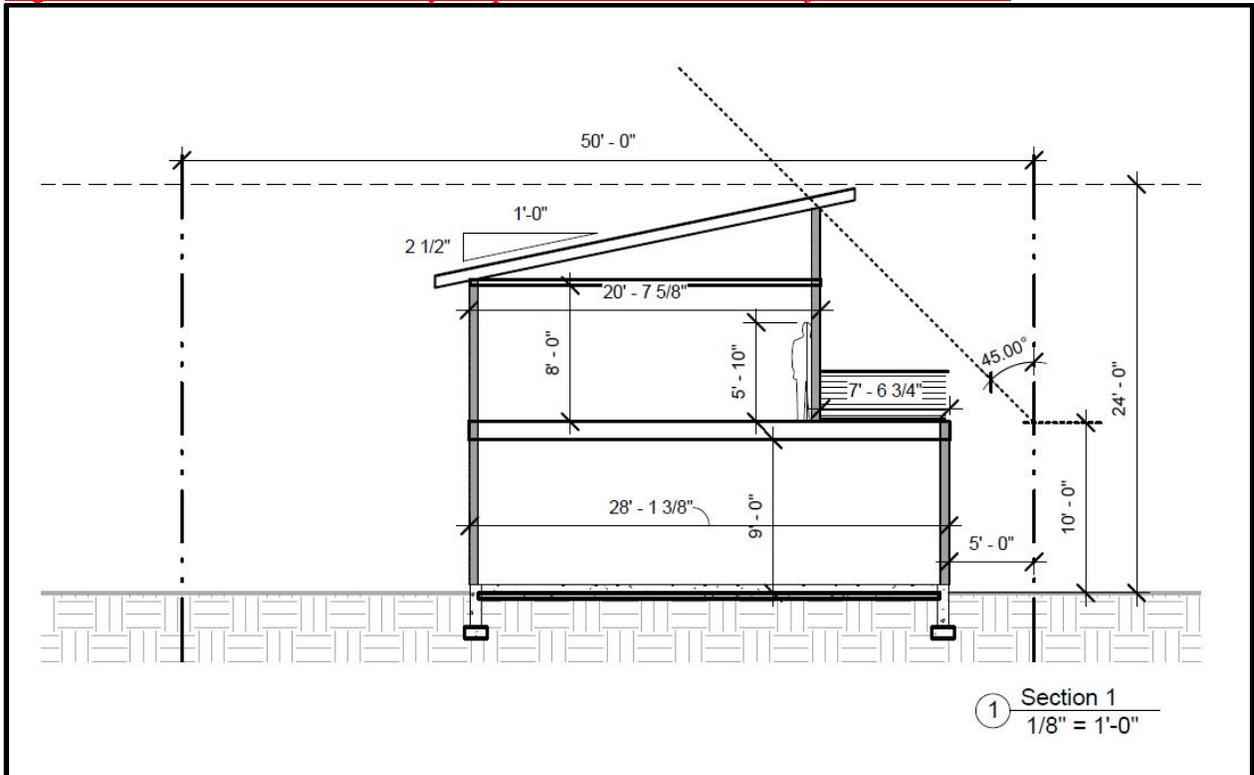


Figure 3: Side Yard Second Story Step Back, Roof Projection Not Allowed

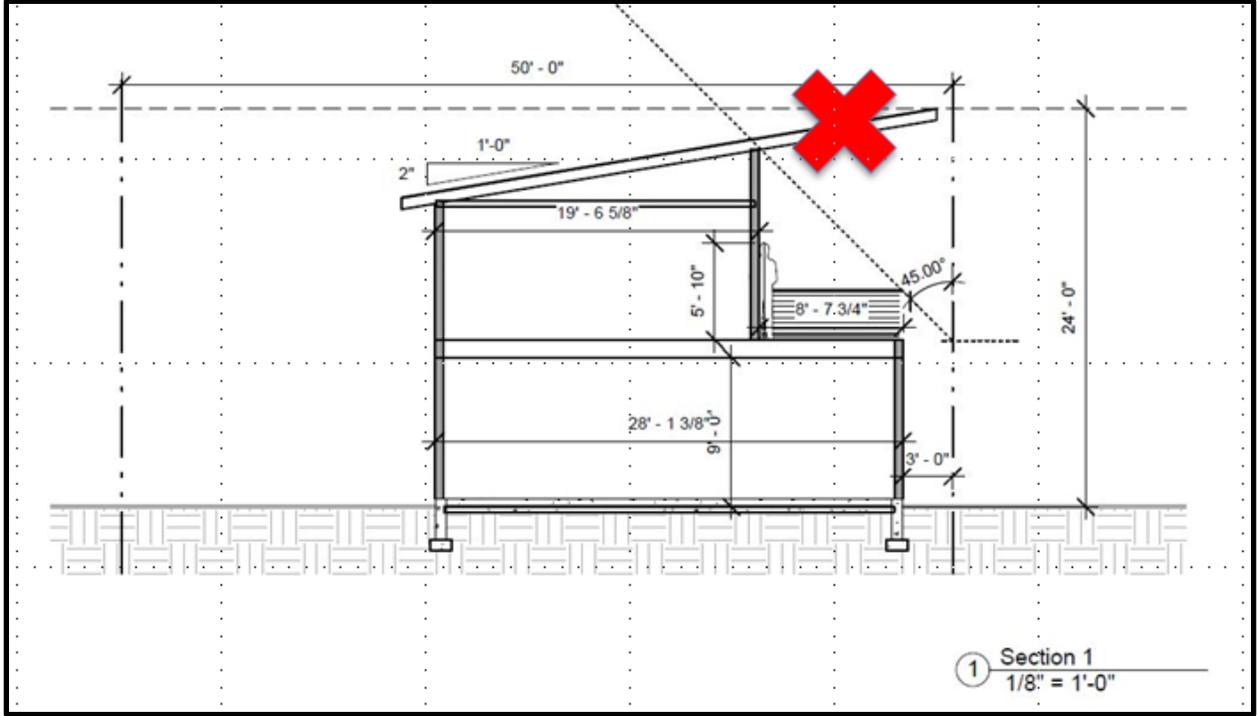


Figure 4: Side Yard Second Story Step Back, Not Allowed

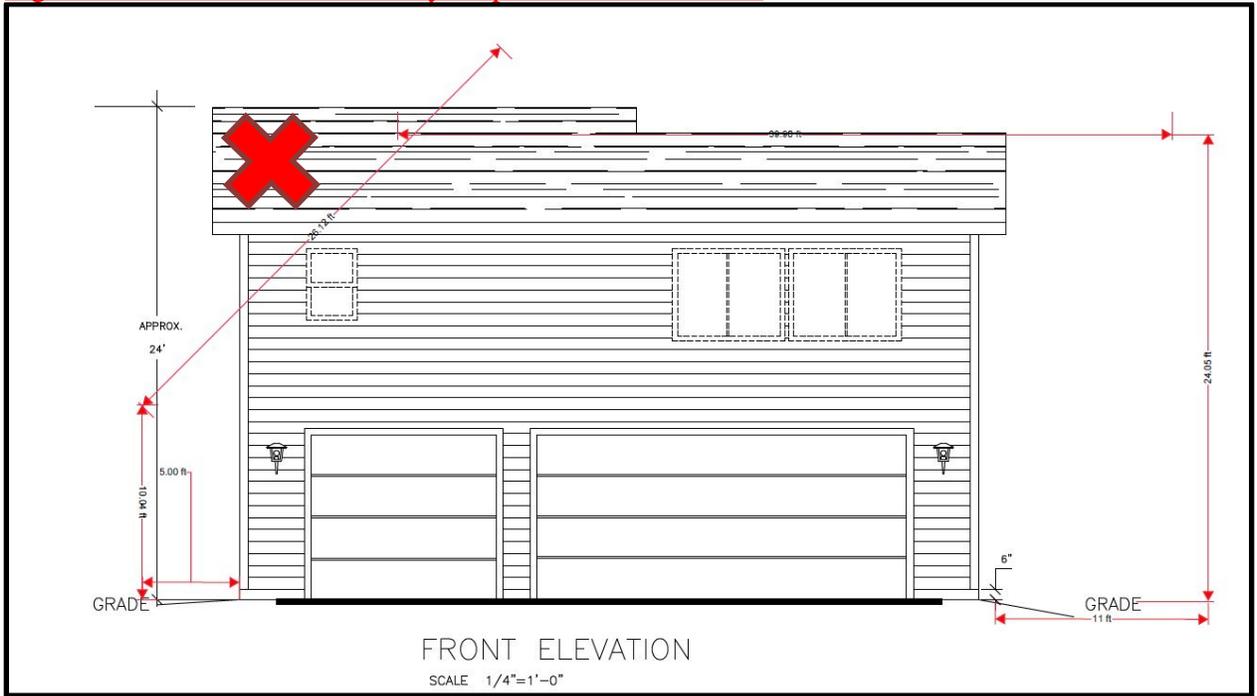


Figure 5: Rear Yard Second Story Step Back, With Alley

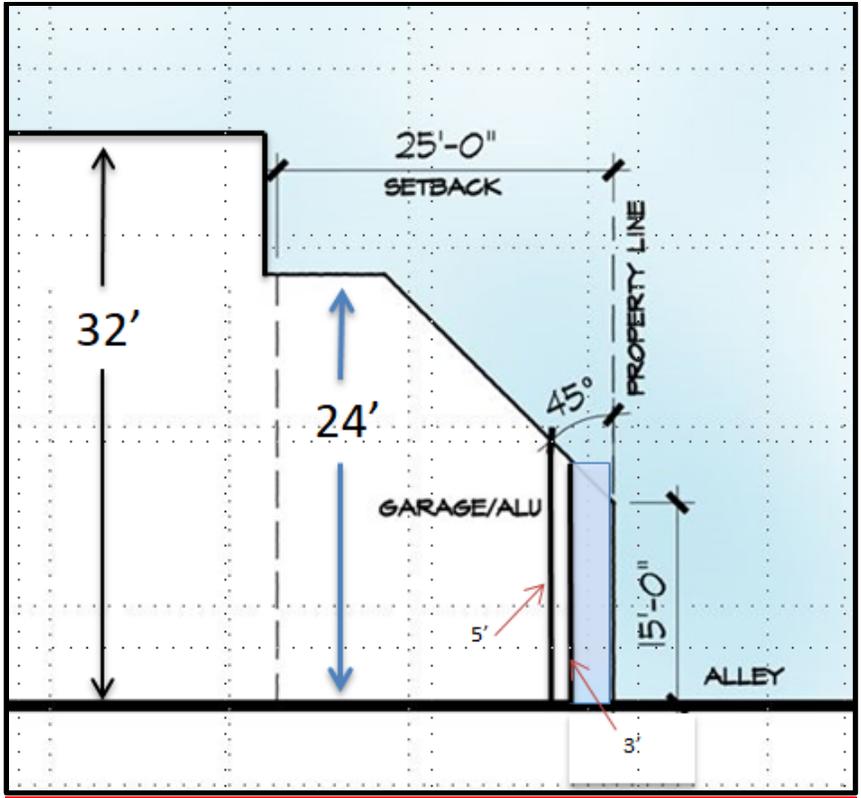
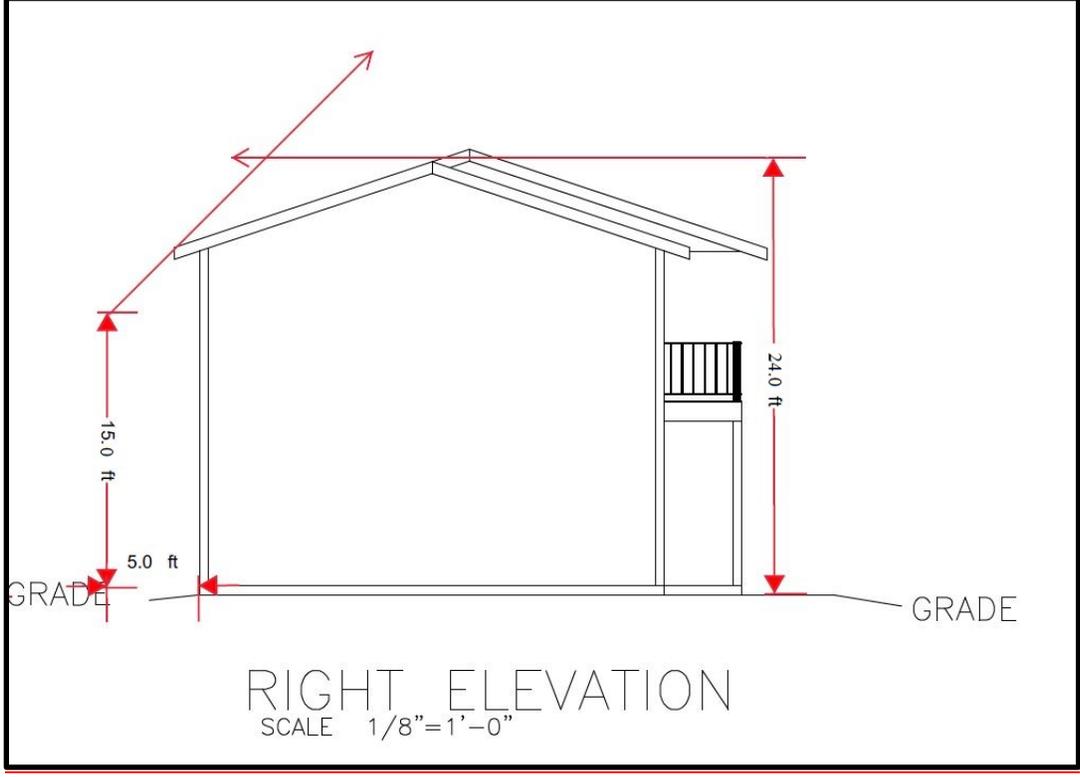


Figure 6: Rear Yard Second Story Step Back, No Alley



N. Lot Coverage & Pervious Surface Requirement:

1. A thirty percent (30%) pervious surface is required for all lots with an ADU.
2. Pervious surfaces include such things as grass, Astro Turf, pavers, grasscrete, gravel, and decking materials (unless there is a concrete or impervious surface below).
3. There is no dimensional requirement or requirement for a certain type or quantity of landscaping/trees (other than the standard street tree requirements).
4. The building permit application must show all pervious areas on the lot and the calculation of a separate plan titled "Lot Coverage/Pervious Surface Plan."

SECTION 6. *That section 17.06.670 of the Coeur d'Alene Municipal Code be amended as follows:*

17.06.670: ADU PERMITTING AND ENFORCEMENT:

A. Application: The property owner shall apply for an accessory dwelling unit permit and other applicable permits from the City. The application shall include an affidavit signed by the property owner affirming the ADU status of the property and, if applicable, compliance with the Short-Term Rentals code~~that a majority owner or an immediate family member will occupy the principal dwelling unit or accessory dwelling unit for more than six (6) months per year.~~

B. Applicable Codes: ~~The accessory dwelling unit shall comply with all standards for single-family dwellings, including height and setbacks,~~In addition to the provisions of this Code and the Short Term Rentals code, all Health and Safety Codes shall apply as required by the Building Department and all other applicable codes, except as provided in section 17.06.650 of this chapter through this section.

C. Recording Requirements: Approval of the accessory dwelling unit shall be subject to the applicant recording a document with the County Recorder which runs with the land and identifies the address of the property, states that ~~the owner(s) resides in either the principal dwelling unit or the~~an accessory dwelling unit is located on the property; and includes a statement that the owner(s) will notify any prospective purchasers of the limitations of this section,~~and provides for the removal of the accessory dwelling unit if any of the requirements of this chapter are violated.~~

D. Permit: Upon compliance with the provisions of sections 17.06.650 and 17.06.660 of this chapter through this section, an accessory dwelling unit permit will be issued.

E. Enforcement: The City retains the right with reasonable notice to inspect the ADU for compliance with the provisions of this section.

F. Elimination/Expiration: Elimination of an accessory dwelling unit may be accomplished by the owner recording a certificate with the County and the City's Planning Department stating that the accessory dwelling unit no longer exists on the property.

SECTION 7. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 8. The provisions of this ordinance are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, word, or part had not been included therein.

SECTION 9. After its passage and adoption, a summary of this Ordinance, pursuant to the provisions of the Idaho Code, shall be published once in the official newspaper of the City of Coeur d'Alene, and upon such publication this Ordinance shall be in full force and effect.

Passed under suspension of rules upon which a roll call vote was duly taken and duly enacted an Ordinance of the City of Coeur d'Alene at a regular session of the City Council on _____, 2019.

APPROVED, ADOPTED and SIGNED this _____ day of _____, 2019.

Steve Widmyer, Mayor

ATTEST:

Renata McLeod, City Clerk

SUMMARY OF COEUR D'ALENE ORDINANCE NO. _____
Amending Sections 17.06.630, 17.06.635, 17.06.640,
17.06.650, 17.06.660, and 17.06.670
of the Coeur d'Alene Municipal Code

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF THE FOLLOWING SECTIONS OF THE COEUR D'ALENE MUNICIPAL CODE: 17.06.630, 17.06.635, 17.06.640, 17.06.650, 17.06.660, AND 17.06.670; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE PUBLICATION OF A SUMMARY OF THE ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF. THE FULL TEXT OF THE SUMMARIZED ORDINANCE NO. _____ IS AVAILABLE AT COEUR D'ALENE CITY HALL, 710 E. MULLAN AVENUE, COEUR D'ALENE, IDAHO 83814 IN THE OFFICE OF THE CITY CLERK.

Renata McLeod, City Clerk

STATEMENT OF LEGAL ADVISOR

I, Randall R. Adams, am a Chief Deputy City Attorney for the City of Coeur d'Alene, Idaho. I have examined the attached summary of Coeur d'Alene Ordinance No. _____, Amending sections 17.06.630, 17.06.635, 17.06.640, 17.06.650, 17.06.660, and 17.06.670 of the Coeur d'Alene Municipal Code, and find it to be a true and complete summary of said ordinance which provides adequate notice to the public of the context thereof.

DATED this _____ day of _____, 2019.

Randall R. Adams, Chief Deputy City Attorney