

**Action Requested/Required:**

- ☐ Vote/Action Requested
☐ Discussion or Presentation Only
☒ Public Hearing
Report Date: 7/17/25
Hearing Date: 8/7/25
Voting Date: 8/21/25

Department: Community Development**Presenter(s) & Title:** Kevin TurnerCommunity Development Director**Agenda Item Title:**

Discussion and Possible Action on Text Amendments Regarding Accessory Dwelling Units (ADUs)

Summary:

Staff are proposing text amendments to Section 104.02.02 - "Accessory Dwelling Units" of the Unified Development Code to clarify development standards regarding ADUs.

Proposed amendments include creating a maximum square footage for detached ADUs and attached ADUs (i.e. basement apartments) at 50% of the principal dwelling square footage, removing the 1,200 sq. ft. maximum for attached units, creating a maximum height for detached ADUs at either the height of the principal or 25 feet (whichever is greater), removing limits on the number of bedrooms, and allowing detached ADUs in the rear or side yard. Additional language is proposed to ensure that either the ADU or principal structure remains owner-occupied and that ADUs are compliant with HOAs (when applicable).

A text amendment is also proposed for section 105.11.02 - "Administrative Action (Administrative Variance)" to allow for administrative variances up to 20% for the increase in maximum square footage of ADUs.

Budget Implications:

Budgeted? ☐ Yes ☐ No ☒ N/A

Total Cost of Project: Check if Estimated ☐

Fund Source: General Fund ☐ Water & Sewer ☐ Sales Tax ☐ Other:

Staff Recommendations:

Staff recommends approval of amendments to the Unified Development Code sections.

Reviews:

Has this been reviewed by Management and Legal Counsel, if required? ☐ Yes ☐ No

Attachments:

Draft Ordinance to amend Section 104.02.02 and Section 105.11.02 of the Unified Development Code.
Accessory Dwelling Unit Covenant and Agreement

ORDINANCE OF THE CITY OF CANTON

WHEREAS, the City of Canton is authorized by the constitution of the State of Georgia to adopt rules, regulations, laws, and ordinances protecting the public health, safety, and welfare of the citizens of the City.

WHEREAS, the City by and through its Mayor and Council have deemed it in the best interest of the health, safety, and welfare of the citizens of the City of Canton, to adopt an ordinance governing Zoning.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF CANTON THAT:

I. Section 104.02.02 of the Unified Development Code is to read as follows:

104.02.02 – Accessory dwelling units

A. Generally.

- 1) Accessory dwellings include, but are not limited to, basement apartments, garage apartments, caretaker quarters, guesthouses, and other accessory dwellings.
- 2) Accessory dwellings shall not include tents, boats, manufactured storage buildings and mobile structures including RV's and travel trailers, with the exception that RV's and travel trailers may be allowed for occupancy in a campground or travel trailer park as permitted in this UDC.
- 3) One accessory dwellings ~~s-are-~~ per lot is permissible within the principal dwelling or as a freestanding dwelling in ~~residential zoning districts~~ R-4, R-10, R-15, R-20, and R-40 zoning districts.
- 4) One accessory dwelling per lot is permissible within the principal dwelling or as a freestanding dwelling in PD and RA-6 zoning districts where only one single family home is present.
- 5) The accessory dwelling shall not exceed 50 percent of the habitable floor area of the principal dwelling.
- 6) At least one additional off-street parking space shall be provided to serve the accessory dwelling.

7) Persons seeking an ADU shall provide, if applicable, a written statement to City staff from their homeowner's association which confirms that the HOA does not prohibit ADUs.

8) Either the primary unit or the ADU shall be owner-occupied. Prior to the issuance of a certificate of occupancy for the ADU, the owner(s) shall record a covenant with Cherokee County Superior Court Clerk's office, and subsequently submit a copy of the recorded covenant to the City of Canton Community Development Department. The covenant shall state that the owner(s) agree to restrict use of the primary and accessory dwelling units in compliance with the requirements of Section 104.02.02 of the Official Code of the City of Canton, Georgia.

a) This provision shall not apply to accessory dwelling units constructed or permitted prior to August 21, 2025.

B. *Within principal dwelling.* Accessory dwellings contained within a principal dwelling shall comply with the following standards:

~~1) There shall be no more than one accessory dwelling in a principal dwelling unit;~~

1) 2) The accessory dwelling shall be accessible from the interior of the principal dwelling;

~~3) The accessory dwelling shall have no more than one bedroom;~~

~~4) The accessory dwelling shall not exceed 50 percent of the habitable floor area of the principal dwelling or 1,200 square feet, whichever is less;~~

~~5) One additional off-street parking space shall be provided to serve the accessory dwelling; and~~

~~6) The accessory dwelling shall comply with all building and health code standards.~~

C. *As freestanding dwelling.* Freestanding accessory dwellings shall comply with the following standards:

~~1) There shall be no more than one accessory dwelling unit per lot;~~

1) 2) The accessory dwelling unit may be located in a second floor over a detached garage or may be a separate structure;

~~3) The accessory dwelling unit shall have no more than two bedrooms;~~

2) 4) The accessory dwelling shall be located only within the rear or side yard;

~~5) The lot shall comply with the minimum lot area standards set forth in chapter 102 of this UDC;~~

3) 6) The accessory dwelling shall meet the minimum setback requirement for accessory uses; and

~~7) One additional off-street parking space shall be provided to serve the accessory dwelling unit.~~

4) The height of the accessory dwelling shall be no greater than the height of the principal dwelling or 25 feet, whichever is greater.

II. Section 105.11.02 of the Unified Development Code is to read as follows:

105.11.02 – Administrative action (administrative variance)

A. The community development director shall be authorized to reduce specific site design and development standards of this UDC where the intent of the UDC can be achieved and equal performance obtained by granting a waiver of standards. The authority to grant a waiver shall be limited to the following:

- 1) A reduction in the minimum setback requirements for front yards, side yards, corner side yards and rear yards.
- 2) An increase in the maximum height requirements for building construction on real property.
- 3) A reduction in the minimum off-street parking and loading regulations.
- 4) A reduction in the minimum square footage requirements for planted or undisturbed buffers.
- 5) An increase in the maximum allowed square footage of accessory dwelling units.

B. The community development director is hereby vested with the power and authority to allow in his/her sole discretion a variance to the provisions of this UDC as specified in this section which shall not exceed 20 percent from the minimum or maximum required standards provided for in this UDC upon the following conditions being complied with by the applicant for such variance:

- 1) The applicant desiring an administrative variance shall file with the community development department an application for administrative variance upon a standard form, which will be supplied by the community development department upon request.
- 2) The application shall be completed in its entirety by the applicant and shall be attached thereto before the community development department will accept the same for filing and review.
- 3) Payment of the published filing fee shall be required before the community development department will accept the application for filing and review.
- 4) The community development director shall render a final decision on any application for administrative variance on or before ten days following the filing acceptance date.

5) Upon the director's determining that the requested variance does not exceed a 20 percent deviation, and in the event the director determines that such variation if approved will not substantially violate the general requirements of this UDC as set forth in section 101.03.00 of this UDC, then in the director's sole discretion said application for administrative variance may be approved by the director and such approval shall be binding upon the city.

6) In the event the requested administrative variance exceeds a 20 percent deviation from the required minimum/maximum standards of this UDC, the director shall have no authority to approve such request but shall be required to deny the same.

7) Upon the director's denial of any application for administrative variance, the applicant shall have the right to appeal such denial to the BOA under the procedures set forth in section 105.14.00.

C. Upon the director's approving any application for administrative variance, the applicant shall receive and possess a certificate of approval of the variance, signed by the director, and said certificate shall be made part of and recorded with any title change or request for any additional permits.

All ordinances or parts of ordinances or regulations in conflict herewith are hereby repealed.

Should any section of provision of this ordinance be declared invalid of unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of the ordinance shall become and be made part of the Code of Ordinances, City of Canton, Georgia and the section of this ordinance may be renumbered to accomplish such intention.

This ordinance shall take effect and be in force on the date of approval appearing below, the public welfare demanding it.

The above ordinance was read and approved by the Mayor and Council this ____ day of _____, 2025.

Bill Grant, Mayor

Attest: _____
Annie Fortner, City Clerk

Approved as to form and content:

Robert M. Dyer, City Attorney

Ordinance No. _____

First Reading _____

Adopted by Council _____

Approved by Mayor _____

Veto by Mayor _____

Second Vote by Council _____

Effective Date _____

Annie Fortner, City Clerk

After filing return to:

Reserved for Clerk's Use

ACCESSORY DWELLING UNIT COVENANT AND AGREEMENT

This covenant is made and entered into by _____, hereinafter referred to as the "Owner(s)," as is to be recorded with the Cherokee County Superior Court Clerk's office.

WHEREAS the Owner(s) is/are the owner(s) of the property located at

_____, and

WHEREAS the Owner(s) intend(s) to comply with the requirements set forth in Section 104.02.02 of the Unified Development Code of the City of Canton, Georgia.

NOW THEREFORE, the Owner(s) hereby agree(s) and covenant(s) as follows:

1. Either the primary unit or the accessory dwelling unit (ADU) on the property shall be owner-occupied.
2. The Owner(s) agree(s) to restrict the use of the primary and accessory dwelling units in compliance with the requirements of Section 104.02.02 of the Unified Development Code of the City of Canton, Georgia.

This covenant shall be binding upon the Owner(s), their successors, and assigns.

In witness whereof, the Owner(s) have executed this covenant on this ____ day of _____, 20 ____.

Owner Signature

Owner Name (Print)

Owner Signature

Owner Name (Print)

Witness Signature

Witness Name (Print)

Acknowledged in my presence on this ____ day of _____, 20 ____,

by _____
who is ____ personally known or ____ proved to me
on the basis of satisfactory evidence to be the
person(s) who appeared before me.

Notary Public

My commission expires _____.