A BILL FOR AN ACT

CONCERNING INCREASING THE NUMBER OF ACCESSORY DWELLING UNITS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

Section 1 of the bill creates a series of requirements related to accessory dwelling units. The bill establishes unique requirements for subject jurisdictions and for qualifying as an accessory dwelling unit supportive jurisdiction (supportive jurisdiction).

As established in the bill, a subject jurisdiction is either:

- A municipality that has a population of 1,000 or more and
that is within the area of a metropolitan planning organization; or

- The portion of a county that is both within a census designated place with a population of ten thousand or more, as reported in the most recent decennial census, and within the area of a metropolitan planning organization.

The bill requires a subject jurisdiction to allow, subject to an administrative approval process, one accessory dwelling unit as an accessory use to a single-unit detached dwelling in any part of the subject jurisdiction where the subject jurisdiction allows single-unit detached dwellings. The bill also prohibits subject jurisdictions from enacting or enforcing certain local laws that would restrict the construction or conversion of an accessory dwelling unit.

In order to qualify as a supportive jurisdiction, a jurisdiction must submit a report to the division of local government in the department of local affairs (the division) demonstrating that the jurisdiction:

- Has complied with the accessory dwelling unit requirements the bill imposes on subject jurisdictions; and
- Has implemented one or more strategies to encourage and facilitate the construction or conversion of accessory dwelling units.

Section 1 also creates the accessory dwelling unit fee reduction and encouragement grant program within the division. The purpose of this grant program is for the division to provide grants to supportive jurisdictions for offsetting costs incurred in connection with developing pre-approved accessory dwelling unit plans, providing technical assistance to persons converting or constructing accessory dwelling units, or waiving or reducing accessory dwelling unit associated fees and other required costs.

Section 2 grants the Colorado economic development commission the power to expend $8 million to contract with the Colorado housing and finance authority to operate and establish the following programs to benefit the residents of supportive jurisdictions:

- An accessory dwelling unit loss reserve program that offers affordable loans for the construction or conversion of accessory dwelling units;
- A program that allows for the buying down of interest rates on loans made in connection with the construction or conversion of accessory dwelling units;
- A program that offers down payment assistance in connection with accessory dwelling units; and
- A program through which the Colorado housing and finance authority offers direct loans in connection with the construction or conversion of accessory dwelling units.

Section 3 prohibits a planned unit development resolution or
ordinance for a planned unit development from restricting the permitting of an accessory dwelling unit more than the local law that applies to accessory dwelling units outside of the planned unit development.

Section 4 states that any prohibition on accessory dwelling units or the implementation of restrictive design or dimension standards by a unit owners' association in a supportive jurisdiction is void as a matter of public policy.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add article 35 to title 29 as follows:

ARTICLE 35
State Land Use Criteria For Affordable Housing

PART 1
ACCESSORY DWELLING UNITS

29-35-101. Legislative declaration. (1) (a) The general assembly hereby finds, determines, and declares that:

(I) Accessory dwelling units offer a way to provide compact, relatively affordable housing in established neighborhoods with minimal impacts to infrastructure and to supply new housing opportunities without added dispersed low-density housing;

(II) Accessory dwelling units generate rental income to help homeowners cover mortgage payments or other costs, which can be important for a variety of residents, such as older homeowners on fixed incomes and low- and moderate-income homeowners;

(III) Accessory dwelling units provide families with options for intergenerational living arrangements that enable child or elder care and aging in place, and a 2021 survey by the
AARP FOUNDED THAT APPROXIMATELY SEVENTY-FIVE PERCENT OF PEOPLE FIFTY YEARS OF AGE OR OLDER WANT TO STAY IN THEIR HOMES OR COMMUNITIES FOR AS LONG AS THEY CAN. ACCORDING TO A 2018 STUDY BY THE CENTER FOR AMERICAN PROGRESS, FIFTY-ONE PERCENT OF COLORADANS LIVE IN A CHILD CARE DESERT-A COMMUNITY WHERE THERE ARE NO CHILD CARE PROVIDERS OR SO FEW OPTIONS THAT THERE ARE MORE THAN THREE TIMES AS MANY CHILDREN AS THERE ARE LICENSED CHILD CARE SLOTS. THESE CHILD CARE DESERTS ARE SITUATED WITHIN RURAL, SUBURBAN, AND URBAN COMMUNITIES AND ARE A MAJOR REASON FOR WORKING PARENTS TO LEAVE THE WORKFORCE.

(IV) ACCESSORY DWELLING UNITS ARE OFTEN OCCUPIED AT LOW TO NO RENT BY FAMILY MEMBERS, AND IF THEY ARE RENTED PRIVATELY, THEIR RENTS ARE RELATIVELY AFFORDABLE BECAUSE OF THEIR SMALL SIZE;

(V) AS COLORADO'S POPULATION AGES AND TYPICAL HOUSEHOLD SIZE CONTINUES TO DECREASE, ACCESSORY DWELLING UNITS OFFER MORE COMPACT HOUSING OPTIONS THAT ALIGN WITH THE STATE'S CHANGING DEMOGRAPHICS, AND COLORADANS OVER SIXTY-FIVE YEARS OF AGE ARE THE FASTEST-GROWING AGE COHORT IN COLORADO ACCORDING TO THE STATE DEMOGRAPHY OFFICE;

(VI) ACCESSORY DWELLING UNITS ENABLE SENIORS TO DOWNSIZE, MOVE INTO ACCESSIBLE UNITS, OR LIVE WITH FAMILY OR A CAREGIVER WHILE REMAINING IN THEIR COMMUNITIES. A 2018 AARP SURVEY FOUND THAT SIXTY-SEVEN PERCENT OF ADULTS WOULD CONSIDER LIVING IN AN ACCESSORY DWELLING UNIT TO BE CLOSE TO SOMEONE BUT STILL HAVE A SEPARATE SPACE. MOST SENIORS DO NOT LIVE IN HOMES THAT ARE ACCESSIBLE, EVEN THOUGH DISABILITY IS PREVALENT AMONG THE SENIOR
POPULATION AND INCREASES WITH AGE. LESS THAN FOUR PERCENT OF EXISTING HOUSING UNITS IN THE UNITED STATES ARE ESTIMATED TO BE LIVABLE FOR PEOPLE WITH MODERATE MOBILITY DIFFICULTIES, ACCORDING TO "HOUSING FOR AN AGING POPULATION" IN THE JOURNAL HOUSING POLICY DEBATE.

(VII) RELATIVE TO DISPERSED, LOW-DENSITY DEVELOPMENT, COMPACT INFILL DEVELOPMENT, INCLUDING ACCESSORY DWELLING UNIT DEVELOPMENT, REDUCES WATER USE, GREENHOUSE GAS EMISSIONS, INFRASTRUCTURE COSTS, AND HOUSEHOLD ENERGY AND TRANSPORTATION COSTS;

(VIII) ACCESSORY DWELLING UNITS USE SIGNIFICANTLY LESS ENERGY FOR HEATING AND COOLING THAN SINGLE-UNIT DETACHED DWELLINGS BECAUSE OF THEIR SMALLER SIZE, WHICH REDUCES HOUSEHOLD ENERGY COSTS AND GREENHOUSE GAS EMISSIONS. ACCESSORY DWELLING UNITS CAN REDUCE LIFETIME CARBON DIOXIDE EMISSIONS BY FORTY PERCENT COMPARED TO MEDIUM-SIZED SINGLE-FAMILY HOMES, ACCORDING TO A REPORT FROM THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY. REDUCING EMISSIONS FROM THE HOUSING SECTOR IS CRITICAL FOR MEETING THE STATE’S GREENHOUSE GAS EMISSIONS TARGETS ESTABLISHED IN SECTION 25-7-102. ACCORDING TO "THE CARBON FOOTPRINT OF HOUSEHOLD ENERGY USE IN THE UNITED STATES" IN THE PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES, REDUCING FLOOR SPACE PER CAPITA IS A CRITICAL STRATEGY TO REACHING MID-CENTURY CLIMATE GOALS.

(IX) COMPACT INFILL DEVELOPMENT REDUCES WATER DEMAND AND INFRASTRUCTURE COSTS BY USING LESS PIPING, WHICH REDUCES WATER LOSS; INCLUDES LESS LANDSCAPED SPACE PER UNIT; AND MAKES
BETTER USE OF EXISTING INFRASTRUCTURE. COMPARED TO A SINGLE-UNIT DETACHED DWELLING, ACCESSORY DWELLING UNITS USE TWENTY-TWO PERCENT LESS WATER, BASED ON DATA FROM DENVER AND AURORA WATER USERS ANALYZED FOR THE "COLORADO WATER AND GROWTH DIALOGUE FINAL REPORT" IN 2018.

(X) ACCESSORY DWELLING UNITS REDUCE GOVERNMENT CAPITAL AND MAINTENANCE COSTS FOR INFRASTRUCTURE SINCE ACCESSORY DWELLING UNITS ARE BUILT IN EXISTING NEIGHBORHOODS AND HAVE A RELATIVELY SMALL IMPACT ON EXISTING INFRASTRUCTURE. NATIONAL STUDIES SUCH AS "RELATIONSHIPS BETWEEN DENSITY AND PER CAPITA MUNICIPAL SPENDING IN THE UNITED STATES", PUBLISHED IN URBAN SCIENCE, HAVE FOUND THAT LOWER DENSITY COMMUNITIES HAVE HIGHER GOVERNMENT CAPITAL AND MAINTENANCE COSTS FOR WATER, SEWER, AND TRANSPORTATION INFRASTRUCTURE AND LOWER PROPERTY AND SALES TAX REVENUE. THESE INCREASED COSTS ARE OFTEN BORNE BY BOTH STATE AND LOCAL GOVERNMENTS.

(XI) A NUMBER OF LOCAL LAND USE LAWS PROHIBIT HOMEOWNERS FROM BUILDING AN ACCESSORY DWELLING UNIT, OR APPLY REGULATIONS TO ACCESSORY DWELLING UNITS THAT SIGNIFICANTLY LIMIT THEIR CONSTRUCTION;

(XII) A NUMBER OF MUNICIPALITIES HAVE REMOVED BARRIERS TO ACCESSORY DWELLING UNIT CONSTRUCTION SUCH AS PARKING REQUIREMENTS, OWNER OCCUPANCY REQUIREMENTS, AND RESTRICTIVE SIZE AND DESIGN LIMITATIONS, WHICH HAS RESULTED IN ACCESSORY DWELLING UNIT PERMITS INCREASING TO TEN TO TWENTY PERCENT OF TOTAL NEW HOUSING PERMITS AND AN OVERALL INCREASE IN THE TOTAL HOUSING SUPPLY. SINCE CALIFORNIA IMPLEMENTED VARIOUS REFORMS TO
ENCOURAGE ACCESSORY DWELLING UNIT CONSTRUCTION, INCLUDING
REQUIRING CITIES TO ALLOW ACCESSORY DWELLING UNITS AS A USE BY
RIGHT, PREVENTING THE IMPOSITION OF PARKING REQUIREMENTS, AND
PREVENTING OWNER OCCUPANCY REQUIREMENTS, ACCESSORY DWELLING
UNIT CONSTRUCTION HAS INCREASED SIGNIFICANTLY IN CALIFORNIA.
FOLLOWING REFORMS TO CALIFORNIA’S ACCESSORY DWELLING UNIT LAW
IN 2016, ACCESSORY DWELLING UNIT DEVELOPMENT HAS INCREASED
RAPIDLY FROM AROUND ONE THOUSAND ACCESSORY DWELLING UNITS
PERMITTED IN 2016 TO OVER TWENTY-FOUR THOUSAND IN 2022, OR ABOUT
TWENTY PERCENT OF NEW HOUSING PERMITS STATEWIDE, ACCORDING TO
DATA FROM THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT AND ANALYSIS BY THE BIPARTISAN POLICY CENTER.

(XIII) HOUSING SUPPLY IMPACTS HOUSING AFFORDABILITY, AND
HOUSING PRICES ARE TYPICALLY HIGHER WHEN HOUSING SUPPLY IS
RESTRICTED BY LOCAL LAND USE REGULATIONS IN A METROPOLITAN
REGION, ACCORDING TO THE NATIONAL BUREAU OF ECONOMIC RESEARCH
IN WORKING PAPERS SUCH AS "REGULATION AND HOUSING SUPPLY", "THE
IMPACT OF ZONING ON HOUSING AFFORDABILITY", AND "THE IMPACT OF
LOCAL RESIDENTIAL LAND USE RESTRICTIONS ON LAND VALUES ACROSS
AND WITHIN SINGLE FAMILY HOUSING MARKETS";

(XIV) INCREASING HOUSING SUPPLY MODERATES PRICE INCREASES
AND IMPROVES HOUSING AFFORDABILITY ACROSS ALL INCOMES,
ACCORDING TO STUDIES SUCH AS "THE ECONOMIC IMPLICATIONS OF
HOUSING SUPPLY" IN THE JOURNAL OF ECONOMIC PERSPECTIVES AND
"SUPPLY SKEPTICISM: HOUSING SUPPLY AND AFFORDABILITY" IN THE
JOURNAL HOUSING POLICY DEBATE;

(XV) ACADEMIC RESEARCH SUCH AS "THE IMPACT OF BUILDING
RESTRICTIONS ON HOUSING AFFORDABILITY” IN THE FEDERAL RESERVE BANK OF NEW YORK ECONOMIC POLICY REVIEW HAS IDENTIFIED ZONING AND OTHER LAND USE CONTROLS AS A PRIMARY DRIVER OF RISING HOUSING COSTS IN THE MOST EXPENSIVE HOUSING MARKETS;

(XVI) ACCESSORY DWELLING UNITS OFFER AFFORDABLE AND ATTAINABLE OPTIONS TO LIVE IN HIGH-OPPORTUNITY NEIGHBORHOODS, WHICH CAN HELP IMPROVE EQUITY OUTCOMES REGIONALLY AND STATEWIDE. AN ANALYSIS OF ACCESSORY DWELLING UNIT PERMITTING IN CALIFORNIA FOUND THAT ACCESSORY DWELLING UNITS ARE TYPICALLY PERMITTED ON PARCELS WITH RELATIVELY GOOD ACCESS TO JOBS COMPARED TO SURROUNDING AREAS, ACCORDING TO "WHERE WILL ACCESSORY DWELLING UNITS SPROUT UP WHEN A STATE LETS THEM GROW? EVIDENCE FROM CALIFORNIA" IN CITIESCAPE: A JOURNAL OF POLICY DEVELOPMENT AND RESEARCH.

(XVII) LOCAL GOVERNMENT REGULATION OF ACCESSORY DWELLING UNITS VARIES SIGNIFICANTLY WITHIN REGIONS AND STATEWIDE IN COLORADO IN TERMS OF WHERE THEY ARE ALLOWED, THE DIMENSIONAL AND DESIGN RESTRICTIONS APPLIED, AND OTHER REQUIREMENTS. THIS INCONSISTENCY INHIBITS THE DEVELOPMENT OF A ROBUST MARKET OF ACCESSORY DWELLING UNIT DEVELOPERS, MODULAR ACCESSORY DWELLING UNIT DESIGNS, AND ASSOCIATED COST REDUCTIONS. COLORADO IS SIMILAR TO MOST STATES IN THIS REGARD, AND, ACCORDING TO "ZONING BY A THOUSAND CUTS" IN THE PEPPERDINE LAW REVIEW, WHICH ANALYZED ACCESSORY DWELLING UNIT REGULATIONS ACROSS CONNECTICUT, "THE HIGH DEGREE OF REGULATORY VARIATION THWARTS THE DEVELOPMENT OF PROTOTYPE DESIGNS OR PREFABRICATED [ACCESSORY DWELLING UNITS] THAT COULD SATISFY DIFFERENT RULES.
ACROSS JURISDICTIONS".

(XVIII) MORE PERMISSIVE REGULATION BY LOCAL GOVERNMENTS
OF ACCESSORY DWELLING UNITS PROVIDES A REASONABLE CHANCE FOR
HOMEOWNERS TO CONSTRUCT OR CONVERT AN ACCESSORY DWELLING
UNIT AND THEREBY INCREASE HOUSING SUPPLY, STABILIZE HOUSING
COSTS, AND CONTRIBUTE TO AFFORDABLE AND EQUITABLE HOME
OWNERSHIP TO ADEQUATELY MEET THE HOUSING NEEDS OF A GROWING
COLORADO POPULATION.

(b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT
INCREASING THE HOUSING SUPPLY THROUGH THE CONSTRUCTION OR
CONVERSION OF ACCESSORY DWELLING UNITS IS A MATTER OF MIXED
STATEWIDE AND LOCAL CONCERN.

29-35-102. Definitions. As used in this Part 1, unless the
context otherwise requires:

(1) "ACCESSIBLE UNIT" MEANS A HOUSING UNIT THAT SATISFIES
THE REQUIREMENTS OF THE FEDERAL "FAIR HOUSING ACT", 42 U.S.C. SEC.
3601 ET SEQ., AS AMENDED, AND INCORPORATES UNIVERSAL DESIGN.

(2) "ACCESSORY DWELLING UNIT" MEANS AN INTERNAL,
ATTACHED, OR DETACHED DWELLING UNIT THAT:

(a) PROVIDES COMPLETE INDEPENDENT LIVING FACILITIES FOR ONE
OR MORE INDIVIDUALS;

(b) IS LOCATED ON THE SAME LOT AS A PROPOSED OR EXISTING
PRIMARY RESIDENCE; AND

(c) INCLUDES FACILITIES FOR LIVING, SLEEPING, EATING, COOKING,
AND SANITATION.

(3) "ACCESSORY DWELLING UNIT SUPPORTIVE JURISDICTION"
MEANS A LOCAL GOVERNMENT THAT THE DIVISION HAS CERTIFIED
PURSUANT TO SECTION 29-35-104 AS AN ACCESSORY DWELLING UNIT SUPPORTIVE JURISDICTION.

(4) "ACCESSORY USE" MEANS A STRUCTURE OR THE USE OF A STRUCTURE ON THE SAME LOT WITH, AND OF A NATURE CUSTOMARILY INCIDENTAL AND SUBORDINATE TO, THE PRINCIPAL STRUCTURE OR USE OF THE STRUCTURE.

(5) (a) (I) "ADMINISTRATIVE APPROVAL PROCESS" MEANS A PROCESS:

(A) IN WHICH A DEVELOPMENT APPLICATION IS APPROVED, APPROVED WITH CONDITIONS, OR DENIED BY LOCAL GOVERNMENT ADMINISTRATIVE STAFF BASED SOLELY ON ITS COMPLIANCE WITH OBJECTIVE STANDARDS SET FORTH IN ZONING OR OTHER LOCAL LAWS; AND

(B) THAT DOES NOT REQUIRE, AND CANNOT BE ELEVATED TO REQUIRE, A PUBLIC HEARING, A RECOMMENDATION, OR A DECISION BY AN ELECTED OR APPOINTED PUBLIC BODY, OR HEARING OFFICER.

(II) NOTWITHSTANDING SUBSECTION (19)(a)(I) OF THIS SECTION, AN ADMINISTRATIVE APPROVAL PROCESS MAY REQUIRE AN APPOINTED HISTORIC PRESERVATION COMMISSION TO MAKE A DECISION, OR TO MAKE A RECOMMENDATION TO LOCAL GOVERNMENT ADMINISTRATIVE STAFF, REGARDING A DEVELOPMENT APPLICATION INVOLVING A HISTORIC PROPERTY LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES, THE COLORADO STATE REGISTER OF HISTORIC PROPERTIES, OR DESIGNATED BY THE LOCAL GOVERNMENT, PROVIDED THAT:

(A) THE LOCAL GOVERNMENT HAS BEEN DESIGNATED AS A CERTIFIED LOCAL GOVERNMENT BY THE STATE HISTORIC PRESERVATION OFFICE; AND

(B) THE DECISION OR RECOMMENDATION IS BASED ON STANDARDS
SET FORTH IN LOCAL LAW OR ESTABLISHED BY THE SECRETARY OF THE INTERIOR OF THE UNITED STATES.

(b) As used in this subsection (1), "OBJECTIVE STANDARD" MEANS A STANDARD THAT:

(I) IS UNIFORMLY VERIFIABLE AND ASCERTAINABLE BY REFERENCE TO AN AVAILABLE EXTERNAL OR UNIFORM BENCHMARK OR CRITERION BY THE DEVELOPMENT APPLICANT OR PROPONET AND THE PUBLIC BODY OR OFFICIAL PRIOR TO THE DEVELOPMENT APPLICANT’S OR PROPONET’S FILING OF A DEVELOPMENT PROPOSAL; AND

(II) DOES NOT REQUIRE THE DECISION-MAKER TO MAKE ONE OR MORE SUBJECTIVE DETERMINATIONS CONCERNING A DEVELOPMENT APPLICATION, INCLUDING BUT NOT LIMITED TO WHETHER THE APPLICATION:

(A) IS CONSISTENT WITH LOCAL DEVELOPMENT PLANS;

(B) IS OR CAN BE COMPATIBLE WITH THE LAND USE OR DEVELOPMENT OF THE AREA SURROUNDING THE AREA DESCRIBED IN THE APPLICATION;

(C) REQUIRES INDIVIDUALIZED EVALUATIONS RELATING TO MITIGATION OF IMPACTS; OR

(D) IS CONSISTENT WITH PUBLIC WELFARE, COMMUNITY, OR NEIGHBORHOOD CHARACTER.

(6) "COUNTY" MEANS A COUNTY, INCLUDING A HOME RULE COUNTY BUT EXCLUDING A CITY AND COUNTY.

(7) "DIVISION" MEANS THE DIVISION OF LOCAL GOVERNMENT CREATED IN SECTION 24-32-103.

(8) "DWELLING UNIT" MEANS A SINGLE UNIT PROVIDING COMPLETE INDEPENDENT LIVING FACILITIES FOR ONE OR MORE INDIVIDUALS,
INCLUDING PERMANENT FACILITIES FOR COOKING, EATING, LIVING, SANITATION, AND SLEEPING.

(9) "Exempt parcel" means a parcel that is:

(a) Not served by a domestic water and sewage treatment system, as defined in section 24-65.1-104 (5);

(b) A historic property that is not within a historic district; or

(c) In a floodway or in a one hundred year floodplain, as identified by the Federal Emergency Management Agency.

(10) "Historic district" means a district established by local law that meets the definition of "district" set forth in 36 CFR 60.3 (d).

(11) "Historic property" means a property listed:

(a) On the National Register of Historic Places;

(b) On the Colorado State Register of Historic Properties;

or

(c) As a contributing structure or historic landmark by a certified local government, as defined in section 39-22-514.5 (2)(b).

(12) "Local government" means a municipality, county, or tribal nation with jurisdiction in Colorado.

(13) "Local law" means any code, law, ordinance, policy, regulation, or rule enacted by a local government that governs the development and use of land, including land use codes, zoning codes, and subdivision codes.

(14) "Low- and moderate-income household" means a household that is considered low-, moderate-, or medium-income,

(16) "MUNICIPALITY" MEANS A HOME RULE OR STATUTORY CITY OR TOWN, TERRITORIAL CHARTER CITY OR TOWN, OR CITY AND COUNTY.

(17) "RESTRICTIVE DESIGN OR DIMENSION STANDARD" MEANS A STANDARD IN A LOCAL LAW THAT:

(a) REQUIRES AN ARCHITECTURAL STYLE, BUILDING MATERIAL, OR LANDSCAPING THAT IS MORE RESTRICTIVE FOR AN ACCESSORY DWELLING UNIT THAN FOR A SINGLE-UNIT DETACHED DWELLING IN THE SAME ZONING DISTRICT;

(b) DOES NOT ALLOW FOR ACCESSORY DWELLING UNIT SIZES BETWEEN FIVE HUNDRED AND EIGHT HUNDRED SQUARE FEET;

(c) REQUIRES SIDE OR REAR SETBACKS FOR AN ACCESSORY DWELLING UNIT GREATER THAN THE SETBACKS REQUIRED FOR AN ACCESSORY BUILDING IN THE SAME ZONING DISTRICT, OR IF IT IS NOT CLEARLY ESTABLISHED IN THE SAME ZONING DISTRICT, IN THE CASE OF AN ACCESSORY DWELLING UNIT WITH A SINGLE STORY, REQUIRES SIDE OR REAR SETBACKS GREATER THAN FIVE FEET;

(d) IS A MORE RESTRICTIVE MINIMUM LOT SIZE STANDARD FOR AN ACCESSORY DWELLING UNIT THAN FOR A SINGLE-UNIT DETACHED DWELLING IN THE SAME ZONING DISTRICT; OR

(e) APPLIES MORE RESTRICTIVE AESTHETIC DESIGN OR DIMENSIONAL STANDARDS TO ACCESSORY DWELLING UNITS THAT ARE FACTORY-BUILT RESIDENTIAL STRUCTURES, AS DEFINED IN SECTION
24-32-3302 (10), THAN OTHER ACCESSORY DWELLING UNITS.

(18) (a) "SHORT-TERM RENTAL" MEANS THE RENTAL OF A LODGING UNIT FOR LESS THAN THIRTY DAYS. AS USED IN THIS SUBSECTION (18), "LODGING UNIT" MEANS ANY PROPERTY OR PORTION OF A PROPERTY THAT IS AVAILABLE FOR LODGING; EXCEPT THAT THE TERM EXCLUDES A HOTEL OR MOTEL UNIT.

(b) NOTWITHSTANDING SUBSECTION (15)(a) OF THIS SECTION, A LOCAL GOVERNMENT MAY APPLY ITS OWN DEFINITION OF "SHORT-TERM RENTAL" FOR PURPOSES OF THIS PART 1.

(19) "SINGLE-UNIT DETACHED DWELLING" MEANS A DETACHED BUILDING WITH A SINGLE DWELLING UNIT ON A SINGLE LOT.

(20) "SUBJECT JURISDICTION" MEANS EITHER:

(a) A MUNICIPALITY THAT BOTH HAS A POPULATION OF ONE THOUSAND OR MORE, AS REPORTED BY THE STATE DEMOGRAPHY OFFICE, AND IS WITHIN A METROPOLITAN PLANNING ORGANIZATION; OR

(b) THE PORTION OF A COUNTY THAT IS BOTH WITHIN A CENSUS DESIGNATED PLACE WITH A POPULATION OF TEN THOUSAND OR MORE, AS REPORTED IN THE MOST RECENT DECENNIAL CENSUS, AND WITHIN A METROPOLITAN PLANNING ORGANIZATION.

(21) "UNIVERSAL DESIGN" MEANS ANY DWELLING UNIT DESIGNED AND CONSTRUCTED TO BE SAFE AND ACCESSIBLE FOR ANY INDIVIDUAL REGARDLESS OF AGE OR ABILITIES.

(22) "VISITABLE UNIT" MEANS A DWELLING UNIT THAT A PERSON WITH A DISABILITY CAN ENTER, MOVE AROUND THE PRIMARY ENTRANCE FLOOR OF, AND USE THE BATHROOM IN.

29-35-103. Accessory dwelling unit requirements for a subject jurisdiction. (1) A SUBJECT JURISDICTION SHALL ALLOW, SUBJECT TO AN
ADMINISTRATIVE APPROVAL PROCESS, ONE ACCESSORY DWELLING UNIT AS
AN ACCESSORY USE TO A SINGLE-UNIT DETACHED DWELLING IN ANY PART
OF THE SUBJECT JURISDICTION WHERE THE JURISDICTION ALLOWS
SINGLE-UNIT DETACHED DWELLINGS.

(2) A SUBJECT JURISDICTION SHALL NOT:

(a) Require new parking in connection with the
construction or conversion of an accessory dwelling unit;

(b) Require an accessory dwelling unit, or any other
dwelling on the same lot as an accessory dwelling unit, to be
owner-occupied; or

(c) Apply a restrictive design or dimension standard to an
accessory dwelling unit.

(3) Nothing in this section prevents a subject jurisdiction
or other local government from:

(a) Allowing the construction or conversion of an
accessory dwelling unit that is smaller than five hundred
square feet or greater than eight hundred square feet, or
restricting the size of an accessory dwelling unit so that it is no
larger than the size of the principal dwelling unit on the same
lot as the accessory dwelling unit;

(b) Allowing the construction or conversion of multiple
accessory dwelling units on the same lot;

(c) Applying a design or dimension standard to an
accessory dwelling unit that is not a restrictive design or
dimension standard;

(d) Adopting or enforcing a generally applicable
requirement for:
(I) the payment of an impact fee or other similar development charge, pursuant to section 29-20-104.5; or
(II) the mitigation of impacts in conformance with the requirements of part 2 of article 20 of this title 29;
(e) enacting or applying a local law concerning the short-term rental of an accessory dwelling unit or any other dwelling on the same lot as an accessory dwelling unit;
(f) applying the design standards and procedures of a historic district to a lot on which an accessory dwelling unit is allowed in that historic district, including a standard or procedure related to demolition;
(g) applying and enforcing a locally adopted life safety code, including but not limited to, a building, fire, utility, or stormwater code;
(h) allowing the construction of, or issuing a permit for the construction of, a single-unit detached dwelling in an area zoned for single-unit detached dwellings; or
(i) encouraging the construction of accessory dwelling units that are, through the application of local laws or programs, made affordable to households under certain income limits or used primarily to house the local workforce.

(4) This section only applies to a parcel in a subject jurisdiction that is not an exempt parcel.

29-35-104. Accessory dwelling unit supportive jurisdiction report - certification of a jurisdiction as an accessory dwelling unit supportive jurisdiction. (1) (a) In order to be certified as an accessory dwelling unit supportive jurisdiction by the division,
A local government must submit to the division, in a form and manner determined by the division, a report demonstrating evidence of the local government:

(I) complying with section 29-35-103; and

(II) implementing one or more of the following strategies:

(A) waiving or reducing accessory dwelling unit-related fees that are incurred by low- and moderate-income households;

(B) enacting local laws or programs that incentivize the affordability of certain accessory dwelling units including accessory dwelling units used primarily to house the local workforce;

(C) pre-approving plans for the construction of accessory dwelling units;

(D) implementing a program to provide education and technical assistance to homeowners to construct or convert an accessory dwelling unit;

(E) implementing a program to regulate the use of accessory dwelling units for short-term rentals;

(F) enacting local laws that incentivize the construction and conversion of accessible and visitable accessory dwelling units;

(G) assisting property owners with ensuring that pre-existing accessory dwelling units comply with local laws;

(H) enabling a pathway for the separate sale of an accessory dwelling unit;

(I) enacting local laws that encourage the construction of accessory dwelling units that are factory-built residential...
STRUCTURES, AS DEFINED IN SECTION 24-32-3302 (10); OR

(J) ANY OTHER STRATEGY THAT IS APPROVED BY THE DIVISION
AND THAT ENCOURAGES THE CONSTRUCTION, CONVERSION, OR USE OF
ACCESSORY DWELLING UNITS.

(b) (I) ON OR BEFORE JUNE 30, 2025, DECEMBER 31, 2029, AND
DECEMBER 31 OF EVERY THIRD YEAR THEREAFTER, A SUBJECT
JURISDICTION SHALL SUBMIT THE REPORT DESCRIBED IN SUBSECTION (1)(a)
OF THIS SECTION.

(II) NOTWITHSTANDING SUBSECTION (1)(b)(I) OF THIS SECTION,
THE DIVISION MAY ALLOW A SUBJECT JURISDICTION TO SUBMIT THE
REPORT DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION NO MORE THAN
SIX MONTHS AFTER THE DEADLINES DESCRIBED IN SUBSECTION (1)(b)(I) OF
THIS SECTION IF THE SUBJECT JURISDICTION DEMONSTRATES, IN A FORM
AND MANNER DETERMINED BY THE DIVISION, THAT THE SUBJECT
JURISDICTION HAS:

(A) INITIATED A PROCESS TO UPDATE ITS LOCAL LAWS AS
NECESSARY TO COMPLY WITH THE REQUIREMENTS OF THE REPORT
DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION;

(B) A PLAN AND TIMELINE TO UPDATE ITS LOCAL LAWS AS
NECESSARY TO COMPLY WITH THE REQUIREMENTS OF THE REPORT
DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION; AND

(C) PROVIDED AN EXPLANATION FOR NOT BEING ABLE TO MEET
THE DEADLINES DESCRIBED IN SUBSECTION (1)(b)(I) OF THIS SECTION.

(c) IF A LOCAL GOVERNMENT THAT IS NOT A SUBJECT JURISDICTION
SUBMITS A REPORT PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION,
THAT LOCAL GOVERNMENT SHALL, AS PART OF THE REPORT, SUBMIT
EVIDENCE OF COMPLYING WITH THE REQUIREMENTS FOR A SUBJECT
(2) (a) Within ninety days of receiving a local government’s report submitted pursuant to subsection (1)(a) of this section, the division shall review the report, either approve or reject the report, and provide feedback to the local government on the report.

(b) If the division approves a local government’s report submitted pursuant to subsection (1)(a) of this section, the division shall issue to that local government a certificate indicating that the local government qualifies as an accessory dwelling unit supportive jurisdiction until three years from when the local government submitted the report.

(c) If the division rejects a local government’s report submitted pursuant to subsection (1)(a) of this section, the division may grant the local government an additional one hundred twenty days to correct any deficiencies identified in the report and resubmit an amended report. Within ninety days of receiving an amended report, the division shall review the amended report, either approve or reject the amended report, and provide feedback on the amended report.

(3) The division, in consultation with the department of transportation, the Colorado energy office, and the Colorado office of economic development, may develop policies and procedures as necessary to implement this section.

29-35-105. Accessory dwelling unit fee reduction and encouragement grant program - created - application - criteria - awards - fund - reporting requirements - rules - definitions - repeal.
(1) The accessory dwelling unit fee reduction and
encouragement grant program is created in the division to
provide grants to accessory dwelling unit supportive
jurisdictions for activities that promote the construction of
accessory dwelling units, including but not limited to,
offsetting costs incurred in connection with developing
pre-approved accessory dwelling unit plans, providing technical
assistance to persons converting or constructing accessory
dwelling units, or waiving or reducing accessory dwelling unit
associated fees and other required costs.

(2) Grant recipients may use the money received through
the grant program to offset both eligible costs and the cost of
waiving or reducing reasonable and necessary accessory
dwelling unit fees and other required costs for:
(a) Low- and moderate-income households;
(b) Affordable accessory dwelling units;
(c) Accessible or visitable accessory dwelling units;
(d) Accessory dwelling units used as long-term rentals
for members of the local workforce; or
(e) Accessory dwelling units used to support other
demonstrated housing needs in the community.

(3) The division shall administer the grant program and,
subject to available appropriations, provide technical
assistance, receive grant applications and award grants as
provided in this section.

(4) To receive a grant, an accessory dwelling unit
supportive jurisdiction must submit an application to the division
IN ACCORDANCE WITH THE POLICIES AND PROCEDURES DEVELOPED BY THE DIVISION PURSUANT TO SUBSECTION (9) OF THIS SECTION. AT A MINIMUM, THE APPLICATION MUST INCLUDE THE FOLLOWING:

(a) A COPY OF THE CERTIFICATE ISSUED BY THE DIVISION PURSUANT TO SECTION 29-35-104 CERTIFYING THAT THE LOCAL GOVERNMENT IS AN ACCESSORY DWELLING UNIT SUPPORTIVE JURISDICTION;

(b) THE NUMBER OF ACCESSORY DWELLING UNITS THAT THE LOCAL GOVERNMENT HAS PERMITTED AND WHEN THE LOCAL GOVERNMENT PERMITTED THOSE ACCESSORY DWELLING UNITS;

(c) THE TYPE AND COSTS OF FEES AND OTHER ELIGIBLE COSTS THAT THE LOCAL GOVERNMENT IS PROPOSING TO USE A GRANT AWARD TO PAY FOR;

(d) THE NUMBER OF ACCESSORY DWELLING UNITS THAT THE LOCAL GOVERNMENT EXPECTS TO SUPPORT WITH A GRANT AWARD AND THE PERIOD FOR WHICH THE LOCAL GOVERNMENT INTENDS TO SUPPORT THOSE ACCESSORY DWELLING UNITS; AND

(e) INFORMATION ABOUT THE TYPES OF HOUSEHOLDS AND ACCESSORY DWELLING UNITS THAT THE LOCAL GOVERNMENT INTENDS TO SUPPORT WITH A GRANT AWARD, SUCH AS WHETHER THE LOCAL GOVERNMENT INTENDS TO SUPPORT LOW- AND MODERATE-INCOME HOUSEHOLDS, AFFORDABLE ACCESSORY DWELLING UNITS, ACCESSIBLE OR VISITABLE ACCESSORY DWELLING UNITS, ACCESSORY DWELLING UNITS FOR HOUSING THE LOCAL WORKFORCE, OR ACCESSORY DWELLING UNITS SUPPORTING OTHER DEMONSTRATED HOUSING NEEDS IN THE COMMUNITY.

(5) THE DIVISION SHALL REVIEW THE APPLICATIONS RECEIVED PURSUANT TO SUBSECTION (4) OF THIS SECTION. IN AWARDBING GRANTS,
THE DIVISION SHALL GIVE PRIORITY TO LOCAL GOVERNMENTS THAT:

(a) IMPOSE ACCESSORY DWELLING UNIT FEES AND COSTS THAT ARE REASONABLE AND NECESSARY; AND

(b) HAVE DEMONSTRATED A SIGNIFICANT COMMITMENT TO FURTHER CONSTRUCTION AND CONVERSION OF ACCESSORY DWELLING UNITS THROUGH THE ADOPTION OF STRATEGIES DESCRIBED IN SECTION 29-35-104 (1)(a)(II).

(6) IN AWARDING A GRANT, THE DIVISION SHALL AWARD A LOCAL GOVERNMENT AN AMOUNT EQUAL TO NO MORE THAN TEN THOUSAND DOLLARS PER ACCESSORY DWELLING UNIT PERMITTED BY THE LOCAL GOVERNMENT, TO BE REIMBURSED BASED ON THE NUMBER OF PERMITTED ACCESSORY DwELLING UNITS.

(7) (a) THE ACCESSORY DWELLING UNIT FEE REDUCTION AND ENCOURAGEMENT GRANT PROGRAM FUND IS CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF ANY MONEY THAT THE GENERAL ASSEMBLY MAY TRANSFER OR APPROPRIATE TO THE FUND AND GIFTS, GRANTS, OR DONATIONS CREDITED TO THE FUND. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

(b) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, THE DIVISION MAY EXPEND MONEY FROM THE FUND FOR THE PURPOSE OF IMPLEMENTING AND ADMINISTERING THE GRANT PROGRAM.

(c) ON OR BEFORE JUNE 30, 2024, THE STATE TREASURER SHALL TRANSFER TEN MILLION DOLLARS FROM THE GENERAL FUND TO THE FUND.

(8) IN ACCORDANCE WITH THE POLICIES AND PROCEDURES DEVELOPED BY THE DIVISION PURSUANT TO SUBSECTION (9) OF THIS SECTION, EACH LOCAL GOVERNMENT THAT RECEIVES A GRANT THROUGH
THE GRANT PROGRAM SHALL SUBMIT A REPORT TO THE DIVISION. AT A MINIMUM, THE REPORT MUST INCLUDE THE FOLLOWING INFORMATION:

(a) The number of accessory dwelling units with accessory dwelling unit fees or costs that local governments reduced or waived in the past year in connection with the grant program;

(b) The total amount of eligible costs that local governments incurred and were reimbursed for through the grant program in the past year in connection with the grant program;

(c) The number of the accessory dwelling units described in subsection (8)(a) of this section that were built in the past year that were built by low- and moderate-income households, that are affordable accessory dwelling units, that are visitable or accessible accessory dwelling units, or that are accessory dwelling units used as long-term rentals for members of the local workforce;

(d) The number of accessory dwelling units that are factory-built residential structures, as defined in section 24-32-3302 (10); and

(e) The number of accessory dwelling unit permits awarded, denied, or in progress in the local government’s jurisdiction.

(9) The division shall implement the grant program in accordance with this section. The division shall develop, in consultation with the department of transportation, the Colorado energy office, and the Colorado office of economic
DEVELOPMENT, POLICIES AND PROCEDURES BOTH AS REQUIRED IN THIS SECTION AND AS MAY BE NECESSARY TO IMPLEMENT THE GRANT PROGRAM.

(10) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ACCESSORY DWELLING UNIT FEE" MEANS A REASONABLE AND NECESSARY FEE COLLECTED OR REQUIRED BY A LOCAL GOVERNMENT IN CONNECTION WITH THE CONSTRUCTION OR CONVERSION OF AN ACCESSORY DWELLING UNIT. SUCH A FEE MAY INCLUDE IMPACT FEES.

(b) (I) "ELIGIBLE COSTS" MEANS COSTS INCURRED BY A LOCAL GOVERNMENT AND DETERMINED BY THE DIVISION TO BE INCURRED IN CONNECTION WITH DEVELOPING PRE-APPROVED ACCESSORY DWELLING UNIT PLANS, PROVIDING TECHNICAL ASSISTANCE TO PERSONS CONVERTING OR CONSTRUCTING ACCESSORY DWELLING UNITS, OR OTHER REASONABLE AND NECESSARY FEES LEVIED BY OR COSTS BORNE BY THE LOCAL GOVERNMENT FOR THE CONSTRUCTION OR CONVERSION OF AN ACCESSORY DWELLING UNIT.

(II) NOTWITHSTANDING SUBSECTION (10)(b)(I) OF THIS SECTION, IN ORDER FOR COSTS INCURRED BY A-local government in connection with developing pre-approved accessory dwelling unit plans to qualify as eligible costs, at least one such pre-approved accessory dwelling unit plan must be for an accessible or visitable accessory dwelling unit.

(c) "FUND" MEANS THE ACCESSORY DWELLING UNIT FEE REDUCTION AND ENCOURAGEMENT GRANT PROGRAM FUND CREATED IN SUBSECTION (7) OF THIS SECTION.

(d) "GRANT PROGRAM" MEANS THE ACCESSORY DWELLING UNIT
FEE REDUCTION AND ENCOURAGEMENT GRANT PROGRAM CREATED IN THIS
SECTION.

(11) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2030.

SECTION 2. In Colorado Revised Statutes, 24-46-104, add
(1)(q) as follows:

24-46-104. Powers and duties of commission - repeal. (1) The
commission has the following powers and duties:

(q) TO EXPEND EIGHT MILLION DOLLARS TO CONTRACT WITH THE
COLORADO HOUSING AND FINANCE AUTHORITY, CREATED IN PART 7 OF
ARTICLE 4 OF TITLE 29, FOR THE OPERATION OF ONE OR MORE OF THE
FOLLOWING PROGRAMS TO BENEFIT RESIDENTS OF LOCAL GOVERNMENTS
THAT HAVE BEEN CERTIFIED AS ACCESSORY DWELLING UNIT SUPPORTIVE
JURISDICTIONS BY THE DIVISION OF LOCAL GOVERNMENT PURSUANT TO
SECTION 29-35-104:

(I) AN ACCESSORY DWELLING UNIT LOSS RESERVE PROGRAM THAT
OFFERS AFFORDABLE LOANS FOR THE CONSTRUCTION OR CONVERSION OF
ACCESSORY DWELLING UNITS;

(II) A PROGRAM THAT ALLOWS FOR THE BUYING DOWN OF
INTEREST RATES ON LOANS MADE IN CONNECTION WITH THE
CONSTRUCTION OR CONVERSION OF ACCESSORY DWELLING UNITS;

(III) A PROGRAM THAT OFFERS DOWN PAYMENT ASSISTANCE IN
CONNECTION WITH ACCESSORY DWELLING UNITS; AND

(IV) A PROGRAM IN WHICH THE COLORADO HOUSING AND FINANCE
AUTHORITY OFFERS DIRECT LOANS IN CONNECTION WITH THE
CONSTRUCTION OR CONVERSION OF ACCESSORY DWELLING UNITS.

SECTION 3. In Colorado Revised Statutes, 24-67-105, add (5.5)
as follows:
standards and conditions for planned unit development - definitions. (5.5) (a) In a subject jurisdiction, any planned unit development resolution or ordinance that is adopted or approved on or after the effective date of this subsection (5.5), and that allows the construction of one or more single-unit detached dwellings, must not restrict the creation of an accessory dwelling unit as an accessory use to any single-unit detached dwelling more than the local law that applies to accessory dwelling unit development outside of a planned unit development or in any way that is prohibited by section 29-35-103.

(b) In a subject jurisdiction, any planned unit development resolution or ordinance that was adopted or approved before the effective date of this subsection (5.5), that allows the construction of one or more single-unit detached dwellings, and that restricts the construction of an accessory dwelling unit as an accessory use to any single-unit detached dwelling more than the local law that applies to accessory dwelling unit development outside of a planned unit development:

(I) Shall not be interpreted or enforced to restrict the creation of an accessory dwelling unit as an accessory use to any single-unit detached dwelling unit in any way that is prohibited by section 29-35-103; and

(II) May be superseded by the adoption of a local law pursuant to section 29-35-103.

(c) Notwithstanding subsection (5.5)(b) of this section, a local government may adopt conforming amendments to any
SUCH PLANNED UNIT DEVELOPMENT.

(d) As used in this subsection (5.5), unless the context otherwise requires:

(I) "ACCESSORY DWELLING UNIT" has the same meaning as set forth in section 29-35-102 (2).

(II) "LOCAL LAW" has the same meaning as set forth in section 29-35-102 (13).

(III) "SUBJECT JURISDICTION" has the same meaning as set forth in section 29-35-102 (20).

SECTION 4. In Colorado Revised Statutes, 38-33.3-106.5, add (3) as follows:


(3) (a) In a subject jurisdiction or an accessory dwelling unit supportive jurisdiction, no provision of a declaration, bylaw, or rule of an association that is adopted on or after the effective date of this subsection (3) may restrict the creation of an accessory dwelling unit as an accessory use to any single-unit detached dwelling in any way that is prohibited by section 29-35-103, and any provision of a declaration, bylaw, or rule that includes such a restriction is void as a matter of public policy.

(b) In a subject jurisdiction or an accessory dwelling unit supportive jurisdiction, no provision of a declaration, bylaw, or rule of an association that is adopted before the effective date
OF THIS SUBSECTION (3) MAY RESTRICT THE CREATION OF AN ACCESSORY
DWELLING UNIT AS AN ACCESSORY USE TO ANY SINGLE-UNIT DETACHED
DWELLING IN ANY WAY THAT IS PROHIBITED BY SECTION 29-35-103, AND
ANY PROVISION OF A DECLARATION, BYLAW, OR RULE THAT INCLUDES
SUCH A RESTRICTION IS VOID AS A MATTER OF PUBLIC POLICY.

(c) AS USED IN THIS SUBSECTION (3), UNLESS THE CONTEXT
OTHERWISE REQUIRES:

(I) "ACCESSORY DWELLING UNIT" HAS THE SAME MEANING AS SET
FORTH IN SECTION 29-35-102 (2).

(II) "ACCESSORY DWELLING UNIT SUPPORTIVE JURISDICTION" HAS
THE SAME MEANING AS SET FORTH IN SECTION 29-35-102 (3).

(III) "SUBJECT JURISDICTION" HAS THE SAME MEANING AS SET
FORTH IN SECTION 29-35-102 (20).

SECTION 5. Safety clause. The general assembly finds,
determines, and declares that this act is necessary for the immediate
preservation of the public peace, health, or safety or for appropriations for
the support and maintenance of the departments of the state and state
institutions.