Edited 4/2025

Accessory Dwelling Units

Instructions for Owner Residency Determination Affidavit and Prohibition of Subdivision and Separate Sale Covenant

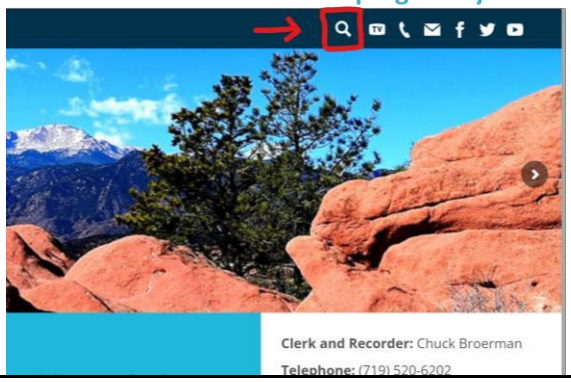
When should these documents be used?

When a property developed with a single-family detached dwelling has a separate living space, which is attached, detached or integrated, and is intended to be rented or function as a separate dwelling unit from the principal dwelling – meeting the definition of an Accessory Dwelling Unit (ADU) – this document shall be required. The ADU can be utilized if all requirements in the City Code are met, including any limitations imposed by the fire and building codes. For more information on these requirements, please view the City's webpage on ADUs (https://coloradosprings.gov/adu) and/or the applicable City Code section at https://codelibrary.amlegal.com/codes/coloradospringsco/.

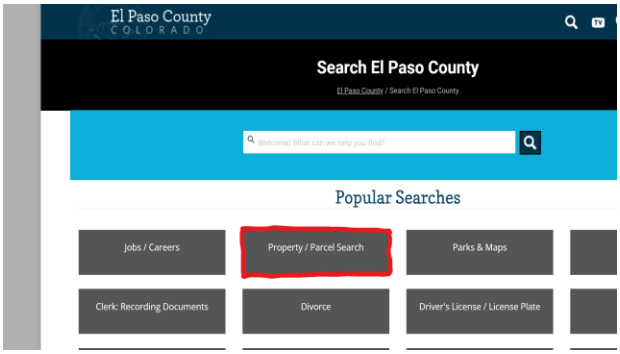
What is the process to submit the documents into a building permit application?

1. Confirm that the documents are needed for the building permit submittal. If you have question about what documents are required, contact the Development Review Enterprise at **719-385-5982** or **DREPlanningInfo@coloradosprings.gov**.
2. Fill out the **Owner Residency Determination Affidavit** included in this packet. The property's legal description can be found online through the El Paso County Clerk and Recorder at https://clerkandrecorder.elpasoco.com/ by following the steps below –

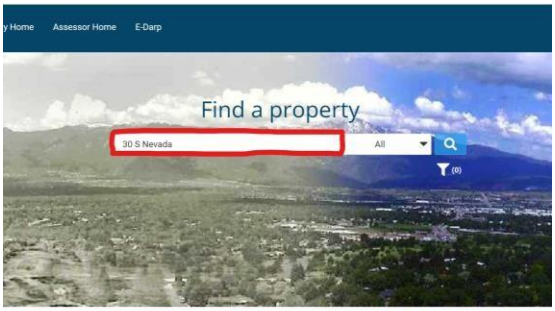
1. Click on the search icon at the top right of your screen.



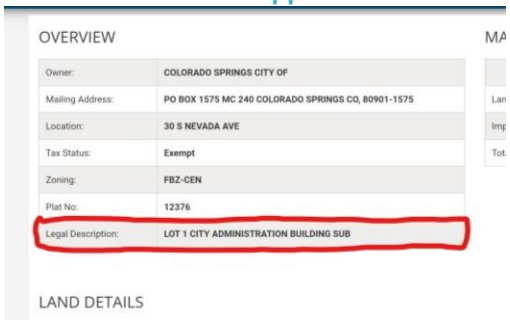
2. Click "Property / Parcel Search".



3. Enter the address in the search bar.



4. The legal description should be entered exactly as it appears.



3. Sign the document in the presence of a notary.
4. Include the executed document as part of the building permit submittal.

What happens if a property is used as an ADU without proper affidavits or permits?

A code enforcement case may be opened on the property. If a case is opened, the site will be required to come into compliance with the current code or terminate the accessory activity.

OWNER RESIDENCY DETERMINATION AFFIDAVIT FOR ACCESSORY DWELLING UNITS

This affidavit shall be notarized and submitted with any building permit application associated with an Accessory Dwelling Unit (ADU). The purpose of the residency determination is to document that the owner, at time of permitting, resides on the property where an ADU is to be established.

If the completed affidavit is not submitted as outlined above, City Planning may withhold building permits and/or certificates of occupancy. Those properties with ADUs not compliant with City Code may be subject to civil or criminal enforcement actions against the property owner.

This affidavit is required for all ADUs developed throughout the City of Colorado Springs, regardless of zone district.

I/We,_____, the owner(s) (the "Owner(s)") of the real property located in the City of Colorado Springs, El Paso County, State of Colorado, described as:

Legal Description (or see attached) (required):_____

Known by (Street Address):_____, Colorado Springs, CO (the "Property"), acknowledge and affirm the following as true:

1. The Owner(s) currently reside within the principal residence on the Property, as described above, in accordance with City Code.
2. The Owner(s) agree to notify prospective purchasers of the Property of the applicable regulations governing ADUs.

_____ _____

Signature(s) of Property Owner Date

_____

Property Owner Printed Name(s)

STATE OF COLORADO)
ss.
COUNTY OF_____)

Acknowledged before me this_____day of_____, 20____, by _____
[Owner(s)]

Witness by hand and official seal.

My commission expires: _____

_____
Notary Public

RESTRICTIVE COVENANT PROHIBITING SUBDIVISION AND SEPARATE SALE OF ACCESSORY DWELLING UNIT & ACCESSORY FAMILY SUITE

This restrictive covenant shall be notarized and then recorded with the El Paso County Clerk and Recorder's office. **Please submit this restrictive covenant with the recordation information with any building permit application associated with the Accessory Dwelling Unit (ADU).** The purpose of the restrictive covenant is to restrict the subdivision and sale of an ADU separately from the primary dwelling and to provide notice of City Code requirements to future purchasers of the Property. If the completed restrictive covenant is not submitted as outlined above, City Planning may withhold building permits and/or certificates of occupancy. Those not compliant with City Code are liable to Zoning Enforcement action which may include civil actions against the property owner.

This restrictive covenant is required for an ADU located within all zone districts.

I/We, _____, the owner(s) (the "Owner(s)") of the real property located in the City of Colorado Springs, El Paso County, State of Colorado, described as:

Legal Description (or see attached) (required): _____

Known by (Street Address): _____, Colorado Springs, CO (the "Property"), agree to be bound by the following restrictions, which shall run with and be binding upon the land:

1. The ADU shall not be held in separate ownership from the primary dwelling. Should an ADU and primary dwelling be located on separate lots pursuant to a lawful subdivision as provided for in the City Code. Subdivision is subject to the review and approval of a final plat.
2. This restrictive covenant may be enforced by the City of Colorado Springs by an action in law or equity, and may only be released by a written release from the City of Colorado Springs.

_____ _____

Signature(s) of Property Owner Date

_____

Property Owner Printed Name(s)

STATE OF COLORADO)
ss.
COUNTY OF_____)

Acknowledged before me this____day of_____, 20____, by _____
[Owner(s)]

Witness by hand and official seal.

My commission expires: _____

_____
Notary Public