

Ordinance No. 2023-25

Cache County, Utah

Amendments to Title 17, Including Use Type 1120 - Accessory Apartment

An ordinance amending the County Land Use Code as required by the adoption of Ord. 2023-25 amending the definition and requirements applicable to Use Related Definition 1120 Accessory Apartment, and other potential sections of Title 17.

Whereas, the Cache County Moderate Income Housing Plan Update as amended in February, 2023, includes Implementation Strategy E to review amendments to the County Code to become fully compliant with State Code §17-27a-526 related to Internal Accessory Dwelling Units; and

Whereas, the “County Land Use Development and Management Act,” Utah Code Ann. §17-27a-101 et seq., as amended (the “Act”), provides that each county may enact a land use ordinance establishing regulations for land use and development; and

Whereas, pursuant to the Act, the County’s Planning Commission (the “Planning Commission”) shall prepare and recommend to the county’s legislative body, following a public hearing, a proposed land use ordinance, or amendments thereto, that represent the Planning Commission’s recommendations; and

Whereas, the Planning Commission caused notice of a public hearing for the rezone to be advertised at least ten (10) days before the date of the public hearing on the Utah Public Notice Website and on the Cache County website as required under County Code Section 17.02.070: Notice for Public Meetings; and

Whereas, on July 6, 2023, the Planning Commission held a public hearing, accepted all comments, and recommended the approval of the proposed amendments to the County Council for final action; and

Whereas, the Act also provides certain procedures for the county legislative body to adopt or reject amendments to the land use ordinance; and

Whereas, following proper notice, the County Council held a public hearing on July 25, 2023, to consider any comments regarding the proposed amendments. The County Council accepted all comments; and

Now, therefore, the County Legislative Body of Cache County ordains as follows:

1. Statutory Authority

The statutory authority for acting on this ordinance is Utah Code Annotated Sections 17-27a Part 1 and Part 3, and 17-53 part 2(1953, as amended to date).

2. Amendment to Title 17 Land Use Regulations

Amendments including but not limited to Use Type 1120 - Accessory Apartment in Section 17.07.030: Use Related Definitions, are to read as follows:

17.07.030: Use Related Definitions

- A. Terms used within Title 17.09 to identify specific uses regulated within the Cache County Land Use Ordinance.

1120 ACCESSORY DWELLING UNIT (ADU): A self-contained dwelling unit containing bedrooms, private bath and kitchen facilities that is accessory and secondary to a single family dwelling as the primary use. An ADU must comply with the following requirements:

1. Use Limitations:

a. Only one ADU of any type is allowed per legal lot or parcel in the A10, RU2 or RU5 zones.

b. Short-Term Rentals Prohibited. The accessory dwelling unit or primary dwelling unit must be rented for 30 consecutive days or longer by the same occupant.

c. Owner Occupied: The primary single family dwelling unit or the ADU must remain owner occupied, except when an owner has a bona fide temporary absence of three years or less for activities such as military service, temporary job assignments, sabbaticals or voluntary service.

d. Mobile homes, Recreational Vehicles and shipping containers shall not be considered or used as an ADU.

e. Neither the primary dwelling unit nor the ADU may be sold or conveyed separately, and no additional parcel or lot may be created for an ADU. Prior to receiving a zoning clearance approval for an ADU, the owner must record against the deed to the subject property, a County ADU Acknowledgment form as a deed restriction running in favor of the county limiting occupancy of either the principal dwelling unit or the ADU to the owner of the property. This recorded notice shall contain the following:

i. a description of the primary dwelling;

- ii. a statement that the primary dwelling contains an ADU;
- iii. a statement that the ADU may only be used in accordance with the provisions of this chapter and other County ordinances.
- iv. The language and format of this notice shall be drafted by the County Attorney.

2. ADU Types:

a. **Internal ADU.** Must be within the footprint of the primary dwelling (e.g., basement, attic) at the time the internal accessory dwelling unit is created. Primary dwelling shall include a garage if the garage is connected to the primary dwelling by a common wall. As allowed by State Code Section 10-9a-530, there is no maximum size or limit to the number of bedrooms for an internal ADU, however all other applicable design requirements of this definition must apply. or

b. **Attached ADU.** An ADU appendage to an existing or proposed single family dwelling that extends beyond the footprint of the primary dwelling living and garage/storage area. An attached ADU living area shall contain two or fewer bedrooms, with a total area that is less than 50 percent of the total square footage of the primary residence, but not more than 1,200 square feet. The ADU shall contain an internal connection between common living area(s) of the accessory apartment and the single family dwelling that meets the requirements of this definition.

c. **Not Allowed: Detached ADU.** An ADU that is detached from the primary dwelling unit is not allowed.

3. Design:

a. Required: Attached ADU's must share a common wall and roof for a minimum of twenty (20) linear feet with the primary dwelling and include an internal connection into a common living area of the primary dwelling, or an administrative exception of less than 20 feet may be granted for the full width of a shared exterior wall elevation of the existing structure. The internal connection can be closed off by a

door. A basement or attic accessory apartment meets this requirement with the common floor, but must maintain an internal connection to the primary dwelling.

b. External Appearance: The architectural style, building materials, rooflines and building colors of an ADU must be compatible and consistent with the primary dwelling.

c. Entrance: An exterior entrance to an internal ADU or Attached ADU must be on the side or rear of the primary single family dwelling.

d. An ADU must include a primary entrance that is not accessed through a garage or storage area. A secondary access into a garage or storage area is permitted.

e. Attached ADU's are limited in height to a maximum of 2 stories.

f. For the purposes of this definition, building area in square feet must be measured as the gross building area, inclusive of internal rooms/spaces and exterior walls.

g. ADU's must be built on a permanent foundation.

4. Permits And Approvals:

a. Must apply for and obtain approval of a zoning clearance prior to applying for a building permit. Application materials must include floor plans and elevations to confirm size, design, and other requirements of this definition.

b. Must be permitted and approved by the Bear River Health Department, Utah Division of Water Rights, County Development Services, Public Works and Fire Departments with respect to sanitation, water, drainage, and all applicable Health Codes and requirements and must also comply with all applicable Land Use, Building, and Safety Codes.

6. For the purposes of future expansion and flexibility of use, a homeowner may convert a smaller single family dwelling into an ADU and build a larger primary single family dwelling unit. An existing dwelling unit may be lived in while an additional unit is under construction provided that both units meet all

requirements of this Chapter. Use (or occupancy) of a new accessory or primary dwelling unit will commence no sooner than the County issuance of certificate of occupancy following the final construction and building permit inspection.

3. Amends and Supersedes

This ordinance amends and supersedes applicable portions of Chapter 7 of Title 17 of the Cache County Code, and supersedes all other prior ordinances, resolutions, policies, and actions of the County Legislative Body of Cache County to the extent that the provisions of such prior ordinances, resolutions, policies, or actions are in conflict with this ordinance. In all other respects, such prior ordinances, resolutions, policies, and actions shall remain in full force and effect.

4. Effect

The ordinance amendments will take effect no sooner than 15 days from the date of approval. Following its passage but prior to the effective date, a copy of the ordinance shall be deposited with the County Clerk and a short summary of the ordinance shall be published in a newspaper of general circulation within the County as required by law.

Approved and Adopted this 8 day of August, 2023.

	In Favor	Against	Abstained	Absent
Beus	✓			
Erickson	✓			
Goodlander	✓			
Gunnell	✓			
Hurd				✓

Tidwell	✓			
Ward	✓			
Total	6	-	-	1

Cache County Council:



David Erickson, Chair
Cache County Council

Attest:



David Benson
Cache County Clerk

