

**ESCALANTE CITY  
ORDINANCE 2019-07**

**AN ORDINANCE OF ESCALANTE CITY ADOPTING SECTION 10.95 OF THE ESCALANTE CITY CODE: REGULATING AND PERMITTING THE USE OF ACCESSORY DWELLING UNITS IN RESIDENTIAL ZONES.**

**WHEREAS**, the City Council, as the governing body of the City of Escalante, State of Utah, specifically finds that it is in the best interest of the safety and welfare of the citizens of the City of Escalante to adopt the following Ordinance; and

**WHEREAS**, The City Council and Mayor wish to adopt such an Ordinance.

**NOW THEREFORE**, be it ordained by the Council of Escalante City, in the State of Utah, as follows:

**SECTION 1:**        **ADOPTION** “10.95 Accessory Dwelling Unit” of the Escalante Municipal Code is hereby *added* as follows:

A D O P T I O N

10.95 Accessory Dwelling Unit(*Added*)

**SECTION 2:**        **ADOPTION** “10.95.010 Purpose” of the Escalante Municipal Code is hereby *added* as follows:

A D O P T I O N

10.95.010 Purpose(*Added*)

The City recognizes that accessory dwelling units (ADUs) in single-family residential zones can be an important tool in the overall housing plan for the city. The purposes of the ADU standards of this code are to:

- A. Allow opportunities for property owners to provide social or personal support for family members where independent living is desirable.
- B. Provide for affordable housing opportunities.
- C. Make housing units available to moderate income people who might otherwise have difficulty finding homes within the city.
- D. Develop housing units in single-family neighborhoods that are appropriate for people at a variety of stages in the life cycle.

E. Preserve the character of single-family neighborhoods by providing standards governing developments of ADUs.

**SECTION 3:**        **ADOPTION** “10.95.010 Definitions” of the Escalante Municipal Code is hereby *added* as follows:

A D O P T I O N

10.95.020 Definitions(*Added*)

The Following words and phrases shall have definitions and meanings set forth below. If any words or phrases are defined elsewhere in this code, and there are contradiction as their meaning, the definitions set forth in this section shall control the Accessory Dwelling Unit Ordinance.

ACCESSORY DWELLING UNIT (ADU): A self-contained dwelling unit with an owner occupied single-family residence or located on an owner occupied property that is either incorporated within the single-family residence or in a detached building which maintains complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, including a bathroom and a kitchen.

ATTACHED ADU: An ADU contained entirely within the footprint of the principal dwelling unit,

DETACHED ADU: An ADU as a stand-alone building on the same parcel as the principal dwelling or in a building such as a garage not attached to the primary single-family dwelling.

DWELLING UNIT: A portion of a building designed as the residence of one family or individual with suitable approved provisions for eating, sleeping, including a bathroom and kitchen.

OWNER OCCUPANCY: When a property owner, as reflected in title records, makes his or her legal primary residence at the site as evidenced by voter registration, vehicle registration, driver's license, county assessor records or similar means.

**SECTION 4:**        **ADOPTION** “10.95.020 Development Standards” of the Escalante Municipal Code is hereby *added* as follows:

A D O P T I O N

10.95.030 Development Standards(*Added*)

- A. The property owner must occupy either the principal unit or the ADU, as their permanent residence and at no time receive rent for the owner occupied unit. Application for an ADU shall include evidence of owner occupancy as provided in section 10.95.020 of this chapter. Owner occupancy shall not be required when:
1. The owner has a bona fide, temporary absence of three (3) years or less for activities such as military service, temporary job assignments, sabbaticals, or voluntary service (indefinite periods of absence from the dwelling shall not qualify for this exception): or
  2. The owner is placed in a hospital, nursing home, assisted living facility or other similar facility that provides regular medical care, excluding retirement living facilities or communities.
- B. ADUs shall not be allowed as short-term rentals.
- C. Only one ADU may be created per lot or property in single-family zones.
- D. Installing separate utility meters for the ADU is prohibited.
- E. The total area of the attached ADU shall be less than forty nine percent (49%) of the square footage of the primary residence. ADUs shall not contain more than three (3) bedrooms. ADUs shall be occupied by no more than three (3) related or unrelated adults and their children.
- F. The minimum lot size required for construction of a detached ADU in all single-family residential zones shall be fourteen thousand five hundred (14,500) square feet.
- G. Detached ADUs shall meet the same setbacks as required for a primary residence in the zone and at least ten (10) feet from the existing primary residence.
- H. Any detached ADU located in a required side yard must comply with the setbacks for the principal residence and shall have adequate facilities for all discharge from roof and other drainage.
- I. Any detached ADU shall be architecturally compatible with the principal dwelling in order to maintain the appearance of the property as a single-family residence. A material and color board shall be required to ensure compatibility.
- J. Any Detached ADU shall be a permanent structure. Mobile homes, travel trailers, boats, Shipping Containers, yurts or similar portable structures shall not be permitted as detached ADUs or primary structures for this section. The City Planning and Zoning and Council shall make the determination of whether or not a structure is permanent.
- K. The maximum height for detached ADUs is limited to one story above ground and to twenty feet (20') or the height of the principal structure, whichever is less. A basement for storage is permitted.
- L. Detached ADUs shall not exceed the greater of fifty percent (50%) of the size of the principle dwelling or one thousand (1,000) square feet excluding the basement. In no case shall the accessory dwelling unit contain habitable square footage less than three hundred (300) square feet.
- M. Conversion of existing accessory buildings (such as detached garages) may only occur where the existing accessory building meets the setback requirements for the primary residence in the zone and meets the applicable building code.

- N. Any attached accessory dwelling unit shall not alter the appearance of the structure as a single-family residence. There shall be no external evidence of occupancy by more than one (1) family. The architectural style, building materials and building colors of an accessory dwelling unit shall be compatible and consistent with the architectural style, materials and color of the primary building.
- O. Pets per City Ordinance per property.

**SECTION 5:**            **ADOPTION** “10.95.030 Affidavit” of the Escalante Municipal Code is hereby *added* as follows:

A D O P T I O N

10.95.040 Affidavit(*Added*)

Applicants for ADUs shall provide an affidavit stating that the owner of the property will live in either the primary or accessory dwelling unit as their permanent residence. Upon approval of the ADU by the planning commission, the affidavit shall be recorded against the property (in the event the property owner decides to sell the home) to alert the future owner of the regulations for the ADU. Upon sale of the property, the new owner shall be required to sign and record a new affidavit and reauthorize the ADU, paying a reauthorization fee of one hundred dollars (\$100.00).

**SECTION 6:**            **ADOPTION** “10.95.040 Termination” of the Escalante Municipal Code is hereby *added* as follows:

A D O P T I O N

10.95.050 Termination(*Added*)

In the event that the property owner no longer resides in either the primary or accessory dwelling unit (ADU), the ADU must be immediately vacated and may not be inhabited until a new permit has been applied for and has been granted..

**SECTION 7:**            **ADOPTION** “10.95.050 Variances” of the Escalante Municipal Code is hereby *added* as follows:

ADOPTION

10.95.060 Variances(*Added*)

Variances to the standards of this chapter may be approved by the appeal authority in accordance with chapter 10.30 of the Planning and Zoning Ordinance. In no case shall a variance be approved for the owner occupancy provisions or number of units allowed per property.

**SECTION 8:**            **ADOPTION** “10.95.070 Fees” of the Escalante Municipal Code is hereby *added* as follows:

ADOPTION

10.95.070 Fees(*Added*)

The Application fee and annual renewal fee shall be set by the City Council and will be used to offset the cost to the City to process, administer, and monitor the operation of accessory dwelling units.

**SECTION 9:**            **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

**SECTION 10:**         **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

**SECTION 11:**         **EFFECTIVE DATE** This Ordinance shall be in full force and effective immediately upon approval and publication according to law.

PASSED AND ADOPTED BY THE ESCALANTE CITY COUNCIL AUGUST 20, 2019.

	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Councilmember Louise Barnes	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Councilmember Dan'l Lindsay	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Councilmember Marlene Stowe	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Councilmember Guy Graham	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Councilmember Lenza Wilson	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>

Presiding Officer

Attest



Melani Torgersen, Mayor, Escalante City



Stephanie Steed, CMC, City Recorder  
Escalante City



**CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING**

In accordance with Utah Code Annotated 10-3-711 as amended, I hereby certify that the foregoing Ordinance was duly passed and published or posted at:

- 1) *Escalante Post Office*
- 2) *Escalante City Office*
- 3) *Griffins Mercantile*

on the above referenced dates.

Attest

A handwritten signature in cursive script that reads "Stephanie Steed". The signature is written in black ink and is positioned above a horizontal line.

Stephanie Steed, CMC, City Recorder,  
Escalante City