

## ORDINANCE 23-16

### **AN ORDINANCE ENACTING TITLE 10, CHAPTER 10.16, SECTION 10.16.180 ENTITLED ACCESSORY DWELLING UNITS OF THE MORGAN CITY CODE; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.**

**WHEREAS**, Morgan City desires to provide housing flexibility and affordability options for current and future residents; and

**WHEREAS**, the Accessory Dwelling Unit Ordinance has been studied and reviewed by the Morgan City Planning Commission, and after a public hearing held on November 21, 2023, the Ordinance is forwarded to the Morgan City Council with a positive recommendation from the Planning Commission; and

**WHEREAS**, the Planning Commission of Morgan City deems it to be in the best interest of the citizens of Morgan City to amend Title 10, Chapter 10.16 – Land Use Regulations by enacting Section 10.16.180 to follow the State Code of Utah (10-9a-530) for Accessory Dwelling Units; and

**WHEREAS**, the City Council has reviewed this Accessory Dwelling Unit Ordinance and finds that it is in the best interest of the health, safety, and welfare of the citizens of Morgan City to enact Title 10, Chapter 10.16, Section 10.16.180 entitled Accessory Dwelling Units to provide housing flexibility and affordability options for current and future residents of Morgan City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF MORGAN, UTAH:**

**SECTION 1 Repealer.** If any provisions of the Morgan City Code heretofore adopted are inconsistent herewith, they are hereby repealed.

**SECTION 2. Enactment.** Title 10, Chapter 10.16, Section 10.16.180 – Accessory Dwelling Units of the Morgan City Code is hereby enacted to read as follows:

#### **10.16.180 ACCESSORY DWELLING UNITS**

##### **10.16.180.01 Purpose**

- A. Accessory Dwelling Units (ADUs) in single-family residential zones are an essential tool in the City's overall housing goals and needs. ADUs allow for alternative and flexible housing options in single-family residential neighborhoods. The purposes of the ADU standards of this code are to:
1. Create new housing units while respecting the appearance, neighborhood character, and scale of single-family residential development.
  2. Provide more housing choices in residential zones.
  3. Allow more efficient use of existing streets, utilities, homes, and large underutilized yards.
  4. Provide housing options for family caregivers, adult children, aging parents, newly established households, and families seeking flexible housing solutions.
  5. Offer a means for residents, seniors, single parents, and families with older children to remain in their homes and neighborhoods and obtain extra income, security, companionship, and services.
  6. Broaden the range of affordable housing options throughout the City.
  7. Comply with State codes and land use laws.

##### **10.16.180.02 Interpretation**

The City intends that adopting this Ordinance shall not be understood as increasing the residential lot/unit density of the underlying zone designation. An ADU shall always be an accessory to the principal dwelling.

**10.16.180.03 Applicability**

- A. Lots are eligible for an accessory dwelling unit if:
  1. The property is owner-occupied as defined in this Ordinance.
  2. The use of the lot at the time of application and any time after that is single-family residential.
  3. The lot is in an R (residential) or A (agriculture) zone (See ADU Uses Table).
  4. The lot is equal to or greater than 6,000 square feet.

**10.16.180.04 Definitions**

- A. **Accessory Dwelling Unit (ADU)** An ADU is an independent habitable living unit with a kitchen, bath facilities, sleeping quarters, and entryway (to the outside). ADUs do not include motor homes, fifth-wheels, travel trailers, campers, or other housing units on wheels. ADUs require a permanent foundation.
- B. **Internal Accessory Dwelling Unit (IADU)** is an Accessory Dwelling Unit created within the primary dwelling footprint. IADUs are created within an existing footprint of a home. The attached garages are part of the dwelling footprint.
- C. **Attached Accessory Dwelling Unit (AADU)** means an Accessory Dwelling Unit that is constructed directly or added as part of the existing primary dwelling home. AADUs require a permanent foundation. The AADU must be fully enclosed, including any connection to the primary structure.
- D. **Detached Accessory Dwelling Unit (DADU)**. A DADU is an independent habitable living unit with a kitchen, bath facilities, and sleeping quarters separate from the primary dwelling unit. Detached Accessory Dwelling Units may be standalone or located over detached garages. DADUs do not include motor homes, fifth-wheels, travel trailers, campers, or other housing units on wheels. DADUs require a permanent foundation.

**10.16.180.05 ADU – Land Use Chart**

**Table 1**

Zones	Use	Permitted or Conditional Use	Use Limitations or Specific Standards
A, RR, R-1-20, R 1-12, R-1-10, C*	Internal/Attached ADU	Permitted	See Design Standards
A, RR, R-1-20, R 1-12, R-1-10	Detached ADU	Permitted	See Design Standards

\*New residential homes are not allowed in Commercial Zones. Internal ADUs are allowed for existing residential homes in Commercial zones as a non-conforming use. Attached and Detached ADUS are not permitted in Commercial zones.

**10.16.180.06 Permitted And Conditional Uses And Limitations**

ADUs are permitted uses as set forth in the Utah Code and this Ordinance.

#### **10.16.180.07 ADU Application**

- A. Application shall be submitted to the City Planning Department and must include, at a minimum, the following:
  1. Documentation that demonstrates the property is owner-occupied. The Owner's name must be on the County's property records directly or via legal documentation proving ownership.
  2. A properly scaled site plan and floor plans of all buildings on the lot. Plans shall include all existing and proposed structures and driveways.
  3. IADUs - provide an existing building plan showing rooms, entrances, kitchen, and bathroom.
  4. AADU - provide building plans.
  5. DADU – provide a site plan and building plans.
  6. Show parking on a site plan or photos showing parking availability.
  7. If located within the Sensitive Lands District, a Plot Plan complete with grading will be reviewed by City Staff.
    - a. If located within a Flood Plain, the City's Ordinance applies (Title 1). City Staff will review plans.
    - b. Sensitive lands do not apply to IADUs.
  8. Fee. The initial application fee for any ADU shall be paid. The payment of a partial application fee or the submittal of plans for a pre-submittal review shall not constitute a complete application. Fees shall be as set forth in the City's fee schedule.
  9. Only applications deemed complete by the City Staff shall be processed. Complete applications include appropriate application forms, signatures, and documents.
- B. The application review shall, at a minimum, consist of the following:
  1. City Staff shall administer an application review procedure in which the proposed use and site development plan is evaluated for compliance with all applicable ordinances and codes.
  2. Referral of the application to all affected entities.
  3. Staff reviewing the application may involve other City Departments for additional considerations or conditions to meet all applicable standards adequately.
- C. City staff shall present in writing a determination of the review's outcome.
- D. If City staff determines that an accessory dwelling unit complies with the provisions of this chapter, then a notice of compliance shall be recorded on the property at the Morgan County Recorder's Office.
  1. Notices that demonstrate compliance with the City's land use regulations and state statute shall include, at a minimum, the following:
    - a. A description of the primary dwelling;
    - b. A statement that the primary dwelling or lot contains an ADU;
    - c. A statement that the ADU may only be used in accordance with the City's land use regulations.
    - d. A denied approval application may be appealed through the appeal authority pursuant to Title 10, Chapter 10.10 of the Morgan City Code.

#### **10.16.180.08 Standards for all ADUs (Internal, Attached and Detached)**

- A. An accessory dwelling unit as a standalone unit shall not be sold separately or subdivided from the principal dwelling unit or lot. All ordinances and subdivision ordinances apply to any and all subdivisions.
- B. The design and size of the ADU shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire, health, Flood Plain ordinance, and any other applicable codes. When a new ADU is proposed in an existing single-family dwelling, the ADU shall be compliant with all applicable standards.
- C. Detached or Attached ADUs in Sensitive Lands areas will be reviewed by City staff.
- D. The installation of separate utility meters is prohibited.
- E. Setbacks for /Attached ADUs shall be the same as the main structure.

- F. Design Standards. For new attached or detached, the new building shall incorporate at least one of the exterior materials used in the principal dwelling for twenty-five percent (25%) of all facades of the structure. The ADU must have a pitched roof unless the principal dwelling has a flat roof, in which case an ADU may have a flat roof or a pitched roof. The ADU shall maintain the same colors of the primary dwelling for at least sixty percent (60%) of all facades.
- G. The outside entrance of the ADU must have a sidewalk to the driveway parking area.
- H. Detached ADUs are prohibited on flag lots. An IADU/AADU may be located on a flag lot.
- I. ADUs may not be built within a recorded easement.
- J. Renting ADUs requires a business permit. All ADU landowners who are renting ADUs must obtain a business permit (annually). The business permit must be renewed annually and may be revoked for landowners failing to comply with City ordinances.
- K. Short-term renting is per business licensing and City ordinances.
- L. No more than one family may rent the ADU at any time. (See State Code 10-9a-505.5)
- M. Prohibited separate utility meters

**10.16.180.09 Development Standards For Internal/Attached Accessory Dwelling Units**

- A. Internal ADUs are regulated under Utah Code Ann. 10-9a-530, and additionally, Attached/Internal ADUs shall;
  - 1. Be prohibited on lots less than 6,000 square feet.;
  - 2. Have one off-street parking stall for the IADU/AADU. Parking shall be asphalt or concrete. The existing home must continue to meet the required parking.
  - 3. Not change the appearance of the primary dwelling as a single-family dwelling.
  - 4. Are not permitted in a mobile home.
  - 5. ADU additions or remodels must match the home in architectural styles, materials, form, and colors. The attached ADU/remodel requires architectural floor plans, color elevation drawings, and standard building plans.

**10.16.180.10 Development Standards For Detached Accessory Dwelling Units**

- A. A Detached ADU shall be a permanent structure built on a foundation. Trailers, mobile homes, and other portable structures, including all structures with wheels, shall not be permitted as a Detached ADU.
- B. Exterior lighting shall provide illumination directed downward. The light source shall not be visible from adjacent properties.
- C. Detached ADUs shall not be built on slopes of 30% or greater.
- D. Detached ADU setbacks shall be according to Table 2. Exterior stairways and landing shall not encroach into a setback.
- E. Detached ADUs are required to match the primary dwelling in architectural styles, materials, form, and colors. Detached would require an architectural floor plan, color elevation drawings, and standard building plans.
- F. All Detached ADUs require their own building permit, even if they are building both units at the same time.
- G. A Detached ADU shall be built after or simultaneous to the primary structure.

**10.16.180.11 Detached ADU Standards**

**Table 2**

Minimum Lot Size	10,000 square feet
Front Setback	DADU must be located 5 feet behind the front façade of the primary dwelling unit
Side setback (internal)	10 feet
Side setback (corner)	15 feet

Rear Setback	10 feet
Distance from the primary structure	10 feet
Distance from the fire hydrant	Detached ADU shall not be greater than 250 feet from the fire hydrant.
Parking stalls	One stall per bedroom, up to two stalls are required. Parking for the primary dwelling unit according to the zoning ordinance.
Height	25'
Size	The main floor of the Detached ADU shall not be greater than the existing square footage of the Primary Dwelling main floor (living area) or a maximum main floor square footage of 1,000 square feet.
Occupancy Limit	One family (see State code 10-9a-505.5).
Maintaining open space/Lot coverage	See maximum lot coverage per Ordinance.

**10.16.180.12 Termination**

If a property owner is found to be in violation of this Title, the City may revoke the use of an ADU on the property.

**10.16.180.13 Addressing**

A separate address for all ADUs shall be established by the City. Typically, an Internal/Attached ADU shall have the same address as the primary residence with the addition of the letter B, and a Detached ADU shall have the letter C added. ADUs shall use a PO Box for mail service delivery.

**10.16.180.14 Enforcement And Noticing**

- A. In addition to any other legal or equitable remedies available to a municipality, the City may hold a lien against a property that contains an accessory dwelling unit if:
  - 1. The Owner of the property violates any provisions of this Title and any other applicable section of the code;
  - 2. The City provides a written notice of violation.
  - 3. The property owner fails to cure the violation within the time period prescribed in the written notice.
  - 4. The City records a copy of the written notice of lien with the County Recorder.
- B. The written notice of violation shall:
  - 1. Describe the specific violation;
  - 2. Provide the Owner of the ADU a reasonable opportunity to cure the violation that is:
    - a. No less than 14 days after the day on which the City sends the written notice of violation if the violation results from the Owner renting or offering to rent the ADU as a short-term rental; or
    - b. No less than 30 days after the day the municipality sends the written notice of violation for any other violation.

3. State that if the Owner of the property fails to cure the violation within the time period described above, the municipality may hold a lien against the property in an amount of up to \$100 for each day of violation after the day on which the opportunity to cure the violation expires;
  4. Notify the Owner of the property:
    - a. That the Owner of the property may file an appeal of the notice of violation within ten (10) business days after the day on which the written notice of violation is postmarked or posted on the property; and
    - b. Of the name and address of the City office where the Owner of the property may file the written objection;
- C. The written notice of lien shall:
1. Comply with Utah Code Ann. Section 38-12-102;
  2. State that the property is subject to a lien;
  3. Specify the lien amount, in an amount of up to \$100 for each day of violation after the day on which the opportunity to cure the violation expires;
  4. Be mailed to:
    - a. The property's Owner of record and
    - b. Any other individual designated to receive notice in the Owner's license or permit records and be posted on the property.
- D. Appeals. A property owner that receives a written notice of violation or a written notice of lien may file an appeal in accordance with the City's appeal process.
1. If the Owner of property files a written objection to a notice of violation, City may not record a lien until a hearing is held to determine that the specific violation occurred.
  2. If City determines at the hearing that the specific violation has occurred, City may impose a lien in an amount of up to \$100 for each day of violation after the day on which the opportunity to cure the violation expires, regardless of whether the hearing is held after the day on which the opportunity to cure the violation has expired.
  3. If the Owner of the property cures a violation within the time period prescribed in the written notice of violation, City may not hold a lien against the property or impose any penalty or fee on the Owner in relation to the specific violation described in the written notice of violation.
- E. Upon issuing a permit or business license for an ADU, the City may record a notice in the office of the Morgan County Recorder. Upon recording a notice, the City shall deliver a copy of the notice to the property owner via First Class Mail. The notice shall include:
1. A description of the primary dwelling;
  2. A statement that the primary dwelling contains an ADU; and
  3. A statement that the ADU may only be used in accordance with City ordinances.

**SECTION 3. Severability.** If any section, subsection, sentence, clause, or phrase of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this Ordinance.

**SECTION 4. Effective Date.** This Ordinance shall become effective immediately upon posting.

**PASSED AND ADOPTED** by the City Council of Morgan, Utah, this 12<sup>th</sup> day of December 2023.

  
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STEVE GALE, Mayor

ATTEST:

  
DENISE WOODS, City Recorder



**CITY COUNCIL VOTE AS RECORDED:**

	<b>Aye</b>	<b>Nay</b>	<b>Excused</b>
Councilmember London	<u>X</u>	___	___
Councilmember Wardell	<u>X</u>	___	___
Councilmember Turner	___	___	<u>X</u>
Councilmember Richins	<u>X</u>	___	___
Councilmember Alexander	<u>X</u>	___	___

**(In the event of a tie vote of the Council):**

Mayor Gale                    \_\_\_    \_\_\_