

**Ordinance No. 07-49**

**AN ORDINANCE APPROVING AN AMENDMENT TO  
THE LAND MANAGEMENT CODE, 15-4-7 OF PARK CITY, UTAH, REGARDING  
ACCESSORY APARTMENTS**

WHEREAS, the Land Management Code chapter 15-4-7 presently permits the granting of accessory apartments in all zones, except the PUT zone; and

WHEREAS, the current Land Management Code (15-4-7) allows for nightly rentals of a main residence, but prohibits nightly rentals of accessory apartments, and also requires that the owner of the property reside in either the main house or the accessory apartment; and

WHEREAS, the Planning Commission conducted a work session on this issue on June 13, 2007; and

WHEREAS, the current Deed Restriction required under the present ordinance requires that the approval of an Accessory Apartment permit is automatically revoked upon sale of the property to a subsequent owner; and

WHEREAS, a one-year review of the Accessory Apartments has shown to be ineffective, and such use should be able to be reviewed anytime reasonable complaints are made; and

WHEREAS, the Planning Commission duly noticed and conducted a Public Hearing at its regularly scheduled meeting on June 25, 2007 and forwarded a positive recommendation to the City Council; and

WHEREAS, the City Council duly noticed and conducted a Public Hearing at its regularly scheduled meeting on August 9th, 2007; and

WHEREAS, the strongly expressed intent of Ordinance 94-4 originally allowing Accessory Apartments, was to create opportunities for Affordable Housing; and

WHEREAS, nightly rentals in traditional residential neighborhoods increases the intensity of use, often creating negative impacts to the neighborhood, and

WHEREAS, Accessory apartments should not be granted without a compelling reason and imposing conditions to mitigate impacts; and

WHEREAS, the city should be able to review Accessory Apartments periodically to determine if conditions imposed to mitigate impacts are continuing to be met; and

WHEREAS, it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to require owners of homes receiving approval for an accessory apartment to forego the ability to rent the main house nightly; and

WHEREAS, it is within the power of the City to regulate nightly rentals.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Park City, Utah as follows:


**SECTION 1. INCORPORATION.** The above recitals are hereby incorporated as Findings of Fact and Conclusions of Law.

**SECTION 2. APPROVAL OF AMENDMENT** CHAPTER 15-4-7 of the Land Management Code is hereby amended to read as attached hereto on Exhibit "A", pursuant to the Findings of Fact and Conclusions of Law. Any conflicts or cross-references from other provisions of the Land Management Code shall be resolved by the Planning Director.

**SECTION 3. EFFECTIVE DATE.** This Ordinance shall be effective upon publication.

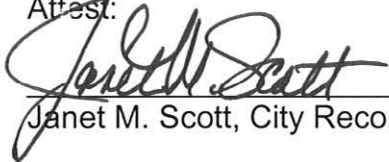
PASSED AND ADOPTED this 8<sup>th</sup> day of August, 2007

PARK CITY MUNICIPAL CORPORATION



Dana Williams, Mayor

Attest:



Janet M. Scott, City Recorder

Approved as to form:



Mark Harrington, City Attorney



## EXHIBIT A

### 15-4-7. ACCESSORY APARTMENTS.

Accessory Apartments are subject to the following criteria:

#### (A) CRITERIA FOR USE.

(1) **SIZE.** Accessory Apartments may be no more than one third (1/3) of the dwelling size, shall be limited to a maximum floor Area of 1,000 square feet and shall be no less than 400 square feet with no more than two (2) Bedrooms. An Accessory Apartment may not increase the floor Area of a Structure over the maximum floor Area as specified in the Land Management Code or Subdivision approval.

(2) **PARKING.** One (1) Parking Space per Bedroom must be provided in addition to the existing requirement for the primary residence. Parking Spaces for Accessory Apartments need not be covered and may be provided in tandem subject to one of the following criteria:

(a) One (1) Parking Space for an Accessory Apartment may be provided in tandem if the existing driveway length equals or exceeds twenty-five feet (25') as measured from the Property Line. Parking is permitted only within approved garages and on paved driveways.

(b) One (1) Parking Space for an Accessory Apartment may be provided in tandem in an effort to preserve existing Significant Vegetation and when all other parking alternatives are undesirable.

(c) **Historic District Zones.** One (1) tandem Parking Space, parking one vehicle behind another, for an Accessory Apartment proposed in any residential Historic District Zone may be provided when the Applicant has secured a Conditional Use permit and the Planning Commission has made the following findings:

(i) Tandem Parking will not create an undue hardship for the neighborhood.

(ii) Other parking options are less desirable than the proposed tandem space.

(ii) Reasonable efforts, such as automatic garage door openers, lease provisions and/or limitation of garage storage, have been made to encourage the Use of all Off-Street Parking.

(3) **APARTMENTS PER LOT.** No more than one (1) Accessory Apartment may be located on a Lot.

(4) **REQUIREMENTS FOR REVIEW.** The Applicant for an Accessory Apartment must submit a floor plan, architectural elevations, and Site plan showing any proposed changes to the Structure or Site.

(5) **DENSITY LIMITS.** A permit for an Accessory Apartment may not be granted if more than three (3) of the homes within three hundred feet (300') of the Applicant's Property boundary contain other established Accessory Apartments. There may be no more than four (4) Accessory Apartment within a three hundred foot (300') radius.

(6) **OWNERSHIP.** One (1) unit, either the main Dwelling Unit or the Accessory Apartment shall be occupied by the Owner of the Structure and the Accessory Apartment shall not be sold separately.

(7) **DEED RESTRICTION.** A deed restriction "Notice to Purchaser" must be filed with the County Recorder, which states:

"A permit for an Accessory Apartment was issued to \_\_\_\_\_, the current Owner of this Property on \_\_\_\_\_. This permit ~~does not~~ runs with the land and is automatically ~~invalidated~~ transferred to the new owner by the sale or transfer of this Property, provided however, if the use by the new owner does not continue to comply with the conditions of approval, the permit may be invalidated by the Planning Department, pursuant to Chapter 15-4-7(B)(1). Prospective purchasers should be advised that only one (1) unit on the Property may be rented; the other must be occupied by the Owner.

~~Prospective purchasers who intend to reside in one of the units on the Property may apply with the Planning Department for an Accessory Apartment permit. If the Apartment already exists and all of the conditions required by zoning continue to be met, a new permit will typically be granted.~~ The Owner shall strictly adhere to all the conditions of approval and the prohibition of the ~~Use rental of the accessory either Dwelling Unit Structure as a Nightly Rental~~ for short term rentals of less than thirty (30) days.

(8) **NIGHTLY RENTALS.** ~~Accessory Apartments are intended for long term rental of thirty (30) days or more and may not be used for Nightly Rentals.~~



If an Accessory Apartment permit is granted, neither the main Dwelling Unit nor the Accessory Apartment may be rented for periods of time less than thirty (30) days.

(9) **HOMEOWNERS ASSOCIATION REGISTRATION AND NOTIFICATION.**

All Accessory Apartments shall be subject to the Homeowners Association and notification requirements established in LMC Chapter 15-1-12 (E).

(B) **REGULATED USE REVIEW.** The Planning Department shall review Accessory Apartments in those zones where the Apartments are a Regulated Use. This includes all Zoning Districts where Accessory Apartments are an Allowed Use and not a Conditional Use. After submission of a complete Application and payment of the Application fee as established by the fee schedule, the Planning Department shall approve a permit if the requested Accessory Apartment complies with the criteria for Use in Section 15-4-7 (A), established herein. ~~The Regulated Use permit shall be subject to the one (1) year review outlined in Section 15-4-7(D).~~ The Planning Department shall impose reasonable conditions to mitigate any impacts to the surrounding neighborhood.

(1) **PERMIT REVOCATION.** The Accessory Apartment permit may be revoked by the Planning Department for non-compliance with the criteria of this Chapter. The permittee may appeal the determination to the Board of Adjustment, which will evaluate the Planning Department's determination of permit non-compliance and decide if permit revocation should occur.

(C) **CONDITIONAL USE REVIEW.** In those zones where Accessory Apartments are subject to a Conditional Use permit, the Planning Commission shall review the requested Use. After submission of a complete Application and payment of the Application fee as established by the fee schedule, the Planning Commission shall approve a permit if the requested Accessory Apartment complies with the criteria established in Section 15-4-7 (A) herein. In addition, prior to issuance of a Conditional Use permit, the Planning Commission shall determine that parking and other impacts as outlined in LMC Chapter 15-1-10 have been mitigated. ~~The Conditional Use permit shall be subject to the one (1) year review outlined in Section 15-4-7(D).~~

(1) **PERMIT REVOCATION.** The Accessory Apartment permit may be revoked by the Planning Department for non-compliance with the criteria of this Chapter. The permittee may appeal the determination to the Board of Adjustment, which will evaluate the Planning Department's determination of permit non-compliance and decide if permit revocation should occur.

~~(D) **ONE YEAR REVIEW.** Both regulated Use permits and Conditional Use permits for Accessory Apartments shall be subject to a one (1) year review by the Planning Department. The review shall occur one (1) year after issuance of the Accessory Apartment permit. If no complaints have been filed and the Planning Department finds~~

~~that the Owner and tenants are complying with the conditions of the permit, then the permit may be extended until ownership of the Property is transferred. If~~  
~~(E) —~~

~~complaints have been filed, the Planning Department shall ensure that the Owner of the Property is complying with the requirements of the Accessory Apartment permit.~~

(D) **EXISTING NON-CONFORMING ACCESSORY APARTMENTS.** Existing non-conforming Accessory Apartments may be approved by the Planning Department provided that the Accessory Apartment meets all of the criteria outlined in Section 15-4-7 (A). If the existing Accessory Apartment does not meet the criteria as specified, the Planning Commission shall review the Use. ~~Permits for non-conforming Accessory Apartments shall be subject to the one (1) year review provisions of Section 15-4-7 (D).~~ The Planning Commission shall approve the request only if the following findings can be made:

- (1) The Apartment contains no more than two (2) Bedrooms;
- (2) One (1) Parking Space per Bedroom is provided for Use by the Accessory Apartment occupants. On-Street parking shall not be counted to fulfill parking requirements;
- (3) One (1) unit is Owner-occupied; ~~and~~
- (4) Impacts of the Use can be mitigated; ~~and~~
- (5) ~~Neither Dwelling Unit is proposed to be rented for periods less than thirty (30) days.~~
- (6) ~~All significant impacts to the surrounding neighborhood are reasonably mitigated and continue to be mitigated.~~