

ORDINANCE NO. 2020-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, AMENDING SECTION 17.08.010 (DEFINITIONS), 17.18.030 (USE REGULATIONS) AND SECTION 17.130.030 (ACCESSORY LIVING UNITS) OF THE SOUTH JORDAN CITY MUNICIPAL CODE, TO CHANGE ACCESSORY LIVING UNITS TO ACCESSORY DWELLING UNITS AND TO CLARIFY REQUIREMENTS FOR ACCESSORY DWELLING UNITS.

WHEREAS, Utah Code Section 10-9a-102 grants the City Council of the City of South Jordan (the "City Council") authority to enact ordinances that it considers necessary or appropriate for the use and development of land in the City of South Jordan (the "City"), including the City's aesthetics; and

WHEREAS, the City Council has adopted Title 17 (Planning and Zoning Code) of the City of South Jordan Municipal Code ("City Code"); and

WHEREAS, the City Council desires to amend City Code Sections 17.08.010, 17.18.030 and 17.130.030 of Title 17, to clarify requirements for constructing and using Accessory Dwelling Units; and

WHEREAS, the South Jordan Planning Commission held a public hearing, and reviewed and made a recommendation concerning the subject text amendments; and

WHEREAS, the City Council held a public hearing and reviewed the subject text amendments; and

WHEREAS, the City Council finds that the subject text amendments will enhance the public health, safety and welfare, and will promote the goals of the General Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH:

SECTION 1. Amendment. City Code Sections 17.08.010, 17.18.030 and 17.130.030 are amended as shown in Exhibit A to this Ordinance.

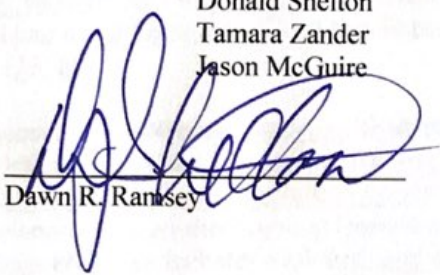
SECTION 2. Severability. If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance and all sections, parts, provisions and words of this Ordinance shall be severable.

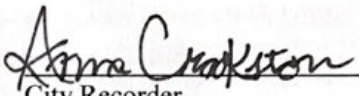
SECTION 3. Effective Date. This Ordinance shall become effective immediately upon publication and posting as required by law.

[SIGNATURE PAGE FOLLOWS]

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, ON THIS 15 DAY OF September, 2020 BY THE FOLLOWING VOTE:

	YES	NO	ABSTAIN	ABSENT
Patrick Harris	<u>X</u>	___	___	___
Bradley Marlor	___	___	___	<u>X</u>
Donald Shelton	<u>X</u>	___	___	___
Tamara Zander	<u>X</u>	___	___	___
Jason McGuire	<u>X</u>	___	___	___

Mayor: 
 Dawn R. Ramsey

Attest: 
 Anna Crankston
 City Recorder

Approved as to form:

Gregory M. Simonsen
 Gregory M. Simonsen (Sep 10, 2020 08:53 MDT)
 Office of the City Attorney

Exhibit "A"

(Deletions in ~~strikethrough~~ new language in **bold underline**)

17.08.010: DEFINITIONS:

ACCESSORY ~~DWELLING~~**LIVING** UNIT **OR ADU**: A **Life Safety and Building Code compliant dwelling**~~living~~ unit ~~that~~**which** is ~~an extension of (being attached or detached), and incidental and subordinate to;~~ a single-family residential unit ~~and shall be of~~ one of the following ~~two~~**three** (~~2~~**3**) types:

Accessory Apartment: An **ADU**~~life safety compliant "accessory living unit",~~ **contained within or attached to the primary dwelling by at least one shared wall so that the ADU and the primary dwelling appear to be one unit**~~allowed within applicable zones by approval from the Planning Department and with applicable building permits,~~ ~~that~~**which** may include ~~s~~ a kitchen; **and** bathroom; ~~and sleeping areas~~ **separated from the primary dwelling by a wall, door, finished entryway, or other physical barrier that limits or restricts continuous free flow access to the ADU.** ~~It is contained within the primary dwelling, may be separated with a dedicated access, and may be occupied by no more than four (4) individuals related by blood, marriage, adoption, or approved foster care; or no more than two (2) unrelated individuals in addition to the "family or household" that occupies the primary dwelling.~~

Extended Living Area: A ~~life safety compliant "accessory living unit" which may include a kitchen, bathroom, and living areas, and shall provide continuous free flow access between living areas within the primary dwelling, which may not be occupied by individuals in addition to the "family or household" that occupies the primary dwelling.~~

Guesthouse: An **ADU**~~life safety compliant "accessory living unit"~~ **that is detached from the primary dwelling,** ~~allowed within applicable zones by approval from the Planning Department and with applicable building permits,~~ ~~that~~**which** may include ~~s~~ a kitchen; **and** bathroom; ~~and sleeping areas.~~ ~~It is typically detached from the primary dwelling and may be occupied by no more than four (4) individuals related by blood, marriage, adoption, or approved foster care; or no more than two (2) unrelated individuals in addition to the "family or household" that occupies the primary dwelling.~~

CONTINUOUS FREE FLOW ACCESS: A continuous and open path between the primary dwelling area and the second kitchen or potential accessory apartment contained in a primary dwelling unit. The access path shall allow two-way access through entryways (which shall not be finished to facilitate the addition of a door), open spaces, hallways, stairways, or other open access ways that remain uninhibited by doors, walls, or any other physical barrier. The path shall have openings of at least forty-eight (48) inches wide or the standard width of the connecting corridor so as not to limit or restrict access.

KITCHEN: Any room or space used, intended to be used, or designed to be used for cooking or for the preparation of food. Facilities that establish the use of a room or space as

a kitchen include refrigerators, stoves, microwaves, other cooking appliances, built-in cabinets, sinks, garbage disposal, and electrical, water, and/or natural gas supply lines, in any combination intended to permit any room or space to be used as a kitchen.

SECOND KITCHEN: A second kitchen, contained within the primary dwelling unit that provides continuous free flow access between the primary dwelling area and the second kitchen. Second kitchens are not considered accessory dwelling units as long as continuous free flow access is maintained.

Chapter 17.130 OVERLAY AND FLOATING ZONES

17.130.010: DEFINITION AND PURPOSE:

17.130.020: RESIDENTIAL CHICKENS FLOATING ZONE:

17.130.020.005: STANDARDS FOR RESIDENTIAL CHICKENS:

17.130.020.010: PLOT PLAN, PERMITS, FEES, INSPECTIONS, AND POTENTIAL REVOCATION:

17.130.020.015: TRANSFERABILITY:

17.130.030: ACCESSORY DWELLING LIVING UNIT FLOATING ZONE:

17.130.030.010: PURPOSE:

17.130.030.020: REVIEW PROCESS:

17.130.030.030: PROHIBITIONS:

17.130.030.040: APPLICABILITY:

17.130.030.050: INSPECTIONS:

17.130.030.060: PRIOR USE:

17.130.030.070: TRANSFERABILITY:

17.130.030.070: APPEALS:

17.130.040: FARM ANIMAL FLOATING ZONE:

17.130.040.010: PURPOSE:

17.130.040.020: DEFINITIONS:

17.130.040.030: FARM ANIMALS, EXCLUDING BEES AND PIGEONS:

17.130.040.040: BEEKEEPING:

17.130.040.050: PIGEONS:

17.130.040.060: WILD ANIMALS:

17.130.050: PLANNED DEVELOPMENT FLOATING ZONE:

17.130.050.010: PURPOSE:

17.130.050.020: ESTABLISHMENT:

17.130.050.030: AMENDMENTS:

17.130.030: ACCESSORY DWELLING LIVING UNIT FLOATING ZONE:

17.130.030.010: PURPOSE:

Accessory ~~dwelling living~~ units or ADUs, as defined in ~~S~~section 17.08.010 of this ~~T~~title, are intended to~~may be approved in order to~~ provide affordable housing units, economic relief to homeowners, and create desirable housing forms that appeal to~~types appropriate for~~ households and individuals at a variety of stages in the life cycle. The Accessory ~~Dwelling Living~~ Unit Floating Zone provides regulations and design standards for ~~ADUs~~accessory living units. Acceptable ~~ADUs~~accessory living units shall be one of the following ~~two~~three (23) types (see ~~S~~section 17.08.010 of this ~~T~~title for definitions):

Accessory apartments: An ADU, contained within or attached to the primary dwelling by at least one shared wall so that the ADU and the primary dwelling appear to be one unit, that includes a kitchen and bathroom separated from the primary dwelling by a wall, door, finished entryway, or other physical barrier that limits or restricts continuous free flow access to the ADU.

~~Extended living areas.~~

Guesthouses: An ADU that is detached from the primary dwelling that includes a kitchen and bathroom.

17.130.030.020: REVIEW PROCESS:

The use of the Accessory ~~Dwelling Living~~ Unit Floating Zone may only be established in conformance with the review procedures of this ~~S~~section. Applicants shall follow the procedures, requirements, and standards of this Code. The use of the Accessory ~~Dwelling Living~~ Unit Floating Zone shall be conducted in accordance with approved plans~~the documents submitted for approval~~.

- A. Planning Department Approval: All accessory apartments and guesthouses shall require the approval of the Planning Department before they are occupied. Applicants shall electronically submit to the Planning Department an Accessory Dwelling Unit application that includes (1) a~~A site plan shall be submitted to the Planning Department, that is~~ drawn to scale that~~and~~ clearly show~~ing~~ the location of all existing and new structures, parking, driveways, and walkways; and (2) a~~A floor plan shall be submitted, that is~~ drawn to scale with room labels and indicating designated use,~~in order to determine compliance with the requirements herein.~~

~~Extended living areas may be allowed by the underlying zone and do not need additional approval for the use itself by the Planning Department, however a building permit may still be required whenever construction is involved.~~

1. Resident Occupancy: For a~~All~~ accessory ~~dwelling living~~ units, ~~approved under this section 17.130.030 require that~~ the owner of the property, as reflected in title records, shall live make his or her legal residence on the property as evidenced by voter

registration, vehicle registration, driver's license, county assessor records or similar means within the primary dwelling, except for legitimate temporary absences.

a. ~~Accessory Apartments: The owner of the property on which an accessory apartment has been approved may occupy the primary dwelling unit or the accessory apartment.~~

b. ~~Guesthouses: The owner of the property shall be required to live in the primary dwelling on the property for which the guesthouse is approved.~~

2. Standards: The Planning Department ~~shall~~ may approve accessory dwelling ~~living~~ units applications ~~based~~ upon the following standards being met:

a. Zoning: The Accessory Dwelling ~~Living~~ Unit Floating Zone ~~shall~~ may be applied to conforming single-family dwellings in the following zones: A-5, A-1, R-1.8, R-2.5, R-3, R-4 and R-5. Guesthouses shall only be approved in the A-5, A-1, and R-1.8 Zones. In no case shall a guesthouse be approved on a single-family lot that is less than fourteen thousand five hundred twenty (14,520) square feet in area. ~~Except for standards herein allowed under the Accessory Living Unit Floating Zone, A~~ pproved accessory dwelling ~~living~~ units shall meet the requirements of the underlying zone. Only one (1) ADU ~~accessory apartment or guesthouse~~ is allowed per lot. ADUs ~~Accessory living units~~ are not allowed in conjunction with mobile homes or any form of attached housing units.

b. Maximum Size: In all cases an accessory dwelling ~~living~~ unit shall remain subordinate and incidental to the primary dwelling. No ADU ~~accessory living unit~~ shall have more than three (3) bedrooms.

(1) The floor space of an accessory dwelling living unit shall comprise no more than thirty-five percent (35%) of the living area of the primary dwelling or be greater than one thousand five hundred (1,500) square feet, whichever is less, unless, in the opinion of the Planning Commission, a greater amount of floor area is warranted. All floor space of an ADU shall be contiguous. Utility closets shall be omitted from the calculation of an accessory apartment floor space area.

(2) The addition of an accessory dwelling unit shall not violate the maximum building coverage requirements outlined in Sections 17.40.020 and 17.30.020 of this Title.

c. Parking: A minimum of ~~two~~ one (2) off-street parking spaces, in addition to those already required, shall be provided for an accessory dwelling ~~living~~ units. Only one (1) of the additional parking spaces may be located in front of the existing parking spaces. The second additional parking space must be located to the rear or side of the already required parking so as not to block parking access. All parking spots shall meet the requirements of Chapter 16.26 of this Code. Additional spaces shall be provided, as needed, to ensure that all additional occupant vehicles will be accommodated on site, reserving on-street parking for visitors.

d. Setbacks: All ADUs~~accessory living units~~ that propose modifications visible from the exterior of the home (i.e., additions and remodels to the primary dwelling; or construction of a ~~guesthouses~~) shall comply with the following requirements:

(1) Setbacks. ADUs shall comply with the setbacks of the underlying zone or as approved with the subdivision. Guesthouses shall comply with the required setbacks of the underlying zone for an accessory building, however, in no case shall a guesthouse be located closer than ten feet (10') from a side or rear property line.

(2) Exterior Appearance. ADUs shall be designed so that the appearance of the lot, building structure, and landscaping retain the character of a single-family neighborhood.

(3) Architectural Compatibility. ADUs shall be designed and constructed to be compatible with the exterior of the primary dwelling (e.g., exterior materials, colors, and roof pitch).

g. Occupancy: Accessory dwelling units may be occupied by no more than four (4) individuals related by blood, marriage, adoption, or approved foster care; or no more than two (2) unrelated individuals in addition to the “family or household” that occupies the primary dwelling.

3. Affidavit~~approval Letter~~: Applicants for ADUs shall sign and record an affidavit~~For all approved accessory living units, a letter shall be required from the owner, and sworn before a public notary,~~ stating that the owner will comply with all regulations of the Accessory Dwelling~~Living~~ Unit Floating Zone and will live in either the primary or accessory dwelling unit as their permanent residence~~occupy the property~~. The affidavit~~letter~~ shall also state that the owner assumes responsibility to comply with further restrictions that may be imposed by a homeowners' association and/or codes, covenants, and restrictions (CC&Rs) and include authorization of annual inspections of the ADU by City Staff to ensure compliance with all regulations of the Accessory Dwelling Unit Floating Zone. ~~Upon approval of the accessory living unit, the original letter shall be stamped, documenting approval, and kept on file with the Planning Department. A copy may be provided to the homeowner.~~

B. Building Permit Requirements: In addition to the approval required from the Planning Department, all accessory dwelling~~living~~ units that propose construction or remodeling shall require a building permit from the Building Division and shall conform to all applicable standards in the City's adopted Building Codes. The applicant shall obtain all necessary building permits and pay applicable fees prior to any construction, remodeling, or use of any ADU~~accessory living unit~~. ADUs~~Accessory living units~~ shall not be approved on properties that have outstanding ordinance or building violations or are nonconforming uses or structures. Floor plans, architectural elevations, and structural calculations, as may be required, shall be submitted to the Building Division.

C. Planning Commission Approval: In addition to the requirements of subsections A and B of this section, accessory **dwellingliving** units that propose a floor area greater than thirty five percent (35%) of the living area for the primary dwelling or one thousand five hundred (1,500) square feet, ~~accessory apartments that propose the alteration of the exterior or expansion of the primary dwelling (including the addition of doors, stairs, walkways, etc.), and all guesthouses~~ shall require review and approval by the Planning Commission.

~~1. Standards: The Planning Commission may approve accessory living units affecting the exterior of the primary structure or lot based on the following standards:~~

~~a. Exterior Appearance: Any new construction or alteration of the exterior of the existing structure required to add an accessory living unit shall be designed so that the appearance of the lot, building structure, and landscaping shall retain the character of a single-family neighborhood.~~

~~b. Architectural Compatibility: An accessory living unit with proposed construction or remodeling shall be designed and constructed to be compatible with the exterior of the primary dwelling (i.e., exterior materials, colors, roof pitch, etc.).~~

~~c. Additional Requirements: The Planning Commission may impose other appropriate requirements, more stringent than those requirements contained within this section 17.130.030, if deemed necessary to ensure the public health, safety, and welfare.~~

17.130.030.030: PROHIBITIONS:

The installation of **additional outside entrances visible from the street**, separate utility meters, mailboxes, **and** addresses, ~~and additional outside entrances visible from the street~~ is not permitted. **ADUs shall not be permitted on flag lots.**

17.130.030.040: APPLICABILITY:

Regardless of an approval granted by the City, accessory **dwellingliving** units may be further restricted by homeowners' association agreements and/or codes, covenants, and restrictions (CC&Rs). It is not the City's responsibility to ensure or enforce compliance with such agreements or CC&Rs. Homeowners are responsible to ensure that they are in compliance with applicable homeowners' association agreements and/or CC&Rs.

17.130.030.050: INSPECTIONS:

~~Periodic~~ **Yearly interior and exterior inspections** may be required to determine compliance **with all regulations of the Accessory Dwelling Unit Floating Zone**, as may be deemed appropriate by City **S**taff.

17.130.030.060: PRIOR USE:

An existing accessory **dwellingliving** unit may be approved if the **ADU**use complies with the

requirements of this ~~Section~~ 17.130.030. If a certificate of occupancy was not issued at the time of construction or remodeling, the applicant shall apply for a building permit and the chief building official, or his designee, shall inspect the ~~ADU accessory living unit~~ for Code compliance. All documented violations shall be corrected prior to approval of the ~~ADU accessory living unit~~. Any uses or dwellings which previously conformed to prior ordinances, including having obtained all necessary and applicable permits, but do not now conform due to adoption of this ~~Section~~ 17.130.030, shall be permitted to continue as a legal nonconforming use.

~~17.130.030.070: TRANSFERABILITY:~~

~~Accessory living unit approval is not transferable. Upon the sale of the home or the change of primary occupant, the approval for an accessory apartment or guesthouse shall expire, unless otherwise renewed by the new owner.~~

~~17.130.030.070~~080: APPEALS:

Decisions by the Planning Department and/or the Planning Commission regarding the issuance or denial of an accessory ~~dwelling~~ living unit may be appealed to the Appeals and Variance Hearing Officer in accordance with Section 17.16.020.020 of this Code.

17.18.030.030: RESIDENTIAL USE REGULATIONS:

A. General Residential Use Regulations:

1. There shall be no open storage of trash, debris, used materials or commercial goods or wrecked or neglected materials, equipment or vehicles. Containers or enclosures containing said items shall not be located in a front yard area, except for temporary use as needed for construction or disposal.
2. Home occupations may be licensed in an approved residential dwelling and according to the provisions of title 5, chapter 5.38, "Home Occupations", of this Code.
3. Farm animals may be allowed as regulated in sections 17.130.020, "Residential Chickens Floating Zone", and 17.130.040, "Farm Animal Floating Zone", of this title.
4. Household pets may be allowed as regulated by title 6, "Animals", of this Code.

B. Specific Regulations By Residential Use:

1. Group Living Uses: All group living uses (community residential facility, dormitory, institutional facility) shall require site plan review according to title 16, chapter 16.24, "Site Plan Review", of this Code and shall be located no closer than one-half ($1/2$) mile to another group living facility of the same use, unless otherwise approved by the Planning Commission with a conditional use permit pursuant to section 17.18.050 of this chapter.

- a. P-O Zone: Community residential facility uses shall not exceed two (2) stories.
- b. R-M Zone: Community residential facility uses shall not exceed sixteen (16) occupants and shall be located on a legal lot or parcel with frontage and access to a collector or arterial street.
2. Institutional Facility: Excluding temporary emergency shelter as determined necessary by the City, institutional facility uses shall be located no closer than one mile from any elementary/secondary education use or any other institutional facility use.
3. Live-Work:
 - a. Where allowed, live-work units shall be specifically indicated on, and approved with, an associated subdivision or site plan. Live-work units are not allowed in an existing development, unless the subdivision or site plan is amended.
 - b. Allowed nonresidential uses shall be established with the approval of the project and shall be consistent with other nonresidential uses allowed in the associated zone. The following activities are prohibited: sexually oriented businesses; uses involving animals on site; vehicle service and repair; welding/woodworking; storage or distribution of flammable liquids and hazardous materials beyond that normally associated with a residential use; drive-through and other uses and activities that are not compatible with residential uses due to potential adverse health or safety affects from dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration or other impacts.
 - c. The floor area of the nonresidential use shall not exceed fifty percent (50%) of the total floor area of the unit.
 - d. Employees may only consist of the residents of the dwelling and not more than one additional nonresident person.
 - e. Each nonresidential use shall comply with all requirements of this Code.
 - f. The exterior of live-work units shall be designed to be compatible with surrounding residential uses.
 - g. One wall sign may be allowed. The sign shall not exceed five percent (5%) of the facade of the unit and shall comply with all other requirements of title 16, chapter 16.36 of this Code.
 - h. Garage and/or exterior areas shall not be used for the nonresidential use, except that a garage area may be used to park one vehicle related to the nonresidential use.
4. Neighborhood Residential Facility: Neighborhood residential facility uses shall comply with title 5, chapter 5.62, "Residential Facilities", of this Code.

5. Single-Family, Attached: Lots or parcels may be occupied by only one single-family dwelling unit as the primary dwelling.
 - a. R-M Zone: Single-family, attached uses may only be approved as part of a development agreement approved by the City Council.

6. Single-Family, Detached: Lots or parcels may be occupied by only one single-family dwelling unit as the primary dwelling. Accessory dwelling living units may be permitted according to the provisions of section 17.130.030, "Accessory Dwelling Living Unit Floating Zone", of this title. **A second kitchen, as defined in Section 17.08.010 of this Title, is not considered an accessory dwelling unit and may be allowed as a permitted use in a single-family detached dwelling unit provided that it complies with the following:**
 - a. Only one (1) second kitchen shall be permitted per lot.**
 - b. The residence shall have only one (1) front entrance, one (1) address, one (1) mailbox, and one (1) electrical meter.**
 - c. Continuous free flow access shall be maintained at all times between the primary dwelling area and the second kitchen.**
 - d. The second kitchen shall be contained within the primary dwelling so as to be one (1) unit and shall not be installed in an accessory building or detached from the primary dwelling.**
 - e. Construction of any second kitchen shall meet standards of the current building codes adopted by the City.**
 - f. Approval of a second kitchen within a single-family dwelling unit shall not be an approval of a second dwelling unit or accessory dwelling unit.**
 - g. Upon request by the City, the owner shall allow inspection of the dwelling unit and second kitchen to determine compliance with this section.**

17.18.030.070: ACCESSORY USE REGULATIONS:

A. General Accessory Use Regulations:

1. Accessory uses and buildings are permitted only in conjunction with the regulations of this Code and only when commonly and customarily associated with and incidental and secondary to allowed and approved primary uses.

2. When more than one accessory use is associated with a primary use, the accessory uses shall cumulatively remain incidental and secondary to the allowed uses.

B. Specific Regulations By Use Type:

1. Residential accessory uses and buildings may include, but are not limited to, accessory dwelling living units, yard sales, caretakers, garages, sheds, swimming pools, recreational equipment, gardens and greenhouses.

DRAFT

SOUTH JORDAN CITY CITY COUNCIL REPORT

Meeting Date: 9/15/2020

Application: TEXT AMENDMENT - AMENDING CHAPTER 17.130.030 OF THE SOUTH JORDAN CITY MUNICIPAL CODE REGULATING THE ACCESSORY LIVING UNIT FLOATING ZONE

Ordinance No.: 2020-10
Applicant: South Jordan City

Submitted By: Meadow Wedekind, Long Range Planning Intern

Staff Recommendation (Motion Ready):

I move that the City Council **approve** Ordinance No. 2020-10 amending Chapter 17.130.030 of the South Jordan City Municipal Code regulating the Accessory Living Unit Floating Zone.

BACKGROUND:

On January 21, 2020 the City Council adopted an updated General Plan that includes the City’s Moderate Income Housing Plan. Both of these plans contain a housing related goal to “ensure development of well-designed housing that qualifies as Affordable Housing to meet the needs of moderate-income households within the City.” Both plans recommend a review and update to the City’s Code regulating accessory dwelling units (ADUs) as a strategy to accomplish the above goal.

City Staff plan to conduct the recommended update in two phases. The changes recommended in this first phase of the text amendment address the definitions referenced in the Code regulating ADUs and the procedural requirements for ADU approval. The anticipated second phase of this amendment will focus on amendments to policy aspects of the Code such as ADU size limitations, exterior appearance, and allowable location. Staff will use Planning Commission’s comments and questions during this first phase to inform proposed changes during the second phase amendments.

ANALYSIS:

If approved, the proposed text amendment would update the term used to refer to these units from “accessory living unit” (ALU) to “accessory dwelling unit” (ADU). The two terms have the same meaning, however, “ADU” is the more current and commonly used term in Utah City Codes and across the country.

The proposed amendment would also alter the relevant definitions so that an ADU is defined more by physical form than by use. This change would make ADU regulations more easily enforceable by the City. The addition of the term “continuous free flow access” to the definitions would also establish a clear distinction between ADUs and second kitchens that was not clear in the previous version of the Code.

The proposed amendment would eliminate the option for the Planning Commission to approve ADUs larger than 35% of the living area of the primary dwelling or 1,500 square feet.

The proposed amendment would also eliminate the requirement for Planning Commission approval when an applicant approves the alteration or expansion of the exterior of the primary dwelling. This is because the requirements for Planning Commission approval would be the same as the requirements for approval by City Staff, meaning that the Planning Commission would have no additional regulatory discretion.

The proposed amendment would also eliminate the non-transferability of ADU approval as it can be argued that making an ADU non-transferable constitutes a taking and is illegal. However, the proposed amendment would require that ADU applicants sign and record an affidavit that will serve to notify any new owners of the property of the existing ADU and regulations with which they must comply.

The proposed text amendment would also require two additional off-street parking spaces for the approval of an ADU instead of one. Parking issues in neighborhoods is a common complaint, especially where ADUs, legal or illegal, exist.

STAFF FINDINGS & CONCLUSIONS:

Facts & Findings:

- Utah Code § 10-9a-102 grants the City Council a general land use authority to enact regulations that it considers necessary or appropriate for the use and development of land in the City, including maintaining the aesthetics of the City and protecting the tax base, and the City Council has the power to amend its land use regulations. (*See Utah Code § 10-9a-501 et seq.*)
- The proposed text amendment addresses issues in the City’s current Code regulating ADUs, adding clarity to the definitions referenced in the Chapter and the ADU approval process. These clarifications should help applicants better understand the ADU regulations and City Staff more consistently administer the regulations.
- City Staff intend to address more policy type issues such as ADU size limitations, exterior appearance, and allowable location in a second text amendment after more discussion with the Planning Commission and City Council.

Conclusions:

- The changes proposed in this text amendment are consistent with the City’s goal to “ensure development of well-designed housing that qualifies as Affordable Housing to meet the needs of moderate-income households within the City” without detrimentally impacting the City’s neighborhoods.

Recommendation:

- The proposed text amendment was presented at a public hearing and reviewed by the Planning Commission on 8/25/2020. The Planning Commission made a positive recommendation in favor the proposed resolution (4-0).
- Staff recommends that the City Council **approve** Ordinance No. 2020-10 amending Chapter 17.130.030 of the South Jordan City Municipal Code regulating the Accessory Living Unit Floating Zone.

ALTERNATIVES:

- Approve Ordinance No. 2020-10 with changes.
- Deny Ordinance No. 2020-10.
- Schedule the application for a decision at some future date.

SUPPORT MATERIALS:

- Ordinance No. 2020-10
 - Exhibit “A” – Proposed Text Amendment

City Council Action Requested:

Steven Schaefermeyer
Steven Schaefermeyer (Sep 9, 2020 14:36 MDT)
Director of Planning

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SECTION 2. Severability. If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance and all sections, parts, provisions and words of this Ordinance shall be severable.

SECTION 3. Effective Date. This Ordinance shall become effective immediately upon publication and posting as required by law.

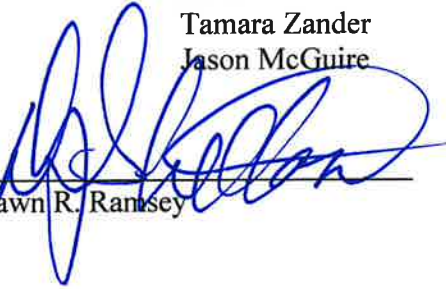
[SIGNATURE PAGE FOLLOWS]

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, ON THIS 15 DAY OF September, 2020 BY THE FOLLOWING VOTE:

Patrick Harris
 Bradley Marlor
 Donald Shelton
 Tamara Zander
 Jason McGuire

YES	NO	ABSTAIN	ABSENT
<u>X</u>	___	___	___
<u>X</u>	___	___	<u>X</u>
<u>X</u>	___	___	___
<u>X</u>	___	___	___
<u>X</u>	___	___	___

Mayor:


 Dawn R. Ramsey

Attest:


 City Recorder

Approved as to form:

Gregory M. Simonson
Gregory M. Simonson (Sep 10, 2020 08:53 MDT)

Office of the City Attorney

Exhibit "A"

(Deletions in ~~strikethrough~~ new language in bold underline)

17.08.010: DEFINITIONS:

ACCESSORY ~~DWELLING~~LIVING UNIT OR ADU: A Life Safety and Building Code compliant dwelling living unit ~~that~~ which is an extension of (being attached or detached), and incidental and subordinate to, a single-family residential unit ~~and shall be of~~ one of the following ~~two~~three (~~2~~3) types:

Accessory Apartment: An ADU life safety compliant "accessory living unit", contained within or attached to the primary dwelling by at least one shared wall so that the ADU and the primary dwelling appear to be one unit allowed within applicable zones by approval from the Planning Department and with applicable building permits, ~~that~~ which may include a kitchen; and bathroom, and sleeping areas separated from the primary dwelling by a wall, door, finished entryway, or other physical barrier that limits or restricts continuous free flow access to the ADU. It is contained within the primary dwelling, may be separated with a dedicated access, and may be occupied by no more than four (4) individuals related by blood, marriage, adoption, or approved foster care; or no more than two (2) unrelated individuals in addition to the "family or household" that occupies the primary dwelling.

Extended Living Area: A life safety compliant "accessory living unit" which may include a kitchen, bathroom, and living areas, and shall provide continuous free flow access between living areas within the primary dwelling, which may not be occupied by individuals in addition to the "family or household" that occupies the primary dwelling.

Guesthouse: An ADU life safety compliant "accessory living unit" that is detached from the primary dwelling, allowed within applicable zones by approval from the Planning Department and with applicable building permits, ~~that~~ which may include a kitchen; and bathroom, and sleeping areas. It is typically detached from the primary dwelling and may be occupied by no more than four (4) individuals related by blood, marriage, adoption, or approved foster care; or no more than two (2) unrelated individuals in addition to the "family or household" that occupies the primary dwelling.

CONTINUOUS FREE FLOW ACCESS: A continuous and open path between the primary dwelling area and the second kitchen or potential accessory apartment contained in a primary dwelling unit. The access path shall allow two-way access through entryways (which shall not be finished to facilitate the addition of a door), open spaces, hallways, stairways, or other open access ways that remain uninhibited by doors, walls, or any other physical barrier. The path shall have openings of at least forty-eight (48) inches wide or the standard width of the connecting corridor so as not to limit or restrict access.

KITCHEN: Any room or space used, intended to be used, or designed to be used for cooking or for the preparation of food. Facilities that establish the use of a room or space as

a kitchen include refrigerators, stoves, microwaves, other cooking appliances, built-in cabinets, sinks, garbage disposal, and electrical, water, and/or natural gas supply lines, in any combination intended to permit any room or space to be used as a kitchen.

SECOND KITCHEN: A second kitchen, contained within the primary dwelling unit that provides continuous free flow access between the primary dwelling area and the second kitchen. Second kitchens are not considered accessory dwelling units as long as continuous free flow access is maintained.

Chapter 17.130 OVERLAY AND FLOATING ZONES

17.130.010: DEFINITION AND PURPOSE:

17.130.020: RESIDENTIAL CHICKENS FLOATING ZONE:

17.130.020.005: STANDARDS FOR RESIDENTIAL CHICKENS:

17.130.020.010: PLOT PLAN, PERMITS, FEES, INSPECTIONS, AND POTENTIAL REVOCATION:

17.130.020.015: TRANSFERABILITY:

17.130.030: ACCESSORY ~~DWELLING~~LIVING UNIT FLOATING ZONE:

17.130.030.010: PURPOSE:

17.130.030.020: REVIEW PROCESS:

17.130.030.030: PROHIBITIONS:

17.130.030.040: APPLICABILITY:

17.130.030.050: INSPECTIONS:

17.130.030.060: PRIOR USE:

17.130.030.070: TRANSFERABILITY:

17.130.030.070080: APPEALS:

17.130.040: FARM ANIMAL FLOATING ZONE:

17.130.040.010: PURPOSE:

17.130.040.020: DEFINITIONS:

17.130.040.030: FARM ANIMALS, EXCLUDING BEES AND PIGEONS:

17.130.040.040: BEEKEEPING:

17.130.040.050: PIGEONS:

17.130.040.060: WILD ANIMALS:

17.130.050: PLANNED DEVELOPMENT FLOATING ZONE:

17.130.050.010: PURPOSE:

17.130.050.020: ESTABLISHMENT:

17.130.050.030: AMENDMENTS:

17.130.030: ACCESSORY ~~DWELLING~~LIVING UNIT FLOATING ZONE:

17.130.030.010: PURPOSE:

Accessory ~~dwelling living units~~ or ADUs, as defined in ~~S~~section 17.08.010 of this ~~T~~title, are intended to ~~may be approved in order to~~ provide affordable housing units, economic relief to homeowners, and create desirable housing forms that appeal to ~~types appropriate for~~ households and individuals at a variety of stages in the life cycle. The Accessory ~~Dwelling Living~~ Unit Floating Zone provides regulations and design standards for ~~ADUs~~ accessory living units. Acceptable ~~ADUs~~ accessory living units shall be one of the following ~~two~~ three (3) types (see ~~S~~section 17.08.010 of this ~~T~~title for definitions):

Accessory apartments: An ADU, contained within or attached to the primary dwelling by at least one shared wall so that the ADU and the primary dwelling appear to be one unit, that includes a kitchen and bathroom separated from the primary dwelling by a wall, door, finished entryway, or other physical barrier that limits or restricts continuous free flow access to the ADU.

~~Extended living areas.~~

Guesthouses: An ADU that is detached from the primary dwelling that includes a kitchen and bathroom.

17.130.030.020: REVIEW PROCESS:

The use of the Accessory ~~Dwelling Living~~ Unit Floating Zone may only be established in conformance with the review procedures of this ~~S~~section. Applicants shall follow the procedures, requirements, and standards of this Code. The use of the Accessory ~~Dwelling Living~~ Unit Floating Zone shall be conducted in accordance with approved plans ~~the documents submitted for approval~~.

- A. Planning Department Approval: All accessory apartments and guesthouses shall require the approval of the Planning Department before they are occupied. Applicants shall electronically submit to the Planning Department an Accessory Dwelling Unit application that includes (1) a ~~A site plan shall be submitted to the Planning Department, that is drawn to scale that and clearly showing the location of all existing and new structures, parking, driveways, and walkways;~~ and (2) a ~~A floor plan shall be submitted, that is drawn to scale with room labels and indicating designated use, in order to determine compliance with the requirements herein.~~

~~Extended living areas may be allowed by the underlying zone and do not need additional approval for the use itself by the Planning Department, however a building permit may still be required whenever construction is involved.~~

1. Resident Occupancy: For a ~~All~~ accessory dwelling living units, approved under this section 17.130.030 require that the owner of the property, as reflected in title records, shall live make his or her legal residence on the property as evidenced by voter

registration, vehicle registration, driver's license, county assessor records or similar means within the primary dwelling, except for legitimate temporary absences.

a. Accessory Apartments: The owner of the property on which an accessory apartment has been approved may occupy the primary dwelling unit or the accessory apartment.

b. Guesthouses: The owner of the property shall be required to live in the primary dwelling on the property for which the guesthouse is approved.

2. Standards: The Planning Department ~~shall~~ may approve accessory dwelling living units applications based upon the following standards being met:

a. Zoning: The Accessory Dwelling Living Unit Floating Zone ~~shall~~ may be applied to conforming single-family dwellings in the following zones: A-5, A-1, R-1.8, R-2.5, R-3, R-4 and R-5. Guesthouses shall only be approved in the A-5, A-1, and R-1.8 Zones. In no case shall a guesthouse be approved on a single-family lot that is less than fourteen thousand five hundred twenty (14,520) square feet in area. ~~Except for standards herein allowed under the Accessory Living Unit Floating Zone, A~~ approved accessory dwelling living units shall meet the requirements of the underlying zone. Only one (1) ADU accessory apartment or guesthouse is allowed per lot. ADUs Accessory living units are not allowed in conjunction with mobile homes or any form of attached housing units.

b. Maximum Size: In all cases an accessory dwelling living unit shall remain subordinate and incidental to the primary dwelling. No ADU accessory living unit shall have more than three (3) bedrooms.

(1) The floor space of an accessory dwelling living unit shall comprise no more than thirty-five percent (35%) of the living area of the primary dwelling or be greater than one thousand five hundred (1,500) square feet, whichever is less, unless, in the opinion of the Planning Commission, a greater amount of floor area is warranted. All floor space of an ADU shall be contiguous. Utility closets shall be omitted from the calculation of an accessory apartment floor space area.

(2) The addition of an accessory dwelling unit shall not violate the maximum building coverage requirements outlined in Sections 17.40.020 and 17.30.020 of this Title.

c. Parking: A minimum of ~~two~~ one (2) off-street parking spaces, in addition to those already required, shall be provided for an accessory dwelling living units. Only one (1) of the additional parking spaces may be located in front of the existing parking spaces. The second additional parking space must be located to the rear or side of the already required parking so as not to block parking access. All parking spots shall meet the requirements of Chapter 16.26 of this Code. Additional spaces shall be provided, as needed, to ensure that all additional occupant vehicles will be accommodated on site, reserving on-street parking for visitors.

d. ~~Setbacks:~~ All ADUs ~~accessory living units~~ that propose modifications visible from the exterior of the home (i.e., additions and remodels to the primary dwelling, or construction of a guesthouses) shall comply with the following requirements:

(1) Setbacks. ADUs shall comply with the setbacks of the underlying zone or as approved with the subdivision. Guesthouses shall comply with the required setbacks of the underlying zone for an accessory building, however, in no case shall a guesthouse be located closer than ten feet (10') from a side or rear property line.

(2) Exterior Appearance. ADUs shall be designed so that the appearance of the lot, building structure, and landscaping retain the character of a single-family neighborhood.

(3) Architectural Compatibility. ADUs shall be designed and constructed to be compatible with the exterior of the primary dwelling (e.g., exterior materials, colors, and roof pitch).

g. Occupancy: Accessory dwelling units may be occupied by no more than four (4) individuals related by blood, marriage, adoption, or approved foster care; or no more than two (2) unrelated individuals in addition to the "family or household" that occupies the primary dwelling.

3. ~~Affidavit~~ ~~approval Letter:~~ Applicants for ADUs shall sign and record an affidavit ~~For all approved accessory living units, a letter shall be required from the owner, and sworn before a public notary,~~ stating that the owner will comply with all regulations of the Accessory Dwelling ~~Living~~ Unit Floating Zone and will live in either the primary or accessory dwelling unit as their permanent residence ~~occupy the property.~~ The affidavit ~~letter~~ shall also state that the owner assumes responsibility to comply with further restrictions that may be imposed by a homeowners' association and/or codes, covenants, and restrictions (CC&Rs) and include authorization of annual inspections of the ADU by City Staff to ensure compliance with all regulations of the Accessory Dwelling Unit Floating Zone. ~~Upon approval of the accessory living unit, the original letter shall be stamped, documenting approval, and kept on file with the Planning Department. A copy may be provided to the homeowner.~~

B. Building Permit Requirements: In addition to the approval required from the Planning Department, all accessory dwelling ~~living~~ units that propose construction or remodeling shall require a building permit from the Building Division and shall conform to all applicable standards in the City's adopted Building Codes. The applicant shall obtain all necessary building permits and pay applicable fees prior to any construction, remodeling, or use of any ADU ~~accessory living unit.~~ ADUs ~~Accessory living units~~ shall not be approved on properties that have outstanding ordinance or building violations or are nonconforming uses or structures. Floor plans, architectural elevations, and structural calculations, as may be required, shall be submitted to the Building Division.

~~C. Planning Commission Approval: In addition to the requirements of subsections A and B of this section, accessory living units that propose a floor area greater than thirty five percent (35%) of the living area for the primary dwelling or one thousand five hundred (1,500) square feet, accessory apartments that propose the alteration of the exterior or expansion of the primary dwelling (including the addition of doors, stairs, walkways, etc.), and all guesthouses shall require review and approval by the Planning Commission.~~

~~1. Standards: The Planning Commission may approve accessory living units affecting the exterior of the primary structure or lot based on the following standards:~~

~~a. Exterior Appearance: Any new construction or alteration of the exterior of the existing structure required to add an accessory living unit shall be designed so that the appearance of the lot, building structure, and landscaping shall retain the character of a single family neighborhood.~~

~~b. Architectural Compatibility: An accessory living unit with proposed construction or remodeling shall be designed and constructed to be compatible with the exterior of the primary dwelling (i.e., exterior materials, colors, roof pitch, etc.).~~

~~c. Additional Requirements: The Planning Commission may impose other appropriate requirements, more stringent than those requirements contained within this section 17.130.030, if deemed necessary to ensure the public health, safety, and welfare.~~

17.130.030.030: PROHIBITIONS:

The installation of **additional outside entrances visible from the street**, separate utility meters, mailboxes, **and** addresses, ~~and additional outside entrances visible from the street~~ is not permitted. **ADUs shall not be permitted on flag lots.**

17.130.030.040: APPLICABILITY:

Regardless of an approval granted by the City, accessory **dwelling** ~~living~~ units may be further restricted by homeowners' association agreements and/or codes, covenants, and restrictions (CC&Rs). It is not the City's responsibility to ensure or enforce compliance with such agreements or CC&Rs. Homeowners are responsible to ensure that they are in compliance with applicable homeowners' association agreements and/or CC&Rs.

17.130.030.050: INSPECTIONS:

~~Periodic~~ **Yearly interior and exterior inspections** may be required to determine compliance **with all regulations of the Accessory Dwelling Unit Floating Zone**, as may be deemed appropriate by City ~~S~~staff.

17.130.030.060: PRIOR USE:

An existing accessory **dwelling** ~~living~~ unit may be approved if the **ADU** ~~use~~ complies with the

requirements of this Section 17.130.030. If a certificate of occupancy was not issued at the time of construction or remodeling, the applicant shall apply for a building permit and the chief building official, or his designee, shall inspect the ADUaccessory living unit for Code compliance. All documented violations shall be corrected prior to approval of the ADUaccessory living unit. Any uses or dwellings which previously conformed to prior ordinances, including having obtained all necessary and applicable permits, but do not now conform due to adoption of this Section 17.130.030, shall be permitted to continue as a legal nonconforming use.

17.130.030.070: TRANSFERABILITY:

~~Accessory living unit approval is not transferable. Upon the sale of the home or the change of primary occupant, the approval for an accessory apartment or guesthouse shall expire, unless otherwise renewed by the new owner.~~

17.130.030.070080: APPEALS:

Decisions by the Planning Department and/or the Planning Commission regarding the issuance or denial of an accessory dwellingliving unit may be appealed to the Appeals and Variance Hearing Officer in accordance with Section 17.16.020.020 of this Code.

17.18.030.030: RESIDENTIAL USE REGULATIONS:

A. General Residential Use Regulations:

1. There shall be no open storage of trash, debris, used materials or commercial goods or wrecked or neglected materials, equipment or vehicles. Containers or enclosures containing said items shall not be located in a front yard area, except for temporary use as needed for construction or disposal.
2. Home occupations may be licensed in an approved residential dwelling and according to the provisions of title 5, chapter 5.38, "Home Occupations", of this Code.
3. Farm animals may be allowed as regulated in sections 17.130.020, "Residential Chickens Floating Zone", and 17.130.040, "Farm Animal Floating Zone", of this title.
4. Household pets may be allowed as regulated by title 6, "Animals", of this Code.

B. Specific Regulations By Residential Use:

1. Group Living Uses: All group living uses (community residential facility, dormitory, institutional facility) shall require site plan review according to title 16, chapter 16.24, "Site Plan Review", of this Code and shall be located no closer than one-half ($1/2$) mile to another group living facility of the same use, unless otherwise approved by the Planning Commission with a conditional use permit pursuant to section 17.18.050 of this chapter.

- a. P-O Zone: Community residential facility uses shall not exceed two (2) stories.
 - b. R-M Zone: Community residential facility uses shall not exceed sixteen (16) occupants and shall be located on a legal lot or parcel with frontage and access to a collector or arterial street.
2. Institutional Facility: Excluding temporary emergency shelter as determined necessary by the City, institutional facility uses shall be located no closer than one mile from any elementary/secondary education use or any other institutional facility use.
 3. Live-Work:
 - a. Where allowed, live-work units shall be specifically indicated on, and approved with, an associated subdivision or site plan. Live-work units are not allowed in an existing development, unless the subdivision or site plan is amended.
 - b. Allowed nonresidential uses shall be established with the approval of the project and shall be consistent with other nonresidential uses allowed in the associated zone. The following activities are prohibited: sexually oriented businesses; uses involving animals on site; vehicle service and repair; welding/woodworking; storage or distribution of flammable liquids and hazardous materials beyond that normally associated with a residential use; drive-through and other uses and activities that are not compatible with residential uses due to potential adverse health or safety affects from dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration or other impacts.
 - c. The floor area of the nonresidential use shall not exceed fifty percent (50%) of the total floor area of the unit.
 - d. Employees may only consist of the residents of the dwelling and not more than one additional nonresident person.
 - e. Each nonresidential use shall comply with all requirements of this Code.
 - f. The exterior of live-work units shall be designed to be compatible with surrounding residential uses.
 - g. One wall sign may be allowed. The sign shall not exceed five percent (5%) of the facade of the unit and shall comply with all other requirements of title 16, chapter 16.36 of this Code.
 - h. Garage and/or exterior areas shall not be used for the nonresidential use, except that a garage area may be used to park one vehicle related to the nonresidential use.
 4. Neighborhood Residential Facility: Neighborhood residential facility uses shall comply with title 5, chapter 5.62, "Residential Facilities", of this Code.

5. Single-Family, Attached: Lots or parcels may be occupied by only one single-family dwelling unit as the primary dwelling.
 - a. R-M Zone: Single-family, attached uses may only be approved as part of a development agreement approved by the City Council.

6. Single-Family, Detached: Lots or parcels may be occupied by only one single-family dwelling unit as the primary dwelling. Accessory dwellingliving units may be permitted according to the provisions of section 17.130.030, "Accessory DwellingLiving Unit Floating Zone", of this title. A second kitchen, as defined in Section 17.08.010 of this Title, is not considered an accessory dwelling unit and may be allowed as a permitted use in a single-family detached dwelling unit provided that it complies with the following:
 - a. Only one (1) second kitchen shall be permitted per lot.
 - b. The residence shall have only one (1) front entrance, one (1) address, one (1) mailbox, and one (1) electrical meter.
 - c. Continuous free flow access shall be maintained at all times between the primary dwelling area and the second kitchen.
 - d. The second kitchen shall be contained within the primary dwelling so as to be one (1) unit and shall not be installed in an accessory building or detached from the primary dwelling.
 - e. Construction of any second kitchen shall meet standards of the current building codes adopted by the City.
 - f. Approval of a second kitchen within a single-family dwelling unit shall not be an approval of a second dwelling unit or accessory dwelling unit.
 - g. Upon request by the City, the owner shall allow inspection of the dwelling unit and second kitchen to determine compliance with this section.

17.18.030.070: ACCESSORY USE REGULATIONS:

A. General Accessory Use Regulations:

1. Accessory uses and buildings are permitted only in conjunction with the regulations of this Code and only when commonly and customarily associated with and incidental and secondary to allowed and approved primary uses.

2. When more than one accessory use is associated with a primary use, the accessory uses shall cumulatively remain incidental and secondary to the allowed uses.

B. Specific Regulations By Use Type:

1. Residential accessory uses and buildings may include, but are not limited to, accessory dwellingliving units, yard sales, caretakers, garages, sheds, swimming pools, recreational equipment, gardens and greenhouses.