

ORDINANCE NO. 2021 - 16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, AMENDING SECTION 17.130.030 OF THE SOUTH JORDAN MUNICIPAL CODE REGULATING THE ACCESSORY DWELLING UNIT FLOATING ZONE.

WHEREAS, Utah Code § 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 desires to amend City Code § 17.130.030 to change the requirements of the Accessory Dwelling Unit Floating Zone and bring those requirements in conformity with newly enacted State law; 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 amendment 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 § 17.130.030 is 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 or posting as required by law.

[SIGNATURE PAGE FOLLOWS]

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, ON THIS 17 DAY OF August, 2021 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*
 Dawn R. Ramsey

Attest: *Anna Creston*
 City Recorder

Approved as to form:

Gregory Simonsen
 Office of the City Attorney



EXHIBIT A

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

Chapter 17.08 DEFINITIONS GENERALLY

17.08.010: DEFINITIONS:

ACCESSORY DWELLING UNIT OR ADU: A Life Safety and Building Code compliant dwelling unit **with contiguous floor space** that is incidental and subordinate to a single-family residential unit of one of the following two (2) types:

~~Accessory Apartment~~ **Internal Accessory Dwelling Unit or IADU**: An ADU, **that qualifies as an internal ADU under Utah State Law, and is** 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.

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

CONTINUOUS FREE FLOW ACCESS: A continuous and open path between the primary dwelling area and the second kitchen or potential ~~accessory apartment~~ **internal accessory dwelling unit** 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.

DWELLING, SINGLE-FAMILY: A building comprised entirely of one dwelling unit **that may contain an accessory dwelling unit**.

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

17.130.030: ACCESSORY DWELLING UNIT FLOATING ZONE:

17.130.030.010: PURPOSE:

Accessory dwelling units or ADUs, as defined in Section 17.08.010 of this Title, are intended to provide affordable housing units, economic relief to homeowners, and create desirable housing forms that appeal to households and individuals at a variety of stages in the life cycle. The Accessory Dwelling Unit Floating Zone provides regulations and design standards for ADUs. Acceptable ADUs shall be one of the following two (2) types (see Section 17.08.010 of this Title for definitions):

~~Accessory Apartment~~ **Internal Accessory Dwelling Unit:** An ADU, that qualifies as an internal ADU under Utah State Code, and is 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.

Guesthouse: 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 Unit Floating Zone may only be established in conformance with the review procedures of this Section. Applicants shall follow the procedures, requirements, and standards of this Code. The use of the Accessory Dwelling Unit Floating Zone shall be conducted in accordance with approved plans.

A. Planning Department Approval: All ~~accessory apartments~~ **Internal Accessory Dwelling Units** 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 site plan that is drawn to scale that clearly shows the location of all existing and new structures, parking, driveways, and walkways; and (2) a floor plan that is drawn to scale with room labels and indicating designated use.

1. Resident Occupancy: For all accessory dwelling units, the owner of the property, as reflected in title records, shall 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.
2. Standards: The Planning Department shall approve accessory dwelling unit applications upon the following standards being met:

a. Zoning: The Accessory Dwelling Unit Floating Zone shall 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.~~ Approved accessory dwelling units shall meet the requirements of the underlying zone. Only one (1) ADU is allowed per lot. ADUs are not allowed in conjunction with mobile homes or any form of attached housing units.

b. **Lot Size: An internal ADU shall only be approved on a lot that is greater than six thousand (6,000) square feet in area. A guesthouse shall only be approved on a lot that is equal to or greater than fourteen thousand five hundred twenty (14,520) square feet in area.**

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

~~(1) The floor space of an accessory dwelling 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 **onetwo (12)** off-street parking spaces, in addition to those already required **for the single-family home**, shall be provided for an accessory dwelling unit **and shall not render the required parking spaces for the single-family home inaccessible.** ~~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. All ADUs that propose modifications visible from the exterior of the home (i.e., additions and remodels to the primary dwelling or construction of a guesthouse) 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) **in order to maintain the appearance of the primary dwelling as a single-family dwelling.**

- e. **Guesthouse Maximum Size: In all cases a guesthouse shall remain subordinate and incidental to the primary dwelling. No guesthouse shall have more than three (3) bedrooms. The floor space of a guesthouse 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.**

~~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: Applicants for ADUs shall sign and record an affidavit stating that the owner will comply with all regulations of the Accessory Dwelling Unit Floating Zone and will live in either the primary or accessory dwelling unit as their permanent residence. The affidavit 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.

B. Building Permit Requirements: In addition to the approval required from the Planning Department, all accessory dwelling 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. ADUs 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. **Guesthouse** Planning Commission Approval: In addition to the requirements of subsections A and B of this section, **guesthouses**~~accessory dwelling 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 shall require review and approval by the Planning Commission.

17.130.030.030: PROHIBITIONS:

The installation of additional outside entrances visible from the street, separate utility meters, mailboxes, and addresses, is not permitted as such elements may compromise the appearance of the primary dwelling as a single-family dwelling. Internal ADUs shall not be rented or offered as rental units for any period less than thirty (30) consecutive days. ~~ADUs shall not be permitted on flag lots.~~

17.130.030.040: APPLICABILITY:

~~Regardless of an approval granted by the City, accessory dwelling 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.~~

17.130.030.0450: INSPECTIONS:

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 Staff. If the owner of the property containing an ADU violates the provisions of this Code, the City may hold a lien against the property as allowed in the Utah State Code.

17.130.030.0560: PRIOR USE:

An existing accessory dwelling unit may be approved if the ADU 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 for Code compliance. All documented violations shall be corrected prior to approval of the ADU. 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.

17.130.030.0670: APPEALS:

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