

**ORDINANCE NO. 23-21**

**AN ORDINANCE OF SOUTH OGDEN CITY, UTAH, REVISING AND AMENDING SOUTH OGDEN CITY CODE 10-14-23, ALLOWING AND REGULATING DETACHED, ATTACHED, AND INTERNAL ACCESSORY DWELLING UNITS; AND MAKING NECESSARY LANGUAGE CHANGES TO THE CITY CODE TO EFFECT THOSE CHANGES**

**SECTION I - RECITALS:**

**WHEREAS**, South Ogden City (“City”) is a municipal corporation duly organized and existing under the laws of Utah; and,

**WHEREAS**, the City Council finds that in conformance with Utah Code (“UC”) §10-3-717, and UC §10-3-701, the governing body of the city may exercise all administrative and legislative powers by resolution or ordinance; and,

**WHEREAS**, in conformance with the provisions of UCA §10-9a-501 the governing body of the city may enact a zoning ordinance establishing regulations for land use and development within the city; and,

**WHEREAS**, the City Council finds that Utah, as well as many other states in the nation, is experiencing a major housing shortage; and,

**WHEREAS**, the State of Utah has encouraged its cities and towns to find ways to increase housing in their respective jurisdictions; and,

**WHEREAS**, in response to the State’s request, the South Ogden City Council set a strategic goal to “Create or Allow For, And Reduce Regulations Related To, Internal or Detached Accessory Dwelling Units (ADUs) in Residential Zones”; and,

**WHEREAS**, the City Council requested the South Ogden City Planning Commission review ADUs and how they might be allowed in the City; and,

**WHEREAS**, the City Council finds that the Planning Commission has now recommended certain changes to the city zoning ordinance to allow and regulate detached, attached, and internal accessory dwelling units; and,

**WHEREAS**, the City Council finds that South Ogden City Code 10-14-23 and various of its subsections should be amended by adding new language governing these changes and related regulations for the City; and,

**WHEREAS**, the City Council finds that the requirements should be effective upon passage of this Ordinance;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF SOUTH OGDEN CITY, UTAH** that the City Code be changed and amended:

**SECTION II – CITY CODE AMENDED**

Upon the adoption of this Ordinance, Title 10, Chapter 23 of the South Ogden City Code is readopted with the changes set out in **Attachment "A"**, which is incorporated herein, to read as indicated.

**SECTION III - REPEALER OF CONFLICTING ENACTMENTS:**

All orders, ordinances and resolutions regarding the changes enacted and adopted which have been adopted by the City, or parts, which conflict with this Ordinance, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part, repealed.

**SECTION IV - PRIOR ORDINANCES AND RESOLUTIONS:**

The body and substance of any prior Ordinances and Resolutions, with their specific provisions, where not otherwise in conflict with this Ordinance, are reaffirmed and readopted.

**SECTION V - SAVINGS CLAUSE:**

If any provision of this Ordinance shall be held or deemed or shall be invalid, inoperative or unenforceable such reason shall not render any other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Ordinance being deemed the separate independent and severable act of the City Council of South Ogden City.

**SECTION VI - DATE OF EFFECT**

This Ordinance shall be effective on the 5<sup>th</sup> day of December, 2023, and after publication or posting as required by law.

**DATED** this 5<sup>th</sup> day of December, 2023.

SOUTH OGDEN CITY, a municipal corporation

by: \_\_\_\_\_  
Mayor Russell L. Porter

Attested and recorded

\_\_\_\_\_  
Leesa Kapetanov, MMC  
City Recorder

# **ATTACHMENT "A"**

## **ORDINANCE NO. 23-21**

An Ordinance Of South Ogden City, Utah, Revising And Amending South Ogden City Code 10-14-23, Allowing And Regulating Detached, Attached, And Internal Accessory Dwelling Units; And Making Necessary Language Changes To The City Code To Effect Those Changes

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### 10-14-23: Accessory Dwelling Units (ADU)

The purposes and objectives of this section are to provide reasonable regulations for supplementary living accommodations in internal Accessory Dwelling Units (ADUs) located in residential areas of the city.

An internal Accessory Dwelling Unit (ADU) is a room or set of rooms located within the footprint of the primary residential single-family dwelling at the time the internal accessory dwelling unit is created, and located within an area zoned primarily for residential use. The following will apply to internal ADUs:

1. ~~An Accessory Dwelling Unit may be permitted subject to the following conditions:~~
  1. ~~No more than one ADU may be permitted within each single-family dwelling.~~
  2. ~~ADUs are not permitted on residential lots that comprise an area of 6,000 square feet or less.~~
  3. ~~Either the ADU or the principal residence shall be occupied by the owner of the property except for temporary bona-fide absences.~~
  4. ~~ADUs are permitted only in owner-occupied single-family dwellings.~~
  5. ~~There shall be no external evidence of occupancy by more than one family. The ADU shall be clearly incidental to the primary use of the dwelling for dwelling purposes and shall not change the character of the building from that of a dwelling.~~
  6. ~~Each ADU unit shall have the same address as the main structure. Homes with an ADU may designate mail to occupants of the ADU with a unit or apartment number.~~
  7. ~~No ADU may be used as a short-term rental.~~
    1. ~~Short-term rental is defined as a property that is rented for a period of less than 30 days.~~
  8. ~~Each ADU shall provide at least one (1) off-street parking space in addition to the required parking for the primary residential unit.~~
    1. ~~The required ADU off-street parking spaces shall meet the requirements contained in Title 10, Chapter 17 Parking and Loading Space, Driveway, Vehicle Traffic and Access Regulations of the South Ogden City Code.~~
    2. ~~Garage or carport spaces count as approved spaces.~~
    3. ~~Required ADU parking stalls may not be located within a front yard setback area.~~
  9. ~~A single-family dwelling with an ADU shall only have one meter per utility service. Each meter shall be in the property owner's name.~~
  10. ~~All construction and remodeling to accommodate the ADU shall be in accordance with all building codes, as amended, in effect at the time of construction or remodeling.~~
  11. ~~ADU size requirements are:~~
    1. ~~Minimum size: no minimum size.~~
    2. ~~Maximum size: no maximum size.~~
  12. ~~ADUs must include the following:~~
    1. ~~A kitchen separate from the main dwelling.~~
    2. ~~Sanitation facilities (at least a 3/4 bathroom) separate from the main dwelling.~~
  13. ~~A person desiring to add an ADU to their house shall obtain a building permit when applicable.~~
  14. ~~The owner of the property must obtain a City Rental Dwelling Business License for ADUs for which they receive any monetary compensation.~~

- ~~15. ADUs licensed in South Ogden City may be inspected upon receipt of complaints for compliance with building, fire, and health codes by any appropriate department of the City or other governmental agency to ensure compliance with building, fire and health and safety codes. No ADU shall be approved without all required inspections and approval of the City Building Inspector in compliance with UCA 10-9a-511.5 and its subsequent amendments.~~
- ~~16. No Rental Dwelling Business License shall be granted without providing evidence of a Certificate of Occupancy.~~
- ~~17. Prior Uses: No ADU existing prior to the enactment of this Section shall be "grandfathered", or considered legal solely because they were previously used as such.~~
- ~~18. Other Rental Units Prohibited: There shall be no other type of accessory dwelling unit allowed except as provided in this Section. Any portion of a home or dwelling unit that has been sectioned off so that any occupant in the dwelling does not have access to any portion of the home, and contains separate living quarters and/or a kitchen, regardless of the relationship of the occupants, shall be prohibited unless it meets all of the requirements and standards of this Section, and an application has been made pursuant to the requirements and conditions of this Section.~~
- ~~19. The ownership of an ADU shall not be separated from the principal dwelling.~~
- ~~20. Decisions of South Ogden City not to issue a permit for an ADU can be appealed to the Appeal Authority.~~

#### 10-14-23 : Accessory Dwelling Units (ADU)

The purposes and objectives of this section are to provide reasonable regulations for Accessory Dwelling Units (ADUs) located in residential areas of the city. An ADU is a second dwelling unit on an owner-occupied single-family use property that is clearly incidental and accessory to the main dwelling on the property, and can be either internal, detached or attached.

##### A. Definitions:

1. Internal ADU - an accessory dwelling unit located within the footprint of the primary dwelling unit.
2. Detached ADU - an accessory dwelling unit that is located on the residential property and not attached to the principal dwelling unit.
3. Attached ADU - an accessory dwelling unit that constructed as a physical expansion or addition to the primary dwelling, sharing one or more common walls.

##### B. Conditions: An Accessory Dwelling Unit may be permitted subject to the following conditions:

1. No more than one ADU may be permitted on a single lot.
2. There is no minimum lot size for internal or attached ADUs as long as all applicable zoning and permitting requirements are met.
3. Detached ADUs are not permitted on residential lots that comprise an area of less than 10,000 square feet.
4. There shall be no obvious evidence that more than one family is living on the property containing the ADU. The ADU shall be clearly incidental to the primary dwelling and the property on which it is located.

5. Each ADU unit shall have the same address as the main structure. Homes with an ADU may designate mail to occupants of the ADU with a unit or apartment number.
6. The ADU may not be used as a short-term rental.
  - a. Short-term rental is defined as a property that is rented for a period of less than 30 days.
7. ADU size requirements:
  - a. Maximum size.
    - 1) There is no maximum size for ADUs located within or attached to a main building, as long as all applicable zoning and permitting requirements are met.
    - 2) Detached ADUs shall not exceed 1,200 square feet.
8. Site Design and Height Requirements:
  - a. Height Requirements
    - 1) Internal and attached ADUs must meet the height requirements of the primary building.
    - 2) The minimum height of a detached ADU shall not be less than ten feet (10') and the maximum height shall not exceed 19 feet (19'), subject to the following exceptions:
      - a) Height may be increased up to 24 feet for a pitched roof or 20 feet for a flat roof provided the side and rear yard setbacks are increased one foot for each additional foot in building height above 17 feet.
  - b. Setback Requirements:
    - 1) Internal and attached ADUs must meet the setback and height requirements of the primary building.
    - 2) A detached ADU must meet the side and rear yard accessory building setback requirements found in 10-7- RESIDENTIAL ZONES for the specific zone in which it is located.
    - 3) Attached and detached ADUs must utilize a similar residential exterior wall treatment and roofing material as the primary building
    - 4) No ADUs may be located in the front yard.
9. ADUs must include the following:
  - a. A kitchen separate from the main dwelling.
  - b. Sanitation facilities (at least a 3/4 bathroom) separate from the main dwelling.
10. The ADU shall provide at least one (1) off-street parking space in addition to the required parking for the primary residential unit.
  - a. ADUs must meet the off-street parking requirements contained in Title 10, Chapter 17 Parking and Loading Space, Driveway, Vehicle Traffic and Access Regulations of the South Ogden City Code.
  - b. Garage or carport spaces count as approved parking spaces.

- c. Required ADU parking stalls may not be located in a front yard and must meet the off-street parking requirements of 10-17-2 of this code.
11. All utility services shall be in the property owner's name.
12. All construction and remodeling to accommodate the ADU shall be in accordance with all building codes, as amended and in effect at the time of construction or remodeling.
13. A person desiring to construct an ADU shall obtain a building permit as applicable.
14. The property owner must obtain a South Ogden City Rental Dwelling Business License for ADUs for which they receive any monetary compensation.
15. ADUs may be inspected upon receipt of complaints by any appropriate department of South Ogden City or other governmental agency to ensure compliance with building, fire, health, and safety codes.
16. No ADU shall be approved without all required inspections and approvals of the City Building Inspector in compliance with UCA 10-9a-511.5 and its subsequent amendments.
17. No Rental Dwelling Business License shall be granted to an ADU without providing evidence of a Certificate of Occupancy.
18. Prior Uses: No ADU existing prior to the enactment of this Section shall be "grandfathered" or considered legal solely based on the fact they were used as such. No ADU dwelling unit is allowed except as provided in this Section. Any portion of the primary residence or ADU that is sectioned off so that any occupant of said dwelling does not have access to any portion of the home, and contains separate living quarters and/or a kitchen, regardless of the relationship of the occupants, shall be prohibited unless it meets all of the requirements and standards of this Section, and an application has been made pursuant to the requirements and conditions of this Section.
19. The ownership of an ADU shall not be separated from the principal dwelling.
20. a. After a Residential Rental ADU License has been approved by the City, staff shall record a notice with the Weber County Recorder's Office that an ADU has been permitted for the property. The notice shall include:
1. A description of the primary property
  2. a statement describing what type of ADU has been approved
  3. a statement that the ADU may only be used if the owner lives in either the primary unit or the ADU
  4. a statement the ADU may only be used in accordance with South Ogden City's land use regulations
- b. After recording the notice, staff shall deliver a copy of the notice to the owner of the ADU property owner.
21. The decision by South Ogden City staff to not issue a permit for an ADU may be appealed to the Appeal Authority as per 10-4-3 of this code.

## **10-14-5: Additional Height Regulations**

A. Accessory Dwelling Units (ADUs) are not considered accessory buildings for the purposes of this section.

~~a.~~B. Specified: Penthouse or roof structures for housing elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain a building, and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks and water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limits prescribed in the zone height regulations, but no space above the height limit will be allowed to provide additional floor space, and no structure, howsoever denominated, of a height greater than the maximum allowed under airport area height provisions, shall be permitted or maintained.

C. Minimum For Dwellings; Maximum For Accessory Buildings: No dwelling will be erected to a height less than ten feet (10') and no accessory building in a residential zone will be erected to a height greater than nineteen feet (19') or one story. For nonvehicle accessory buildings, the walls will not exceed ten feet (10') high from the finished floor. For vehicle accessory buildings, the height of the eaves or cornice may be two feet (2') higher than the vehicle door but not to ~~ex~~ceed fourteen feet (14'). (Ord. 17-23, 11-21-2017, eff. 11-21-2017).

## **10-14-22: Standards For Accessory Buildings In Residential Zones**

A. Prohibited Use: Accessory buildings shall not be used as living quarters. Accessory Dwelling Units are not considered accessory buildings for the purposes of this section.

~~A.~~B. \_\_\_\_\_ Design and Materials: The original design of the building must have been to function as a typical accessory residential structure, such as a patio cover, pergola, storage shed, garage or carport, and not for some other use. Reuse of a metal structure originally designed or used for other purposes, such as shipping or cargo containers, is not allowed unless the exterior of the metal structure is made to be integrated into the design of the main residential building, with a similar residential exterior wall treatment and roofing material as the main building.

1. Metal accessory buildings two hundred (200) square feet or less are allowed in all residential zones. Accessory buildings over 200 square feet are allowed with exterior finished walls constructed of up to 50% painted metal, with the remainder of the building covered in horizontal lap or vertical (board and batten) siding, brick, stucco, wood, or similar material as the main building, etc.
2. All accessory buildings larger than 200 square feet must be integrated into the design of the residential building, with a similar residential exterior wall color.
  - a. Roofing materials including metal roofs shall have a similar color as the main building.
  - b. An eave proportionate to the main building is required with a minimum of 12 inches. Aluminum fascia and soffits are allowed.
3. Roof pitches shall be a minimum of a 4/12.

~~B.~~C. \_\_\_\_\_ Location and Size:

1. No detached accessory building, other than trellises, shall be allowed in the front yard between the main residential building and the street.
2. A garage or carport attached to the main residential building is allowed between the front of the main residential building and the street if the front yard setback requirement for the zone is maintained and the garage or carport is integrated into the design of the residential building, with a similar residential exterior wall treatment, roof slope, and roofing material as the main building to which it is attached.
3. A detached garage or carport may be located in the side yard so long as it meets the side and front yard setbacks, is a minimum of 6 feet from the main building, is integrated into the design of the residential building, with a similar residential exterior wall treatment and roofing material as the main building.
4. Accessory buildings may be located in a rear yard provided they meet the required setbacks of the zone.

~~C.D.~~ \_\_\_\_\_ Height: The building shall not exceed the maximum height allowed by other sections of the Zoning Ordinance (See 10-14-5: Additional Height Regulations).

~~D.E.~~ \_\_\_\_\_ ~~Prohibited Use: Accessory buildings shall not be used as living quarters. Accessory Dwelling Units are not considered accessory buildings.~~