

ORDINANCE NO. 24-02

AN ORDINANCE OF SOUTH OGDEN CITY, UTAH, AMENDING SOUTH OGDEN CITY CODE 10-14-23 CONCERNING SETBACK REQUIREMENTS FOR DETACHED 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 recently passed an ordinance allowing detached Accessory Dwelling Units (ADUs); and,

WHEREAS, at the time the ordinance was adopted allowing detached ADUs the property line setback requirements for the detached ADUs was questioned; and,

WHEREAS, after further consideration by the Planning Commission they recommended that the property line setback requirements for detached ADUs be increased; and,

WHEREAS, the City Council finds that increasing the property line setback requirements is in line with its desire to allow all types of ADUs without them negatively affecting neighbors or neighborhoods; and,

WHEREAS, the City Council finds that South Ogden City Code 10-14-23 and various of its subsections should be amended to reflect the increased setbacks; and,

WHEREAS, the City Council finds that the amendments 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and adopted which have been adopted by the City, or parts, which conflict with this Ordinance, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part, repealed.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 19th day of March, 2024, and after publication or posting as required by law.

DATED this 19th day of March, 2024.

SOUTH OGDEN CITY, a municipal corporation

by: _____
Mayor Russell L. Porter

Attested and recorded

Leesa Kapetanov, MMC
City Recorder

ATTACHMENT "A"

ORDINANCE NO. 24-02

An Ordinance of South Ogden City, Utah, Amending South Ogden City Code 10-14-23
Concerning Setback Requirements for Detached Accessory Dwelling Units; and
Making Necessary Language Changes to the City Code to Effect Those Changes

19 Mar 24

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 is 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 maintain five foot (5') minimum side yard and rear yard setbacks from any property line, be located at least six feet (6') from the main building on the same lot and no closer than ten feet (10') to any dwelling on an adjacent lot. A detached ADU on a corner lot must be set back twenty feet (20') from the property line on the side where the main dwelling side yard faces the street. ~~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. Notice Recorded:
 - 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.