

## Memo – Accessory Apartment Ordinance Amendment

City of Elk Ridge, Utah  
City Council Discussion and Decision  
January 10, 2015

**Regarding: Discussion and Decision concerning amendment of the Accessory Apartment Ordinance**

### **Background:**

The Accessory Apartment ordinance as written requires the payment of impact fees and a yearly fee. The allowable use of impact fees per the State Code is very narrow and fees can only be charged for those items specifically listed in the state code. An accessory apartment impact fee is not legal under state code. Because of this, the accessory apartment impact fee was removed from the fee schedule with the last update of the City Fee Schedule. The code must also be revised to correct this issue.

Per code the yearly fee is a renewal fee is a processing fee to determine that the dwelling continues to meet the standards and criteria associated with the permit. This fee is justified as such. The City does need to create a renewal application for this purpose.

As a point of clarification the wording of the code concerning the location of entrances is very confusing and thus while making amendment to the code it makes sense to clean the language up.

The proposed changes to the ordinance have been highlighted:

### **10-12-29: ACCESSORY APARTMENTS:**

A. *Intent: The following regulations have been established to:*

1. *Provide minimum standards for the establishment and operation of accessory apartments within the city. (Ord. 99-6-22-4, 6-22-1999)*
2. *To facilitate the implementation of the affordable housing element of the general plan by adopting provisions allowing the construction and operation of accessory apartments within single-family dwellings.*

B. *Application And Approval Required:*

1. *Accessory apartments situated within single-family dwellings may be approved by the zoning administrator, or such other city officer or board (hereafter referred to as "designated approval authority"), as may be delegated by the city council, following receipt of an application and subject to a finding that the primary dwelling and proposed accessory apartment conforms to the conditions and standards hereinafter set forth.*

2. Any person constructing or causing the construction of a single-family dwelling containing an accessory apartment, or any person remodeling or causing the remodeling of a single-family dwelling intended to include an accessory apartment shall first obtain an accessory apartment permit. Before the permit is issued the applicant shall: (Ord. 99-6-22-4, 6-22-1999; amd Ord. 12-05, 11-27-2012)

a. Submit the following materials relating to the proposed accessory apartment:

(1) An application for approval of an accessory apartment.

(2) A site plan, drawn accurately to scale, that shows property lines and dimensions, the location of all existing buildings, the location of existing and proposed entrances, and the location of existing and proposed off street parking stalls.

(3) A detailed floor plan of the dwelling, drawn to scale, and showing the use of each room and the location of the rooms included in the accessory apartment.

(4) Request to establish a utility service account with the city which includes the accessory apartment.

(5) All plans and other submittal shall conform with the standards set forth in this section. (Ord. 99-6-22-4, 6-22-1999)

~~b. Make payment of impact fees applicable to the establishment of accessory apartments. The amount of said impact fees are in such amounts as established by resolution of the city council. (Ord. 99-6-22-4, 6-22-1999; amd. 2003 Code)~~

c. Make payment of such fees as are required for the processing of the application.

C. Standards And Design Criteria: Any proposal for the establishment of an accessory apartment shall comply with the following standards and criteria:

1. Accessory apartments are specifically listed as a permitted or conditional use within the zone.

2. Accessory apartments shall be permitted only in the instance where the primary dwelling is owner occupied. (Ord. 99-6-22-4, 6-22-1999)

3. A single-family dwelling may include not more than one accessory apartment.

4. The lot occupied by a single-family dwelling with an accessory apartment shall include not less than three (3) off street parking spaces. No portion of the required off street parking shall be situated within the front setback area or side setback area adjacent to a street. All off street parking areas shall be paved with concrete, asphalt, masonry or concrete pavers.

5. Single-family dwellings containing an accessory apartment shall be served by a single water and sewer connection. (Ord. 99-6-22-4, 6-22-1999; amd. Ord. 12-05, 11-27-2012)

6. An accessory apartment shall contain not less than three hundred (300) square feet. The primary dwelling shall conform to the building area requirements of the zone, not including the portion devoted to the accessory apartment.
7. All construction and remodeling to accommodate the accessory apartment shall conform to the building code in effect at the time of construction or remodeling. (Ord. 99-6-22-4, 6-22-1999)

# The exterior entrance for an accessory apartment shall be separate from the primary single family dwelling entrance.

8. The exterior entrance for an accessory apartment approved as part of a new single-family dwelling approved with an accessory apartment shall not have a separate entrance for the accessory apartment at the be located at the front of the dwelling adjacent to a street.

9. Where the proposed accessory apartment is to be located in an existing single-family dwelling, the entrance shall: a) conform to the requirements applicable to a new dwelling; or b) where the separate entrance is an existing entrance facing the street, the style of the entrance door shall be the same as the entrance door for the primary dwelling. ~~on any side of the dwelling that faces a street.~~ The purpose of this requirement is to preserve the single-family residential look of the structure. (Ord. 99-6-22-4, 6-22-1999; amd. Ord. 12-05, 11-27-2012)

10. The primary dwelling shall either: a) be served by the city sanitary sewer system; or b) if served by septic tank disposal system, provide written evidence from the county health department, or its successor agency, that the septic tank and drain field system is adequate to accommodate the additional demand from the accessory apartment. (Ord. 99-6-22-4, 6-22-1999; amd. 2003 Code)

D. *Duration Of Permit; Continuing Obligation:* An accessory apartment permit shall be valid for the year in which it is first issued and until May 1 of the year following its issuance. Thereafter, the accessory apartment permit shall be automatically renewed for the next succeeding year upon receipt of: 1) payment of an annual accessory apartment permit fee; 2) evidence that the primary dwelling is occupied by the owner; and 3) a determination by the city that all conditions of approval remain in effect. (Ord. 99-6-22-4, 6-22-1999)

E. *Preexisting Accessory Apartments:* Where an existing single-family dwelling contains an accessory apartment, the city will issue a permit for continued operation of the accessory apartment existing at the time of the adoption hereof if all the following conditions are met: (Ord. 99-6-22-4, 6-22-1999; amd. Ord. 12-05, 11-27-2012)

1. Accessory apartments are permitted within the zone in which the dwelling is located;
2. The primary dwelling and the portion intended for use as an accessory apartment shall have been inspected by the building inspector and certified as being safe for occupancy;
3. The owner of the primary dwelling shall have submitted an application to continue operation of the accessory apartment within ninety (90) days of the adoption of this section;

4. *The city shall have received payment of ~~all required impact or~~ processing fees required as a condition of approval of an accessory apartment ~~(see subsection B2b of this section).~~*

F. *Penalty: Failure to secure approval of an accessory apartment as provided in this section or to operate an accessory apartment in accordance with the terms of this section shall be considered a violation of this development code and punishable as provided herein. (Ord. 99-6-22-4, 6-22-1999)*

On December 11, 2014 after holding a Public Hearing the Planning Commission moved to send the proposed amendment to the City Council.

**Recommendation:** Amend the Accessory Apartment code as proposed to remove reference to the impact fee and clarify the location of entrances.

Shay Stark, Planner

Phone: 801-299-1327 ext. 3731

E-mail: [shays@aquaeng.com](mailto:shays@aquaeng.com).