



## Planning and Zoning

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<https://tooeleco.org/government/county-departments/community-development/>

TCLUO 2022-095

## Land Use Table update on Accessory Dwelling Units

**Public Body:** Tooele County Planning Commission

**Meeting Date:** August 3, 2022

**Request:** TCLUO update to Table 15-5-3.3(c) and (d) Dwellings, living quarters and long or short-term residences.

**Adding to Table 16-4-3.3 Dwellings, living quarters and long or short-term residences, section (l) to allow internal ADU**

**Planners:** Trish DuClos

**Planning Commission Recommendation:** Initiated request

**Planning Staff Recommendation:** Approval

## PROJECT DESCRIPTION

Planning Commission is requesting an ordinance update to Land Use Table 15-5-3.3(c) and (d) Dwellings, living quarters and long or short-term residences. The requested changes to Accessory Dwelling Units (ADU) would change the size limit required of detached ADUs along with lot acreage limits, height limit and some technical wording. Also updating the definition of an accessory use or building in Chapter 2. And adding a section (l) to Table 16-4-3.3 Dwellings, living quarters and long or short-term residences to allow internal ADUs.

Some possible changes to Chapter 4 "Supplementary and Qualifying Regulations" may be needed to comply and be cohesive with the ADU changes.

## COMMUNITY RESPONSE

Planning staff processes a lot of ADUs each year and every property owner has had trouble complying with the size limitation and height requirement, along with compatibility of the exterior (which is kept in the updates). Some of which were denied based on these code requirements. Just recently a few of applicants of ADUs have voiced in favor of the recent changes planning commission has requested.

## ISSUES OF CONCERN

Staff has found that some of the original requested changes are in violation of state code. Staff addresses these in analysis paragraph. There are possible conflicts in Chapter 4 of the Land Use Code.

## PLANNING COMMISSION RESPONSE

Recommendation of approval in 1<sup>st</sup> hearing on June 15, 2022. The response on new changes has not yet been received.

## PLANNING STAFF ANALYSIS

Planning staff agrees with the needed changes planning commission has made. Planning staff has also aided Commission in adjusting and updating certain parts of the ADU code to make it more cohesive with the rest of the land use codes and definitions. The purposed updated table is attached to this staff report as a clean version as well as a copy of the changes made by commission and staff indicated in red.

Upon further review and research at the state level Staff has found some needed changes in order for the county to comply with state codes as well as supplemental codes of the county.

These state requirements would change Chapter 16 of the Tooele County Land Use Code as well as Chapter 15 to a permitted use of Internal ADUs, with some restrictions.

Staff advises planning commission to review the allowed conditions a county may impose in sections 3 and 4 of the state code. The state code section is attached to the end of the staff report and Tooele County Code changes.

If planning commission finds that mobile and manufactured homes are allowed to be ADUs than that would change Tooele County Code **4-4 (n)** very last sentence. Planning commission may also consider code changes to Chapter **4-10** "Area of accessory buildings." Which states, "No accessory building or group of accessory buildings in any residential district shall cover more than 25% of the rear yard." Also consider Chapter **4-13** "Maximum height of accessory buildings." Which states, "No accessory building in a residential (R-1) or residential multi-family (RM) zoning district shall contain more than one story or exceed 20 feet in height. In all other zoning districts accessory buildings and structures shall not exceed the height of the zoning district in which it is located. No space within an accessory building or structure shall be used as a dwelling."

## **PLANNING STAFF RECOMMENDATION**

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Planning Staff encourages the Planning Commission to review the proposed ordinance updates regarding Tooele County Land Use Ordinances in Table 15-5-3.3, Table 16-4-3.3, definitions in Chapter 2, supplementary and qualifying regulations in Chapter 4, as well as the state codes prior to recommending a motion to County Council.

**Table 15-5-3.3. Dwellings, living quarters and long or short-term residences.**

(Ord. 2015-21, 4/21/15; Ord. 2012-10, 4/3/12; Ord. 2010-16, 8/24/10; Ord. 2007-18, 6/19/07; Ord. 2007-04, 2/13/07; Ord. 2005-30, 11/22/05; Ord. 2005-19, 6/21/05)



	<p>relationship to adjacent properties and does not significantly impact the privacy, light, air, solar access, or parking of adjacent properties;</p> <p>5. The accessory <del>housing dwelling</del> unit shall have the same address as the single family dwelling;</p> <p>6. There shall be <del>at least</del> one parking space provided on-site for each studio and one bedroom accessory <del>housing dwelling</del> unit. <del>At least</del> <del>two</del> parking spaces shall be provided on site for <del>each a</del> two bedroom or larger accessory <del>housing dwelling</del> unit. Parking for the accessory <del>housing dwelling</del> unit is in addition to the required parking for the primary residence;</p> <p>7. <del>The floor area for the accessory housing unit shall not exceed 800 square feet or 30% of the primary residence, whichever is greater, for lots between 1 and 4.69 acres. For lots 4.7 and larger, accessory housing shall not exceed 1,500 square feet or 30% of the primary residence, whichever is greater. The detached accessory dwelling unit shall not exceed 1500 square feet of gross floor area or 75% of the primary dwelling, whichever is greater. In no case may any combination of buildings occupy more than the required rear yard for the district in which it is located; cover more than the lot maximum coverage allowed for the zoning district.</del></p> <p>8. The <del>A</del>ccessory <del>housing dwelling</del> units shall meet the same setbacks as a single family dwelling in the zoning district;</p> <p>9. The height of a detached accessory dwelling unit shall not exceed the height of the primary dwelling. <del>Building height and stories shall be as follows:</del></p> <p>a. <del>A one story detached accessory housing unit shall be no more than thirteen feet in height.</del></p> <p>b. <del>A one and one half to two story detached accessory housing unit shall be no more than twenty-</del></p>								
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	<p>two feet in height measured to the roof peak.</p> <p>c. An attached accessory housing unit may occupy a first or second story of a main residence if it is designed as an integral part of the single family dwelling and meets the setbacks required for the single family dwelling.</p> <p>d. If the design of the main dwelling has special roof features that should be matched on the detached accessory housing unit, the maximum building height of the accessory housing unit may be exceeded to include such similar special roof features subject to review and approval of the Zoning Administrator;</p> <p>10. The accessory <del>housing</del> dwelling unit shall not be sold separately or converted to a condominium or any other form of legal ownership different from the ownership of the primary residence. The <del>Engineering</del> Community Development Department shall record a notice of this limitation against the property upon issuance of the permit;</p> <p>11. <del>The use permit for the accessory housing unit shall be in effect only so long as the single family dwelling is occupied by the owner of record as the principal residence; and</del></p> <p>12. The above conditions are binding upon any successor in ownership of the property; lack of compliance shall be cause for ordinance enforcement and revoking the conditional use permit.</p>									
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(3) "Accessory use or building" means a use or building on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or building. It does not include garages or decks ~~attached to the main dwelling or fences.~~

**Table 15-5-3.3. Dwellings, living quarters and long or short-term residences.**

(Ord. 2015-21, 4/21/15; Ord. 2012-10, 4/3/12; Ord. 2010-16, 8/24/10; Ord. 2007-18, 6/19/07; Ord. 2007-04, 2/13/07; Ord. 2005-30, 11/22/05; Ord. 2005-19, 6/21/05)

	<p>parcel. The detached accessory dwelling unit shall comply with the following conditions:</p> <ol style="list-style-type: none"> <li>1. Exterior design of the accessory dwelling unit shall be compatible with the existing single-family dwelling on the lot through architectural use of building forms, construction, materials, colors, landscaping, and other methods that conform to acceptable construction practices;</li> <li>2. The accessory dwelling unit shall be subordinate to the single-family dwelling. A single-family dwelling exists or will be constructed in conjunction with the accessory dwelling unit;</li> <li>3. The accessory dwelling unit shall not result in excessive noise, traffic, or parking congestion;</li> <li>4. The location of the accessory dwelling unit shall maintain a compatible relationship to adjacent properties and does not significantly impact the privacy, light, air, solar access, or parking of adjacent properties;</li> <li>5. The accessory dwelling unit shall have the same address as the single-family dwelling;</li> <li>6. There shall be at least one parking space provided on-site for each studio and one bedroom accessory dwelling unit. At least two parking spaces shall be provided on site for a two bedroom or larger accessory dwelling unit. Parking for the accessory dwelling unit is in addition to the required parking for the primary residence;</li> <li>7. The detached accessory dwelling unit shall not exceed 1500 square feet of gross floor area or 75% of the primary dwelling, whichever is larger. In no case may any combination of buildings cover more than the lot maximum coverage allowed for the zoning district.</li> <li>8. The accessory dwelling unit shall meet the same setbacks as a single-family dwelling in the zoning district;</li> </ol>								
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	<p>9. The height of a detached accessory dwelling unit shall not exceed the height of the primary dwelling.</p> <p>10. The accessory dwelling unit shall not be sold separately or converted to a condominium or any other form of legal ownership different from the ownership of the primary residence. The Community Development Department shall record a notice of this limitation against the property upon issuance of the permit;</p> <p>11. The above conditions are binding upon any successor in ownership of the property; lack of compliance shall be cause for ordinance enforcement and revoking the conditional use permit.</p>										
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(3) "Accessory use or building" means a use or building on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or building. It does not include garages or decks attached to the main dwelling or fences.

**Table 16-4-3.3. Dwellings, living quarters and long or short-term residences.**

(Ord. 2010-16, 8/24/10; Ord. 2005-30, 11/22/05)

#	Use	Residential (R-1-__)				Multiple Residential (R-M-__)		
		21	12	10	8	7	15	30
I	<p>One internal accessory dwelling unit located within the single-family dwelling structure. No townhouses shall have accessory dwelling units. Only one accessory dwelling unit shall be allowed for each parcel. The internal accessory dwelling unit shall comply with the following conditions:</p> <ol style="list-style-type: none"><li>1. Any separate entrance shall be located so that the appearance of a single-family dwelling is preserved;</li><li>2. The accessory dwelling unit shall be subordinate to the single-family dwelling;</li><li>3. The accessory dwelling unit does not result in excessive noise, traffic, or parking congestion;</li><li>4. The accessory dwelling unit shall have the same address as the main house;</li><li>5. At least one parking space shall be provided on-site for each studio and one bedroom accessory dwelling unit. At least two parking spaces shall be provided on site for a two-bedroom accessory dwelling unit. The parking requirements for the accessory dwelling unit is in addition to the required parking for the single-family dwelling;</li><li>6. The above conditions are binding upon any successor in ownership of the property; lack of compliance shall be cause for code enforcement and/or revoking the conditional use permit.</li></ol>	P	P	P	P	P	P	P