NOTICE AND AGENDA

SOUTH OGDEN CITY PLANNING COMMISSION MEETING

THURSDAY, JULY 13, 2023

Notice is hereby given that the South Ogden City Planning Commission will hold a meeting on Thursday, July13, 2023, beginning at 6:15 p.m. The meeting will be located at City Hall, 3950 Adams Ave., South Ogden, Utah, 84403, in the city council chambers. The meeting is open to the public; anyone interested is welcome to attend. Some members of the commission may be attending the meeting electronically. The meeting will also be streamed live over www.facebook.com/southogdencity.

A briefing session will be held at 5:30 pm in the conference room and is open to the public.

I. CALL TO ORDER AND OVERVIEW OF MEETING PROCEDURES - Chair Jeremy Howe

II. ZONING ITEMS

Discussion on Driveways and Off-Street Parking

III. SPECIAL ITEMS

Discussion on City Council Strategic Initiative 6.3- Create or Allow For, And Reduce Regulations Related To, Internal or Detached Accessory Dwelling Units in Residential Zones

IV. APPROVAL OF MINUTES OF PREVIOUS MEETING

Approval of June 8, 2023 Planning Commission Minutes

V. STAFF REPORTS

VI. OTHER BUSINESS

VII. PUBLIC COMMENTS

VIII. ADJOURN

The undersigned, duly appointed City Recorder, does hereby certify that a copy of the above notice and agenda was posted to the State of Utah Public Notice Website, on the City's website (southogdencity.gov) and emailed to the Standard Examiner on July 10, 2023. Copies were also delivered to each member of the Planning Commission.

Leesa Kapetanov, City Recorder

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during the meeting should notify the City Recorder at 801-622-2709 at least 48 hours in advance.

Planning Commission Report

Subject: Discussion on ADUs:
(1) Recent Utah Legislative Changes and Subsequent Modifications to Utah LUDMA Requirements;
(2) Implementing Portions of the South Ogden General Plan that address ADUs

Author: Mark Vlasic

Department: City Planner

Date: July 13, 2023

Introduction

1) Recent Legislative / LUDMA Changes Related to Internal ADUs

In March 2021 **H.B. 82** was passed by the State of Utah, requiring that all municipal codes be amended to comply with the new state law related to Internal ADUS (IADUs).
The bill addressed "internal" ADUs, e.g. accessory dwelling units that are located within or attached to the primary residence the premise that an accessory dwelling unit inside someone's home, and do not address standalone ADUs or Ads attached to garages and other secondary structures on a residential property. The bill permits internal ADUs in all municipalities and includes several changes to allow make it easier to create accessory dwelling units by removing some of the obstacles that often prevent such uses from being permitted.

In May 2023 **SB 174** was passed, which changes three areas of the Land Use, Development, and Management Act (LUDMA) related to Internal ADUs as follow:

- It creates a new process that all municipalities and counties must follow for subdividing residential lots.
- **It modifies the Internal Accessory Dwelling Unit (IADU) provisions enacted in HB 82 (2021).**
- Lastly, the bill creates a penalty for cities and counties who fail to comply with MIHP reporting requirements beginning in 2024.

A copy of the portion that addresses IADUs (highlighted above) is attached. To summarize, the updated act:

- removes restrictions on unit size, lot size, street frontage, and internal connectivity.
- maintains some local control regarding design, parking, utilities, safety, occupancy, including the following:

- clarifies that attached garages (which share a common wall) are part of the primary dwelling for the purposes of the IADU provisions.
- prohibits local governments from regulating internal connectivity between the IADU and the primary dwelling within the structure of the residence.
- states that municipal architectural element requirements for IADUs must be consistent with the regulations applied to other single-family units.
- clarifies that municipalities can require one parking space in addition to the number of parking spaces required by the governing land use ordinance unless the municipality requires four or more off-street parking spaces within the setback.
- states that the 25% of residential land use exception from the IADU provisions does not apply to new construction with a final plat approved on or after October 1, 2021.

Since South Ogden currently has an ADU code in place, staff is reviewing it to ensure it meets the recent state code revisions.

(3) Implementing Portions of the South Ogden General Plan that address ADUs

South Ogden is in the final stages of completing and adopting the *South Ogden General Plan 2023*. The plan is divided into seven chapters which together provide a clear vision for the future of the city. The plan also includes policies for making decisions related to the general plan, and a series of goals, objectives and strategies for meeting them.

Utah Code 10-9a-403 requires that municipalities include within their General Plan a Moderate-Income Housing element, which should include the following:

- Provide for a realistic opportunity to meet the need for additional moderate-income housing within the next five years.
- Three or more moderate income housing strategies (as defined in Utah Code) for implementation.
- An implementation plan.

The Housing Chapter of the South Ogden General Plan goes beyond those minimum requirements, including the following five strategies for 2023:

STRATEGY 1: Demonstrate utilization of a moderate-income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing.

STRATEGY 2 : Preserve existing and new moderate-income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund.

STRATEGY 3 : Create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones.

STRATEGY 4: Zone or rezone for higher density or moderate-income residential development in commercial or mixed-use zones near major transit investment corridors, commercial centers, or employment centers.
STRATEGY 5: Rezone for densities necessary to facilitate the production of moderate-income housing (Menu Item A).

As highlighted in bold text above, Strategy 3 addresses the allowance and or reduction of regulations to promote internal and external ADU requirements. The strategy is further defined as follows:

South Ogden has created regulations related to internal accessory dwelling units (ADUs) in residential zones. In 2021, South Ogden amended City code to allow for the interior ADUs as permitted uses in single-family residential, two-family residential, and multiple-family residential zones. In addition, the City created an "Accessory Dwelling Unit" section in their municipal code (Adopted 9/21/2021) to provide reasonable regulations for supplementary living accommodations in internal ADUs located in residential areas of the City.

IMPL EMENTAT ION
- *Begin to track building permits and rental licenses related to ADUs (Spring 2023).*
- *Review "Accessory Dwelling Unit" code with City Council and Planning Commission to determine the feasibility of extending policy to allow for attached and detached ADUs (Winter 2023).*
- *Work with the Planning Commission and City Council on drafting and adopting ADU code amendment (Spring 2024).*

Discussion
Staff has reviewed the existing IADU code to determine whether it meets recent legislative changes and subsequent changes to LUDMA which went into effect in May 2023. Staff believes that only minor modifications are required to meet the revised code.

The City Council has asked that the planning commission undertake a more extensive review and discussion of ADU's, with a particular focus on meeting Strategy 3 of the Housing Chapter of the 2023 General Plan, to determine the feasibility of extending the IADU code to attached and detached ADUs.

The planning commission has undertaken similar discussions related to ADUs over the past several years. In order to help facilitate new discussions, an ADU Refresher Course" presentation is provided (see attachment), which includes four recent codes developed by similar municipalities for similar purposes.

Next Steps
Staff is prepared to prepare new or revised codes to meet direction provided by the Planning Commission once discussions are completed. These may eventually be presented to the City Council for further consideration upon the direction of the Planning Commission.



SOUTH OGDEN ACCESSORY DWELLING UNIT ORDINANCE DISCUSSION

Planning Commission

13 JULY 2023

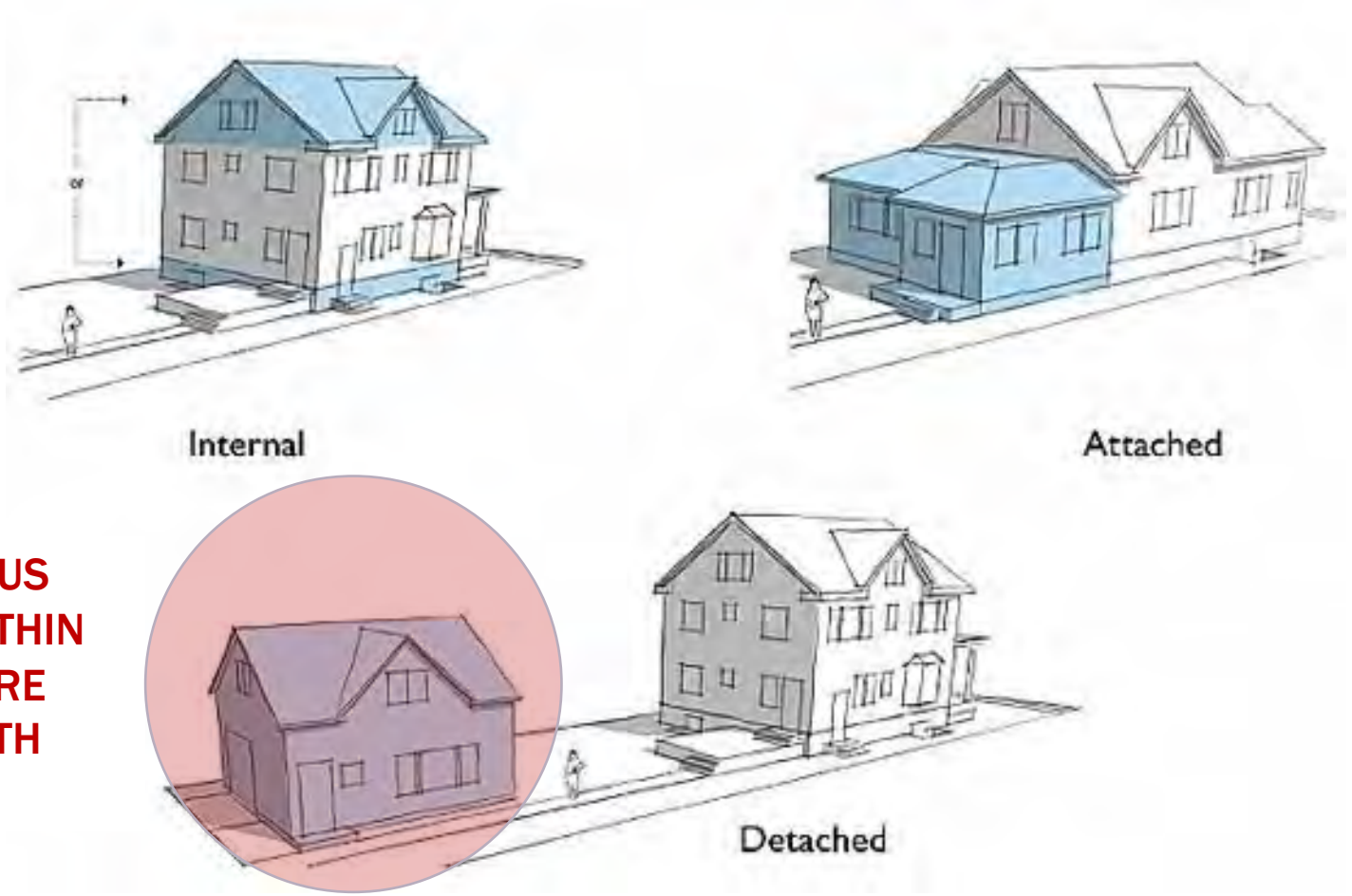
ACCESSORY DWELLING UNITS (ADU)

For many Utahns, finding an affordable home is harder than ever. As a result, state policymakers have become increasingly involved in the search for solutions for improving access and supply of affordable housing.

ACCESSORY DWELLING UNITS (ADU)

Accessory dwelling units (ADUs) — small rental units that can be added to existing properties and ease housing shortages — are at the forefront of these efforts. ADUs are an attractive option because they represent a type of housing that are typically hundreds of dollars less than apartments in the same neighborhood. They are also gaining popularity because they can potentially provide a reasonable fit and only limited impacts in established neighborhoods.

TYPES OF ADUs



ONLY INTERNAL ADUS (IADU) LOCATED WITHIN EXISTING HOMES ARE PERMITTED IN SOUTH OGDEN

PROS & CONS OF ADUS

PROS

Versatile Space & Form

They may be located internally within the primary residence, attached to it or detached from it on the same site

Value

Some studies indicate that having an ADU on your property adds value to the home

Income

A popular reason for building an ADU is the rental income opportunity

PROS & CONS OF ADUS

CONS

Loss of Space

When using an existing space, such as a garage or backyard area, you ultimately suffer the loss of that space

Cost

Building an ADU is a considerable cost

Disruption

An ADU will affect the homeowners' daily life

STATE ADU REGULATIONS

- Recent state legislation (2023) mandates that all Internal ADUs shall be permitted uses
- It also removes restrictions on unit size, lot size, street frontage, and internal connectivity for IADUs
- Municipalities still have some control regarding the design, parking, utilities, safety and occupancy requirements of IADUs

OTHER MUNICIPALITIES

- Staff previously reviewed ADU ordinances from 25 other Utah communities. Staff has since undertaken a more limited assessment of ADU trends and issues in comparable cities, with the following findings:
  - Most have removed IADUs as a conditional use
  - The size of detached ADU additions is a common concern
  - “Grandfathered” units and building code compliance are also issues
  - Some communities desire to remove/revise parking and/or owner-occupancy requirements

OTHER MUNICIPALITIES

- Staff has specifically reviewed recent and on-going ADU code modifications for four communities of comparable size, each of which have addressed allowing attached and detached ADUs:
  - West Point
  - North Logan
  - Heber
  - Tremonton

1-WEST POINT ADU ORDINANCE

- Comprehensive revision of IADU ordinance allows all types of ADUs
  - Internal
  - Attached
  - Detached
- All are permitted (no conditional use requirements)
- Each type has slightly different site requirements
  - IADU requirements are the least onerous, followed by attached ADUs

2- NORTH LOGAN ADU ORDINANCE

- Comprehensive revision of IADU ordinance that allows Internal and Detached ADUs
  - Attached ADU is not specified
- IADUs are permitted according to state requirements
- Detached are permitted as a conditional use
  - Detached accessory dwelling unit shall not exceed 50% of the building of the single-family dwelling, up to a maximum Gross Area of 1,000 square feet.
  - If the Accessory Dwelling Unit is built entirely over a garage for the primary structure, the entire structure shall not exceed a maximum Gross Area of 1,500 square feet.

3-HEBER ADU ORDINANCE

- Ordinance does not specify the type of ADU that is permitted
  - Requirements extend to internal, attached and detached equally
- Requirements are simple and easy to understand
- Permits the largest ADUs (up to 1,500 SF) as long as site and building code requirements are met

4-TREMONTON ADU ORDINANCE

- **Similar to North Logan Ordinance**
- **IADUs are permitted according to state requirements**
- **Detached are permitted as a conditional use**
  - Attached ADU is not specified
  - Detached accessory dwelling unit shall not exceed 50% of the building of the single family dwelling, up to a maximum Gross Area of 1,000 square feet.
  - If the Accessory Dwelling Unit is built entirely over a garage for the primary structure, the entire structure shall not exceed a maximum Gross Area of 1,500 square feet.

QUESTION 1

- Should South Ogden revise and expand the ADU Ordinance to include attached and detached units?
  - If not, how does this impact the housing chapter of the general plan, which includes a specific strategy to consider such changes?

QUESTION 2

- Are all types of detached ADUs are appropriate? Are some more appropriate than others?
  - Many communities in Utah are now allowing for detached ADUs, as this is a relatively easy way to meet affordable housing requirements.
  - If attached and detached ADUs are determined not to be appropriate, what is the rationale(s) for reaching this conclusion?

QUESTION 3

- IADUs are a permitted use in the current code. If attached and detached units are to be allowed, should they also be permitted uses?

QUESTION 4

- If attached and detached ADUs are to be allowed, where should they be permitted ?
  - In all residential zones, only zones with lots of space, same zones as IADUs, only areas with access to transit and services?
  - Communities such as West Point and Salem have created size restrictions on detached ADUs based on lot size – is this a good idea?
  - Mixed-use/downtown/transit-oriented areas commonly remove certain requirements such as parking

QUESTION 5

- What specific parameters should be considered for the ordinance?
  - Size, height, kitchen/bathroom requirements, materials, rooflines
  - Parking requirements, setbacks
  - Owner-occupancy requirements
  - Process, administration, and review (permitted vs conditional use)

OTHER CONSIDERATIONS

Code changes only go so far. If ADUs are allowed, should South Ogden further to encourage them?

EXAMPLES:

- Simplify the zoning and application process
- Prepare educational and marketing materials to clarify the application process and building requirements
- Incentivize ADU development – possibilities include identifying loan options, providing financial grants, waiving application and permit fees

ADU EXAMPLES





A External ADU – Detached / Located in Rear Yard (New)

B External ADU – Detached / Located in Rear Yard (Converted Garage)

C External ADU – Detached / Located Above Side Yard Garage (Replaces Existing Garage)

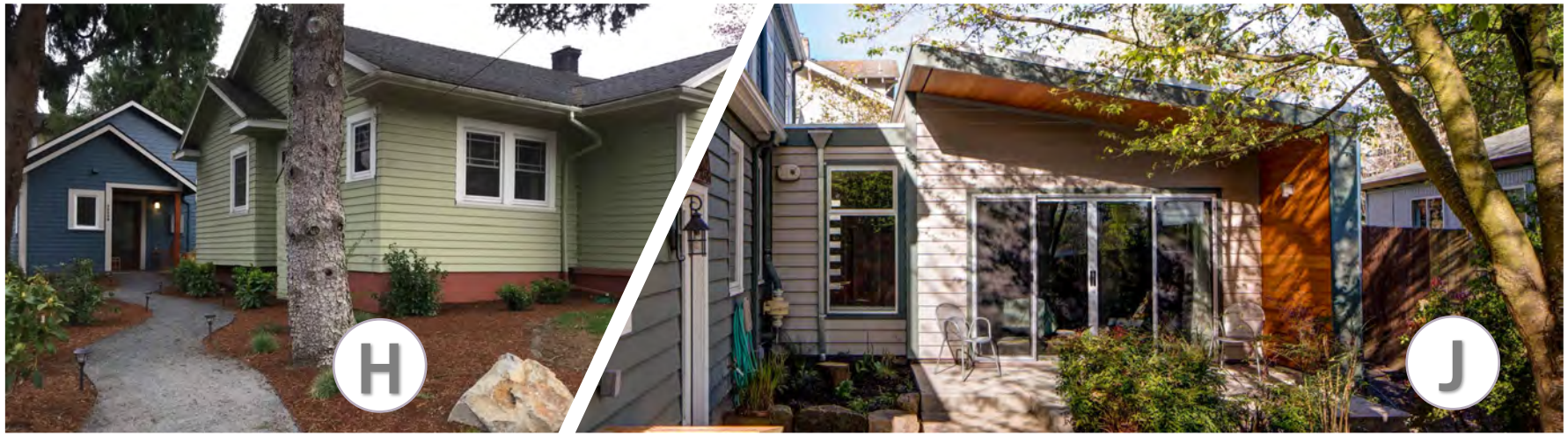
D External ADU – Detached / Located Above Rear Yard Garage (New / Alley Access)



E External ADU – Detached / Located in Rear Yard (Converted Garage)

F External ADU – Attached to Primary Residence / Side Yard Addition

G External ADU – Detached / Located in Rear Yard





H Detached/Located in Rear Yard (Converted Garage)

J External ADU – Attached to Primary Residence / Rear Yard Addition

K Internal ADU – In Basement (Converted Attached Garage)

L External ADU – Detached/Located Above Rear Yard Garage (New / Alley Access)

M Internal ADU – In Basement AND Detached/Located in Rear Yard (Converted Garage)

Effective 5/3/2023

10-9a-530 Internal accessory dwelling units.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b)

(i) "Primary dwelling" means a single-family dwelling that:

(A) is detached; and

(B) is occupied as the primary residence of the owner of record.

(ii) "Primary dwelling" includes a garage if the garage:

(A) is a habitable space; and

(B) is connected to the primary dwelling by a common wall.

(2) In any area zoned primarily for residential use:

(a) the use of an internal accessory dwelling unit is a permitted use;

(b) except as provided in Subsections (3) and (4), a municipality may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:

(i) the size of the internal accessory dwelling unit in relation to the primary dwelling;

(ii) total lot size;

(iii) street frontage; or

(iv) internal connectivity; and

(c) a municipality's regulation of architectural elements for internal accessory dwelling units shall be consistent with the regulation of single-family units, including single-family units located in historic districts.

(3) An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes.

(4) A municipality may:

(a) prohibit the installation of a separate utility meter for an internal accessory dwelling unit;

(b) require that an internal accessory dwelling unit be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling;

(c) require a primary dwelling:

(i) regardless of whether the primary dwelling is existing or new construction, to include one additional on-site parking space for an internal accessory dwelling unit, in addition to the parking spaces required under the municipality's land use regulation, except that if the municipality's land use ordinance requires four off-street parking spaces, the municipality may not require the additional space contemplated under this Subsection (4)(c)(i); and

(ii) to replace any parking spaces contained within a garage or carport if an internal accessory dwelling unit is created within the garage or carport and is a habitable space;

(d) prohibit the creation of an internal accessory dwelling unit within a mobile home as defined in Section 57-16-3;

(e) require the owner of a primary dwelling to obtain a permit or license for renting an internal accessory dwelling unit;

(f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area that is equivalent to:

(i) 25% or less of the total area in the municipality that is zoned primarily for residential use, except that the municipality may not prohibit newly constructed internal accessory dwelling units that:
(A) have a final plat approval dated on or after October 1, 2021; and
(B) comply with applicable land use regulations; or
(ii) 67% or less of the total area in the municipality that is zoned primarily for residential use, if the main campus of a state or private university with a student population of 10,000 or more is located within the municipality;
(g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a failing septic tank;
(h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;
(i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;
(j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;
(k) hold a lien against a property that contains an internal accessory dwelling unit in accordance with Subsection (5); and
(l) record a notice for an internal accessory dwelling unit in accordance with Subsection (6).
(5)
(a) In addition to any other legal or equitable remedies available to a municipality, a municipality may hold a lien against a property that contains an internal accessory dwelling unit if:
(i) the owner of the property violates any of the provisions of this section or any ordinance adopted under Subsection (4);
(ii) the municipality provides a written notice of violation in accordance with Subsection (5)(b);
(iii) the municipality holds a hearing and determines that the violation has occurred in accordance with Subsection (5)(d), if the owner files a written objection in accordance with Subsection (5)(b)(iv);
(iv) the owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection (5)(b);
(v) the municipality provides a written notice of lien in accordance with Subsection (5)(c); and
(vi) the municipality records a copy of the written notice of lien described in Subsection (5)(a)(v) with the county recorder of the county in which the property is located.
(b) The written notice of violation shall:
(i) describe the specific violation;
(ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation that is:
(A) no less than 14 days after the day on which the municipality sends the written notice of violation, if the violation results from the owner renting or offering to rent the internal accessory dwelling unit for a period of less than 30 consecutive days; or
(B) no less than 30 days after the day on which the municipality sends the written notice of violation, for any other violation;
(iii) state that if the owner of the property fails to cure the violation within the time period described in Subsection (5)(b)(ii), the municipality may hold a lien against the property in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;
(iv) notify the owner of the property:

(A) that the owner may file a written objection to the violation within 14 days after the day on which the written notice of violation is post-marked or posted on the property; and
(B) of the name and address of the municipal office where the owner may file the written objection;
(v) be mailed to:
(A) the property's owner of record; and
(B) any other individual designated to receive notice in the owner's license or permit records; and
(vi) be posted on the property.
(c) The written notice of lien shall:
(i) comply with the requirements of Section 38-12-102;
(ii) state that the property is subject to a lien;
(iii) specify the lien amount, in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;
(iv) be mailed to:
(A) the property's owner of record; and
(B) any other individual designated to receive notice in the owner's license or permit records; and
(v) be posted on the property.
(d)
(i) If an owner of property files a written objection in accordance with Subsection (5)(b)(iv), the municipality shall:
(A) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, to conduct a review and determine whether the specific violation described in the written notice of violation under Subsection (5)(b) has occurred; and
(B) notify the owner in writing of the date, time, and location of the hearing described in Subsection (5)(d)(i)(A) no less than 14 days before the day on which the hearing is held.
(ii) If an owner of property files a written objection under Subsection (5)(b)(iv), a municipality may not record a lien under this Subsection (5) until the municipality holds a hearing and determines that the specific violation has occurred.
(iii) If the municipality determines at the hearing that the specific violation has occurred, the municipality may impose a lien in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires, regardless of whether the hearing is held after the day on which the opportunity to cure the violation has expired.
(e) If an owner cures a violation within the time period prescribed in the written notice of violation under Subsection (5)(b), the municipality may not hold a lien against the property, or impose any penalty or fee on the owner, in relation to the specific violation described in the written notice of violation under Subsection (5)(b).
(6)
(a) A municipality that issues, on or after October 1, 2021, a permit or license to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, may record a notice in the office of the recorder of the county in which the primary dwelling is located.
(b) The notice described in Subsection (6)(a) shall include:
(i) a description of the primary dwelling;
(ii) a statement that the primary dwelling contains an internal accessory dwelling unit; and
(iii) a statement that the internal accessory dwelling unit may only be used in accordance with the municipality's land use regulations.

(c) The municipality shall, upon recording the notice described in Subsection (6)(a), deliver a copy of the notice to the owner of the internal accessory dwelling unit.

Amended by Chapter 501, 2023 General Session

17.70.060 Accessory dwelling units.

A. *Purpose.* Accessory dwelling units (ADUs) in single-family residential zones are an important tool in the overall housing goals and needs of the city and allow for alternative and flexible housing options in owner-occupied single-family residences.

B. *Accessory Dwelling Units Defined.* An accessory dwelling unit (ADU) is a second dwelling unit in an owner-occupied single-family property that is clearly incidental and accessory to the main dwelling on the property. ADUs can be either internal, detached or attached.

1. *ADU (Internal).* "Internal ADU" means an ADU created (a) within a primary dwelling unit; (b) within the footprint of the primary dwelling unit at the time the internal ADU is created; and (c) for the purpose of offering a long-term rental of 30 consecutive days or longer. Internal ADUs must meet the standards in Utah Code § 10-9a-530.

2. *ADU (Detached).* "Detached ADU" means an ADU located in an accessory building on the property and not attached to or within the principal dwelling unit.

3. *ADU (Attached).* "Attached ADU" means a new ADU is constructed as a physical expansion (i.e., addition) of the primary dwelling and is attached to the single-family dwelling unit by one or more common walls.

C. *Permitted and Conditional Uses.* See use table in WCPP 17.60.050 for specific zoning designations that include permitted and conditional uses. If the ADU is not designated within a particular zone on the table, then it is prohibited.

D. *General Standards.*

1. ADU permit application shall be required for all internal, attached, and detached units. Only applications deemed complete by the community development director or designee will be processed. Complete applications include appropriate application forms reflecting the standards of the city, plans, texts, and signatures as required on the form available in the community development department and on the city's website. A letter or email confirming the completeness of the application may be requested by the applicant. All applications shall be accompanied by the appropriate fee as established from time to time by resolution of the city council.

2. Only one ADU per property is permitted.

3. ADUs shall meet all building codes and obtain all required permits prior to occupancy of the ADU.

4. The applicant shall have a fee simple title to the property.

5. The ADU shall have a separate entrance that faces away from the street and that does not disrupt the single-family appearance of the existing structure.

6. The ADU shall have a minimum of one bedroom and a three-quarter bath.

7. The ADU shall have a kitchen.

8. No vehicles shall be parked on the front lawn or other landscaped areas.

9. The property shall be neatly maintained and shall meet all current codes regarding property maintenance and public health standards.

10. The applicant has not been notified or fined by the city for any code violations relating to this property or any other property within the previous 12 months.

11. *Owner Occupancy.* The city shall only permit an accessory dwelling unit when an owner occupant lives on the property within either the principal or accessory dwelling unit. Owner occupancy shall not be required when:

a. The owner has a bona fide, temporary absence of three years or less for activities such as military service, temporary job assignments, sabbaticals, or voluntary service (indefinite periods of absence from the dwelling shall not qualify for this exception); or

b. The owner is placed in a hospital, nursing home, assisted living facility or other similar facility that provides regular medical care, excluding retirement living facilities or communities.

12. The ADU must be rented for periods of 30 consecutive days or more.

13. All ADUs shall connect to the same (water, gas, sewer, etc.) utility lines as the primary dwelling.

E. *Internal ADU Standards.*

1. Internal ADUs shall maintain the outward appearance of a single-family residence, so that the appearance is not altered in a manner to appear as a duplex with such features as two front doors and two garages or carports facing the street.

F. *Attached ADU Standards.*

1. Attached ADUs shall maintain the outward appearance of a single-family residence, so that the appearance is not altered in a manner to appear as a duplex with such features as two front doors and two garages or carports facing the street.

2. The total area of an attached ADU shall not exceed 50 percent of the square footage of the habitable area of the building footprint of the primary residence and in no case exceed 800 square feet.

G. *Detached ADU Standards.*

1. Detached ADUs shall be placed on a permanent foundation.

2. Detached ADUs shall have a similar appearance as the primary unit.

3. Detached ADUs may not be built within a recorded easement.

4. For detached ADUs, the maximum size limit shall be based on the minimum lot size as specified in Table 17.70.060-1.

5. Mobile homes, recreational vehicles, or shipping containers shall not be considered a detached ADU.

6. An ADU shall not be sold separately or subdivided from the principal dwelling unit or lot unless compliant with subdivision regulations.

7. Detached ADUs shall follow the same regulations for lot coverage as outlined in WPCC 17.70.030(A)(2).

8. No basements are allowed in detached ADUs.

9. *Fire Regulations.*

a. The maximum distance from a fire hydrant to the front entrance of the detached ADU shall not be greater than 500 feet as the “hose lies.”

b. No portion of the detached ADU shall be further away than 150 feet from the public road.

Table 17.70.060-1.

	Internal ADU	**Attached ADU**	**Detached Single-Story ADU**
Location	Part of Primary Dwelling	Attached to Primary Dwelling	Rear Yard Area
Minimum Lot Size	6,000 sf	6,000 sf	10,000 sf
Size Limit, Habitable	No Limitation	50% up to 800 sf	650 sf (on lots less than 12,000 sf)
			800 sf (on lots greater than 12,000 sf)
Maximum Height Limit	Same as Primary Dwelling	Same as Primary Dwelling	No Taller Than the Primary Dwelling
Minimum Side Setback	Same as Primary Dwelling	Same as Primary Dwelling	10'
Minimum Rear Setback	Same as Primary Dwelling	Same as Primary Dwelling	10'
Off-Street Parking	1	1	2

[Ord. 06-21-2022A § 1; Ord. 12-21-2021A § 1 (Exh. A); Ord. 08-17-2021B § 2 (Exh. A)].

The West Point City Code is current through Ordinance 01-17-2023D, passed January 17, 2023.

Disclaimer: The City Recorder's office has the official version of the West Point City Code. Users should contact the City Recorder's office for ordinances passed subsequent to the ordinance cited above.

City Website: www.westpointcity.org
Code Publishing Company, A General Code Company

CHAPTER 1.30
ACCESSORY DWELLINGS UNITs

Sections:
1.30.005 Purpose.
1.30.010 Requirements For Internal Accessory Dwelling Units In Single Family Residence
1.30.015 Permit Required.
1.30.020 Submission of Application.
1.30.025 Form and Contents of Required Documents.
1.30.030 Public Notice.
1.30.035 Review and Approval Procedures.
1.30.040 Approval Standards.
1.30.045 Entitlements.
1.30.050 Appeals.

1. Only one Internal Accessory Dwelling Unit shall be allowed per single-family residence. Both the single-family dwelling and Internal Accessory Dwelling Unit shall be owned by the same person(s) or entity and they must share a single water meter, and sewer lateral. An Internal Accessory Dwelling Unit may not be established if the primary dwelling is served by a failing septic tank. A single-family dwelling and accessory dwelling unit shall receive one monthly bill from the City for municipal services that shall be sent to the owner of the Lot on which the primary Single-Family Residence and Accessory Dwelling Unit are located.
2. The Internal Accessory Dwelling Unit must be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling.
3. There shall be provided at least one off street parking space for the Internal Accessory Dwelling Unit in addition to two spaces required for the homeowners (three in all). Any existing parking spaces contained within a garage or carport must be replaced if the Internal Accessory Dwelling Unit is created within the garage or carport. All parking intended to accommodate an internal accessory dwelling unit shall be paved with surfacing material of asphalt or concrete composition. Any additional vehicular access to public roads must conform to North Logan Design Standards Technical Manual Standards.

12C-515 Requirements For Accessory Dwelling Units In Residential Zones
12C-515.2 Conditions For Detached Accessory Dwelling Units
12C-515.3 Procedures For Establishing A Detached Accessory Dwelling Unit
12C-515.4 Procedures For Revoking A Detached Accessory Dwelling Unit License Or Conditional Use Permit
12C-515.5 Owners Not Occupying Residence For Prolonged Periods

1.30.005 Purpose. The purpose of permitting an accessory dwelling unit is to:

A. Provide homeowners with a means of obtaining, through tenants in an accessory dwelling unit, rental income, companionship, security and/or services, and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;

B. Add inexpensive rental units to the housing stock to meet the needs of smaller households, both old and/or young;

C. Make housing units available to moderate and/or lower income households who might otherwise have difficulty finding housing within the city;

D. Develop housing units in single-family neighborhoods that serve the needs of the residents through a variety of stages in the life cycle, thereby lessening fluctuations in neighborhood demand for services.

The requirements for permitting Internal Detached Accessory dwelling units per Utah State Statute are addressed Section 1.30.010 - Requirements For Internal Accessory Dwelling Units In Single Family Residence.

in are allowed as a conditional use in residential zones. All Detached Accessory Dwelling Units shall conform to the regulations specified herein and are only allowed when in total compliance with these regulations. Additionally, all dwellings with Detached Accessory Dwelling Units shall also conform to other development regulations for residences in accordance with this ordinance.

12C-515.2 Conditions For Detached Accessory Dwelling Units

A. Detached accessory dwelling units are only allowed by conditional use permit. The Planning Commission shall ensure the following conditions are met before granting a conditional use permit for a detached accessory dwelling unit:

    1. There shall be provided at least two paved asphalt or concrete off-street parking spaces for the detached accessory dwelling unit in addition to two spaces required for the homeowners (four in all). Parking needed to meet this requirement shall not exceed twenty-five percent (25%) of the area between the front of the residence and the front property line. Any additional vehicular access to public roads must conform to North Logan Design Standards Technical Manual Standards.

    2. Because building codes generally do not require modifications to a structure to make it conform to current building codes unless the structure is being remodeled or the classification of the occupancy of the structure is changing and since establishing a detached accessory dwelling unit is not being considered by North Logan City to be a change in occupancy classification (i.e. the house is still a single family dwelling unit), the requirements for establishing a detached accessory dwelling unit, with regard to current

building codes are clarified in this paragraph.

Any new construction, remodeling or renovation done to accommodate the detached accessory dwelling unit shall conform to the building code requirements current at the time of application. In addition, the following shall also conform to the building code requirements current at the time of application and shall apply to the approved detached accessory dwelling unit.

a. Emergency rescue and escape openings from all bedrooms and basement areas shall be as required by the building code for new construction;

b. Smoke and carbon monoxide detectors as required by the building code for new construction;

c. Arc-fault circuit interrupters as required by the National Electric Code for new construction;

d. Ground-fault circuit interrupter protection for personnel as required by the National Electric Code for new construction;

e. The only exit from the accessory dwelling unit may not pass through a garage;

f. Combustion air for fuel burning appliances as required by the mechanical and/or fuel gas codes for new construction; and

g. Equipment grounding for both permanently wired and cord and plug connected equipment shall be as required by the National Electric Code for new construction. As an alternative for receptacle outlets, GFCI protection of receptacle outlets without equipment grounding conductors may be provided in accordance with the National Electric Code.

The residence (single-family dwelling), including the detached accessory dwelling unit shall be considered a single-family residence rather than a “duplex” as defined by the applicable building codes. These requirements are added in order to establish minimal life safety requirements that are appropriate for adding a detached accessory dwelling unit. The applicant shall have the premises inspected by the North Logan City Building Department and include a copy of the results of that inspection with the application for a conditional use permit. If deficiencies are noted by the Building Department’s inspector, a conditional use permit may be approved by the Planning Commission prior to the work being done to correct the deficiencies, but occupancy of the detached accessory dwelling unit shall not take place until all deficiencies are corrected and re-inspected by a North Logan City building inspector.

3. The Detached Accessory Dwelling Unit shall only be allowed in a detached dwelling located on the same owner-occupied lot as the single-family dwelling. Only one detached accessory dwelling unit shall be allowed per single-family residence. Both the single- family dwelling and any detached accessory dwelling unit shall be owned by the same person(s) or entity and they must share a single water meter, and sewer lateral. A single family dwelling and accessory dwelling unit shall receive one monthly bill from the City for municipal services that shall be sent to the owner of the Lot on which the primary Single Family Residence and Accessory Dwelling Unit are located. The proposed detached accessory dwelling unit shall not exceed 50% of the building footprint (including garage) of the single family dwelling, up to a maximum Gross Area of 1,000 square feet. If the Accessory Dwelling Unit is built entirely over a garage for the primary structure, the entire structure shall not exceed a maximum Gross Area of 1,500 square feet.

4. Other appropriate conditions peculiar to the dwelling may be required by the Planning Commission if appropriate to guard the health and welfare of the occupants or the residents in the neighborhood.

B. Detached accessory dwelling units shall be approved as such by the North Logan City Planning Commission.

C. A detached accessory dwelling unit conditional use permit shall not run with the land but shall be valid only for the home owners to whom it was originally granted. Subsequent owners must reapply for a conditional use permit to be allowed a detached accessory dwelling unit on the premises. The conditional use permit shall terminate and shall be void on the sale of the residence.

D. Any detached accessory dwelling unit shall be a permanent structure. Trailers, mobile homes, and other portable structures shall not be permitted as a detached accessory dwelling unit. The city's building official shall make the determination of whether or not a structure is permanent.

E. The improvements or construction of any detached accessory dwelling unit shall be designed so that the appearance of the buildings fits with the surrounding neighborhood.

12C-515.3 Procedures For Establishing A Detached Accessory Dwelling Unit

A. Application for a conditional use permit for a detached accessory dwelling unit shall be made to the Planning Commission in accordance with the conditional use permit procedures given in this title. The application shall include the following:

1. A notarized letter accompanying the application from the owner(s) stating that the owner will occupy the primary single family residence or Detached Accessory Dwelling Unit on the premises except for bona fide absences;

2. A floor plan and site plan (to scale) showing any proposed changes to the buildings and/or how the accessory dwelling unit is to be established;

3. A fee as set forth by the then prevailing fee schedule for a conditional use permit application.

B. Within thirty (30) days of the receipt of an application, the Planning Commission shall hold a public hearing to receive public input regarding the application. The legal notice of such public hearing shall be published according to State guidelines, and shall be posted on the City's official website. The applicant is also required to provide a list of property owners within a 300-foot radius of the exterior boundary of the proposed accessory dwelling property and a 600-foot distance on both sides of the street on which the residence is located. The City will use this list to send out a copy of the public notice for the accessory dwelling hearing to all property owners within ten (10) days of the public hearing.

C. After a conditional use permit has been granted to the owners of the residence for a detached accessory dwelling unit the applicant shall pay any fees established for the accessory dwelling unit and any extraordinary costs to the city not otherwise intended to be covered by the fee for the conditional use permit or the inspection fee. Once the fees have been paid the city shall

issue an appropriate detached accessory dwelling unit written approval letter to the owners/applicants.

HISTORY
Adopted by Ord. 10-01 on 2/17/2010
Amended by Ord. 19-11 on 9/4/2019
Amended by Ord. 21-04 on 7/14/2021

12C-515.4 Procedures For Revoking A Detached Accessory Dwelling Unit License Or Conditional Use Permit

A detached accessory dwelling unit approval and the associated conditional use permit shall be revocable for the non-compliance with any of the provisions of this ordinance or any other ordinance of the city. The city shall notify the owner in writing of its intent to revoke the conditional use permit, and the reasons therefore, at least fourteen (14) days prior to the action being taken. The owner shall have the opportunity to correct any problems that caused the notice of intent to revoke to be issued during said fourteen-day period and show proof of such correction to have the license remain in force. The owner shall have the right to appeal, in writing, any decision regarding the permit to the City Council. The City Council shall consider any appeal on a permit revocation within thirty (30) days of receipt of the appeal. In the event of an appeal the permit shall remain in effect until after the appeal is considered by the City Council.

HISTORY
Adopted by Ord. 10-01 on 2/17/2010
Amended by Ord. 21-04 on 7/14/2021

12C-515.5 Owners Not Occupying Residence For Prolonged Periods

A. The city recognizes that people in the community often vacate their residences for longer periods of time than merely vacations. For examples, university professors take sabbatical leaves of absence and/or are gone for extended periods of time; or people serve church missions and/or are gone from their residences for twelve to twenty-four months at a time. In these cases, the homeowners normally return to their homes. It is important that there be some means for properly authorizing the continuance of a Detached Accessory Dwelling Unit Conditional Use Permit for

extended periods of time when the owners are not occupying the residence, for the above stated or similar reasons. A detached accessory dwelling unit may be continued through the time that the owner is temporarily not living in the residence if the following conditions are met:

1. The owner(s) shall apply for a continuance of their accessory dwelling unit permit during their absence by notifying the City Treasurer of their intent in writing. They shall include in that request their anticipated length of absence and estimated return date, a forwarding address, phone number and email address where they may be contacted by the city if there are any problems (that address shall be updated as needed through the duration of the absence), and the names, phone numbers and email addresses of those who will act in their stead as the "surrogate" owners of the property in their absence.
2. The owners shall provide any information relative to any changes in the use of the residence, i.e. any changes that are different from the conditional use permit that established the accessory dwelling unit.

B. If the owners of the residence elect to leave their home in the care of the residents that occupy the home as the second family living in the detached accessory dwelling unit; and if they choose not to lease the main part of the residence that the owners are temporarily vacating; then just one family will be living in the residence and there is no longer any need to have the residence licensed as a detached accessory dwelling unit. The license can then lapse while the owners are

not living in the residence and the license may be re-established upon their return using the existing conditional use permit and by renewing the detached accessory dwelling unit license.

C. If the owners of the residence sell the residence, return from the location that caused their temporary absence and do not occupy the residence upon their return, or otherwise show an intent to not return to the residence within forty (40) months, the status of the residence with a detached accessory dwelling unit and the related permit shall be terminated by the Planning Commission.

HISTORY
Adopted by Ord. 01-07 on 1/1/2001
Amended by Ord. 10-01 on 2/17/2010
Amended by Ord. 19-11 on 9/4/2019
Amended by Ord. 21-04 on 7/14/2021

18.68.611 Accessory Dwelling Units (ADUs)

The zoning administrator may grant a permit for an Accessory Dwelling Unit subject to the following conditions:

A. No more than one ADU may be permitted accompanying each Single Family Detached.
B. Either the ADU or the principal residence shall be occupied by the owner of the property except for temporary bona fide absences.
C. ADUs are permitted only in owner-occupied single-family dwellings or owner-occupied Single Family Detached.
D. 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.
E. Each unit shall have the same address as the main structure. Homes with an ADU may designate mail to its renters by Apartment Number, to wit, Apartment #1 or Apartment #2.
F. A Single Family Detached with an ADU shall provide at least two (2) off-street parking spaces for the principal dwelling, and at least one (1) off-street parking space for the ADU.

1. The required ADU off-street parking spaces are required to be hard surfaced with concrete or asphalt.
2. Garage or car port spaces do count as approved spaces.
3. Required ADU parking stalls may be located within a front, rear or side yard setback area, provided such placement does not displace required landscaping.

G. A Single Family Detached with an ADU shall have one but no more than two (2) meters for each water, and gas service. Each meter shall be in the property owner's name. There shall only be one (1) electric meter per building.
H. All construction and remodeling to accommodate the ADU shall be in accordance with both the International Residential and Building Codes, as amended, in effect at the time of construction or remodeling.
I. Landscaping:

1. The lot on which the ADU is located shall have a landscaped yard in accordance with Chapter 18.76.020.
2. The lot on which the ADU is located shall have street trees in accordance with Chapter 12.20.

J. ADU size requirements are:

1. Minimum size: no minimum size.
2. Maximum size: no maximum size for ADUs located within a main building; ADUs located within an accessory building shall not exceed 1,500 square feet and shall comply with Section 18.68.060.

K. ADUs must include the following:

1. A kitchen separate from the main dwelling.
2. Sanitation facilities (full bathroom) separate from the main dwelling.

L. A person desiring an ADU shall:

1. Obtain a Building Permit from the City and include the following in addition to standard submittal requirements for a permit:

a. Site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings or additions, dimensions from buildings or additions to property line, and the location of parking stalls, and utility meters.
b. Include detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses.

2. For ADUs that are rented, obtain a City business license. ADUs licensed within the City may be inspected annually as part of the business license renewal 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 such required inspections and approval of the City Building Department. ADUs that were constructed legally previous to the adoption of this Code shall meet the building and safety codes required at the time of construction. No ADU business license shall be granted without providing evidence of a Certificate of Occupancy.

3. Record Notice of Compliance Agreement at time of building permit application and/or business licensure.

M. 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.
N. Other Apartments Prohibited: There shall be no other type of accessory apartment 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.
O. Decisions of the zoning administrator not to issue a permit for an ADU are appealable to the Appeal Authority.
P. The ownership of an ADU shall not be separated from a principal dwelling.

HISTORY
Amended by Ord. 2021-32 on 10/5/2021

CHAPTER 1.30
ACCESSORY DWELLINGS UNITS

Sections:
1.30.005 Purpose.
1.30.010 Requirements for Internal Accessory Dwelling Units.
1.30.015 Requirements for Detached Accessory Dwelling Units.
1.30.020 Procedures for Revoking A Detached Accessory Dwelling Unit Conditional Use Permit.
1.30.025 Owners Not Occupying Residence for Prolonged Periods.

1.30.005 Purpose. The purpose of permitting an accessory dwelling unit is to:

A. Provide homeowners with a means of obtaining, through tenants in an accessory dwelling unit, rental income, companionship, security and/or services, and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;

B. Incentivize the development of accessory dwelling units through the use of a clear, simple and streamlined permitting process;

C. Add inexpensive rental units to the housing stock to meet the needs of smaller households, both old and/or young;

D. Make housing units available to moderate and/or lower income households who might otherwise have difficulty finding housing within the city;

E. Develop housing units in single-family neighborhoods that serve the needs of the residents through a variety of stages in the life cycle, thereby lessening fluctuations in neighborhood demand for services.

The requirements for permitting internal accessory cwellings units per Utah State Statute are addressed in Section 1.30.010 - Requirements for Internal Accessory Dwelling Units in Single Family Residences.

The requirements for permitting detached accessory dwelling units are addressed Section 1.3.015 - Requirements for Detached Accessory Dwellings as conditional uses in all residential zones. detached accessory dwelling units shall conform to the regulations specified therein, and are only allowed when in compliance with those regulations. Additionally, all primary dwellings with detached accessory dwelling units shall also conform to other development regulations for residences in accordance with this ordinance.

1.30.010 Requirements for Internal Accessory Dwelling Units

A. Only one Accessory Dwelling Unit shall be allowed per single-family residence. Both the single-family dwelling and the Internal Accessory Dwelling Unit shall be owned by the same person(s) or entity and must share a single water meter and sewer lateral. An

Internal Accessory Dwelling Unit may not be established if the primary dwelling is served by a failing sewer connection. A single-family dwelling and accessory dwelling unit shall receive a single monthly bill from the City for municipal services that shall be sent to the owner of the lot on which the primary single-family residence and the accessory dwelling unit are located.

B. The accessory dwelling unit shall have less square footage than the principal dwelling. If the attached accessory dwelling unit shall be in the basement of the principal dwelling, the accessory dwelling shall be permitted to occupy the entirety of the basement of the principal dwelling unit regardless of square footage.
C. The Internal Accessory Dwelling Unit must be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling.
D. The accessory dwelling unit shall have at least one (1) off-street parking space for the accessory unit, above the minimum spaces required for a principal dwelling unit. Accessory dwelling unit parking may not be in tandem with the required parking of the principal dwelling unit. One additional off-street parking space shall be required for the accessory dwelling units with two (2) or more bedrooms. No parking spaces may be located within the front or side yard setbacks adjacent to a street, unless approved by the Planning Commission . The minimum dimensions of parking space shall be ten (10) feet by twenty (20) feet and shall be a hard surface of concrete or asphalt.
E. A new principal dwelling approved internal accessory dwelling unit shall have a separate, accessible entrance or stairway, and may use existing entrances on any side of the structure that faces a street, or a side or rear entrance. To preserve the single-family residential appearance of a neighborhood, dwellings with two (2) front doors located side-by-side shall not be allowed to provide separate entrances for each unit with the exception of dwellings where the second door provides direct access to the dwelling basement.
F. Interior access between the principal dwelling unit and an attached accessory dwelling unit shall be maintained unless sufficient means of egress have been determined during a building inspection.
G. An internal accessory dwelling unit shall provide living areas that include a kitchen and a bathroom separate from the principal dwelling unit.
H. The size of an internal accessory dwelling unit detached from the principal dwelling unit shall be at least two hundred (200) square feet and shall not exceed six hundred (600) square feet.
I. Internal accessory dwelling units may be allowed within or attached to the principal single-family dwelling (basement or addition), over the attached garage, or in a detached accessory structure (detached garage, cottage home, guesthouse) if the accessory dwelling unit meets the following setbacks.
J. Internal accessory dwelling units as an addition to a principal dwelling unit shall meet all minimum setback standards required for the principal dwelling unit.
K. Internal accessory dwelling units shall meet the minimum of side yard required by the zone for the principal dwelling unit and a rear yard setback of ten (10) feet. If there are

no windows, doors, or other openings adjacent to the property line, the setback may be reduced to five (5) feet, but in no case shall a structure be built upon an easement or public utility easement.

L. An internal accessory dwelling unit within the side yard of the principal dwelling unit is required to meet the same front, side, and rear yard setback as the principal dwelling unit.

M. An internal accessory dwelling unit located in an accessory structure may only be located on a second story if the structure meets the same minimum standards in the zone for height, as well as the front, side, and rear setback as the principal dwelling unit.

N. Principal dwelling units with an accessory dwelling unit may have separate meters for the water, gas, and electricity utility service of each unit. Each separate utility meter shall be in the property owner's name, as shown on the Box Elder County tax assessment rolls, and the property owner shall be responsible for payment of all utilities.

O. Internal accessory dwelling units shall be permanently connected to the City's culinary water system and sanitary sewer system and other permanent utility connections for natural gas and electricity as approved by the Building Official.

P. The principal dwelling unit and the accessory dwelling unit shall have the same address number, but shall refer to the accessory dwelling unit, as unit B. Addresses shall be located in a visible location on the street frontage side of the home.

Q. All construction and remodeling shall comply with building codes and ordinance requirements in effect at the time of construction or remodeling, in accordance with Utah State Code section 10-9a-511.5, the Building Official may require the reasonable installation of:

1. a smoke detector and carbon monoxide detectors, that is plugged in or battery operated;
2. a ground fault circuit interrupter protected outlet on existing wiring;
3. street addressing;
4. an electrical system or a plumbing system, if the existing system is not functioning or is unsafe as determined by an independent electrical or plumbing professional who is licensed in accordance with Title 58, Occupations and Professions;
5. Hand or guard rails;
6. Occupancy separation doors as required by the International Residential Code, or a window in an existing bedroom be fully openable if the openable area is less than required by current State Construction Code.

R. No Accessory Dwelling Unit shall be created, established, maintained, or occupied unless the principal dwelling unit or accessory dwelling unit is "owner occupied" by the property owner as a "full-time resident" of the home. For the purpose of this Section, "owner occupied" is defined as the individual(s) as shown on the Box Elder County tax assessment rolls, and "full-time resident" is defined as living at the premise for at least eight (8) months during a twelve (12) month period.

S. The occupants of an accessory dwelling unit shall be limited to a "Single-Family," as defined in Chapter 1.03 Definitions.

T. Not Intended for Sale. The internal accessory dwelling unit shall not be eligible to be subdivided from the lot of the principal dwelling or detached by deed from the existing lot. Accessory dwelling units shall only be rented or leased.

1.30.15 Requirements for Detached Accessory Dwelling Units

A. **Detached accessory dwelling units are only allowed by conditional use permit.** The Planning Commission shall follow the procedures described in Section 1.30.015 Conditional Use Permit of the Municipal Code. When considering each application. The following specific conditions shall be met before granting a conditional use permit for a detached accessory dwelling unit:

1. Only one Accessory Dwelling Unit shall be allowed per single-family residence. Both the single-family dwelling and the Internal Accessory Dwelling Unit shall be owned by the same person(s) or entity and must share a single water meter and sewer lateral. An Internal Accessory Dwelling Unit may not be established if the primary dwelling is served by a failing sewer connection.
2. A single-family dwelling and accessory dwelling unit shall receive a single monthly bill from the City for municipal services that shall be sent to the owner of the lot on which the primary single-family residence and the accessory dwelling unit are located.
3. The accessory dwelling unit shall have less square footage than the principal dwelling. If the attached accessory dwelling unit shall be in the basement of the principal dwelling, the accessory dwelling shall be permitted to occupy the entirety of the basement of the principal dwelling unit regardless of square footage.
4. A detached accessory dwelling unit may be allowed if specifically permitted within the use table of the Zoning District. No accessory dwelling unit shall be allowed in any multi-family attached dwelling, multi-family stacked dwelling, multi-family twin home dwelling, multi-family lot, or on any lot that cannot satisfy parking, setback or other site design requirements, nor on a single-family lot that is classified as a non-conforming use

5. Only one Accessory Dwelling Unit shall be allowed per single-family residence. Both the single-family dwelling and the detached accessory unit shall be owned by the same person(s) or entity and must share a single water meter and sewer lateral.
6. The accessory dwelling unit shall have at least one (1) off-street parking space for the accessory unit, above the minimum spaces required for a principal dwelling unit. Accessory dwelling unit parking may not be in tandem with the required parking of the principal dwelling unit. One additional off-street parking space shall be required for the accessory dwelling units with two (2) or more bedrooms. No parking spaces may be located within the front or side yard setbacks adjacent to a street, except for within a driveway approved by the Planning Commission. The minimum dimensions of parking space shall be ten (10) feet by twenty (20) feet and shall be a hard surface of concrete or asphalt.
7. A new principal dwelling with a detached accessory dwelling unit shall have a separate, accessible entrance or stairway. An accessory dwelling unit approved in an existing principal dwelling may use existing entrances on any side of the structure that faces a street, or a side or rear entrance.
8. To preserve the single-family residential appearance of a neighborhood, dwellings with two (2) front doors side by side shall not be allowed to provide separate entrances for each unit with the exception of dwellings where the second door provides direct access to the dwelling basement.
9. A detached accessory dwelling unit shall provide living areas that include a kitchen and a bathroom separate from the principal dwelling unit.
10. The size of The size of a detached accessory dwelling unit shall be at least two hundred (200) square feet and shall not exceed six hundred (600) square feet.
11. Detached accessory dwelling units may be allowed over the attached garage, or in a detached accessory structure (detached garage, cottage home, guesthouse) if the accessory dwelling unit meets the following setbacks.
12. A detached accessory dwelling unit within the side yard of the principal dwelling unit is required to meet the same front, side, and rear yard setback as the principal dwelling unit.
13. Detached accessory dwellings shall meet the following utility requirements:

    a. Principal dwelling units with an accessory dwelling unit may have separate meters for each water, gas, and electricity utility service. Each separate utility meter shall be in the property owner's name, as shown on the Box Elder County tax assessment rolls, and the property owner shall be responsible for payment of all utilities.

    b. Detached dwelling units shall be permanently connected to the City's culinary water system and sanitary sewer system and other

permanent utility connections for natural gas and electricity as approved by the Building Official.

c. Detached accessory dwelling units shall pay Tremonton City impact fees.

d. Detached accessory dwelling units shall be attached to a site-built permanent foundation that meets building codes.

e. Detached accessory dwelling units shall be constructed with materials that are weather-resistant and meet all other code requirements.

f. The principal dwelling unit and the accessory dwelling unit shall have the same address number, but shall refer to the accessory dwelling unit, as unit B. Addresses shall be located in a visible location on the street frontage side of the home.

14. All construction and remodeling shall comply with building codes and ordnance requirements in effect at the time of construction or remodeling, in accordance with Utah state code section 10-9a-511.5, the Building Official may require the reasonable installation of:

a. Smoke and carbon monoxide detectors, either direct-plug or battery operated;

b. A ground fault circuit interrupter protected outlet on existing wiring;

c. Street addressing;

d. An electrical system or a pluambing system, if the existing system is not functioning or is unsafe as determined by an independent electrical or plumbing professional who is licensed in accordance with Title 58, Occupations and Professions;

e. Hand or guard rails;

f. Occupancy separation doors as required by the International Residential Code, or a window in an existing bedroom be fully openable if the openable area is less than required by current State Construction Code.

15. No Accessory Dwelling Unit shall be created, established, maintained, or occupied unless the principal dwelling unit or accessory dwelling unit is “owner occupied” by the property owner as a “full-time resident” of the home.

a. For the purpose of this Section, “owner occupied” is defined as the individual(s) as shown on the Box Elder County tax assessment rolls, and “full-time resident” is defined as living at the premise for at least eight (8) months during a twelve (12) month period. Owner

occupancy for an Accessory Dwelling Unit shall be suspended for a period no more than three (3) years for a temporary job assignment, sabbatical, or voluntary service when the following criteria apply:

- The owner was living in the dwelling immediately prior to leaving for the temporary job assignment, sabbatical, or voluntary service; and
- The owner intends to make the dwelling his/her primary place of residence upon returning from the temporary job assignment, sabbatical, or voluntary service.
- Dwelling Unit Occupancy. The occupants of an accessory dwelling unit shall be limited to a "Single-Family," as defined in Chapter 1.03 Definitions.

16. Not Intended for Sale. The accessory dwelling unit shall not be eligible to be subdivided from the lot of the principal dwelling or detached by deed from the existing lot. Accessory dwelling units shall only be rented or leased.

B. Procedures For Establishing a Detached Accessory Dwelling Unit

1. Application for a conditional use permit for a detached accessory dwelling unit shall be made to the Planning Commission in accordance with the conditional use permit procedures given in this title. The application shall include the following:
   a. Context Plan. A context plan including the existing features on the lot and within thirty (30) feet of the lot. Existing features include but are not limited to, dwellings, roads, ingress, and egress points. An aerial photo from Google Earth or Box Elder County Web Map https://gis.boxeldercounty.org/webmap/ may serve as the basis for the context plan.
   b. Site Plan. A site plan with a scale no less than one (1) inch equal to twenty (20) feet that is drawn or contain the following information:

      - A title block containing the following information applicant's name, address and phone number; subdivision name and lot number; square footage of the lot.
      - Boundaries and dimensions of the entire lot.
      - Locations and dimensions of all existing and proposed dwellings and structures on the lot, including overhangs, porches, stairwells, and balconies, and the locations of all structures on adjoining properties.
      - Locations and dimensions of all existing and proposed parking spaces on the lot.

- Location and size of existing utilities and proposed location of utilities.
- Location of existing fire hydrants.
- Detailed floor plans of the principal dwelling and accessory dwellings with labels on rooms indicating uses or square footage of the dwellings and the entrances for the dwellings.
- Elevations of all dwellings, and other structures viewed from all sides indicating heights of structures, and color of all materials.

2. Within thirty (30) days of the receipt of an application to the Zoning Administrator, the Planning Commission shall hold a public hearing to receive public input regarding the application. The legal notice of such public hearing shall be published according to State statutes, and shall be posted on the City's official website and the Utah Public Notice website

3. The applicant is also required to provide a list of property owners within a 300-foot radius of the exterior boundary of the proposed accessory dwelling property and a 600-foot distance on both sides of the street on which the residence is located. The City will use this list to send out a copy of the public notice for the accessory dwelling hearing to all property owners within ten (10) days of the public hearing.

4. Approval of an Accessory Dwelling Unit Permit shall be in the form of a letter to the applicant, which, together with the approved submitted materials, shall constitute the Conditional Use Permit. After a conditional use permit has been granted, the applicant shall pay any fees established for the accessory dwelling unit and any extraordinary costs to the city not otherwise intended to be covered by the fee for the conditional use permit or the inspection fee. Once the fees have been paid the city shall issue an appropriate detached accessory dwelling unit, written approval letter to the owners/applicants.
5. If the Planning Commission denies an Accessory Dwelling Unit Application, explicit and careful Findings of Fact shall be enumerated for the record as to why the reasonably anticipated detrimental impacts of a proposed Accessory Dwelling Unit could not be mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards.

1.30.020 Procedures for Revoking A Detached Accessory Dwelling Unit License or Conditional Use Permit. Approval of the detached accessory dwelling unit and the associated conditional use permit shall be revocable for the non-compliance with any of the provisions of this ordinance or any other ordinance of the city. The city shall notify the owner in writing of its intent to revoke the conditional use permit, and the reasons therefore, at least fourteen (14) days prior to the action being taken. The owner shall

have the opportunity to correct any problems that caused the notice of intent to revoke to be issued during said fourteen-day period and show proof of such correction to have the license remain in force. The owner shall have the right to appeal, in writing, any decision regarding the permit to the City Council. The City Council shall consider any appeal on a permit revocation within thirty (30) days of receipt of the appeal. In the event of an appeal the permit shall remain in effect until after the appeal is considered by the City Council.

1.30.025 Owners Not Occupying Residence for Prolonged Periods. The city recognizes that some residents and homeowners may not be able to occupy their residence for longer periods of time than the typical vacation or holidays. For instance, they may take a sabbatical or leave of absence, be temporarily relocated to a different job site, or otherwise be unable to occupy their homes on a temporary basis. In order to address the requirements under these circumstances, the following is a description of the procedures for continuing a Detached Accessory Dwelling Unit Conditional Use Permit under such conditions.

1. A detached accessory dwelling unit may be continued through the time that the owner is temporarily not living in the residence if the following conditions are met:

    a. The owner(s) shall apply for a continuance of their accessory dwelling unit permit during their absence by notifying the City Treasurer of their intent in writing. They shall include in that request their anticipated length of absence and estimated return date, a forwarding address, phone number and email address where they may be contacted by the city if there are any problems (that address shall be updated as needed through the duration of the absence), and the names, phone numbers and email addresses of those who will act in their stead as the "surrogate" owners of the property in their absence.

    b. The owners shall provide any information regarding changes in the use of the residence, i.e. any changes that are different from the conditional use permit that established the accessory dwelling unit.

2. If the owners of the residence elect to leave their home in the care of the residents that occupy the home as the second family living in the detached accessory dwelling unit; and if they choose not to lease the main part of the residence that the owners are temporarily vacating; then just one family will be living in the residence and there is no longer any need to have the residence licensed as a detached accessory dwelling unit. The license can then lapse while the owners are not living in the residence and the license may be re-established upon their return using the existing conditional use permit and by renewing the detached accessory dwelling unit license.

3. If the owners of the residence sell the residence, return from the location

that caused their temporary absence and do not occupy the residence upon their return, or otherwise show an intent to not return to the residence within forty (40) months, the status of the residence with a detached accessory dwelling unit and the related permit shall be terminated by the Planning Commission.