




CITY COUNCIL TRANSMITTAL


Patrick Leary, Chief of Staff

Date Received: March 9, 2018
Date sent to Council: March 12, 2018

TO: Salt Lake City Council
Erin Mendenhall, Chair

DATE:

FROM: Mike Reberg, Community & Neighborhoods Director 

SUBJECT: PLNPCM2014-00447 Accessory Dwelling Units

STAFF CONTACT: Nick Norris, Planning Director 801-535-6173

DOCUMENT TYPE: Ordinance

RECOMMENDATION: That the City Council consider the options and adopt the ordinance

BUDGET IMPACT: none

BACKGROUND/DISCUSSION: During the December 6, 2017 City Council work session discussion the on proposed ADU ordinance, the Council asked that the Planning Division consider the following items related to the proposed ADU ordinance:

- Consider using the conditional use process for reviewing ADUs;
- Address issues related to using ADUs as short term rental units;
- Address enforcement issues, particularly through recording deed restrictions for approved ADUs;
- Correct some of the technical issues associated with the proposed ordinance so that it is easier to understand and administer; and
- Review some of the public concerns with ADUs and consider addressing those concerns.

The Council stated that they did not expect that any changes be sent back through the Planning Commission for review and input.

The Planning Division has done a review of the ordinance and made modifications to the ordinance based on the direction provided by the Council. An updated ordinance is attached. For the purpose of this transmittal, those changes are discussed in the section titled "Modifications to the ADU Ordinance." This section includes an explanation of what has changed, including some

technical changes being requested by the Planning Division to remove vague language, improve the ability to administer the ordinance, and remove references to certain requirements that are already in city code.

The Planning Division also further analyzed the entire ADU ordinance to better understand the impacts of the ordinance, including:

- What the City can expect in terms of the number of ADUs based on cities with similar ordinances;
- The impact that the proposed updated ordinance would have on Planning Division staff and Planning Commission workload, and
- The effectiveness of the updated ADU ordinance in achieving citywide housing goals now that Growing Salt Lake has been adopted.

This analysis can be found in attachment A.

ADUs and the Conditional Use Process

Current Ordinance: allows ADUs if associated with a single family dwelling unit if that property is also within ½ mile of a transit stop.

Planning Commission Proposal: eliminated the ½ mile requirement but imposed a boundary line that basically would have prohibited ADUs in the Avenues when located east of Memory Grove and north of South Temple as well as in the East Bench if east of 1300 East and north of I-80.

Updated Proposal based on Council Direction:

1. Eliminate the boundary in the Planning Commission Proposal;
2. Make ADU's a conditional use in the FR and R-1 zoning districts. These are the zoning districts that only allow detached single family dwellings; and
3. Make ADU's a permitted use in all other residential zoning districts that already allow duplexes, triplexes, and multi-family as permitted uses.

The recommendation in the updated proposal is based on the land uses that are already allowed in each residential zoning district. The proposal recognizes that in the zones that only allow single family residential uses that ADUs will have some impact that is greater than that of a single family dwelling. The conditional use process was chosen because:

- There is a public process that allows neighbors the opportunity to help identify specific impacts;
- The approval body is the Planning Commission, not staff; and
- The zoning ordinance already has a list of detrimental impacts that are to be considered when reviewing a conditional use.

One of the issues with the conditional process is that a conditional use is required to be approved if impacts can be mitigated. Conditional uses in the city are required to go through an early notification process and be presented to community councils. Often times it is stated that a community does not support an ADU and that it should be denied. Legally the city cannot deny a conditional use based on lack of support. The only way a conditional use can be denied is if there is a detrimental impact that cannot be reasonably mitigated.

The condition use process may not appease all concerned stakeholders. The Planning Commission cannot consider “public clamor” when considering a conditional use. Public clamor can be summarized as emotional or baseless opinion on a matter. Examples of public clamor include statements like “this proposal will lower my property value” or “this proposal will make it impossible to drive up and down my street.” These are opinions that are not typically backed up by any facts.

Conditional uses legally have to be approved if a reasonable, detrimental impact can be mitigated. Mitigated means reduced and does not necessarily mean eliminated or even substantially eliminated. This has been determined through case law in Utah. HB 377 Land Use Amendments is a proposal before the Utah Legislature to codify this by adding the following statement to state code section 10-9a-507(2)(a)(ii):

The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.

For example, if a neighbor raised a concern that a dumpster location for a business is right next to their fence and is concerned about the odor, overflow of garbage, and the dumpster attracting rodents, then the Planning Commission can require the dumpster to be located further from the property line to lessen the detrimental impacts of the use.

The conditional use process is a good way to inform the community about development proposals and identify potential impacts. It also establishes a “record” of decision making that is kept forever and used during an appeal process. These considerations often outweigh the negatives of the conditional use process.

The conditional use process does provide the city with additional enforcement tools if an owner of an ADU violates any applicable regulation or condition of approval. It does not make it easier for the City to deny a conditional use for an ADU because it is highly likely that any detrimental impact could have conditions imposed that would reduce detrimental impacts.

After analyzing this issue, the Planning Division would prefer that all ADUs be permitted uses in all residential zoning districts. However, understanding the competing goals and values that have been raised, understand that the conditional use process could be used for ADUs when located in single family zoning districts to help address unforeseen negative impacts. This acknowledges that an ADU may have an impact that is greater than a single family home and that a review process to identify and verify those impacts is appropriate. It should be noted that the conditional use process will discourage some property owners from building ADUs on their property and will add 60-90 days to the approval process. Both of these make it more difficult to develop this type of housing in the city.

In zoning districts that already permit more than one dwelling unit, the Planning Division is recommending that an ADU be a permitted use and not include any sort of special land use approval. This is because the SR-1A, R-2, SR-3 and RMF zones already allow two-family dwellings as permitted uses and the impact of an ADU is somewhere between a single-family

dwelling and a two-family dwelling, but the impact is less than all other residential uses allowed in these zones. ADUs also have size restrictions (floor area, height, lot coverage, rear yard coverage) that are intended to lessen impacts.

There will be an increase in workload for Planning Division staff and the Planning Commission. The approach discussed above would reduce the expected increase in staff workload and Planning Commission workload versus requiring all ADUs to go through a conditional use process. An additional option would be to allow an ADU as a permitted use in all zoning districts, but require a conditional use for detached accessory structures in the single family zoning districts.

In historic districts, requiring a conditional use for an ADU would add an additional process to the processes already required for new construction or major alterations to properties located within a local historic district. Allowing an ADU by right within historic districts supports the goals of preserving historic structures and would take some pressure off of properties that may not have many land use options other than single family dwelling use.

The Impact to Planning Division and Planning Commission Workloads

Requiring ADUs to go through the conditional use process will increase the workloads of the Planning Division and Planning Commission. The Planning Division processes an average of 26 conditional use applications per year. A conditional use for an ADU would have to be reviewed by the Planning Commission because all conditional uses that are located in a residential zoning district are required by ordinance to be reviewed by the Planning Commission. In 2017, the Planning Commission reviewed 87 applications in 23 meetings that took a total of 94 hours; the applications consisted of master plan amendments, zoning amendments, planned developments, conditional uses, design review, special exceptions and subdivisions. This equates to an average of 1.08 hours per application and an average meeting length of 4.08 hours.

The impact of requiring a conditional use for an ADU could only be determined by the number of applications that are received. For every 5 applications received, the workload would increase approximately 5.5%. If 10 applications are submitted, it would be an increase of 11% to the workload of the Planning Commission and extend the Planning Commission meetings by 10.8 hours per year and the average meeting could increase to 4.5 hours in length. The impacts could result in longer meetings and longer processing times for all land use applications. The impact to workloads is reduced by requiring only those ADUs in FR and R-1 zoning districts to go through the conditional use process and listing ADUs in all other residential zoning districts as permitted.

Processing a conditional use takes approximately 40 hours of staff time from the time an application is submitted to the time an application is approved. The 40 hours includes application intake, making sure the application is complete, meeting with the applicant, public engagement, analyzing the proposal, writing a staff report, and all the steps necessary to get the item to the Planning Commission. The 40 hours does not include time required by supervisors to review the staff reports or administrative staff time to prepare everything for the public hearings. If each application averages 40 hours of staff time, there would be approximately 200 hours of staff time that would need to be allocated for every 5 applications. 52 applications would equal a full time

employee. In 2017 we received the equivalent of 54 applications per planner. It is important to note that every ADU application will require some work by the Planning Division even if the proposed ADU is permitted. This extra time is due to the proposed 30 day noticing period, issuing a zoning certificate, and reviewing and recording a deed. These things don't occur with other permitted uses and are additional work not performed with other conditional uses. Utah Code 10-6-160(3)(a) states that "a city shall complete an initial plan review for a one to two family dwelling or townhome by no later than 14 business days after the day on which the plan is submitted to the town." A proposed change being discussed during the 2018 Utah Legislative session would make this section even more restrictive. The proposed ADU ordinance requiring a 30 day waiting period before a zoning certificate is issued could conflict with this state law because a zoning certificate is only issued after a full building permit review is done because it represents the approved development. If we are required to issue the permit within 14 business days, holding the zoning certificate for a full 30 days would not serve any purpose because the city would be required to issue the building permit according to state law.

Increasing the number of applications that the Planning Division is working on reduces the amount of staff resources that the Planning Division has to work on other things. The impact is primarily to master plan implementation and helping other departments and divisions with their planning needs.

The Planning Division has seen a 40% increase in the number of land use applications since 2011. In order to accommodate the increase in number of applications, the Planning Division has had to delay working on city desired or initiated applications and make changes to some land use processes to free up staff time. For example, some public processes have been changed (notice of application for special exceptions vs public hearings) or eliminated (no public process in the form based districts, reduced the number of land uses that were listed as conditional in the land use tables).

There has been some suggestion that the city allocate resources to either develop design standards for ADUs or to designate an ADU planner to answer questions and review ADU proposals. The number of ADU applications that we expect to receive does not warrant the allocation of staff resources at this level to either of these suggestions. The Planning Division would have the capacity to make information sheets to help demonstrate the regulations and process. The projected number of ADUs that can be anticipated indicates that ADUs will play a small role in helping achieve the city's housing goals. Planning Division resources would be better allocated to remove zoning barriers that are limiting the construction of new housing and developing zoning incentives to promote new housing construction because these things are more impactful to helping the City achieve its housing goals.

ADUs and Short Term Rentals

Current Ordinance: the existing ordinance does not address short term rentals.

Planning Commission Proposal: does not address short term rentals.

Updated Proposal based on Council Direction: prohibit an ADU from being used as a short term rental.

The Planning Division is recommending a restriction be placed on using ADUs as a short term rental. The short term rental issue is a growing concern for many communities. Short term rentals require a focused analysis and approach that involves multiple city functions and programs beyond zoning. Until that is done, they should be prohibited in an ADU.

Addressing Enforcement Issues

Current ordinance: doesn't address enforcement directly, but does include a number of requirements that a property owner would have to comply with in order to obtain city approval for an ADU.

Planning Commission Proposal: includes all of the requirements in the current ordinance.

Updated Proposal based on Council Direction: adds the conditional use process for ADUs in single family zoning districts.

One of the primary concerns raised by residents relates to the perceived lack of enforcement of city ordinances. This perception exists regardless of the status of the ADU ordinance. There are a few key elements of ordinance enforcement that have to be present to enforce any regulation:

- The regulations have to be clearly written so there is no dispute regarding what the regulation means;
- The City has to be able to prove that the violation has occurred; and
- The City needs to have the tools to remedy the violation.

One of the key items listed above is that the City has to be able to prove that a violation is occurring. Violations that are clearly visible are relatively easy to prove. Violations that are not clearly visible are much more difficult to prove. Without proof, a city would not have justification to take an enforcement action.

Most of the ADU regulations address visible impacts, such as parking, building location, building height, and design standards. However, enforcing the number of unrelated people living in a dwelling requirement and owner occupancy requirements are going to be difficult to enforce. Complaints about the number of unrelated people living in dwelling are particularly difficult to prove because outside of public records, the city often has no proof whether occupants are related or not.

The owner occupancy requirement would require a search of property transactions that may have involved a property that include an ADU to see if anything has changed. Property can be owned in basically three ways: in an individual name, in joint names with others, or by contract rights. The proposed ordinance requires that a property owner be one of these three. However, it limits the contract rights to those involving a family trust. Other contractual forms of ownership would not be eligible for an ADU. Second, it requires all owners to live on the property. This means that there are some properties owned in joint names would not be eligible unless all of the people named on the deed live on the property. There are countless combinations of relationships that could own a property jointly. If the primary purpose of the owner occupancy requirement is to avoid absentee owners with a lack of attention to the property creating nuisance issues, the

ownership requirement is more restrictive than it has to be to accomplish this goal. It could be modified to be more flexible towards the variety of property ownership arrangements and not require every listed owner or every listed trustor to reside on the property.

The deed restriction requirement helps notify new buyers that owner occupancy is required for the ADU, but it does not help enforce owner occupancy requirement other than providing a counter argument to a claim that an owner did not know about the owner occupancy requirement.

Technical Issues associated with the Planning Commission Proposal

Current Ordinance: not applicable

Planning Commission Proposal: contains multiple instances of vague wording associated with some of the standards for ADUs.

Updated Proposal: includes the following category of changes:

- Reorganizing the ordinance so that standards that apply to ADUs that are internal to a single family dwelling are in one section, standards that apply only to detached ADUs are in one section, and standards that are applicable to all ADUs are in one section.
- Changing the wording of some standards so that they are easier to understand, enforceable, and better address some of the impacts identified by neighbors.
- Adding design standards to address compatibility with principal structures.
- Deleting references to other code sections when they are not necessary because they are found in other code sections.

The technical changes are aimed at making the ordinance easier to administer and understand. The changes also take into account changes to State Statutes that were adopted and made effective in 2017 that address vague language. The intent is to eliminate vague language because language that is vague is required by state law to be interpreted to favor the land use application and results in some standards and requirements not being able to be applied or enforced by the City. In the attached ordinance, the technical changes are indicated by either a double strike-through line for those items being deleted or with a double-underline for those items being added or reorganized to a different section.

How the Ordinance Addresses Concerns Raised by Neighbors

Although not specifically asked for by the Council, the Planning Division received a number of comments from people who feel like their concerns have not been addressed in the ordinance. This section explains how the ordinance addresses specific themes that have been raised throughout the process.

Privacy is often cited as a concern associated with ADUs, particularly when an ADU is located in a detached accessory building. The Zoning Ordinance does not list privacy as one of the general purposes. Privacy is also not one of the considered detrimental impacts associated with conditional uses because it is difficult to measure. Privacy is, however, a by-product of zoning regulations because the zoning regulations establish what property owners can expect to occur next door. Privacy is generally impacted by the setbacks, height, window locations, outdoor

living space, and points of access, although the primary purpose of these types of regulations is to provide adequate light and air and mitigate against safety hazards, such as fire.

Window location on the second level of a detached ADU has the highest impact on the privacy of next door neighbors because a detached ADU can be located within the rear yard setback. The rear yard setback is an area where neighbors do not expect a dwelling unit because the principal building cannot be located in the rear yard setback. The Planning Commission proposal included vague language to address window locations and sizes. The updated proposal states that windows shall be no larger than the minimum required by the building code for egress, light, and air circulation and requires the glass to include glazing that prevents clear views from the windows into adjacent yards or requires the windows to face the interior of the subject property (and not the side or rear property lines) or face a public street or alley. The updated proposal does allow windows in existing structures to remain, but they would need to include obscure glass if located on a second level facing a side or rear property line.

Outdoor living space (such as decks and patios) also generated concerns regarding privacy. The existing ordinance does not address outdoor living space. The Planning Commission proposal limits the size of outdoor decks, balconies, and rooftop gardens and requires them to face an alley or corner side yard and prohibits roof top decks. The updated proposal maintains these requirements when a balcony or deck is located on a second level, but removes limits on rooftop gardens because a green roof does not have an impact on a neighboring property.

Building entrances can also impact privacy, particularly when an ADU is accessed from exterior stairs leading to a second level ADU. Ground level entrances create minor impacts to privacy. The updated proposal includes standards about entrance locations and requires them to be further from a property line if they are accessing an ADU above the ground level of the building.

Setbacks determine how close a building can be to a property line and along with building height are the primary regulations that help determine how much development can occur on a residential property. The updated ADU ordinance requires ADUs that are part of the principal dwelling to meet the same standards as the principal dwelling. Detached ADUs have to be at least 4 feet from a side or rear property line. If a detached ADU includes second story living space, the ADU must be stepped back a minimum of 10 feet unless that side or rear property line is adjacent to an alley.

PUBLIC PROCESS: Prior transmittals have addressed the public process associated with the ADU ordinance. The City Council specifically stated that it was not expected that an updated ordinance would have to go back through a public review process and that the council will hold additional public hearings on the ordinance.

EXHIBITS:

1. Accessory Dwelling Units in Salt Lake City report

SALT LAKE CITY ORDINANCE
No. _____ of 2018
(Amending various sections of the *Salt Lake City Code*
pertaining to accessory dwelling units)

An ordinance amending various sections of the *Salt Lake City Code* pertaining to accessory dwelling units, pursuant to Petition No. PLNPCM2014-00447.

WHEREAS, the Salt Lake City Planning Commission held a public hearing on June 22, 2016 to consider a request made by the Salt Lake City Mayor (per the petition of former mayor, Ralph Becker) (“Applicant”) (Petition No. PLNPCM2014-00447) to amend Sections 21A.40.200 (Zoning: Accessory Uses, Buildings and Structures: Accessory Dwelling Units), 21A.62.040 (Zoning: Definitions: Definitions of Terms), 21A.33.020 (Zoning: Land Use Tables: Table of Permitted and Conditional Uses for Residential Districts), and 21A.33.070 (Zoning: Land Use Tables: Table of Permitted and Conditional Uses for Special Purpose Districts) pertaining to accessory dwelling units; and

WHEREAS, at its June 22, 2016 hearing, the planning commission voted in favor of forwarding a positive recommendation on said petition to the Salt Lake City Council; and

WHEREAS, the city council finds after holding a public hearing on this matter, that adopting this ordinance is in the city’s best interests.

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Amending the Text of *Salt Lake City Code* Section 21A.40.200. That Section 21A.40.200 (Zoning: Accessory Uses, Buildings and Structures: Accessory Dwelling Units) of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

21A.40.200: ACCESSORY DWELLING UNITS:

~~Accessory dwelling units, as defined in chapter 21A.62 of this title, shall be subject to the following:~~

A. Purpose Statement: ~~The purposes of the accessory dwelling unit provisions~~ regulatory intentions of this section are to:

1. ~~Create new housing units while respecting the look~~ appearance and scale of ~~single-dwelling~~family residential development;
2. ~~Increase the housing stock of existing neighborhoods in a manner that is less intense than alternatives~~ Provide more housing choices in residential districts;
3. Allow more efficient use of existing housing stock, public infrastructure, and the embodied energy contained within existing structures;
4. ~~Provide a mix of housing options that responds to changing family needs and smaller households~~ Provide housing options for family caregivers, adult children, aging parents, and families seeking smaller households;
5. Offer a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship, and services;
6. ~~Promote a broader~~ Broaden the range of affordable housing throughout the city;
7. ~~Provide opportunity for work force housing in developed and new neighborhoods, close to places of work, thus reducing greenhouse gas emissions and reducing fossil fuel consumption through less car commuting~~ Support sustainability objectives by increasing housing close to jobs, schools, and services, thereby reducing greenhouse gas emissions and fossil fuel consumption;
8. Support transit oriented development and reduce auto usage by increasing density near transit stops; and
9. Support the economic viability of historic properties and the city's historic preservation goals by allowing accessory ~~residential uses~~ dwellings in historic structures.

B. Applicability: ~~An accessory dwelling unit may be incorporated within or added onto an existing house, garage, or other accessory structure, or may be built as a separate, detached structure on a lot where a single family dwelling exists. Accessory dwelling units are allowed in the following residential zone districts: FR 1/43,560, FR 2/21,780, FR 3/12,000, R 1/12,000, R 1/7,000, R 1/5,000, SR 1, SR 1A, SR 2, SR 3, R 2, RMF 30, RMF 35, RMF 45, and RMF 75 subject to the provisions of this section.~~

€ Owner Occupant: For the purposes of this title, “owner occupant” shall mean the following:

1. An individual who:

- a. Possesses, as shown by a recorded deed, fifty percent (50%) or more ownership in a dwelling unit; and
- b. Occupies the dwelling unit with a bona fide intent to make it his or her primary residence; or

2. An individual who:

a. Is a trustor of a family trust which:

- (1) Possesses fee title ownership to a dwelling unit;
- (2) Was created for estate planning purposes by one or more trustors of the trust; and

b. Occupies the dwelling unit owned by the family trust with a bona fide intent to make it his or her primary residence. Each living trustor of the trust shall so occupy the dwelling unit except for a trustor who temporarily resides elsewhere due to a disability or infirmity. In such event, the dwelling unit shall nevertheless be the domicile of the trustor during the trustor’s temporary absence.

3. Even if a person meets the requirements of subsection ~~€1 B.1~~ or ~~€2 B.2~~ of this section, such person shall not be deemed an owner occupant if the property on which the dwelling unit is located has more than one owner and all owners of the property do not occupy the dwelling unit with a bona fide intent to make the dwelling unit their primary residence.

a. A claim by the city that a person is not an owner occupant may be rebutted only by documentation, submitted to the department of community and neighborhoods, showing such person has a bona fide intent to make the dwelling unit his or her primary residence. Such intent shall be shown by:

- (1) Documents for any loan presently applicable to the property where the dwelling unit is located which name the person as a borrower;
- (2) Tax returns which show the person has claimed income, deductions, or depreciation from the property;
- (3) Rental documents and agreements with any tenant who occupies the dwelling unit, including an accessory apartment;

(4) Insurance, utility, appraisal, or other contractual documents related to the property which name the person as the property owner; and

(5) Documents which show the person is a full time resident of Utah for Utah state income tax purposes.

b. Any person who fails, upon request of the department of community and neighborhoods, to provide any of the documents set forth in subsection ~~C3a~~ B.3.a of this section or who provides a document showing that ownership of a dwelling unit is shared among persons who do not all occupy the dwelling unit shall mean for the purpose of this title that such person shall not be deemed an “owner occupant” of the dwelling unit in question.

4. The provisions of subsection ~~C3~~ B.3 of this section shall apply to any person who began a period of owner occupancy after September 18, 2012, regardless of when the person purchased the property.

C. Applicability: Accessory dwelling units shall be ~~are a permitted use within the residential and special purpose districts~~ as specified in Chapter 21A.33 Land Use Tables of this title and subject to compliance with the applicable provisions of this title.

D. Methods of Creation: An accessory dwelling unit may be created through, but not limited to, the following methods:

1. ~~Converting existing living area within a principal single family dwelling, such as a basement, attic space, or enclosed porch, as an addition to an existing single family dwelling, or within a single family dwelling created as new construction; or~~
2. ~~Converting an existing detached accessory building, as an addition to an existing accessory building, or as a newly constructed accessory building. Adding floor area to a principal dwelling;~~
3. ~~Constructing a new single family attached or detached dwelling with an internal or detached accessory dwelling unit;~~
4. ~~Converting or adding onto an existing accessory structure, such as a garage or other outbuilding, on a lot where no required parking for the principal dwelling is eliminated by the accessory dwelling unit; or~~
5. ~~Constructing a new accessory dwelling unit within a separate detached structure in compliance with applicable lot coverage and setback regulations.~~

D. Standards: Accessory dwelling units shall conform to the following purpose statement and requirements:

1. Purpose: These design and development standards are intended to ensure that accessory dwelling units are:
 - a. ~~Compatible with the desired character and livability of the residential zoning districts;~~

- ~~b. Compatible with the historic district and landmark resources of the city;~~
- ~~c. Compatible with the general building scales and placement of structures to allow sharing of common space on the lot, such as yards and driveways; and~~
- ~~d. Smaller in size than the principal dwelling on the site.~~

~~2. General Requirements:~~

- ~~a. Owner Occupant Requirement: Accessory dwelling units shall only be permitted when an owner occupant lives on the property within either the principal dwelling or accessory dwelling unit. Owner occupancy shall not be required when:
 - ~~(1) The owner has a bona fide, temporary absence of three (3) 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~~
 - ~~(2) 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.~~~~
- ~~b. Deed Restriction: A lot approved for development with an accessory dwelling unit shall have a deed restriction, the form of which shall be approved by the city attorney, filed with the county recorder's office indicating such owner occupied requirement of the property prior to issuance of a final certificate of occupancy for the accessory dwelling unit by the city. Such deed restriction shall run with the land until the accessory dwelling unit is abandoned or revoked.~~
- ~~c. One Per Lot: One accessory dwelling unit is permitted per residential lot.~~
- ~~d. Underlying Zoning Applies: Unless specifically provided otherwise in this section, accessory dwelling units are subject to the regulations for a principal building of the underlying zoning district with regard to lot and bulk standards, such as building and wall height, setbacks, yard requirements, and building coverage.
 - ~~(1) The requirements of section 21A.40.050 of this chapter, which govern all nonresidential accessory structures, do not apply to accessory dwelling units; and~~
 - ~~(2) Accessory dwelling units may have the same building setbacks as that allowed in the zoning district for the principal dwelling on the property. An existing accessory structure whose setbacks do not meet the setback requirements for a dwelling as noted above may be converted into an accessory dwelling unit but any noncomplying setbacks may not become more noncomplying.~~~~

- e. ~~Existing Development On Lot: A single-family dwelling shall exist on the lot or will be constructed in conjunction with the accessory dwelling unit.~~
- f. ~~Internal, Attached, Or Detached: While accessory dwelling units are allowed only in conjunction with a principal dwelling on a lot, the unit may be built internal to, attached to, or as a separate unit detached from the principal dwelling.~~
- g. ~~Minimum Lot Area: Within permissible zoning districts, the minimum lot area required for an accessory dwelling unit shall be:
 - (1) ~~Internal: For accessory dwelling units located within the principal single-family structure, no minimum lot area is required;~~
 - (2) ~~Attached: For accessory dwelling units located within an addition to the single-family structure, no minimum lot area is required; or~~
 - (3) ~~Detached: For accessory dwelling units located within a detached structure, a minimum lot area of five thousand (5,000) square feet is required.~~~~
- h. ~~Building Code Compliance: Accessory dwelling units are subject to compliance with current building code at time of permit approval.~~
- i. ~~Public Utilities: No structure that is not connected to the public water and sanitary sewer systems shall have an accessory dwelling unit.~~
- j. ~~Multi-Family Districts With Single-Family Dwelling On Lot: A lot located within a multi-family zoning district that is currently built out with a single-family detached dwelling and does not have the required minimum amount of land to add additional units pursuant to the multi-family zoning district requirement, one accessory dwelling unit may be permitted.~~
- k. ~~Not A Unit Of Density: Accessory dwelling units are not considered a unit of density and therefore are not included in the density calculation for residential property.~~
- l. ~~Rooming House: Neither dwelling unit may be used as a “dwelling, rooming (boarding) house” as defined by section 21A.62.040 of this title.~~
- m. ~~Home Occupations: Home occupations may be conducted in an accessory dwelling unit as per section 21A.36.030 of this title.~~
- n. ~~Historic Preservation Overlay District: Accessory dwelling units located in an H historic preservation overlay district are subject to the applicable regulations and review processes of section 21A.34.020 of this title, including the related guidelines and standards as adopted by Salt Lake City to ensure compatible building and preservation of historic resources.~~

- ~~o. Fixed Transit Stop: The property on which an accessory dwelling unit is permitted shall be located in whole or in part within a one-half ($\frac{1}{2}$) mile radius of an operational fixed transit stop (i.e., commuter rail, light rail, streetcar, etc.).~~
- ~~p. Windows: In an accessory dwelling unit that does not comply with the setback regulations for a single family dwelling, the placement of windows within the accessory dwelling unit shall not be allowed within ten feet (10') of a side yard or rear yard property line, except under the following conditions:~~
- ~~(1) Windows adjacent to a rear yard property line may be allowed within ten feet (10') of the rear yard property line if the rear yard abuts an alley, or~~
- ~~(2) Windows located within ten feet (10') of a property line may be allowed if the bottom of the windowsill is located at least six feet (6') above the corresponding floor plate.~~
- ~~3. Methods Of Creation: An accessory dwelling unit may only be created through one or more of the following methods:~~
- ~~a. Converting existing living area within a principal structure, such as a basement or attic space;~~
- ~~b. Adding floor area to a principal structure;~~
- ~~c. Constructing a new single family detached dwelling unit structure with an internal or detached accessory dwelling unit;~~
- ~~d. Converting or adding onto an existing accessory structure on a lot, such as to a garage or other outbuilding, where no required parking for the principal dwelling is eliminated by the accessory dwelling unit; or~~
- ~~e. Constructing a new accessory dwelling unit within a separate detached structure in compliance with applicable lot coverage regulations.~~
- ~~4. Size Of Accessory Dwelling Unit: The maximum size of an accessory dwelling unit may be no more than fifty percent (50%) of the gross square footage of the principal dwelling unit or six hundred fifty (650) square feet whichever is less. The minimum size of an accessory dwelling unit is that size specified and required by the adopted building code of the city.~~
- ~~5. Ownership: An accessory dwelling unit shall not be sold separately or subdivided from the principal dwelling unit or lot.~~
- ~~6. Number Of Residents: The total number of residents that may reside in an accessory dwelling unit may not exceed the number that is allowed for a "family" as defined in section 21A.62.040, "Definitions Of Terms", of this title.~~

~~7. Parking:~~

- ~~a. An accessory dwelling unit that contains a studio or single bedroom, one additional on-site parking space is required.~~
- ~~b. An accessory dwelling unit that contains two (2) or more bedrooms, two (2) additional on-site parking spaces are required.~~
- ~~c. The city transportation director may approve a request to waive, or modify the dimensions of, the accessory dwelling unit parking space upon finding that the parking requirement for the principal dwelling is met, and~~
 - ~~(1) Adequate on-street parking in the immediate vicinity is available to serve the accessory dwelling unit and will not cause congestion in the area; or~~
 - ~~(2) The accessory dwelling unit is located within one fourth ($\frac{1}{4}$) mile of a fixed transit line or an arterial street with a designated bus route.~~
- ~~d. The city transportation director may allow tandem parking, within a legal location behind an existing on-site parking space, to meet the accessory dwelling unit parking requirement so long as the parking space requirement is met for the principal dwelling.~~

~~8. Location Of Entrance To Accessory Dwelling Unit:~~

- ~~a. Internal Or Attached Units: Accessory dwelling units that are internal to or attached to a principal dwelling may take access from an existing entrance on a street-facing front facade of the principal dwelling. No new entrances may be added to the front facade of a principal dwelling for an accessory dwelling unit unless such access is located at least twenty feet (20') behind the front facade of the principal dwelling unit.~~
- ~~b. Detached Units: Accessory dwelling units that are detached from the principal dwelling:~~
 - ~~(1) May utilize an existing street-facing front facade entrance as long as the entrance is located a minimum of twenty feet (20') behind the front facade of the principal dwelling, or install a new entrance to the existing or new detached structure for the purpose of serving the accessory dwelling unit as long as the entrance is facing the rear or side of lot.~~
 - ~~(2) Shall be located no closer than thirty feet (30') from the front property line and shall take access from an alley when one is present and accessible.~~
- ~~c. Corner Lots: On corner lots, existing entrances on the street-facing sides may be used for an accessory dwelling unit, but any new entrance shall be located facing~~

~~toward the rear property line or interior side yard, or toward the back of the principal dwelling.~~

- ~~d. H Historic Preservation Overlay District: When accessory dwelling units are proposed in an H historic preservation overlay district, the regulations and design guidelines governing these properties in section 21A.34.020 of this title shall take precedence over the location of entrance provisions above.~~
- ~~e. Side Entrance Exemption: Side entrance for an accessory dwelling unit shall not be subject to compliance with subsection 21A.24.010H, "Side Entry Buildings", of this title.~~

~~9. Exterior Design:~~

- ~~a. Within An H Historic Preservation Overlay District: Accessory dwelling units located within an H historic preservation overlay district shall meet the process, regulations, and applicable design guidelines in section 21A.34.020 of this title.~~
- ~~b. Outside H Historic Preservation Overlay District Or Historic Landmark Site: Accessory dwelling units shall be regulated by the following exterior design standards:~~

- ~~(1) The maximum height of a detached accessory dwelling unit shall not exceed the principal structure; and~~
- ~~(2) An accessory dwelling unit shall be designed and constructed to be compatible with the principal structure.~~

~~10. Registration: Accessory dwelling units shall be registered with the city to evaluate whether the accessory dwelling unit initially meets applicable requirements; to ensure that the accessory dwelling unit meets health and safety requirements; to ensure that the property owner is aware of all city regulations governing accessory dwelling units; to ensure that the distribution and location of accessory dwelling units is known, to assist the city in assessing housing supply and demand; and to fulfill the accessory dwelling units purpose statement listed above. To accomplish this, property owners seeking to establish an accessory dwelling unit shall comply with the following:~~

- ~~a. Building Permit: Apply for and obtain a building permit for the proposed accessory dwelling unit, regardless of method of creation;~~
- ~~b. Inspection: Ensure accessory dwelling unit is constructed, inspected, and approved in compliance with current building code; and~~
- ~~c. Business License: Apply for and obtain an annual business license for the accessory dwelling unit in accordance with the applicable provisions of the city.~~

~~11. Occupancy: No accessory dwelling unit shall be occupied until the property owner obtains a business license for the accessory dwelling unit from the city.~~

E. Standards: Accessory dwelling units shall conform to the following requirements:

1. General Requirements applicable to all accessory dwelling units:

- a. One Per Lot: City may permit one accessory dwelling unit for each lot that contains a single-family dwelling.
- b. Not a Unit of Density: Accessory dwelling units are not considered a unit of density and therefore are not included in the density calculation for residential property.
- c. Ownership: An accessory dwelling unit shall not be sold separately or subdivided from the principal dwelling unit or lot unless compliant with subdivision regulations.
- d. 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:
 - (1) The owner has a bona fide, temporary absence of three (3) 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
 - (2) 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.
- e. Number of Residents: The total number of residents that reside in an accessory dwelling unit may not exceed the number allowed for a “family” as defined in Section 21A.62.040, “Definitions of Terms”, of this title.
- f. Home Occupations: Home occupations may be conducted in an accessory dwelling unit as per Section 21A.36.030 of this title.
- g. Prohibition on Short Term Rental: No property that contains an accessory dwelling unit, whether the accessory dwelling unit is interior to the principal structure or in a detached accessory structure, shall be rented for less than 30 consecutive days or otherwise used as a short term rental.
- e. Parking: An accessory dwelling unit shall require a minimum of one on-site parking space that is a minimum of nine feet (9’) wide by twenty feet (20’) deep.

(1) The planning director, in consultation with the transportation director, may approve a request to waive the parking requirement for the accessory dwelling unit upon finding that the parking requirement for the principal dwelling unit is complied with, and:

(a) Legally located on street parking is available immediately in front of the lot where the accessory dwelling unit is located; or

(b) The lot or parcel containing the accessory dwelling unit is located within a one-fourth (1/4) mile radius from a fixed rail transit line or an arterial street with a designated bus route.

(3) The planning director, in consultation with the transportation director, may allow tandem parking, located in front of or behind existing on-site parking, to meet the accessory dwelling unit parking requirement so long as the parking space requirement is met for the principal dwelling.

2. ~~Design~~ Additional Requirements for Accessory Dwelling Units Located Within a Single Family Dwelling: Accessory dwelling units located within a single family dwelling shall comply with the following standards:

a. ~~Compatibility: An accessory dwelling unit shall be designed and constructed to be compatible with the principal dwelling.~~ Any addition shall comply with the building height, yard requirements, and building coverage requirements of the underlying zoning district or applicable overlay district unless modified by the historic landmark commission for a property located within an H Historic Preservation Overlay District.

b. ~~Underlying Zoning Applies~~ Size Requirements: No accessory dwelling unit shall occupy more than fifty percent (50%) of the gross square footage of the single family dwelling. The square footage of an attached garage shall not be included in the gross square footage unless the accessory dwelling unit is located in a basement that includes habitable space below the garage. ~~Unless specifically provided in this section, an accessory dwelling unit shall conform to the lot and bulk requirements of the underlying zoning district, including building and wall height, setbacks, yard requirements, and building coverage.~~

~~(1) On a corner lot, all detached accessory dwelling units shall comply with the corner side yard setback requirement of the underlying zoning district.~~

~~(2) A detached accessory dwelling unit that has habitable space above the first floor shall have a minimum side yard and rear yard setback of four feet (4').~~

~~(3) A detached accessory dwelling unit that exceeds the maximum height of an accessory structure, as permitted by the underlying zoning district, shall increase the minimum interior side yard and rear yard setback one foot (1') for every additional foot of building height.~~

~~(4) An existing accessory structure that does not conform with the lot and bulk controls of this chapter may be converted into an accessory dwelling unit pursuant to the procedures and standards set forth in Chapter 21A.38, “Nonconforming Uses and Noncomplying Structures” of this title.~~

c. ~~Entrance Locations: Area of Accessory Dwelling Unit:~~ Entrances to an accessory dwelling unit that are located within a single family dwelling shall only be permitted in the following locations:

- ~~(1) An existing entrance to the single family dwelling; The maximum gross floor area of an attached accessory dwelling unit may not exceed fifty percent (50%) of the gross floor area of the principal dwelling.~~
- ~~(2) When located on a building façade that faces a corner side yard, the entrance shall be setback a minimum of twenty feet (20’) from the front building facade; The maximum gross floor area of a detached accessory dwelling unit may not exceed fifty percent (50%) of the gross floor area of the principal dwelling or six hundred fifty (650) square feet, whichever is less.~~
- ~~(3) Exterior stairs leading to an entrance above the first level of the principal structure shall only be located on the rear elevation of the building. The minimum gross floor area of an accessory dwelling unit is that size specified and required by the adopted building code of the city.~~
- ~~(4) Side entrances to an accessory dwelling unit are not considered a principal entry to the building and are exempt from subsection 21A.24.010.H “Side Entry Buildings”.~~

d. ~~Height of Detached Accessory Dwelling Unit:~~

- ~~(1) Maximum height of an accessory dwelling unit shall not exceed the principal dwelling; and~~
- ~~(2) Maximum height of a detached accessory dwelling unit located over an accessory use, such as parking or storage, 24’-0” measured to the ridge of a pitched roof building, and 20’-0” of a flat roof building provided the minimum interior side.~~

e. ~~Location of Entrance to Accessory Dwelling Unit:~~

~~(1) Internal or Attached Units: Accessory dwelling units that are internal or attached to a principal dwelling may be accessible from the following:~~

- ~~(a) An existing entrance to the principal dwelling.~~
- ~~(b) An additional entrance on a street-facing facade provided:~~
 - ~~i. Entrance is located at least twenty feet (20’) behind the front facade of the principal dwelling; or~~
 - ~~ii. Entrance is screened from public view by landscaping or architectural feature that is compatible with the design of the principal dwelling.~~

- ~~(c) An existing or additional entrance that faces the interior side yard or rear yard of lot.~~
- ~~(2) Detached Units: Accessory dwelling units that are detached from the principal dwelling may be accessible from an:~~
- ~~(a) Entrance located at least twenty feet (20') behind the front facade of the principal dwelling; or~~
- ~~(b) Entrance that faces the interior side yard or rear yard of lot.~~
- ~~(3) Side Entrance Exemption: Side entrance for an accessory dwelling unit shall not be subject to compliance with subsection 21A.24.010.H, "Side Entry Buildings", of this title.~~
- ~~f. Upper Level Windows in Detached Accessory Dwelling Unit: As with lot and bulk regulations, the following standards are intended to ensure that detached accessory dwelling units maintain a neighborly relationship with adjacent properties:~~
- ~~(1) Living space on an upper level shall have their primary windows facing the interior of the lot or overlooking an alley or public street.~~
- ~~(2) Upper level windows facing side or rear property lines yards shall be modestly no larger than necessary sized, sufficient to meet the need minimum building code requirements for light, air, and egress where required. Skylights, clerestory windows, or obscured glazing should be considered as the means to enhance interior daylighting without creating overlook into a neighboring property.~~
- ~~(3) A detached dwelling unit shall be designed with consideration given to the relationship between desired window size and placement and the scale of building facades, projections and dormers. Dormers and building facades should not be windowless.~~
- ~~(4) Window openings located within an existing accessory structure, whether conforming or non-conforming with setback window regulations in this chapter, may be retained if compliant with building and fire codes.~~
- ~~g. Outdoor Roof Decks and Balconies: Balconies and roof decks, including rooftop gardens, shall be designed and located as follows:~~
- ~~(1) The total area shall not exceed 86 square feet.~~
- ~~(2) Balconies and decks shall be located so they face an alley or corner side yard; and~~
- ~~(3) Flat roofs above an upper level or story may not be used as roof deck areas, and must not have stair access or railings. Ladder and roof hatch access necessary for green roof maintenance may be provided.~~

~~h. Parking:~~

- ~~(1) An accessory dwelling unit requires one on-site parking space.~~
- ~~(2) The planning director, in consultation with the transportation director, may approve a request to waive, or modify the dimensions of, the accessory dwelling unit parking space upon finding that the parking requirement for the principal dwelling is met, and:~~
 - ~~(a) Adequate on-street parking in the immediate vicinity is available to serve the accessory dwelling unit and will not cause congestion in the area; or~~
 - ~~(b) The lot or parcel containing the accessory dwelling unit is located within a one-fourth ($\frac{1}{4}$) mile radius from a fixed transit line or an arterial street with a designated bus route.~~
- ~~(3) The planning director, in consultation with the transportation director, may allow tandem parking, located in front of or behind existing on-site parking, to meet the accessory dwelling unit parking requirement so long as the parking space requirement is met for the principal dwelling.~~

3. Additional Requirements for an Accessory Dwelling Unit Located in a Detached Accessory Building: An accessory dwelling unit located in a detached accessory building or as an addition to an existing accessory building shall comply with the following standards, (except that any of the standards in this section may be modified by the historic landmark commission for a property located in an H Historic Preservation Overlay District):

- a. Shall comply with all applicable general yard, bulk, and height limitations found in Section 21A.40.050 of this chapter and any accessory building regulation found in the underlying zoning district or any applicable overlay zoning district unless otherwise regulated by this section.
- b. Shall comply with the building maximum coverage requirements of the underlying zoning district or applicable overlay zoning district, whichever is more restrictive.
- c. Setbacks: All accessory dwelling units located in an accessory building shall be located between the rear wall of the single family dwelling and the rear property line and be subject to the following setback requirements:
 - (1) Shall be located a minimum of ten feet (10') from the single family dwelling located on the same parcel and any single family dwelling on an adjacent property.
 - (2) Side and Rear Yard Setbacks:

(a) New accessory buildings: Shall be located a minimum of four feet (4') from any side or rear lot line.

(b) Additions to existing accessory buildings: The addition shall be located a minimum of four feet from any side or rear lot line. If an existing accessory building includes an addition, all of or portions of the existing structure may be used as an accessory dwelling unit provided the existing setbacks are not further reduced and the structure complies or can be altered to comply with the applicable sections of the adopted fire code of the city.

(c) Second story additions: A second story addition to an existing accessory building is permitted provided the second story addition has a minimum setback of ten feet from a side or rear property line and the second story addition complies with all applicable regulations for accessory dwelling units located on a second floor of a detached accessory building. If the side or rear lot line is adjacent to an alley, the setback may be reduced to four feet (4')

d. Building Height:

(1) The maximum height of an accessory building containing an accessory dwelling unit shall not exceed the height of the single family dwelling on the property or exceed seventeen feet in height, whichever is less.

Exception: If the single family dwelling on the property is over seventeen feet in height, an accessory building containing an accessory dwelling unit may be equal to the height of the single family dwelling up to a maximum building height of twenty four feet (24') for an accessory building with a pitched roof or twenty feet (20') for an accessory building with a flat roof provided the accessory building is setback a minimum of ten feet (10') from a side or property line. The setback for additional height may be reduced to four feet (4') if the side or rear lot line is adjacent to an alley.

(2) Accessory building height shall be measured to the ridge of the roof for buildings with a pitched roof and to the top of the roof line for a flat roof.

e. Size Requirements: An accessory building that contains an accessory dwelling unit shall be subject to the building coverage requirements for accessory buildings found in Section 21A.40.050. In no instance shall any accessory dwelling unit exceed a gross floor area of six hundred and fifty square feet (650 ft²).

f. Entrance Locations: The entrance to an accessory dwelling unit in an accessory building shall be located:

(1) Facing an alley, public street or facing the rear façade of the single family dwelling on the same property.

(2) Facing a side or rear property line provided the entrance is located a minimum of ten feet (10') from the side or rear property line.

(3) Exterior stairs leading to an entrance shall be located a minimum of ten feet (10') from a side or rear property line unless the applicable side or rear property line is adjacent to an alley in which case the minimum setback for the accessory building applies to the stairs.

g. Requirements for Windows: Windows on an accessory building containing an accessory dwelling unit shall comply with the following standards:

(1) Windows shall be no larger than necessary to comply with the minimum building code requirements for egress where required. Skylights, clerestory windows, or obscured glazing shall be used when facing a side or rear property line to comply with minimum building code requirements for air and light on building elevations that are within ten feet of a side or rear property line unless the side or rear property line is adjacent to an alley.

(2) Except as required in paragraph a, windows shall maintain a similar dimension and design as the windows found on the principal structure.

(3) Window openings located on the ground floor within an existing accessory building, whether conforming or non-conforming with window regulations in this chapter, may be retained if compliant with building and fire codes. Existing windows located on a second level within an existing accessory building shall be brought into compliance with this section.

h. Balconies and Decks: balconies and decks shall be designed as follows:

(1) Shall not exceed eighty square feet (80 ft²) in size when located above the ground level of the building;

(2) Shall be located a minimum of ten feet (10 ft) from a side or rear yard lot line unless the applicable side or rear yard lot line is adjacent to an alley;

(3) Rooftop decks are prohibited.

~~3. Historic Preservation Overlay District: Accessory dwelling units located in an H Historic Preservation Overlay District are subject to the applicable regulations and review processes of Section 21A.34.020 of this title, including related guidelines and standards adopted by Salt Lake City to ensure compatible building and preservation of historic resources.~~

F. Registration Process: Property owners seeking to establish an accessory dwelling unit shall comply with the following:

1. Application:

a. Zoning Certificate: Apply for a zoning certificate in accordance with Chapter 21A.08 of this title.

i. Prior to the issuance of zoning certificate for an accessory dwelling unit that is listed as a permitted use in the underlying zoning district, the planning director shall provide written notice by first class mail a minimum of thirty (30) days in advance of issuance of the certificate to all abutting properties and those properties located directly across the street from the subject property. A building permit application may be processed concurrent with the zoning certificate notice period.

ii. The zoning administrator shall issue the zoning certificate after the thirty (30) day notice period if the requirements of Subsection 21A.40.200.E are met.

b. Building Permit: Apply for and obtain a building permit for the proposed accessory dwelling unit, regardless of method of creation.

~~i. Building Code Compliance: Accessory dwelling units are subject to compliance with current building code at time of permit application.~~

~~ii. Permit Allocation: The city shall limit the establishment of accessory dwelling units to twenty five (25) units per calendar year.~~

~~iii. The city shall process building permit applications in the order received, however building permit issuance shall be in the order of compliance with current building code.~~

~~iv. Inspection: The city shall ensure the accessory dwelling unit is constructed, inspected, and approved in compliance with current building code.~~

2. Deed Restriction: A lot approved for development with an accessory dwelling unit shall have a deed restriction, the form of which shall be approved by the city attorney, and shall be filed with the county recorder's office. The form shall state that the owner occupant must occupy the property as required within this section. Such deed restriction shall run with the land until the accessory dwelling unit is abandoned or revoked.

3. Business License: In accordance with applicable provisions of the city, the property owner shall apply for and obtain an annual business license for the accessory dwelling unit.

4. Certificate of Occupancy: No accessory dwelling unit shall receive a certificate of occupancy or be occupied until the property owner completes the registration process outlined in this section.

G. Abandonment: If a property owner is unable or unwilling to fulfill the requirements of this section, the owner shall remove those features of the accessory dwelling unit that make it a dwelling unit. Failure to do so will constitute a violation of this section.

H. Reporting: The planning division shall provide an annual report to the city council detailing the number of applications, address of each unit for which an application was submitted, a brief explanation of reasons why an application was denied, and a map showing approved accessory dwelling units. The report shall be transmitted to the city council by February 15th for the previous year.

SECTION 2. Amending the Text of Salt Lake City Code Section 21A.62.040. That Section 21A.62.040 (Zoning: Definitions: Definitions of Terms) of the Salt Lake City Code shall be, and hereby is, amended modify only the definition of “DWELLING, ACCESSORY UNIT”, which definition shall read as follows:

DWELLING, ACCESSORY UNIT: A type of accessory use that includes a residential unit that is located on the same lot as a single-family attached or detached dwelling unit, either internal to or attached to the single-family unit or in a detached structure. The accessory dwelling unit shall be a complete housekeeping unit with a shared or separate entrance, and separate kitchen, sleeping area, closet space, and bathroom facilities.

The codifier is instructed to modify only the aforementioned definition and make no other revisions to Section 21A.62.040 as part of this ordinance.

SECTION 3. Amending the Text of Salt Lake City Code Section 21A.33.020. That Section 21A.33.020 (Zoning: Land Use Tables: Table of Permitted and Conditional Uses for Residential Districts) of the Salt Lake City Code shall be, and hereby is, amended to modify that table only as it pertains to the use “Dwelling, accessory unit”, which use category shall read as follows:

21A.33.020: TABLE OF PERMITTED AND CONDITIONAL USES FOR RESIDENTIAL DISTRICTS:

Legend: C = Conditional P = Permitted

Use	Permitted And Conditional Uses By District																		
	FR-1/ 43,560	FR-2/ 21,780	FR-3/ 12,000	R-1/ 12,000	R-1/ 7,000	R-1/ 5,000	SR-1	SR-2	SR-3	R-2	RMF- 30	RMF- 35	RMF- 45	RMF- 75	RB	R-MU- 35	R-MU- 45	R-MU	RO
Dwelling, accessory unit	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	P		P	P	P	P	P	P	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

SECTION 4. Amending the Text of *Salt Lake City Code* Section 21A.33.070. That Section 21A.33.070 (Zoning: Land Use Tables: Table of Permitted and Conditional Uses for Special Purpose Districts) of the Salt Lake City Code shall be, and hereby is, amended to modify that table only as it pertains to the use “Dwelling, accessory unit”, which use category shall read as follows:

LEGISLATIVE VERSION

21A.33.070: TABLE OF PERMITTED AND CONDITIONAL USES FOR SPECIAL PURPOSE DISTRICTS:

Legend: C = Conditional P = Permitted

Use		Permitted And Conditional Uses By District																
		RP	BP	FP	AG	AG -2	AG -5	AG -20	OS	NOS	A	PL	PL- 2	I	UI	M H	EI	MU
Dwelling:																		
	Accessory Unit			<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>										<u>P</u>

SECTION 5. Effective Date. This Ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2018.

CHAIRPERSON

ATTEST:

CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CITY RECORDER

(SEAL)

Bill No. _____ of 2018.

Published: _____.

HB_ATTYY-#55795-v7-Ordinance_amending_ADU_regs.DOCX

SALT LAKE CITY ORDINANCE
No. _____ of 2018
(Amending various sections of the *Salt Lake City Code*
pertaining to accessory dwelling units)

An ordinance amending various sections of the *Salt Lake City Code* pertaining to accessory dwelling units, pursuant to Petition No. PLNPCM2014-00447.

WHEREAS, the Salt Lake City Planning Commission held a public hearing on June 22, 2016 to consider a request made by the Salt Lake City Mayor (per the petition of former mayor, Ralph Becker) (“Applicant”) (Petition No. PLNPCM2014-00447) to amend Sections 21A.40.200 (Zoning: Accessory Uses, Buildings and Structures: Accessory Dwelling Units), 21A.62.040 (Zoning: Definitions: Definitions of Terms), 21A.33.020 (Zoning: Land Use Tables: Table of Permitted and Conditional Uses for Residential Districts), and 21A.33.070 (Zoning: Land Use Tables: Table of Permitted and Conditional Uses for Special Purpose Districts) pertaining to accessory dwelling units; and

WHEREAS, at its June 22, 2016 hearing, the planning commission voted in favor of forwarding a positive recommendation on said petition to the Salt Lake City Council; and

WHEREAS, the city council finds after holding a public hearing on this matter, that adopting this ordinance is in the city’s best interests.

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Amending the Text of *Salt Lake City Code* Section 21A.40.200. That Section 21A.40.200 (Zoning: Accessory Uses, Buildings and Structures: Accessory Dwelling Units) of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

21A.40.200: ACCESSORY DWELLING UNITS:

A. Purpose Statement: The regulatory intentions of this section are to:

1. Create new housing units while respecting the appearance and scale of single-family residential development;
2. Provide more housing choices in residential districts;
3. Allow more efficient use of existing housing stock, public infrastructure, and the embodied energy contained within existing structures;
4. Provide housing options for family caregivers, adult children, aging parents, and families seeking smaller households;
5. Offer a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship, and services;
6. Broaden the range of affordable housing throughout the city;
7. Support sustainability objectives by increasing housing close to jobs, schools, and services, thereby reducing greenhouse gas emissions and fossil fuel consumption;
8. Support transit oriented development and reduce auto usage by increasing density near transit; and
9. Support the economic viability of historic properties and the city's historic preservation goals by allowing accessory dwellings in historic structures.

B. Owner Occupant: For the purposes of this title, "owner occupant" shall mean the following:

1. An individual who:
 - a. Possesses, as shown by a recorded deed, fifty percent (50%) or more ownership in a dwelling unit; and
 - b. Occupies the dwelling unit with a bona fide intent to make it his or her primary residence; or
2. An individual who:
 - a. Is a trustor of a family trust which:
 - (1) Possesses fee title ownership to a dwelling unit;

- (2) Was created for estate planning purposes by one or more trustors of the trust; and
 - b. Occupies the dwelling unit owned by the family trust with a bona fide intent to make it his or her primary residence. Each living trustor of the trust shall so occupy the dwelling unit except for a trustor who temporarily resides elsewhere due to a disability or infirmity. In such event, the dwelling unit shall nevertheless be the domicile of the trustor during the trustor's temporary absence.
3. Even if a person meets the requirements of subsection B.1 or B.2 of this section, such person shall not be deemed an owner occupant if the property on which the dwelling unit is located has more than one owner and all owners of the property do not occupy the dwelling unit with a bona fide intent to make the dwelling unit their primary residence.
- a. A claim by the city that a person is not an owner occupant may be rebutted only by documentation, submitted to the department of community and neighborhoods, showing such person has a bona fide intent to make the dwelling unit his or her primary residence. Such intent shall be shown by:
 - (1) Documents for any loan presently applicable to the property where the dwelling unit is located which name the person as a borrower;
 - (2) Tax returns which show the person has claimed income, deductions, or depreciation from the property;
 - (3) Rental documents and agreements with any tenant who occupies the dwelling unit, including an accessory apartment;
 - (4) Insurance, utility, appraisal, or other contractual documents related to the property which name the person as the property owner; and
 - (5) Documents which show the person is a full time resident of Utah for Utah state income tax purposes.
 - b. Any person who fails, upon request of the department of community and neighborhoods, to provide any of the documents set forth in subsection B.3.a of this section or who provides a document showing that ownership of a dwelling unit is shared among persons who do not all occupy the dwelling unit shall mean for the purpose of this title that such person shall not be deemed an "owner occupant" of the dwelling unit in question.
4. The provisions of subsection B.3 of this section shall apply to any person who began a period of owner occupancy after September 18, 2012, regardless of when the person purchased the property.

- C. Applicability: Accessory dwelling units shall be permitted as specified in Chapter 21A.33 Land Use Tables of this title and subject to compliance with the applicable provisions of this title.
- D. Methods of Creation: An accessory dwelling unit may be created through, but not limited to, the following methods:
1. Converting existing living area within a single family dwelling as an addition to an existing single family dwelling, or within a single family dwelling created as new construction; or
 2. Converting an existing detached accessory building, as an addition to an existing accessory building, or as a newly constructed accessory building.
- E. Standards: Accessory dwelling units shall conform to the following requirements:
1. General Requirements applicable to all accessory dwelling units:
 - a. One Per Lot: City may permit one accessory dwelling unit for each lot that contains a single-family dwelling.
 - b. Not a Unit of Density: Accessory dwelling units are not considered a unit of density and therefore are not included in the density calculation for residential property.
 - c. Ownership: An accessory dwelling unit shall not be sold separately or subdivided from the principal dwelling unit or lot unless compliant with subdivision regulations.
 - d. 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:
 - (1) The owner has a bona fide, temporary absence of three (3) 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
 - (2) 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.
 - e. Number of Residents: The total number of residents that reside in an accessory dwelling unit may not exceed the number allowed for a “family” as defined in Section 21A.62.040, “Definitions of Terms”, of this title.
 - f. Home Occupations: Home occupations may be conducted in an accessory dwelling unit as per Section 21A.36.030 of this title.

- g. **Prohibition on Short Term Rental:** No property that contains an accessory dwelling unit, whether the accessory dwelling unit is interior to the principal structure or in a detached accessory structure, shall be rented for less than 30 consecutive days or otherwise used as a short term rental.
- e. **Parking:** An accessory dwelling unit shall require a minimum of one on-site parking space that is a minimum of nine feet (9') wide by twenty feet (20') deep.
 - (1) The planning director, in consultation with the transportation director, may approve a request to waive the parking requirement for the accessory dwelling unit upon finding that the parking requirement for the principal dwelling unit is complied with, and:
 - (a) Legally located on street parking is available immediately in front of the lot where the accessory dwelling unit is located; or
 - (b) The lot or parcel containing the accessory dwelling unit is located within a one-fourth (1/4) mile radius from a fixed rail transit line or an arterial street with a designated bus route.
 - (3) The planning director, in consultation with the transportation director, may allow tandem parking, located in front of or behind existing on-site parking, to meet the accessory dwelling unit parking requirement so long as the parking space requirement is met for the principal dwelling.
- 2. **Additional Requirements for Accessory Dwelling Units Located Within a Single Family Dwelling:** Accessory dwelling units located within a single family dwelling shall comply with the following standards:
 - a. Any addition shall comply with the building height, yard requirements, and building coverage requirements of the underlying zoning district or applicable overlay district unless modified by the historic landmark commission for a property located within an H Historic Preservation Overlay District.
 - b. **Size Requirements:** No accessory dwelling unit shall occupy more than fifty percent (50%) of the gross square footage of the single family dwelling. The square footage of an attached garage shall not be included in the gross square footage unless the accessory dwelling unit is located in a basement that includes habitable space below the garage.
 - c. **Entrance Locations:** Entrances to an accessory dwelling unit that are located within a single family dwelling shall only be permitted in the following locations:
 - (1) An existing entrance to the single family dwelling;
 - (2) When located on a building façade that faces a corner side yard, the entrance shall be setback a minimum of twenty feet (20') from the front building facade;

- (3) Exterior stairs leading to an entrance above the first level of the principal structure shall only be located on the rear elevation of the building.
 - (4) Side entrances to an accessory dwelling unit are not considered a principal entry to the building and are exempt from subsection 21A.24.010.H “Side Entry Buildings”.
- 3. Additional Requirements for an Accessory Dwelling Unit Located in a Detached Accessory Building: An accessory dwelling unit located in a detached accessory building or as an addition to an existing accessory building shall comply with the following standards, (except that any of the standards in this section may be modified by the historic landmark commission for a property located in an H Historic Preservation Overlay District):
 - a. Shall comply with all applicable general yard, bulk, and height limitations found in Section 21A.40.050 of this chapter and any accessory building regulation found in the underlying zoning district or any applicable overlay zoning district unless otherwise regulated by this section.
 - b. Shall comply with the building maximum coverage requirements of the underlying zoning district or applicable overlay zoning district, whichever is more restrictive.
 - c. Setbacks: All accessory dwelling units located in an accessory building shall be located between the rear wall of the single family dwelling and the rear property line and be subject to the following setback requirements:
 - (1) Shall be located a minimum of ten feet (10’) from the single family dwelling located on the same parcel and any single family dwelling on an adjacent property.
 - (2) Side and Rear Yard Setbacks:
 - (a) New accessory buildings: Shall be located a minimum of four feet (4’) from any side or rear lot line.
 - (b) Additions to existing accessory buildings: The addition shall be located a minimum of four feet from any side or rear lot line. If an existing accessory building includes an addition, all of or portions of the existing structure may be used as an accessory dwelling unit provided the existing setbacks are not further reduced and the structure complies or can be altered to comply with the applicable sections of the adopted fire code of the city.
 - (c) Second story additions: A second story addition to an existing accessory building is permitted provided the second story addition has a minimum setback of ten feet from a side or rear property line and the second story

addition complies with all applicable regulations for accessory dwelling units located on a second floor of a detached accessory building. If the side or rear lot line is adjacent to an alley, the setback may be reduced to four feet (4')

d. Building Height:

- (1) The maximum height of an accessory building containing an accessory dwelling unit shall not exceed the height of the single family dwelling on the property or exceed seventeen feet in height, whichever is less.

Exception: If the single family dwelling on the property is over seventeen feet in height, an accessory building containing an accessory dwelling unit may be equal to the height of the single family dwelling up to a maximum building height of twenty four feet (24') for an accessory building with a pitched roof or twenty feet (20') for an accessory building with a flat roof provided the accessory building is setback a minimum of ten feet (10') from a side or property line. The setback for additional height may be reduced to four feet (4') if the side or rear lot line is adjacent to an alley.

- (2) Accessory building height shall be measured to the ridge of the roof for buildings with a pitched roof and to the top of the roof line for a flat roof.

e. Size Requirements: An accessory building that contains an accessory dwelling unit shall be subject to the building coverage requirements for accessory buildings found in Section 21A.40.050. In no instance shall any accessory dwelling unit exceed a gross floor area of six hundred and fifty square feet (650 ft²).

f. Entrance Locations: The entrance to an accessory dwelling unit in an accessory building shall be located:

- (1) Facing an alley, public street or facing the rear façade of the single family dwelling on the same property.
- (2) Facing a side or rear property line provided the entrance is located a minimum of ten feet (10') from the side or rear property line.
- (3) Exterior stairs leading to an entrance shall be located a minimum of ten feet (10') from a side or rear property line unless the applicable side or rear property line is adjacent to an alley in which case the minimum setback for the accessory building applies to the stairs.

g. Requirements for Windows: Windows on an accessory building containing an accessory dwelling unit shall comply with the following standards:

- (1) Windows shall be no larger than necessary to comply with the minimum building code requirements for egress where required. Skylights, clerestory windows, or obscured glazing shall be used when facing a side or rear property line to comply with minimum building code requirements for air and light on building elevations that are within ten feet of a side or rear property line unless the side or rear property line is adjacent to an alley.
- (2) Except as required in paragraph a, windows shall maintain a similar dimension and design as the windows found on the principal structure.
- (3) Window openings located on the ground floor within an existing accessory building, whether conforming or non-conforming with window regulations in this chapter, may be retained if compliant with building and fire codes. Existing windows located on a second level within an existing accessory building shall be brought into compliance with this section.

h. Balconies and Decks: balconies and decks shall be designed as follows:

- (1) Shall not exceed eighty square feet (80 ft²) in size when located above the ground level of the building;
- (2) Shall be located a minimum of ten feet (10 ft) from a side or rear yard lot line unless the applicable side or rear yard lot line is adjacent to an alley;
- (3) Rooftop decks are prohibited.

F. Registration Process: Property owners seeking to establish an accessory dwelling unit shall comply with the following:

1. Application:

- a. Zoning Certificate: Apply for a zoning certificate in accordance with Chapter 21A.08 of this title.
 - i. Prior to the issuance of zoning certificate for an accessory dwelling unit that is listed as a permitted use in the underlying zoning district, the planning director shall provide written notice by first class mail a minimum of thirty (30) days in advance of issuance of the certificate to all abutting properties and those properties located directly across the street from the subject property. A building permit application may be processed concurrent with the zoning certificate notice period.
 - ii. The zoning administrator shall issue the zoning certificate after the thirty (30) day notice period if the requirements of Subsection 21A.40.200.E are met.

- b. Building Permit: Apply for and obtain a building permit for the proposed accessory dwelling unit, regardless of method of creation.
- 2. Deed Restriction: A lot approved for development with an accessory dwelling unit shall have a deed restriction, the form of which shall be approved by the city attorney, and shall be filed with the county recorder's office. The form shall state that the owner occupant must occupy the property as required within this section. Such deed restriction shall run with the land until the accessory dwelling unit is abandoned or revoked.
- 3. Business License: In accordance with applicable provisions of the city, the property owner shall apply for and obtain an annual business license for the accessory dwelling unit.
- 4. Certificate of Occupancy: No accessory dwelling unit shall receive a certificate of occupancy or be occupied until the property owner completes the registration process outlined in this section.
- G. Abandonment: If a property owner is unable or unwilling to fulfill the requirements of this section, the owner shall remove those features of the accessory dwelling unit that make it a dwelling unit. Failure to do so will constitute a violation of this section.
- H. Reporting: The planning division shall provide an annual report to the city council detailing the number of applications, address of each unit for which an application was submitted, a brief explanation of reasons why an application was denied, and a map showing approved accessory dwelling units. The report shall be transmitted to the city council by February 15th for the previous year.

SECTION 2. Amending the Text of Salt Lake City Code Section 21A.62.040. That Section 21A.62.040 (Zoning: Definitions: Definitions of Terms) of the Salt Lake City Code shall be, and hereby is, amended modify only the definition of "DWELLING, ACCESSORY UNIT", which definition shall read as follows:

DWELLING, ACCESSORY UNIT: A type of accessory use that includes a residential unit that is located on the same lot as a single-family attached or detached dwelling unit, either internal to or attached to the single-family unit or in a detached structure. The accessory dwelling unit shall be a complete housekeeping unit with a shared or separate entrance, and separate kitchen, sleeping area, closet space, and bathroom facilities.

The codifier is instructed to modify only the aforementioned definition and make no other revisions to Section 21A.62.040 as part of this ordinance.

SECTION 3. Amending the Text of *Salt Lake City Code* Section 21A.33.020. That Section 21A.33.020 (Zoning: Land Use Tables: Table of Permitted and Conditional Uses for Residential Districts) of the Salt Lake City Code shall be, and hereby is, amended to modify that table only as it pertains to the use “Dwelling, accessory unit”, which use category shall read as follows:

21A.33.020: TABLE OF PERMITTED AND CONDITIONAL USES FOR RESIDENTIAL DISTRICTS:

Legend: C = Conditional P = Permitted

Use	Permitted And Conditional Uses By District																		
	FR-1/ 43,560	FR-2/ 21,780	FR-3/ 12,000	R-1/ 12,000	R-1/ 7,000	R-1/ 5,000	SR-1	SR-2	SR-3	R-2	RMF- 30	RMF- 35	RMF- 45	RMF- 75	RB	R-MU- 35	R-MU- 45	R-MU	RO
Dwelling, accessory unit	C	C	C	C	C	C	P		P	P	P	P	P	P	P	P	P	P	P

SECTION 4. Amending the Text of *Salt Lake City Code* Section 21A.33.070. That Section 21A.33.070 (Zoning: Land Use Tables: Table of Permitted and Conditional Uses for Special Purpose Districts) of the Salt Lake City Code shall be, and hereby is, amended to modify that table only as it pertains to the use “Dwelling, accessory unit”, which use category shall read as follows:

21A.33.070: TABLE OF PERMITTED AND CONDITIONAL USES FOR SPECIAL PURPOSE DISTRICTS:

Legend: C = Conditional P = Permitted

Use		Permitted And Conditional Uses By District																
		RP	BP	FP	AG	AG -2	AG -5	AG -20	OS	NOS	A	PL	PL- 2	I	UI	M H	EI	MU
Dwelling:																		
	Accessory Unit			P	P	P	P	P										P

SECTION 5. Effective Date. This Ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2018.

CHAIRPERSON

ATTEST:

CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CITY RECORDER

(SEAL)

Bill No. _____ of 2018.

Published: _____.

HB_ATTYY-#55795-v8-Ordinance_amending_ADU_regs.docx

APPROVED AS TO FORM
Salt Lake City Attorney's Office

Date: FEBRUARY 26, 2018

By: Paul C. Nielson
Paul C. Nielson, Senior City Attorney

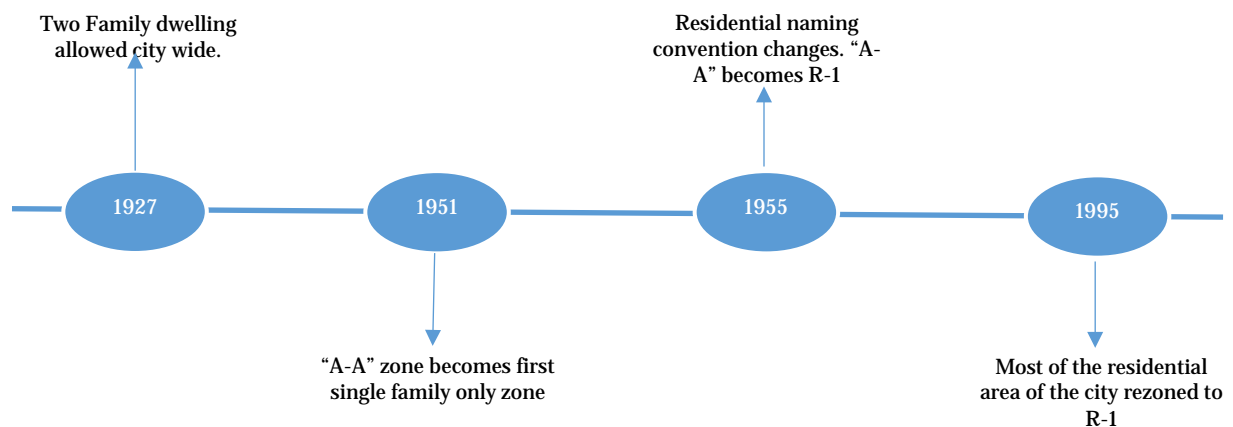
1. Accessory Dwelling Units in Salt Lake City Report

Accessory Dwelling Units in Salt Lake City

This report is intended to provide city decision makers with an analysis of the proposed Accessory Dwelling Unit (ADU) Ordinance as it relates to the housing goals of the city. This analysis also establishes a framework for evaluating ADU's in terms of how they may help to achieve city housing goals and impact neighborhoods.

History of ADU's in Salt Lake City

Accessory dwelling units have been built in Salt Lake City for as long as the city has existed. Early ADU's were built as small additions onto homes and as small, backyard cottages. In the City's first zoning ordinance (1927), a two family dwelling was permitted in all residential zones and the minimum lot sizes depending on the zone were between 3,500 and 9,000 square feet for a two family dwelling. By 1951, the "A-A" zone was adopted and only allowed single family dwellings. It was mapped exclusively in the Federal Heights Neighborhood. By 1955, the residential zones were renamed to R-1, R-2, R-3, R-4, R-6, and R-7. The "AA" zone became R-1 and was mapped in Federal Heights and the upper Avenues, east of 11th Ave. The rest of the city allowed for at least 2 dwelling units on a lot with a minimum lot size of 6,000 square feet. In 1995, most of the city zoned R-2 was rezoned to an R-1 zone and two family dwellings were prohibited in most of the City.



Prior to 1927, backyard cottages, additions to the rear of homes, and second story apartments were constructed throughout the City. After 1927, this trend continued with a number of building permits being issued for additional dwelling units in all residential areas of the city. An unknown number of dwelling units were created without permits. When the city rezoned the entire city in 1995, the zoning ordinance included a process to legalize dwelling units that were built without permits provided the unit met basic life-safety requirements. Since 2004,

approximately 100 accessory dwelling units have been approved through the unit legalization process.

There are approximately 2,300 properties in the City that contain two dwelling units according to Salt Lake County Assessor data. More than 60% of these properties are located in residential zoning districts that only allow single family dwellings. The other 40% are located in zoning districts that allow two-family dwellings. Without field checking each property, the available data does not identify properties that were originally constructed as a two family dwelling (duplex or twin home) or if they were later converted to a two-family dwelling. The Salt Lake County Assessor's office primarily uses building permits to identify properties that change from year to year. It is likely that most of the properties identified in the adjacent table were created through some permitting process.

Zoning District	# of Two Family Dwellings
R-1/5,000	786
R-1/7,000	652
R-1/12,000	5

The purpose of this data is to demonstrate that although the city allowed two family dwellings by right from 1927-1995, a

relatively small number of properties contain two family dwellings. For example, there are approximately 16,644 properties that are zoned R-1/5,000. The number of R-1/5,000 zoned properties that contain a two family dwelling is about 4.7%. One of the reasons why the number of two-family dwellings in the R-1/5,000 and R-1/7,000 zones is substantially higher than the R-1/12,000 zone is that most of the properties in the R-1/5,000 and R-1/7,000 zones were developed prior to 1951 when the minimum lot sizes for a two family dwelling were lower.

Despite not knowing the nature of how the two family dwellings in the city were created, a number of these properties are legally recognized as having two dwellings on the property. If a property was not originally constructed as a two-family dwelling, it likely was created through the conversion of interior space to a second unit, such as a basement or on a second level of the home.



A detached ADU located in the Wasatch Hollow neighborhood.

Second dwelling units were rarely built as a detached structure, although some do exist. Some were built as second dwellings and have remained that way over time. Others were built and eventually subdivided off of the main parcel and are now considered single family dwellings. The aerial view to the right shows properties located on 400 East and about 950 South. The “backyard cottages” were built prior to the city having zoning regulations. The dwellings have a footprint of approximately 800 square feet and the lots are approximately 1,300 square feet. A sizeable amount of the lot goes out into the alley, which skews the lot size.



“Backyard cottages” in Salt Lake City

What can the City expect from the updated ADU ordinance?

The expectations in this section were identified by reviewing the history of ADUs in different cities to see how many ADUs have been constructed under ordinances that are similar to the updated proposal. It only takes into consideration detached single family dwellings and does not include ADUs that may be part of a townhome. Townhomes make up a very small percentage of the total housing units in Salt Lake City and the data does not differentiate between small apartment buildings that have only 4 units and townhomes that have 4 units.

Salt Lake City is following the same path that most cities do with ADUs: take a measured approach with a more restrictive ordinance to see what happens. As a city’s housing shortage continues, communities make fairly bold modifications to the ADU ordinance, such as eliminating owner occupancy, reducing lot coverage requirements, increasing size allowances, waiving parking requirements, and addressing restrictions on height.

Portland, OR and Denver, CO are two cities where data regarding ADUs is readily available, but on opposite ends of the spectrum in terms of number of ADUs constructed. Portland is probably the most successful ADU program in the US. Approximately 1,900 ADUs have been built in Portland since 1997. That equates to 1.3% of all of the single family dwellings in Portland, the equivalent of one ADU for every 76 single family dwellings in the city. From 2000 to 2010, a total of 271 ADUs were permitted in Portland. This is about 0.2% of all single family homes in Portland. In 2010, Portland made changes to the ADU regulations and waived utility hook-up fees for ADUs. That year, 86 ADUs were permitted and that number climbed to 615 ADUs permitted in 2016. More than 98% of single family homes do not have an ADU on the property. This indicates that the impact to single family zoning is limited. If every ADU in Portland had

three adjacent properties, about 4% of all properties would have an ADU next door. Allowing ADUs in all residential districts does increase the development right of properties, but the evidence shows only a small percentage of property owners build ADUs. In other words, nearly all of the single family zoned properties are not impacted by an ADU.

Denver, CO is in a similar situation as Salt Lake City. Between 2010 and September 2016, 84 ADUs were constructed in Denver (source: www.denverite.com/carriage-houses-work-parts-denver-better-others-15159/). Denver has a similar ordinance to the updated proposal but does not allow them citywide. Denver has recently acknowledged that it cannot fully fund the resources necessary to address the housing supply and affordability issue in the City and that ADUs can help them address housing needs. Denver has determined that they can reach city housing goals if three properties per block add an ADU. According to Denver, the typical block has about 30 homes.

Table: projections of ADUs in SLC compared to Portland and Denver

City	# of single family dwellings (2010 census data)	# of ADUs	% of SFD with an ADU	Average ADUs per year since ADU ordinance passed
Portland	145,000	1,900 (since 1997)	1.3%	95
Denver	150,000 (estimated)	84 (From 2010 to Sept. 2016)	0.005%	14
Salt Lake City (projected based on Portland)	42,000	546 (projected)	1.3%	27 (over a 20 year period)
Salt Lake City (projected based on Denver)	42,000	24	0.005%	4

A projection for total number of ADUs Salt Lake City could expect based on what Portland has experienced would result in about 550 ADUs in the City over a 20 year period, which is one ADU for every 77 single family dwelling in the city. Approximately 2,200 properties would have an ADU next door. This equates to about 27 ADUs per year.

A projection based on the Denver experience would result in a total of 24 ADUs over a 6 year period. This equals one ADU for every 1,750 single family dwelling in the City. About 100 homes would have an ADU next door. Salt Lake City would likely see more ADUs than Denver has seen because the proposed ordinance allows them in all residential zoning districts, while Denver only allowed ADUs in certain neighborhoods.

The University of Utah conducted an Urban Design Studio class in the fall of 2017 that focused on ADUs. They did some analysis of what is possible based on an “aspirational” ordinance that was intended to show the impacts of ADUs if 3% of the properties in the city contained an ADU. The study identified approximately 38,500 single family parcels in the city, which is less than what the 2010 census shows and Salt Lake County Assessor data shows. In the table above, census data is used because it was easier to find census data from other cities versus trying to find other housing numbers.

The studio class used various scenarios (15, 5%, 15%, and 33%) to determine how many ADU’s were likely. The 1% scenario identified 356 ADU’s in SLC, which is similar to the numbers in the

above table when adjusted for the census data numbers of total single family dwellings. A snapshot of the ADU scenarios is below.

ADU SCENARIOS

PARTIAL GEOGRAPHIC COVERAGE

UNIVERSAL GEOGRAPHIC COVERAGE

0% Scenario STATUS QUO	SFD Parcels 25,474	0% Scenario 0	SFD Parcels 38,519	0% Scenario 0
1% Scenario BREAKTHROUGH	Potential ADUs 24,183	1% Scenario 242	Potential ADUs 35,595	1% Scenario 356
5% Scenario TRANSFORMATIONAL		5% Scenario 1,209		5% Scenario 1,780
15% Scenario ASPIRATIONAL		15% Scenario 3,627		15% Scenario 5,339
33% Scenario AMERICAN SCI-FI		33% Scenario 7,980		33% Scenario 11,746

Detached ADUs or Attached ADUs?

The University of Utah Urban Design Studio was intended to demonstrate what was possible in SLC, to measure the impacts of ADUs, and to make policy recommendations to the City that would help create an ADU program that was “aspirational.” The work of the Studio Class provides some useful insight into what the city can expect.

The Planning Division reviewed some of the final work of the Studio Class to see how existing accessory building regulations and the proposed ADU regulations will impact the ability of a property owner to build an ADU. The findings indicate that detached ADUs are going to primarily be limited by an existing regulation for accessory buildings that limits the *cumulative total footprint* of all accessory buildings to no more than 50% of the footprint of the home or 720 square feet, whichever is less. This standard applies to all single family dwellings (attached and detached) located in an FR, R1, R2 or SR zoning district. A single family home in an RMF zoning district does not have the cumulative total footprint requirement. The RMF zone is limited only by a yard coverage requirement that limits accessory structures to 50% of the rear yard (the space between the rear wall of the building and rear property line).

It is common for a city to limit the size of accessory structures. Salt Lake City’s regulations appear to be more restrictive than most other communities. A better approach for the City to consider would be to limit an individual accessory dwelling to be a maximum of 50% of the footprint of the principal building and use a rear yard coverage to determine the maximum cumulative size. Ironically, Salt Lake City’s rear yard coverage (50%) is exceptionally large compared to other cities. A rear yard coverage of 25% is more commonly used. This approach allows the regulations to be proportionate to the individual characteristics of the lot and the principal structure.

Given the restrictions within the updated ordinance, the most likely scenario for ADUs will be as attached units. This is because:

- The zoning ordinance allows more lot coverage for principal structures;
- The zoning ordinance allows for more building height for principal structures;
- There will be some cost savings because the principal structure already has all utilities to the building;

Where Can Detached ADUs Be Expected?

Properties that contain homes with large footprints

Homes that have attached, 2 car garages

Properties with large back yards

Properties with 2 story homes

Properties located in RMF zones

- Internal modifications are generally less expensive than making additions or building a detached ADU on the property.

The Planning Division is aware of one development in the Fairpark Neighborhood that could potentially include an ADU in each of the proposed 12 units. This development includes a mix of single family attached dwellings and single family detached in an SR-3 zoning district. It is likely that all of these would be internal to the principal dwelling.

How the ADU Ordinance Could Help Address the City's Housing Issues

Growing Salt Lake establishes a goal that states "Revise the Accessory Dwelling Unit ordinance to expand its application throughout the city and develop measures to promote its use." The proposed updated ordinance would expand the use of the ADU ordinance because it allows ADUs citywide.

The proposed updated ordinance, however, includes a number of regulations that will make it difficult to establish and maintain an ADU in Salt Lake City. It may be that the intent of the regulations is to purposefully limit ADUs because of the unknowns and the fear of certain impacts and to allow ADUs in a cautious manner. This approach does allow a community to become more accepting of ADUs over time, but it reduces the ability of ADUs to help achieve housing needs and goals.

Portland and Santa Cruz are examples of cities that had a restrictive ADU ordinance that produced few ADUs. After removing some of the restrictions, the number of ADUs increased rather dramatically. Santa Cruz has updated their ADU ordinance six times since 2002. Honolulu updated its ADU ordinance in 2015 and has permitted 150 ADUs since then. The Honolulu ordinance is rather simple and includes:

- Limits on the square footage of an ADU;
- A simple owner occupancy requirement that does not require every listed owner to reside on the property;
- Requires one parking stall, but waives the parking requirement if within ½ mile of a rail transit station;
- Requires a deed restriction; and
- Prohibits short term rentals.

The analysis in this report indicates that the city is not likely to see a large number of ADUs constructed in the city. This is primarily due to the restrictions placed on accessory buildings that are currently in the code combined with the proposed ADU regulations. The code could be improved to promote more ADUs, as stated in Growing Salt Lake. The University of Utah Design Studio Class made a number of policy recommendations that would promote ADUs and address some of the impacts. Many of these recommendations have been discussed within this report and some are included in the proposed ordinance. The recommendation to employ a, ADU specialist is not supported by the Planning Division. Assigning a department specialist as a point of contact would be a difficult position to manage given the unknown number of applications that we would receive and the need for increased capacity within the Planning Division. The Division does not dedicate employees to specific tasks because the workload is never balanced and the types of applications received come in waves. This requires a constant shifting of personnel to make sure that all of our applications are processed in a timely manner that matches our resource. Specialized planning offices the size of Salt Lake City do not work

well because the workloads of various programs are not balanced. Specialized staff are often not trained to work on planning work that is outside their area of specialization, which creates uneven workloads amongst staff. A better approach given the resources of the Planning Division would be to have several staff members who are highly familiar with the regulations and processes that can help people navigate the permitting process.

The design of an ADU is often a point of concern in many communities that are seeing an increase in the number of ADUs. Some do include design standards within their ordinance. The Council could decide to apply design standards to ADUs. Common design standards are addressed below:

- **Roof Design:** The design of the roof shall match the shape, pitch, and roofing material of the roof of the principal structure for new accessory structures containing an ADU or when a second level is added to an existing accessory structure.
- **Building Materials:** The exterior building materials of the accessory dwelling unit shall match the type, dimension, and orientation of the exterior building materials of the principal structure for new accessory structures containing an ADU.
- **Windows:** windows shall maintain a similar dimension and design as the windows found on the principal structure.

The use of guidelines are fairly difficult in Utah due to language in State Code and should not be used without adopted review standards. Using more extensive standards than those listed above could be time consuming to produce and would likely require additional zoning text amendments so they are more legally defensible. One of the challenges with writing design standards for ADUs is that it is often difficult to mesh the bulk standards with the design standard. For example, a tudor style home typically has steep roof lines. A requirement to match the roof design would likely mean that the ADU would be taller than what would be allowed under the proposed ordinance. This occurs under the existing standards for accessory buildings because accessory buildings have a strict height limit and exceptions to the height limit are based on the height of other accessory buildings on the block face instead of the relationship between accessory building and primary building.

Other Possible Improvements to the ADU Ordinance

Owner Occupancy

The definition of owner occupancy is too narrow, does not allow for a variety of ownership types, and requires all owners to live on the property. A simpler version of owner occupancy would allow for a property to be owner occupied even if it has multiple owners. For example, two siblings that jointly inherited a house could not create or maintain an ADU under the updated proposal unless they both live in the home. It would also eliminate the sections of the proposed ordinance that requires all listed owners to live on the property. Below is some sample owner occupancy language that could be considered:

For the purpose of this title, an owner occupant shall mean:

1. An individual who is listed on a recorded deed as an owner of the property;
2. Any person who is related by blood, marriage, or adoption to an individual who is listed on a recorded deed as an owner of the property;

3. An individual who is a trustor of a family trust which possesses fee title ownership to the property.

Make Attached ADUs Permitted

An ADU that is internal to an existing structure does not have the same physical impacts on a property as a detached ADU. Allowing them as permitted in all zoning districts would result in more ADUs being built in the City. This would be accomplished by changing the “C” in the land use tables for single family zoning districts to a “P”.

Modify the Cumulative Footprint Requirement for Accessory Buildings

The maximum size for accessory buildings make it very difficult to build a detached accessory dwelling unit and a garage on most properties in the City. This issue is a result of the maximum cumulative size of all accessory buildings on a property being limited to no more than 50% of the footprint of the home or 720 square feet, whichever is less. This could be accomplished in a number of ways:

- Eliminate the maximum, cumulative size of all accessory structures requirement that is found in the accessory use chapter of the zoning ordinance. Accessory buildings would still be regulated by the maximum lot coverage, maximum rear yard coverage, and maximum footprint size of no more than 50% of the principal structure. If a property did not exceed the lot coverage or rear yard coverage, and ADU could be built as a stand-alone structure provided it was less than 50% of the footprint of the home or 650 square feet (whichever is less), it did not result in a rear yard coverage of more than 50% and did not exceed the total lot coverage of the underlying zoning district.
- Exempting an ADU from the cumulative total will also address this issue.
- Eliminating the cumulative maximum footprint size of 50% or 720 ft² so it is not cumulative and modifying the maximum rear yard coverage to 25%. This would eliminate the issue of accessory buildings overwhelming the principal structure but allow more flexibility, particularly for larger lots.

Some of the suggestions to modify the accessory building footprint regulations are outside the scope of the ADU ordinance and would need to be addressed as a separate application.

Parking Requirements

Allow for the ADU parking requirement to be eliminated even if the primary dwelling does not meet the current parking requirement. While the updated proposal includes a process for reducing the parking requirement, it can only occur if the property already has enough parking to meet the parking requirement for the principal dwelling. If the property does not have two legally located off street parking spaces, the ADU has to have an on-site parking stall. Properties built before about 1950 often do not have two on-site parking stalls that meet current parking requirements and would not qualify for a waiver of the parking requirement for an ADU. These properties have a higher likelihood of being located in parts of the city that are served by Trax, the S Line, or high frequency bus routes. Not allowing a waiver for these properties because they were built when the zoning ordinance required less parking contradicts city policies and goals of promoting development along transit routes. This could be accomplished by:

- Adding language to the ADU ordinance that says that the square footage of the ADU footprint is in addition to cumulative total allowed in the accessory use chapter;

- Eliminating the cumulative total of all accessory buildings from the accessory use chapter and rely on the maximum rear yard coverage and total lot coverage.

Notice to Neighbors

The proposed ordinance includes a requirement for a zoning certificate and requires a 30 day notice period before the certificate can be issued. The purpose the 30 day notice period serves is to let the property owners know that a building permit has been submitted for an ADU. This type of notice is a courtesy notice. A notice of a pending zoning certificate does not create any sort of appeal rights for the neighbor because it is not a final decision and does not provide any neighbor with any sort of process to object to the issuance of a zoning certificate. Any sort of appeal would start from the time that a final decision is made and that a person is noticed of that final decision. If the purpose of the notice is to let a neighbor know an ADU has been proposed next door, it shouldn't include a 30 day waiting period and instead provide instruction on how to find out more about the proposal, how to find out if or when a building permit has been issued, and the deadline to file an appeal.

The ordinance could also be changed to state that the notice be sent out once the permit is issued. Doing this would establish the start of an appeal period so that a neighbor could review the building permit and determine if they believe that the permit was issued in error. Those ADUs that require a conditional use would not be subject to the notice because the conditional use process already has a notice period and a clear appeal process.

Business License Requirement

A business license should not be required in every instance. For example, if an ADU is occupied by a family member, there may not be a rental contract or any sort of financial transaction. Furthermore, any rental unit is already required to have a business license under city code so adding it to the ADU section of the zoning ordinance is not necessary.

Abandonment of an ADU

The abandonment section of the code may not be enforceable. The issue is with the requirement to remove "those elements that make the unit an ADU." The language is vague and does not provide enough direction as to specifics of what would have to be removed or when it would have to be removed by. If the modification is simply removing a door or a lock that divides the ADU from the rest of the property, it is an easy modification. But if the ADU is completely separate with a separate outside entrance then it might be extremely difficult to remove the features that make it an ADU and may require internal connections between the principal dwelling and the ADU.

A detached ADU is probably easier to enforce the abandonment requirement because removing a kitchen and bathroom from an accessory building clearly would result in the unit not being an ADU. However, the ordinance does not state what should be removed.