

## **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 for 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 B1 or B2 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 community and economic development department, 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 community and economic development department, to provide any of the documents set forth in subsection B3a 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 B3 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 are permitted in districts specified in Chapter 21A.33 Land Use Tables.
- 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 dwelling, such as a basement, attic space, or enclosed porch;
  2. 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.
- E. Standards: Accessory dwelling units shall conform to the following requirements:
1. General Requirements:
    - 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.
- 2. Design Requirements:
  - a. An accessory dwelling unit shall be designed and constructed to be compatible with the principal dwelling.
  - b. Underlying Zoning Applies: Unless specifically provided in this section, accessory dwelling units are subject to the regulations of the underlying zoning district with regard to lot and bulk standards, including building and wall height, setbacks, yard requirements, and building coverage.
    - (1) 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.
  - c. Area of Accessory Dwelling Unit:
    - (1) 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) 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) The minimum gross floor area of an accessory dwelling unit is that size specified and required by the adopted building code of the city.
  - d. Height of 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, may not exceed 24'-0" measured to the ridge of a pitched roof building, and 20'-0" of a flat roof building.

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.24.010H, "Side Entry Buildings", of this title.

f. Windows: In an accessory dwelling unit that does not comply with the setback regulations for a single-family dwelling, windows 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 if the rear yard abuts an alley.
- (2) Windows adjacent to a side yard or rear yard property line may be allowed if the bottom of the windowsill is located at least six feet (6') above the corresponding floor plate.
- (3) Windows located within an existing structure, whether conforming or non-conforming with setback regulations, may be retained.

g. 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. 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:
- a. Building Permit: Apply for and obtain a building permit for the proposed accessory dwelling unit, regardless of method of creation.
    - (1) Building Code Compliance: Accessory dwelling units are subject to compliance with current building code at time of permit application.
    - (2) Permit Allocation: The city shall limit the establishment of accessory dwelling units to twenty-five (25) units per calendar year, with the following exceptions:
      - i. Accessory dwelling units located within a Redevelopment Agency (RDA) of Salt Lake City project area, or funded in part by RDA housing funds, shall be exempt from annual permit allocation limits.
      - ii. Accessory dwelling units that comply with all accessibility standards for Type B units, as specified in American National Standards Institute A117.1 (2009) Accessible and Usable Buildings and Facilities, shall be exempt from annual permit allocation limits.
    - (3) The City shall process building permit applications in order received; however building permit issuance shall be in order of compliance with current building code.
  - b. Inspection: City shall ensure the accessory dwelling unit is constructed, inspected, and approved in compliance with current building code.
  - c. 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.
  - d. Business License: In accordance with the applicable provisions of the city, apply for and obtain an annual business license for the accessory dwelling unit.
  - e. 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 an 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.

## **21A.62.040: DEFINITIONS OF TERMS:**

For the purposes of this title, the following terms shall have the following meanings:

**DWELLING, ACCESSORY UNIT:** 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.

### **Chapter 21A.27 Form Based Districts**

#### **Section 21A.27.030 Building Configuration and Design Standards**

##### **C. Other Applicable Development Standards**

1. Landscaping. Any applicable standard listed in 21A.48 Landscaping shall be complied with.
2. Signs. All signs shall comply with the standards found in 21A.46.096.
3. Accessory Uses, Building and Structures. All accessory uses, buildings and structures shall comply with the applicable standards in 21A.40, except as noted below:
  - a. Form Based Urban Neighborhood District Specific Standards for Detached Dwelling Units:
    - (1) Detached dwelling units may be built in a required yard as a stand-alone unit or attached to an accessory building, such as a garage.
    - (2) Detached dwelling units are only permitted with the urban house, two-family dwelling, and row house building forms.
    - (3) No accessory structure containing a detached dwelling unit shall exceed twenty-five feet (25') in height.
    - (4) If a detached dwelling unit is built as a second level, the minimum setback from property line shall be a minimum of ~~five~~ four feet (~~54'~~).
    - (5) All building configuration standards that apply to the primary building form shall also apply to the detached dwelling unit, with the exceptions listed below:
      - (A) The detached dwelling unit shall have an entry feature that faces or is accessible from a public alley when present;
      - (B) The entry feature may be a stoop that has a minimum dimension of four feet by four feet (4' x 4'); and
      - (C) The ground floor transparency requirement does not apply to detached dwelling units located on the second floor of an accessory structure.