

ORDINANCE 2019 - 22

AN ORDINANCE OF NORTH OGDEN CITY AMENDING THE ZONING ORDINANCE OF NORTH OGDEN CITY TITLE 11-10-34 TO REMOVE THE SHORT TERM RENTAL RESTRICTION

WHEREAS: The City has zoning regulations, and

WHEREAS: The City is committed to providing zoning regulations that protect the long term viability of all residential zones, and

WHEREAS: The City recognizes that under specific circumstances that allowing accessory dwelling units is appropriate, and

WHEREAS: The newly revised accessory dwelling unit standards prohibit the use of either the primary dwelling or accessory dwelling as short term rentals, and

WHEREAS: The City has considered the benefits and difficulties associate with short term rentals in accessory dwelling units, and

WHEREAS: The City has determined it is in the best interest of the City to allow for short term rentals in accessory dwelling units.

NOW THEREFORE, BE IT ORDAINED by the North Ogden City Council that the North Ogden City Code 11-10-34 Accessory Dwelling Units is amended.

SECTION 1: Language to be amended.

The following section shall be amended in Title 11, Chapter 10

11-10-34 ACCESSORY DWELLING UNITS

- A. Definition of Accessory Dwelling Unit: A subordinate dwelling, which has its own kitchen, living / sleeping area, and sanitation facilities which is: 1) within or attached to a single-family residential building, or 2) within a detached accessory structure associated with a single-family dwelling.
- B. Purpose and Intent: The purpose and intent of this section is to recognize the residential character of North Ogden City and to provide for supplementary living accommodations in the community. These provisions are intended to provide for affordable housing with reasonable limitations to minimize the impact on neighboring properties and neighborhoods, and to promote the health, safety, and welfare of the property owners and residents of accessory dwelling units.
- C. Owner Occupied: No accessory dwelling unit shall be created, established, or occupied in a single-family dwelling unless the owner of the property occupies either a portion of the primary dwelling or a detached accessory unit on the same single-family lot. For the purpose of this section, the term "owner occupied" shall be defined as full time residency within the home by the bona fide property owner(s) as shown on the Weber County tax assessment rolls.

1. Definition of Owner Occupant

Owner occupant means, except as set forth in Subsection (c) of this definition:

a. an individual who:

- (1) possesses, as shown by a recorded deed, fifty (50) percent or more ownership in a dwelling unit; and
- (2) occupies the dwelling unit with a bonafide intent to make it his or her primary residence; or

b. an individual who:

- (1) is a trustor of a family trust which:
 - (A) possesses fee title ownership to a dwelling unit;
 - (B) was created for estate planning purposes by one (1) or more trustors of the trust; and
- (2) occupies the dwelling unit owned by the family trust with a bonafide 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.

c. A person who meets the requirements of Subsections (a) and (b) of this definition shall not be deemed an owner occupant if the property on which the dwelling unit is located has more than one (1) 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.

(1) A claim that a person is not an owner occupant may be rebutted only by documentation, submitted to the Planning Department, showing that the person who occupies the dwelling unit has a bona fide intent to make the dwelling unit his or her primary residence as indicated by the following documents which show such person:

- (A) is listed as a primary borrower on documents for any loan presently applicable to the property where the dwelling unit is located;
- (B) has claimed all income, deductions, and depreciation from the property on his or her tax returns for the previous year;
- (C) is the owner listed on all rental documents and agreements with tenants who occupy the dwelling unit, including any accessory apartment;
- (D) is the owner listed on all insurance, utility, appraisal, or other contractual documents related to the property; and
- (E) is a full-time resident of Utah for Utah State income tax purposes.

(2) Any person who claims to be an owner of the dwelling unit, but who does not occupy it, shall provide documentation to the Planning Department which shows such person:

- (A) has not claimed any income, tax deduction, or depreciation for the property on the person's tax returns for the previous year;

(B) is not listed as an owner on any rental document or agreement with any tenant who occupies the dwelling unit, including any accessory apartment; and

(C) is not listed as an owner on any insurance, utility, appraisal, or a agreement related to the property.

(3) Any person, or group of persons, who fails, upon request of the Planning Department, to provide any of the documents set forth in Subsections (c)(1) or (c)(2) of this definition 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 chapter that such person or persons shall not be deemed an "owner occupant" of the dwelling unit in question.

d. A person who because of a temporary work, military, or non-profit related assignment which is less than 36 months is relocated outside of the City but maintains the property associated with the ADU as their legal residence as evidenced by providing proof annually of the temporary assignment and one of the following: the current years income taxes (with financial information redacted), driver's license, vehicle registrations, or voting registration.

D. Dwelling Unit Occupancy: The occupants of an accessory dwelling unit shall be limited by one of the following family categories:

1. One person living alone; or
2. Two (2) or more persons all related by blood, by marriage, by adoption; by legal guardianship or foster children; or
3. Up to four (4) related and/or unrelated persons living as a single housekeeping unit.
4. Any of the above categories plus a temporary guest. A "temporary guest" is defined as a person who stays with a family for a period of less than thirty (30) days within any rolling one year period and does not utilize the dwelling as a legal address for any purpose.
5. For purposes of the definition of family, the term "related" shall mean a spouse, parent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, first cousins, great-grandparent, and great-grandchild. The term "related" does not include other, more distant relationships.

E. Zones: An accessory dwelling which meets ordinance requirements may be allowed in a single-family dwelling unit or in a detached accessory unit within the RE-20, R-1-8, R-1-8(A), R-1-8(AG), R-1-10, R-1-12.5, and RCC zone. No accessory dwelling unit may be allowed in any multi-family dwelling.

F. Number Of Accessory Dwelling Units: A maximum of one accessory dwelling unit shall be allowed in each owner occupied single-family dwelling, or in a detached accessory unit associated with a single-family dwelling.

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

H. Separate Living Areas: An accessory dwelling unit must provide living areas for eating, sleeping and sanitation facilities separate from the principal dwelling unit.

- I. Fire, Building, and Health Codes: An ADU shall comply with all building construction and fire codes in effect at the time the ADU is constructed, created or subsequently remodeled, including the obtaining of required building and other permits.
- J. Utility Meters: A single-family dwelling with an accessory dwelling shall have one (1) but no more than two (2) meters for each water, gas, and electricity utility service, and each meter shall be in the property owner's name. An impact fee is required when adding a detached accessory dwelling unit.
- K. Not Intended For Sale: Accessory dwelling units shall not be sold separately from the primary dwelling unit.
- L. Accessory Dwelling Unit Registration / Business License: Any person owning an existing accessory dwelling unit that has not previously been permitted by the city, or any person constructing or causing the construction of a residence that has an accessory dwelling unit, or any person remodeling or causing the remodeling of a residence for an accessory dwelling unit, shall register the accessory dwelling unit with the building department. If the accessory dwelling unit is a rental unit a business license is required. This shall be in addition to a building permit for the work to be performed. In order to meet the requirements of the registration, the applicant shall:
 - 1. Submit a fee as identified in the Consolidated Fee Schedule with a completed registration form including a site plan that shows property lines and dimensions, the location of existing buildings and building entrances, proposed buildings or additions, dimensions from buildings or additions to property lines, the location of parking stalls, and utility meters.
 - 2. Include detailed floor plans with labels on rooms indicating uses or proposed uses.
 - 3. Pay building permit fees, if applicable, for the construction of a new dwelling, or the remodeling of an existing dwelling, in accordance with the established fees and charges.
 - 4. Make all corrections identified as necessary to comply with building code requirements, as identified by the chief building official or his designee, and provide photos of the life safety items required by building code, including carbon monoxide detectors, smoke detectors, and earthquake strapping on water heaters.
 - 5. Existing non-conforming duplexes which were legally established prior to the elimination of duplexes from the underlying zone shall continue to operate as a duplex even if an Owner Occupant maintains one of the units as their primary residence, provided the Owner Occupant continues to treat the property as a duplex.
 - a. The Owner Occupant establishes the intent to maintain the duplex use by:
 - (1) Obtaining the necessary rental license annually; and
 - (2) Paying the required utility billing charges for two dwelling units; and
 - (3) Paying all other necessary licensing procedures which may be imposed in the future on all landlords throughout the City.
 - b. Failure to maintain the license and pay all necessary utility and other fees for a period of one year or more shall be interpreted as the intent to abandon the

- duplex use in favor of the conforming Accessory Dwelling Unit use whether or not the unit is occupied.
- c. Registering the duplex as an Accessory Dwelling Unit for a period of one year or more shall be interpreted as the intent to abandon the duplex use.
- M. Failure to Complete Registration: If the property owner does not complete the registration as outlined above, the accessory dwelling unit shall not be considered legal or approved. Failure to complete the registration of an existing accessory dwelling unit within two (2) years of the passing of this section may result in a fine of five hundred dollars (\$500.00) which may result in a lien on the property. After the fine is assessed, the building official or his designee shall determine an appropriate deadline for compliance. An additional fine may be assessed for each deadline that is not met.
- N. Home Occupation Businesses: Home occupation businesses which may be approved in an accessory dwelling unit shall be restricted to a home office use which creates no customer traffic. No home occupation business shall be established within an accessory dwelling unit without the express written permission of the property owner.
- O. Development Standards:
1. The total area of the ADU shall be less than fifty percent (50%) of the total square footage of the primary residence for an attached accessory dwelling unit. The total area of the ADU shall be less than forty percent (40%) of the total square footage of the primary residence for a detached accessory dwelling.
 2. ADUs shall not be located in a front or corner lot side yard and shall meet the same setbacks as required for the primary residence in the zone.
 3. Appearance. The architectural design, color pallet, and materials for an ADU shall be similar to the primary dwelling unit.
 4. ADUs and the primary dwelling must be on the same parcel and may not be subdivided.
 5. The height of an ADU shall conform to the height limit specified for the zoning district in which it is located.
 6. Location: Accessory dwelling units may be allowed as long as the zoning requirements for properties in a single-family neighborhood are met. The ADU shall not be within the building front, rear, or side yard setbacks for the zoning district in which the dwelling lot is located. In addition the following standards apply:
 - a. All accessory dwelling units are allowed over the garage, provided the parking within the garage is not converted, or
 - b. Attached accessory dwelling units are allowed:
 - (1) Inside the primary residential dwelling through an internal conversion of the housing unit as an addition or in the basement.
 - (2) By an addition to the house, containing an internal connection between dwelling units provided that the addition will not alter the single-family character of the building.
 - c. Detached accessory dwelling units are allowed:
 - (1) Over a detached garage.

- (2) Only in the rear yard.
 - (3) On lots having a minimum area of 20,000 square feet.
 - (4) Shall have a minimum separation from the primary dwelling of 15 feet.
 - (5) Subject to 11-7A-4, 11-7B-4, and 11-7J-4 Site Development Standards.
7. Building Entrances: An accessory dwelling unit shall have a separate entrance located on any side or rear of the single family home or at the front of the home if it is below grade and maintains the characteristics of a single family home. The purpose of this requirement is to preserve the single-family residential appearance of the building.
8. Parking: A single-family dwelling with an accessory dwelling unit shall provide at least three (3) off street parking spaces for the primary dwelling unit. In no case shall the number of off street parking spaces be less than the number of vehicles being maintained on the premises. This shall include covered parking, garages and tandem parking in driveways. Tandem parking within a driveway is allowed to meet the parking requirement. No parking spaces may be located within the front or side yard setbacks adjacent to a street, except for within an approved driveway. The minimum width of parking areas and driveways shall be paved with concrete, asphalt, masonry, or concrete pavers. No accessory dwelling may be allowed on any lot that cannot satisfy the parking requirements.

SECTION 2: This ordinance shall take effect upon adoption.

PASSED and ADOPTED this 22nd day of October 2019.

North Ogden City:



M. Brent Chugg
North Ogden City Mayor

CITY COUNCIL VOTE AS RECORDED:

	Aye	Nay	Excused
Council Member Barker:	___	___	
Council Member Covering:	X	___	
Council Member Stoker:	X	___	
Council Member Swanson:	X	___	
Council Member Turner:	X	___	
(In event of a tie vote of the Council):			
Mayor Chugg	___	___	

ATTEST:



S. Annette Spendlove
S. Annette Spendlove, MMC
City Recorder