

**SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NO: D-4
DATE: November 12, 2009
SUBJECT: Accessory Dwelling Units SMC 16.25
CONTACT PERSON: Robert Martin, Community Development Director

RCM

ISSUE:

Current Code Standards for Accessory Dwelling Units; statutory requirements; and Council intent for Accessory Dwelling Units in Sultan

STAFF RECOMMENDATION:

Staff recommends that Council review the "Proposed Code Modifications" Section of this report and direct the Planning Board to undertake a work item to upgrade SMC Chapter 16.25 and return a recommendation to Council for a Code Amendment.

BACKGROUND:

At the October 22, 2009 meeting, the Council received public input and discussed issues related to the existing code provisions for Accessory Dwelling Unit (ADU's).

ADU's are secondary residential units on properties containing an existing single-family residence. Current Code, SMC 16.25 (Attachment A), allows a wide range of housing types for ADU's including detached site-built and mobile units. The size is limited to not more than 650 sq.ft.

As with all Land Uses, the issue depends on whether a citizen wants to use a Code provision to meet a need or whether another sees the use as an intrusion into their current situation. Someone with an elderly family member or in need of additional income to meet mortgage payments can see the ADU provisions as a wonderful answer to a serious need. A neighbor can see the same situation as a disruption of their expectations for a single-family neighborhood.

Property owners are required to certify that they occupy one of the residences (either primary or ADU) and record this Certification. Standards establishing residency are not included in current Code language.

Based on discussion at the October 22, 2009 meeting, Council directed Staff to return with additional information and recommendations on further action up to and including consideration of a moratorium on further ADU applications.

Staff perspective is that this Code Chapter is reasonably easy to update and that the process of Code Amendment can be completed in an acceptably short time. Staff does not see any rush to apply for ADU's to beat the time line for Amendment of this Code. A moratorium does not seem necessary in this circumstance.

Following are proposed modifications to the Code to address issues that have recently arisen from Management of the current language.

PROPOSED CODE MODIFICATIONS:

Additional Standards/Limitations:

1. ADU's only allowed in following structures:
 - a. Attached garages
 - b. Additions to floor plan of existing residence
 - c. Conversion of part of existing floor area in existing residence
 - d. Conversion of basement of existing residence
 - e. Only one ADU allowed, not two as in current code
2. ADU's not allowed:
 - a. Detached garages
 - b. Detached site built structures
 - c. Detached mobile units
3. Clarification of residency standards:
 - a. Applicant must physically and legally reside on the premises for (6 months or 1-year) prior to application for an ADU.
 - b. Residency established and verified by standards of existing state case law (related to residency for elected office) including demonstrated physical occupancy, voter registration, driver's license, utility billing, and similar documentation.
4. Other language clarifications and Code upgrade as developed by Staff and Planning Board as the Amendment process is pursued before holding a Public Hearing and making a recommendation back to Council for adoption of a Code Amendment.

ALTERNATIVES:

1. Delete Chapter 16.25 from Code and do not allow ADU's; or
2. If Council feels that there is the possibility of inappropriate ADU's being located before the Code is Amended, direct Staff to construct a moratorium on further applications; or
3. Leave the Code as it is; or
4. Direct Staff to Amend the Code in ways other than recommended above.

RECOMMENDATION:

Staff recommends that Council review the "Proposed Code Modifications" Section of this report and direct the Planning Board to undertake a work item to upgrade SMC Chapter 16.25 and return a recommendation to Council for a Code Amendment.

ATTACHMENTS

Attachment A: SMC Chapter 16.25

- d. Accessory uses, such as storage buildings;
 - e. Off-street parking requirements;
 - f. Dwelling unit type (single-family detached, two-family, etc.);
 - g. Stormwater retention;
 - h. Dedication or reservation of easements, rights-of-way, or recreation areas;
 - i. Landscaping and sight barriers; and
 - j. Sidewalks.
2. Where documentation is not available concerning standards in effect at the time of initial development, the following procedure shall be used. All developed lots or parcels that abut the property proposed for development shall be considered in determining the average standards for development. The average standards for these abutting properties shall be the minimum standards for the proposed development. Average standards shall not include lot area nor lot dimensions. (For example, if a lot is abutted on three sides by single-family homes with seven-and-one-half-foot side yard setbacks, the proposed development should have seven-and-one-half-foot side yards. If the three abutting properties each have side yards of seven and one-half feet, five feet and five feet, then the minimum side yard for the proposed development should be seven and one-half, plus seven and one-half, plus five, plus five, plus five, divided by six, or 5.8 feet.)

Where there is any uncertainty on any applicable standards, the decision shall be in favor of the stricter standard. (Ord. 630 § 2[16.10.010(6)(b)], 1995)

Chapter 16.25

ACCESSORY DWELLING UNITS

Sections:

- 16.25.010 Standards and regulations for residential accessory dwelling units (ADUs).
- 16.25.020 Utility and solid waste costs and fees.
- 16.25.030 Addressing single-family and ADU units.
- 16.25.040 Additional criteria for additional accessory dwelling units (ADUs).

16.25.010 Standards and regulations for residential accessory dwelling units (ADUs).

In the low/moderate, moderate, and high density zoning districts in which an accessory dwelling to a single-family use is listed as a permitted use, the following standards and regulations shall apply to all proposed accessory dwelling units:

A. An accessory dwelling unit may be established in an existing single-family dwelling unit or in a detached structure on a legal building lot by any one or by a combination of the following methods:

- 1. Alteration of interior space of the dwelling; or
- 2. Conversion of an attic, basement, attached or detached garage, or other previously uninhabited portion of a dwelling; or
- 3. Addition of attached living area onto an existing dwelling; or
- 4. Construction of a detached living area.

B. Each single-family dwelling on a legal building lot shall have not more than one accessory dwelling unit unless a conditional use permit is granted for an additional unit. The floor area of the accessory dwelling unit shall not exceed 650 square feet.

C. One of the dwellings shall be occupied by one or more owners of the property as the owner's permanent and principal residence. "Owners" shall include titleholders and contract purchasers. The owner shall file a certification of owner-occupancy with the building department prior to issuance of the permit to establish an accessory dwelling unit.

D. Three off-street parking spaces shall be provided for the principal and accessory dwelling units. When the property abuts an alley, the off-street parking space for the accessory dwelling unit shall gain access from the alley, unless topography makes such access impossible.

E. The single-family appearance and character of the dwelling shall be maintained when viewed from the surrounding neighborhood. Only one entrance to the residential structure may be located on any street side of the structure; provided, that this limitation shall not affect the eligibility of a residential structure, which has more than one entrance on the front or street side on the effective date of the ordinance codified in this chapter.

F. Only one electric, one gas, and one water meter shall be allowed for the entire building, serving both the principal and accessory dwelling unit.

G. The accessory and principal dwelling unit shall comply with all applicable requirements of SMC Title 15, Building and Construction, and this title, as adopted or amended by the city.

H. A permit for an accessory dwelling unit shall not be transferable to any lot other than the lot described in the application.

I. In addition to the conditions which may be imposed by the city under subsection (G) of this section, all accessory dwelling units shall also be subject to the condition that such a permit shall automatically be revoked and or expire whenever:

1. The accessory dwelling unit is substantially altered and is thus no longer in conformance with the plans approved by the building official;
2. The subject lot ceases to maintain at least three off-street parking spaces; or
3. The owner does not occupy one of the dwelling units.

J. The applicant shall sign and file a covenant, provided by the city, with the county auditor, requiring the owner of the property to notify a prospective buyer of the limitations of this section and to provide for the removal of improvements added to convert the premises to an accessory dwelling unit and the restoration of the site to a single-family dwelling in the event that any condition of approval is violated. (Ord. 823-03 § 1)

16.25.020 Utility and solid waste costs and fees.

Utility services, involving city water and sewer, for each detached ADU, shall be assessed 50 percent of the facilities charge as provided for in SMC Title 13 for water and sewer at the time of issuance of a building, remodeling or development permit.

In addition, each ADU shall pay a monthly fee for water, sewer and solid waste services based on the occupancy of each of the units. (Ord. 823-03 § 1)

16.25.030 Addressing single-family and ADU units.

The addressing of the existing single-family residence shall be changed to identify the existing family residence as (Unit A) and the new ADU as (Unit B) prior to issuance of a certificate of occupancy. (Ord. 823-03 § 1)

16.25.040 Additional criteria for additional accessory dwelling units (ADUs).

The following additional criteria apply to allow an additional accessory dwelling unit (ADU).

A. The lot size for a detached ADU shall be a minimum of 11,890 square feet in the low/moderate density zone, 8,200 square feet in the moderate density zone and 5,500 square feet in the high density zone.

B. The accessory dwelling unit may be established by any one of the following methods:

1. Alteration of interior space of the dwelling; or
2. Conversion of an attic, basement, attached or detached garage, or other previously uninhabited portion of a dwelling; or
3. Addition of an attached living area onto an existing dwelling; or
4. Construction of a detached living area.

C. Three off-street parking spaces shall be provided; two spaces for the principal use and one space for the ADU.

D. All additional standards and regulations in SMC 16.25.010 not specifically noted in this section shall apply. (Ord. 823-03 § 1)

A-2