

**SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NO: H-1

DATE: January 28, 2010

SUBJECT: Public Hearing on prior adoption of Emergency Moratorium;
Accessory Dwelling Unit Applications
SMC 16.25

CONTACT PERSON: Robert Martin, Community Development Director

ISSUE:

RCW 35A.63.220 and 36.70A.390 allow adoption of a moratorium without a public hearing, but require a public hearing and adoption of findings within 60 days of the date of adoption of the moratorium.

STAFF RECOMMENDATION:

Conduct a Public Hearing, as required by RCW 35A.63.220 and 36.70A.390, on the Adoption of Ordinance 1070-09; an Emergency Moratorium on submittal of applications for Accessory Dwelling Units (ADU) under SMC 16.25.

DISCUSSION:

RCW 35A.63.220 and 36.70A.390 allow adoption of a moratorium without a public hearing, but require a public hearing and adoption of findings within 60 days of the date of adoption of the moratorium.

The Council adopted an emergency moratorium on December 10, 2009. This moratorium, adopted by Ordinance 1070-09, prohibits staff from accepting applications for accessory dwelling units under Sultan Municipal Code (SMC) 16.25.

Accessory Dwellings are second, usually smaller, residences on a single family residential lot. There are standards that such units must meet before an application can be approved. The property owner must occupy one of the residences. The code allows for more than one accessory dwelling if the lot is of sufficient size.

Without a public hearing and adoption of findings in support of the moratorium adopted on December 10, 2009, the moratorium on applications for Accessory Dwelling Units will expire on February 8, 2010.

If the Council desires to consider extension of the moratorium beyond the 60-day deadline, it must hold a public hearing and adopt findings in support of the original moratorium adoption. On advice of counsel, the adoption of findings should be by ordinance.

An ordinance adopting findings is provided in agenda item A-1. No action is taken under this public hearing agenda item.

ALTERNATIVES:

1. Proceed with public hearing and subsequent consideration of findings and ordinance adopting the findings in support of adoption of Ordinance 1070-09.
2. Do not proceed with public hearing, thereby acting to terminate the moratorium enacted by Ordinance 1070-09.

RECOMMENDATION:

Conduct a Public Hearing, as required by RCW 35A.63.220 and 36.70A.390, on the Adoption of Ordinance 1070-09; an Emergency Moratorium on submittal of applications for Accessory Dwelling Units (ADU) under SMC 16.25.

ATTACHMENTS:

Attachment A: RCW 35A.63.220 and 36.70A.390

Attachment B: SMC 16.25

“ATTACHMETNT A”

RCW 35A.63.220 and 36.70A.390

RCW 35A.63.220

Moratoria, interim zoning controls — Public hearing — Limitation on length.

A legislative body that adopts a moratorium or interim zoning ordinance, without holding a public hearing on the proposed moratorium or interim zoning ordinance, shall hold a public hearing on the adopted moratorium or interim zoning ordinance within at least sixty days of its adoption, whether or not the legislative body received a recommendation on the matter from the planning agency. If the legislative body does not adopt findings of fact justifying its action before this hearing, then the legislative body shall do so immediately after this public hearing. A moratorium or interim zoning ordinance adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium of [or] interim zoning ordinance may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

RCW 36.70A.390

Moratoria, interim zoning controls — Public hearing — Limitation on length — Exceptions.

A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

This section does not apply to the designation of critical areas, agricultural lands, forest lands, and mineral resource lands, under RCW [36.70A.170](#), and the conservation of these lands and protection of these areas under RCW 36.70A.060, prior to such actions being taken in a comprehensive plan adopted under RCW [36.70A.070](#) and implementing development regulations adopted under RCW [36.70A.120](#), if a public hearing is held on such proposed actions.

“ATTACHMETNT B”

SMC 16.25

**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)