

*(Underlined portions represent proposed revisions/additions to existing City ordinances. Double-underlined portions have been added following a work session held on April 3, 2012. Strike-through portions have been removed since the work session. Minor grammatical and formatting changes have also been made.)*

**ORDINANCE NO. 2010.09**

**AN ORDINANCE AMENDING THE SOUTH JORDAN MUNICIPAL CODE BY  
ADDING SECTION 17.130 AND AMENDING SECTION 17.08.010 OF  
TITLE 17 PERTAINING TO ACCESSORY LIVING UNITS (ALU-F)**

**WHEREAS**, the South Jordan City Council has adopted the 2010 General Plan which is supportive of meeting “market demand for housing throughout the life cycle”; and

**WHEREAS**, policy H-1.10 of the General Plan reads: “Consider allowing limited ‘accessory apartments,’ and and/or ‘extended living areas’ within single family dwellings in certain residential zones to help provide housing that accommodates family life stages and cycles.”; and

**WHEREAS**, the most recent US Census data (2010) reveals that South Jordan is lacking population share of ages 25 to 34 and those over 65 when compared to county demographics, as well as housing types typically occupied by those age groups; and

**WHEREAS**, accessory living units may assist in meeting the demand for a housing type and affordability currently lacking in South Jordan; and

**WHEREAS**, the South Jordan Planning Commission, after holding a public hearing, has reviewed the proposed text amendment to the South Jordan Municipal Code, adding Section 17.130 and amending Section 17.08; and

**WHEREAS**, the City Council has held a public hearing and has reviewed the proposed amendments and considered the recommendation of the Planning Commission regarding the proposed amendment; and

**WHEREAS**, in accordance with principles of sound municipal planning, the City Staff, the City Planning Commission, and the City Council have taken into account the impact of the proposed amendment will or may have on existing or future development projects, and to the extent legally permissible or practical, the City Staff, Planning Commission and Council have taken reasonable steps to ensure that the proposed amendment meets the purposes and objectives of the Planning and Land Use Code; and

**WHEREAS**, the City Council desires to amend the Development Code as proposed; and

**WHEREAS**, the City Council has found and determined that the proposed amendments to the South Jordan Municipal Code, adding Section 17.130.030 and amending

Section 17.08.010, will support the best interests of the City and will promote the public health, safety and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF SOUTH JORDAN CITY, STATE OF UTAH, AS FOLLOWS:**

**Section 1. Amendment.** Title 17, "Planning and Land Use Code", of the South Jordan Municipal Code is hereby amended, by the addition to and amendment of definitions in Chapter 17.08.010 (additional and amended items underlined).

## **Chapter 17.08 DEFINITIONS GENERALLY**

### **17.08.010: DEFINITIONS:**

The purpose of this chapter is to provide specific meanings for terms as they are used in this title and to facilitate the understanding and administration of the provisions of this title. Meanings shall apply to the singular or plural and to any tense of a verb. Definitions of pertinent terms provided in Utah Code Annotated are adopted as part of this title.

**ACCESS:** A road, lane, driveway, sidewalk, trail, path, approach or other route used for travel.

**ACCESSORY LIVING UNIT:** A living unit which is an extension of (being attached or detached), and incidental and subordinate to, a single-family residential unit and shall be one of the following three types:

**EXTENDED LIVING AREA:** A life safety compliant "accessory living unit" which may include a kitchen, bathroom, and living areas, and shall provide continuous free-flow access between living areas within the primary dwelling, which may not be occupied by individuals in addition to the "family or household" that occupies the primary dwelling.

**ACCESSORY APARTMENT:** A life safety compliant "accessory living unit," allowed withing applicable zones by approval from the Community Development Department and with applicable building permits, which may include a kitchen, bathroom, and sleeping areas. It ~~is~~ may be contained within the primary dwelling, may be with separated with a dedicated access, and may be occupied by no more than four individuals related by blood, marriage, adoption, or approved foster care; or no more than two unrelated individuals in addition to the "family or household" that occupies the primary dwelling.

GUESTHOUSE: A life safety compliant “accessory living unit,” allowed within applicable zones by approval from the Community Development Department and with applicable building permits, which may include a kitchen, bathroom, and sleeping areas. It is typically detached from the primary dwelling and may be occupied by no more than four individuals related by blood, marriage, adoption, or approved foster care; or no more than two unrelated individuals in addition to the “family or household” that occupies of the primary dwelling.

ACCESSORY USE: A use which is incidental and subordinate to the principal permitted or conditional use of the property.

AFFECTED ENTITY: A county, municipality, independent special district, local district, school district, interlocal cooperation entity, specified public utility, property owner, property owners' association, or the Utah department of transportation, if:

- A. The entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
- B. The entity has filed with the municipality a copy of the entity's general or long range plan; or
- C. The entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

AGRICULTURAL: Pertaining to uses related to horticulture, crop production, farm and ranch animals and other uses and buildings in appropriate zones as regulated under this title, but not including processing, packaging, warehousing or other industrial activities.

APPEAL: A process by which a person or entity may seek relief from a requirement of the land use ordinance or from a decision made by a city official or officials in the conduct of their zoning duties.

APPEAL AUTHORITY: The board of adjustment except where otherwise designated in this code.

ARTERIAL STREET: A street which has intercity or regional significance or which carries substantial traffic volumes such as I-15, Bangerter Highway, Redwood Road, South Jordan Parkway and 11400 South. For purposes of this title, arterial streets shall also be considered collector streets.

ASSISTED LIVING CENTER: An establishment for the housing of independent seniors with supervision, assistance and limited healthcare services in a home like atmosphere; may include protective oversight, food and other services.

Architectural standards of this title requiring garages and 10:12 roof pitch do not apply to this use.

**BED AND BREAKFAST INN:** A building containing no more than four (4) short stay units which is managed and operated by a resident of the building and which has common eating facilities.

**BLOCK:** A structural masonry unit manufactured from concrete.

**BLOCK, DECORATIVE COLORED:** A concrete masonry unit which is integrally dyed a color other than natural gray at the time of manufacture and the outside surface of which is scored, split faced or otherwise textured.

**BOARD OF ADJUSTMENT:** A group of residents appointed by the city council to meet as needed to review requests regarding appeals and variances to city land use requirements as provided under state law.

**BUILDING:** A roofed structure used for shelter meeting requirements of the building code and all requirements of this title.

**BUILDING, ACCESSORY:** A building or structure which is incidental and subordinate to the use of the main building on the lot or parcel.

**BUILDING LINE:** An imaginary line extending across a lot or parcel which is parallel to and coincident with an outside wall of a building.

**BUILDING, PRINCIPAL OR MAIN:** A building which is integral to the principal use to which the premises are devoted and which is usually the largest building or among the largest buildings on the lot or parcel.

**CARE CENTER:** An establishment for the housing of elderly or permanently disabled persons who are incapable of independent living. Architectural standards of this title requiring garages and 10:12 roof pitch do not apply to this use.

**CASH BOND:** A payment made to the city to fund future installation of public improvements.

**CERTIFICATE OF OCCUPANCY:** Authority granted by the building official to occupy or use a building upon satisfying city ordinances and all site plan and building permit requirements.

**CITY:** The city of South Jordan.

**CITY COUNCIL:** The elected legislative body empowered by state law to regulate and govern all planning and land use activities and regulations in the city.

**COLLECTOR STREET:** A street not less than sixty two feet (62') in width providing for intracity or intercity motor vehicle transportation.

**COLLECTOR STREET FENCING:** Fencing located within twenty feet (20') of a collector or arterial street right of way line which is constructed of materials described elsewhere in this title and the development code.

**CONCEPT PLAN:** Drawings and information required for review with certain conditional use permit, subdivision and site plan applications as described in city ordinances.

**CONDITIONAL USE PERMIT:** Authorization granted by the planning commission or city council for a conditional use according to requirements of this title.

**CONDOMINIUM:** A single unit in a multi-unit project, together with an undivided interest in common in the common areas and facilities of the property.

**CONTOUR:** A line which depicts the same elevation across an area of land on a topographical map.

**CUL-DE-SAC:** A permanent dead end street which terminates in a circular turnaround area.

**DAYCARE, FAMILY:** A childcare or preschool home occupation conducted in accordance with the home occupation regulations of this title.

**DAYCARE, GROUP:** A childcare or preschool facility operated as a commercial business, in accordance with city codes and requirements, but not as a home occupation.

**DENSITY:** The number of lots or dwelling units per acre of gross land area in a residential project.

**DEVELOPMENT:** Any use of land involving improvements and which requires site plan, plat or conditional use approval.

**DEVELOPMENT AGREEMENT:** A written contract between the city and a developer which sets forth the respective terms, conditions and obligations pertaining to a development in the city.

**DEVELOPMENT REVIEW COMMITTEE (DRC):** A group of appointed city officials or their designees given responsibility to review and advise concerning proposed development projects, including site plans, subdivisions, condominiums and small residential developments.

**DEVELOPMENT, SMALL RESIDENTIAL (SRD):** Construction of a dwelling on a

vacant lot or parcel outside of a recorded subdivision or condominium.

DRIVE-THROUGH: A commercial establishment which delivers goods or services to consumers in motor vehicles.

DRIVEWAY: A privately owned and maintained vehicle access to a lot or parcel.

DWELLING, MULTIPLE-FAMILY: A building comprised of two (2) or more dwelling units.

DWELLING OR DWELLING UNIT: A building, or a portion thereof, designed for single-family residential occupancy meeting all requirements of this title and which has at least one kitchen and one bathroom, but not including tents, garages, sheds, travel trailers, campers, motor homes, motels, hotels, lodges or other quarters intended for transient or temporary occupants.

DWELLING, SINGLE-FAMILY: A building comprised entirely of one dwelling unit.

EASEMENT: A restricted area of a lot or parcel which is subject to a legal right of use by others who do not own the property but may control the property owner's use of the area.

ELDERLY PERSON: A person who is at least sixty (60) years old who desires or needs to live with other elderly persons in a group setting but who is capable of living independently.

ELEVATION: The altitude of the surface of the ground.

ELEVATION, BUILDING: An architectural rendering of the front, side or rear facade of a building, including dimensions, features, materials and colors.

ESCROW: A cash payment to the city to fund, if necessary, the future installation of landscaping or other site improvements.

FAMILY OR HOUSEHOLD: One or more persons related by blood, marriage, adoption or approved foster care, and up to two (2) unrelated persons; or a group of not more than four (4) unrelated persons occupying a dwelling unit or a group of persons as defined by state law as elderly or disabled.

**Section 2. Enactment.** Section 17.130.030 "Accessory Living Unit Floating Zone" of the South Jordan City Code Title 17, "Planning and Land Use Code", is hereby Enacted as follows:

## 17.130.030: ACCESSORY LIVING UNIT FLOATING ZONE:

### 17.130.030.010: PURPOSE:

Accessory living units, as defined in Section 17.08.10, may be approved in order to provide affordable housing units, economic relief to homeowners, and create housing types appropriate for households and individuals at a variety of stages in the life cycle. The Accessory Living Unit Floating Zone provides regulations and design standards for accessory living units. Acceptable accessory living units shall be one of the following three types (see Section 17.08.10 for definitions):

Extended Living Areas

Accessory Apartments

Guesthouses

17.130.030.020 Review Process: The use of the Accessory Living Unit Floating Zone may only be established in conformance with the review procedures of this Chapter. Applicants shall follow the procedures, requirements, and standards of this Code. The use of the Accessory Living Unit Floating Zone shall be conducted in accordance with the documents submitted for approval.

A.. Community Development Department Approval: All accessory apartments and guesthouses shall require the approval of the Community Development Department. A site plan shall be submitted to the Community Development Department, drawn to scale and clearly showing the location of all existing and new structures, parking, driveways, and walkways. A floor plan shall be submitted, drawn to scale with room labels and indicating designated use, in order to determine compliance with the requirements herein.

Extended living areas may be allowed by the underlying zone and do not need additional approval for the use itself by the Community Development Department, however a building permit may still be required whenever construction is involved.

1. Resident Occupancy: All approved accessory living units approved under this ordinance require that the owner of the property live within the primary dwelling, except for legitimate temporary absences.

- a. Accessory Apartments: The owner of the property on which an accessory apartment has been approved may occupy the primary dwelling unit or the accessory apartment.

- b. Guesthouses: The owner of the property shall be required to live in the primary dwelling on the property for which the guesthouse is approved.
2. Standards: The Community Development Department may approve accessory living units based upon the following standards being met:
- a. Zoning: The Accessory Living Unit Floating Zone may be applied to single-family dwellings in the following zones: A-5, A-1, R-1.8, R-2.5, R-3, R-4 and R-5. Guesthouses shall only be approved in the A-5, A-1, and R-1.8 zones. In no case shall a guesthouse be approved on a single-family lot less than ~~14,520~~ 15,000 feet. Except for standards herein allowed under the Accessory Living Unit Floating Zone, approved accessory living units shall meet the requirements of the underlying zone. Only one accessory apartment or guesthouse is allowed per lot. Accessory living units are not allowed in conjunction with mobile homes or any form of attached housing units.
- b. Maximum Size: The floor space of an accessory living unit shall comprise no more than ~~35%~~ 30% of the living area of the primary dwelling or be greater than ~~4000~~ 1500 square feet, whichever is less, unless, in the opinion of the Planning Commission, a greater amount of floor area is warranted. In all cases an accessory living unit shall remain subordinate and incidental to the primary dwelling. No accessory living unit shall have more than ~~two~~ three bedrooms.
- c. Parking: A minimum of one off-street parking space, in addition to those already required, shall be provided for accessory living units. Additional spaces shall be provided, as needed, to ensure that all additional occupant vehicles will be accommodated on-site, reserving on-street parking for visitors.
- d. Setbacks: All accessory living units that propose modifications visible from the exterior of the home (i.e.-additions & remodels to the primary dwelling, guesthouses) shall comply with the setbacks of the underlying zone or as approved with the subdivision. Guesthouses shall comply with the required setbacks of the underlying zone for an accessory building, however, in no case shall a guesthouse be located closer than ten feet (10') from a side or rear property line.
3. Approval Letter: For all approved accessory living units, a letter shall be required from the owner, and sworn before a public notary, stating that the owner will comply with all regulations of the Accessory Living Unit Floating Zone and will occupy the property.

The letter shall also state that the owner assumes responsibility to comply with further restrictions that may be imposed by a homeowner association and/or codes, covenants, and restrictions (CC&R's). Upon approval of the accessory living unit, the original letter shall be stamped, documenting approval, and kept on file with the Community Development Department. A copy may be provided to the homeowner.

B. Building Permit Requirements: In addition to the approval required from the Community Development Department, all accessory living units that propose construction or remodeling shall require a building permit from the Building Division and shall conform to all applicable standards in the City's adopted Building Codes. The Applicant shall obtain all necessary building permits and pay applicable fees prior to construction, remodeling, or use of any accessory living unit. Accessory living units shall not be approved on properties that have outstanding ordinance or building violations. Floor plans, architectural elevations, and structural calculations, as may be required, shall be submitted to the Building Division.

C. Planning Commission Approval: In addition to the requirements of sections 17.130.030.005 (A) and 17.130.030.005 (B) approval required from the Community Development Department and a building permit as required, accessory living units that propose a floor area greater than 35% ~~30%~~ of the living area for the primary dwelling or ~~4000~~ 1500 square feet, and accessory apartments that propose the alteration of the exterior or expansion of the primary dwelling (including the addition of doors, stairs, walkways, etc. ~~or parking~~), and all guesthouses shall require review and approval by the Planning Commission. ~~Planning Commission review of accessory apartments that alter the exterior and all guesthouses shall also include a public hearing.~~

1. Standards: The Planning Commission may approve accessory living units affecting the exterior of the primary structure or lot based on the following standards:
  - a. Exterior Appearance: Any new construction or alteration of the exterior of the existing structure required to add an accessory living unit shall be designed so that the appearance of the lot, building structure, and landscaping shall retain the character of a single-family neighborhood.
  - b. Architectural Compatibility: An accessory living unit with proposed construction or remodeling shall be designed and constructed to be compatible with the exterior of the primary dwelling (i.e. exterior materials, colors, roof pitch, etc.).

c. Additional Requirements: The Planning Commission may impose other appropriate requirements, more stringent than those requirements contained within this chapter, if deemed necessary to protect the single family character of the neighborhood and to ensure the public health, safety, and welfare.

17.130.030.030 Prohibitions: The installation of separate utility meters, mailboxes, addresses, and additional outside entrances visible from the street is not permitted.

17.130.030.040 Applicability: Regardless of an approval granted by the City, accessory living units may be further restricted by homeowner association agreements and/or codes, covenants, and restrictions (CC&R's). It is not the City's responsibility to ensure or enforce compliance with such agreements or CC&R's. Homeowners are responsible to ensure that they are in compliance with applicable homeowner association agreements and/or CC&R's.

17.130.030.050 Inspections: Periodic inspections may be required to determine compliance, as may be deemed appropriate by City staff.

17.130.030.060 Prior Use: The Community Development Department may approve a ~~An existing accessory living unit existing at the time of the adoption of this ordinance may be approved~~ if the use complies with the requirements of this chapter and ~~a building permit was issued when the accessory living unit was constructed or remodeled~~. If ~~a certificate of occupancy was not~~ ~~no building permit was issued~~ at the time of construction or remodeling, the applicant shall apply for a building permit and the Chief Building Official, or his designee, shall inspect the accessory living unit for code compliance. All documented violations shall be corrected prior to approval of the ~~before a building permit is issued and accessory living unit approval is granted~~. Any uses or dwellings which previously conformed to prior ordinances, including having obtained all necessary and applicable permits, but do not now conform due to adoption of this chapter, shall be permitted to continue as a legal non-conforming use.

17.130.030.070 Transferability: Accessory living unit approval is not transferable. Upon the sale of the home or the change of primary occupant, the approval for an accessory apartment or guesthouse shall expire, unless otherwise renewed by the new owner.

17.130.030.080 Appeals: Decisions by the Community Development Department and/or the Planning Commission regarding the issuance or denial of an accessory living unit may be appealed to the City Council.

**Section 3. Severability.** If any section, part, or provision of this Ordinance is held invalid or unenforceable by a court of competent jurisdiction, such unenforceability shall not affect any other portion of this Ordinance, and all sections, parts and provisions of this Ordinance shall be severable.

**Section 4. Effective Date.** This Ordinance shall become effective immediately upon publication or posting as required by law.

PASSED AND ADOPTED BY THE CITY COUNCIL OF SOUTH JORDAN CITY, STATE OF UTAH, ON THIS 17 DAY OF April, 2012 BY THE FOLLOWING VOTE.

	YES	NO	ABSTAIN	ABSENT
Mark Seethaler	<u>X</u>	_____	_____	_____
Chuck Newton	<u>X</u>	_____	_____	_____
Brian C. Butters	<u>X</u>	_____	_____	_____
Steve Barnes	<u>X</u>	_____	_____	_____
Larry Short	<u>X</u>	_____	_____	_____



Scott L. Osborne  
 Scott L. Osborne, Mayor

ATTEST:

Anna M. West  
 Anna M. West, City Recorder

Approved as to form:

R. A. [Signature]  
 Assistant City Attorney