

Madison County Ordinance No.: 466

AN ORDINANCE MODIFYING THE MADISON COUNTY UNIFIED DEVELOPMENT CODE CHAPTER 109-MISCELLANEOUS PROVISIONS, TO ADOPT A NEW SECTION TO CHAPTER 109 TO INCLUDE A GOVERNING SECTION ON ACCESSORY DWELLING UNITS.

WHEREAS, the Madison County Planning and Zoning Commission held a public hearing on or about Wednesday, October 26, 2022 at 6:30 p.m. at the Commissioner's room located in the Madison County Courthouse, Rexburg Idaho, to consider the proposed modification to the Madison County Unified Development Code to adopt a new section, Chapter 109, to include a governing section of accessory dwelling units.

WHEREAS, on or about October 26, 2022 the Madison County Planning and Zoning Commission recommended to the Madison County Board of County Commissioners to approve the requested Unified Development Code modification.

WHEREAS, the Madison County Board of County Commissioners accepted and adopted the Madison County Planning and Zoning Commission's recommendations for the Unified Development Code Modification to adopt an ordinance to regarding accessory dwelling units on or about November 28, 2022, signing the Findings of Fact and Conclusions of Law thereon.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MADISON COUNTY, IDAHO:

Madison County is proposing to amend the Unified Development Code to add a section to govern Accessory Dwelling Units. The amendment will change Accessory Dwelling Units from allowed with a Conditional Use Permit which requires a public hearing before the Planning Commission and final decision of the Board of County Commissioners, to being allowed with an Administrative Permit which will be approved by the Planning Administrator, contingent upon meeting nine (9) conditions which are outlined the proposed amendment to the Code. The decision of the Planning Administrator may be appealed to the Planning Commission. Conditions of Approval include:

1. Accessory dwelling unit can be serviced with a single shared well with the primary residence
2. Accessory dwelling unit can be serviced with a single, shared well with the primary residence.
3. Must demonstrate approval of the proposed septic system as approved by East Idaho Public Health. The accessory dwelling may share a septic system with the primary dwelling.
4. May be attached or detached to the primary residence, such as a duplex, or part of an accessory building (detached garage or shop).
5. If the lot is less than 2 acres, the accessory dwelling may not exceed half the size of the primary residence (including basement), or 1,500 square feet, whichever is larger. If the lot is 2 acres or larger, there is no size restriction on the accessory dwelling
6. Must remain in the same ownership as the lot and primary dwelling on the lot (may not be condominiumized).

7. No more than one primary dwelling and one accessory dwelling is allowed per lot. (For example, a basement apartment with a separate entrance would qualify as an accessory dwelling. Therefore, no additional dwelling unit would be allowed on the lot.)
8. There is sufficient off-street parking to support both the primary dwelling and accessory dwelling.
9. Any enforcement of the neighborhood covenants regarding accessory dwelling units is the responsibility of the Home Owners' Association, and/or lot owners within the subdivision, and not the responsibility of Madison County. Approval by Madison County does not constitute conformance with covenants in place.
10. If the lot is in a platted subdivision, notice of the application for the accessory dwelling unit and pending building permit will be sent by the Planning Department, to all lot owners within the subdivision. Building permits for accessory dwellings will not be issued until two (2) weeks after notice has been sent to lot owners within the subdivision. The notice will inform other lot owners that approval of the Accessory Dwelling Unit by Madison County does not constitute conformance with subdivision covenants.

Proposed Change to Madison County Code – Accessory Dwelling Units

Section to be added as Chapter 109-IX – Accessory Dwelling Units

(This will appear as a subsection of Chapter 109 – Miscellaneous Provisions)

Article 109-IX - Accessory Dwelling Units

Section 109-224 – Purpose

Section 109-225 – Definitions

Section 109-226 – Permitted Uses and Zones

Section 109-227 – Administrative Permit and Application Process

Section 109-228 – Conditions of Approval

Section 109-229 – Petition for Waiver of Condition(s)

Article 109-IX - Accessory Dwelling Units

Section 109-224 – Purpose

The purpose of this article is to establish a clear process and criteria for integrating accessory dwelling units as a recognized and necessary land use in Madison County. This article recognizes the need for accessory dwelling units to fill housing needs including but not limited to intergenerational family support, housing market demands, rental, and short-term rental uses. It is intended that accessory dwelling units are allowed in any residential zone, upon demonstration that such use does not compromise the health, safety and welfare of property owners in the

general area of the use.

Section 109-225 – Definitions

Accessory Dwelling Unit means a dwelling unit that includes sleeping area, kitchen facilities, bathroom and an entrance that is separate from the primary dwelling on the lot or parcel.

Accessory Uses and Buildings means any use or building that is secondary to the primary permitted use both in size and type.

Apartment means a room or a suite of rooms in a multiple-family structure which is arranged, designed, or used as a single-dwelling unit and has complete kitchen and sanitary facilities permanently installed.

Building, Accessory, means a building which is subordinate to, and incidental to the principal building on the same lot, but does not include any building containing a dwelling unit (DU) as hereinafter defined.

Duplex means a residential structure separated into two (2) independent living units with a common owner and a shared yard. Two (2) living units in one structure with one (1) lot. This may be configured as side-by-side, or top-bottom units.

Primary Dwelling means the first dwelling unit constructed on a parcel or lot. If a second dwelling is constructed on the parcel or lot, the larger dwelling unit becomes the primary dwelling and the smaller dwelling unit becomes the accessory dwelling

Section 109-226 – Permitted Uses and Zones

Accessory dwellings and duplexes are allowed with an administrative permit in the following zones:

- Agriculture
- Agriculture/Recreation
- Residential
- Township
- Transitional Agriculture

Section 109-227 – Administrative Permit and Application Process

The applicant will apply for an “Accessory Dwelling Unit” prior to obtaining the building permit. The application will be reviewed by the Planning Administrator. If the Administrator determines that the application meets all the conditions of approval, a certificate of approval will be issued. If the application does not meet all of the criteria, the Administrator will deny the application, and provide a written explanation for the denial to the applicant. The applicant may appeal the denial to the Planning Commission for Consideration. Upon appeal, the Planning Commission may waive any of the conditions of approval if it is determined that waiver of the conditions does not diminish the health, safety and welfare of the applicant and potentially impacted nearby landowners.

Upon approval of this section, any previous Conditional Use Permits for Accessory Buildings

with living quarters will be converted to Administrative Permits and will no longer be subject to Madison County Codes regarding Conditional Use Permits, including annual renewal.

Section 109-228 – Conditions of Approval

The application for Accessory Dwelling Unit shall be approved if all of the following conditions are met:

1. Lot is at least 1 acre in size.
2. Accessory dwelling unit can be serviced with a single shared well with the primary residence
3. Must demonstrate approval of the proposed septic system as approved by East Idaho Public Health. The accessory dwelling may share a septic system with the primary dwelling.
4. May be attached or detached to the primary residence, such as a duplex, or part of an accessory building (detached garage or shop).
5. If the lot is less than 2 acres, the accessory dwelling may not exceed half the size of the primary residence (including basement), or 1,500 square feet, whichever is larger. If the lot is 2 acres or larger, there is no size restriction on the accessory dwelling
6. Must remain in the same ownership as the lot and primary dwelling on the lot (may not be condominiumized).
7. No more than one primary dwelling and one accessory dwelling is allowed per lot. (For example, a basement apartment with a separate entrance would qualify as an accessory dwelling. Therefore, no additional dwelling unit would be allowed on the lot.)
8. There is sufficient off-street parking (one parking spot for every two bedrooms) to support both the primary dwelling and accessory dwelling.
9. Any enforcement of the neighborhood covenants regarding accessory dwelling units is the responsibility of the Home Owners' Association, and/or lot owners within the subdivision, and not the responsibility of Madison County. Approval by Madison County does not constitute conformance with covenants in place.
10. If the lot is in a platted subdivision, notice of the application for the accessory dwelling unit and pending building permit will be sent by the Planning Department, to all lot owners within the subdivision. Building permits for accessory dwellings will not be issued until two (2) weeks after notice has been sent to lot owners within the subdivision. The notice will inform other lot owners that approval of the Accessory Dwelling Unit by Madison County does not constitute conformance with subdivision covenants.

Section 109-229 – Petition for Waiver of Condition(s)

1. If any of the above criteria are not met, the application will be denied by the Administrator. The denial may be appealed to the Planning Commission, which may approve the application by waiving any of the conditions of approval. To appeal the decision of the Planning Administrator, the applicant shall file an "Application for Waiver of Condition(s) with the planning department. The application will be considered as an agenda item at the next available regularly scheduled meeting of the Planning Commission.
2. An appeal of the decision of the Planning Commission may be made to the Board of County Commissioners by filing an appeal with the Planning Office. The appeal will then

be considered as an agenda item at the next available regularly scheduled meeting of the Board of County Commissioners.

Additional Changes to Madison County Code regarding Accessory Dwelling Units

Section 101-2 – The following definitions will be added:

Accessory Dwelling Unit means a dwelling unit that includes sleeping area, kitchen facilities, bathroom and an entrance that is separate from the primary dwelling on the lot or parcel.

Accessory Uses and Buildings means any use or building that is secondary to the primary permitted use both in size and type.

Apartment means a room or a suite of rooms in a multiple-family structure which is arranged, designed, or used as a single-dwelling unit and has complete kitchen and sanitary facilities permanently installed.

Building, Accessory, means a building which is subordinate to, and incidental to the principal building on the same lot, but does not include any building containing a dwelling unit (DU) as hereinafter defined.

Duplex means a residential structure separated into two (2) independent living units with a common owner and a shared yard. Two (2) living units in one structure with one (1) lot. This may be configured as side-by-side, or top-bottom units.

Primary Dwelling means either the first dwelling unit constructed on a parcel or lot. If a second dwelling is constructed on the parcel or lot, the larger dwelling unit becomes the primary dwelling and the smaller dwelling unit becomes the accessory dwelling

Section 117-51 – Land Use Table will be amended as follows:

Accessory building with Living Space shall be removed from the Land Use Table.

Accessory Dwelling Unit shall be added to the Land Use Table as a Permitted Use in Agriculture, Agriculture/Recreation, Residential, Township, and Transitional Agriculture zones.

Section 117-52 – Agriculture Zone

Subsection (e) (3) shall be amended as follows:

There is no minimum lot area requirement, but division of land must maintain an average of at least 16 acres per lot or parcel. ~~but overall development density shall be an average of 1 dwelling unit per 16 acres.~~

Section 117-60 – Transitional Agriculture (TAG) Zone

Subsection (e) shall be amended as follows:

Area/density requirements. There is no minimum lot area requirement, but overall development density shall be an average of ~~1 dwelling unit per 2 acres~~ at least 2 acres per lot or parcel

Section 115-63 Lots (Subdivision Code)

Subsection (f) shall be amended as follows:

Number of dwellings. Each lot may have a primary dwelling. An accessory dwelling may be built after obtaining an Administrative Permit, having proven that criteria outlined in Section 109-228 have been met. ~~There shall not be more than 1 dwelling constructed on each subdivided lot. With a conditional use permit a detached garage may be allowed to have a living space with no more than 3 bedrooms. This will be counted as separate living space for septic sizing but septic must be part of the primary residence's septic system. This living area may only be occupied by a single family and shall only be allowed if in conformance with the covenants of the subdivision.~~

That this ordinance shall take effect and be in force from and after its passage and approval, and shall repeal and any other Resolution(s) or Ordinance(s) in conflict herewith.

ADOPTED by the Board of County Commissioners of Madison County this 28th day of November, 2021

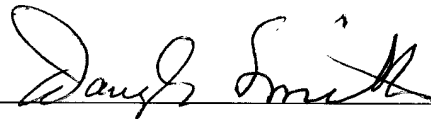
APPROVED:



Todd Smith, Chairman

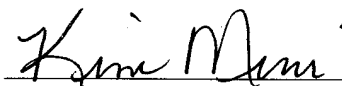


Brent Mendenhall, Commissioner



Douglas Smith, Commissioner

ATTEST:



Kim Muir, County Clerk