

ORDINANCE NO. 18-02

AN ORDINANCE AMENDING TITLE 16 OF THE WASATCH COUNTY CODE TO AMEND PORTIONS OF THE CODE REGARDING CARETAKER, ACCESSORY RESIDENTIAL UNITS AND GUEST UNITS IN APPLICABLE ZONING DISTRICTS AND ALSO ALLOWING FOR SECOND KITCHENS.

WHEREAS, Title 16 currently allows for accessory residential units (ARU's) and accessory dwelling units (ADU's) and more specifically caretaker units, guest units and second units for blood relatives; and

WHEREAS, it has also been determined that additional regulation and clarification for these uses should be required; and

WHEREAS, the County Legislative Body has also determined that second kitchens for the use of the main residents is an appropriate use and;

WHEREAS, after discussing and hearing evidence, the planning commission and county council have determined that the current ordinance allows additional density in the county that negatively impacts traffic, safety, welfare, undermines agricultural industries; and

WHEREAS, the planning commission and the county council have determined that allowing small accessory dwelling units for immediate family members will curtail negative impacts on traffic, safety, welfare while promoting prosperity, peace, and good order; and

WHEREAS, the planning commission and the county council have determined that allowing limited caretaker units for immediate family members, for site security, and for larger agricultural operations will curtail negative impacts on traffic, safety, welfare while promoting prosperity, peace, safety, agricultural industries and good order; and

WHEREAS, Utah Code 17-27a-502 requires Wasatch County to give notice of public hearing as provided in Utah Code 17-27a-205(1)(a), and to hold a public hearing; and

WHEREAS, Wasatch County gave notice of all public meeting and public hearings related to this ordinance as required, and the planning commission held a public hearing on Nov. 15, 2017; and

NOW THEREFORE, the County Legislative Body of Wasatch County ordains as follows:

SECTION I: Repealer. If any provisions of the County Code heretofore adopted are inconsistent herewith they are hereby repealed.

See attachment

SECTION II: **Enactment.**

SECTION III: **Effective Date.** This Ordinance shall become effective immediately upon execution by the Chair of the County Council and the completion of public notice requirements imposed by state statute.

SECTION IV: **Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this ordinance.

SECTION V: **Public Notice.** The Wasatch County Clerk, and ex officio Clerk of the Wasatch County Council, is hereby ordered, in accordance with the requirements of Section 17-53-208, Utah Code Annotated, 1953, as amended, to do as follows:

- a. Enter at length this ordinance in the ordinance book;
- b. Deposit a copy of this ordinance in the office of the County Clerk;
- c. Publish a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk's office and with the name of the members voting for and against the ordinance, for at least one publication in a newspaper published in and having general circulation in the county; or post a complete copy of this ordinance in nine (9) public places within the County.

APPROVED and PASSED this 16th day of UMay, 2018.

Attest:



WASATCH COUNTY COUNCIL:

Brent R. Titcomb

Brent R. Titcomb
Wasatch County Clerk / Auditor

Greg McPhie

Greg McPhie, Chair
Wasatch County Council

VOTE

Greg McPhie, Chairman	<u>Y</u>
Spencer Park	<u>Y</u>
Kendall Crittenden	<u>Y</u>
Mike Peterson	<u> </u>
Danny Goode	<u>Y</u>
Steve Farrell	<u>Y</u>
Mark Nelson	<u>Y</u>

ADOPTION OF ORDINANCE AFFIDAVIT

STATE OF UTAH)

: ss.

COUNTY OF WASATCH)

I, the undersigned, the duly qualified and acting County Clerk of Wasatch County, Utah, and ex officio Clerk of the Wasatch County Council, do hereby further certify, according to the records of said Council in my official possession, and upon my own knowledge and belief, that I have fulfilled the requirements of Section 17-53-208, Utah Code Annotated, 1953, as amended, by:

- (a) Causing this ordinance to be entered at length in the ordinance book;
- (b) Causing three (3) copies of this ordinance to be deposited in the office of the County Clerk;

[✓] (c) Causing a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk's office and with the name of the members voting for and against the ordinance to be published for at least one publication in The Wasatch Wave, a newspaper of general circulation within the geographical jurisdiction of Wasatch County; or posting a complete copy of this ordinance in nine (9) public places within the County.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed hereon the official seal of the County Legislative Body of Wasatch County, Utah, this 27 day of June, 2018.



Brent R. Titcomb

Brent R. Titcomb
Wasatch County Clerk / Auditor

SUBSCRIBED AND SWORN to me, a Notary Public, this 27th day of June, 2018.

Sandra Hansen

Notary Public

Residing in: Wasatch County, UT
My commission expires: 3-31-2019



16.05.07: LOT AREA PER DWELLING

Not more than one single-family dwelling may be placed upon a lot or parcel of land in the preservation zone (P-160). If a conditional use is obtained, an accessory residential unit, guest unit or caretaker accessory dwelling unit (ADU) in accordance with section 16.21.46 of this title may be built within the main structure or detached from the main structure.

16.06.07: LOT AREA PER DWELLING

Not more than one single-family dwelling may be placed upon a lot or parcel of land in the agricultural zone (A-20), unless a conditional use has been obtained for an accessory residential unit or caretaker accessory dwelling unit (ADU), as accessory uses. If a conditional use is obtained, an accessory residential unit, guest unit or caretaker accessory dwelling unit (ADU) in accordance with section 16.21.46 of this title may be built within the main structure or detached from the main structure.

16.07.07: LOT AREA PER DWELLING

Not more than one single-family dwelling may be placed upon a lot or parcel of land in the residential-agricultural zone (RA-5). If a conditional use is obtained, an accessory residential unit, guest unit or caretaker accessory dwelling unit (ADU) in accordance with section 16.21.46 of this title may be built within the main structure or detached from the main structure.

16.08.07: LOT AREA PER DWELLING

Not more than one single-family dwelling may be placed upon a lot or parcel of land in the residential-agricultural zone (RA-1). If a conditional use is obtained, an accessory residential unit, guest unit or caretaker accessory dwelling unit in accordance with section 16.21.46 of this title may be built within the main structure or detached from the main structure.

16.09.08: LOT AREA PER DWELLING

Not more than one single-family dwelling may be placed upon a lot created under this chapter or parcel of land in the mountain zone (M). If a conditional use is obtained, an accessory residential unit, guest unit or caretaker accessory dwelling unit (ADU) in accordance with section 16.21.46 of this title may be built within the main structure or detached from the main structure.

16.21.46: ACCESSORY RESIDENTIAL UNITS, CARETAKER ACCESSORY DWELLING UNITS, GUEST UNITS AND SECOND KITCHENS

Purpose: Accessory residential units (ARU's) are units within the main building under the common roofline or in the basement for family members that are deed restricted so they will not become short or long term rental units. Caretaker accessory dwelling units (caretaker ADU's) are separate residential living quarters located on the same lot as the main dwelling unit for the purpose of housing an immediate family member or employee for the purpose of providing a caretaker for larger acreage properties with caretaker needs. Guest ADU's are detached

dwellings used on a part time basis not intended to be permanent residents for guests of the main dwelling and not short or long term rentals. The other use covered by regulations of this code are second kitchens within the main dwelling that are regulated under the ARU ordinance.

This ordinance only allows for the above noted uses if they do not alter the character of the neighborhood or create unreasonable impacts to the county.

A. Accessory Residential Units (ARU's):

Accessory residential units (ARU's) are units for immediate family members that are structurally part of the main dwelling but can be a stand-alone dwelling unit in that it may have a separate entrance and kitchen and which must be in compliance with the below restrictions.

1. Allowed only in single family detached homes.
2. Must be part of the main dwelling unit and share common walls. Common walls and roof lines do not include covered or enclosed walkways. The unit must have the ability to be accessible through conditioned space through the main dwelling unit.
3. No separate meters are allowed for utilities including water, sewer, gas and power. Required utilities (water, sewer, power, gas) shall be connected through the same connections and hookups as the main dwelling unit.
4. If connected to an on-site septic system, special conditions may be imposed by the Wasatch County Health department to protect the surface water and groundwater quality from increased degradation above that of a single residence on the property. This may include the use of an alternative on site system for nitrogen reduction, compliance with R317-4-4.2 method 1 for determining lot size, or other property specific requirements. The Health department may also not approve the additional load on the septic system, in which case the conditional use shall be denied.
5. The same address and driveway used for the main dwelling must be used for the ARU.
6. The ARU is limited to 1,000 square feet and two bedrooms.
7. There must be one off-street parking stall provided in addition to the required parking for the main dwelling, and in addition to any requirements for parking for an accessory dwelling as per section 16.33.
8. Must go through an administrative conditional use process as per section 16.23.03.
9. The main dwelling unit must be owner occupied.
10. Conditional uses that violate approvals shall be reviewed under section 16.23.
11. A building permit issued by Wasatch County is required for any ARU.
12. Any violation of this section is a class B misdemeanor.
13. The ARU is intended to fit in with the neighborhood aesthetically. Impacts, if any, should not detract from the residential nature of the neighborhood.
14. An ARU shall not be allowed on any parcel that is considered non-conforming in any way even on lots that are considered lots of record.
15. Applications for ARU's within a subdivision regulated by a homeowners' or property owners' association shall submit official written notice from said POA or HOA stating that the proposed guest ADU is allowed by subdivision regulations, covenants, and also submit approval from the HOA architectural committee if required. The

exterior appearance of a newly constructed ARU shall fit in with the neighborhood aesthetically and shall be structurally built using materials and designs similar to existing dwellings on the parcel though more modern materials may be used in the event that the materials used on existing dwellings cannot meet building code requirements.

B. Second Kitchens:

Second kitchens are allowed in homes for the use and enjoyment of the occupants of the main portion of the dwelling, are not considered a second unit and are allowed with the following conditions:

1. The request must receive an administrative conditional use permit.
2. The second kitchen is part of the main dwelling and will be used solely for the enjoyment of the occupants of the main dwelling.
3. A deed restriction restricting the use of the kitchen for the use of the occupants of the main dwelling is required to be recorded on a form provided by the County.
4. A second kitchen is only allowed in detached single family homes.

C. Guest Accessory Dwelling Units (Guest ADU's):

A guest accessory dwelling unit is living space that is either attached to or detached from the main residence, and is intended only for housing temporary guests of the primary occupant of the main residence. A guest ADU may not be a rental unit. The following conditions are required:

1. The maximum number of bedrooms is limited to two (2).
2. The proposal must receive a conditional use permit.
3. Maximum size of a detached guest ADU shall be limited to one thousand (1,000) square feet of living space (including basements) as measured from exterior wall to exterior wall.
4. A detached guest ADU may be placed within a larger accessory structure (such as a garage, barn, or arena) but the living space of the guest ADU shall be limited to one thousand (1,000) square feet in size.
5. A guest ADU shall not be rented.
6. No more than one guest ADU may be permitted on a single lot or parcel.
7. An ADU shall not be allowed on any parcel that is considered non-conforming for any reason or lots that are considered non-conforming lots of record.
8. The minimum lot size for a guest ADU is one acre if on sewer and 5-acres if on septic unless the underlying zone requires a larger acreage.
9. Height of structure, setbacks, and location on property shall conform to all applicable county zoning codes.
10. Guest ADU must be connected to a public sewer system or an on-site septic system if 5-acres or more. If connected to an on-site septic system, special conditions may be imposed by the Wasatch County health department to protect the surface water and groundwater quality from increased degradation above that of a single residence on the property. This may include the use of an alternative on site system for nitrogen

reduction, compliance with R317-4-4.2 method 1 for determining lot size, or other property specific requirements. The Health department may also not approve the additional load on the septic system, in which case the conditional use shall be denied.

11. Required utilities (water, sewer, power) shall be connected through the same connections and hookups as the main residence. No separate meters are allowed.
12. The guest ADU may not be sold or separated from the entire property unless the property is legally subdivided with official approval of the county.
13. A deed restriction shall be filed by the applicant on a form provided by the county that prohibits the rental, sale, condominiumization, subdivision, or separation of the guest ADU as a separate parcel of property (an illegal subdivision of property). The applicant must provide the recorded deed restriction on a form provided by the County to the planning department prior to occupancy being granted.
14. Any violation of this section is a class B misdemeanor.
15. All parking for the guest ADU shall be provided on the property, and not on the public road.
16. Applicants must receive approval from the County water board and will need to submit approval from the state engineer (for a private well) or public water provider (for public system) for additional water requirements. There are no additional water requirements for a guest ADU directly attached (common wall) to the main residence.
17. A building permit issued by Wasatch County is required for any guest ADU.
18. Applications for a detached guest ADU on a lot within a subdivision regulated by a homeowners' or property owners' association shall submit official written notice from said POA or HOA stating that the proposed guest ADU is allowed by subdivision regulations, covenants, and also submit approval from the HOA architectural committee if required. The exterior appearance of a newly constructed ADU shall fit in with the neighborhood aesthetically and comply with detached single family home requirements and any other applicable code requirements, and shall be structurally built using materials and designs similar to existing dwellings on the parcel though more modern materials may be used in the event that the materials used on existing dwellings cannot meet building code requirements.

D. Caretaker Accessory Dwelling Unit (Caretaker ADU's):

A caretaker accessory dwelling unit is living space that is either attached to or detached from the main residence, and is intended for housing of a caretaker (plus immediate family) or an employee of the property owner (plus immediate family) who is caretaking, managing, or working on the subject property. Employment on the property shall be for a use that is legally recognized and approved by county zoning ordinance or official county approval, and is limited to farming or ranching operations, property maintenance, or security. Any caretaker ADU shall have the following regulations:

1. The caretaker accessory dwelling unit must be clearly incidental to the main residence.
2. A caretaker ADU must receive a conditional use permit by the Planning Commission

3. There is no maximum size limit for the caretaker ADU however the caretaker ADU must clearly be incidental to the main use.
4. The parcel must be a minimum of 10-acres and in compliance with the underlying zone.
5. Legally non-conforming lots or lots of record cannot have a caretaker dwelling.
6. Approved transient lodges on 10 acres or more may have caretaker dwellings
7. A caretaker ADU may be placed within a larger detached accessory structure (such as a garage, barn, or arena, etc.).
8. No more than one caretaker ADU may be permitted on a single lot or parcel.
9. Height of structure, setbacks, and location on property shall conform to all applicable county zoning codes.
10. A caretaker ADU must be connected to a public sewer system or an on-site septic system. If connected to an on-site septic system, special conditions may be imposed by the Wasatch County health department to protect the surface water and groundwater quality from increased degradation above that of a single residence on the property. This may include the use of an alternative on site system for nitrogen reduction, compliance with R317-4-4.2 method 1 for determining lot size, or other property specific requirements. The Health department may also not approve the additional load on the septic system. In which case the conditional use shall be denied.
11. Required utilities (irrigation, water, sewer, power, gas) are encouraged to be connected through the same connections and hookups as the main dwelling unit. If possible no separate meters should be used for utilities, including water, gas or power unless required by the utility provider and approved by the planning commission as part of the conditional use. Impact fees will apply for a detached caretaker dwelling.
12. The caretaker ADU may not be rented, leased, sold or separated from the entire property. A deed restriction shall be filed by the applicant on a form provided by the county that prohibits the rental, sale, condominiumization, subdivision, or separation of the caretaker ADU as a separate parcel of property (an illegal subdivision of property). The deed restriction shall recite that in the event that the caretaker ADU is not used by a caretaker for farming or ranching operations, property maintenance, security, the caretaker ADU is rented, or the property is subdivided so the acreage is below the required 10 acre minimum the conditional use shall be forfeited. The improvements allowed by the conditional use shall be subject to the conditions of section 16.23.
13. All parking for the caretaker ADU shall be provided on the property, and not on a public road, and shall be subject to any additional requirements of section 16.33.
14. A caretaker ADU will need to submit for approval from the county water board for additional water requirements that may be necessary to supply water to the caretaker ADU.
15. A building permit issued by Wasatch County is required for any caretaker ADU.
16. A main residential structure must accompany a caretaker ADU structure. A caretaker ADU may be constructed prior to the main structure with the following conditions:
 - a. The main residential unit must start construction within 5-years of receiving a certificate of occupancy for the caretaker ADU.

- b. If the main residential structure has not started construction within the 5-year period the conditional use shall be null and void and the applicant will need to apply for a new conditional use approval under the current code.
 - c. If the code at the time of the application does not allow for a caretaker dwelling the unit on the property will be considered the main dwelling.
17. Applications for a detached caretaker ADU on a lot within a subdivision regulated by a homeowners' or property owners' association shall submit official written notice from said POA or HOA stating that the proposed caretaker ADU is permitted by subdivision covenants and regulations, and also submit approval from the HOA architectural committee if required. The exterior appearance of a newly constructed caretaker ADU shall fit in with the neighborhood aesthetically. Caretaker dwellings shall comply with the standards for single family homes and all other ordinance regulations, and shall be structurally built using materials and designs similar to existing dwellings on the parcel though more modern materials may be used in the event that the materials used on existing dwellings cannot meet building code requirements.
 18. The planning commission must make a determination that the property proposed to have a caretaker ADU has a justifiable cause for the caretaker ADU for a use specifically allowed under this section 16.21.46.
 19. Any violation of this section is a Class B Misdemeanor.

Adopted by Ord. 2012-13 on 11/14/2012

Amended by Ord. 14-05 on 11/5/2014

16.23.03: DETERMINATION OF JURISDICTION

The planning commission hereby delegates to the planning staff, the following conditional use requests for administrative action, unless negative responses are received from neighboring property owners:

1. Cell towers or other communication facilities if the applications are for stealth or collocation.
2. Utility buildings and structures.
3. Utility lines that do not exceed thirty six (36) kVA, are less than thirty five feet (35') in height and consist of a single pole.
4. Bed and breakfast uses may be processed by the planning staff if the application is for five (5) bedrooms or less and there will be no food service to anyone other than overnight guests.
5. Kennels, catteries, animal hospitals.
6. Small scale subdivisions.
7. Minor plat amendments.
8. Building permits within fifty feet (50') from flood zone and wetlands.
9. Temporary uses.
10. Any accessory building with a footprint larger than one thousand five hundred (1,500) square feet.

11. Free standing solar panel structures over 300 square feet.
12. Accessory Residential Units ARU's and second kitchens as defined in section 16.21.46.

CONDITIONAL USES IN THE AGRICULTURAL ZONE (A-20)

Use Number	Use Classification
1903	Accessory residential unit (attached)
1905	Caretaker accessory dwelling unit
1907	Guest accessory dwelling unit
4845	Water reclamation plants
4872	Debris basins
4874	Spreading grounds (areas for percolating water into underground)
8146	Indoor arenas (noncommercial, for personal use only)
8224	Animal kennels, boarding, breeding
8290	Other agricultural related activities
8405	Fishing activities, personal use only

CONDITIONAL USES IN THE MOUNTAIN ZONE (M)

Use Number	Use Classification
1519	Group transient lodging
1903	Accessory residential unit
1905	Caretaker accessory dwelling unit
1907	Guest accessory dwelling unit
4712	Telephone relay towers, microwave or other