

### **13.20.221 Detached Accessory Dwelling Unit**

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#### **13.20.221.1 Purpose And Zone Characteristics**

The Detached Accessory Dwelling Unit code is established to conserve and protect the residential character of neighborhoods, maintain desirable, attractive, and safe places to live, and protect investments in our communities.

#### **13.20.221.2 Detached Accessory Dwelling Unit Defined**

For the purposes of this Section, detached accessory dwelling unit ("DADU") shall be defined as a living area within an accessory structure located on the same parcel as a single-family dwelling. No more than one (1) DADU accessory dwelling unit, either interior or detached, shall be allowed associated with each single-family dwelling.

#### **13.20.221.3 Detached Accessory Dwelling Units**

Detached Accessory Dwelling Units shall be permitted only on lots with detached single family dwellings located in any Residential (R) or Agricultural (A) zone.

#### **13.20.221.4 General Requirements**

Each of the following must be satisfied to establish an accessory apartment:

1. **Permits.** A DADU permit shall be obtained before utilizing a DADU. A separate building permit shall be obtained for any modification to the structure.
2. **Number.** Only one (1) DADU shall be permitted with a single-family dwelling.
3. **Lot Area Requirements.** A DADU shall not be permitted on lots under 6,000 sq. feet.
4. **Location.** The DADU shall be permitted in, but not above, an accessory structure.
5. **Setbacks.** The DADU shall be no closer than 10 feet from the side and rear property lines and shall not be located within the front yard.
6. **Appearance.** The appearance of the DADU exterior shall be similar in design, material, and character to the existing dwelling.

7. **Access.** The DADU shall have its own exterior entrance. An exterior entry into a DADU shall have a paved pedestrian access connecting to the driveway and/or public street.
8. **Occupancy.** Owner occupancy of the single-family dwelling shall be required to establish and maintain a DADU. An owner's temporary absence shall not relieve this requirement. Owner occupancy requires primary residency of at least 50% of ownership on property title. Occupancy in the single-family dwelling shall be one family as defined in Payson City Code while occupancy in the DADU shall be no greater than four (4) adults.
9. **Second Kitchens.** The DADU and single-family dwelling shall each have no more than one (1) kitchen.
10. **Parking.** Four (4) total off-street parking spaces are required to establish and maintain a single-family residence with a DADU (two for single-family dwelling and two for the DADU). Parking spaces may be in tandem. No more than one side yard may be utilized for parking. The parking spaces shall:
  1. be hard surfaced and accessed by a hard surfaced driveway,
  2. not be located closer to the front lot line than the dwelling unless the parking space leads to covered parking,
  3. serve the same address if two parking spaces are in tandem, tandem spaces shall not be more than two vehicles in depth, and continuously be available for parking and not obstructed by storage or other items.
  4. If a detached garage is converted to a detached dwelling unit the two off street parking spaces for the dwelling must be replaced.
11. **Required Improvements.** Curb, gutter, and sidewalk along the frontage of the parcel shall be installed and maintained. If a curb, gutter, or sidewalk is in a state of disrepair, it shall be repaired or replaced prior to the issuance or renewal of an accessory apartment permit.
12. **Utilities.** Existing utility laterals and service connections will need to be inspected and upgraded as deemed necessary by the utility provider. The structure shall have no more than one (1) meter for each utility service.
13. **Addresses.** The single-family dwelling and the DADU shall have independent addresses assigned by the city. These addresses shall be clearly visible from a public street. It is the responsibility of the property owner to install and maintain visible address placards.
14. **Conformance With Payson City Code.** A violation of any Payson City Code may result in denial, suspension, or revocation of a DADU application or permit.
15. **Duration And Severance.** A DADU permit is only valid for the duration of ownership of the applicant and does not run with the land. The DADU shall terminate whenever owner occupancy is not maintained or when an owner occupant elects to discontinue using the living space as an DADU. If an accessory apartment is denied, revoked, or discontinued, the DADU address shall be removed from the structure.
16. **Recordation.** A deed restriction outlining the permitted use of the property shall be recorded with the Utah County Recorder's Office.

### **13.20.221.5 Permit Process**

To obtain an DADU permit, an applicant shall:

1. Submit a completed application and:
  1. A dimensioned site plan showing the location of the single-family dwelling structure, the proposed DADU and any accessory structures. The site plan shall include dimensions, setbacks, distance between the single-family dwelling, the proposed DADU, and any accessory building, location of utility meters, and location and dimensions of parking spaces.
  2. A floor plan labeling the rooms, egress windows and their dimensions, DADU, interior connection, and exterior entrances.
  3. Elevation drawings of the proposed DADU which show the building height and exterior materials of the proposed DADU structure.
  4. Payment of the application fee as shown in the fee schedule.
2. Complete and pass a building inspection to ensure compliance with this Section, building and fire codes, and any other applicable ordinances.
3. Install an address placard displaying the assigned address for the DADU.
4. Sign a deed restriction establishing the DADU.

#### **13.20.221.6 Non-Conformities**

Any DADU legally established prior to this ordinance shall obtain an DADU permit and shall not be denied a permit due to inability to satisfy a provision of this Section if that provision was not required by the ordinance in effect at the time of legal establishment. The property owner has the burden of proof that the property was both legally established and has been maintained as a DADU since the date of establishment. The inquiry to determine legal establishment shall be met by the preponderance of the evidence based on information such as: the zoning designation and any overlays at the time of establishment, the applicable zoning ordinance, building permits, any rental records, affidavits, utility records, city and county records, tax records, and any other information indicating prior use and/or legal establishment.

#### **13.20.221.7 Determination Of Owner Occupancy Status**

A determination of owner occupancy may be rebutted by documentation submitted to Development Services that shows the individual(s) claiming homeowner occupancy is (are) an owner occupant. An owner occupant possesses at least 50% ownership and has a bona fide intent to establish and maintain primary residency in the dwelling. Documentation may include loan documents, title, tax returns, residency status, driver's license, insurance statements, rental agreements, and any other documentation indicating proof of ownership and primary residency. Once staff has made a final determination of owner occupancy status, an applicant may appeal to the Board of Adjustment.

#### **13.20.221.8 Violation**

1. Any violation of this Section may result in a Class C Misdemeanor.

2. In addition to the criminal penalty listed above. Payson City may hold a lien against the property.
  1. Payson City will provide written notice of the violation(s). The notice shall include a description of the specific violation and give the property owner to cure the violation within 30 days. The notice shall be mailed to the property owner of record and/or anyone designated to receive notice on behalf of the property owner of record and be posted on the property.
  2. The property owner shall have the right to a hearing, if the property owner files a written objection within 14 days after the day in which the notice of violation is post-marked or posted on the property.
  3. The City will then hold a hearing in accordance with Title 52, Chapter 4 Open and Public Meetings Act to conduct a review and determine whether the specific violation(s) described in the written notice of violation has occurred. The property owner shall be notified in writing of the date, time and location of the hearing no less than 14 days before the hearing is to be held.
  4. If at the hearing the City Council determines the specific violation occurred, the City may impose a lien in an amount of up to \$100 for each day of violation after the day on which the opportunity to cure the violation expires.
  5. The written notice of lien shall be filed with the Utah County Recorder describing the specific violation(s) and that the City provided the property owner 30 days to cure and that the property owner failed to cure the violation(s).