

## Staff Report

PZ15-00014 (LDC) Accessory Dwelling Unit  
Code Text Amendment



## Community Development Department Development Services

102 Roadrunner Drive Sedona, AZ 86336  
(928) 282-1154 • Fax: (928) 204-7124

---

<b>Meeting Dates:</b>	<b>December 15, 2015</b> (Work Session) <b>January 5, 2016</b> (Public Hearing)
<b>Hearing Body:</b>	<b>Planning and Zoning Commission</b>
<b>Project Number:</b>	<b>PZ15-00014 (LDC)</b>
<b>Action Requested:</b>	Discussion/possible action regarding an ordinance amending the Sedona Land Development Code Article 9, Section 918, Accessory Dwelling Units (ADU), to add clarity in the regulations and remove perceived impediments to the establishment of long-term rental accessory dwelling units.
<b>Staff Recommendation:</b>	Approval of the recommended amendments to Article 9, Section 918 Accessory Dwelling Units (ADU), of the Land Development Code.
<b>Report Prepared By:</b>	Warren Campbell, Principal Planner
<b>Attachments:</b>	<ul style="list-style-type: none"><li>A. Proposed Amendments to Land Development Code Section 918 Accessory Dwelling Units.</li><li>B. ADU Information Spreadsheet of all ADU applications received.</li><li>C. Citizen Engagement ADU Work Group Memorandum dated April 22, 2015.</li></ul>

---

### **Background**

In 2010, City Council approved Ordinance No. 2010-01, allowing for the long-term rental of Accessory Dwelling Units (ADU). The ordinance became effective on February 11, 2010 and remains in effect until 88 new ADUs are created. The original Ordinance also included a Sunset Clause, which would have caused the Ordinance to automatically expire on February 11, 2015. On February 10, 2015, the City Council unanimously approved Ordinance No. 2015-02, which amended Section 918, ADU, to remove the Sunset Clause. At this public hearing the Council directed staff to evaluate concerns with the provisions of the ADU regulations identified by the public, Planning & Zoning Commission (P&Z), staff, and recommend changes.

ADUs are generally considered to be secondary small residential units providing complete living facilities with provisions for living, sleeping, eating, cooking, and sanitation. They are incorporated on the same lot as the primary single-family home and are smaller in size. Because ADUs are often used by extended family members, they can be referred to as “in-law apartments” or “granny flats”. Allowing long-term occupancy of ADUs enables homeowners to offer separate living units to family members as well as providing additional rental options without significantly affecting the quality and character of the neighborhood. Because ADUs are typically smaller, they tend to be more affordable to rent than a stand-alone single family home.

There are three basic types of accessory dwelling units:

- Interior: using an interior part of a single-family dwelling unit to create an ADU
- Attached: adding on to an existing single-family dwelling unit to create an ADU
- Detached: a structure that is separate from the primary single-family dwelling unit and located on the same property.

ADUs can provide affordable housing options for people who struggle to find adequate housing suitable to their needs and personal financial situation in a community with a high cost of living. This includes the people that serve Sedona's residents and visitors (e.g. waiters, bank tellers, store clerks), extended family members, caregivers, and adult children. At the time the original ordinance was approved, the Housing Commission believed that allowing for the long-term rental of ADUs was important to Sedona's affordable housing strategy. However, this strategy was just one tool to consider in addressing Sedona's affordable housing needs.

During the public hearing process for the approval of the ordinance in 2010, there were concerns from the community, P&Z, and City Council that the allowance of ADUs would significantly and negatively impact residential neighborhoods. These concerns primarily centered on a belief that proliferation of ADUs would change neighborhoods from single-family to multi-family, attract crime and drug activity, create public nuisances such as noise complaints, result in deteriorated property conditions, and decrease overall property values. As of December 1, 2015, the City has received one complaint regarding a permitted ADU. This complaint was regarding a concern that the property owner was not living on site for at least 6 months of the year and was instead renting both the primary home and the ADU. Staff has worked with the owner and the property is in compliance with the Ordinance.

To address the concerns from the community, P&Z, and City Council, the ADU regulations adopted in 2010 included the following key elements:

- Restriction on the number of ADUs to one per residential lot;
- Prohibition on allowing mobile homes, travel trailers and recreational vehicles to be used as a detached ADU;
- Requirement of the property owner to occupy either the primary dwelling unit or ADU for at least 6 months of the year;
- Establishment of a minimum and maximum size requirements based on the overall size of the primary dwelling unit;
- Requirement to meet development, design, and building requirements of the Land Development Code;
- Requirement that the design preserve or complement the architectural design, style, and appearance of the primary structure;
- Requirement for ADUs which have a separate entrance to be located on the side or rear of the structure wherever possible;
- Requirement of a minimum of one parking space but no more than two parking spaces for an ADU;
- Restriction on the total occupancy of both the primary dwelling unit and the ADU to what is currently allowed (no more than 4 unrelated adults) based on the definition of a "Family" in the Land Development Code;
- Prohibition on the rental of an ADU for less than 90 days.

Included as attachments are a copy of the proposed amendments to the LDC text regarding ADUs with text proposed to be stricken and added as well as a spreadsheet of all ADU applications received as of December 1, 2015. As of December 1, 2015, the City has received 26 ADU permit applications with 19 approved, seven (7) withdrawn and zero (0) currently under review.

### **Current Status and Concerns/Issues**

In the spring of 2015, a Citizen Engagement Work Group was formed to discuss the concerns and issues identified by the public, P&Z, and staff in conjunction with the review and implementation of the ADU Ordinance. A copy of the April 22, 2015, memorandum prepared for this meeting is included as an attachment. The concerns/issues discussed at this meeting are as follows:

#### **Public Issues Identified:**

Staff has met with a number of interested property owners concerning the ADU ordinance over the last 5 years and many do not pursue the program for a number of reasons, including:

1. **Sewer Fees.** This seems to be the biggest obstacle for property owners because of the upfront payment of a sewer capacity fee, currently \$4,727.79 (as of January 1, 2016 this fee increases to \$4,878.61), and the additional monthly fee of \$27.16. Many property owners indicate they cannot afford or simply do not want to pay the amount.
2. **Family Restrictions.** Since the family restrictions (4 unrelated adults) includes people living in the ADU, conversion of existing units is not always attractive since some see this as only gaining the ability to have a full kitchen in the second unit, while requiring the payment of additional fees.
3. **Size Restrictions.** 9 of the 19 approved ADUs required a waiver for size (approximately 47%), 4 of those being for reductions. The ADU ordinance allows the Director the discretion to modify or waive the ADU standards by no more than 25 percent due to special circumstances.

#### **Planning & Zoning Commission Issues Identified:**

At their January 2015 meeting, the P&Z requested the following concerns be expressed to Council for future consideration when additional text amendments to the ordinance are proposed:

1. **Section 918.04(j).** Change “more than 1,500 square feet” to “1,500 square feet or more”.
2. **Section 918.03.** Review of the live-in requirement of six months or more by the property owner. If the live-in requirement is ever declared invalid or unenforceable by a court of competent jurisdiction, no further ADU permits will be issued.
3. **Section 918.07.** Eliminate separate rules for illegal ADUs and apply the usual rules, such as mobile homes not being allowed for use as an ADU.
4. **Sections 918.12.** Strike the words “newly constructed” from this section.
5. The Commission also indicated it was important that the growth cap of 88 units remain in the ordinance. However, several Councilors questioned the number “88” and the need in general given the low number of ADUs realized in the past 5 years.

#### **Additional Issues Identified:**

Issues that require further evaluation include but are not necessarily limited to:

1. **Occupancy.** Code requires that an ADU and the single-family unit must meet the definition of Family. “Family” means any 1 of the following:
  - A. One or more persons related by blood, marriage or adoption, with or without minor children; or
  - B. One or more unrelated persons with disabilities residing in a group home licensed by the State of Arizona. A group home must maintain a copy of its current state license at the dwelling unit available for inspection by the Director of Community Development in order to qualify as a family pursuant to subsection (B) of this definition. For purposes of this definition, a “family” may include

a reasonable number of staff persons, who may or may not be domiciled with the family, providing support services, including but not limited to domestic, medical or other similar services; or

- C. No more than a total of 4 unrelated adults with or without minor children, domiciled on a single residential lot.

Concerns Contributing to the Restrictions in the Original Ordinance:

- Impacts of too many occupants on a single property (e.g. parking, aesthetics, degradation of neighborhood character).
- The number of people allowed in the initial proposed ordinance (4 people) may be too many for such a small unit.
- Are occupancy requirements enforceable?
- Parking is also a concern as it relates to occupancy.

**Outcomes and Proposed Amendments**

After meeting with the Citizen Engagement ADU Work Group, Staff took what they heard and began to address the identified concerns and issues. The result is a document containing language proposed to be stricken and added to address the concerns and issues by creating clarity and consistency within the LDC regulations and removing perceived impediments. The more substantive changes include the following:

- **Sections 918.03(D) and 918.06(D)** are proposed to be amended to more clearly define the number and types of individuals who can occupy both the primary single-family dwelling unit and ADU.
  - This proposed change will more clearly define and regulate the number of individuals residing on a property and the negative impacts that may result, such as traffic and parking.
- **Section 918.04(I)** is proposed to be amended to eliminate the minimum required size for an ADU and place a fixed maximum size verses using a percentage of the primary single-family dwelling unit to determine maximum size.
  - This proposed change will remove the minimum size requirement allowing for smaller ADUs to be put into place and provides a more equitable flat maximum size that is not determined based upon the existing unit's size.
- **Section 918.07(G)** containing the requirements to be met has been proposed to be stricken.
  - The provisions of this subsection were redundant with regulations contained in other areas of Section 918.
- **Section 918.08(B)** requiring wastewater fees to be paid equal to ½ an equivalent residential unit was a portion of the ordinance that was identified as an impediment to the establishment of a greater number of ADUs and is proposed to remain as adopted.
  - A reduction to the wastewater fees was considered to address the concern that it may be an impediment to the establishment of a greater number of ADUs. However, ADUs while addressing a significant public need for affordable housing options still produce a need for the infrastructure and treatment of their wastewater. The fee is established to offset anticipate infrastructure and treatment needs and by waiving the fee future necessary projects would be under funded.

- The City offers those property owners who wish to establish an ADU financing options to pay the wastewater fee over 6 to 12 months.
- ADUs are commonly revenue generating uses and that revenue can be used to offset the one time wastewater fee impacts.
- **Section 918.11** requiring a yearly reporting of ADU submissions and approval is proposed to be stricken.
  - Striking this provision is more consistent with the LDC in that regular mandated reporting is not required throughout the code. Staff does report to the Council on a variety of zoning and building topics and can produce specialized reports upon request.
  - The provision requiring a six month and yearly follow up report was included to address a concern that ADUs would proliferate and should be monitored by Council and staff. This has proven to be unnecessary as the number of ADUs approved in more than five years has been small.
  - Section 918.12 limits the overall number of permissible ADUs in the community. The maximum permissible number serves as an overall check on the proliferation of ADUs in the community.
- **Section 918.12** discussing the growth cap to be placed upon ADUs is proposed to be amended to strike multiple paragraphs of text and sources for the creation of the ADU ordinance.
  - Several paragraphs of text detailing the need to monitor and limit ADU creation and the impacts on overall residential densities was replaced by a more concise reference to the adopted Community Plan policy regarding limits on residential densities in the community.
  - The sources of materials used in drafting the ordinance are not necessary for inclusion in the community's five year old ADU policy.
  - The maximum allowable ADU growth cap is proposed to be increased from 88 to 89, which is 1% of the projected residential build out, as more recent data obtained during the Community Plan process resulted in a revised projection in the residential build out number.

### **Planning and Zoning Commission's Role and Responsibility**

The Planning and Zoning Commission makes recommendations to the City Council regarding changes to the Land Development Code. This item is scheduled for a Work Session on Tuesday, December 15, 2015, and a public hearing on Tuesday, January 5, 2016. The Commissioners should review the documents provided and be prepared at the December 15<sup>th</sup> Work Session to ask Staff any questions or clarifications needed in order to fully understand the proposed amendments so that formal action can be taken during the January 5 Public Hearing.



***Staff Recommendation***

Staff recommends approval of the proposed amendments incorporated in PZ15-00014 (LDC) to the Sedona Land Development Code Article 9, Section 918, Accessory Dwelling Units (ADU), to add clarity in the regulations and remove perceived impediments to the establishment of long-term rental accessory dwelling units.

***Sample Motions for Commission Use***

(Please note that the below motions are offered as samples only and that the Commission may make other motions as appropriate.)

***Recommended Motion for Approval***

I move to recommend that the City Council approve an ordinance approving PZ15-00014 (LDC), amending the Sedona Land Development Code Article 9, Section 918, Accessory Dwelling Units (ADU), to add clarity in the regulations and remove perceived impediments to the establishment of long-term rental accessory dwelling units.

***Alternative Motion for Denial***

I move to recommend that the City Council not approve an ordinance approving PZ15-00014 (LDC), amending the Sedona Land Development Code Article 9, Section 918, Accessory Dwelling Unit, to add clarity in the regulations and remove perceived impediments to the establishment of long-term rental accessory dwelling units.

## Proposed Code Text Amendments

Text proposed to be stricken is shown in ~~red strikethrough~~. Text proposed to be added is shown in red underline.

### 918 Accessory dwelling units (ADU).

**918.01 Purpose.** The purpose of this section is to allow for and regulate the establishment of accessory dwelling units (ADUs). ADUs are allowed in certain situations to:

- A. Utilize existing housing stock while preserving the appearance and character of single-family neighborhoods.
- B. Provide additional affordable options for long-term rental housing.
- C. Provide a broader range of more affordable housing.
- D. Provide a mix of housing that responds to changing family needs and smaller households.
- E. Provide a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods and obtain extra income, security, companionship and services.
- F. Encourage a more economic and energy-efficient use of Sedona's housing supply.
- G. To maintain consistency with ~~City of Sedona growth~~ land use policies as recommended in the Sedona Community Plan.

**918.02 Creation.** An accessory dwelling unit (ADU) is a second dwelling unit that is located on the same parcel as the primary single-family dwelling unit. An ADU is smaller in size to the primary dwelling unit and can be located either within, attached to, or detached from the primary single-family dwelling unit. ADUs must provide a complete, independent residential living space and shall include provisions for living, sleeping, eating, cooking ~~and~~ sanitation, and parking. ADUs can be studio-~~sized~~ units, and 1- and 2-bedroom units. An ADU may be created through the following methods:

- A. Converting floor area of an existing structure or portions thereof.
- B. Adding floor area to an existing single-family home.
- C. Constructing a detached ADU on a parcel with an existing single-family home.
- D. Constructing a new single-family home with an internal attached or detached ADU.

**918.03** Criteria. The criteria that govern ADUs are intended to preserve the character of a single-family neighborhood.

A. The property owner(s) must occupy either the primary single-family dwelling unit or the ADU as his/her principal residence. At no time shall both the primary single-family dwelling unit and the ADU unit be used simultaneously as rental units. "Full-time occupancy" is defined as a legal property owner who makes his/her legal residence at the site, as evidenced by voter registration, vehicle registration or similar means, and actually resides at the site more than 6 months out of any given calendar year.

B. The owner(s) shall sign an affidavit verifying that either the primary single-family dwelling unit or the ADU is the legal residence of the property owner.

C. ADUs are intended for long-term rental use only. Rental of an ADU for a period of less than 90 consecutive days is prohibited. ADUs shall not be used for short-term vacation rentals and/or bed and breakfast purposes.

D. For the purpose of this ordinance, the total number of people residing on the property, including the primary residential single-family dwelling unit structure and the ADU, cannot exceed the definition of "family" as described in Article SLDC, Definitions, shall not exceed 4 unrelated adults with or without minor children.

**918.04** Development Standards. The development standards that govern the design and appearance of ADUs are intended to preserve the visual and single-family character of neighborhoods. ADUs will be reviewed on a case-by-case basis. ADUs must meet all Zoning and Building Code requirements except as otherwise provided in this section.

A. An ADU is allowed in the following single-family residential zoning districts: RS-5A, RS-70, RS-36, RS-35, RS-18a, RS-18b, RS-12, RS-10a, RS-10b, RS-6, RMH-12, RMH-10, and RMH-6, subject to specific development, design, and owner-occupancy standards outlined in subsection [918.03](#) of this section.

B. The ADU must be located on the same parcel as the primary single-family dwelling unit.

C. Only 1 ADU is allowed per parcel.

D. Manufactured Mobile homes, travel trailers and recreational vehicles shall not be used as a detached ADU. However, an ADU, meeting all requirements, may be added to a property with an existing manufactured home.

E. ADUs shall meet all ~~Sedona Land Development Code (LDC), design, zoning and building~~ requirements at the time of construction (e.g., height, setback requirements, and lot coverage standards) applicable to the primary single-family dwelling unit, except as otherwise noted.

F. ADUs shall meet all ~~Building Code requirements technical code standards~~ including Building, Electrical, ~~Fire~~, Mechanical, and Plumbing Code requirements as well as all Fire Code requirements.

G. ADUs shall be designed so that the appearance of the structure maintains, to the greatest extent possible, the appearance of a single-family property.

H. ADUs shall be designed to preserve or complement the architectural design, style, and appearance of the primary single-family dwelling unit. Specifically, whether attached or detached, the roof pitch, siding materials, color, and window treatment of the ADU shall be the same as, similar to, or an improvement to the appearance of the primary single-family dwelling unit.

~~I. ADUs shall not contain more than 2 bedrooms.~~

~~IJ.~~ The following size standards are applicable for ADUs.

1. For a new construction primary dwelling unit with ~~more than~~ 1,500 square feet or more of living space (excluding garage area), the ADU shall be ~~no less than 400 square feet (total living space) and~~ no larger than ~~33% of the primary dwelling unit's total square feet or 800~~ 1,000 square feet ~~whichever is smaller~~.

2. For a new construction primary dwelling unit with less than 1,500 square feet of living space (excluding garage area), the ADU shall be ~~no less than 350 square feet (total living space) and shall not exceed larger than~~ 500-650 square feet.

3. For conversions of existing structures more than five (5) years old conversions, the Director may allow a ~~lesser or~~ greater amount of floor area for the ADU, up to 25%, if in the ~~determination opinion~~ of the Director, it is warranted by the circumstances of the particular structure and /or property.

~~K. ADUs are required to meet all applicable height requirements as outlined in the Land Development Code.~~

~~LK.~~ If a separate external entrance for ~~the an~~ ADU is necessary, ~~where possible, it shall be located in such a manner that the structure does not take on the appearance of a duplex, and where possible,~~ it shall be located on the side or rear of

the structure. On a corner lot, where there are 2 entrances visible from either street, where possible, solid screening is required to screen at least 1 of the entrances from the street. Solid screening includes solid walls, fences, landscaping, or grade differences subject to the review and approval of the Director.

LM. Exterior stairs shall be located in the side or rear yard wherever possible and must comply with setback and Building Code requirements.

MN. The following parking requirements are applicable for ADUs:

1. ~~As part of the application submittal process, the applicant shall submit a parking plan delineating parking space(s) for the ADU and the primary dwelling unit.~~ There shall be at least 2 off-street parking spaces for the primary ~~single-family~~ dwelling unit and at least 1 off-street parking space for the ADU, but no more than 2 off-street parking spaces for the ADU. The parking spaces for each unit shall be able to operate independently without impeding the parking spaces of the other unit. The Director may grant a waiver of the parking requirement for the ADU if the topography of the site or existing structure location makes the provision physically or economically not feasible or if the specific use does not warrant extra parking. The location for the parking space shall be determined through consultation with Community Development Department staff.

2. Where parking is located in any portion of the interior side and/or rear setbacks solid screening is required from adjoining properties. Solid screening includes solid walls, fences, landscaping or grade differences subject to review and approval of the Director.

3. The required parking for each unit shall not be met through the use of ~~On-street parking.~~ is prohibited.

4. If additional parking is necessary, new parking space(s) shall utilize existing curb cuts. If not possible, the Director ~~and the City Engineer~~ may allow exceptions on a case-by-case basis.

O. On-site wastewater systems are required to meet current standards as reviewed and approved by all applicable jurisdictions.

#### **918.05 Application Submittal and Review Procedure.**

A. Prior to approval of any ADU, a property owner or agent of the property owner shall submit the following information:

1. Completed application forms;
2. Statement or letter of authorization from the property owner (if different from the applicant);
3. Site Plan to include the following:
  - a. Parcel identification;
  - b. Existing zoning;
  - c. Lot size, ~~and existing~~ lot coverage and proposed lot coverage with ADU if different from existing;
  - d. Building configurations and heights;
  - e. Front, rear and side setbacks;
  - f. Location of the primary single-family dwelling and garage (if applicable);
  - g. Location of proposed ADU, the entrance and outdoor space (if applicable);
  - h. Square footage of the primary single-family dwelling unit and garage (if applicable);
  - i. Square footage of the ADU;
  - j. Designated off-street parking space(s) for ADU and primary single-family dwelling unit;
  - k. Landscape areas;
4. Parking plan delineating parking spaces for ADU and primary dwelling unit;
- ~~54. Signed Conditions of Approval Agreement;~~
- ~~6. Signed Proposition 207 waiver;~~
- ~~57. Additional information as may be required by the Director.~~

B. For new residential construction, which includes an ADU as defined in this section, the property owner is required to submit plans for both the primary dwelling unit and the ADU at the same time.

C. Conditions of Approval Agreement. The property owner(s) shall sign a Conditions of Approval Agreement. This Agreement shall be recorded with the county in which the property is located after final inspection of an ADU. The Agreement is intended to indicate the presence of an ADU and all applicable requirements, including but not limited to the following information:

1. The ADU shall not be sold or transferred separately.
2. The ADU shall be restricted to the approved size.
3. The ADU and primary dwelling unit shall be restricted to overall occupancy requirements as specified in subsection 918.06 of this section.
4. The ADU permit shall be in effect only so long as the owner of record of the primary dwelling unit occupies either the primary single-family dwelling unit or the ADU.

#### **918.06** Conditions of Approval.

~~A. An ADU permit and a building permit for the proposed construction of a new ADU or the creation of a new ADU within an existing building must be issued by the City of Sedona.~~

~~AB.~~ The property owner shall disclose and notify prospective buyers of the property about the conditions of approval of the ADU.

~~BC.~~ ADU permit and conditions of approval run with the land. New owners are subject to the same conditions of approval and ordinance requirements.

~~DC. Upon the receipt of a complaint regarding the ADU, t~~The property owner agrees to periodic inspections, at the discretion of the Director, of the ADU and/or primary single-family dwelling unit.

~~D.~~ The combined total number of occupants in both the primary single-family dwelling unit and the ADU shall not exceed 4 unrelated adults with or without spouses and/or minor children.

**918.07** Existing Illegal Accessory Units. It is recognized that, although unlawfully occupied, currently utilized accessory units are filling a market demand for housing at more affordable rent costs. An accessory unit created prior to the effective date of the ordinance codified in this section may be recognized as lawful upon review and approval of an ADU application and issuance of an ADU permit.

A. In order to be considered for lawful status, existing illegal accessory units must submit an ADU application as outlined in subsection [918.05](#) of this section, Application Submittal and Review Procedure.

~~B. Beginning on the effective date of the ordinance codified in this section, a grace period of 12 months is established for the submission of applications for existing illegal accessory units. Property owners who submit an application for consideration during this 12-month grace period shall not be subject to any applicable fines or enforcement actions.~~

~~C. Building permit fees will be waived for property owners who submit an application for consideration during this 12-month grace period.~~

~~D.~~ Existing illegal accessory units, which do not apply for and/or do not receive approval for an ADU use, are subject to all applicable fines and/or enforcement actions as outlined in Article [14](#) SLDC, Enforcement.

~~E. Applications for existing illegal accessory units, which are submitted after the 12-month grace period, are not eligible for any fee waivers.~~

~~F.~~ The Chief Building Inspector Community Development staff shall inspect the premises for compliance with Building, Public Safety, and Public Health Codes. For the purpose of Building Code interpretation, the accessory use shall be required to conform to the Director's interpretation of minimal life safety standards.

~~G. The following requirements shall be met:~~

~~1. The owner(s) shall sign an affidavit verifying that either the primary dwelling unit or the accessory dwelling is the legal residence of the property owner.~~

~~2. ADUs are intended for long-term rental use only. Rental of any accessory unit for a period of less than 90 consecutive days is prohibited. No accessory units shall be used for short-term vacation rentals and/or bed and breakfast purposes.~~

~~3. A home occupation may be conducted, subject to SLDC [915](#), in either the existing accessory use or the principal dwelling unit.~~

~~4. The total number of people residing on the property, including the primary residential structure and the existing accessory unit, cannot exceed the definition of "family" as described in Article [2](#) SLDC, Definitions.~~

~~5. The existing accessory unit must be located on the same parcel as the primary dwelling unit.~~

~~6. Only 1 ADU is allowed per parcel.~~

~~7. The existing accessory unit must meet the parking requirements outlined in subsection 918.04(N) of this section.~~

#### **918.08 Fees.**

A. ADUs are subject to all applicable building permit and inspection fees.

B. Where the City wastewater system is available to a property, an ADU shall connect with the City wastewater system and pay a capacity fee. As defined in SCC 13.15.060, Wastewater fees – Installment payments for capacity fees and lift pumps, an ADU is equal to 1/2 an equivalent residential unit (ERU). ~~The capacity fee for an ADU shall be based upon the basic rate multiplied by 1/2 an ERU.~~

C. In accordance with Chapter 14.05 SCC, Development Impact Fees, an ADU shall not be subject to development impact fees.

**918.09 Exercise of Discretion.** ~~For existing and new ADUs, T~~the Director has the discretion to modify or waive ~~the ADU~~applicable LDC requirements; provided, that the waiver differs by no more than 25% from the regulations in question, except as noted in subsection ~~9818.04.I.3,~~ and consideration is due to special circumstances applicable to the property or structure, including size, shape, topography, location and surroundings. The Director may also grant a waiver subject to specific conditions in order to mitigate the impact of the waiver on adjacent properties. The exercise of discretion shall ensure the compatibility of the ADU with its site and surrounding properties and the manner in which discretion is exercised will result in a more practical application of the provisions of these requirements based on specific unique or unusual characteristics of the property and its surroundings.

#### **918.10 Enforcement.**

A. ADUs are subject to all requirements set forth in Article 14 SLDC, Enforcement. Complaints received by the City of Sedona regarding a possible ADU violation shall be processed in accordance with all applicable procedures, remedies and enforcement actions.

B. Upon notice of a code enforcement complaint or other violation regarding the ADU, the property owner must make every reasonable attempt to correct the situation. If in the opinion of the Director the property owner does not cooperate in a timely manner to correct the violation, an ADU permit may be revoked as a result

of an enforcement action including, but not limited to, the following: (1) illegal alteration of the ADU, (2) failure of property owner to reside in either the primary or accessory dwelling unit as required, (3) failure to maintain required off-street parking spaces, (4) failure to meet any other requirements including number of occupants, (5) general nuisance violation convictions such as excessive noise levels.

C. The revocation of an ADU permit will require that the property revert to a single-family use. The City will then record a notice of revocation of the accessory dwelling unit permit.

~~918.11 Reports to City Council. The Director shall provide a report to the City Council on accessory dwelling unit applications received. The first report will be presented within 6 months of the adoption of the ADU ordinance and then once a year thereafter. The report shall include the total number of applications received and approved, total number of units and distribution throughout the City, average size of units, and number and type of complaints and enforcement-related actions and other information that may be gathered to judge the effectiveness of the ordinance.~~

~~918.12 Growth Cap. The Sedona Community Plan recommends that the City should provide on-going monitoring of residential densities and number of housing units developed in all land use categories to evaluate consistency with land use projections and growth management goals. Objective 2.1 of the Growth Area and Land Use Elements and Objective 3.1 of the Housing Element provide the following direction:~~

~~Within the City's existing private land base, limit future residential growth to the total number of housing units that can be accommodated once this private land base is built out at the densities generally established upon the City's incorporation as recommended in the Sedona Community Plan Future Land Use Map.~~

~~The Sedona Community Plan's Land Use Policy #1 recommends that the City:~~

~~"approve new housing units only if within the City's current overall limit on the total number of homes that can be built under current zoning."~~

In order to be consistent with these Community Plan recommendations, this section establishes a growth cap of ~~88-89 newly constructed approved~~ ADUs. The growth cap of ~~88 89~~ ADUs represents approximately a 1% increase over the ~~current~~ residential build out projection.

~~Sources:~~

~~AARP and American Planning Association Model Ordinance;~~

~~MRSC Publications, Municipal Research and Service Center of Washington;~~

~~Mercer Island, WA, Municipal Code;~~

~~Seattle, WA, SeaTac ADU ordinance;~~

~~Bellevue, WA, ADU ordinance;~~

~~City of Edmonds, WA, ADU ordinance;~~

~~Arvada, CO, ADU ordinance;~~

~~Santa Cruz, CA, ADU ordinance;~~

~~Marin County, CA, ADU amnesty program;~~

~~Town of Rindge, New Hampshire, ADU ordinance.~~

[Ord. 2010-01 § 1, 1-12-2010 (Res. 2010-01 Exh. A, 1-12-2010)].

Permit Number	Address	APN	Approval Date	Existing/New	Size	Waiver	Sewer	Comments
ADU001	2585 Sunshine Drive	408-24-387	5/3/2010	Existing, attached guest house	484 square feet, studio	No	Yes	Conversion of existing illegal ADU
ADU002	100 Monte Vista Lane	408-28-313	n/a	New	498 square feet, 2 bedroom	No	n/a	Expired 9/19/2011, Corrections issued; never returned
ADU003	100 Carol Canyon Drive	408-09-001E	5/12/2010	Existing, attached office	783 square feet, 1 bedroom	No	Yes	
ADU004	855 Distant Drums Road	408-23-014D	6/15/2010	Existing, conversion of guest house	904 square feet, 1 bedroom	Yes	No	Main house 2,500 sq.ft., waiver for 13% increase
ADU005	130 Roadrunner Road	408-10-030	7/19/2010	Existing, attached guest house	614 square feet, 1 bedroom	No	Yes	Sewer payment plan
ADU006	35 View Drive	408-07-075	12/20/2010	Existing, conversion of interior space	300 square feet, studio	Yes	Yes	Main house 1,100 sq.ft., waiver for 14.3% reduction; Sewer payment plan
ADU007	559 Van Deren Road	401-15-029	1/27/2011	Existing, detached guest house	306 square feet, studio	Yes	Yes	Main house 1,867 sq.ft., waiver for 24% reduction Sewer payment plan
ADU008	35 El Camino Poquito	408-11-125	9/22/2011	Existing, garage conversion	794 square feet, 1 bedroom	No	Yes	
ADU009	315 Van Deren Road	401-16-041	2/25/2011	Existing, conversion of guest house	307 square feet, studio	Yes	Yes	Main house 950 sq.ft., waiver for 12.3% reduction
ADU010	3680 Zia Drive	408-02-042	4/8/2011	Existing, garage conversion	361 square feet, studio	Yes	No	Main house 1,539 sq.ft., waiver for 9% reduction
ADU011	390 Willow Way	408-08-014A	n/a	Existing, conversion of interior space	997 square feet, 2 bedrooms	n/a	n/a	Permit never issued, sewer fees never paid, applicant is renting out the bottom floor of her house without a full kitchen (no stove)
ADU012	30 Notch Drive	401-25-002A	1/28/2013	Existing, conversion of guest house	840 square feet, 1 bedroom	Yes	Yes	Main house 2,081 sq.ft., waiver for 22.2% increase
ADU013	320 Panorama Blvd.	408-26-189	3/12/2012	Existing, conversion of interior space	741 square feet, 1 bedroom	No	Yes	
ADU014	460 Bowstring Drive	401-31-023	n/a	Existing, detached guest house	440 square feet, studio	n/a	n/a	Canceled per email from applicant 8/5/2014
ADU015	161 Antelope Drive	401-50-024C	8/1/2012	Existing, detached guest house	941 square feet, 1 bedroom	Yes	Yes	Main house 2,387 sq.ft., waiver for 19.5% increase
ADU00001	2570 Timber Owl Road	408-10-034	2/5/2013	Existing, garage conversion	504 square feet, 1 bedroom	No	Yes	
ADU00002	170 Painted Cliffs Drive	408-25-328	4/26/2013	Existing, detached guest house	692 square feet, 1 bedroom	No	Yes	
ADU00003	1290 Soldiers Pass Road	408-22-007	5/10/2013	Existing, conversion of guest house	958 square feet, 2 bedrooms	Yes	No	Main house 2,344 sq.ft., waiver for 23.8% increase
ADU00004	295 View Drive	408-07-089	6/27/2013	Existing conversion	511 square feet, 1 bedroom	Yes	Yes	Main house 1,365 sq.ft., waiver for 2.2 % increase House previously being used as illegal duplex
ADU14-00001	40 Cypress Court	401-55-019	n/a	Existing, conversion of interior space	576 square feet, 1 bedroom	Yes	No	Main house 1,700 sq.ft., waiver for 2.67% increase; Application submitted 7/29/2014, applicant notified of corrections, never picked up corrections, expired 1/29/2015
ADU14-00002	200 Carol Canyon Drive	408-09-006	3/23/2015	New	624 square feet, 1 bedroom	No	Yes	Main house 1,950 sq.ft.
ADU14-00003	70 Top Knot Drive	408-02-131A	5/8/2015	New	799 square feet, 2 bedrooms	No	No	Main house 3,835 sq.ft.
ADU15-00001	10 Distant Drums	408-23-008A	n/a	New	800 square feet, 2 bedrooms	n/a	No	Applicant notified of corrections, never picked up
ADU15-00002	174 Juniper Trail	401-60-015	6/30/2015	Existing, conversion of guest house	555 square feet, 1 bedroom	No	Yes	Main house 2,100 sq.ft.
ADU15-00003	285 Andante	408-03-093	n/a	Existing, conversion of garage	480 square feet, 1 bedroom	n/a	n/a	Main house 1,400 sq.ft.; Applicant picked up corrections, never returned them
ADU15-00004	20 W Brins Mesa Rd.	408-26-386	n/a	Existing, conversion of basement	1,490 square feet, 2 bedrooms	n/a	n/a	Main house 2,425 sq.ft.; Applicant picked up corrections, never returned them (ADU too large)



## City of Sedona Community Development Department

102 Roadrunner Drive Sedona, AZ 86336

(928) 282-1154 • Fax: (928) 204-7124

---

### MEMORANDUM

TO: Citizen Engagement ADU Work Group

FROM: Audree Juhlin, Community Development Director

DATE: April 22, 2015

RE: Accessory Dwelling Unit (ADU) Ordinance

#### **Background:**

In 2010, City Council approved Ordinance # 2010-01, allowing for the long-term rental of Accessory Dwelling Units (ADU). The ordinance became effective on February 11, 2010 and remains in effect until 88 new ADUs are created or until February 11, 2015, whichever comes first.

ADUs are generally considered to be a small residential unit providing complete living facilities with provisions for living, sleeping, eating, cooking, and sanitation. They are built on the same lot as the primary single-family home and smaller in size. Because ADUs are often used by extended family members, they are also referred to as “in-law apartments” or “granny flats”. Allowing long-term occupancy of ADUs enables homeowners to offer separate living units to family members as well as providing additional rental options without significantly affecting the quality and character of the neighborhood. Because ADUs are typically smaller, they tend to be more affordable.

There are three basic types of accessory dwelling units:

- Interior - using an interior part of a single-family dwelling unit to create an ADU
- Attached - adding on to an existing single-family dwelling unit to create an ADU
- Detached - a structure that is separate from the primary single-family dwelling unit and located on the same property.

ADUs can provide affordable housing options for people who struggle to find adequate housing suitable to their needs and personal financial situation in a community with a high cost of living. This includes the people that serve Sedona’s residents and visitors (e.g. waiters, bank tellers, store clerks) extended family members, caregivers, and adult children. At that time, the Housing Commission believed that allowing for the long-term rental of ADUs was important to Sedona’s affordable housing strategy; however, this strategy was just one tool to consider in addressing Sedona’s affordable housing needs.



## City of Sedona Community Development Department

102 Roadrunner Drive Sedona, AZ 86336

(928) 282-1154 • Fax: (928) 204-7124

---

The following bullets depict the main points regarding the existing ADU ordinance as approved in 2010:

- Restricts the number of ADUs to one per residential lot;
- Does not allow mobile homes, travel trailers and recreational vehicles to be used as a detached ADU;
- Requires the property owner to occupy either the primary dwelling unit or ADU for at least 6 months of the year;
- Establishes minimum and maximum size requirements based on the overall size of the primary dwelling unit;
- Meets development, design and building requirements of the Land Development Code;
- Designed to preserve or complement the architectural design, style and appearance of the primary structure;
- If an ADU has a separate entrance, the entrance needs to be located on the side or rear of the structure wherever possible;
- A minimum of one parking space is required but no more than two parking spaces for an ADU;
- Restricts the total occupancy of both the primary dwelling unit and the ADU to what is currently allowed (no more than 4 unrelated adults) based on the definition of a "Family" in the Land Development Code;
- Prohibits the rental of an ADU for less than 90 days (prohibits short-term vacation rental use).

As of December 1, 2014, the City has received 21 ADU permit applications with 16 approved, 3 withdrawn and 2 under review. Because the City has issued far less than the 88 maximum ADUs allowed by the ordinance, the City Council must consider renewal of the ordinance prior to its scheduled sunset date of February 11, 2015.

During the approval of the ordinance in 2010, there were concerns from the community, the Planning & Zoning Commission and City Council that the allowance of ADUs would significantly and negatively impact and effect residential neighborhoods. These concerns primarily centered on a proliferation of ADUs that would change neighborhoods from single-family to multi-family, attract crime and drug activity, create public nuisances such as noise complaints, result in deteriorated property conditions and decrease in property values overall. As of December 1, 2014, the City has received only one complaint regarding a permitted ADU. This complaint was received recently and centered on the fact that the property owner was not living on site for at least 6 months of the year and was instead renting both the primary home and the ADU. Staff is working with the property owner to bring this situation into compliance with the Ordinance.



## City of Sedona Community Development Department

102 Roadrunner Drive Sedona, AZ 86336

(928) 282-1154 • Fax: (928) 204-7124

---

### **City Council Action/Direction**

At their February 10, 2015 meeting, City Council approved the continuation of the ADU ordinance and removed section 918.13 (Sunset Clause) of the code to eliminate the sunset date of February 11, 2015. Further, Council directed Staff to review the ordinance in depth and make recommendations for changes in the code based on concerns identified by staff, the Planning & Zoning Commission and the public within the next 12 months.

### **Concerns/Issues**

#### **Public Issues Identified:**

Staff has met with a number of interested property owners concerning the ADU ordinance over the last 5 years and many do not pursue the program for a number of reasons, including:

- Sewer fees. This seems to be the biggest obstacle for property owners because of the upfront payment of a sewer capacity fee, currently \$4,727.79, and the additional monthly fee of \$27.16. Many property owners indicate they cannot afford or simply do not want to pay the amount.
- Since the family restrictions (4 unrelated adults) includes people living in the ADU, conversion of existing units is not always attractive since some see this as only gaining the ability to have a full kitchen in the second unit (usually adding a stove), while requiring the payment of a sewer capacity fee and an additional monthly fee.
- Size restrictions may need to be re-looked at; 9 of the 16 approved ADUs required a code waiver for size (over 50%), 4 of those being for reductions. The ADU ordinance allows the Director the discretion to modify or waive the ADU standards by no more than 25 percent due to special circumstances.

#### **Planning & Zoning Commission Issues Identified:**

At their January 2015 meeting, the Planning and Zoning Commission also requested the following concerns be expressed to Council for future consideration when additional text amendments to the ordinance are proposed:

- Section 918.04(j) – Change “more than 1,500 square feet” to “1,500 square feet or more”.
- Section 918.03 – Review of the live-in requirement of six months or more by the property owner. If the live-in requirement is ever declared invalid or unenforceable by a court of competent jurisdiction, no further ADU permits will be issued.
- Section 918.07 – Eliminate separate rules for illegal ADU’s and apply the usual rules, such as mobile homes not being allowed for use as an ADU.
- Sections 918.12 – Strike the words “newly constructed” from this section.
- The Commission also indicated it was important that the growth cap of 88 units remain in the ordinance. However, several Councilors questioned the number “88” and the need in general given the low number of ADUs realized in the past 5 years.



## City of Sedona Community Development Department

102 Roadrunner Drive Sedona, AZ 86336

(928) 282-1154 • Fax: (928) 204-7124

---

### Additional Issues Identified:

Issues that require further evaluation include but are not necessarily limited to:

- **Occupancy** – Code requires that an ADU and the single-family unit must meet the definition of Family. **“Family”** means any 1 of the following:

A. One or more persons related by blood, marriage or adoption, with or without minor children; or

B. One or more unrelated persons with disabilities residing in a group home licensed by the State of Arizona. A group home must maintain a copy of its current state license at the dwelling unit available for inspection by the Director of Community Development in order to qualify as a family pursuant to subsection (B) of this definition. For purposes of this definition, a **“family”** may include a reasonable number of staff persons, who may or may not be domiciled with the family, providing support services, including but not limited to domestic, medical or other similar services; or

C. No more than a total of 4 unrelated adults with or without minor children, domiciled on a single residential lot.

*Concern about the impacts of too many occupants on a single property (e.g. parking, aesthetics, degradation of neighborhood character). Concern that the number of people allowed in the initial proposed ordinance (4 people) may be too many for such a small unit. Are occupancy requirements enforceable? Parking is also a concern as it relates to occupancy.*

### Possible Options:

- Restrict occupancy by age or to family. Some communities have restrictions on who may live in an ADU (mainly ordinances adopted 10 or more years ago), such as seniors, disabled and family members. These restrictions are usually intended to preserve the ‘family character’ of neighborhood and to keep the number of conversions low, while still allowing them for the purpose of dealing with special family needs. These types of restrictions tend to be difficult to enforce. When relatives die or move away, the homeowner may be left with an empty and unusable unit, as it may be difficult to find another renter who meets the ordinance restrictions. These types of restrictions have become less common. *These types of restrictions tend to limit opportunities to install ADUs and do not address the wider need for affordable housing in the community.*
- Restrict occupancy to no more than 2 people (Boulder, CO and Washington State Model ordinance)



## City of Sedona Community Development Department

102 Roadrunner Drive Sedona, AZ 86336

(928) 282-1154 • Fax: (928) 204-7124

---

- Restrict occupancy based on size of ADU: 300-400 sq ft – 2 people, 401-500 sq ft – 3 people, 501-800 sq ft – 4 people (Tacoma, WA)
  - Restrict the total number of residents in both units to no more than 8, unless all residents in the primary home and the ADU are related. (Seattle, WA)
  - Restrict number of bedrooms. ADUs cannot have more than one bedroom. (El Cerrito, CA) ADUs cannot have more than two bedrooms. (Tacoma, WA)
  - Establish minimum number of people per square foot. The International Building Code sets a minimum of 200 sq ft of space for each occupant.
  - Restrict the total number of occupants combined in the ADU and the primary home to the maximum number established by definition of ‘family’. (Bellevue, WA; Everett, WA; Coeur d’Alene, ID; Portland, OR) (current language. This requirement does not increase the total number of people currently allowed by code, but rather spreads the current allowable occupancy over two units. Potential parking would not increase any more than could currently be possible.
- Sewer Capacity fees – ADU’s are charged half a ERU (Equivalent Residential Unit) (current fee for an ADU is: \$4,727.50)
  - Size requirements – evaluate size requirements. Currently, the following size standards are applicable for ADUs, with suggested changes based on Commission, Staff and public input:
    1. For a primary dwelling unit with ~~more than~~ 1,500 square feet or more of living space (excluding garage area), the ADU shall be no less than 400 square feet (total living space) and no larger than ~~33% of the primary dwelling unit’s total square feet or 800~~ 1000 square feet ~~whichever is smaller~~.
    2. For a primary dwelling unit with less than 1,500 square feet of living space (excluding garage area), the ADU shall be no less than 350 square feet (total living space) and shall not exceed ~~500-600~~ square feet.
    3. For existing structure conversions, the Director may allow a lesser or greater amount of floor area for the ADU, up to 25%, if in the opinion of the Director, it is warranted by the circumstances of the particular structure and property.



## City of Sedona Community Development Department

102 Roadrunner Drive Sedona, AZ 86336

(928) 282-1154 • Fax: (928) 204-7124

---

- Growth Cap – is a growth cap necessary? If yes, is 88 total units an appropriate number. The Growth Cap was originally included in the ordinance based on citizen concerns about the proliferation of ADU and that the City would experience a “flood of applications for ADUs resulting in too many ADUs. In response to these concerns, the Ordinance included no more than 88 units based on 1% of the projected build-out. The concern was that ADUs would negatively change the character of single-family neighborhoods, increase crime, decrease property values, increase property taxes, negatively impact traffic conditions, and neighborhoods will look like parking lots. To date, only 1 complaint has been registered with the City regarding approved ADUs; however, the City continues to receive complaints about illegal ADUs (several a month).
- Incentives. Are there any incentives that would motivate greater participation in the program (e.g. loan programs, fee waivers)?