RESOLUTION NO. 2010-01

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA, ESTABLISHING AS A PUBLIC RECORD THOSE CERTAIN DOCUMENTS FILED WITH THE SEDONA CITY CLERK AND ENTITLED "ATTACHMENT A", PROPOSED AMENDMENTS TO THE SEDONA LAND DEVELOPMENT CODE IN ARTICLE 2 (DEFINITIONS), ARTICLE 6 (DISTRICT REGULATIONS), AND ARTICLE 9 (DEVELOPMENT STANDARDS) FOR ACCESSORY DWELLING UNITS (ADU); AND "ATTACHMENT B", PROPOSED AMENDMENTS TO THE SEDONA CITY CODE IN ARTICLE 8 (BUSINESS REGULATIONS) AND ARTICLE 13 (WASTEWATER), TO ESTABLISH ACCESSORY DWELLING UNITS (ADU) AS RECOMMENDED BY THE PLANNING AND ZONING COMMISSION

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA, that those certain documents entitled "*"**Exhibit A** to Resolution 2010 -01, Proposed Amendments to the Sedona Land Development Code, Articles 2 (Definitions), Article 6 (District Regulations), and Article 9 (Development Standards) for Accessory Dwelling Units (ADU)"* and *"**Exhibit B** to Resolution 2010-01, Proposed Amendments to the Sedona City Code, Article 8 (Business Regulations) and Article 13 (Wastewater), Associated with Establishment of Accessory Dwelling Units (ADU),* "attached hereto, constitute public records to be adopted by reference pursuant to ARS 9-802 into Ordinance 2010-01.

At least three (3) copies of this public record shall be filed in the office of the City Clerk and kept available for public use and inspection.

APPROVED AND ADOPTED BY THE Mayor and Council of the City of Sedona, Arizona, this 12th day of January, 2010.

Rob Adams, Mayor

ATTEST:

Mary Gladieux, Acting City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A to Resolution 2010 - 01

Proposed amendments to the Sedona Land Development Code Articles 2 (Definitions), Article 6 (District Regulations), and Article 9 (Development Standards)

Accessory Dwelling Units
As Recommended for Approval by the Planning and Zoning Commission at their December 1, 2009 Public Hearing

Additions to the regulations are shown in the HIGHLIGHTED TEXT.
Deletions are shown with a ~~STRIKE THROUGH TEXT~~

ARTICLE 2, DEFINITIONS

Revise the following definitions for consistency and clarification as identified below:

ACCESSORY LIVING QUARTERS. See *GUEST HOUSE and ACCESSORY DWELLING UNIT.*

GUEST HOUSE. An accessory building with one or more rooms used solely as the temporary dwelling of the guests of the occupants of the premises and not rented or used for supplemental income. *GUEST HOUSES* shall not include mobile or manufactured homes, shall contain no kitchen facilities, shall be connected to the same utility services as the main dwelling and shall not be used as a separate dwelling unit.

Add New Definition:

ACCESSORY DWELLING UNIT. 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 shall be 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. An ADU must provide a complete, independent residential living space and shall include provisions for living, sleeping, eating, cooking and sanitation. ADUs are not required to be connected to the same utility services as the primary dwelling unit. 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. See Section 918 for more information.

Revise the definition of "FAMILY" as follows:
"Family means any one 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 subparagraph B. of this section. 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 ~~in a single dwelling unit and living together as a single housekeeping unit~~ on a single residential lot. ~~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 subparagraph B. of this section. 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~~."

ARTICLE 6, DISTRICT REGULATIONS

Proposed amendments are applicable to the following single-family 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.

Permitted Uses and Structures:

Revise "Permitted Uses and Structures" *Guest House* as follows:

Detached guest house ~~or accessory living quarters~~ subject to the following-conditions.

a. Guest house shall be architecturally treated in the same or compatible manner as the single-family dwelling. Mobile and manufactured homes, travel trailers and recreational vehicles shall not be used as guest houses.

b. Guest houses shall contain no kitchen facilities and shall be connected to the same utility services as the single-family dwelling.

c. Guest houses shall not be rented or used for purposes of supplemental income or used as a separate dwelling unit.

d. Detached guest houses must observe the same setbacks or yards required for the single-family dwelling.

e. A guest house may be converted to an Accessory Dwelling Unit (ADU) provided that it meets all ADU requirements as set forth in Section 918, Accessory Dwelling Units of the Land Development Code.

Add new item under "Permitted Uses and Structure", Accessory Dwelling Unit as follows:

Accessory dwelling unit subject to the conditions as set forth in Section 918, Accessory Dwelling Units of the Land Development Code.

ARTICLE 9, DEVELOPMENT STANDARDS

Add New Section 918, Accessory Dwelling Units

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:

- Utilize existing housing stock while preserving the appearance and character of single-family neighborhoods.
- Provide additional affordable options for long-term rental housing.
- Provide a broader range of more affordable housing.
- Provide a mix of housing that responds to changing family needs and smaller households.
- 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.
- Encourage a more economic and energy-efficient use of Sedona's housing supply.
- To maintain consistency with City of Sedona growth 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. ADUs can be studio-sized units, and one- and two-bedroom units. An ADU may be created through the following methods:

A. Converting an existing structure.

B. Adding floor area.

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 dwelling unit or the ADU as his/her principal residence. At no time shall both the primary 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 six months out of any given calendar year.

B. The owner(s) shall sign an affidavit verifying that either the primary 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. The total number of people residing on the property, including the primary residential structure and the ADU, cannot exceed the definition of 'family' as described in Article 2 (Definitions) of the Land Development Code.

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 Section 918.

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 Section 918.03.

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

C. Only one ADU is allowed per parcel.

D. Mobile homes, travel trailers and recreational vehicles shall not be used as a detached ADU.

E. ADUs shall meet all development, design, zoning and building requirements at the time of construction (e.g. setback requirements and lot coverage standards) applicable to the primary dwelling unit, except as otherwise noted.

F. ADUs shall meet all technical code standards including building, electrical, fire, mechanical, and plumbing 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 dwelling unit.

I. ADUs shall not contain more than two bedrooms.

J. The following size standards are applicable for ADUs.

1. For a primary dwelling unit with more than 1,500 square feet 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 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 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.

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

L. If a separate external entrance for the ADU is necessary, where possible, it shall be located on the side or rear of the structure. On a corner lot, where there are two entrances visible from either street, where possible, solid screening is required to screen at least one 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.

M. Exterior stairs shall be located in the side or rear yard wherever possible and must comply with setback and building code requirements.

N. 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 two off-street parking spaces for the primary dwelling unit and at least one off-street parking space for the ADU, but no more than two off-street parking spaces for the ADU. The Director may grant a waiver of the parking requirement for the ADU if the topography of the site or existing structure location make 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. 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 lot coverage
   d. Building configurations and heights
   e. Front, rear and side setbacks
   f. Location of the primary dwelling and garage (if applicable)
   g. Location of proposed ADU, the entrance and outdoor space
   h. Square footage of the primary dwelling unit and garage (if applicable)
   i. Square footage of the ADU
   j. Designated off-street parking space(s) for ADU and primary dwelling unit
   k. Landscape areas

4. Parking Plan delineating parking spaces for ADU and primary dwelling unit.

5. Signed Conditions of Approval Agreement

6. Signed Proposition 207 Waiver

7. 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. ADU shall not be sold 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.

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 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.

B. The property owner shall notify prospective buyers of the property about the conditions of approval of the ADU.

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

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

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 this ordinance 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 unit must submit an ADU application as outlined in Section 918.05 Application Submittal and Review Procedures

B. Beginning on the effective date of this ordinance, 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, Enforcement of the Land Development Code.

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 shall inspect the premises for compliance with 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 Section 915 of the Land Development Code 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 (Definitions) of the Land Development Code.

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

6. Only one ADU is allowed per parcel.

7. The existing accessory unit must meet the parking requirements outlined in Subsection 918.04.O.

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 the City Code, Article

13, (Wastewater) Section 13-5-7 (Wastewater Fees; Installment Payments for Capacity fees and Lift Pumps), an ADU is equal to one half an Equivalent Residential Unit (ERU). The Capacity fee for an ADU shall be based upon the basic rate multiplied by one half an ERU.

C. In accordance with the City Code, Article 8, (Business Regulations), Section 8-3, an ADU shall not be subject to development impact fees.

918.09 **Exercise of Discretion**

The Director has the discretion to modify or waive the ADU requirements provided that the waiver differs by no more than 25% from the regulations in question 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, Enforcement, of the Sedona Land Development Code. 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 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 six 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."

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

918.13 **Sunset Clause**

No later than five years after the effective date of this ordinance or when 88 newly constructed ADU permits are issued by the City, whichever occurs first, the Director shall report to the Housing Commission and the Planning and Zoning Commission who will make a recommendations to the City Council regarding the implementation and effect of this ordinance. The City Council shall review this ordinance, consider the Director's report and the Housing Commission's and Planning and Zoning Commission's recommendations, hold a public hearing and determine whether or not to continue this ordinance and thereby issue additional permits for accessory dwelling units.

Sources:
AARP & American Planing 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 Edmunds, 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

Exhibit B to Resolution 2010-01,

Amendments to the Sedona City Code Associated with the Proposed Amendments to the Sedona Land Development Code to establish an Accessory Dwelling Unit (ADU) Ordinance

Article 8, Business Regulations

Section 8-3 Development Impact Fees
Subsection 8-3-3 Definitions

Amend "Development, Development Project or New Development" as follows:

Development, Development Project or New Development. Any project or activity involving or requiring the issuance of a building permit, but not a project involving or requiring a building permit to operate or remodel, rehabilitate, reconstruct or improve an existing structure, which does not change the density or intensity of use, nor the rebuilding of a structure destroyed or damaged by an act of God, nor the establishment of an accessory dwelling unit, nor the replacement of one mobile home with another on the same pad if no dwelling unit is added.

Article 13, Wastewater

Section 13-5 Connections to Wastewater System
Subsection 13-5-7 Wastewater Fees; Installment Payments for Capacity Fees and Lift Pumps.

Add new Item B.2; renumber remaining list:

2. Guest houses and Accessory Dwelling Units (ADUs) shall be considered one half an ERU.