

Staff Report

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



Community Development Department Development Services

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Meeting Dates:	December 15, 2015 (Work Session) January 5, 2016 (Public Hearing)
Hearing Body:	Planning and Zoning Commission
Project Number:	PZ15-00014 (LDC)
Action Requested:	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.
Staff Recommendation:	Approval of the recommended amendments to Article 9, Section 918 Accessory Dwelling Units (ADU), of the Land Development Code.
Report Prepared By:	Warren Campbell, Principal Planner
Attachments:	A. Proposed Amendments to Land Development Code Section 918 Accessory Dwelling Units.

Background

On December 15, 2015, a public meeting was held to discuss proposed amendments to Sedona Land Development Code Article 9, Section 918, Accessory Dwelling Units (ADU). The proposed amendments addressing various concerns were the result of comments provide by the Citizen Engagement Work Group, Planning and Zoning (P&Z), Council, and staff. Feedback was provided to staff by the P&Z on December 15th recommending a number of changes to the proposed amendments. For more discussion on the background of this project refer to the staff memorandum and attachments from the December 15, 2015, public meeting.

Proposed Amendments

As a result of the feedback received from the P&Z, staff amended the proposed language to address the identified concerns. 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 as a result of the P&Z hearing include the following:

- **Section 918.04(I)** is proposed to be amended to restate the limitations on ADU size as declarative sentences.
- **Section 918.04(N)** is proposed to be amended to eliminate the statement *“or if the specific use does not warrant parking”*.
- **Section 918.05(C)(1)** is proposed to be amended to clarify the process by which an ADU may be subdivided and sold separately from the primary dwelling unit.
- **Section 918.07(G)** is proposed to more clearly state that existing illegal ADUs may be subject to enforcement and fines. The amnesty period has expired.

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. The Commissioners should review the documents provided and be prepared to take formal action at the January 5th 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.~~

I}. The following size standards are applicable for ADUs.

1. ~~The ADU shall be no larger than 1,000 square feet~~ 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 square feet whichever is smaller.~~
2. ~~The ADU shall be no larger that 650 square feet~~ 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 square feet.~~
3. ~~The Director may allow for an increase in maximum allowable ADU floor area, by up to 25%, when the ADU involves the conversion of existing structures more than five (5) years old, if in the determination of the Director~~ 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/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. The property owner or agent of the property owner shall submit plans depicting both the primary dwelling unit and the ADU 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 or subdivided and sold independently from the primary dwelling unit on the site, unless the subdivision complies fully with the regulations of Article 7, SLDC, Subdivision Regulations and Land Divisions.

~~2. The ADU shall be restricted to the approved size.~~

~~3.~~ 2. The ADU and primary dwelling unit shall be restricted to overall occupancy requirements as specified in subsection 918.06 of this section.

~~4.~~ 3. 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.~~ B. The property owner shall disclose and notify prospective buyers of the property about the conditions of approval of the ADU.

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

~~DC.~~ D. 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.~~ E. 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. The following apply to illegal accessory units:~~

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 98118.04.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.~~

~~918.112 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)].