

Accessory Dwelling Unit Model Ordinance

[This template is provided as a starting point. Not all portions may be applicable to your situation. Modify as appropriate. Be sure to have your legal counsel review.]

1.0 Purpose and Intent:

This section provides standards for an accessory dwelling unit (ADU) to be added to a single family dwelling. A house with an ADU can be distinguished from a duplex because its intensity of use is less, and it retains the appearance of a single-family dwelling. The intent of permitting ADU is to:

1. Promote growth management goals by providing infill housing in close proximity to existing infrastructure and services, including public transportation, schools, parks, employment centers, and other public areas and to conserve land, house more people within urban growth areas, and prevent sprawl;
2. Add moderately priced rental units to the housing stock to meet the needs of smaller households, moderate income households, elderly, and persons with disabilities;
3. Provide older homeowners with a means of obtaining rental income, companionship, and security thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
4. Protect stability, property values, and the residential character of a neighborhood.

2.0 Definitions

[Some of these definitions may already be defined in your local code or zoning/building ordinance. Modify or delete as appropriate.]

Accessory Dwelling Unit (ADU): An accessory dwelling unit is a self-contained housing unit that is clearly a subordinate to the single-family dwelling and complies with each of the requirements contained in this chapter. An ADU shall include a kitchen, a separate bathroom, and a separate entrance/exit.

Administrator: The director of the development services/planning and zoning department or his/her designee or the individual appointed by the city/county as the planning and zoning administrator.

Building, Attached: A building having any portion of one or more walls in common or within five feet of an adjacent building.

Building, Detached: A building having five feet or more of open space on all sides.

Dwelling, Single-Family: A building designed or used exclusively as a residence and including only one dwelling unit.

Dwelling Unit: A building with a permanent foundation and one or more rooms designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

Living Area: Interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

Owner-occupant: An owner who has legal residency on the premises of a dwelling unit that contains an ADU, who resides in the home at least six months of the year, and whose portion of the dwelling is not occupied when the owner is not present.

Owner must maintain a homeowners/homestead exemption with the county under Idaho Code 55-1001.

Primary Residence: A dwelling in which is conducted the principal use of the residential lot on which it is located.

3.0 General Requirements

1. An ADU shall be an allowed use in the following zones **[Include applicable zones, typically residential zones]**: _____

subject to administrative review and approval of an application for an ADU permit and issuance of a certificate of zoning compliance. All individuals seeking to establish an ADU as an allowed use must submit an application for an ADU permit and comply with the standards and requirements applicable to an ADU. All permits for an ADU shall be valid for one year and may be renewed annually upon written request of the owner-occupant. Previous violation of the ADU standards and requirements or other zoning or subdivision ordinance provisions may be grounds for denial of an application for an ADU or renewal of an ADU permit.

2. If an ADU does not meet the criteria for administrative approval, it may be permitted by conditional use permit in the following zones **[Include applicable zones, typically residential zones]**:

3. Contents of the application for an ADU permit: All applications for an ADU shall contain the following: site plans, photographs of the site, architectural renderings, affidavits, and copies of the notices sent to property owners. The city/county may request additional information it deems necessary to determine compliance with applicable standards and ordinances.
4. Prior to issuance of a permit, the owner(s) must provide an affidavit stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence, except for bona fide temporary absences. When a structure, which has received a permit for an ADU, is sold, the new owner(s), if they wish to continue to exercise the permit, must, within thirty (30) days of the sale, submit a notarized letter to the Administrator stating that they will occupy one of the dwelling units on the premises as their primary residence, except for bona fide temporary absences.
5. Prior to submitting an application for administrative approval of an ADU, the applicant shall give written notice to adjacent property owners of his/her intent to apply for an ADU **[This may be expanded to include property**

owners within 300 feet or another distance considered appropriate].

The notice shall provide a basic site plan and advise landowners that they have fifteen (15) days to provide their comments to the Administrator.

6. After administrative approval, the Administrator shall provide notice of the approval of the ADU to adjacent property owners **[Distance should comply with local zoning ordinances where applicable]** of the registered site. **[The notice should state that the unit complies with the standards of this section, describe the requirements for maintaining the unit, and explain how to obtain general information, how to file an appeal, and how to report code violations.]**

7. The applicant shall provide a covenant in a form acceptable to the City Attorney and suitable for recording with the County Auditor, providing notice to future owners or long term leasers of the subject lot that the existence of the ADU is subject to an annual permit, compliance with applicable code provisions, and predicated upon the occupancy of either the ADU or the principal dwelling by the person to whom the ADU permit has been issued. The covenant shall also require any owner of the property to notify a prospective buyer of the limitations of this Section and to provide for the removal of improvements added to convert the premises to an ADU and the restoration of the site to a single family dwelling in the event that any condition of approval is violated. Administratively approved ADU permits shall require renewal application annually. A notarized letter from the

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applicant indicating compliance and a desire to renew shall be reviewed by the Administrator. An ADU's approved by conditional use permit shall comply with the review and verification of compliance requirements specified in the conditional use permit.

8. The applicant must provide to the building official certification or proof from the Health District and/or city water department that the water supply and sewage disposal facilities are adequate for the projected number of residents.
9. The Administrator may impose conditions of approval on a permit necessary to adequately protect public health, safety, and welfare and/or assure compliance with applicable ADU standards and requirements. The written decision of the Administrator shall be issued within thirty (30) days of submission of the application. The Administrator's written decision and any conditions of approval shall be recorded with the county recorder and a copy of the recorded decision mailed to the applicant.
10. An administrative permit for an ADU may be revoked or declined for renewal by the Administrator if the Administrator determines that the ADU or the permit holder is not in compliance with city/county code or condition(s) of approval. If a permit is revoked or declined for renewal, the property owner must restore the property and bring it into compliance with city/county ordinances, including any necessary removal of improvements, within thirty (30) days. The city/county may toll the thirty (30) days pending an appeal

by the effected individual. Individuals effected by the approval of a permit or the denial or revocation of a permit may appeal the decision of the Administrator in accordance with **section _____**. **[Include applicable section from local code.]**

4.0 Findings Required for Administrative and Conditional Use Permit

Approval of Accessory Dwelling Units.

Before approval of an application for an ADU, the Administrator or decision making body shall find that:

1. A single-family dwelling exists on the lot or will be constructed in conjunction with the ADU. The ADU may be attached to, or detached from, the principal unit. Any new separate outside entrance serving an ADU shall be located on the side or in the rear of the building. There shall be no more than one single-family conversion per lot.
2. In no case shall an ADU be more than ten (10) percent of the lot area, nor more than eight-hundred (800) square feet, nor less than three-hundred (300) square feet, nor be occupied by more than three (3) people nor have more than two (2) bedrooms.
3. One off-street parking space, in addition to that which is required by the ordinance for the underlying zone, shall be provided. Parking spaces include garages, carports, or off-street areas reserved for vehicles. ADUs within a one-quarter ($\frac{1}{4}$) mile of a public transit route may waive this requirement.

4. Setbacks and Lot Coverage: Any additions to an existing building shall not exceed the allowable lot coverage or encroach into the existing setbacks.

5. Building Height and Stories.
 - a. A one (1) story detached ADU shall be no more than thirteen (13) feet in height.

 - b. A one and one-half (1.5) to two (2) story detached ADU shall be no more than twenty-two (22) feet in height measured to the roof peak.

 - c. An attached ADU may occupy a basement, first, or second story of a main residence if it is designed as an integral part of the main residence and meets the setbacks required for the main residence.

6. The design of the ADU is incorporated into the primary unit's design with matching materials, colors, window style, and roof design. The ADU shall be designed so that, to the degree reasonably feasible, the appearance of the building remains that of a single-family residence.

7. When an ADU is adjacent to an alley, every effort shall be made to orient the ADU toward the alley with the front access door and windows facing the alley. Parking provided off the alley shall maintain a twenty-four (24) foot back out which includes the alley. Fences shall be three feet six inches (3' 6")

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along the alley. However, higher fencing up to six (6) feet can be considered and approved in unusual design circumstances subject to review and approval of the Administrator.

8. The site plan shall provide open space and landscaping that are useful for both the ADU and the primary residence. Landscaping shall provide for the privacy and screening of adjacent properties.
9. On-going owner-occupancy of either the primary or the ADU will be maintained and shall be required through homeowners/homestead exemption with the county under Idaho Code 55-1001.
10. No daycare facilities may be undertaken in either the principal or the accessory unit.
11. Notice to adjacent landowners was provided in accordance with this chapter. Timely input from adjacent property owners should be considered in the design and siting of an ADU in order to maintain privacy between adjacent housing units.
12. The ADU shall meet the requirements of the applicable building code.

5.0 Findings Required for Conditionally Permitted Accessory Dwelling Units.

In addition to complying with the other requirements to receive approval of a conditional use permit contained in this chapter, the decision making body must find that the application for an ADU complies with the following:

1. The location and design of the ADU maintains a compatible relationship to adjacent properties and does not significantly impact the privacy, light, air, or parking of adjacent properties. Windows that impact the privacy of the neighboring side or rear yard have been minimized.
2. Exterior design of the ADU is compatible with the existing residence on the lot through architectural use of building forms, height, construction materials, colors, landscaping, and other methods that conform to acceptable construction practices.
3. The ADU does not result in excessive noise, traffic, or parking congestion.
4. The ADU is harmonious with local plan policies and density requirements of the comprehensive plan.
5. The location of the ADU is in an area with adequate water and sewer service, such that service will be provided and the location is in close proximity to public schools, public transit, or necessary services.

Administration and Enforcement

1. It shall be the duty of the Administrator to administer and enforce the provisions of this ordinance/section.
2. No building shall be constructed or changed in use or configuration, until the Building Official has issued a building permit. No building permit shall be issued until a sewage disposal works permit, when applicable, has first been obtained from the Health District and the proposed building and location thereof conform with the city/county code, applicable regulations and any conditions of approval. No building shall be occupied until a certificate of occupancy has been issued by the Building Official where required.

The Administrator shall refuse to issue or renew any permit, which would result in a violation of any provision of this chapter or in a violation of the conditions or terms of any approval or conditional use permit or properly approved variance.

3. Construction or use of an ADU according to an administrative or conditional use permit shall commence within six (6) months after the issuance of a permit. Construction must proceed in a continuous and expeditious manner and shall be completed not more than one (1) year from the issuance of the permit. Failure to comply with this requirement

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shall constitute an expiration of the permit and the applicant must submit a new application for an ADU subject to current ordinances and standards.