

TOWN OF BICKNELL ORDINANCE No. 03-07-2024
AN ORDINANCE FOR ACCESSORY DWELLING UNIT REGULATIONS

WHEREAS, the Bicknell Town Council finds it necessary and desirable to create an ordinance with regards to accessory dwelling units and internal accessory dwelling units in order to provide for the health safety and welfare of the Town residents;

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF BICKNELL, WAYNE COUNTY, STATE OF UTAH:

Section 1. Definition

Accessory Dwelling Unit: An accessory dwelling unit (“ADU”) is an independent habitable living unit, with a kitchen, bath facilities, and its own entryway, which is: (1) within an owner-occupied single-family residential dwelling (an internal accessory dwelling unit, or IADU), (2) within a separate detached accessory structure, or above a detached garage, on a single-family lot, or (3) attached to an owner-occupied single-family residential dwelling. This does not include motor homes, fifth-wheels, travel trailers, campers, or other temporary housing units, or storage containers.

Section 2. Purpose and Intent

The purpose of the ADU standards of this code is to:

- a. Allow opportunities for property owners to provide social or personal support for family members where independent living is desirable and allow them to charge a rent fee.
- b. Provide housing units in single-family neighborhoods that are appropriate for people at different stages in their life cycle.
- c. Allow individuals an opportunity for starter home ownership by letting them rent out a portion of their single-family home to help with mortgage costs.
- d. Foster owner occupied living arrangements.
- e. Preserve the overall character of single-family neighborhoods by providing standards governing the development of ADUs.
- f. Provide affordable housing opportunities in the community.

Section 3. ADU Standards

Proposed ADUs must be in compliance with the following criteria to ensure that health and safety considerations are addressed and that the residential characteristics of neighborhoods are preserved. ADUs are to be clearly incidental and secondary to the primary residential use of the property. The approval criteria include:

- A. Number of ADUs: A maximum of one (1) ADU is allowed on a residential lot, whether it is in an owner-occupied single-family dwelling, or in a detached accessory structure associated with a single-family dwelling.

B. Occupancy and Owner Occupation: The owner(s) of the residence shall live in the dwelling in which the ADU was created (either in the primary unit or in the ADU), except for bona fide temporary absences. The occupants of the ADU shall not sublease a portion of the unit to other individuals. The following are not considered ADU uses and do not fall under the regulation of this Ordinance: occupation by a live-in maid, in-home nurse, nanny or any other person or persons who are provided a place to live as part of their employment with, or services they provide to, the owner/resident of the dwelling; or while a family member is called up for military service, etc.; and any occupation by individuals related by blood or marriage.

C. Code Compliance. The ADU shall conform to all applicable standards in the International Fire Code, International Residential Code and International Building Code. All ADUs shall comply with all applicable building, electrical, mechanical, plumbing, and fire safety code requirements at the time the residence is turned into an ADU, and grandfathering status shall not be recognized when this new use changes.

D. Location and Type. ADUs may be allowed within or attached to the main single- family residential dwelling (basement or addition), over the garage (attached or detached), or in a detached accessory structure (cottage home, casita, guest house).

1. ADU – Basement. An ADU in a basement must have a separate exterior entrance located on either the side or the rear of the building.
2. ADU – Attached. ADUs attached to the primary dwelling as an addition shall meet all minimum setback standards required for the primary dwelling. Attached ADUs must have a separate entrance located on the side or in the rear of the building.
3. ADU – Detached.
 - a. Maximum Height. Building Height of any type of structure must not exceed 20 feet to the eaves.
 - b. Size. The living space of a detached ADU must be a minimum of 400 square feet, up to a maximum of 800 square feet. Detached ADUs may not have more than two bedrooms and must be permanently connected to utilities, attached to a site-built permanent foundation which complies with the building code, and must comply with all other applicable standards of this Ordinance. A building permit and inspections are required for construction of any type of ADU.
 - c. Setbacks. Detached ADUs must meet the same front, side, and rear yard setbacks as the primary dwelling and be located at least six feet from the primary dwelling.
 - d. Street Frontage. The lot must have a minimum street frontage of 70 feet to receive approval for a detached ADU. A smaller-frontage lot may be approved if, at the discretion of the approval authority, the lot configuration is unique and/or the primary dwelling unit is unique in size or location on the lot, and the impacts to neighbors and the street are substantially similar to those on a 70-foot-wide lot.

- E. Exterior Appearance. An Attached ADU shall be incorporated into the residence so that, to the degree reasonably feasible, the appearance of the building remains that of a single-family residence. If the ADU is above a detached garage, the architectural style, building materials, and colors of the ADU must compliment those of the garage.
- F. Utilities. Detached ADUs must have separate water meters and shall be in the property owner's name and the property owner shall be responsible for payment of all water bills.
- G. Parking. Off-street parking for one vehicle shall be available for use by the tenants of the ADU. Driveway (tandem) parking in front of a garage does not qualify. Occupants may not park on the street along the frontage of a neighboring property.
- H. Address. The principal dwelling and the ADU shall have the same address number but shall refer to the ADU as unit "B." The address must be located in a visible location on the street frontage side of the home.
- I. Short-Term Rental Prohibited. ADUs may not be rented for a period of less than 30 consecutive days.
- J. Except as provided in this Code, no building, land, or use shall be constructed, moved, reconstructed, extended, enlarged, altered, or expanded, which is arranged, intended, or designed to be used for an internal accessory dwelling unit (IADU), except in conformity with the regulations herein listed for the zoning district in which the permitted use is listed.
- K. All ADUs hereafter created in Bicknell town shall comply with the current building standards of the International Building Code and the International Residential Code as adopted by Bicknell Town or the State of Utah, and all other codes and ordinances adopted by Bicknell Town, or the State of Utah.
- L. All proposed ADUs must be reviewed and approved, if applicable, for septic feasibility by the Central Utah Health Department. No ADU shall be allowed if the lot containing the primary dwelling is served by a failing septic tank.
- M. All ADUs shall be maintained in good condition.
- N. The applicant for an ADU must be the current owner-occupant of the property, and it must be their primary residence.
- O. Property where ADU sits cannot ever be subdivided or sold separate from the main building unless the ADU sits on its own half-acre lot, is larger than 800 sq. feet, and has its own separate utilities. The septic system must be contained within the half-acre lot which is in compliance with the Building and Zoning Ordinance.

Section 4. Prohibited locations of ADUs

- A. The following locations are prohibited from the use of ADUs:
 - a. A property that does not comply with the requirements of this code in order to obtain an ADU designation on their property, including failing to obtain a permit.
 - b. Any portion of a mobile home.
 - c. A single-family dwelling that is not owner occupied as the owner's primary residence.
 - d. A property with a failing septic tank or system, a septic system that does not comply with health code regulations, is not large enough for the existing home and an ADU, or does not have sufficient space to replace a septic system if the current system fails.
 - e. A lot containing less than $\frac{1}{2}$ acre, (21,780 square feet).
 - f. Any and all areas of an ADU that is rented for less than 30 consecutive days

Section 5. ADU Permit

Any person owning an existing ADU that has not been permitted by the Town, or any person constructing or causing construction of a residence that has an ADU, or any person remodeling or causing the remodeling of a residence for an ADU, shall obtain an ADU permit from the Bicknell Planning Commission. This shall be in addition to any required building permit for the work to be performed. The applicant shall obtain all necessary building permits and pay all applicable fees prior to constructing the ADU, including permits for a basement that was finished previously without a permit. ADUs constructed without an approved ADU permit shall be considered illegal until a permit is submitted to and approved by the Town.

- A. Applications: Applicants for an ADU shall submit a complete application and the supporting materials listed in this section to the Town Clerk.
 - a. Owner Signature. The owner shall sign the application, agreeing to occupy the dwelling (either the primary unit or the ADU), except for bona fide temporary absences, and agreeing to comply with the standards in this Ordinance.
 - b. Site Plan. A site plan shall be provided that shows property lines, dimensions, the location of existing buildings and building entrances, proposed buildings or additions, dimensions from buildings to property lines, the location of required off-street parking, and utility meters.
 - c. Floor Plan. A detailed floor plan, to scale, showing the floor in which the ADU will be located, including labels on rooms indicating uses or proposed uses, shall be provided.
 - d. Evidence of Building Permit. Evidence shall be provided that a building permit was obtained for the building and/or area containing the ADU.
 - e. Fee. The processing fee required by the current fee schedule approved by the Town council shall be paid in full.
- B. Planning Commission Approval. The planning commission shall approve an ADU application if it is in complete compliance with all the approval criteria standards identified in this chapter. As part of the planning commission's review, inspections may be required by the planning, building, and/or fire departments.

C. Exceptions to Standards. ADU applications that deviate from the approval criteria may be considered by the planning commission in a public meeting. After conducting a public hearing and reviewing the application, the planning commission may approve, approve with conditions, or deny the application. Applicants requesting exceptions are not guaranteed approval and must provide evidence that the exceptions will not create negative impacts on neighboring properties. Conditions must be connected to the exceptions being requested, and may include increased setbacks, limitations on windows and doors adjacent to abutting property lines, privacy fencing, and additional parking.

D. Transfer of Ownership. Upon sale of the home or transfer of ownership, ADU permits shall remain valid so long as the ADU is in compliance with the Town's ordinances and conditions of approval.

Section 6. Noncompliance

Failure to comply with the requirement for ADUs set forth in this Ordinance may result in Bicknell Town holding a lien against the property in accordance with applicable state codes in an amount up to \$100 per day, along with any other legal or equitable remedies available to a municipality while the property is in violation. If a lien is placed on the property it shall be removed after the violations have been resolved.

Saving Clause

If any provision(s) of this ordinance shall be held or deemed to be invalid, inoperable, or unenforceable for any reason, such shall not have the effect of rendering any other provision(s) invalid, inoperable, or unenforceable to any extent. The remainder of the provisions herein shall be deemed to be separate, independent, and severable acts of Bicknell Town.

Effective Date

The provisions of this ordinance shall become effective when passed and approved by the Bicknell Town Council and after any required posting and/or publication has been accomplished according to law.

ADOPTED by the Town Council of Bicknell Town this 7th day of March, 2024
BICKNELL TOWN, UTAH

ATTEST:

Noreen Johnson, Mayor

Kelsey Brinkerhoff, Bicknell Town Clerk

Kerry Stevens	Yes	No
Steve Albrecht	Yes	No
Weston Johnson	Yes	No
Gregg Anderson	Yes	No