

ORDINANCE NO. 1244

**AN ORDINANCE OF THE CITY OF OKANOGAN, WASHINGTON,
AMENDING TITLE 18 – ZONING OF THE OKANOGAN MUNICIPAL
CODE TO ADD CHAPTER 18.70 – ACCESSORY DWELLING UNITS**

WHEREAS, the City Council is desirous of providing homeowners with the ability to have and maintain an accessory dwelling unit (ADU) on their property within the boundaries of the City; and

WHEREAS, the Planning Commission has reviewed the standards and requirements for ADU's and is recommending the City Council enact an ordinance outlining such.

NOW, THEREFORE, the City Council of the City of Okanogan do ordain as follows:

SECTION 1 – AMENDMENT.

There is hereby added to the Okanogan Municipal Code a new Chapter 18.70 to read as follows:

Sections:

- 18.70.010 – Purpose and Intent.
- 18.70.020 – Use.
- 18.70.030 – Definitions.
- 18.70.040 – Standards and Requirements.
- 18.70.050 – Deviations and Variances.
- 18.70.060 – Existing.
- 18.70.070 – Enforcement

18.70.010 – Purpose and Intent.

The purpose of allowing accessory dwelling units (ADU) is to:

- a. Provide homeowners with a means of obtaining, through tenants in either the ADU or the principal unit, rental income, companionship, security, and services.
- b. Add affordable housing units to the existing community housing stock.
- c. Provide opportunities for the development of additional housing units for moderate income people who might otherwise have difficulty finding homes within the city.
- d. Provide flexibility for development of additional housing units in single-family neighborhoods that are appropriate for people at a variety of stages in the life cycle.
- e. Protect neighborhood stability, property values, and the single-family residential appearance of the neighborhood by establishing clear and consistent conditions that will be applied to ADUs within defined areas in the City.
- f. Limit ADUs to small subordinate spaces such that they may be readily converted back to living space of the principal unit.

18.70.020 – Use.

The construction of one (1) ADU (either attached or detached) in a new or existing single-family dwelling (hereinafter the principal unit) shall be allowed the same as a single-family dwelling use in all single family residential zones subject to specific development, design, and owner-occupancy standards.

18.70.030 – Definitions.

The following definitions are section specific:

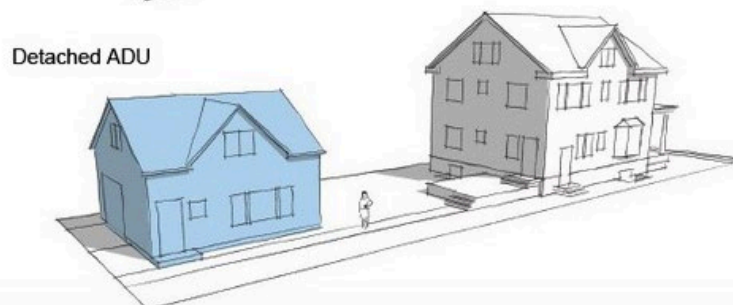
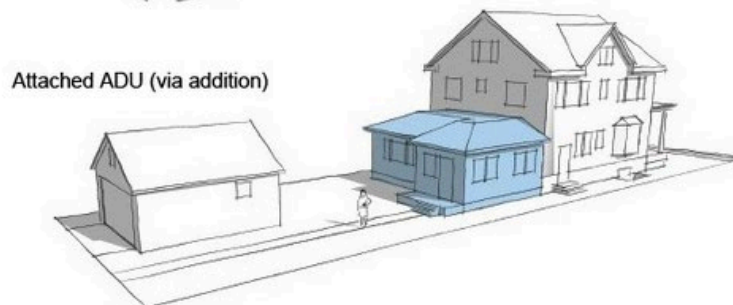
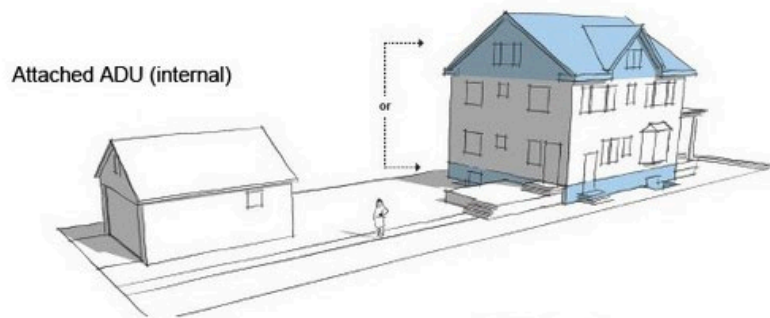
"Accessory dwelling unit (ADU)" is a small, self-contained residential unit located on the same lot as an existing single-family home. For the purposes of this Chapter, recreational vehicles and park model vehicles shall not be considered to be the same as an ADU. "Recreational vehicles" means any motor home, vacation trailer, camping trailer, camper, conversion van, or makeshift vehicle capable of movement on a roadway, which will afford a degree of shelter for humans. "Park model vehicles" means a towable unit normally built on a single-wide trailer chassis and are intended for long term or permanent placement, requiring connections to water, sewerage and electrical facilities, often used in RV parks or for seasonal camping.

An ADU has all the basic facilities needed for day-to-day living independent of the main home, such as a kitchen, sleeping area, and a bathroom. As the term "accessory" implies, ADUs are generally defined to be smaller in size and prominence than the main residence on the lot.

An ADU may be created as a separate unit within an existing home (such as in an attic or basement), an addition to the home (such as a separate apartment unit with separate entrance) (collectively, "Attached ADU"), or in a separate structure on the lot (such as a converted garage) ("Detached ADU") that meets all current building codes of the City of Okanogan. See the examples shown below.

Examples of Accessory Dwelling Units (ADUs)

ADUs in blue; main residence in white



Regardless of type, an ADU is a legally permitted small separate habitable living unit that provides separate basic requirements for living, sleeping, eating, cooking, and sanitation and is subordinate to the principal or allowed use on the property.

For the purposes of this Chapter, Attached and Detached ADUs shall be subject to the standards of the underlying zoning district in which they are located, except where modified specifically by the standards established herein. ADU's shall not be classified or regulated as two-family (duplex), or multi-unit dwelling, or multi-family use, and shall not be used as a nightly rental or short term rental (less than thirty (30) consecutive days).

"Owner occupancy" means a property owner, as reflected in title records, who makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, utility payment records, or similar means.

18.70.040 – Standards and Requirements.

Attached and Detached ADUs created on new or existing parcels shall be allowed as provided for single family dwellings use and shall be permitted as appurtenant to the permitted use.

ADUs are subject to the following design and occupancy standards:

1. An ADU shall comply with all zoning code provisions for the primary residence, including height, setbacks, accessory buildings and open space, except as provided in this section. This provision shall also apply to ancillary structures attached to an ADU such as garages, carports, garden sheds and workshops.
2. Applicants may request minor modifications to the development and design standards for ADUs. A minor modification is a request by the applicant to meet or exceed a particular ADU standard through the use of a technique or alternative standard not otherwise listed under the applicable requirement. Minor modifications are not variances and are not required to meet all of the criteria typically associated with a variance application. The City Building Official may grant a minor modification if the following criteria are met:

- a. The site is physically constrained due to, but not limited to, unusual shape, topography, easements, existing development on site, or critical areas; or
 - b. The granting of the modification will not result in a development that is less compatible with adjacent neighborhood land uses and character; and
 - c. The granting of the modification will not be materially detrimental to the public welfare or injurious to other land or improvements in the vicinity and zoning district in which the property is situated; and
 - d. The granting of the modification is consistent with the purpose and intent of this section; and
 - e. All reasonable mitigation measures for the modification have been implemented or assured.
3. Ownership and Occupancy.
- a. The owner of the subject property shall reside on the premises, whether in the primary or ADU; provided, that:
 - i. In the event of illness, death or other unforeseeable event which prevents the owner's continued occupancy of the premises, the City Building Official may, upon a finding that discontinuance of the ADU would cause a hardship on the owner and/or tenants, grant a temporary suspension of this owner occupancy requirement for a period of up to one year. The City Building Official may grant an extension of such suspension for up to one additional year, upon the finding of continued hardship.
 - ii. In the case of bringing an unpermitted ADU into compliance with this section, if the property on which the ADU is located complies with all of the requirements of this section except owner occupancy, the property may continue without occupancy by the owner for a period not to exceed one year for good cause shown and upon approval of the City Building Official. Thereafter, the property shall be occupied by the owner, or transferred to a different owner who will reside on the premises.
 - iii. Purchasers of homes with an ADU shall register with the City of Okanogan within 30 days of closing of purchase.
 - iv. An affidavit signed by the property owner, shall be submitted to the City Building Official on or before January 1st of every year attesting to continued owner occupancy. Failure to provide the annual affidavit will result in loss of ADU compliance.
 - b. The owner shall record a Deed Restriction and Restrictive Covenants, substantially similar to the sample provided at the end

of this Chapter, with the Okanogan County Auditor, approved by the City of Okanogan, which shall run with the land as long as the ADU is maintained on the property. The property owner shall submit proof that the Deed Restriction and Restrictive Covenants has been recorded with the Okanogan County Auditor's office prior to issuance of the building permit, and shall specify the requirements for owner occupancy, purchaser registration, and annual verification as detailed above.

- c. The ADU, or the land on which the ADU is located, shall not be subdivided or otherwise segregated in ownership from the primary dwelling unit or the land on which the primary dwelling unit is located.
- d. The total number of persons who may occupy the ADU shall not exceed four, regardless of relationship or age.

4. Site Requirements.

- a. Only one ADU shall be allowed per lot. The lot may not contain more than one primary dwelling unit. The ADU is exempt from density limitations due to its small size and low occupancy.
- b. For a Detached ADU, the lot shall have alley access, access to more than one public street, or the lot size shall be at least 5,000 square feet.

5. Minimum Yard Size Requirements – Minimum Yards for Detached ADUs.

- a. Front and side-flanking yards shall comply with the zoning code provisions for the primary residence except when the vehicular entrance to an attached garage or carport faces a street, the entrance shall be set back a minimum of 25-feet from the front property line, and 10-feet from a side flanking property line.
- b. A five-foot (5') side and rear yard setback shall be provided, measured from the property line to the foundation of the structure, except as follows:
 - i. When abutting an alley, there is no required side or rear yard setback from the alley.
 - ii. A Detached ADU may be located in a rear yard and in the side yard, provided:
 - a) If such Detached ADU is to be located less than five feet from any common property line, a joint agreement with the adjoining property owner(s) must be executed and recorded

with the Okanogan County Auditor's Office and thereafter filed with the City, or

- b) If site characteristics warrant such that, in the opinion of the City, impacts to abutting property would be negligible due to, but not limited to, one or more of the following:
 - i. The existing use and development pattern on abutting property.
 - ii. Minimal disruption of solar access to outdoor recreation or garden space on abutting property compared to what may otherwise occur with the application of standard development regulations.
 - iii. Site characteristics such as building a Detached ADU downslope from abutting property.
 - iv. Conversion of a detached accessory building existing as of the date of adoption of this Ordinance to a Detached ADU.

Any minor modification from standard development regulations requested pursuant to this subsection (b)(ii)(b) shall be processed as a request for minor modification pursuant to subsection 2 (a-e) above.

- c) A minimum six feet (6') of separation is required between the primary residence and the Detached ADU.

6. ADU Size

a. Attached ADUs.

- i. An Attached ADU shall not exceed 60 percent of the floor area of the primary dwelling (excluding any related garage area attached to the primary dwelling) or 800 square feet, whichever is less, and shall contain a minimum square footage of no less than one hundred ninety (190) square feet of floor area.
- ii. No more than two bedrooms may be located within an ADU.
- iii. The City Building Official may allow increased size for an Attached ADU in order to efficiently use all, or a portion of, the floor area on one floor of an existing dwelling unit constructed as of January 1, 1995, provided the Attached ADU does not exceed 800 square feet.

- b. Detached ADUs. The floor area for Detached ADUs shall be calculated using the “general” definition of floor area in the Okanogan Municipal Code for the zoning district, and include ancillary space (garage, workshop, garden shed, etc.) within. However, an accessory building that includes a Detached ADU and ancillary space may only exceed 800 square feet when approved by the City of Okanogan through a conditional use permit pursuant to the Okanogan Municipal Code.
- c. Any additions to an existing building and new construction for the purpose of installing an ADU, shall not exceed the allowable lot coverage or encroach into the existing setbacks established for the applicable zoning district in which the structure is located, except as provided in this Chapter.

7. Building Height Requirements.

Building height requirements shall be the same as set forth in the underlying zoning district for residential structures.

8. Parking Requirements.

- a. Not less than three (3) off-street parking spaces shall be required for residential properties containing a principal unit and an Attached or Detached ADU said spaces shall be located as required by underlying zoning district for residential structures; and
- b. Where the property owner converts an existing off-street parking space(s), such as garages, carports, or pads, into an ADU, property owner shall be required to provide equivalent parking spaces, up to and including a total of three parking spaces on the lot for the completed project; and
- c. No more than two required off-street parking spaces can be in the tandem configuration.

9. Utilities.

City utilities and services shall be connected, managed and charged as provided in Title 13 OMC and Chapter 8.04 OMC.

- a. Water, sewer, storm. A primary dwelling unit and an ADU may have a shared water service to a water system, a shared sewer service to a sewer system, and a shared storm service to a storm water management system. A primary dwelling unit and a Detached ADU may have individual or shared service connections. In the event that service is provided by a shared service connection, the primary and ADU shall be charged as one

residential connection if compliance with all requirements of this Chapter are met. However, if the owner requests separate and independent service from each building they will be billed as separate structures. In all cases, the water service shut-off must be accessible to occupants in each unit.

- b. Electrical. A primary dwelling unit and an Attached ADU shall have no more than one electrical service. A primary dwelling unit and a Detached ADU are permitted to have one shared electrical service or two separate electrical services. A separate meter is permitted to serve either an Attached or Detached ADU, subject to compliance with the City's adopted electrical code. A single main service panel may be allowed; provided, that occupants of both dwelling units have access to the service panel supplying their occupancy.
- c. Gas. A primary dwelling unit and ADU may share natural or propane gas services. An accessible shut-off valve must be upstream of the gas meter, on the exterior of the structure(s).
- d. Any utility lines being installed or altered must have their connections inspected as part of the building permit process.

18.70.050 – Deviations and Variances.

In order to encourage the development of housing units for people with disabilities, the City Building Official may allow reasonable deviation from the stated spatial requirements to install features that facilitate accessibility. Such facilities shall be in conformance with the State Building Code as adopted by the City.

18.70.060 – Existing.

That portion of a single-family dwelling structure, which meets the definition of an accessory dwelling, and which was legally in existence prior to the effective date of this Chapter, may continue in existence provided the following requirements are met:

- a. The accessory dwelling complies with the minimum requirements of the State Building Code as adopted by the City related to efficiency dwellings.
- b. The accessory dwelling complies with all of Section 18.70.040 OMC.

18.70.070 – Enforcement.

Administrative, Technical and Procedural Violations – Civil Enforcement

- a. Action. The City Attorney, when authorized by the Mayor, shall bring such injunctive, declaratory, or other legal actions as are necessary to enforce compliance with this Chapter and/or Deed Restriction and Restrictive Covenants For Accessory Dwelling Unit (as required by Section 18.70.040(3)(b)).
- b. Noncompliance. In addition to enforcement action as designated in Section 18.70.070(a), any person who fails to conform to the terms of this Chapter shall also be subject to a civil infraction not to exceed \$250.00 per offense, and the water service shall be billed as the appropriate multifamily unit as outlined in Chapter 13.04 OMC. Each day that a violation exists or continues shall be deemed to be a separate offense.
- c. Notice of Penalty. The civil penalty imposed under Section 18.70.070(b) shall be imposed in writing, served upon the person incurring the same either by mailing certified mail, return receipt requested, or by personal service.

SAMPLE DEED RESTRICTION AND RESTRICTIVE COVENANTS

DEED RESTRICTION AND RESTRICTIVE COVENANTS FOR ACCESSORY DWELLING UNIT (“ADU”)

NO FEE REQUIRED

Pursuant to Okanogan Municipal Code Chapter 18.70

Recorded for the Benefit of the City of Okanogan

This Deed Restriction and Restrictive Covenants For Accessory Dwelling Unit (“Deed Restriction”) is made and executed on this _____ day of _____, _____, by and between the City of Okanogan, a municipal corporation (the “City”) and ADU Owner (the “Owner”).

The undersigned hereby certify that I/we are the owner(s) of the hereinafter legally described property attached as Exhibit A and incorporated herein, located in the City of Okanogan (the City), State of Washington. Said property is located at _____, with assigned Assessor's Parcel No. _____.

The purpose of this Deed Restriction is to provide notice and disclosure to the current owner and to any subsequent purchaser or transferee of these limitations associated with the approval of an ADU permit for one Accessory Dwelling Unit (ADU).

In consideration of the City approving the establishment of an ADU on this lot, the undersigned hereby covenants, acknowledges and agrees, that:

1. No Separate Sale or Conveyance. The ADU will not be sold separately or otherwise conveyed separately from the primary residence;
2. No Short Term Rental. The ADU may not be rented as a nightly rental or for a term shorter than 30 consecutive days;
3. Owner Occupancy. The owner of the property must reside in either the ADU or in the primary dwelling on the lot as the owner's primary personal residence and legal domicile; and
4. City Ordinances. The attributes and restrictions of the ADU must comply at all times with the City's ADU ordinance (Chapter 18.70 of the Okanogan Municipal Code).

Covenants to Run with the Land. This Deed Restriction will run with the land and will be binding upon all owners, all future owners, their successors, heirs or assigns, and shall continue in effect unless otherwise released by the authority of the City in writing and recorded with the Okanogan County Auditor. Any lease of said specified parcels shall be subject to this restriction which is made for the general benefit of the entire community and which shall run with the land. This Deed Restriction will be enforceable by remedy of injunctive relief in addition to any other remedy in law or equity.

Release from Deed Restriction and Covenants. The Owner may request that the permitted ADU be removed in the future. Upon such request by the Owner, the City shall provide a recordable "Certificate of Release from and Satisfaction of Deed Restriction and Covenants" to release the property from this Deed Restriction .

Amendments. This Deed Restriction may be amended only by a written instrument executed by all the parties hereto or their successors in title, and duly recorded in the real property records of the County of Okanogan, Washington.

Enforcement by City. In the event that the owners, their heirs, assigns, or successors in interest fail to abide by the deed restriction and covenants hereunder, all owners are bound to pay all costs and expenses incurred by the City in securing performance of such obligation, including reasonable attorney's fees and costs.

Recording and Filing. The Owner shall cause this Agreement, and all amendments and supplements to it, to be recorded against the property with the Okanogan County Auditor.

Severability. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions of this Deed Restriction shall not in any way be affected or impaired thereby.

Land Owner

Date

STATE OF WASHINGTON)
County of Okanogan) SS.

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that they signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in said instrument.

Dated: _____

Signed _____

Notary Public in and for the State of Washington; residing at: _____

My Commission Expires: _____

SECTION 2 – SEVERABILITY. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of the Ordinance.

SECTION 3 – EFFECTIVE DATE. This Ordinance shall become effective from and after its passage by the City Council, approval by the Mayor, and five (5) days after publication of this Ordinance, or a summary thereof, as required by law.

PASSED by the City Council of the City of Okanogan, Washington, at their regular meeting this ____ day of _____, 2025.

APPROVED:

Wayne L. Turner, Mayor

ATTEST:

Jessica Blake, City Clerk-Treasurer

APPROVED AS TO FORM:

W. Scott DeTro, City Attorney