

Legalize Backyard Cottages: What to Do About ADUs



SUMMARY

Young couples and others trying to save up money to buy their own home face an uphill battle. With rising rents and a limited supply of housing, finding an affordable place to live is a real challenge.

One solution is for city councils, planning commissions, staff, and stakeholders to all collaborate on reforming Accessory Dwelling Unit (ADU) regulations, including the Detached ADU ordinance outlined in this policy brief. Luckily, the proposal in this brief does not re-

quire government subsidies, mandate detached ADUs, or burden the taxpayers of Utah.

Attached and detached ADUs, distinct from the already-legal “internal” ADUs, deserve careful consideration from cities and counties. They would enable homeowners to offer relatives and young families entry-level housing, with the increased privacy of sharing fewer walls. These units would also be part of the solution Utah needs to ease both its housing shortage and its affordability crisis.

Local officials can provide relief to aspiring homeowners by passing an ordinance that legalizes attached and detached Accessory Dwelling Units (ADUs).

“Ultimately,
property rights
and personal
rights are the
same thing.”

CALVIN COOLIDGE

Utah has a shortage of 37,000 homes.¹ Homes cost \$500,000 or more. It takes a salary of \$100,000 to qualify for a home loan. Utah homes are the 7th most expensive in the entire United States.²

What do these numbers mean for Utah communities? For starters, it means that police officers, teachers, and other professionals face quite the challenge as they save up to buy their own home.

Can ADUs Really Help?

One solution to this problem is Accessory Dwelling Units (ADUs). These are residences that occupy the same lot as a primary dwelling. They can help someone save up money to buy their own house. With lower rents than traditional homes, a young couple can allocate more of their income toward savings by living in an ADU.

Additionally, the smaller space often means reduced utility and maintenance costs. By cutting these expenses, the aspiring homebuyer can build their savings more quickly, bringing them closer to the goal of purchasing their own home.

While renting an ADU might help someone save up money to buy a home, ADUs can also help homebuyers find a house they can afford. For example, when the homebuyer finds an existing home with an ADU, the rental income from the ADU can help them qualify and pay for a mortgage.

Lastly, there are hundreds of thousands of homes in Utah that could build ADUs. If even a fraction added one, we could make great strides to reduce the housing crisis.

Different Types of ADUs

When imagining ADUs many people see something specific. The reality is that there are a few different kinds, each with their own advantages and disadvantages. For example, ADUs can be categorized into three main types: internal, attached, and detached units.

Internal ADUs are things like basement apartments and some types of garage conversions. ADUs that are classified as attached would be wing additions. In other words, internal ADUs are contained within the footprint of the building and attached ADUs share a wall with the primary dwelling.

Meeting the definition of detached ADU is straightforward — the unit doesn't share walls with the primary dwelling.

Not New

While ADU discussion has spiked recently, ADUs are not new. In fact, ADUs date back centuries. The “carriage house” was a unit designed for a horse and buggy on one floor with an upstairs loft area often used as its own living space.

Property Rights and ADUs

Due to a law passed in 2021, internal

ADUs are referred to by a wide variety of less formal names, including “basement apartment,” “mother-in-law suite,” “backyard cottage,” and more.

ADUs are legal throughout the state (with a few exceptions in college towns). Other ADUs types, however, are legal only in some cities and counties.

Furthermore, even in jurisdictions where attached and detached ADUs are allowed, there are significant barriers. For example, requirements that the property owner have a specific amount of land or that ADUs must be further from property lines than garages are common restrictions that prevent many property owners from building ADUs.

Living Close, Living Free

ADUs also enable older or disabled residents to live on the same lot as their relatives, creating a means for their needs to be met and for them to remain in the community. Detached ADUs in particular give them additional independence.

Help Residents by Changing Current ADU Ordinances

Considering how high housing costs are, Utah residents need the freedom to construct ADUs with fewer regulations. The suggestions and model ordinance proposed in this brief provides just that.

For example, the detached ADU Ordinance proposal enables property owners to build ADUs closer to property lines, larger and taller than is sometimes allowed, and in all residential zones.

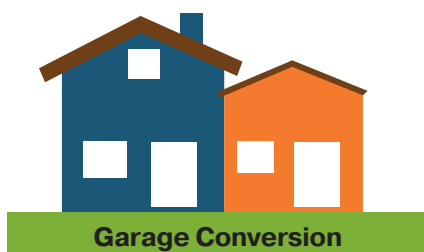
The following pages provide some visual examples and ultimately show what urban, suburban, and rural Utah stands to gain by updating their ordinances to embrace all ADU types.

Different Types of Accessory Dwelling Units (ADUs)



LEGAL THROUGHOUT UTAH (WITH SOME NARROW EXCEPTIONS)

Internal ADUs: ADUs within the footprint of the primary dwelling.



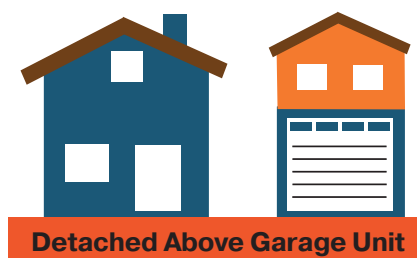
ILLEGAL IN SOME CITIES AND COUNTIES

Attached ADUs: ADUs added to the original footprint of the primary dwelling.



ILLEGAL IN MANY CITIES AND COUNTIES

Detached ADUs: ADUs that share no walls with the primary dwelling.



Example ADUs Made Possible with Detached ADU Reform



The ADUs above are illegal in many parts of Utah for one simple reason — they are detached from the primary dwelling.



The ADUs above are three and four feet from their side property lines and therefore violate zoning codes throughout Utah.



These ADUs do not meet zoning codes throughout Utah because they are “too tall”.

ADU Reforms: Grounded in Principles of Economic and Personal Freedom

TEN REASONS TO ALLOW DETACHED ADUs

1. Provide more low-cost housing not requiring government subsidy.
2. Provide a place for young couples to live while they save up money to buy their own home.
3. Promote a fundamental aspect of personal freedom — the right to use your land as you see fit.
4. Increase the tax base while minimizing the costs related to new public infrastructure.
5. Enable older or disabled residents to live on the same lot as their relatives, allowing for them to remain in the community.
6. Provide residents the benefits of an ADU, with the increased privacy of not having to share walls.
7. Provide rental income to homeowners, enabling them to help pay or qualify for a home loan.
8. Enables homeowners looking to downsize a better option than an apartment or retirement community.
9. Provides housing for a hired caregiver.
10. Help ease any shortages in housing.

FREE ENTERPRISE – A SOLUTION TO [HOUSING] SHORTAGES



THE NEED FOR ABUNDANCE

Economic security for individuals and society depends on having an abundance of life's necessities.



THE NECESSITY OF INDUSTRY

Abundance of life's necessities is impossible without industrious production.



INCENTIVE REQUIRED

To achieve sufficient production, you need motivated workers, and the ability to earn a reward is the most sustaining for most people. Sometimes called the profit motive, it's simply the right to work hard and enjoy the benefits of that work.



REGULATIONS CAN REDUCE PRODUCTION

Rules and regulations can limit production and lead to shortages. When essential goods and services are in short supply, only a lucky few have access to them.



REMOVE BARRIERS TO SUPPLY

If barriers to supply exist within city code, they should be reformed.

Dos and Don'ts of ADU Reform



To promote personal freedom and to improve housing affordability, the following should be kept in mind.

DOs



IMPLEMENT THE APPROPRIATE SETBACKS

Some cities require three-foot setbacks for ADUs, while others mandate setbacks of ten or twelve feet. Three foot setbacks are optimal, because they will enable more detached units and garage conversions to be built. Garages typically have smaller setbacks than the primary dwelling, making three-foot setbacks particularly advantageous.



ALLOW NEIGHBORHOODS TO OPT OUT VOLUNTARILY

Some well-established neighborhoods will be made up of residents who are unanimously okay with restricting themselves from building ADUs on their properties. Although ADU reforms never force anyone to build an ADU on their property, prudence dictates allowing anxious neighborhoods the freedom to opt out.



AVOID UNNECESSARY REQUIREMENTS

Almost all health and safety concerns related to ADUs are addressed by building code, not zoning code. This means that many common restrictions should be avoided. For example, minimum lot size requirements are unnecessary because any storm drain concerns can be addressed with a variety of other regulations. Additionally, requiring an ADUs front door to not be visible from the street is costly and doesn't address health or safety. Lastly, owner-occupancy requirements burden those who may need to move and reduce the number that are constructed.

DON'Ts



DON'T MANDATE ANYTHING

ADU legalization is not a government mandate that anyone build one. Residents that do not want to build ADUs absolutely must retain the freedom to choose.



DON'T IGNORE LEGITIMATE PARKING CONCERNS

ADU builders should be required to build enough parking to prevent any tenants from permanently monopolizing the street parking of adjacent properties. Accordingly, we suggest an innovation we call an "ADU Parking Agreement." Using the agreement homeowners can demonstrate that tenants won't monopolize the street parking of nearby areas.



DON'T DISCRIMINATE BETWEEN ADU TYPES

The impact of a basement apartment, wing addition, and a backyard cottage on city services is practically identical; therefore, the distinction between permitting one kind of ADU and not the other seems unwarranted. All three types of housing contribute similarly to utility usage, traffic, and community resources.

Detached ADU Reforms: Love Thy [Future] Neighbor

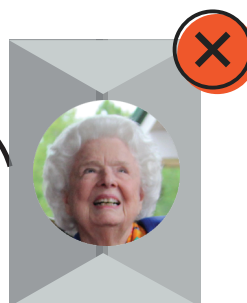
CASE STUDY #1 – A HOUSE FOR CARS, BUT NOT FOR GRANNY

When Provo resident Lee Sands learned that his grandmother in Tennessee needed to move from his father's accessory dwelling unit into a nursing home, he started planning alternatives. Sands's solution was from his father's playbook — he would demolish the old garage on his property in downtown Provo and build a small home for his grandmother. From his perspective, it was a win-win. She would save \$6,000 a month on nursing home costs, and he could provide a space for her to live out her days. After acquiring the necessary money from a costly refinance, Sands did something he hadn't done since moving to Provo in 2004 — he went to city hall to get a permit.

However, it turned out that although the zoning district he lived in permitted garages three feet from the property line, accessory dwelling units had to be *ten* feet from the line. After working with Provo city staff on a solution, the options were to rezone the district or change the ADU ordinance. If reduced setbacks were applied to Provo's ADU ordinance, demolition of his garage would begin immediately — and the construction of a home for the woman who made Sands's attendance to BYU-Provo possible would commence.

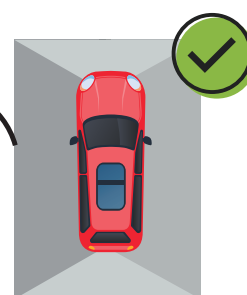


A SETBACK FOR THE WHOLE FAMILY



Sands is allowed to build a home for his car three feet from the property line, but not a home for his grandmother.

GARAGE EXCEPTION – FREELY GRANTED TO ALL



Zoning requirements throughout Utah contain exceptions to setback requirements for garages, but not for living quarters.

Detached ADU Reforms: More Flexibility, More Freedom

CASE STUDY #2 – SALT LAKE CITY GETS ADU REFORM RIGHT

In 2022-2023, Salt Lake City reviewed its detached ADU ordinance to identify and remove obstacles for residents wanting to build ADUs. They discovered several issues, including size, setback, and conditional use permit requirements. Rather than relying on the existing ordinance, the city addressed these issues and updated the ADU ordinance in 2023.

Salt Lake City now likely boasts the most flexible ADU regulations in the state, with no minimum lot size and relaxed setback requirements for ADUs. These reforms will create more opportunities for older residents to live with their relatives, increase the supply of affordable housing without government subsidies, and minimize the costs associated with new public infrastructure. Additionally, Salt Lake City deserves credit for granting residents a fundamental aspect of personal freedom—the right to use their land as they see fit.



ADUS BEFORE SALT LAKE CITY'S 2023 REFORMS



- ❌ Residents could not build detached ADUs as large as 1,000 sq. ft.
- ❌ Residents could not build small detached ADUs three feet from property lines.
- ❌ Residents had requirements to present plans to Planning Commission before building.
- ❌ Residents could not build detached ADUs that were “too tall”

ADUS AFTER SALT LAKE CITY'S 2023 REFORMS



- ✅ Size limitations relaxed. Detached ADUs as large as 1,000 sq. ft. allowed.
- ✅ Setbacks relaxed. ADUs allowed 3 ft. from some lot lines (with certain height limitations).
- ✅ Requirement to present ADU plans to Planning Commission eliminated.
- ✅ Taller ADUs allowed. Up to 17 ft., can increase to 20 or 24 ft with increase in setbacks.

PROPOSAL – DETACHED ADU ORDINANCE

To meaningfully address housing affordability and to provide homeowners more freedom and flexibility, we propose that mayors, city councils, city staff, planning commissions and other stakeholders work together to amend or pass an ADU ordinance to contain the following development standards:

YOUR
SEAL/LOGO
HERE

DETACHED ACCESSORY DWELLING UNIT

LAND USE DESCRIPTION SHEET

According to Section _____ of the Zoning Ordinance, the purpose and intent of the Detached Accessory Dwelling Unit (ADU) ordinance is as follows:

“Detached Accessory Dwelling Units are intended to provide housing to friends and families, generate rental income, and to increase the stock of available housing.”

Detached ADU Development Standards

Number of ADUs Allowed 1	ADU Size No larger than main dwelling	Additional Parking Spaces 1	Minimum Setbacks Front & Street Side Yard = 10 ft. Interior Side Yard = 3 ft. Rear Yard = 3 ft.
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Maximum Lot Coverage

The total area (footprint) of all structures on a lot.

60%

ADU Maximum Height

24 ft.²

Distance Between Buildings

5 ft.

Diagram illustrating the Detached ADU Development Standards. The diagram shows a property lot with setbacks and building footprints. The setbacks are: Front Setback 10 ft., Side Setback 3 ft., and Rear Setback 3 ft. The Main & Accessory Dwelling Buildable Area is outlined. The Primary Dwelling and Garage are shown on the left, and the ADU is shown on the right. The scale is .05" = 1 ft.

To see complete development and other requirements for ADUs, see section _____ of the zoning code.

Parking Requirements

Without an ADU Parking Agreement,¹ a minimum of two (2) off-street parking spaces for the Primary Dwelling Unit and one (1) for the Accessory Dwelling Unit must exist for the property. Sufficient parking must also be provided for any vehicle used by those dwelling at the property. Sufficient parking may include on-street parking that immediately abuts the lot, but must not include any on-street parking spaces of neighboring lots.

Footnote¹ – See Section _____ for more information about ADU Parking Agreements.

Footnote² – See Section _____ for more information about maximum heights for ADUs located within ten feet of a property line.

Endnotes

1. James Wood and Dejan Eskic, “State of the State’s Housing Market, 2022-2024,” Kem C. Gardner Policy Institute, Sep. 2023

2. Zillow Home Value Index as of July 31 2024, <https://www.zillow.com/home-values>

Select images courtesy of City of Tampa, architecturaldesigns.com, GreatBuildz, Leighann Franson, Neil Kelly Company, CAST Architecture, Oregon Homeworks, SLC Planning.



PUBLIC POLICY BRIEF

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FREQUENT
RECURRENCE
===== TO =====
FUNDAMENTAL
PRINCIPLES IS
ESSENTIAL
===== TO =====
THE SECURITY
===== OF =====
INDIVIDUAL
RIGHTS

UTAH CONSTITUTION
ARTICLE I, SEC 27