

15-4 -7. ACCESSORY APARTMENTS.

Accessory Apartments are subject to the following criteria:

(A) CRITERIA FOR USE.

(1) **SIZE.** Accessory Apartments may be no more than one third (1/3) of a dwelling size, shall be limited to a maximum Floor Area of 1,000 square feet and shall be no less than 400 square feet with no more than two (2) Bedrooms. An Accessory Apartment may not increase the Floor Area of a Structure over the maximum Floor Area as specified in the Land Management Code or Subdivision approval.

(2) **PARKING.** One (1) Parking Space per Bedroom must be provided in addition to the existing requirement for the primary residence. Parking Spaces for Accessory Apartments need not be covered and may be provided in tandem subject to one of the following criteria:

(a) One (1) Parking Space for an Accessory Apartment may be provided in tandem if the existing driveway length equals or exceeds twenty-five feet (25') as measured from the Property Line. Parking is permitted only within approved garages and on paved driveways.

(b) One (1) Parking Space for an Accessory Apartment may be provided in tandem in an effort to preserve existing Significant Vegetation and when all other parking alternatives are undesirable.

(c) Historic District Zones. One (1) tandem Parking Space, parking one vehicle behind another, for an Accessory Apartment proposed in any residential Historic District Zone may be provided when the Applicant has secured a and the Planning Commission has made the following findings:

(i) Tandem Parking will not create an undue hardship for the neighborhood.

(ii) Other parking options are less desirable than the proposed tandem space.

(iii) Reasonable efforts, such as automatic garage door openers, lease provisions and/or limitation of garage storage, have been made to encourage the Use of all Off-Street Parking.

(3) **APARTMENTS PER LOT.** No more than one (1) Accessory Apartment may be located on a Lot.

(4) **REQUIREMENTS FOR REVIEW.** The Applicant for an Accessory Apartment must submit a floor plan, architectural elevations, and Site plan showing any proposed changes to the Structure or Site.

(5) **DENSITY LIMITS.** A permit for an Accessory Apartment may not be granted if

more than three (3) of the homes within 300 feet of the Applicant's Property boundary contain other established Accessory Apartments. There may be no more than four (4) Accessory Apartments within a three hundred foot (300') radius.

(6) **OWNERSHIP.** One (1) unit, either the main Dwelling Unit or the Accessory Apartment shall be occupied by the Owner of the Structure and the Accessory Apartment shall not be sold separately.

(7) **DEED RESTRICTION.** A deed restriction must be filed with the County Recorder which states:

"A permit for an Accessory Apartment was issued to _____, the current Owner of this Property on _____. This permit runs with the land and is automatically transferred to the new Owner by the sale or transfer of this Property, provided however, if the Use by the new Owner does not continue to comply with the conditions of approval, the permit may be invalidated by the Planning Department, pursuant to Section 15-4-7(B) (1). Prospective purchasers should be advised that only one (1) unit on the property may be rented; the other must be occupied by the Owner."

(8) **NIGHTLY RENTALS.** If an Accessory Apartment permit is granted, neither the main Dwelling Unit nor the Accessory Apartment may be rented for period of time less than thirty (30) days.

(9) **HOMEOWNERS ASSOCIATION REGISTRATION AND NOTIFICATION.** All Accessory Apartments shall be subject to the Homeowners Association and Notification requirements established in Section 15-1-12(E).

(B) **REGULATED USE REVIEW.** The Planning Department shall review Accessory Apartments in those zones where the Apartments are a Regulated Use. This includes all Zoning Districts where Accessory Apartments are an Allowed Use and not a Conditional Use. After submission of a complete Application and payment of the Application fee as established by the fee schedule, the Planning Department shall approve a permit if the requested Accessory Apartment complies with the criteria for Use in Section 15-4-7(A), established herein.

(1) **PERMIT REVOCATION.** The Accessory Apartment permit may be revoked by the Planning Department for non-compliance with the criteria of this Chapter. The permittee may appeal the determination to the Board of Adjustment which will evaluate the Planning Department's determination of permit non-compliance and decide if permit revocation should occur.

(C) **CONDITIONAL USE REVIEW.** In those zones where Accessory Apartments are subject to a Conditional Use permit, the Planning Commission shall review the requested Use. After submission of a complete Application and payment of the Application fee as established by the fee schedule, the Planning Commission shall approve a permit if the requested Accessory Apartment complies with the criteria established in Section 15-4-7 (A) herein. In addition, prior to issuance of a Conditional Use permit, the Planning

Commission shall determine that parking and other impacts as outlined in LMC Chapter 15-1-10 have been mitigated.

(1) **PERMIT REVOCATION.** The Accessory Apartment permit may be revoked by the Planning Department for non-compliance with the criteria of this Chapter and any additional conditions of approval. The permittee may appeal the determination to the Board of Adjustment which will evaluate the Planning Department's determination of permit non-compliance and decide if permit revocation should occur.

(D) **EXISTING NON-CONFORMING ACCESSORY APARTMENTS.** Existing non-conforming Accessory Apartments may be approved by the Planning Department provided that the Accessory Apartment meets all of the criteria outlined in Section 15-4-7 (A). If the existing Accessory Apartment does not meet the criteria as specified, the Planning Commission shall review the Use. The Planning Commission shall approve the request only if the following findings can be made:

- (1) The Apartment contains no more than two (2) Bedrooms;
- (2) One (1) Parking Space per Bedroom is provided for Use by the Accessory Apartment occupants. On-Street parking shall not be counted to fulfill parking requirements;
- (3) One (1) unit is Owner-occupied;
- (4) Impacts of the Use can be mitigated;
- (5) Neither Dwelling Unit is proposed to be rented for periods less than thirty (30) days; and
- (6) All significant impacts to the surrounding neighborhood are reasonably mitigated and continue to be mitigated.

(Amended by Ord. Nos. 06-22; 07-49)