



ADMINISTRATIVE ORDER #000118 070612

CODE INTERPRETATION

CODE SECTION: 20.40.210

I. ISSUE:

What is the difference between an Accessory Dwelling Unit (ADU) and incidental living/sleeping space.

II. FINDINGS: ADU's are regulated in the development, building and construction codes as follows:

Shoreline Municipal Code (SMC) 20.40.210 Accessory dwelling units.

A. Only one accessory dwelling unit per lot, not subject to base density calculations.

B. Accessory dwelling unit may be located in the principal residence, or in a detached structure.

C. Either the primary residence or the accessory dwelling unit shall be occupied by an owner of the property or an immediate family member of the property owner. Immediate family includes parents, grandparents, brothers and sisters, children, and grandchildren.

Accessory dwelling unit shall be converted to another permitted use or shall be removed, if one of the dwelling units ceases to be occupied by the owner as specified above.

D. Accessory dwelling unit shall not be larger than 50 percent of the living area of the primary residence.

Exception: An accessory dwelling unit interior to the residence may be larger than 50 percent of the primary residence where the unit is located on a separate floor and shares a common roof with the primary residence.

E. One additional off-street parking space shall be provided for the accessory dwelling unit.

F. *Accessory dwelling unit shall not be subdivided or otherwise segregated in ownership from the primary residence.*

G. *Accessory dwelling unit shall comply with all applicable codes and standards.*

H. *Approval of the accessory dwelling unit shall be subject to the applicant recording a document with the King County Department of Records and Elections prior to approval which runs with the land and identifies the address of the property, states that the owner(s) resides in either the principle dwelling unit or the accessory dwelling unit, includes a statement that the owner(s) will notify any prospective purchasers of the limitations of this Code, and provides for the removal of the accessory dwelling unit if any of the requirements of this Code are violated. (Ord. 581 § 1 (Exh. 1), 2010; Ord. 238 Ch. IV § 3(B), 2000).*

Shoreline Development Code 20.20.020 Definitions: Family

An individual; two or more persons related by blood or marriage, a group of up to eight persons who may or may not be related, living together as a single housekeeping unit; or a group living arrangement where eight or fewer residents receive supportive services such as counseling, foster care, or medical supervision at the dwelling unit by resident or nonresident staff. For purposes of this definition, minors living with a parent shall not be counted as part of the maximum number of residents.

International Residential Code (IRC) Section R202 (definitions): Dwelling

Any building that contains one or two dwelling units used, intended or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

International Residential Code (IRC) Section R202 (definitions): Dwelling Unit

A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Shoreline Development Code 20.20.107 Definitions: Dwelling Unit

Residential living facility, used, intended or designed to provide physically segregated complete independent living facilities for one or more persons, including living, sleeping, cooking and sanitation facilities. A dwelling unit is to be distinguished from lodging, such as hotel/motel or dormitory. (Ord. 391 § 4, 2005; Ord. 299 § 1, 2002).

International Residential Code (IRC) Section R306.1

... Every dwelling unit shall be provided with a water closet, lavatory and a bathtub or shower.

International Residential Code (IRC) Section R104.11

... An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent provisions of this code, ...

International Residential Code (IRC) Section R302.3

... Dwelling units in two-family dwellings shall be separated from each other by wall and/or floor assemblies having not less than a 1-hour fire-resistance rating...

International Residential Code (IRC) Section R302.4

...Penetrations of wall or floor/ceiling assemblies required to be fire-resistance rated in accordance with Section R302.2 or R302.3 shall be protected in accordance with this section.

National Electrical Code (NEC) Section 240.24 (B) Occupancy

Each occupant shall have ready access to all overcurrent devices protecting the conductors supplying that occupancy.

Uniform Plumbing Code (UPC) Section 605 Valves

Required shutoff or control valves shall be accessible.

Section 12.11 Valves at Regulators

An accessible gas shutoff valve shall be provided upstream of each gas pressure regulator.

III. CONCLUSIONS:

An Accessory Dwelling Unit is created within and regulated by the Development Code. As such, the legal existence of an ADU is uniquely tied to and dependent upon the Development Code requirements as defined in SMC 20.40.210. SMC 20.40.210.G states that *"Accessory dwelling unit shall comply with all applicable codes and standards"*

An Accessory Dwelling Unit may be attached or detached.

A dwelling unit must contain complete independent living facilities including living, sleeping, cooking and sanitation, served by a separate entry. A space that contains living/sleeping space and contains food preparation *OR* sanitation facilities *but not both*, is considered a sleeping room and not a separate dwelling. Renting a sleeping room in a single family dwelling would be considered a shared rental or roommate situation and would be regulated under the Development Code under the provisions of "family" (eight or less unrelated person living together as a single housekeeping unit).

A major indicator of whether a space is being used as an ADU or as "incidental living /sleeping space" is the presence of a clear path to shared cooking and/or shared sanitation facilities. The term "clear path to shared cooking and/or shared sanitation facilities" means not obstructed or closed off from free and full access to all residents of the dwelling. If a door or other connecting feature is locked, and cannot be unlocked by residents on either side of the door, then the door is a barrier to the clear path. If the door cannot be unlocked by residents on both sides of the barrier then free and full access is denied. If both inhabited areas contain the required living, sleeping, food preparation and sanitation components then the space is functioning as two units and must meet the requirements for either an ADU or a duplex.

Existence of the following may be considered in assessing whether an ADU or incidental living space is present: separate electrical &/or gas meters; separate addresses; separate water heater; number of door signaling devices; existence of rental agreements or leases for a portion of the single family dwelling (other than permitted "lodger" agreements);

additional heat source; advertisements listing availability of a rental unit, or "for sale" advertisements describing a single family house with an additional unit or apartment.

IV. DECISION:

Incidental living /sleeping areas, which may include additional cooking or sanitation facilities, with unrestricted access to all common areas within a dwelling are not to be construed as ADU's. To be considered part of a single family dwelling, common areas including cooking and required sanitation facilities shall have unobstructed nominal access no less than 3 feet wide by 7 feet in height (less door framing).

Complete separate living facilities (defined as living/sleeping, food preparation and sanitation) must be designated as either a separate dwelling unit or an ADU.

An ADU is subject to the following minimum requirements:

- ADUs have separate entrances;
- ADUs are subject to the requirements of the Development Code which must be maintained;
- ADUs are subject to provisions of the International Residential Code;
- An ADU shall be separated from the primary residence by a one-hour fire rated assembly, or interconnected smoke alarms, or installation of residential fire sprinklers in accordance with NFPA 13D, or be in a separate building with an approved fire separation; and
- Occupants of both the ADU and the primary residence must have unrestricted access to utilities control supporting system components in their respective units or in a common area.

Spaces with free and full unrestricted access are not ADU's. They are incidental living/sleeping space and are not regulated by the Development Code and do not require fire separations or owner-occupation.

Assuming applicable codes can be met, a development will be considered a duplex if the second unit does not meet the conditions specified in SMC 20.40.210 including if neither of the units is owner-occupied.

If an illegal dwelling unit is identified, removal of food preparation facilities (cooking, sanitation and countertops) or bathing or sanitation facilities will be required.



Director's Signature

9-10-12

Date