

Mapleton City Planning Commission Staff Report

Meeting Date: June 10, 2010

Item: 5

Applicant: Mapleton City

Prepared by: Matt Brady

REQUEST

Mapleton City Staff requests a discussion item regarding Mapleton City Code Section 18.84.415, Second Kitchens Permitted as it relates to defining what constitutes a second kitchen.

FINDINGS OF FACT:

1. Mapleton City has received some inquiries regarding the possibility of changing the ordinance on second kitchens in accessory buildings that do not contain licensed accessory apartments to allow full kitchens, full bathrooms, and bedrooms.
2. See Attachment #1 for the current ordinance regarding second kitchens and accessory buildings that do not contain licensed owner occupied accessory apartments. See Attachment #2 for the current ordinance regarding owner occupied accessory apartments.

STAFF RECCOMENDATION:

This is a discussion item only. Staff suggests that the Planning Commission discuss the following items.

SUGGESTED DISCUSSION ITEMS:

1. Should bedrooms and full bathrooms be allowed in accessory buildings that do not contain licensed accessory apartments? (i.e. for some members of the family in the main home to use, but not a separate family).
2. The current ordinance allows for “washrooms” in accessory buildings (rooms containing a sink and toilet). Should tubs and/or showers (full bathrooms) be allowed in accessory buildings that are not licensed accessory apartments? If so, should their intended use be specified (for example: pool use, mechanical cleanup, agricultural work cleanup, but not for permanent living quarters use).
3. The current ordinance does not allow for stoves in “wet bar kitchenettes” in accessory buildings without licensed accessory apartments. Should stoves be allowed?
4. If any of the above changes are desired, should there be a minimum lot size for having bedrooms, bathrooms, full kitchens, etc., in accessory buildings that are not licensed accessory apartments? (Mapleton City Code 18.84.410: OWNER OCCUPIED ACCESSORY APARTMENTS requires a minimum lot size of 1 acre for detached accessory apartments). Also, should the accessory building be required to meet all other requirements that an accessory apartment would have to meet (i.e. 1,000 square feet maximum, part of a detached garage or barn but not more than 50% of the building, etc.) so that the buildings can be easily licensed as accessory apartments?
5. 18.08.145: FAMILY allows for guests up to 30 days per year – should this limit apply to anyone staying in accessory buildings, or should family members be allowed to live there permanently?
6. Should penalties be increased if violations of the ordinance occur?

	<p><u>ATTACHMENTS:</u></p> <ol style="list-style-type: none">1. Mapleton City Code <u>18.84.415: SECOND KITCHENS PERMITTED</u>2. Mapleton City Code <u>18.84.410: OWNER OCCUPIED ACCESSORY APARTMENTS</u>
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18.84.415: SECOND KITCHENS PERMITTED:

A. Second kitchens shall be permitted in any single-family residential detached dwelling unit, in any zone, as long as the following requirements are met:

1. The residence shall not be considered as two (2) dwelling units, and shall have only one front entrance.
2. The residence shall have only one address.
3. An interior access shall be maintained to all parts of the residence to assure that an accessory unit or apartment is not created. There shall be no keyed and dead bolt locks, or other manner of limiting or restricting access from the second kitchen to the remainder of the residence.
4. The residence shall have no more than one electrical meter, and no more than one water or sewer hookup.
5. A second kitchen shall exist only as part of the primary structure and shall not be installed in an accessory or "out" building.
6. Upon a twenty four (24) hour notice of request made by Mapleton City planning and zoning director or building official, the residence owner shall allow, within reasonable hours, an inspection of the residence which has a second kitchen, in order to determine compliance with this section.
7. The residence owner shall sign a written document prescribed by Mapleton City which declares that the residence will not be converted into two (2) or more units. The signature on such a document shall be notarized and the document shall be recorded with the Utah County recorder's office prior to issuance of a building permit. Once a second kitchen is approved under the above criteria, both present and future owners of the residence shall limit use of the single-family residence to a family only.
8. If the property owner, or a later applicant wishes to apply for an owner occupied accessory apartment pursuant to section 18.84.410 of this chapter, the limitations of the second kitchen agreement, if located in the accessory apartment, shall become null and void.
9. Construction of any such kitchen shall meet international building code standards.

B. A second kitchen shall not be established in a single-family residential structure which contains an accessory apartment, whether or not such accessory apartment was established pursuant to section 18.84.410 of this chapter.

C. Outbuildings, such as detached garages or barns, shall not be permitted a kitchen, however, a "wet bar kitchenette" shall be allowed for parcels of property that have a home located on the same lot or parcel. For the purpose of this section a "wet bar kitchenette" shall be defined as a one or two (2) bay sink, a refrigerator, cabinets, and temporary cooking utensils, such as a microwave, or toaster oven for the preparation of snacks. Stoves shall be prohibited. The "wet bar kitchenette" shall not be intended for use to prepare meals on a regular basis, and shall be considered as a facility for family entertainment. In no case shall an outbuilding be considered separate living quarters. Outbuildings that resemble separate living quarters, such as a building with bedrooms, bathrooms, and a kitchen or "wet bar kitchenette", shall be prohibited. Outbuildings with a washroom (sink) and a toilet, shall not be considered a "bathroom". (Ord. 2003-28, 11-5-2003, eff. 12-11-2003)

18.84.410: OWNER OCCUPIED ACCESSORY APARTMENTS:

A. Purpose And Objective: The purpose and objective of the owner occupied accessory apartment ordinance is to accommodate supplementary living accommodations in some appropriate areas of the community. These provisions are intended to meet community demands for affordable housing and residential accommodations for transient residents and extended family residents with reasonable limitations on their use and impact on neighboring properties and neighborhoods.

B. Exemptions: Except as provided under subsection I of this section regarding a separate dwelling unit, the provisions of this section do not apply if only family members, as defined under section 18.08.145 of this title, are residing at the residence.

C. Limitations On Owner Occupied Accessory Apartments:

1. Use And Location: An owner occupied accessory apartment is a permitted use in all residential zones, unless specifically prohibited by the zone text, under the following conditions:

a. Only one accessory apartment is allowed for a:

- (1) Lot or parcel of land; and
- (2) Primary dwelling unit;

b. The primary dwelling unit shall be a single-family detached dwelling unit;

c. Either the primary dwelling unit or the accessory apartment shall be occupied by a full time resident property owner as shown on the Utah County tax assessment rolls;

d. The minimum lot size where the primary dwelling unit is located shall not be less than fourteen thousand five hundred (14,500) square feet.

2. Parking:

a. A single-family dwelling with an owner occupied accessory apartment shall provide at least two (2) off street parking stalls designated for use by the accessory apartment in addition to the required off street parking required for the single-family dwelling.

b. A designated parking stall may not be located within a garage, unless at least two (2) other parking stalls within a garage are available for the primary dwelling unit.

c. Not more than one of the designated parking stalls may be located within:

- (1) The front yard setback; or
- (2) Side yard setback that is adjacent to a street.

d. A parking stall designated for use by the accessory apartment under subsection C2a of this section shall be paved or hard surface.

3. Utility Charges:

a. A single-family dwelling with an owner occupied accessory apartment shall be charged for the number of actual water connections and sewer connections.

b. All city provided utilities, including sewer, water, and garbage collection shall be in the property owner's name and the property owner shall be responsible for payment of all utilities.

c. In addition to the utilities charged under subsections C3a and C3b of this section, a single-family dwelling with an owner occupied accessory apartment shall be charged the equivalent of one hundred fifty percent (150%) of a monthly sewer connection fee, unless the single-family dwelling is not legally required to connect to the sewer system.

4. Minimum Dwelling Unit Size:

a. The size of an accessory apartment shall be at least three hundred (300) square feet and shall not exceed the size of the primary dwelling unit.

b. The primary dwelling unit shall maintain one thousand (1,000) square feet of finished living space separate from the accessory apartment.

c. The provisions of subsections C4a and C4b of this section do not apply to a single-family dwelling unit that existed prior to November 5, 2003, and converts the basement into an owner occupied accessory apartment.

5. Apartment Entrances:

- a. The design, construction, and appearance of the single-family residence shall be maintained.
 - b. In accordance with the provisions of subsection C5a of this section, an entrance or exit to or from the apartment shall be:
 - (1) On the side or rear of the structure; or
 - (2) Not visible from the street.
 - c. The single-family residence shall maintain an internal entrance into the accessory apartment.
6. Arrangements: A structure having an accessory dwelling unit under the provisions of this section shall provide separate kitchen, sleeping, and sanitary facilities for the accessory dwelling, that is separate from those provided as part of the primary dwelling unit.

7. Detached Buildings:

- a. One owner occupied accessory apartment may be located within a detached garage or barn if:
 - (1) The lot is located on a parcel of one acre or more unless specifically prohibited by the zone text;
 - (2) The building serves as a function other than a separate dwelling unit; and
 - (3) The property owner resides in either the primary dwelling unit or the accessory apartment.
- b. The detached garage or barn shall appear as if it was not a separate dwelling unit.
- c. The size of the accessory apartment shall not exceed fifty percent (50%) of the total size of the garage or barn, and the apartment may not exceed one thousand (1,000) square feet.
- d. The garage or barn shall be located on the same lot or parcel of property as the primary dwelling unit.

D. Owner Occupied Accessory Apartment Permit:

1. A person shall obtain a permit from the city if the person:
 - a. Is constructing or causing the construction of a residence that has an accessory apartment;
 - b. Is remodeling or causing the remodeling of a residence for an accessory apartment; or
 - c. Desires an accessory apartment.
2. Before the permit is issued, the applicant shall:
 - a. Submit a site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings or additions, dimensions from buildings or additions to property line, the location of parking stalls, and utility meters.
 - b. Include detailed floor plans drawn to scale with labels on the primary dwelling unit and the accessory apartment rooms indicating uses or proposed uses.
 - c. Pay fees, including a onetime owner occupied accessory apartment permit fee as established by Mapleton City for an accessory apartment in accordance with Mapleton City's established fee schedule, available at the Mapleton City offices.
3. a. After an owner occupied accessory apartment permit fee has been paid for an accessory apartment use at one location, no owner occupied accessory apartment permit fee will be required for future accessory apartment use of the same building.
 - b. If the proposed accessory apartment is located within a proposed new home, the owner occupied accessory apartment permit fee shall be paid for the new home.
 - c. The planning and zoning director in consultation with the city administrator and city controller, may establish a payment schedule by written agreement for the payment of the owner occupied accessory apartment permit fee for existing accessory apartments under this section.
 - (1) The agreement shall:
 - (A) Allow an applicant up to three (3) years to pay the onetime owner occupied accessory apartment permit fee, without interest charges, in equal payments made on a monthly or annual basis using a payment method specified by the city; and
 - (B) Provide for penalties for late payments consistent with existing city policies.
 - d. The owner occupied accessory apartment permit fee for an accessory apartment planned for a new home shall be paid at the time the impact fee is paid for the primary dwelling unit.

4. If the planning and zoning director denies an owner occupied accessory apartment permit, the decision is appealable to the city council. Appeal must be made to the city council within forty five (45) days, or the decision of the planning and zoning director is final.

E. Withdrawal Of Permit:

1. A permit for an accessory apartment may be withdrawn by the city planning and zoning director if:
 - a. The conditions upon which the permit has been issued no longer are maintained by the property owner; or
 - b. The property owner applies for a withdrawal which application shall include an affidavit that the property owner is not and will not allow any occupant to use the accessory apartment as a dwelling unit except in accordance with this section.
2. If made under this subsection E, a withdrawal allows the applicant to cancel additional city utility fees required under subsection C3 of this section while the accessory apartment is not occupied.
3. If the property owner allows the accessory apartment to be occupied as a dwelling unit during the period of a withdrawal under this section, all city utility fees from the date of the withdrawal are immediately due and payable to the city along with ongoing city utility fees required under subsection C3 of this section.
4. A withdrawal may be canceled under this section if the applicant applies for a new permit, pays an application and inspection fee in accordance with the city fee schedule, and obtains a permit under this section for an owner occupied accessory apartment.
5. If the planning and zoning director withdraws a permit or denies a new permit, the decision is appealable to the city council. Appeal must be made to the city council within forty five (45) days, or the decision of the planning and zoning director is final.

- F. Building Codes: All construction and remodeling shall comply with building codes in effect at the time of construction or remodeling, except that it is optional with the property owner whether to provide separate gas, water, and electrical systems.

G. Prior Uses:

1. Owner occupied accessory apartments have not been, prior to November 5, 2003, a legal use of land within Mapleton City.
2. No accessory apartments existing prior to November 5, 2003, shall be "grandfathered", or considered legal solely because they were previously used as an accessory apartment.
3. It is the intent of the city council that all owners of an accessory apartment promptly apply for and, upon compliance with this section, be issued a permit.

- H. Addressing: An owner occupied accessory apartment will not be given a new address by the city. Homes with owner occupied accessory apartments can refer to mail to its accessory apartment by the same address as the home and refer to the main address as "A" and the accessory apartment address as "B".

I. Separate Dwelling Units:

1. Except as provided under this section or as specifically provided by ordinance, no other type of apartment is allowed.
2. Any portion of a home or dwelling unit that has been sectioned off so that any occupant in the dwelling does not have access to any portion of the home, and contains separate living quarters and/or a kitchen, regardless of the relationship of the occupants, is prohibited unless:
 - a. It meets all of the requirements of this section; and
 - b. An application has been made and a permit issued in accordance with the requirements of this section. (Ord. 2008-14, 8-6-2008, eff. 9-24-2008)