

SUMMARY OF AGENDA ITEM

DATE: January 8, 2009

TO: Mayor and Council

FROM: Ray Erlandsen
Acting Community Development Director

SUBJECT: Ordinance 752, Resolution 2458
Proposed Amendment to the Unified Development Code (UDC)
Section 15-02-004, Residential District Uses & Various Related UDC Sections

PURPOSE:

Amend the Unified Development Code (UDC) to allow for and regulate the use of accessory dwelling units. In addition, definition language as well as related language would be amended to reflect the allowed use.

SUMMARY:

Currently, a provision exists in the Unified Development Code allowing guest quarters with kitchen facilities if a conditional use permit is obtained. These guest quarters may not be rented. A growing concern regarding affordable/workforce housing spurred debate regarding alternate forms of residential living. In mid 2007, the Planning & Zoning Commission directed staff to research how local utilities and Town departments were affected by "Guest Quarter" uses. During this research and further discussion at the Commission level, it was realized that a previously unexplored housing resource existed – accessory dwelling unit (ADU). Across the country, ADU's have become increasingly popular due to the changing needs of society by providing, to name a few, a housing option for extended families, a temporary residence for those searching for their first home and by providing a source of income to allow some to remain in their home. Through the rest of 2007 and into 2008, further research and discussion was conducted by a study group of citizens and two representatives of the Commission that ultimately led to a model ADU ordinance that Sedona is considering adopting. The study group recommended that this model be presented to the Commission for their consideration as the model had essentially all of the elements they had envisioned for a proposed ordinance for Payson. Upon review at a public meeting, the Commission agreed and directed staff to present this proposal to the Council for their consideration and direction.

A council decision request (CDR) was presented to the Council on November 20, 2008, at which time staff was directed to prepare the appropriate code amendment to implement the proposed amendment to the UDC.

The proposed UDC language would provide for administrative approval of two new and one existing category of residential uses. New to the UDC would be Guest Houses, which would have no kitchen and could not be rented. Currently existing in the UDC but modified slightly, would be Guest Quarters which allows a kitchen but could not be rented as well. The most comprehensive addition to the UDC would be Accessory Dwelling Unit (ADU), which could have a kitchen and could be rented, if all proposed requirements are met.

Staff recommends approval of Ordinance 752 and Resolution 2458.

FIRST READING + PUBLIC HEARING JAN 08, 2009 G.7

ORDINANCE NO. 752

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING THE UNIFIED DEVELOPMENT CODE RELATING TO ACCESSORY LIVING QUARTERS, INCLUDING ACCESSORY DWELLING UNITS, GUEST HOUSES, AND GUEST QUARTERS AND ADOPTING SUCH AMENDMENTS BY REFERENCE (ACCESSORY DWELLING UNITS).

WHEREAS, The Town currently allows Guest Houses and Guest Quarters to be utilized in Single Family zoning districts; and

WHEREAS, such Guest Houses and Guest Quarters may only be used for nonpaying guests;; and

WHEREAS, the Town desires to amend the Guest House and Guest Quarters provisions of the Unified Development Code and to additionally add a provision allowing Accessory Dwelling Units which may be rented; and

WHEREAS, on October 13, 2008, the Planning and Zoning Commission held a Public Hearing on the recommended amendments to Guest Houses and Guest Quarters and the addition of Accessory Dwelling Units and recommended approval of such amendments and additions; and

WHEREAS, on January 8, 2009, the Payson Town Council conducted a public hearing on the proposed amendments and additions; and

WHEREAS, the Town finds that the amendments to the Guidelines will provide clarity, streamline the review process, and provide consistency to applicants; and

WHEREAS, amendments to Sections 15-02-004, 15-02-005, 15-02-013, 15-11-002, 15-12-001, and 15-12-002 of Chapter 154 (The Unified Development Code) of the Code of the Town of Payson were declared to be a public record by Resolution 2458; and

WHEREAS, it is the desire of the Mayor and Common Council to amend the Code of the Town of Payson by amending Sections 15-02-004, 15-02-005, 15-02-013, 15-11-002, 15-12-001, and 15-12-002 by reference pursuant to A.R.S. § 9-802,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. That the amendments to Sections 15-02-004, 15-02-005, 15-02-013, 15-11-002, 15-12-001, and 15-12-002 (Relating to Accessory Living Quarters) of Chapter 154 (the Unified Development Code) of the Code of the Town of Payson set forth in Resolution 2458 were heretofore declared to be a public record by such Resolution,

and that the amendments to Sections 15-02-004, 15-02-005, 15-02-013, 15-11-002, 15-12-001, and 15-12-002 are hereby referred to and adopted by this reference as though all the provisions thereof were set forth in full in this Ordinance Number 752.

Section 2. That at least three copies of the amendments to Sections 15-02-004, 15-02-005, 15-02-013, 15-11-002, 15-12-001, and 15-12-002 of Chapter 154, as adopted by this Ordinance Number 752 shall be filed in the Office of the Clerk of the Town of Payson and the same shall be maintained and kept available for public use and inspection.

Section 3. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance Number 752 are hereby repealed to the extent of such conflict.

Section 7. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council of Payson declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, phrases, or portions may be declared invalid or unconstitutional.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this ____ day of _____, 2009, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney

**RESOLUTION NO. 2458 IS
PROVIDED FOR INFORMATION
ONLY
AT THE 1/8/09 COUNCIL MEETING.**

**RESOLUTION NO. 2458 WILL
BE AGENDIZED AS AN ACTION ITEM
AT THE 1/22/09 COUNCIL MEETING.**

RESOLUTION NO. 2458

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADOPTING AMENDMENTS TO THE UNIFIED DEVELOPMENT CODE RELATING TO ACCESSORY LIVING QUARTERS, INCLUDING ACCESSORY DWELLING UNITS, GUEST HOUSES, AND GUEST QUARTERS, AND DECLARING SUCH AMENDMENTS TO BE A PUBLIC RECORD.

WHEREAS, the Code of the Town of Payson was declared to be a public record by Resolution Number 1536 of the Town of Payson; and

WHEREAS, the Code of the Town of Payson was adopted as a public record by Ordinance Number 588 of the Town of Payson; and

WHEREAS, it is the intention of the Town of Payson to amend the Unified Development Code relating to Accessory Living Quarters, including Accessory Dwelling Units, Guest Houses, and Guest Quarters; and

WHEREAS, such amendment may be enacted by reference, pursuant to A.R.S. § 9-802,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. The definitions set forth below are hereby added to Section 15-11-002 of the Unified Development Code, are declared to be a public record, and as added shall read as follows:

ACCESSORY LIVING QUARTERS. See **ACCESSORY DWELLING UNIT, GUEST HOUSE, or GUEST QUARTERS.**

ACCESSORY DWELLING UNIT (ADU). A habitable living unit added to, created within, or detached from a primary dwelling unit that provides basic requirements for living, sleeping, cooking, and sanitation.

GUEST HOUSE. A habitable living unit added to, created within, or detached from a primary dwelling unit that (1) is connected to the same utility services as the primary residence, (2) does not contain kitchen facilities, (3) contains one or more rooms used by guests of the occupants of the primary dwelling unit, and (4) is not rented.

Section 2. The definition of Guest Quarters set forth in Section 15-11-002 of the Unified Development Code is hereby amended, is declared to be a public record, and as amended shall read as follows:

GUEST QUARTERS. A habitable living unit added to, created within, or detached from a primary dwelling unit that (1) is connected to the same utility service as the primary residence, (2) contains kitchen facilities, (3) contains one or more rooms used by guests of the occupants of the primary dwelling unit and (4) is not rented.

Section 3. The following uses set forth in the Table of Residential District Uses, Section 15-12-001 of the Unified Development Code are hereby amended and/or added, are declared to be a public record, and shall read as set forth below:

Use Description	R-1	R-2	R-3
Guest Houses, subject to 15-02-004(E)(1)	P	n/a	n/a
Guest Quarters, subject to 15-02-004(E)(2)	P	n/a	n/a
Accessory Dwelling Units, subject to 15-02-004(E)(3)	P	n/a	n/a

Section 4. The use description “Guest House” is hereby removed from Section 15-12-002 of the Unified Development Code. (Commercial Uses Table)

Section 5. The references in Section 15-02-013(D)(11) of the Unified Development Code to “accessory residential unit” and “accessory apartment” are amended, are declared to be a public record, and as amended shall read “Accessory Dwelling Unit.”

Section 6. Section 15-02-004(E) is hereby added to the Unified Development Code, is declared to be a public record, and as added shall read as set forth in Exhibit A attached hereto.

Section 7. Section 15-02-005(B)(11) of the Unified Development Code is hereby repealed.

Section 8. If any section, subsection, sentence, clause, phrase or portion of Resolution Number 2458 is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of Resolution Number 2458. The Town Council of Payson declares that it would have adopted Resolution Number 2458 and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, phrases, or portions may be declared invalid or unconstitutional.

**PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF
THE TOWN OF PAYSON** this ____ day of _____, 2009, by the following
vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney

Exhibit A to Resolution 2458

15-02-004: Residential District Uses

E. Guest Houses, Guest Quarters, and Accessory Dwelling Units

[no kitchen, no rent]

1. Guest Houses shall be subject to the following regulations: (1) Guest Houses shall be architecturally compatible with the primary dwelling unit; (2) travel trailers and recreational vehicles may not be used as Guest Houses; and (3) all applicable district standards must be followed.

[kitchen, no rent]

2. Guest Quarters shall be subject to the following regulations: (1) all requirements for a Guest House must be followed; and (2) the Community Development Director, or designee, shall approve the Guest Quarters. In approving the Guest Quarters, the Community Development Director, or designee, may require any condition that may be required under a Conditional Use Permit.

[kitchen, rent]

3. Accessory Dwelling Units (ADU's).
 - a. Purpose. The purposes of this section are to:
 - (1) allow for and regulate the establishment of Accessory Dwelling Units;
 - (2) preserve the character and property values of residential neighborhoods;
 - (3) fully utilize residential housing supply in existing neighborhoods;
 - (4) provide additional options for long term rental housing within a wide range of affordability;
 - (5) increase opportunities for home ownership; and
 - (6) allow older homeowners to remain in their homes and obtain extra income, companionship, and security.
 - b. Standards and Criteria. All ADU's shall be subject to the following regulations:
 - (1) Only one ADU is allowed per residential lot as an accessory use in conjunction with any primary dwelling unit.
 - (2) Either the ADU or the primary dwelling unit shall be exclusively occupied by the owner of the property. In no case may both units be rented.
 - (3) ADU's shall have at least 300 square feet of living space. Detached ADU's shall not be more than 800 square feet of living space or more than 33% of the size of the primary dwelling unit, whichever is greater. ADUs within a primary dwelling unit shall not be more than 33% of the total square footage of the unit. The Community Development Director, or designee, may grant an exception to the size limitations in this subsection if a greater or

lesser amount of living space is warranted by the circumstances of the ADU.

- (4) ADU's shall be designed to preserve or complement the architectural design, style, and appearance of the primary dwelling unit.
 - (5) Travel trailers and recreation vehicles may not be used as an ADU.
 - (6) ADU's shall comply with all applicable codes including zoning, building, electrical, fire, mechanical, and plumbing.
 - (7) Sufficient onsite parking shall be provided for the primary dwelling unit and the ADU.
 - (8) Any new parking space(s) shall utilize the existing driveway. The Town Engineer, with the concurrence of the Community Development Director may allow exceptions to this requirement on a case-by-case basis.
 - (9) Occupancy shall be limited to two (2) persons for ADUs of less than 400 square feet, three (3) persons for ADUs of 400 to 600 square feet, and four (4) persons for ADUs over 600 square feet.
 - (10) Home-Based Businesses, in compliance with the other provisions of this Code, shall be allowed in both the primary dwelling unit and the ADU.
- c. Application, Affidavit, and Permits. Prior to renting an ADU, the owner of the property shall:
- (1) Submit a completed ADU application including any fees and an affidavit of owner occupancy;
 - (2) Obtain a building permit for all applicable remodeling and/or construction; and
 - (3) Receive a certificate of occupancy for the primary dwelling unit and the ADU.
- d. Existing Units. ADUs existing prior to enactment of these general requirements shall be allowed if the property is brought into compliance the provisions of this Section