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## **Memorandum**

**Date:** 14 April 2016  
**To:** Whom it may concern  
**cc:** Mayor, City Council, P&Z, City Attorney, Zoning Official, Building Official,  
Public Services Director  
**From:** Lee C. Belt, City Clerk, Assistant Zoning Official  
**RE:** ACCESSORY DWELLINGS

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Greetings!

This memorandum is an analysis of Greenleaf Code to give guidance for those interested in establishing accessory dwellings (also known as accessory dwelling units or ADUs) within residential zones in the City of Greenleaf as of the date of this document. ADUs may include guest houses, mother-in-law cottages, and 'tiny homes' that are classified as a site built dwelling or a modular building on foundation.

An accessory dwelling is defined under GC §9-2-2 as follows:

DWELLING, ACCESSORY: A dwelling unit that is secondary and incidental to the main residence. An accessory dwelling unit may be separate from, or a part of, the main residence, and may be used for visitors, guests and family members or as the residence of a caretaker or other employee who works on the same property. An accessory dwelling unit may not be used for lease or rental purposes, other than to such an employee and that employee's family. Accessory dwelling units are not considered for purposes of determining development density. An accessory dwelling unit must meet the requirements of city code, where applicable, for separate water connections, and shall be separately connected to a municipal sewer main, or meet all governmental standards for water and sewage systems where municipal systems are not available.

“Accessory use, residential” is listed as a permitted use for all residential zones in Table 9-3-2 (permitted and conditionally permitted uses within residential zones).

Before a building permit may be issued, ADUs must go through a design review process per Greenleaf Code Chapter 16, Title 9, as follows:

Chapter 16  
DESIGN REVIEW

9-16-1: GENERAL:  
9-16-2: DESIGN APPROVAL:  
9-16-3: PERMITS:  
9-16-4: PROCESS:

9-16-5: APPLICATION:  
9-16-6: CRITERIA:  
9-16-7: SIDEWALKS, CURBS AND GUTTERS:  
9-16-8: APPEAL:

9-16-1: GENERAL: This chapter specifies the process whereby the city incorporates the design guidelines for all new construction and remodeling of structures, landscaping, lighting, and public amenities within the city and the impact area. (Ord. 205, 10-25-2006)

9-16-2: DESIGN APPROVAL: No person shall build or develop a commercial, industrial, public or semipublic project (including private clubhouses or recreational facilities), an accessory dwelling unit, any multi-family residential project, any single-family dwelling unit with living area greater than two thousand five hundred (2,500) square feet, or any sign, within the city of Greenleaf, without first preparing and presenting the information required by this chapter and receiving design review approval. Additionally, no person shall substantially remodel or alter the exterior of any such project prior to meeting the requirements of this chapter. Although not subject to formal design review, all other residential dwelling units shall also meet the requirements of the design guidelines. However, applications for nonemergency temporary structures are not subject to design review, but are subject to the conditional use permit process as set forth in chapter 13 of this title. All projects to which this chapter applies shall be reviewed by the zoning official or by the commission as follows:

A. Authority Of The Zoning Official: The zoning official has the authority to recommend for approval or denial certain applications for design review that the zoning official determines will have no substantial impact on adjacent properties or on the community at large, subject to recommendation of approval or denial by the commission. Such recommendation for approval or denial shall specify the ordinance and standards used in evaluating the application; the reasons for the approval or denial; and recommended conditions, if any. Applications reviewed by the zoning official and placed on the commission's agenda may include, but are not limited to, building heights greater than thirty feet (30') in any residential district, additions under five hundred (500) square feet, facade and exterior finish changes and changes to the color and type of roofing materials.

B. Authority Of The Commission: The zoning official shall present complete applications for approval or denial to the commission. The commission will review and recommend approval, denial, or condition to the project. A public hearing may be held on the application at the discretion of the commission.

C. Final Action Of The City Council: Design review recommendation by the commission will be placed on the consent agenda for the city council's final decision.

D. Exceptions: Any application within a residential zone which is subject to a subdivision design approval, and for which the design guidelines of the subdivision have been reviewed and accepted by the city, shall show evidence of design approval by the authority of the subdivision prior to the granting of a building permit. Absent such

evidence, the applicant shall proceed under the procedures below.  
(Ord. 205, 10-25-2006)

9-16-3: PERMITS: No permits shall be issued by the zoning official or building official of the city for construction of any building, project, or other improvement requiring a permit before the demands specified by this chapter are met and approval is granted. (Ord. 205, 10-25-2006)

9-16-4: PROCESS:

A. A preapplication conference with the zoning official is recommended. At this meeting, the zoning official will familiarize the potential applicant with the review process that will apply to the project and with related city regulations and review criteria that may affect the project. The applicant shall bring site specific information including conceptual drawings in order to familiarize the zoning official with the specifics of the proposal.

B. Detailed design drawings shall be submitted for final design review. All application materials must be submitted forty five (45) working days prior to scheduled meeting or noticed hearing before the planning and zoning commission. Construction plans or working drawings are not required prior to review. At this stage, the applicant must provide architectural drawings showing building materials, details or windows, doors and all exterior features as set forth in this chapter and be prepared to explain how this project complies with the design guidelines. Descriptions or details of all materials proposed for the exterior of the building are required. Samples, including color chips, are recommended. A minimum scale of one-eighth inch to one foot (1/8" = 1'0") is recommended.

C. The zoning official and other city staff shall review all projects ensuring conformance with the underlying zone requirements, improvement standards and design review guidelines.

D. Public notice in accordance with Idaho Code 67-6509 must be provided in those cases where a hearing before the commission is to be held.

E. The project is reviewed by the zoning official or the commission. The reviewing body will approve, deny or conditionally approve the applicant's request based on criteria outlined in section 9-16-6 of this chapter.

F. In order for a building permit to be issued, final construction drawings must be reviewed and approved by the building department. Application for a building permit must occur within one year of design review approval. The expiration date may be extended once, for an additional six (6) months, upon written request to the zoning official. Such request must be received prior to the expiration date. The commission shall review and approve or deny the request for extension. (Ord. 205, 10-25-2006)

9-16-5: APPLICATION: The following information is required forty five (45) working days before the project can be reviewed by the planning and zoning commission. Applications for review by the commission shall include any or all of the following information, as requested by the planning staff. All design review plans and drawings for public projects, industrial,

commercial projects, multi-family and residential projects or a residential dwelling with living area greater than two thousand five hundred (2,500) square feet, shall be prepared by an Idaho licensed architect, a licensed architect of another state which has a reciprocal agreement with Idaho, or other appropriate licensed professional.

A. The project name.

B. The specific location of the project.

C. Fifteen (15) copies, prepared in a professional manner, showing at a minimum the following:

1. Vicinity map, to scale, showing the project location in relationship to neighboring buildings and the surrounding area.
2. Site plan, to scale, showing proposed parking, loading, and general circulation.
3. Evidence of subdivision design review specifications in force and approval granted by the city.
4. Detailed elevations of all sides of the proposed building and other exterior elements.
5. Sign plan.
6. Landscaping plan.
7. Exterior lighting plan, pursuant to chapter 14 of this title.
8. Floor plan.
9. Utilities plan.
10. Drainage plan.

These plans may be combined on the same sheets.

D. Applicant name(s) and representative (if any).

E. Other information as required by the zoning official or the commission.

F. Payment of fees. (Ord. 205, 10-25-2006)

9-16-6: CRITERIA: The commission shall determine the following before approval is given:

A. The project is in general conformance with the comprehensive plan.

B. The project does not jeopardize the health, safety or welfare of the public.

C. The project conforms to the applicable specifications outlined in the city of Greenleaf design guidelines, incorporated by reference herein, as well as all other applicable requirements of any zoning

ordinance and subdivision ordinance, adopted by the city of Greenleaf. (Ord. 205, 10-25-2006)

9-16-7: SIDEWALKS, CURBS, AND GUTTERS: Sidewalks shall be required improvements for projects requiring design review approval in the commercial zones, or other districts where existing sidewalk adjoins the subject property, or where the commission determines sidewalks are necessary for public safety. Sidewalks (and curb and gutter where required) shall meet the standards set forth in this code. (Ord. 205, 10-25-2006)

9-16-8: APPEAL: Any aggrieved applicant may petition the city council for a hearing to review the actions of the commission. (Ord. 205, 10-25-2006)

**ADUs may be used as rental units through the conditional use permit process, per GC §9-7-17 and GC §9-13-3-5, as follows:**

9-7-17: ACCESSORY USES, BUILDINGS, AND STRUCTURES:

A. Accessory dwelling units may be utilized as rental units with a rental conditional use permit. An accessory dwelling unit may be used for lease or rental purposes subject to the requirements of this code. Accessory dwelling units are not considered for purposes of determining development density. An accessory dwelling unit must meet the requirements of this code, where applicable, for separate water connections, and shall be separately connected to a municipal sewer main, or meet all governmental standards for water and sewage systems where municipal systems are not available.

B. An accessory building shall have the same exterior finishing colors and textures as the principal building to which it is accessory, unless some other design or materials are approved by the commission under the procedures for a conditional use; provided, that if the building roof does not comply with fire mitigation standards, materials which do meet those standards may be substituted. (Ord. 205, 10-25-2006)

9-13-3-5: RENTAL OF ACCESSORY DWELLING UNITS:

A. Accessory dwelling units located within any residential or commercial zone may be rented by the owner upon approval of a conditional use permit (CUP) for rental. All standards for conditional use permits (this section 9-13-3) are applicable, except as follows:

1. Applicant shall complete and file a modified CUP application form for this use as well as a CUP rental unit fee.
2. Absent an appeal, there will be a public hearing before the commission only (see chapter 15, "Procedures, Appeals And Action", of this title).
3. The commission will decide for, or against, approval of the permit after the public hearing; the zoning official will so advise the applicant and provide to the council on a monthly basis a summary of approvals under this section.

4. For short term rental contracts ("short term" means 31 consecutive days, or less), the owner must be in residence in the principal dwelling unit.

5. For longer term rental contracts, the owner of the property, or his representative, must be available for consultation with the zoning official, including forwarding addresses or other means of contact.

B. Permits are good for one year and must be renewed annually to be valid. Permits will expire automatically one year after the application is filed and accepted by the city unless renewed.

1. The applicant may reapply for a permit renewal in writing to the zoning official; no further hearing will be required unless the zoning official determines, through review of the previous history of this permit, there have been excessive complaints by the police department or violations of the terms of the permit.

2. Reapplication should be filed at least forty five (45) days before expiration to assure renewal before expiration.

C. There is no recordation required.

D. In the event that the terms of the permit (i.e., findings and conclusion) are violated by the owner, or representative of the owner, then the permit shall immediately become null and void. Such an action taken under this section will be decided by the zoning official.

E. In the event of complaints received (due to excessive noise, disruptions, parking violations, or other valid nuisances) from interested parties, the zoning official may hear, in a public meeting, these complaints and decide on a further course of action. The owner, or representative, or the complainant may appeal a ruling to the commission for a final judgment. See title 1, chapter 10 of this code for contested hearing procedure. (Ord. 205, 10-25-2006)

**If the ADU is a separate structure, then per GC §7-5-7:A, municipal sewer service will require a separate connection and service line from the sewer main, but per GC §7-4-9:A:4:d, municipal potable water service for the ADU may either be served by a separate meter and service line, or share the primary residence's water service connection, as determined on a case-by-case basis and at the discretion of the Public Services Commission.**

7-5-7:A Sewer Connection Required: Every structure deemed a separate dwelling unit, commercial, or industrial use building(s) with adjacent city sewer within the corporate limits of the City shall be separately and independently connected by a separate building sewer to the POTW, except as provided herein. An application for service shall be denied when the capacity of the City's POTW might be impaired or there are slope and/or other design issues based upon reasonable engineering standards and practices regarding such installation as it pertains to maintenance, materials used, diameter of the line, the providing of cleanouts, and the relationship of the buildings to the POTW.

7-4-9:A:4:d Multiple buildings on the same parcel shall be separately

and independently connected by a separate meter. Multiple units within the same structure or multiple other additional uses on the same parcel, which may include but not be limited to, in-ground swimming pools, mother-in-law quarters, accessory residential space including within an airplane hanger may be served by a single meter on a case-by-case basis at the discretion of the Public Services Commission with input from the Director, Building Official and City Engineer as to requirements that may be imposed for up-sizing the water meter and/or assessment of multiple equivalent dwelling units (EDUs), with partial connection fees (calculated as the difference in connection fees for the size of the new larger meter installed and the size of the smaller meter replaced) and any other fees and charges as applicable and set by resolution of the City Council. If the applicant is unsatisfied with the determination of the Public Services Commission, the applicant may appeal to the City Council in accordance with the procedures in title 1, chapter 10 of this code.

**Connection fees are applicable, per GC §7-4-9:A:4:d for municipal water (above), and §7-5-7:B:3 and §7-5-15:A for sewer (below):**

7-5-7:B:3. Fees: Before any sewer service connection permit shall issue, the applicant shall pay to the City at the time of application a sewer service connection permit fee as provided in Section 7-5-15(A) of this chapter for each permit issued.

7-5-15:A Sewer System Connection Permit Fee: Before any sewer service connection permit shall issue, the applicant shall pay to the City at the time of application a sewer service connection permit fee for each permit issued which shall include the costs of inspection, administrative costs and the sewer service availability fee, as described herein:

1. Sewer Service Availability Fee: The sewer service availability fee shall be calculated and based upon an equity buy-in of the new connection which shall be determined using a formula which includes the current value of the POTW capacity and the proportionate value of that portion of the current POTW capacity that will be utilized by the applicant's connection; and may include additional fees for areas served which require additional sewer facilities in order to facilitate the availability of the sewer service to that area. The sewer availability fee may be different for residential, commercial, and industrial uses, depending upon the considerations of effluent quality, but shall be as consistent as possible under similar factual circumstances. The sewer service availability fee shall be assessed in terms of equivalent residential units.

2. Non-Residential Sewer Service Availability Fee: The sewer service availability fee for a non-residential customer may be based on a contractual arrangement with the City. Such agreement shall be individually negotiated and shall provide for a lump sum payment, or defined series of payments, to the City in exchange for connection to the City sewer system. No connection of a new non-residential facility or any addition to an existing non-residential facility to the POTW shall be made without a contractual arrangement for such connection between the City and the user being affected.

**It is highly recommended that those interested in building an ADU request a pre-application conference, per GC §9-16-4:A (p.3 above).**