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BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

In the Matter of the Appeal of the:  
  
**QUEEN ANNE COMMUNITY  
COUNCIL**  
  
of the Final Environmental Impact  
Statement for the Citywide Implementation  
of ADU-FEIS.

Hearing Examiner File W-18-009  
  
PART 5  
  
EXHIBIT A TO THE  
DECLARATION OF TADAS KISIELIUS  
IN SUPPORT OF SEATTLE CITY  
COUNCIL'S MOTION FOR PARTIAL  
DISMISSAL

# Seattle Permits

— part of a multi-departmental City of Seattle series on getting a permit

## Establishing a Backyard Cottage

Updated February 8, 2016

This Tip explains how to establish a backyard cottage, also known as a detached accessory dwelling unit, DADU, or mother-in-law unit.

Backyard cottages are not permitted on lots in the shoreline districts within single-family zones.

Please see Tip 116A, *Establishing an Attached Accessory Dwelling Unit*, for rules and information about ADUs.

**Note:** You will need to pay a King County capacity charge when you construct a DADU. You will get your capacity charge bill from King County about three months after we report your sewer connection. King County will send you a bill every 3 months for 15 years, or until the balance of your property's account is paid. You may pay the remaining balance in one lump sum at a discount any time during that 15-year period. For more information, or to contact the King County Wastewater Division directly, go to [www.kingcounty.gov/services/environment/wastewater/capacity-charge/faq](http://www.kingcounty.gov/services/environment/wastewater/capacity-charge/faq).

### What is a Backyard Cottage?

A backyard cottage is a room or set of rooms designed and established by permit to be a separate dwelling unit. Backyard cottages share a lot with a single-family home in a single-family zone or with a rowhouse or townhouse in a lowrise zone.

Backyard cottages generally include living, sleeping, kitchen and bathroom facilities and have a lockable entrance door. For more information, see Tip 606, *Illegal Dwelling Units*; Seattle DCI Director's Rule 7-83, *Determining the Existence of a Dwelling Unit for Purposes of Code Enforcement*; and Director's Rule

10-95, *Attached vs. Detached as Applied to Accessory Structures and Uses*.

### What requirements must be met to establish a backyard cottage?

In single-family and lowrise zones, you can establish a backyard cottage only if the following criteria are met:

- The property owner must occupy either the home or the backyard cottage as a permanent and main residence. The owner-occupant must have at least a 50 percent interest in the property, and must live in the structure for more than six months of each calendar year. The owner is allowed to receive rent for the owner-occupied unit.
- Owners must sign, notarize, and record with King County an owner-occupancy covenant. The original covenant must be returned to Seattle DCI before we issue a building permit.
- The total number of residents in both dwelling units cannot exceed eight, unless all residents of both units are related to each other.
- A lot may have no more than one accessory dwelling unit or backyard cottage.

In addition, in single-family zones, you can establish a backyard cottage only if these additional criteria are met:

- The lot is at least 4,000 square feet.
- The backyard cottage's gross floor area is no more than 800 square feet, including garage and storage areas.
- The entrances to the backyard cottage may not face the nearest side lot line or the rear lot line, unless there is an alley abutting on that side of the lot.
- The conversion of an existing structure, such as a garage, into a backyard cottage does not increase any existing non-conformities to the Land Use Code.
- One off-street parking space is provided for the backyard cottage, except in designated urban villages and urban centers. You cannot remove an existing,



required off-street parking space to build a backyard cottage, unless you replace the parking space somewhere else on the lot, in conformance with the code. (See an exception on the next page.)

- In rooms that were built as sleeping rooms or that were converted or established by permit as sleeping rooms after Aug. 10, 1972, there must be at least one operable window or exterior door approved for emergency escape or rescue. You must be able to open the window or door from the inside. All emergency escape windows must have an unobstructed opening of at least 5.7 square feet (openings that are at-grade and on the floor are allowed to be 5 square feet). The window's usable opening must be at least 24 inches tall and at least 20 inches wide. The escape window must have a finished sill that is not more than 44 inches above the floor. You can measure the sill height from the top of a constructed step that extends the width of the window, as long as the riser is no more than 8 inches and the tread is no less than 9 inches.
- The backyard cottage must meet all the Seattle residential, building, mechanical, electrical, and energy code requirements that apply to single-family and two-family (duplex) dwellings.
- If converting a structure to a backyard cottage, you must fully comply with the Seattle Energy Code.
- Electrical circuit breakers and fuses and a heat source and temperature controls must be located in the dwelling unit that they serve, or be located in common areas accessible to all residents.

In lowrise zones, you can establish a backyard cottage for rowhouses and townhouses when:

- The backyard cottage is no more than 650 square feet.
- The floor area of the backyard cottage is no more than 40 percent of the total floor area on the lot that is used for residential purposes, excluding garages, storage sheds, and other non-habitable spaces.
- Exterior stairs to a backyard cottage may not be more than 4 feet tall, except if the stairs serve a unit above a garage.
- Parking is not required for a backyard cottage in a lowrise zone.

### Are there any exceptions to these requirements?

**Parking**—We do not require parking for backyard cottages if the property is within a lowrise zone or in a single-family zone in a designated urban village or urban center. We may grant a waiver of the required

parking space for the backyard cottage in other areas if the site's topography or the location of the structure makes it unduly burdensome to provide a parking space. For information on how to apply for a parking waiver, see Tip 117, *Parking Waivers for Accessory Dwelling Units*.

**Development Standards**—Except for height and front yard requirements, the Seattle DCI Director may allow exceptions to development standards for backyard cottages built in existing structures.

**Temporary owner absence**—If we determine that the owner has violated owner-occupancy requirements for backyard cottages, we will require the owner to: 1) reoccupy the building, 2) remove the backyard cottage, or 3) submit evidence showing good cause for a waiver of the owner-occupancy requirement. Factors such as job relocation, sabbatical leave, education, or illness will be considered for a waiver of the owner-occupancy requirement for up to three years.

### What are the process, cost and submittal requirements for establishing a unit?

To begin the process to establish a backyard cottage, you must first complete and submit a preliminary application, in person or by mail, to our Applicant Services Center (ASC):

- Location:** 20th floor of Seattle Municipal Tower  
700 Fifth Ave.
- Mailing Address:** 700 Fifth Ave., Suite 2000  
P.O. Box 34019  
Seattle, WA 98124-4019
- Phone:** (206) 684-8850

We will confirm the legal description and address of your home and assign you a project number.

Before you schedule an intake appointment you must:

- Prepare three sets of plans, including a Seattle DCI coversheet, site plan, and floor plans (including the main house and the backyard cottage) and energy calculations.
- Provide elevations if you are building a new structure or making changes to the building envelope.
- Prepare full plan sets, including framing plans, foundation plans, sections, etc., if you are building a new structure or an addition.

- Complete the attached application form.
- Fill out the attached owner occupancy covenant, get it notarized, and record it with King County Recorder's Office.
- Complete any relevant waiver form(s).

Your plans must clearly identify where you are doing new work to create the backyard cottage. For information on plan requirements, see Tip 103, *Site Plan Requirements*, Tip 106, *General Standards for Plans and Drawings*, Tip 303, *Applicant Responsibilities and Plan Requirements for Single Family and Two-Unit Dwelling Units*, and Tip 303A, *Common Seattle Residential Code Requirements*.

Once you have your application material completed, bring it to the ASC for screening by a permit leader. If your material is complete, we will schedule you for an intake appointment. At your intake appointment, you must pay your permit intake fee and a plan review fee based on the value of the work to be done.

Your owner occupancy covenant will become part of the title records for your property. Bring the original with recording number to Seattle DCI with your permit application.

We will review your permit application and plans to make sure they conform with City of Seattle codes. We will notify you if you need to make corrections and to inform you of our decisions on any waiver requests. Do not assume that your waiver request will be granted. If you need to make corrections, you will need to pick up your plans from Seattle DCI, make necessary changes, and resubmit them for review. Once we approve your plans, we will issue your permit at the Seattle DCI permit issuance desk on the 20th floor of the Seattle Municipal Tower.

There will be no public comment period and no appeal opportunity to the Hearing Examiner or City Council. You are responsible for complying with all applicable code and rule requirements, whether or not they are described in this Tip. As you build your backyard cottage, you must call us at (206) 684-8950 to schedule your required inspections. When your project is complete, call your inspector and request a final inspection. Once we give you the final inspection approval, a tenant may occupy the accessory unit.

### What other permits are required?

You will need a separate electrical permit from us for any electrical work. Generally, electrical circuits must

be altered when you convert an existing, detached structure into an accessory unit. Unless the property owner is performing all electrical work, the electrical contractor must apply for the electrical permit. Contact our electrical technical backup at (206) 684-5383 for information and assistance.

If you are doing any plumbing work, you will need a plumbing permit from the Seattle/King County Health Department. For information on plumbing permits, call (206) 263-9566.

If you are connecting to an existing side sewer, you might be required to get a side sewer permit. For more information about side sewers, call (206) 684-5362 or email [sidesewerinfo@seattle.gov](mailto:sidesewerinfo@seattle.gov).

### What happens when a lot with an accessory dwelling unit is sold?

If the new owner intends to maintain the accessory unit, whether or not it is occupied by tenants, the new owner must abide by the owner occupancy requirements recorded on the property title.

If the new owner chooses to no longer rent or use the accessory dwelling unit, the owner will have to remove the features that make it a separate unit.

See Tip 606, *Illegal Dwelling Units*, for more information.

### What if a unit is created without a permit?

If we receive a complaint about an illegal accessory dwelling unit, we may inspect the unit and send the owner a Notice of Violation. We will require the owner to legalize the unit or remove the features that make it a separate unit. In addition, the owner may be subject to penalties as provided in Seattle Municipal Code Section 23.90.018, 23.90.019, and 23.90.020.

Links to electronic versions of **Seattle DCI Tips**, **Director's Rules**, and the **Seattle Municipal Code** are available on the "Tools & Resources" and "Codes & Rules" pages of our website at [www.seattle.gov/sdci](http://www.seattle.gov/sdci). Paper copies of these documents, as well as additional regulations mentioned in this Tip, are available from our Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave. in downtown Seattle, (206) 684-8467.





**Application to Establish a Backyard Cottage**

**I am (check one):**

- Applying to create a new accessory dwelling unit.
- Applying to legalize an existing unauthorized unit. As reflected in King County real estate records, I purchased the lot on which the unauthorized unit is located less than one year ago, and am submitting proof of this purchase. (No penalty)
- Applying to voluntarily legalize an existing unauthorized unit. I may be subject to civil penalties until the permit process is completed.

Project Number \_\_\_\_\_

Address \_\_\_\_\_

Owner \_\_\_\_\_ Daytime Phone # \_\_\_\_\_

Assessor's Parcel Number \_\_\_\_\_

Submit this form along with required plans and other documents.

**Parking Waiver Request**, if necessary  Not located within a Residential Parking Zone (RPZ)  
 Located within a RPZ; parking waiver study included

**Name(s) of Tenant(s)** \_\_\_\_\_ Phone: \_\_\_\_\_  
 \_\_\_\_\_ Phone: \_\_\_\_\_  
 \_\_\_\_\_ Phone: \_\_\_\_\_

**Owner Occupancy Covenant**, completed, notarized, recorded; original to Seattle DCI.

**Date Unit was Created (to best of your knowledge):** \_\_\_\_\_

**Value of Construction Work Needed to Legalize Unit:** \_\_\_\_\_

**Copy of the Contractor's Registration/Lien Law Form (completed)**

**Copy of Agent's Authorization Letter from Owner (if agent)**

Applicant's Name \_\_\_\_\_ Date received \_\_\_\_\_  
 (PLEASE PRINT)

Applicant Signature \_\_\_\_\_ Date signed \_\_\_\_\_

Relationship of applicant: (circle one) owner, agent, architect, contractor, engineer

Receipt # \_\_\_\_\_ Date of receipt \_\_\_\_\_

**For Seattle DCI Use Only (must be completed for units in single family zones)**

Urban Village / Urban Center	Application Parking	Parking Waiver Granted	# of Parking Spaces Provided	Unit Square Footage	<input type="checkbox"/> Detached (BYC)
Yes ___ No ___	Yes ___ No ___	Yes ___ No ___	_____ space	_____ space	<input type="checkbox"/> Attached (ADU)



**City of Seattle**  
Department of Construction and Inspections

**Application to Establish a Backyard Cottage**

Height of backyard cottage \_\_\_\_\_

Gross floor area of backyard cottage \_\_\_\_\_

Lot square footage \_\_\_\_\_

Total structural square footage \_\_\_\_\_

Total lot coverage (%) \_\_\_\_\_

Garage space included with backyard cottage?  Yes  No

**For Seattle DCI Use Only (must be completed)**

Urban Village / Urban Center Yes ___ No ___	Application Parking Yes ___ No ___	Parking Waiver Granted Yes ___ No ___	# of Parking Spaces Provided _____ space	Unit Square Footage _____ space	_____ Detached (BYC) _____ Attached (ADU)
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## INSTRUCTIONS FOR OWNER OCCUPANCY COVENANT

The Cover Sheet, Covenant and Exhibit A must comply with the "Standard Formatting Requirements for Recording Documents" document. These requirements can be found at <http://www.kingcounty.gov/business/Recorders/OnlineFormsandDocumentStandards.aspx>.

Do not fax this document because the fax header will contaminate the top border.

Outlined below are some of the basic requirements.

1. Type or print clearly in black ink and have a clear 1-inch border on all four sides.
2. Complete the Washington State Recorder's Cover Sheet. List your project number as the "Reference Number" and list all owners as the "Grantor(s)." Fill in the abbreviated legal description and the tax parcel number.
3. On the first page of the Covenant for Owner Occupancy, fill in the full legal name of all owners on the first blank line and the complete street address of the property on the second blank line.
4. Each owner must sign the bottom of page 1 in the presence of a Notary Public, and have the Notary complete page 2. If there are more than two owners, make copies of page 2 and have the Notary complete them as needed.
5. Type or clearly print in the box on Exhibit A the full legal description of the property.
6. Prior to recording, bring the covenant to Seattle DCI for review by the planner associated with your project.
7. Bring the reviewed covenant to King County for recording and return a copy of the recorded document with recording number stamp to Seattle DCI to receive your permit.



Return Address:  
City of Seattle  
Department of Construction and Inspections  
700 Fifth Avenue, Suite 2000  
P. O. Box 34019  
Seattle, WA 98124-4019

**WASHINGTON STATE RECORDER'S COVERSHEET (RCW 65.04)**

**Document title(s) (or transaction contained therein all areas applicable to your document must be filled in):**

**1. COVENANT FOR OWNER OCCUPANCY**

**Reference Number(s) of Documents assigned or released:**

**Project Number:** \_\_\_\_\_

**Grantor(s) Last name first, then first name and middle initials)**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

**Additional names on page \_\_\_\_\_ of document.**

**Grantee (s) (Last name first, then first name and middle initials)**

**THE SEATTLE, CITY OF**

**Legal Description (abbreviated: i.e. lot, block, plat or section, township, range.)**

\_\_\_\_\_

**Additional legal is on page \_\_\_\_\_ of document.**

**Assessor's Property Tax Parcel /Account Number:**  **Assessor's Tax Number not yet assigned**

\_\_\_\_\_

**The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.**

**COVENANT FOR OWNER OCCUPANCY**

This Covenant for Owner Occupancy ("Covenant") is entered into by the undersigned owner(s) of real property legally described in Exhibit A hereto, in favor of The City of Seattle as required for the issuance to the owner(s) of a permit allowing the construction and/or use of an accessory dwelling unit on the property described in Exhibit A hereto ("the property").

\_\_\_\_\_ agree(s) as follows:

- 1) That he/she/they are the owner(s) of the property located in Seattle, Washington at \_\_\_\_\_ and legally described in Exhibit A, and that there are no other owners;
- 2) That he/she/they applied for a permit to construct and/or use an accessory dwelling unit on the property pursuant to Seattle Municipal Code (SMC) 23.44.041 and make(s) this covenant as required by SMC 23.44.041;
- 3) That the owner(s) of the property will restrict the use of the principal and accessory dwelling units on the property in compliance with the requirements of SMC 23.44.041;
- 4) That an owner with at least a 50 percent interest in the property will occupy either the principal dwelling unit or the accessory dwelling unit for six or more months of each calendar year as the owner's principal residence, unless a waiver has been applied for and granted by the City of Seattle Department of Construction and Inspections (Seattle DCI);
- 5) That if the owner(s) of the property are unable or unwilling to fulfill the requirements of SMC 23.44.041 for owner occupancy, then the owner(s) will remove those features of the accessory dwelling unit that make it a dwelling unit, as determined by Seattle DCI, including but not limited to removing electrical and plumbing fixtures and connections;
- 6) That this covenant shall run with the land and be binding upon the property owner(s), his/her/their heirs and assigns, and upon any parties subsequently acquiring any right, title or interest in the property;
- 7) That the undersigned owners and their heirs, successors and assigns will inform all prospective purchasers of the property of the terms of this Covenant; and
- 8) That this Covenant will be recorded by the owner(s) in the real estate records of the Office of Records and Elections of King County as a deed restriction, prior to issuance of the permit allowing construction and/or use of an accessory dwelling unit on the property.

\_\_\_\_\_ Owner

\_\_\_\_\_ Owner

\_\_\_\_\_ Owner

\_\_\_\_\_ Owner

STATE OF WASHINGTON    )  
  )  
COUNTY OF KING         )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in  
and for the State of Washington, duly commissioned and sworn, personally appeared

\_\_\_\_\_

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s)  
who executed this instrument and acknowledged it to be a free and voluntary act and deed for the  
uses and purposes mentioned in the instrument. IN WITNESS WHEREOF I have hereunder set my  
hand and official seal the day and year first above written.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(print or type name)

NOTARY PUBLIC in and for the state of Washington,

Residing at \_\_\_\_\_,

\_\_\_\_\_  
My commission expires

\_\_\_\_\_

**EXHIBIT A TO OWNER OCCUPANCY COVENANT**

**COMPLETE LEGAL DESCRIPTION OF PROPERTY SUBJECT TO COVENANT:**

**LEGAL DESCRIPTION:**

A large, empty rectangular box with a thin black border, intended for the legal description of the property. The box is currently blank.