



**San Juan County  
Community Development & Planning**

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**POLICIES/PROCEDURES/INTERPRETATIONS**

**Owner Builder Accessory Structures**

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**ISSUE:** The following issues have been raised relative to accessory structures as controlled by the Owner Builder (O/B) provisions of the San Juan County Code:

1. May detached Accessory Structures larger than 1000 sq ft be constructed under the County's O/B provisions?
2. May detached Accessory Structures equal to or less than 1000 sq ft be issued a building permit by the County under the O/B provisions?
3. May Accessory Uses wholly or partially contained within, under, or attached to an O/B Residence or Appurtenant structure be constructed under an O/B exemption for accessory structures?
4. May Accessory Uses wholly or partially contained within, under, or attached to an O/B Residence or Appurtenant structure be constructed under the O/B Permit for that structure?
5. Can multiple Accessory structures, each less than or equal to 1000 sq ft, and each approved under the O/B exemption, be attached to one another to create a single structure larger than 1000 sq ft under the O/B Provisions?

**ANALYSIS:** An "Accessory Structure" is defined by the O/B provisions as meaning:

"... a structure that is incidental to and supports the use of the primary residence. Accessory structures include, but are not limited to, garages, carports, agricultural buildings and woodsheds, all being less than 1,000 square feet in area; decks and pump-houses; fences less than six feet in height; aboveground water tanks less than 5,000 gallons in capacity; and playhouses. Accessory structures cannot be inhabited."

Accessory Structures are further controlled by Section 15.04.570 of the San Juan County Code (SJCC) which states:

- A. A statement of exemption is required; however, no permit, fee nor inspection pursuant to the UBC shall be required for construction of accessory structures typically defined in the UBC as Group M1 or M2 occupancy structures when they are accessory to a private residence or to be used for agricultural purposes; provided that such structure shall not be used for human habitation.

- B. Such statement of exemption shall be reviewed by the Permit Center and health and community services departments for compliance with state and County laws. Accessory structure exemptions are unlimited as to number unless prohibited by land use density requirements as determined by the County planning department. (Ord. 80-1992).

A "Residence," is defined by the O/B provisions as meaning:

". . . in addition to its ordinary meaning, means, for the purpose of this article, a dwelling unit occupied by the owner/builder and shall specifically not include accessory structures or structures which are used for commercial purposes, for providing services and goods for sale to members of the public, lodging to persons for compensation, or structures which are used in the manufacture of goods intended for sale to the public, except for home occupations as defined by Chapter 16.20 SJCC."

Under the 1988 UBC, for M1 and M2 occupancies, under which the O/B provisions are based, (U Occupancies under later editions of the UBC and under the IBC) accessory structures were limited to one story in height. Additionally, both the UBC and IBC allow private garages of up to 3000 sq ft where no repair work or fuel is dispensed provided the exterior wall fire separation distance for the residential occupancy is applied.

From Section 15.04.570 of the SJCC it is clear that detached accessory structures are exempt from permit requirements under the O/B provisions and that the County can not and shall not issue permits for their construction. It is also clear from the Building Code definitions for M or U Occupancies, these exempt structures are limited to a single story. Additionally, the O/B provisions add a restriction of a maximum of 1000 sq ft to these O/B exempt accessory structures.

What is not clear is how accessory uses which are wholly or partially contained within, under, or attached to an O/B Residence or Appurtenant Structure are to be permitted, constructed, and inspected under the O/B provisions.

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One of the ordinary meanings of "residence" (from Webster's Third New International Dictionary) is "a building used as a home". This definition does not preclude the existence of accessory uses within the building or structure. However Section 15.04.560 specifically requires that M or U accessory use occupancies be separated by a fire resistive barrier as a life safety requirement. Section 15.04.590 specifically requires that this fire resistive assembly be inspected and approved. Additionally, to allow such attached M or U accessory uses to be built as exempt, un-permitted and un-inspected additions could create a code violation on the residential portion of the structure such as egress windows, safety glazing, natural light and ventilation, and mechanical exhaust termination location.

The major issue is how the word "Structure" is to be applied to these mixed use buildings. It is not uncommon for a single "structure" to contain multiple occupancies. Simply attaching a garage or

carport to a residence and installing an occupancy separation (fire barriers/horizontal assemblies) does not, in and of itself, create a separate structure.

Finally, while the number of O/B exempt accessory structures is unlimited, attaching them to one another would create a single structure in excess of 1000 sq ft and be a violation of the O/B provisions. It should also be clarified that the term “attached” can mean either a physical connection or a non-physical association where one structure’s physical location to another “attaches” or imparts additional requirements or conditions to itself or the other structure; such as would occur where two different occupancies or buildings are so situated as to require a fire rated separation or obstruct ventilation, natural light, or egress requirements.

**POLICY:**

- 1 Detached Accessory Structure larger than 1000 sq ft shall not be constructed under the County’s O/B provisions. This, however, does not prohibit their being constructed under conventional code and permit provisions.
- 2 Detached Accessory Structures equal to or less than 1000 sq ft shall not be issued a building permit by the County under the O/B provisions. However, they are required to be approved with a statement of exemption under the provisions of Section 15.04.570.
- 3 Accessory Uses wholly or partially contained within, under, or attached to an O/B Residence or Appurtenant Structure shall not be built under the O/B exemption for accessory structures.
- 4 Accessory Uses wholly or partially contained within, under, or attached to an O/B Residence or Appurtenant Structure shall be included as part of the structure and be constructed under an O/B Permit.
- 5 Multiple Accessory Structures, each less than or equal to 1000 sq ft, and each approved under the O/B exemption, shall not be attached to one another to create a single structure larger than 1000 sq ft under the O/B Provisions. Attachment shall be considered to exist where separate structures are located closer than 6 feet apart or where their eaves are closer than 4 feet apart.