
**CITY OF MOAB, UT
ORDINANCE 2021-16**

**An Ordinance Amending the Text of the Moab Municipal Code
(MMC) to allow ADUs in all residential Zones subject to a revised
Section 17.70 Accessory Dwelling Units and Section 17.06.020
Definitions**

WHEREAS, the City has enacted Title 17 Zoning, of the Moab Municipal Code ("MMC") that governs land use and development within the City Limits.

WHEREAS, from time to time the City undertakes revisions of Title 17.00 to improve the quality of land development and align the Code with state law and contemporary planning concepts.

WHEREAS, the City finds that this Ordinance will serve the public health, safety, and welfare, and that adoption is in the best interests of the Moab community.

WHEREAS, the Utah State Legislature adopted House Bill 82 in the 2021 Legislative Session that requires communities to allow Indoor Accessory Dwelling Units as a permitted use.

WHEREAS, amendments to the MMC were necessary to comply with HB 82.

WHEREAS, at the same time, Moab is experiencing a critical shortage of employee and workforce housing.

WHEREAS, the city currently allows ADUs as a permitted use in all residential zones, but some of the requirements have become barriers to construction.

WHEREAS, it is better planning practice to encourage infill in order to reduce sprawl.

WHEREAS, since the City had to amend Chapter 17.70 to comply with the new state law, there was an opportunity to remove some of the barriers to encourage more ADUs for employees and the workforce.

WHEREAS, to encourage ADUs as a housing option for local employee/ workforce households, local employers and entities, excluding those with the primary purpose of leasing/ renting less than 30 days, can utilize ADUs as employee housing.

WHEREAS, varying types of ADU construction require specific regulation, defining ADUs by Type 1, Type 2, and Type 3 shall determine which regulations apply.

WHEREAS, to help maintain the public's health, safety, and welfare through consistency and enforceability, the Type of ADU that is constructed will be recorded on the property's Deed to ensure property owner's awareness of ADU Type and use.

WHEREAS, it is the intent of the City Council that Type 1 and Type 2 ADUs be used

for Active Employment Households; and Type 3 ADUs be permitted to the extent required by state statute. The intent is not for ADUs to be used as second homes.

NOW, THEREFORE BE IT ORDAINED that the Moab City Council hereby approves Text Amendments as follows:

SECTION 1. AMENDMENTS TO MMC CHAPTER 17.06 DEFINITIONS ADDING OR MODIFYING DEFINITIONS OF:

- A. "Accessory dwelling unit" (ADU, granny-flat, mother-in-law-apartment) means a habitable living unit added to, created within, or detached from a single-household dwelling and, in some cases duplexes, and includes separate cooking, sleeping, and bathroom facilities. A Single ADU does not constitute a two-household dwelling.
 - B. "Accessory Dwelling Unit, Internal (IADU)" means an accessory dwelling unit created:
 - 1. within an existing single household dwelling; and
 - 2. within the footprint of the main dwelling; and
 - 3. The intent of ADUs is not to provide additional second home opportunities.
 - C. "Accessory Dwelling Unit, External (EADU)" means an accessory dwelling created:
 - 1. on the same parcel or lot that contains the main dwelling structure; and
 - 2. physically separate from the main dwelling structure; and
 - 3. The intent of ADUs is not to provide additional second home opportunities.
 - D. "Accessory Dwelling Unit, Type 1", means an External Accessory Dwelling Unit (EADU) that shall meet the International Residential Code for Single-Family Dwelling requirements; and for the purpose of offering a long-term rental for Active Employment Households. The main dwelling unit or accessory dwelling unit may be Owner-Occupied, or both the main dwelling unit and the Accessory Dwelling Unit may be rented out as Rental Dwellings.
 - E. "Accessory Dwelling Unit, Type 2", means an Internal Accessory Dwelling Unit (IADU) that shall be constructed as a "Two-Family Dwelling", as referenced and required by the International Residential Code; and for the purpose of offering a long-term rental for Active Employment Households. The main dwelling unit or accessory dwelling unit may be Owner-Occupied, or both the main dwelling unit and the Accessory Dwelling Unit may be rented out as Rental Dwellings.
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- F. "Accessory Dwelling Unit, Type 3", means an Internal Accessory Dwelling Unit (IADU) that may be constructed with the appropriate International Residential Code regulations determined by state statute for "ADUs". The Primary Dwelling shall be Owner-Occupied, and the accessory dwelling unit may be rented as a Rental Dwelling.
- G. "Dwelling, Primary" means a Single Household Dwelling unit that:
1. is detached; and
 2. is occupied as the primary residence of the owner of record;
- H. "Dwelling, Rental" means a building or portion of a building that is:
1. used or designated for use as a residence by one or more persons;
 2. Available to be rented, loaned, leased or hired out for a period of one month or longer;
- F. "Active employment household" or "actively employed household" means a household with at least one adult who meets one of the following criteria; provided, however, where there are unrelated individuals living together in one household, at least 50 percent of all the adults comprising the household shall meet one of the following criteria:
1. A full-time (aggregate of 30 hours of employment per week) employee of a business, or entity, or entities located within Grand County; or
 2. An owner or owner's representative of a business or entity with a primary place of business within Grand County; or
 3. A full-time (aggregate of 30 hours of employment per week for nine months out of each calendar year) worker who is self-employed or works out of their home must provide their entire list of clients/workload so that it can be verified that a minimum of 75 percent of their work/clients are based within Grand County.
 4. A person who is unable to work or does not have a work history required under subsections F.1 through F.3 of this section due to a disability as defined by the state and federal Fair Housing Acts;
 5. A family member of the owner of the property
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6. A retiree with a work history required under subsection F.1 through F.4 of this section for the five years prior to retirement that intends to make the ADU their full-time place of residence.

SECTION 2. AMEND CHAPTER 17.70 ACCESSORY DWELLING UNITS AS FOLLOWS:

17.70.010 Purpose.

A. Accessory dwelling units are encouraged as dwellings for persons to increase affordable housing opportunities in the RA-1 Residential-Agricultural Zone, R-1 Single-Household Residential Zone, R-2 Single-Household and Two-Household Residential Zone, R-3 Multi-Household Residential Zone, and R-4 Manufactured Housing Residential Zone.

B. Type 1 and Type 2 ADU rental/ leasing occupancy shall be restricted to Active Employment Households as defined by MMC 17.06 Definitions.

17.70.020 Types of ADUs

There are three types of ADUs permitted in Moab, Type 1, Type 2, and Type 3, defined under MMC 17.06. It is the intent of the City Council that Type 1 and Type 2 ADUs be used for Active Employment Households defined under MMC 17.06; and Type 3 ADUs be permitted to the extent required by state statute. The intent is not for ADUs to be used as second homes.

17.70.030 Type 1 ADUs: External Accessory Dwelling Units with optional Owner-Occupied Primary Dwelling.

A. Permitted Use. Type 1 ADUs shall be considered a permitted use in the RA-1 Residential Agricultural Zone, R-1 Single-Household Residential Zone, R-2 Single-Household and Two-Household Residential Zone, R-3 Multi-Household Residential Zone, and R-4 Manufactured Housing Residential Zone.

B. Type 1 ADU Requirements. The following requirements apply to all Type 1 ADUs:

1. The setbacks for an accessory dwelling shall be what is allowed in the Zoning District within which the EADU is located. The side setback can be reduced to 5 feet if the EADU does not exceed a building height of 20 feet.
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The rear setback can be reduced to 5 feet if the EADU does not exceed a building height of 20 feet.

2. A minimum separation between an EADU and any adjacent structures must be 10 feet, even if that structure is on an adjoining lot. The Building Official may waive or modify this requirement if adequate fire separation can be achieved by other means.
 3. Where pre-existing structures meet the development standards of this chapter for an EADU, the original structure may be designated as the accessory dwelling if a new main structure is constructed on site.
 4. An EADU shall not be constructed prior to the main dwelling structure, except in cases where new home construction has been permitted. An EADU may be permitted prior to construction of the main dwelling for purposes of living on-site during the construction of the main dwelling.
 5. An EADU may be constructed above a detached garage and consist of the same floor area; provided, that it shall not protrude beyond any ground floor wall and shall not consist of more than one story above the ground floor. The overall structure shall not exceed 30 feet if all zone required setbacks are met. If the accessory structure complies with accessory structure setbacks and encroaches into the underlying zone side and rear setbacks, , the maximum height shall be 20 feet.
 6. Any request for Accessory Dwelling Units within residential zones shall be reviewed for compliance with the standards in this chapter and approved by city staff. A letter of compliance shall be issued to the applicant by the Zoning Administrator prior to issuance of a building permit.
 7. One EADU is allowed if the main structure on the parcel is a duplex. One of the three (3) resulting units must be owner-occupied.
 8. The maximum size for accessory living quarters shall be no more than twelve hundred (1200) square feet. Lots larger than 20,000 square feet in size may increase the maximum to fifteen hundred (1500) square feet. There is no minimum size for ADUs. All ADUs must meet minimum building code requirements.
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9. One on-site parking space shall be provided in addition to the underlying parking requirement. The parking space may be provided in tandem if the existing driveway length exceeds thirty-five feet as measured from the property line.

10. *Accessory Dwellings Per Lot.* One (1) Type 1 EADU may be permitted on parcels up to 20,000 square feet. Parcels that are greater than 20,000 square feet may apply for a maximum of two (2) ADUs.

11. *Property to Remain Undivided.* Properties with EADUs shall remain recorded as one lot. The accessory dwelling shall not be sold separately.

12. Accessory dwellings are intended for long-term rental of 30 days or more, to the same individual, and may not be used for nightly rentals

13. *Deed Restriction.* A deed restriction must be filed with the county recorder which states:

1) *"A permit for an accessory dwelling was issued to _____, the current owner of this property on _____. The owner shall strictly adhere to the prohibition of the use of the accessory dwelling as nightly or short-term rental. The lease period for a Type 1 ADU shall be a minimum of three (3) months."*

2) *"A permit for a Type 1 ADU, was issued to _____, the current owner of this property on _____. The owner, occupant, and structure shall strictly adhere to the International Residential Code and Moab Municipal Code requirements and regulations for this Type of Accessory Dwelling Unit." Modified deed restriction language may be proposed by the City.*

17.70.040 Type 2 ADUs: Internal Accessory Dwelling Unit with optional Owner-Occupied Primary Dwelling.

A. Permitted Use. Type 2 ADUs shall be considered a permitted use in the RA-1 Residential Agricultural Zone, R-1 Single-Household Residential Zone, R-2 Single-Household and Two-Household Residential Zone, R-3 Multi-Household Residential Zone, and R-4 Manufactured Housing Residential Zone.

B. Type 2 ADU Requirements. The following requirements apply to all Type 2 ADUs :

1. Type 2 ADUs must include the code required bedroom window egress:
 3. Type 2 ADUs require one additional on-site parking space, the parking space may be provided in tandem if the existing driveway length exceeds thirty-five feet as measured from the property line:
 4. Type 2 ADUs require standard Zoning Approval on Building Permit Applications, accompanied with a Letter of Zoning Compliance, prior to building permit issuance:
 5. Type 2 ADUs are not allowed if the main dwelling is served by a failing septic tank:
 6. Type 2 ADUs cannot be rented for a period less than 3-months:
 7. Type 2 ADUs shall be constructed as Two-Family Dwellings, as referenced and required by International Residential Code:
 8. Type 2 ADUs are not allowed for lots containing a duplex.
 9. There is no maximum size for Type 2 ADUs:
 10. No more than one (1) Type 2 ADU may be located within a Single Household Dwelling.
 11. Properties with Type 2 ADUs shall remain recorded as one lot. The Type 2 ADU shall not be sold separately from the main home.
 12. Accessory dwellings are intended for long-term rental of 30 days or more, to the same individual, and may not be used for nightly rentals.
 13. *Deed Restriction.* A deed restriction must be filed with the county recorder which states:
 - 1) "A permit for an accessory dwelling was issued to _____, the current owner of this property on _____. The owner shall strictly adhere to the prohibition of the use of the accessory dwelling as nightly or short-
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term rental. The lease period for a Type 1 ADU shall be a minimum of three (3) months.” Modified deed restriction language may be proposed by the City.

2) *“A permit for a Type 2 ADU, was issued to _____, the current owner of this property on _____. The owner, occupant, and structure shall strictly adhere to the International Residential Code and Moab Municipal Code requirements and regulations for this Type of Accessory Dwelling Unit.” Modified deed restriction language may be proposed by the City.*

17.070.050 Type 3 ADUs: Internal Accessory Dwelling Units with required Owner-Occupied Primary Dwelling.

A. Permitted Use. Type 3 ADUs shall be considered a permitted use in the RA-1 Residential-Agricultural Zone, R-1 Single-Household Residential Zone, R-2 Single-Household and Two-Household Residential Zone, R-3 Multi-Household Residential Zone, and R-4 Manufactured Housing Residential Zone.

B. Type 3 ADU Requirements. The following requirements apply to all Type 3 ADUs:

1. Type 3 ADUs must include the code required bedroom window egress:
 2. Type 3 ADUs require one additional on-site parking space, the parking space may be provided in tandem if the existing driveway length exceeds thirty-five feet as measured from the property line:
 3. Type 3 ADUs require standard Zoning Approval on Building Permit Applications, accompanied with a Letter of Zoning Compliance, prior to building permit issuance:
 4. Type 3 ADUs are not allowed if the main dwelling is served by a failing septic tank:
 5. Type 3 ADUs cannot be rented for a period less than 3-months:
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6. Type 3 ADUs may be constructed with the appropriate International Residential Code regulations determined by state statute for "ADUs":

7. Type 3 ADUs are not allowed for lots containing a duplex.

8. There is no maximum size for Type 3 ADUs:

9. No more than one (1) Type 3 ADU may be located within a Single Household Dwelling.

10. Properties with a Type 3 ADU shall remain recorded as one lot. The Type 3 ADU shall not be sold separately from the main home.

14. Accessory dwellings are intended for long-term rental of 30 days or more, to the same individual, and may not be used for nightly rentals.

15. *Deed Restriction.* A deed restriction must be filed with the county recorder which states:

1) "A permit for an accessory dwelling was issued to _____, the current owner of this property on _____. The owner shall strictly adhere to the prohibition of the use of the accessory dwelling as nightly or short-term rental." Modified deed restriction language may be proposed by the City.

2) "A permit for a Type 3 ADU, was issued to _____, the current owner of this property on _____. The owner, occupant, and structure shall strictly adhere to the International Residential Code and Moab Municipal Code requirements and regulations for this Type of Accessory Dwelling Unit." Modified deed restriction language may be proposed by the City.

17.70.060 Enforcement--Revocation of permit.

In addition to any other legal or equitable remedies available to a municipality, a municipality may hold a lien against a property that contains an internal accessory dwelling unit if the owner of the property violates any of the provisions of this section.

A. Process for Revocation: If the owner of the property violates any of the provisions of this Chapter, the City may revoke the accessory dwelling permit for noncompliance. In addition to any other legal or equitable remedies, Moab City may hold a lien against a property that contains an internal accessory dwelling unit if: as follows:

1. The City provides a written notice of violation
 2. The City holds a hearing and determines that the violation has occurred. if the owner files a timely written objection
 3. The owner fails to cure the violation within the time period prescribed in the written notice of violation
 4. The City provides a written notice of lien with the county recorder of the county in which the property is located. The written notice of violation shall
 - a. Describe the specific violation
 - b. Provide the owner of the accessory dwelling unit a reasonable opportunity to cure the violation no less than 14 days after the day on which the City sends notice of violation, if the violation results from the owner renting or offering to rent the internal accessory dwelling unit for a period of less than 30 consecutive days or no less than 30 days after the day on which the City sends the written notice of violation, for any other violation
 - c. State that if the owner of the property fails to cure the violation within the relevant time period, the City may hold a lien against the property in an amount of up to \$100 for each day of violation after the day on which the opportunity to cure the violation expires
 - d. Notify the owner of the property that the owner may file a written objection to the violation within 14 days after the day on which the written notice of violation is post-marked or posted on the property; and of the name and
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address of the municipal office where the owner may file the written objection to be mailed to the property's owner of record; any other individuals designated to receive notice in the owner's license or permit records

- e. Posted on the property
 - f. The written notice of lien shall state that the property is subject to a lien, specify the lien amount, in an amount of up to \$100 for each day of violation after the day on which the property's owner of record; and any other individual designated to receive notice in the owner's license or permit record and be posted on the property.
5. If an owner of property files a written objection in accordance with Subsection the City shall:
- a. hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, to conduct a review and determine whether the specific violation described in the written notice of violation under has occurred; and
 - b. notify the owner in writing of the date, time, and location of the hearing. The hearing notice shall be sent no less than 14 days before the day on which the hearing is held.
6. If an owner of property files a written objection the City may not record a lien until the City holds a hearing and determines that the specific violation has occurred.
7. If the City determines at the hearing that the specific violation has occurred, the City may impose a lien in an amount of up to \$100 for each day of violation after the day on which the opportunity to cure the violation expires, regardless of whether the hearing is held after the day on which the opportunity to cure the violation has expired.
8. If an owner cures a violation within the time period prescribed in the written notice of violation the City may not hold a lien against the property, or impose any penalty or fee on the owner, in relation to the specific violation described in the written notice of violation.
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9. A municipality that issues a permit or license to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, may record a notice in the office of the Grand County recorder. The notice shall include
- a. A description of the primary dwelling
 - b. A statement that the primary dwelling contains an internal accessory dwelling unit; and
 - c. A statement that the internal accessory dwelling unit may only be used in accordance with the municipality's land use regulations.
 - d. The municipality shall, upon recording the notice described, deliver a copy of the notice to the owner of the internal accessory dwelling unit.

SECTION 3: MODIFY LANGUAGE IN ALL RESIDENTIAL ZONES as follows:

A. Permitted uses

- 1. Accessory dwelling units as per Chapter 17.70. Type 1, Type 2, and Type 3 ADUs are permitted uses.

PASSED by the City Council in a public meeting on December 14, 2021, by the following vote:

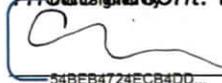
MOAB CITY COUNCIL:

Those voting aye: Knuteson-Boyd, Duncan, Jones, and Guzman-Newton

Those voting nay: Derasary

Those abstaining: N/A

~~*Those absent:* N/A~~



Emily Niehaus, Mayor

December 14, 2021

Date

ATTEST:



Sommar Johnson, Recorder

