



JULY 22, 2021

PLANNING COMMISSION MEETING 6:00 P.M.

Consistent with provisions of the Utah Open and Public Meetings Act, Utah Code Ann. § 54-2-207(4), the Moab Planning Commission Chair has issued written determinations supporting the decision to convene electronic meetings of the Planning Commission without a physical anchor location. Due to the health and safety risks related to the ongoing COVID-19 pandemic and considering public health orders limiting in-person gatherings, Moab City Planning Commission will continue to hold meetings by electronic means. The public is invited and encouraged to view and participate in the Planning Commission's electronic meetings by viewing the

City's YouTube channel: <https://www.youtube.com/MoabCityGovernment>

Individuals wishing to participate in the Citizens to be Heard portion of the should submit their comments using this form: [Public Comment Form](#). Comments submitted for the Citizens to be Heard portion of the agenda will be incorporated into the meeting minutes as part of the permanent record.

1. 6:00 P.M. Call To Order

2. Written Determination To Conduct Electronic Meetings

3. Citizens To Be Heard

To have your comments considered for the Citizens to Be Heard portion of the electronic meeting, please fill out the form found here: [PUBLIC COMMENT FORM](#). You must submit your comments by 5:00 pm on the day of the meeting. Please limit your comments to 400 words.

4. Approval Of Minutes

4.1. May 27, 2021, Regular Meeting

Documents:

[MIN-PC-2021-05-27 DRAFT.PDF](#)

4.2. June 10, 2021, Regular Meeting

Documents:

[MIN-PC-2021-06-10 DRAFT.PDF](#)

4.3. July 8, 2021, Regular Meeting

Documents:

[MIN-PC-2021-07-08 DRAFT.PDF](#)

5. Action Item

- 5.1. Consideration And Possible Approval Of Draft Planning Commission Resolution 05-2021 A Resolution Amending The City Of Moab Planning Commission Bylaws To Allow Electronic Participation

Documents:

[7.22.2021 PC AGENDA SUMMARY BYLAWS CHANGE.PDF](#)
[EXHIBIT A PC RESO 05-2021 BYLAW CHANGE TO ALLOW ELECTRONIC PARTICIPATION AT PLANNING COMMISSION MEETINGS.PDF](#)
[EXHIBIT B PLANNING COMMISSION BYLAWS.PDF](#)

6. Discussion Item

- 6.1. Continued Work Session On Possible Changes To Code Provisions Governing Accessory Dwelling Units (ADUs)

Documents:

[PC 070821 ADU DISCUSSION NOTES.PDF](#)
[7.08.2021 PCWS REPORT ON ADU AMENDMENTS.PDF](#)
[EXHIBIT A ADU CHANGES HB 82.PDF](#)
[EXHIBIT B CHAPTER 17.70 CODE \(1\).PDF](#)
[EXHIBIT C HB0082.PDF](#)

7. Future Agenda Items

8. Adjournment

MOAB CITY PLANNING COMMISSION MINUTES
May 27, 2021

The Moab Planning Commission held its regular meeting on May 27, 2021, via a Zoom Meeting. An audio recording of the evening meeting is archived at: <https://www.utah.gov/pmn/index.html> and a video recording is archived at: <https://www.youtube.com/watch?v=XwastnkJkml>.

1. Call to Order

Planning Commission Chair Kya Marienfeld called the meeting to order at 6:08 PM. In attendance were Commission Members Ruben Villalpando-Salas, Luke Wojciechowski, and Becky Wells. Commission Members John Knight and Jessica O'Leary were absent. Staff in attendance were Planning Director Nora Shepard, Assistant Planner Cory Shurtleff, and City Recorder Sommar Johnson.

2. Citizens to be Heard

There were no citizens to be heard.

3. Citizens to be Heard and Public Hearing Call in Instructions

The instructions were included on the agenda.

4. Action Item

4.2. Action Item - Consideration and Possible Approval of Planning Resolution #04-2021, a Planning Resolution Approving the Radcliffe Phase II Site Plan Application, for Property Located at 471 South Main Street, Moab UT 84532

Discussion: Planning Director Shepard said this item is being discussed first due to quorum issues. She added that there was a quorum currently. Commission Chair Marienfeld thanked Commissioner Wells for attending the meeting. Assistant Planner Shurtleff shared a presentation regarding the site plan application. The applicants Rob Radcliffe and Corey Middleton joined the meeting at 6:14 PM. Commissioner Villalpando-Salas inquired if there was laundry in the main facility. Mr. Radcliffe said there was no laundry in the main facility. Commission Chair Marienfeld inquired about oversized vehicle parking. Mr. Middleton said there is not a plan for oversized vehicle parking currently, but it will be addressed with the rest of the site.

Motion: Commissioner Villalpando-Salas moved that the Planning Commission approve Planning Resolution 04-2021, a planning resolution approving the Radcliffe Phase II Site Plan Application property located at 471 South Main Street, Moab, UT 84532. Commissioner Wojciechowski seconded the motion.

Vote: Motion passed 4-0 with Commissioners Wells, Wojciechowski, Villalpando-Salas, and Marienfeld voting aye. Commissioners Knight and O'Leary were not present for the vote.

4.1. Public Hearing and Possible Action on Ordinance No. 2021-13 An Ordinance Amending the Text of the Moab Municipal Code (MMC) to Add Regulation for Outdoor Dining by Amending Sections 17.21 C-2 Commercial Residential Zone, 17.24 C-3 Central Commercial Zone, 17.27 C-4 General Commercial Zone and 17.31 RC Resort Commercial Zone and by Allowing Consideration of Parklets in the City Right-Of-Way (ROW) by Amending Section 17.24 C-3 Central Commercial Zone. Associated Definitions will be Added to MMC Section 17.06 Definitions

Discussion: Commission Chair Marienfeld opened the public hearing at 6:19 PM.

Motion: Commission Chair Marienfeld said that, due to the sparse turnout from Commissioners, she moved to continue the public hearing until the next meeting on June 10. Commissioner Wojciechowski seconded the motion.

Vote: Motion passed 4-0 with Commissioners Marienfeld, Wells, Wojciechowski, and Villalpando-Salas voting aye. Commissioners Knight and O'Leary were not present for the vote.

5. ***Future Agenda Items***

Commission Chair Marienfeld confirmed the public hearing would continue through the next meeting on June 10. She said that she will not be present at that meeting, but she will make sure there is a quorum and determine who will run the meeting.

6. ***Adjournment***

Board Chair Marienfeld adjourned the meeting at 6:19 PM.

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MOAB CITY PLANNING COMMISSION MINUTES

June 10, 2021

The Moab Planning Commission held its regular meeting on June 10, 2021, via a Zoom Meeting. An audio recording of the evening meeting is archived at: <https://www.utah.gov/pmn/index.html> and a video recording is archived at: <https://www.youtube.com/watch?v=FEascGG2dtU>.

1. Call to Order

Planning Commissioner Jessica O'Leary called the meeting to order at 6:00 PM. In attendance were Commission Members Ruben Villalpando-Salas, Luke Wojciechowski, and Becky Wells. Commission Members John Knight and Kya Marienfeld were absent. Staff in attendance were Planning Director Nora Shepard, Assistant Planner Cory Shurtleff, and City Recorder Sommar Johnson.

2. Citizens to be Heard

There were no citizens to be heard.

3. Approval of Minutes: May 13, 2021

Motion: Commissioner Villalpando-Salas set out a motion to move to approve the minutes for May 13, 2021. Commissioner Wojciechowski seconded the motion.

Vote: Motion passed 4-0 with Commissioners Wells, Villalpando-Salas, Wojciechowski, and O'Leary voting aye.

4. Public Hearing

4.1. Public Hearing and Possible Action on Ordinance No. 2021-13 An Ordinance Amending the Text of the Moab Municipal Code (MMC) to Add Regulation for Outdoor Dining by Amending Sections 17.21 C-2 Commercial Residential Zone, 17.24 C-3 Central Commercial Zone, 17.27 C-4 General Commercial Zone and 17.31 RC Resort Commercial Zone and by Allowing Consideration of Parklets in the City Right-Of-Way (ROW) by Amending Section 17.24 C-3 Central Commercial Zone. Associated Definitions will be Added to MMC Section 17.06 Definitions

Discussion: Commissioner O'Leary opened the public hearing at 6:03 PM. Planning Director Shepard provided background on the proposed ordinance. She said four comments were received pertaining concerns about the existing outdoor parklet for 98 Center located on Center Street. She said that language was added to the revised ordinance based on their concerns. She reviewed the revised ordinance with the Planning Commission. There were no members of the public present for the public hearing. Commissioner O'Leary closed the public hearing at 6:13 PM.

Motion: Commissioner Villalpando-Salas moved that the Planning Commission forward a positive recommendation to the City Council on Ordinance No. 2021-13 with the revised draft, an ordinance amending the text of the Moab Municipal Code (MMC) to add regulation for outdoor dining by amending sections 17.21 C-2 Commercial Residential Zone, 17.24 C-3 Central Commercial Zone, 17.27 C-4 General Commercial Zone and 17.31 RC Resort Commercial Zone and by allowing consideration of parklets in the City right-of-way (ROW) by amending section 17.24 C-3 Central Commercial Zone. Associated definitions will be added to MMC Section 17.06 Definitions. Commissioner Wells seconded the motion.

Discussion: Commissioner Wojciechowski inquired about the public comments regarding pets in the parklet areas. Planning Director Shepard said it was not addressed in the proposed ordinance, but it could be amended. Commissioner Villalpando-Salas declined amending the motion to include no dogs in parklets.

Vote: Motion passed 4-0 with Commissioners Wells, Wojciechowski, Villalpando-Salas, and O’Leary voting aye.

5. **Action Item**

5.1. Action Item – Consideration and Possible Recommendation of Resolution #24-2021, A Resolution Approving the Townhome Plat Application for the Thompson Townhomes, Property Located at 246 East 200 South, Moab UT 84532

Discussion: Assistant Planner Shurtleff shared a presentation about this resolution.

Commissioner O’Leary inquired about overflow parking. Assistant Planner Shurtleff said the space on the South end of the lot is suggested as a turnaround or additional guest parking.

Planning Director Shepard said these buildings could not become nightly rentals. Commissioner Villalpando-Salas inquired about trash pickup for the property. Planning Director Shepard said it would most likely be a dumpster at the back of the property. Commissioner Villalpando-Salas confirmed that the townhomes would be two stories.

Motion: Commissioner Villalpando-Salas moved that the Planning Commission forward a positive recommendation for Resolution #24-2021, a resolution approving the townhome plat application for the Thompson Townhomes, property located at 246 East 200 South, Moab, UT 84532. Commissioner Wojciechowski seconded the motion.

Vote: Motion passed 4-0 with Commissioners Wojciechowski, Villalpando-Salas, O’Leary, and Wells voting aye. Commissioner Wells confirmed that she did not need to be recused on this vote since she has not entered into a contract regarding the potential townhomes.

6. **Future Agenda Items**

Planning Director Shepard said that Lionsback received approval for Phase One and the final MPD. She inquired about returning to in-person meetings. Commissioner O’Leary said she prefers meetings on Zoom for now. Commissioners Villalpando-Salas, Wojciechowski, and Wells said they are fine with meetings through Zoom or in-person. Planning Director Shepard said they would continue with Zoom meetings for now. She said the language for breweries, distilleries, and brew pubs will be presented at the next meeting. She said new site plans have been received and are starting to work through the process. She said conversations with City Council about employee housing will be starting. Assistant Planner Shurtleff said the Creekside Townhomes site plan will be presented next month. Planning Director Shepard said the final plat was approved, but it was never recorded, and the approvals expired. She said the plans are the same as last time. Commissioner Wells inquired about overnight accommodations. Planning Director Shepard said that City Council is focused on affordable and employee housing at this time. She said commercial zones need to be encouraged to have commercial uses on the ground floor and housing above.

7. **Adjournment**

Commissioner O’Leary adjourned the meeting at 6:38 PM.

MOAB CITY PLANNING COMMISSION MINUTES
July 8, 2021

The Moab Planning Commission held its regular meeting on July 8, 2021, via a Zoom Meeting. An audio recording of the evening meeting is archived at: <https://www.utah.gov/pmn/index.html> and a video recording is archived at: <https://www.youtube.com/watch?v=NWRob4UxXfw>.

1. Call to Order

Planning Commission Chair Kya Marienfeld called the work session to order at 6:04 PM. In attendance were Commissioners John Knight and Luke Wojciechowski. Commission Members Jessica O’Leary, Ruben Villalpando-Salas, and Becky Wells were absent. Commission Chair Marienfeld stated that, since there was not a quorum, this meeting was a work session only. Staff in attendance were Assistant Planner Cory Shurtleff, and City Recorder Sommar Johnson.

2. Citizens to be Heard—Deferred until the next meeting when a quorum is present

There were no citizens to be heard.

3. Action Item—Deferred until the next meeting when a quorum is present

3.1. Public Hearing and Possible Action on an Ordinance Amending the Text of the Moab Municipal Code (MMC) to Add Regulation for Brewpubs, Breweries and Distilleries by Amending Sections 17.06 Definitions, 17.21.020 C-2 Commercial Residential Zone, 17.24.020 C-3 Central Commercial Zone, 17.27.020 C-4 General Commercial Zone, 17.31.020 RC Resort Commercial Zone and 17.36.020 Industrial Zone

4. Discussion Item

4.1. Work Session on Amendments to Section 17.70 Accessory Dwelling Units (ADUs)

Discussion: Assistant Planner Shurtleff reviewed the background for the amendments and HB 82 which affects internal ADU’s. There was a discussion about HOA and CC&R rights being designated by the state. There was a discussion about setbacks and height requirements. Assistant Planner Shurtleff said the new state law does not allow size regulations for internal ADU’s, but external ones could be regulated. There was discussion about modular units as ADU’s, and family housing concerns. There was a discussion about maximum and minimum square footage for ADU’s, and if more than one ADU per lot should be permitted. There was a discussion about not requiring owner-occupied properties with external ADU’s.

5. Future Agenda Items

Assistant Planner Shurtleff said future agenda items include a discussion about brewpubs in the C-5 zone, the Creekside Townhomes level two site plan, and the Moab Regional Hospital expansion site plan as an amendment to the original site plan.

6. Adjournment

Commission Chair Marienfeld adjourned the work session at 7:26 PM.

Moab Planning Commission Agenda Item

Meeting Date: July 22, 2019

Title: Amendment to the Planning Commission Bylaws to allow electronic participation

Staff Presenter: Nora Shepard, Planning Director

Attachment(s):

Exhibit A: Draft Planning Commission Resolution 05-2021 A Resolution amending the City of Moab Planning Commission Bylaws to allow electronic participation

Exhibit B: Planning Commission Bylaws as currently adopted.

Options:

1. Approve Moab Planning Commission Resolution 05-2021 with or without modifications; or
2. Continue or table action to a later meeting with specific direction to City Staff and Applicant as to additional information needed to make a decision.

Motion for Approval:

“I move to approve Planning Commission Resolution 05-2021 A Resolution amending the City of Moab Planning Commission Bylaws to allow electronic participation.”

Background:

Planning Commission meetings have historically been held in person at the Moab City Hall. Because of COVID-19, the City issued emergency proclamations to allow meetings to be held entirely by electronic means, via the Zoom meeting platform. Now that we are able to gather again, the Planning Commission Meetings will generally return to in-person meetings. There may be instances where the Planning Commission may be more comfortable meeting via Zoom due to concerns over COVID Transmission. In those cases, the Planning Commission can use a written determination at the beginning of meeting to allow the use of the remote meeting platform.

Now that we will be returning to in-person meetings, there may be times where Planning Commissioners and staff may not be able to attend in person, but could participate via electronic means. The City is updating the technology in City Hall to allow remote participation, as necessary. In order to allow this electronic participation for Planning Commission and Staff, a change in the Planning Commission Bylaws is necessary.

Proposed Bylaw Amendment:

The staff has prepared Planning Commission Resolution 05-2021 (Exhibit A) to allow limited electronic participation. This resolution was drafted using language from a City Council Ordinance that allowed the Council members and staff to participate electronically. The approach was discussed with and supported by the City Attorney, Laurie Simonson.

According to the Planning Commission Bylaws, amendments can be made as follows:

“Amending By-Laws. These by-laws may be amended by a majority vote of the Commission, except where such amendments would be contrary to the requirements or limitations set forth by State Law or Moab Municipal Code. An amendment may be proposed at any regular meeting of the Commission. Member shall receive a copy of the proposed or amended by-laws not less than one week prior to the meeting at which said proposed changes shall be heard.”

I have also attached the current Planning Commission Bylaws for your information and use (Exhibit B). These bylaws were last amended in 2018.

CITY OF MOAB PLANNING COMMISSION RESOLUTION No. 05-2021 A Resolution amending the City of Moab Planning Commission Bylaws to allow electronic participation.

The City of Moab Planning Commission hereby amends their bylaws to address participation by the Planning Commission members and/or staff in an electronic meeting as follows:

Add Article 7 Electronic Participation

7.1. Electronic Meetings Authorized. Moab City Planning Commissioners, and/or City staff may participate in an electronic meeting of the Planning Commission as provided in this section. All actions taken at an electronic meeting held in compliance with this section are valid and binding to the same extent as if all participants had been physically present at the anchor location.

7.2 Definitions. The definitions in Utah Code Annotated 52-4-103, the Open and Public Meetings Act, shall apply to this section with the addition of the following definitions:

“Anchor location” means the Moab City Council Chambers, or any other physical location where a meeting is held and from which the electronic meeting originates.

“Elected officials” means the Moab City Councilmembers and Mayor.

“Remote location” means any place, other than the anchor location, where a Councilmember, the Mayor, or City staff may be located, and where meeting participants can establish real-time audio and/or video telecommunication access to the meeting.

7.3 Quorum for Electronic Meetings.

a. As otherwise defined in this chapter, a majority of the Planning Commission constitutes a quorum for the transaction of business. A quorum of the Planning Commission must be present to convene an electronic meeting but need not be present at the anchor location. Elected officials and/or City Staff may participate in an electronic meeting from a remote location.

b. Planning Commission members participating in an electronic meeting from a remote location shall be considered present and are authorized to vote and otherwise participate in the meeting as if they were present at the anchor location.

c. In the event of an equipment failure, or other similar event which causes an interruption of communication with a remote location, the Planning Commission has discretion to either: (a) act on the matters up for consideration on its agenda provided that a quorum is still present; or (b) continue the matter to a subsequent meeting.

7.4. Procedures for Electronic Meetings.

a. Notice of any electronic meeting of the Planning Commission shall be given in the same manner as provided for all other Planning Commission meetings except that the notice shall indicate that the meeting will be electronic and shall comply with Utah Code

Annotated 52-4-207(3)(b) which requires: “notice of the electronic meeting to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and a description of how the members will be connected to the electronic meeting.”

b. Meeting procedures for electronic meetings of the Planning Commission shall be the same as for nonelectronic meetings, except as noted below.

c. Planning Commissioners and City staff shall be connected in such a manner that comments made by them will be broadcast to the public. The Recorder will take a verbal roll-call for members present. The presiding officer shall allow remote participants to participate in the discussion to the same extent as if they were present at the anchor location.

d. Matters called to a vote in an electronic meeting shall be via roll-call vote, and Planning Commissioners participating from a remote location must state their name and their vote audibly when asked by the Recorder.

e. Minutes of all meetings shall record the presence of members participating through electronic means.

f. Planning Commissioners may participate in a closed session of the City Council via electronic means. The closed session will be recorded as allowed by this chapter but will not be broadcast.

g. All electronic meetings of the Planning Commission shall be chaired by the presiding officer whether at the anchor location or whether participating remotely.

PASSED AND APPROVED by a majority of the Moab Planning Commission. This ordinance shall take effect immediately upon passage.

SIGNED:

Kya Marienfeld, Chair

Date

ATTEST:

Sommar Johnson, Recorder

MOAB CITY PLANNING COMMISSION BYLAWS

2/20/2018

PURPOSE

These policies and procedures are designed and adopted for the purpose of providing guidance and direction to the members of the Moab City Planning Commission in the performance of their duties. The Planning Commission shall be governed by the provisions of all applicable State statutes, City ordinances, and these rules. Nothing in these rules shall be interpreted to provide an independent basis for invalidating or in any way altering a final decision of the Commission.

ARTICLE 1 – GENERAL PROVISIONS

The Moab City Planning Commission, hereinafter referred to as the “Commission,” shall be governed by the following statutes, ordinance, and rules:

- 1.1 Applicable State Statutes, Local Ordinances and Rules. To the extent that they remain in force and in effect and as they may be amended from time to time, the Commission and its members shall be governed by state statutes and local ordinances and policies including the following:
 - a. State statutes applying to public boards, members, and officials.
 - b. State statutes governing the activities of Municipal Planning Commissions.
 - c. The Moab City General Plan and Moab Municipal Code Book and other applicable ordinances and regulations approved by the Moab City Planning Commission or Moab City Council.
 - d. The adopted Rules of Procedure for Planning Commission Meetings. (Resolution #2018-06)
 - e. The rules and policies of the commission as set forth herein.
- 1.2 Familiarity with State Statutes, Local Ordinance, and Rules Affecting the Commission. Upon taking office, all members of the Commission shall familiarize themselves with the applicable statutes, ordinances and rules, and, while in office, shall maintain such knowledge, including knowledge of amendments and additions, and shall be strictly governed thereby in the conduct of Commission affairs.
- 1.3 Number of Commission Members and duration of term. The number of Planning Commission members shall be seven (7) and they shall serve for a term of three (3) years.

ARTICLE 2 – POWERS AND DUTIES

The Commission shall have the following powers and duties:

- a. To prepare or cause to be prepared a General Plan, or elements thereof, and to recommend the General Plan, or elements, to the Moab City Council;

- b. To prepare or cause to be prepared amendments to such plan and elements thereof and to recommend the amendments to the Moab City Council;
- c. To review and make recommendations to the Moab City Council with regard to amendments to the General Plan Land Use and Zoning Map;
- d. To initiate, review and make recommendations to the Moab City Council on applications for amendments to the zoning text of the Moab Municipal Code to promote health, safety and welfare;
- e. To hear, review and recommend approval or disapproval of applications where required by the Moab Municipal Code in accordance with the rules and regulations established by the Moab City Council, or to approve certain development applications when specifically authorized by the Moab City Council; and
- f. To adopt by-laws, policies, procedures and regulations for the conduct of its meetings, the consideration of application for development approval, and for any other purposes deemed necessary for the function of the Commission.

ARTICLE 3 – CONDUCT OF COMMISSION MEMBERS

- 3.1. Ethical Principles. The following ethical principles shall guide the actions of the Commission and its members in carrying out the powers and duties described above:
 - a. Serve the Public Interest. The primary obligation of the Commission and each member is to serve the public interest.
 - b. Support Citizen Participation in Planning. The Commission shall ensure a forum for meaningful citizen participation and expression in the planning process, and assist in the clarification of community goals, objectives and policies.
 - c. Avoid Conflicts of Interest. Commission members shall avoid conflicts of interest and even the appearance of impropriety. A commissioner with a potential conflict of interest shall make the interest public, abstain from voting on the matter, not participate in any deliberations on the matter, and leave any chamber in which such deliberations are to take place. The commissioners shall also not discuss the matter privately with any other official voting on the matter.
 - d. Render Thorough and Diligent Planning Service. If a commissioner has not sufficiently reviewed relevant facts and advice affecting a public planning decision, that commissioner should not participate in that discussion.
 - e. Not Disclose or Improperly Use Confidential Information for Financial Gain. A commissioner shall not disclose or improperly use confidential information for financial gain, and must not disclose to others confidential information acquired in the course of his/her duties, or use it to further a personal interest.

- f. Ensure Full Disclosure at Public Meetings. The Commission shall ensure that the presentation of information on behalf of any party to a planning question occurs only at the scheduled public meeting on the question, not in private, unofficially, or with other interested parties absent, and must make partisan information regarding the question received by mail, telephone, or any other communication, part of the public record.
 - g. Respect for and Courtesy to Other Commission Members, Public and Staff. Each commission member has the same rights and privileges as any other member. Any commissioner has the right to be heard and to hear what others have to say about items being considered by the Commission.
- 3.2 Representation of Applicants or Petitioners. No member of the Commission shall represent applicants or petitioners on matters on which the Commission is to make determinations or recommendations.
- 3.3 Ex-parte Communications. Pre-arranged private meetings between a commissioner and an individual(s) and their agents, or other interested parties with a matter pending before the Commission are prohibited. Partisan information on any application received by a Commissioner, whether by mail, telephone, or other communication should be avoided. When such communication does occur it must be made part of the public record by the commissioner.
- 3.4 Attendance. Each commissioner shall be responsible for attending at least seventy-five percent of the regularly scheduled meetings within the calendar year. Should circumstances arise where a Commissioner is unable to attend a schedule meeting, the commissioner shall be responsible for notifying the Planning Department as soon as possible. Commissioners who fail to attend seventy-five percent of the meetings shall be removed from the Commission.

ARTICLE 4 – MEETINGS AND ORGANIZATION

- 4.1 Regular Meetings. Regular meetings of the Commission shall be scheduled at least twice a month unless there are mitigating circumstances, such as lack of a quorum, lack of items to be discussed, holidays and other circumstances.
- 4.2 Citizen Planner Workshop. All Commissioners are required to attend a minimum of one (1) citizen planner workshop trainings conducted by the Utah League of Cities and Towns. All commissioners shall attend a second training offered by any of the following: Utah Chapter of the American Planning Association, the Utah Land Use Institute, or other acceptable urban planning or planning law conference.
- 4.3 Special Meetings, Work Sessions and Field Trips. Special meetings, work sessions and field trips for any purpose may be held at the call of the chair, the Moab City Council or the Planning Department. Work session and field trip meetings shall be for the discussion and informational purposes only; no action shall be taken on any item.

- 4.4 Open to the Public. All regular, special, work session and field trip meetings of the Commission are open to the public and will be noticed in accordance with the requirements of The Open and Public Meetings Act.
- 4.5 Membership. The Commission shall consist of seven (7) members selected from the public at large and form a representative sample of the community. Members shall serve for terms not to exceed three (3) years in length.
- 4.6 Officers. At an annual meeting to be held at the first regular meeting at the commencement of each calendar year, the members of the Commission shall elect one (1) of its members as Chair and one (1) as Vice Chair. In the absence of the Chair, the Vice Chair shall act as Chair and shall have all powers of the Chair. If both the Chair and Vice Chair are absent or unable to preside over the meeting, the commission members present shall appoint an Acting Chair to preside. If the Chair leaves the Commission during an appointed term, the Vice Chair shall succeed to the office of Chair for the remainder of the term. If the Vice Chair leaves the Commission or succeeds to office of the Chair, the Commission, at its next regularly scheduled meeting, shall hold an election to fill the vacancy of the Vice Chair.
- 4.7 Role of the Chair. The Chair shall be in charge of all proceedings before the Commission, and shall take such action as shall be necessary to preserve order and the integrity of all proceedings before the Commission. Whenever the Chair rules a motion out of order, the Chair shall explain why it is so, and advise the mover of corrections needed to make the motion in order.

ARTICLE 5 – PROCEDURES

- 5.1 Quorum and Necessary Vote. No regular or special meeting of the Commission at which action may be taken may be called to order, or items voted upon, by the Commission without a quorum consisting of at least four (4) members of the Commission being present. A majority of the Commission members then present and voting is required for final action. A quorum is not required to hold a work session or field trip, so long as notice is given in accordance with The Open and Public Meetings Act.
- 5.2 All meetings shall be conducted in accordance with the
- 5.3 Forms and Procedures of Decisions and Motions. Robert's Rules of Order Newly Revised, may be used by the Chair as a general guide.
- 5.4 Motions. Any Commissioner, including the Chair, may make or second a motion.
- a. Motions should be supported by reasons. The person making the motion is encouraged to state the reasons and finding(s) supporting the motion at the time the motion is made. Any conditions for approval shall be stated. The motion may refer to the staff report for detail of the conditions for approval if the person making the motion desires to do so.
 - b. Motions may be repeated for clarification following discussion and prior to the vote at the request of any Commissioner.

c. Planning Commission may request legal advice from the City Attorney in the preparation, discussion and deliberation of motions and findings in support of any motion.

5.5 Voting. All Commission members, including the Chair, are entitled to vote. No Commission member shall discuss or vote on any matter deciding an application or petition except after attending the public meeting(s) and/or hearing(s) on the matter and listening to all testimony presented. A member may qualify to participate in further discussion and vote on the matter by examining the evidence and reviewing the record of the meeting(s) and/or hearing(s) at which the member was absent.

5.6 Rules of Order. In accordance with these rules, the Chair shall decide all points of procedure and order unless otherwise directed by a majority vote of the members in attendance.

5.7 Conduct During Public Hearings. During all meetings and hearings, persons providing testimony shall proceed without interruption except that of the Commission. All comments, arguments and pleadings shall be addressed to the Chair. There shall be no debate or argument between individuals. The Chair shall maintain order and decorum, and, to that end, may order removal of disorderly or disruptive persons.

ARTICLE 6 – AMENDING BY-LAWS

6.1 Amending By-Laws. These by-laws may be amended by a majority vote of the Commission, except where such amendments would be contrary to the requirements or limitations set forth by State Law or Moab Municipal Code. An amendment may be proposed at any regular meeting of the Commission. Member shall receive a copy of the proposed or amended by-laws not less than one week prior to the meeting at which said proposed changes shall be heard.

Discussion Notes from Planning Commission 07/08/2021

Discussion Item 4.1: Work Session on Amendments to Section 17.70 Accessory Dwelling Units (ADUs)

Staff: Cory Shurtleff

07/14/2021

Agenda Item Background Information

Summary of HB82 and relevance to MMC ADU requirements

Revision/Updates to Further Remove Regulatory Barriers

- The front yard setback for and ADU shall be at least equal to the plane of the front wall of the principal structure – should we consider eliminating this and allow ADUs in the front yard, as long as they meet the code required setback?
 - o In favor of this change; ADUs should be allowed in front of a Primary Structure as long as they meet the underlying setback. “ADUs shall meet the underlying zone setback requirements”.
- An accessory dwelling may be constructed above a 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 twenty feet in height – Should the allowable height be more than 20 feet? It is difficult to have a garage and an ADU above and meet the building height of 20 feet and conform with the pitched roof standard.
 - o In favor of some adjustment; Discussion included changing the static height requirement to 30’ or 25’ to accommodate the pitched roof requirement and align with the underlying zone height requirement. The concept of height in relation to setbacks came up for consideration. Initially PC discussed increasing the building height but not the setbacks. Then, rather than adjust the building height, allow for a shorter setback (5’ or 7’ side and rear setback) requirement, but keep the height at 20’. This concept was considered based on the change that would most likely, most effectively help property owners build ADUs, without allowing both increased height and decreased setbacks (imposition on neighbors). Then the concept of having a tiered setback height requirement (ex. 20’ height @ 5’ or 7’ setback side and rear; 30’ height @ 7’ side and 12’ rear [underlying setbacks]). PC requested a draft of both options; 1) decreased setback with maintained height; 2) Tiered height/setbacks.
- Size – the new state law does not allow us to regulate the size of an internal ADU – Do we want to maintain a maximum square footage for external ADUs? Right now, the max is 1000sf.
 - o In favor of some adjustment; Desire to make more viable modular options available by increasing the square footage total for common unit sizes (Staff should research common “smallest” modular model square footage ex. 1100sf, 1200sf, 1500sf). Concept of size/number of ADUs came up. Initially preferred that rather than increase ADU size, we increase number of ADUs to create more doors. Initial concern of not wanting to

increase SF that would disincentivize multiple ADU possibilities. Then concerned also that the option for multiple ADUs would disincentivize larger ADUs that might be a viable option for family unit type occupants. Question become, what are our goals and how do we want to use the ADU tool to approach those goals (We don't need to use ADUs to solve all or our goals, but potentially address one or two niche areas of goal housing). Resolving concept was that we increase the maximum SF of a property's ADU use, and that SF can be divided up between multiple ADUs as the property owner wishes.

- Deed Restriction – the current restriction prohibits the use of an ADU as a nightly rental. That provision should be maintained. Do we want to add an owner occupation requirement and/ or no subdivision of land for an ADU?
 - o In favor of including no subdivision of land for an ADU in deed restriction;
 - o Not in favor of including owner occupation requirement to external ADU deed restriction.
- Townhomes/ Twinhomes – Should ADUs be permitted on twinhome lots or townhome lots
 - o In favor of permitting external ADUs on Twinhome lots
 - o In favor of permitting external ADUs on Townhome lots if the parameters of an external ADU can be met within the individual townhome lot area (setbacks, open space, parking, fire separation), would not necessarily be applicable on the “commonly owned/ maintained” lot area of a townhome plat.

Moab Planning Commission Agenda Item
Meeting Date: July 8, 2021
Work Session on Amendments to
Section 17.70 Accessory Dwelling Units (ADUs)

Staff Presenter: Nora Shepard, Planning Director
Cory Shurtleff, Assistant Planner

Applicant: City Initiated Code Amendments

Attachment(s):

Exhibit A: Summary of potential ADU Amendments required in HB 82

Exhibit B: Moab Municipal Code (MMC) Chapter 17.70

Exhibit C: HB 82 as adopted

Background:

The reasons for the City initiating changes to the ADU section of the MMC are two-fold. The Utah State Legislature recently passed HB 82 Single Family Housing Modifications. This legislation addresses zoning and building provisions relating to Internal ADUs. A copy of HB82 is attached (Exhibit C) for your use. The other reason is that it is time we review our current code language and recommend changes to further remove regulatory barriers.

HB 82

As mentioned above, the State Legislature adopted HB 82 addressing zoning and building provisions for "Internal ADUs." Amendments must be made to the MMC to be consistent with this legislation. Attached as Exhibit A is a summary of the necessary changes. The legislation does not address separate or exterior ADUs.

In Summary, HB 82

- modifies and defines terms applicable to municipal and county land use development and management;
- allows a municipality or county to punish an individual who lists or offers a certain licensed or permitted accessory dwelling unit as a short-term rental;
- allows municipalities and counties to require specified physical changes to certain accessory dwelling units;
- in any single-family residential land use zone:
 - ✓ requires municipalities and counties to classify certain accessory dwelling units as a permitted land use; and
 - ✓ prohibits municipalities and counties from establishing restrictions or requirements for certain accessory dwelling units with limited exceptions;
- allows a municipality or county to hold a lien against real property containing certain accessory dwelling units in certain circumstances;

- provides for statewide amendments to the International Residential Code related to accessory dwelling units;
- requires the executive director of the Olene Walker Housing Loan Fund to establish a two-year pilot program to provide loan guarantees for certain loans related to accessory dwelling units;
- prevents a homeowners association from prohibiting the construction or rental of certain accessory dwelling units; and
- makes technical and conforming changes.

Revisions/Updates to Further Remove Regulatory Barriers

In 2018, the MMC was amended to better regulate ADUs. This effort was one piece of an on-going effort to encourage employee housing and to remove regulatory barriers to building employee housing. The current regulations allow ADUs as a permitted use (requiring only a building permit) in the R-2, R-3, R-4 and RA-1 Zones. There are standards and criteria that apply to ADUs. The Code Section is attached as Exhibit B. It has been a few years since these provisions have been adopted and it is appropriate to reevaluate them based on the experience over the last 3 years. The most significant barriers relate to external ADUs include 1) adhering to the underlying zone required setbacks; and 2) adhering to the 20 ft maximum building height for ADUs over existing garages.

ADU Code Provisions that the City may want to consider amending include:

17.70.020 General Standards

- The front yard setback for an ADU shall be at least equal to the plane of the front wall of the principal structure – *should we consider eliminating this and allow ADUs in the front yard, as long as they meet the code required setback?*
- An accessory dwelling may be constructed above a 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 twenty feet in height. – *Should the allowable height be more than 20 feet? It is difficult to have a garage and an ADU above and meet the building height of 20 feet and conform to the pitched roof standard.*

17.70.030 Criteria for Review

- Size – the new state law does not allow us to regulate the size of an internal ADU. *Do we want to maintain a maximum square footage for external ADUs? Right now, the max is 1000 sf.*
- No more than 1 ADU per lot – *Do we want to consider more than 1 ADU per lot if the lot is of a certain minimum size?*
- Deed Restriction – the current restriction prohibits the use of an ADU as a nightly rental. That provision should be maintained. *Do we want to add an owner occupation requirement and/or no subdivision of land for an ADU?*

Setbacks

The code requires setbacks consistent with the underlying zoning. *Should we consider reduced side and rear setbacks?*

Discussion Items

At the work session, the staff will briefly go over the required changes to our code because of HB82. The staff also hoped to get feedback on changes to our existing code to further remove regulatory barriers.

6.29.2021

ADU Land Use Code changes necessary due to HB 82

Utah League of Cities and Town's advice:

By October 1, 2021, a municipality should review those zones that are primarily residential and adopt an ordinance permitting IADUs if they are not permitted already. However, if the municipality chooses to, the municipality should also identify a zoning district covering, as applicable, an area equivalent to 25% or less, or 67% or less, of the total area in the municipality that is zoned primarily residential and exclude IADUs in those areas. The IADU ordinance should also adopt any restrictions that the municipality finds necessary and appropriate under HB 82. A municipality should also amend an ordinance setting a single-family limit based on whether individuals are related to each other and note the changes in the building code for IADUs.

Code Changes Necessary:

Definitions

- Add "Internal ADU" to the definitions as follows:
"Internal accessory dwelling unit" means an accessory dwelling unit created:
 - (i) within a primary dwelling;
 - (ii) within the footprint of the primary dwelling and
 - (iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

- Add "Primary Dwelling"
"Primary dwelling" means a single-family dwelling that:
 - (i) is detached; and
 - (ii) is occupied as the primary residence of the owner of record.

- Add "Rental dwelling":
"rental dwelling" means a building or portion of a building that is:
 - (a) used or designated for use as a residence by one or more persons; and
 - (i) is available to be rented, loaned, leased, or hired out for a period of one month or longer; or
 - (ii) is arranged, designed, or built to be rented, loaned, leased, or hired out for a period of one month or longer.

- Add "Primary Dwelling"
"Primary dwelling" means a single family that:
 - i. Is detached; and
 - ii. Is occupied as the primary residence of the owner of record.

ADU code changes

- In areas zoned primarily for residential use (a determination up to the municipality), IADUs are permitted uses. However, a municipality may prohibit IADUs in 25% or less of the total area in the municipality zoned for primarily residential
- A municipality may not establish restrictions on the construction or use of an IADU, including IADU size within the primary dwelling, total lot size, or street frontage.
- HB 82 allows a municipality to adopt the following IADU restrictions and requirements:
 - i. require bedroom window egress, prohibit installation of a separate utility meter
 - ii. require that the IADU design not change the appearance of the primary dwelling,
 - iii. require one additional on-site parking space and replace any garage or carport parking spaces if the IADU is created in the garage or carport,
 - iv. prohibit an IADU in a mobile home,
 - v. require an IADU permit or license,
 - vi. prohibit an IADU if the primary dwelling is served by a failing septic tank,
 - vii. prohibit an IADU if the lot is 6,000 sq. ft. or less,
 - viii. prohibit the renting of the IADU for less than 30 consecutive days, and
 - ix. prohibit renting an IADU that is not in an owner-occupied primary dwelling.
 - x. 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 State Code or Local Codes
- A municipality that issues, on or after October 1, 2021, 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 recorder of the county in which the primary dwelling is located.
 - i. The notice shall include: a description of the primary dwelling; a statement that the primary dwelling contains an internal accessory dwelling unit; and a statement that the internal accessory dwelling unit may only be used in accordance with the municipality's land use regulations.
 - ii. The municipality shall, upon recording the notice deliver a copy of the notice to the owner of the internal accessory dwelling unit.
- Add a process for violations
 - i. The municipality provides a written notice of violation
 - ii. The municipality holds a hearing and determines that the violation has occurred
 - iii. If the owner files a written objection

- iv. The owner fails to cure the violation within the time period prescribed
- v. The municipality records a copy of the written notice of lien with the county recorder
- vi. The written notice of violation shall
 - ✓ Describe the specific violation
 - ✓ Provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation no less than 14 days after the day on which the municipality 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
 - ✓ State that if the owner of the property fails to cure the violation within the time period, the municipality 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
 - ✓ 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 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.
 - ✓ Posted on the property
- vii. 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.
- viii. If an owner of property files a written objection in accordance with Subsection the municipality shall:
 - ✓ 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
 - ✓ notify the owner in writing of the date, time, and location of the hearing. The hearing notice shall be send no less than 14 days before the day on which the hearing is held.
- ix. If an owner of property files a written objection a municipality may not record a lien until the municipality holds a hearing and determines that the specific violation has occurred.
- x. If the municipality determines at the hearing that the specific violation has occurred, the municipality 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.

- xi. If an owner cures a violation within the time period prescribed in the written notice of violation the municipality 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.

Chapter 17.70

ACCESSORY DWELLING UNIT (ADU)¹

Sections:

- 17.70.010 Purpose.**
- 17.70.020 General standards.**
- 17.70.030 Criteria for approval.**
- 17.70.040 Enforcement--Revocation of permit.**

17.70.010 Purpose.

Accessory dwelling units are encouraged as dwellings for persons to increase affordable housing opportunities in the R-2, R-3, R-4, and RA-1 residential zones. They shall be allowed in the R-1 zone on lots sufficient in size to allow further subdivision. (Ord. 18-20 (part), 2018; Ord. 18-01 (part), 2018; Ord. 12-05 (part), 2012. Formerly 17.69.010)

17.70.020 General standards.

The following provisions are intended to facilitate accessory dwellings while minimizing land use conflicts and environmental degradation:

- A. Accessory dwellings shall not occupy more than twenty-five percent of any rear or side yard.
- B. The front yard setback for an accessory dwelling shall be at least equal to the plane of the front wall of the principal structure and/or adhere to the required setbacks of the underlying zone.
 - 1. *Exception.* Where pre-existing structures meet the development standards of this chapter, the original structure may be designated as the accessory dwelling.
- C. Any request for accessory living quarters 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.
- D. An accessory dwelling shall not be constructed prior to the principal structure.
- E. An accessory dwelling may be constructed above a 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 twenty feet in height. (Ord. 18-20 (part), 2018; Ord. 18-01 (part), 2018; Ord. 12-05 (part), 2012. Formerly 17.69.020)

17.70.030 Criteria for approval.

The following criteria must be established prior to building permit issuance:

- A. *Size*. The maximum size for accessory living quarters shall be no more than one thousand square feet with no more than three bedrooms.
- B. *Parking*. 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.
- C. *Accessory Dwellings Per Lot*. No more than one accessory dwelling may be located on a lot.
- D. *Property to Remain Undivided*. Properties with accessory dwelling permits shall remain recorded as one lot.
- E. *Subdivision of Property*. The accessory dwelling shall not be sold separately unless the accessory dwelling occupies an area of adequate size to meet the lot area and all other requirements of the zone.
- F. *Deed Restriction*. A deed restriction must be filed with the county recorder which states:

“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.”

- G. *Nightly Rentals*. Accessory dwellings are intended for long-term rental of six consecutive months or more, to the same individual, and may not be used for nightly rentals. (Ord. 18-20 (part), 2018; Ord. 18-01 (part), 2018; Ord. 12-05 (part), 2012. Formerly 17.69.030)

17.70.040 Enforcement--Revocation of permit.

The Zoning Administrator may revoke the accessory dwelling permit for noncompliance with the criteria of this chapter. The permittee may appeal the determination to the appeal authority, which will evaluate the Zoning Administrator's determination of noncompliance and decide if the permit revocation should occur. (Ord. 18-20 (part), 2018; Ord. 18-01 (part), 2018; Ord. 12-05 (part), 2012. Formerly 17.69.040)

1 The ADU shall be permitted as an accessory dwelling unit added to, created within, or detached from the original dwelling. The ADU shall be oriented in a way that maintains, to the extent practical, the privacy of residents in adjoining dwellings.

Editor's note: Ord. No. [10-13](#), adopted September 14, 2010, repealed Chapter 17.70, 17.70.010--17.70.090, which pertained to bed and breakfast facilities and derived from Ord. No. [90-06](#); Ord. No. [95-01](#); Ord. No. [99-12](#);

Ord. No. [00-02](#), 2000 and Ord. No. [06-13](#), 2006. Ord. No. [18-20](#), adopted November 13, 2018, renumbered Chapter 17.69 as Chapter 17.70.

The Moab Municipal Code is current through Ordinance 21-10, passed April 27, 2021.

Disclaimer: The City Recorder's Office has the official version of the Moab Municipal Code. Users should contact the City Recorder's Office for ordinances passed subsequent to the ordinance cited above.

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SINGLE-FAMILY HOUSING MODIFICATIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Raymond P. Ward

Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill modifies provisions related to single-family housing.

Highlighted Provisions:

This bill:

- ▶ modifies and defines terms applicable to municipal and county land use development and management;
- ▶ allows a municipality or county to punish an individual who lists or offers a certain licensed or permitted accessory dwelling unit as a short-term rental;
- ▶ allows municipalities and counties to require specified physical changes to certain accessory dwelling units;
- ▶ in any single-family residential land use zone:
 - requires municipalities and counties to classify certain accessory dwelling units as a permitted land use; and
 - prohibits municipalities and counties from establishing restrictions or requirements for certain accessory dwelling units with limited exceptions;
- ▶ allows a municipality or county to hold a lien against real property containing certain accessory dwelling units in certain circumstances;
- ▶ provides for statewide amendments to the International Residential Code related to accessory dwelling units;
- ▶ requires the executive director of the Olene Walker Housing Loan Fund to establish a two-year pilot program to provide loan guarantees for certain loans related to accessory dwelling units;

- 30 ▶ prevents a homeowners association from prohibiting the construction or rental of
- 31 certain accessory dwelling units; and
- 32 ▶ makes technical and conforming changes.

33 Money Appropriated in this Bill:

34 None

35 Other Special Clauses:

36 This bill provides a special effective date.

37 Utah Code Sections Affected:

38 AMENDS:

- 39 **10-8-85.4**, as enacted by Laws of Utah 2017, Chapter 335
- 40 **10-9a-505.5**, as last amended by Laws of Utah 2012, Chapter 172
- 41 **10-9a-511.5**, as enacted by Laws of Utah 2015, Chapter 205
- 42 **15A-3-202**, as last amended by Laws of Utah 2020, Chapter 441
- 43 **15A-3-204**, as last amended by Laws of Utah 2016, Chapter 249
- 44 **15A-3-206**, as last amended by Laws of Utah 2018, Chapter 186
- 45 **17-27a-505.5**, as last amended by Laws of Utah 2015, Chapter 465
- 46 **17-27a-510.5**, as enacted by Laws of Utah 2015, Chapter 205
- 47 **17-50-338**, as enacted by Laws of Utah 2017, Chapter 335
- 48 **35A-8-505**, as last amended by Laws of Utah 2020, Chapter 241
- 49 **57-8a-209**, as last amended by Laws of Utah 2018, Chapter 395
- 50 **57-8a-218**, as last amended by Laws of Utah 2017, Chapter 131

51 ENACTS:

- 52 **10-9a-530**, Utah Code Annotated 1953
- 53 **17-27a-526**, Utah Code Annotated 1953
- 54 **35A-8-504.5**, Utah Code Annotated 1953

56 *Be it enacted by the Legislature of the state of Utah:*

57 Section 1. Section **10-8-85.4** is amended to read:

58 **10-8-85.4. Ordinances regarding short-term rentals -- Prohibition on ordinances**
59 **restricting speech on short-term rental websites.**

60 (1) As used in this section:

61 (a) "Internal accessory dwelling unit" means the same as that term is defined in Section
62 10-9a-511.5.

63 ~~[(a)]~~ (b) "Residential unit" means a residential structure or any portion of a residential
64 structure that is occupied as a residence.

65 ~~[(b)]~~ (c) "Short-term rental" means a residential unit or any portion of a residential unit
66 that the owner of record or the lessee of the residential unit offers for occupancy for fewer than
67 30 consecutive days.

68 ~~[(c)]~~ (d) "Short-term rental website" means a website that:

- 69 (i) allows a person to offer a short-term rental to one or more prospective renters; and
- 70 (ii) facilitates the renting of, and payment for, a short-term rental.

71 (2) Notwithstanding Section 10-9a-501 or Subsection 10-9a-503(1), a legislative body
72 may not:

73 (a) enact or enforce an ordinance that prohibits an individual from listing or offering a
74 short-term rental on a short-term rental website; or

75 (b) use an ordinance that prohibits the act of renting a short-term rental to fine, charge,
76 prosecute, or otherwise punish an individual solely for the act of listing or offering a short-term
77 rental on a short-term rental website.

78 (3) Subsection (2) does not apply to an individual who lists or offers an internal
79 accessory dwelling unit as a short-term rental on a short-term rental website if the municipality
80 records a notice for the internal accessory dwelling unit under Subsection 10-9a-530(6).

81 Section 2. Section 10-9a-505.5 is amended to read:

82 **10-9a-505.5. Limit on single family designation.**

83 (1) As used in this section, "single-family limit" means the number of ~~[unrelated]~~
84 individuals allowed to occupy each residential unit that is recognized by a land use authority in
85 a zone permitting occupancy by a single family.

86 (2) A municipality may not adopt a single-family limit that is less than:

87 (a) three, if the municipality has within its boundary:

88 (i) a state university; or

89 (ii) a private university with a student population of at least 20,000; or

90 (b) four, for each other municipality.

91 Section 3. Section 10-9a-511.5 is amended to read:

92 **10-9a-511.5. Changes to dwellings -- Egress windows.**

93 (1) ~~[For purposes of]~~ As used in this section~~["rental"]~~:

94 (a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

95 (i) within a primary dwelling;

96 (ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the
97 time the internal accessory dwelling unit is created; and

98 (iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

99 (b) "Primary dwelling" means a single-family dwelling that:

100 (i) is detached; and

101 (ii) is occupied as the primary residence of the owner of record.

102 (c) "Rental dwelling" means the same as that term is defined in Section 10-8-85.5.

103 (2) A municipal ordinance adopted under Section 10-1-203.5 may not:

104 (a) require physical changes in a structure with a legal nonconforming rental dwelling
105 use unless the change is for:

106 (i) the reasonable installation of:

107 (A) a smoke detector that is plugged in or battery operated;

108 (B) a ground fault circuit interrupter protected outlet on existing wiring;

109 (C) street addressing;

110 (D) except as provided in Subsection (3), an egress bedroom window if the existing
111 bedroom window is smaller than that required by current State Construction Code;

112 (E) an electrical system or a plumbing system, if the existing system is not functioning
113 or is unsafe as determined by an independent electrical or plumbing professional who is

114 licensed in accordance with Title 58, Occupations and Professions;

115 (F) hand or guard rails; or

116 (G) occupancy separation doors as required by the International Residential Code; or

117 (ii) the abatement of a structure; or

118 (b) be enforced to terminate a legal nonconforming rental dwelling use.

119 (3) (a) A municipality may not require physical changes to install an egress or

120 emergency escape window in an existing bedroom that complied with the State Construction

121 Code in effect at the time the bedroom was finished if:

122 ~~[(a)]~~ (i) the dwelling is an owner-occupied dwelling or a rental dwelling that is:

123 ~~[(i)]~~ (A) a detached one-, two-, three-, or four-family dwelling; or

124 ~~[(ii)]~~ (B) a town home that is not more than three stories above grade with a separate
125 means of egress; and

126 ~~[(b)]~~ ~~[(i)]~~ (ii) (A) the window in the existing bedroom is smaller than that required by
127 current State Construction Code; and

128 ~~[(ii)]~~ (B) the change would compromise the structural integrity of the structure or could
129 not be completed in accordance with current State Construction Code, including set-back and
130 window well requirements.

131 (b) Subsection (3)(a) does not apply to an internal accessory dwelling unit.

132 (4) Nothing in this section prohibits a municipality from:

133 (a) regulating the style of window that is required or allowed in a bedroom;

134 (b) requiring that a window in an existing bedroom be fully openable if the openable
135 area is less than required by current State Construction Code; or

136 (c) requiring that an existing window not be reduced in size if the openable area is
137 smaller than required by current State Construction Code.

138 Section 4. Section **10-9a-530** is enacted to read:

139 **10-9a-530. Internal accessory dwelling units.**

140 (1) As used in this section:

141 (a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

- 142 (i) within a primary dwelling;
- 143 (ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the
- 144 time the internal accessory dwelling unit is created; and
- 145 (iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.
- 146 (b) "Primary dwelling" means a single-family dwelling that:
- 147 (i) is detached; and
- 148 (ii) is occupied as the primary residence of the owner of record.
- 149 (2) In any area zoned primarily for residential use:
- 150 (a) the use of an internal accessory dwelling unit is a permitted use; and
- 151 (b) except as provided in Subsections (3) and (4), a municipality may not establish any
- 152 restrictions or requirements for the construction or use of one internal accessory dwelling unit
- 153 within a primary dwelling, including a restriction or requirement governing:
- 154 (i) the size of the internal accessory dwelling unit in relation to the primary dwelling;
- 155 (ii) total lot size; or
- 156 (iii) street frontage.
- 157 (3) An internal accessory dwelling unit shall comply with all applicable building,
- 158 health, and fire codes.
- 159 (4) A municipality may:
- 160 (a) prohibit the installation of a separate utility meter for an internal accessory dwelling
- 161 unit;
- 162 (b) require that an internal accessory dwelling unit be designed in a manner that does
- 163 not change the appearance of the primary dwelling as a single-family dwelling;
- 164 (c) require a primary dwelling:
- 165 (i) to include one additional on-site parking space for an internal accessory dwelling
- 166 unit, regardless of whether the primary dwelling is existing or new construction; and
- 167 (ii) to replace any parking spaces contained within a garage or carport if an internal
- 168 accessory dwelling unit is created within the garage or carport;
- 169 (d) prohibit the creation of an internal accessory dwelling unit within a mobile home as

170 defined in Section 57-16-3;

171 (e) require the owner of a primary dwelling to obtain a permit or license for renting an
172 internal accessory dwelling unit;

173 (f) prohibit the creation of an internal accessory dwelling unit within a zoning district
174 covering an area that is equivalent to:

175 (i) 25% or less of the total area in the municipality that is zoned primarily for
176 residential use; or

177 (ii) 67% or less of the total area in the municipality that is zoned primarily for
178 residential use, if the main campus of a state or private university with a student population of
179 10,000 or more is located within the municipality;

180 (g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling
181 is served by a failing septic tank;

182 (h) prohibit the creation of an internal accessory dwelling unit if the lot containing the
183 primary dwelling is 6,000 square feet or less in size;

184 (i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a
185 period of less than 30 consecutive days;

186 (j) prohibit the rental of an internal accessory dwelling unit if the internal accessory
187 dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;

188 (k) hold a lien against a property that contains an internal accessory dwelling unit in
189 accordance with Subsection (5); and

190 (l) record a notice for an internal accessory dwelling unit in accordance with
191 Subsection (6).

192 (5) (a) In addition to any other legal or equitable remedies available to a municipality, a
193 municipality may hold a lien against a property that contains an internal accessory dwelling
194 unit if:

195 (i) the owner of the property violates any of the provisions of this section or any
196 ordinance adopted under Subsection (4);

197 (ii) the municipality provides a written notice of violation in accordance with

198 Subsection (5)(b);
199 (iii) the municipality holds a hearing and determines that the violation has occurred in
200 accordance with Subsection (5)(d), if the owner files a written objection in accordance with
201 Subsection (5)(b)(iv);
202 (iv) the owner fails to cure the violation within the time period prescribed in the
203 written notice of violation under Subsection (5)(b);
204 (v) the municipality provides a written notice of lien in accordance with Subsection
205 (5)(c); and
206 (vi) the municipality records a copy of the written notice of lien described in
207 Subsection (5)(a)(iv) with the county recorder of the county in which the property is located.
208 (b) The written notice of violation shall:
209 (i) describe the specific violation;
210 (ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity
211 to cure the violation that is:
212 (A) no less than 14 days after the day on which the municipality sends the written
213 notice of violation, if the violation results from the owner renting or offering to rent the internal
214 accessory dwelling unit for a period of less than 30 consecutive days; or
215 (B) no less than 30 days after the day on which the municipality sends the written
216 notice of violation, for any other violation;
217 (iii) state that if the owner of the property fails to cure the violation within the time
218 period described in Subsection (5)(b)(ii), the municipality may hold a lien against the property
219 in an amount of up to \$100 for each day of violation after the day on which the opportunity to
220 cure the violation expires;
221 (iv) notify the owner of the property:
222 (A) that the owner may file a written objection to the violation within 14 days after the
223 day on which the written notice of violation is post-marked or posted on the property; and
224 (B) of the name and address of the municipal office where the owner may file the
225 written objection;

226 (v) be mailed to:
227 (A) the property's owner of record; and
228 (B) any other individual designated to receive notice in the owner's license or permit
229 records; and
230 (vi) be posted on the property.
231 (c) The written notice of lien shall:
232 (i) comply with the requirements of Section [38-12-102](#);
233 (ii) state that the property is subject to a lien;
234 (iii) specify the lien amount, in an amount of up to \$100 for each day of violation after
235 the day on which the opportunity to cure the violation expires;
236 (iv) be mailed to:
237 (A) the property's owner of record; and
238 (B) any other individual designated to receive notice in the owner's license or permit
239 records; and
240 (v) be posted on the property.
241 (d) (i) If an owner of property files a written objection in accordance with Subsection
242 (5)(b)(iv), the municipality shall:
243 (A) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings
244 Act, to conduct a review and determine whether the specific violation described in the written
245 notice of violation under Subsection (5)(b) has occurred; and
246 (B) notify the owner in writing of the date, time, and location of the hearing described
247 in Subsection (5)(d)(i)(A) no less than 14 days before the day on which the hearing is held.
248 (ii) If an owner of property files a written objection under Subsection (5)(b)(iv), a
249 municipality may not record a lien under this Subsection (5) until the municipality holds a
250 hearing and determines that the specific violation has occurred.
251 (iii) If the municipality determines at the hearing that the specific violation has
252 occurred, the municipality may impose a lien in an amount of up to \$100 for each day of
253 violation after the day on which the opportunity to cure the violation expires, regardless of

254 whether the hearing is held after the day on which the opportunity to cure the violation has
255 expired.

256 (e) If an owner cures a violation within the time period prescribed in the written notice
257 of violation under Subsection (5)(b), the municipality may not hold a lien against the property,
258 or impose any penalty or fee on the owner, in relation to the specific violation described in the
259 written notice of violation under Subsection (5)(b).

260 (6) (a) A municipality that issues, on or after October 1, 2021, a permit or license to an
261 owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to
262 an owner of a primary dwelling to create an internal accessory dwelling unit, may record a
263 notice in the office of the recorder of the county in which the primary dwelling is located.

264 (b) The notice described in Subsection (6)(a) shall include:

265 (i) a description of the primary dwelling;

266 (ii) a statement that the primary dwelling contains an internal accessory dwelling unit;

267 and

268 (iii) a statement that the internal accessory dwelling unit may only be used in
269 accordance with the municipality's land use regulations.

270 (c) The municipality shall, upon recording the notice described in Subsection (6)(a),
271 deliver a copy of the notice to the owner of the internal accessory dwelling unit.

272 Section 5. Section **15A-3-202** is amended to read:

273 **15A-3-202. Amendments to Chapters 1 through 5 of IRC.**

274 (1) In IRC, Section R102, a new Section R102.7.2 is added as follows: "R102.7.2

275 Physical change for bedroom window egress. A structure whose egress window in an existing
276 bedroom is smaller than required by this code, and that complied with the construction code in
277 effect at the time that the bedroom was finished, is not required to undergo a physical change to
278 conform to this code if the change would compromise the structural integrity of the structure or
279 could not be completed in accordance with other applicable requirements of this code,
280 including setback and window well requirements."

281 (2) In IRC, Section R108.3, the following sentence is added at the end of the section:

282 "The building official shall not request proprietary information."

283 (3) In IRC, Section 109:

284 (a) A new IRC, Section 109.1.5, is added as follows: "R109.1.5 Weather-resistant
285 exterior wall envelope inspections. An inspection shall be made of the weather-resistant
286 exterior wall envelope as required by Section R703.1 and flashings as required by Section
287 R703.8 to prevent water from entering the weather-resistive barrier."

288 (b) The remaining sections are renumbered as follows: R109.1.6 Other inspections;
289 R109.1.6.1 Fire- and smoke-resistance-rated construction inspection; R109.1.6.2 Reinforced
290 masonry, insulating concrete form (ICF) and conventionally formed concrete wall inspection;
291 and R109.1.7 Final inspection.

292 (4) IRC, Section R114.1, is deleted and replaced with the following: "R114.1 Notice to
293 owner. Upon notice from the building official that work on any building or structure is being
294 prosecuted contrary to the provisions of this code or other pertinent laws or ordinances or in an
295 unsafe and dangerous manner, such work shall be immediately stopped. The stop work order
296 shall be in writing and shall be given to the owner of the property involved, or to the owner's
297 agent or to the person doing the work; and shall state the conditions under which work will be
298 permitted to resume."

299 (5) In IRC, Section R202, the following definition is added: "ACCESSORY
300 DWELLING UNIT: A habitable living unit created within the existing footprint of a primary
301 owner-occupied single-family dwelling."

302 [~~5~~] (6) In IRC, Section R202, the following definition is added: "CERTIFIED
303 BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to
304 test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction
305 under Utah Code, Subsection 19-4-104(4)."

306 [~~6~~] (7) In IRC, Section R202, the definition of "Cross Connection" is deleted and
307 replaced with the following: "CROSS CONNECTION. Any physical connection or potential
308 connection or arrangement between two otherwise separate piping systems, one of which
309 contains potable water and the other either water of unknown or questionable safety or steam,

310 gas, or chemical, whereby there exists the possibility for flow from one system to the other,
311 with the direction of flow depending on the pressure differential between the two systems (see
312 "Backflow, Water Distribution")."

313 [(7)] (8) In IRC, Section 202, in the definition for gray water a comma is inserted after
314 the word "washers"; the word "and" is deleted; and the following is added to the end: "and
315 clear water wastes which have a pH of 6.0 to 9.0; are non-flammable; non-combustible;
316 without objectionable odors; non-highly pigmented; and will not interfere with the operation of
317 the sewer treatment facility."

318 [(8)] (9) In IRC, Section R202, the definition of "Potable Water" is deleted and
319 replaced with the following: "POTABLE WATER. Water free from impurities present in
320 amounts sufficient to cause disease or harmful physiological effects and conforming to the
321 Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water
322 Quality Act, and the regulations of the public health authority having jurisdiction."

323 [(9)] (10) IRC, Figure R301.2(5), is deleted and replaced with R301.2(5) as follows:

"TABLE R301.2(5)			
GROUND SNOW LOADS FOR SELECTED LOCATIONS IN UTAH			
City/Town	County	Ground Snow Load (lb/ft ²)	Elevation (ft)
Beaver	Beaver	35	5886
Brigham City	Box Elder	42	4423
Castle Dale	Emery	32	5669
Coalville	Summit	57	5581
Duchesne	Duchesne	39	5508
Farmington	Davis	35	4318
Fillmore	Millard	30	5138
Heber City	Wasatch	60	5604
Junction	Piute	27	6030
Kanab	Kane	25	4964

337	Loa	Wayne	37	7060
338	Logan	Cache	43	4531
339	Manila	Daggett	26	6368
340	Manti	Sanpete	37	5620
341	Moab	Grand	21	4029
342	Monticello	San Juan	67	7064
343	Morgan	Morgan	52	5062
344	Nephi	Juab	39	5131
345	Ogden	Weber	37	4334
346	Panguitch	Garfield	41	6630
347	Parowan	Iron	32	6007
348	Price	Carbon	31	5558
349	Provo	Utah	31	4541
350	Randolph	Rich	50	6286
351	Richfield	Sevier	27	5338
352	St. George	Washington	21	2585
353	Salt Lake City	Salt Lake	28	4239
354	Tooele	Tooele	35	5029
355	Vernal	Uintah	39	5384

Note: To convert lb/ft² to kN/m², multiply by 0.0479. To convert feet to meters, multiply by 0.3048.

1. Statutory requirements of the Authority Having Jurisdiction are not included in this state ground snow load table.

356 2. For locations where there is substantial change in altitude over the city/town, the load applies at and below the cited elevation, with a tolerance of 100 ft (30 m).

3. For other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, <http://utahsnowload.usu.edu/>, for ground snow load values.

357 ~~[(10)]~~ (11) IRC, Section R301.6, is deleted and replaced with the following: "R301.6
358 Utah Snow Loads. The snow loads specified in Table R301.2(5b) shall be used for the
359 jurisdictions identified in that table. Otherwise, for other locations in Utah, see Bean, B.,
360 Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and
361 Environmental Engineering Faculty Publications, Paper 3589, <http://utahsnowload.usu.edu/>, for
362 ground snow load values."

363 ~~[(11)]~~ (12) In IRC, Section R302.2, the following sentence is added after the second
364 sentence: "When an access/maintenance agreement or easement is in place, plumbing,
365 mechanical ducting, schedule 40 steel gas pipe, and electric service conductors including
366 feeders, are permitted to penetrate the common wall at grade, above grade, or below grade."

367 (13) In IRC, Section R302.3, a new exception 3 is added as follows: "3. Accessory
368 dwelling units separated by walls or floor assemblies protected by not less than 1/2-inch (12.7
369 mm) gypsum board or equivalent on each side of the wall or bottom of the floor assembly are
370 exempt from the requirements of this section."

371 ~~[(12)]~~ (14) In IRC, Section R302.5.1, the words "self-closing device" are deleted and
372 replaced with "self-latching hardware."

373 ~~[(13)]~~ (15) IRC, Section R302.13, is deleted.

374 ~~[(14)]~~ (16) In IRC, Section R303.4, the number "5" is changed to "3" in the first
375 sentence.

376 (17) In IRC, Section R310.6, in the exception, the words "or accessory dwelling units"
377 are added after the words "sleeping rooms".

378 ~~[(15)]~~ (18) IRC, Sections R311.7.4 through R311.7.5.3, are deleted and replaced with
379 the following: "R311.7.4 Stair treads and risers. R311.7.5.1 Riser height. The maximum riser
380 height shall be 8 inches (203 mm). The riser shall be measured vertically between leading
381 edges of the adjacent treads. The greatest riser height within any flight of stairs shall not
382 exceed the smallest by more than 3/8 inch (9.5 mm).

383 R311.7.5.2 Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread
384 depth shall be measured horizontally between the vertical planes of the foremost projection of
385 adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within
386 any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder
387 treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point
388 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a
389 minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the
390 greatest winder tread depth at the 12-inch (305 mm) walk line shall not exceed the smallest by
391 more than 3/8 inch (9.5 mm).

392 R311.7.5.3 Profile. The radius of curvature at the leading edge of the tread shall be no greater
393 than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4
394 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection
395 shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two
396 stories, including the nosing at the level of floors and landings. Beveling of nosing shall not
397 exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading
398 edge of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open
399 risers are permitted, provided that the opening between treads does not permit the passage of a
400 4-inch diameter (102 mm) sphere.

401 Exceptions.

- 402 1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).
- 403 2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches

404 (762 mm) or less."

405 [~~(16)~~] (19) IRC, Section R312.2, is deleted.

406 [~~(17)~~] (20) IRC, Sections R313.1 through R313.2.1, are deleted and replaced with the
407 following: "R313.1 Design and installation. When installed, automatic residential fire
408 sprinkler systems for townhouses or one- and two-family dwellings shall be designed and
409 installed in accordance with Section P2904 or NFPA 13D."

410 (21) In IRC, Section R314.2.2, the words "or accessory dwelling units" are added after
411 the words "sleeping rooms".

412 (22) In IRC, Section R315.2.2, the words "or accessory dwelling units" are added after
413 the words "sleeping rooms".

414 [~~(18)~~] (23) In IRC, Section 315.3, the following words are added to the first sentence
415 after the word "installed": "on each level of the dwelling unit and."

416 [~~(19)~~] (24) In IRC, Section R315.5, a new exception, 3, is added as follows:

417 "3. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the
418 alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing
419 the structure, unless there is an attic, crawl space or basement available which could provide
420 access for hard wiring, without the removal of interior finishes."

421 [~~(20)~~] (25) A new IRC, Section R315.7, is added as follows: " R315.7 Interconnection.
422 Where more than one carbon monoxide alarm is required to be installed within an individual
423 dwelling unit in accordance with Section R315.1, the alarm devices shall be interconnected in
424 such a manner that the actuation of one alarm will activate all of the alarms in the individual
425 unit. Physical interconnection of smoke alarms shall not be required where listed wireless
426 alarms are installed and all alarms sound upon activation of one alarm.

427 Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required
428 where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing
429 the structure, unless there is an attic, crawl space or basement available which could provide
430 access for interconnection without the removal of interior finishes."

431 [~~(21)~~] (26) In IRC, Section R317.1.5, the period is deleted and the following language

432 is added to the end of the paragraph: "or treated with a moisture resistant coating."

433 ~~[(22)]~~ (27) In IRC, Section 326.1, the words "residential provisions of the" are added
434 after the words "pools and spas shall comply with".

435 ~~[(23)]~~ (28) In IRC, Section R403.1.6, a new Exception 3 is added as follows: "3.
436 When anchor bolt spacing does not exceed 32 inches (813 mm) apart, anchor bolts may be
437 placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm)
438 from each end of each plate section at interior bearing walls, interior braced wall lines, and at
439 all exterior walls."

440 ~~[(24)]~~ (29) In IRC, Section R403.1.6.1, a new exception is added at the end of Item 2
441 and Item 3 as follows: "Exception: When anchor bolt spacing does not exceed 32 inches (816
442 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located
443 not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls,
444 interior braced wall lines, and at all exterior walls."

445 ~~[(25)]~~ (30) In IRC, Section R404.1, a new exception is added as follows: "Exception:
446 As an alternative to complying with Sections R404.1 through R404.1.5.3, concrete and
447 masonry foundation walls may be designed in accordance with IBC Sections 1807.1.5 and
448 1807.1.6 as amended in Section 1807.1.6.4 and Table 1807.1.6.4 under these rules."

449 ~~[(26)]~~ (31) In IRC, Section R405.1, a new exception is added as follows: "Exception:
450 When a geotechnical report has been provided for the property, a drainage system is not
451 required unless the drainage system is required as a condition of the geotechnical report. The
452 geological report shall make a recommendation regarding a drainage system."

453 Section 6. Section **15A-3-204** is amended to read:

454 **15A-3-204. Amendments to Chapters 16 through 25 of IRC.**

455 (1) In IRC, Section M1602.2, a new exception is added at the end of Item 6 as follows:
456 "Exception: The discharge of return air from an accessory dwelling unit into another dwelling
457 unit, or into an accessory dwelling unit from another dwelling unit, is not prohibited."

458 (2) A new IRC, Section G2401.2, is added as follows: "G2401.2 Meter Protection.
459 Fuel gas services shall be in an approved location and/or provided with structures designed to

460 protect the fuel gas meter and surrounding piping from physical damage, including falling,
461 moving, or migrating ice and snow. If an added structure is used, it must provide access for
462 service and comply with the IBC or the IRC."

463 Section 7. Section 15A-3-206 is amended to read:

464 **15A-3-206. Amendments to Chapters 36 through 44 and Appendix F of IRC.**

465 (1) In IRC, Section E3601.6.2, a new exception is added as follows: "Exception: An
466 occupant of an accessory dwelling unit is not required to have access to the disconnect serving
467 the dwelling unit in which they reside."

468 [~~(1)~~] (2) In IRC, Section E3705.4.5, the following words are added after the word
469 "assemblies": "with ungrounded conductors 10 AWG and smaller".

470 [~~(2)~~] (3) In IRC, Section E3901.9, the following exception is added:
471 "Exception: Receptacles or other outlets adjacent to the exterior walls of the garage, outlets
472 adjacent to an exterior wall of the garage, or outlets in a storage room with entry from the
473 garage may be connected to the garage branch circuit."

474 [~~(3)~~] (4) IRC, Section E3902.16 is deleted.

475 [~~(4)~~] (5) In Section E3902.17:

476 (a) following the word "Exception" the number "1." is added; and

477 (b) at the end of the section, the following sentences are added:

478 "2. This section does not apply for a simple move or an extension of a branch circuit or an
479 outlet which does not significantly increase the existing electrical load. This exception does
480 not include changes involving remodeling or additions to a residence."

481 [~~(5)~~] (6) IRC, Chapter 44, is amended by adding the following reference standard:

"Standard reference number	Title	Referenced in code section number
USC-FCCCHR 10th Edition Manual of Cross Connection Control	Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA 90089-2531	Table P2902.3"

484 [~~(6)~~] (7) (a) When passive radon controls or portions thereof are voluntarily installed,
485 the voluntary installation shall comply with Appendix F of the IRC.

486 (b) An additional inspection of a voluntary installation described in Subsection [~~(6)~~]
487 (7)(a) is not required.

488 Section 8. Section 17-27a-505.5 is amended to read:

489 **17-27a-505.5. Limit on single family designation.**

490 (1) As used in this section, "single-family limit" means the number of [~~unrelated~~]
491 individuals allowed to occupy each residential unit that is recognized by a land use authority in
492 a zone permitting occupancy by a single family.

493 (2) A county may not adopt a single-family limit that is less than:

494 (a) three, if the county has within its unincorporated area:

495 (i) a state university;

496 (ii) a private university with a student population of at least 20,000; or

497 (iii) a mountainous planning district; or

498 (b) four, for each other county.

499 Section 9. Section **17-27a-510.5** is amended to read:

500 **17-27a-510.5. Changes to dwellings -- Egress windows.**

501 (1) [~~For purposes of~~] As used in this section[~~,"rental"~~]:

502 (a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

503 (i) within a primary dwelling;

504 (ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the
505 time the internal accessory dwelling unit is created; and

506 (iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

507 (b) "Primary dwelling" means a single-family dwelling that:

508 (i) is detached; and

509 (ii) is occupied as the primary residence of the owner of record.

510 (c) "Rental dwelling" means the same as that term is defined in Section 10-8-85.5.

511 (2) A county ordinance adopted under Section **10-1-203.5** may not:

512 (a) require physical changes in a structure with a legal nonconforming rental dwelling
513 use unless the change is for:

514 (i) the reasonable installation of:

515 (A) a smoke detector that is plugged in or battery operated;

516 (B) a ground fault circuit interrupter protected outlet on existing wiring;

517 (C) street addressing;

518 (D) except as provided in Subsection (3), an egress bedroom window if the existing
519 bedroom window is smaller than that required by current State Construction Code;

520 (E) an electrical system or a plumbing system, if the existing system is not functioning
521 or is unsafe as determined by an independent electrical or plumbing professional who is
522 licensed in accordance with Title 58, Occupations and Professions;

523 (F) hand or guard rails; or

524 (G) occupancy separation doors as required by the International Residential Code; or

525 (ii) the abatement of a structure; or

526 (b) be enforced to terminate a legal nonconforming rental dwelling use.

527 (3) (a) A county may not require physical changes to install an egress or emergency
528 escape window in an existing bedroom that complied with the State Construction Code in
529 effect at the time the bedroom was finished if:

530 [~~(a)~~] (i) the dwelling is an owner-occupied dwelling or a rental dwelling that is:

531 [~~(i)~~] (A) a detached one-, two-, three-, or four-family dwelling; or

532 [~~(ii)~~] (B) a town home that is not more than three stories above grade with a separate
533 means of egress; and

534 [~~(b)~~ ~~(i)~~] (ii) (A) the window in the existing bedroom is smaller than that required by
535 current State Construction Code; and

536 [~~(ii)~~] (B) the change would compromise the structural integrity of the structure or could
537 not be completed in accordance with current State Construction Code, including set-back and
538 window well requirements.

539 (b) Subsection (3)(a) does not apply to an internal accessory dwelling unit.

- 540 (4) Nothing in this section prohibits a county from:
- 541 (a) regulating the style of window that is required or allowed in a bedroom;
- 542 (b) requiring that a window in an existing bedroom be fully openable if the openable
- 543 area is less than required by current State Construction Code; or
- 544 (c) requiring that an existing window not be reduced in size if the openable area is
- 545 smaller than required by current State Construction Code.

546 Section 10. Section **17-27a-526** is enacted to read:

547 **17-27a-526. Internal accessory dwelling units.**

548 (1) As used in this section:

549 (a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

550 (i) within a primary dwelling;

551 (ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the

552 time the internal accessory dwelling unit is created; and

553 (iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

554 (b) "Primary dwelling" means a single-family dwelling that:

555 (i) is detached; and

556 (ii) is occupied as the primary residence of the owner of record.

557 (2) In any area zoned primarily for residential use:

558 (a) the use of an internal accessory dwelling unit is a permitted use; and

559 (b) except as provided in Subsections (3) and (4), a county may not establish any

560 restrictions or requirements for the construction or use of one internal accessory dwelling unit

561 within a primary dwelling, including a restriction or requirement governing:

562 (i) the size of the internal accessory dwelling unit in relation to the primary dwelling;

563 (ii) total lot size; or

564 (iii) street frontage.

565 (3) An internal accessory dwelling unit shall comply with all applicable building,

566 health, and fire codes.

567 (4) A county may:

- 568 (a) prohibit the installation of a separate utility meter for an internal accessory dwelling
569 unit;
- 570 (b) require that an internal accessory dwelling unit be designed in a manner that does
571 not change the appearance of the primary dwelling as a single-family dwelling;
- 572 (c) require a primary dwelling:
- 573 (i) to include one additional on-site parking space for an internal accessory dwelling
574 unit, regardless of whether the primary dwelling is existing or new construction; and
- 575 (ii) to replace any parking spaces contained within a garage or carport if an internal
576 accessory dwelling unit is created within the garage or carport;
- 577 (d) prohibit the creation of an internal accessory dwelling unit within a mobile home as
578 defined in Section 57-16-3;
- 579 (e) require the owner of a primary dwelling to obtain a permit or license for renting an
580 internal accessory dwelling unit;
- 581 (f) prohibit the creation of an internal accessory dwelling unit within a zoning district
582 covering an area that is equivalent to 25% or less of the total unincorporated area in the county
583 that is zoned primarily for residential use;
- 584 (g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling
585 is served by a failing septic tank;
- 586 (h) prohibit the creation of an internal accessory dwelling unit if the lot containing the
587 primary dwelling is 6,000 square feet or less in size;
- 588 (i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a
589 period of less than 30 consecutive days;
- 590 (j) prohibit the rental of an internal accessory dwelling unit if the internal accessory
591 dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;
- 592 (k) hold a lien against a property that contains an internal accessory dwelling unit in
593 accordance with Subsection (5); and
- 594 (l) record a notice for an internal accessory dwelling unit in accordance with
595 Subsection (6).

596 (5) (a) In addition to any other legal or equitable remedies available to a county, a
597 county may hold a lien against a property that contains an internal accessory dwelling unit if:

598 (i) the owner of the property violates any of the provisions of this section or any
599 ordinance adopted under Subsection (4);

600 (ii) the county provides a written notice of violation in accordance with Subsection
601 (5)(b);

602 (iii) the county holds a hearing and determines that the violation has occurred in
603 accordance with Subsection (5)(d), if the owner files a written objection in accordance with
604 Subsection (5)(b)(iv);

605 (iv) the owner fails to cure the violation within the time period prescribed in the
606 written notice of violation under Subsection (5)(b);

607 (v) the county provides a written notice of lien in accordance with Subsection (5)(c);
608 and

609 (vi) the county records a copy of the written notice of lien described in Subsection
610 (5)(a)(iv) with the county recorder of the county in which the property is located.

611 (b) The written notice of violation shall:

612 (i) describe the specific violation;

613 (ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity
614 to cure the violation that is:

615 (A) no less than 14 days after the day on which the county sends the written notice of
616 violation, if the violation results from the owner renting or offering to rent the internal
617 accessory dwelling unit for a period of less than 30 consecutive days; or

618 (B) no less than 30 days after the day on which the county sends the written notice of
619 violation, for any other violation; and

620 (iii) state that if the owner of the property fails to cure the violation within the time
621 period described in Subsection (5)(b)(ii), the county may hold a lien against the property in an
622 amount of up to \$100 for each day of violation after the day on which the opportunity to cure
623 the violation expires;

624 (iv) notify the owner of the property:
625 (A) that the owner may file a written objection to the violation within 14 days after the
626 day on which the written notice of violation is post-marked or posted on the property; and
627 (B) of the name and address of the county office where the owner may file the written
628 objection;
629 (v) be mailed to:
630 (A) the property's owner of record; and
631 (B) any other individual designated to receive notice in the owner's license or permit
632 records; and
633 (vi) be posted on the property.
634 (c) The written notice of lien shall:
635 (i) comply with the requirements of Section [38-12-102](#);
636 (ii) describe the specific violation;
637 (iii) specify the lien amount, in an amount of up to \$100 for each day of violation after
638 the day on which the opportunity to cure the violation expires;
639 (iv) be mailed to:
640 (A) the property's owner of record; and
641 (B) any other individual designated to receive notice in the owner's license or permit
642 records; and
643 (v) be posted on the property.
644 (d) (i) If an owner of property files a written objection in accordance with Subsection
645 (5)(b)(iv), the county shall:
646 (A) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings
647 Act, to conduct a review and determine whether the specific violation described in the written
648 notice of violation under Subsection (5)(b) has occurred; and
649 (B) notify the owner in writing of the date, time, and location of the hearing described
650 in Subsection (5)(d)(i)(A) no less than 14 days before the day on which the hearing is held.
651 (ii) If an owner of property files a written objection under Subsection (5)(b)(iv), a

652 county may not record a lien under this Subsection (5) until the county holds a hearing and
653 determines that the specific violation has occurred.

654 (iii) If the county determines at the hearing that the specific violation has occurred, the
655 county may impose a lien in an amount of up to \$100 for each day of violation after the day on
656 which the opportunity to cure the violation expires, regardless of whether the hearing is held
657 after the day on which the opportunity to cure the violation has expired.

658 (e) If an owner cures a violation within the time period prescribed in the written notice
659 of violation under Subsection (5)(b), the county may not hold a lien against the property, or
660 impose any penalty or fee on the owner, in relation to the specific violation described in the
661 written notice of violation under Subsection (5)(b).

662 (6) (a) A county that issues, on or after October 1, 2021, a permit or license to an
663 owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to
664 an owner of a primary dwelling to create an internal accessory dwelling unit, may record a
665 notice in the office of the recorder of the county in which the primary dwelling is located.

666 (b) The notice described in Subsection (6)(a) shall include:

667 (i) a description of the primary dwelling;

668 (ii) a statement that the primary dwelling contains an internal accessory dwelling unit;

669 and

670 (iii) a statement that the internal accessory dwelling unit may only be used in
671 accordance with the county's land use regulations.

672 (c) The county shall, upon recording the notice described in Subsection (6)(a), deliver a
673 copy of the notice to the owner of the internal accessory dwelling unit.

674 Section 11. Section **17-50-338** is amended to read:

675 **17-50-338. Ordinances regarding short-term rentals -- Prohibition on ordinances**
676 **restricting speech on short-term rental websites.**

677 (1) As used in this section:

678 (a) "Internal accessory dwelling unit" means the same as that term is defined in Section
679 [10-9a-511.5](#).

680 ~~[(a)]~~ (b) "Residential unit" means a residential structure or any portion of a residential
681 structure that is occupied as a residence.

682 ~~[(b)]~~ (c) "Short-term rental" means a residential unit or any portion of a residential unit
683 that the owner of record or the lessee of the residential unit offers for occupancy for fewer than
684 30 consecutive days.

685 ~~[(c)]~~ (d) "Short-term rental website" means a website that:

686 (i) allows a person to offer a short-term rental to one or more prospective renters; and

687 (ii) facilitates the renting of, and payment for, a short-term rental.

688 (2) Notwithstanding Section [17-27a-501](#) or Subsection [17-27a-503\(1\)](#), a legislative
689 body may not:

690 (a) enact or enforce an ordinance that prohibits an individual from listing or offering a
691 short-term rental on a short-term rental website; or

692 (b) use an ordinance that prohibits the act of renting a short-term rental to fine, charge,
693 prosecute, or otherwise punish an individual solely for the act of listing or offering a short-term
694 rental on a short-term rental website.

695 (3) Subsection (2) does not apply to an individual who lists or offers an internal
696 accessory dwelling unit as a short-term rental on a short-term rental website if the county
697 records a notice for the internal accessory dwelling unit under Subsection [17-27a-526\(6\)](#).

698 Section 12. Section **35A-8-504.5** is enacted to read:

699 **35A-8-504.5. Low-income ADU loan guarantee pilot program.**

700 (1) As used in this section:

701 (a) "Accessory dwelling unit" means the same as that term is defined in Section
702 [10-9a-103](#).

703 (b) "Borrower" means a residential property owner who receives a low-income ADU
704 loan from a lender.

705 (c) "Lender" means a trust company, savings bank, savings and loan association, bank,
706 credit union, or any other entity that provides low-income ADU loans directly to borrowers.

707 (d) "Low-income ADU loan" means a loan made by a lender to a borrower for the

708 purpose of financing the construction of an accessory dwelling unit that is:

709 (i) located on the borrower's residential property; and

710 (ii) rented to a low-income individual.

711 (e) "Low-income individual" means an individual whose household income is less than

712 80% of the area median income.

713 (f) "Pilot program" means the two-year pilot program created in this section.

714 (2) The executive director shall establish a two-year pilot program to provide loan

715 guarantees on behalf of borrowers for the purpose of insuring the repayment of low-income

716 ADU loans.

717 (3) The executive director may not provide a loan guarantee for a low-income ADU

718 loan under the pilot program unless:

719 (a) the lender:

720 (i) agrees in writing to participate in the pilot program;

721 (ii) makes available to prospective borrowers the option of receiving a low-income

722 ADU loan that:

723 (A) has a term of 15 years; and

724 (B) charges interest at a fixed rate;

725 (iii) monitors the activities of the borrower on a yearly basis during the term of the loan

726 to ensure the borrower's compliance with:

727 (A) Subsection (3)(c); and

728 (B) any other term or condition of the loan; and

729 (iv) promptly notifies the executive director in writing if the borrower fails to comply

730 with:

731 (A) Subsection (3)(c); or

732 (B) any other term or condition of the loan;

733 (b) the loan terms of the low-income ADU loan:

734 (i) are consistent with the loan terms described in Subsection (3)(a)(ii); or

735 (ii) if different from the loan terms described in Subsection (3)(a)(ii), are mutually

736 agreed upon by the lender and the borrower; and

737 (c) the borrower:

738 (i) agrees in writing to participate in the pilot program;

739 (ii) constructs an accessory dwelling unit on the borrower's residential property within

740 one year after the day on which the borrower receives the loan;

741 (iii) occupies the primary residence to which the accessory dwelling unit is associated:

742 (A) after the accessory dwelling unit is completed; and

743 (B) for the remainder of the term of the loan; and

744 (iv) rents the accessory dwelling unit to a low-income individual:

745 (A) after the accessory dwelling unit is completed; and

746 (B) for the remainder of the term of the loan.

747 (4) At the direction of the board, the executive director shall make rules in accordance
748 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

749 (a) the minimum criteria for lenders and borrowers to participate in the pilot program;

750 (b) the terms and conditions for loan guarantees provided under the pilot program,

751 consistent with Subsection (3); and

752 (c) procedures for the pilot program's loan guarantee process.

753 (5) The executive director shall submit a report on the pilot program to the Business
754 and Labor Interim Committee on or before November 30, 2023.

755 Section 13. Section **35A-8-505** is amended to read:

756 **35A-8-505. Activities authorized to receive fund money -- Powers of the executive**
757 **director.**

758 At the direction of the board, the executive director may:

759 (1) provide fund money to any of the following activities:

760 (a) the acquisition, rehabilitation, or new construction of low-income housing units;

761 (b) matching funds for social services projects directly related to providing housing for
762 special-need renters in assisted projects;

763 (c) the development and construction of accessible housing designed for low-income

764 persons;

765 (d) the construction or improvement of a shelter or transitional housing facility that
766 provides services intended to prevent or minimize homelessness among members of a specific
767 homeless subpopulation;

768 (e) the purchase of an existing facility to provide temporary or transitional housing for
769 the homeless in an area that does not require rezoning before providing such temporary or
770 transitional housing;

771 (f) the purchase of land that will be used as the site of low-income housing units;

772 (g) the preservation of existing affordable housing units for low-income persons; [~~and~~]

773 (h) providing loan guarantees under the two-year pilot program established in Section
774 35A-8-504.5; and

775 [~~(h)~~] (i) other activities that will assist in minimizing homelessness or improving the
776 availability or quality of housing in the state for low-income persons; and

777 (2) do any act necessary or convenient to the exercise of the powers granted by this part
778 or reasonably implied from those granted powers, including:

779 (a) making or executing contracts and other instruments necessary or convenient for
780 the performance of the executive director and board's duties and the exercise of the executive
781 director and board's powers and functions under this part, including contracts or agreements for
782 the servicing and originating of mortgage loans;

783 (b) procuring insurance against a loss in connection with property or other assets held
784 by the fund, including mortgage loans, in amounts and from insurers it considers desirable;

785 (c) entering into agreements with a department, agency, or instrumentality of the
786 United States or this state and with mortgagors and mortgage lenders for the purpose of
787 planning and regulating and providing for the financing and refinancing, purchase,
788 construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale,
789 or other disposition of residential housing undertaken with the assistance of the department
790 under this part;

791 (d) proceeding with a foreclosure action, to own, lease, clear, reconstruct, rehabilitate,

792 repair, maintain, manage, operate, assign, encumber, sell, or otherwise dispose of real or
793 personal property obtained by the fund due to the default on a mortgage loan held by the fund
794 in preparation for disposition of the property, taking assignments of leases and rentals,
795 proceeding with foreclosure actions, and taking other actions necessary or incidental to the
796 performance of its duties; and

797 (e) selling, at a public or private sale, with public bidding, a mortgage or other
798 obligation held by the fund.

799 Section 14. Section **57-8a-209** is amended to read:

800 **57-8a-209. Rental restrictions.**

801 (1) (a) Subject to Subsections (1)(b), (5), [~~and~~] (6), and (10), an association may:

802 (i) create restrictions on the number and term of rentals in an association; or

803 (ii) prohibit rentals in the association.

804 (b) An association that creates a rental restriction or prohibition in accordance with
805 Subsection (1)(a) shall create the rental restriction or prohibition in a recorded declaration of
806 covenants, conditions, and restrictions, or by amending the recorded declaration of covenants,
807 conditions, and restrictions.

808 (2) If an association prohibits or imposes restrictions on the number and term of
809 rentals, the restrictions shall include:

810 (a) a provision that requires the association to exempt from the rental restrictions the
811 following lot owner and the lot owner's lot:

812 (i) a lot owner in the military for the period of the lot owner's deployment;

813 (ii) a lot occupied by a lot owner's parent, child, or sibling;

814 (iii) a lot owner whose employer has relocated the lot owner for two years or less;

815 (iv) a lot owned by an entity that is occupied by an individual who:

816 (A) has voting rights under the entity's organizing documents; and

817 (B) has a 25% or greater share of ownership, control, and right to profits and losses of
818 the entity; or

819 (v) a lot owned by a trust or other entity created for estate planning purposes if the trust

820 or other estate planning entity was created for:

821 (A) the estate of a current resident of the lot; or

822 (B) the parent, child, or sibling of the current resident of the lot;

823 (b) a provision that allows a lot owner who has a rental in the association before the

824 time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of

825 the county in which the association is located to continue renting until:

826 (i) the lot owner occupies the lot;

827 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a

828 similar position of ownership or control of an entity or trust that holds an ownership interest in

829 the lot, occupies the lot; or

830 (iii) the lot is transferred; and

831 (c) a requirement that the association create, by rule or resolution, procedures to:

832 (i) determine and track the number of rentals and lots in the association subject to the

833 provisions described in Subsections (2)(a) and (b); and

834 (ii) ensure consistent administration and enforcement of the rental restrictions.

835 (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the

836 following occur:

837 (a) the conveyance, sale, or other transfer of a lot by deed;

838 (b) the granting of a life estate in the lot; or

839 (c) if the lot is owned by a limited liability company, corporation, partnership, or other

840 business entity, the sale or transfer of more than 75% of the business entity's share, stock,

841 membership interests, or partnership interests in a 12-month period.

842 (4) This section does not limit or affect residency age requirements for an association

843 that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec.

844 3607.

845 (5) A declaration of covenants, conditions, and restrictions or amendments to the

846 declaration of covenants, conditions, and restrictions recorded before the transfer of the first lot

847 from the initial declarant may prohibit or restrict rentals without providing for the exceptions,

848 provisions, and procedures required under Subsection (2).

849 (6) (a) Subsections (1) through (5) do not apply to:

850 (i) an association that contains a time period unit as defined in Section 57-8-3;

851 (ii) any other form of timeshare interest as defined in Section 57-19-2; or

852 (iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009,
853 unless, on or after May 12, 2015, the association:

854 (A) adopts a rental restriction or prohibition; or

855 (B) amends an existing rental restriction or prohibition.

856 (b) An association that adopts a rental restriction or amends an existing rental
857 restriction or prohibition before May 9, 2017, is not required to include the exemption
858 described in Subsection (2)(a)(iv).

859 (7) Notwithstanding this section, an association may restrict or prohibit rentals without
860 an exception described in Subsection (2) if:

861 (a) the restriction or prohibition receives unanimous approval by all lot owners; and

862 (b) when the restriction or prohibition requires an amendment to the association's
863 recorded declaration of covenants, conditions, and restrictions, the association fulfills all other
864 requirements for amending the recorded declaration of covenants, conditions, and restrictions
865 described in the association's governing documents.

866 (8) Except as provided in Subsection (9), an association may not require a lot owner
867 who owns a rental lot to:

868 (a) obtain the association's approval of a prospective renter;

869 (b) give the association:

870 (i) a copy of a rental application;

871 (ii) a copy of a renter's or prospective renter's credit information or credit report;

872 (iii) a copy of a renter's or prospective renter's background check; or

873 (iv) documentation to verify the renter's age; or

874 (c) pay an additional assessment, fine, or fee because the lot is a rental lot.

875 (9) (a) A lot owner who owns a rental lot shall give an association the documents

876 described in Subsection (8)(b) if the lot owner is required to provide the documents by court
 877 order or as part of discovery under the Utah Rules of Civil Procedure.

878 (b) If an association's declaration of covenants, conditions, and restrictions lawfully
 879 prohibits or restricts occupancy of the lots by a certain class of individuals, the association may
 880 require a lot owner who owns a rental lot to give the association the information described in
 881 Subsection (8)(b), if:

882 (i) the information helps the association determine whether the renter's occupancy of
 883 the lot complies with the association's declaration of covenants, conditions, and restrictions;
 884 and

885 (ii) the association uses the information to determine whether the renter's occupancy of
 886 the lot complies with the association's declaration of covenants, conditions, and restrictions.

887 (10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the
 888 rental of an internal accessory dwelling unit, as defined in Section 10-9a-530, constructed
 889 within a lot owner's residential lot, if the internal accessory dwelling unit complies with all
 890 applicable:

891 (a) land use ordinances;

892 (b) building codes;

893 (c) health codes; and

894 (d) fire codes.

895 [~~(10)~~] (11) The provisions of Subsections (8) [~~and (9)~~] through (10) apply to an
 896 association regardless of when the association is created.

897 Section 15. Section **57-8a-218** is amended to read:

898 **57-8a-218. Equal treatment by rules required -- Limits on association rules and**
 899 **design criteria.**

900 (1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot
 901 owners similarly.

902 (b) Notwithstanding Subsection (1)(a), a rule may:

903 (i) vary according to the level and type of service that the association provides to lot

904 owners;

905 (ii) differ between residential and nonresidential uses; and

906 (iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable
907 limit on the number of individuals who may use the common areas and facilities as guests of
908 the lot tenant or lot owner.

909 (2) (a) If a lot owner owns a rental lot and is in compliance with the association's
910 governing documents and any rule that the association adopts under Subsection (4), a rule may
911 not treat the lot owner differently because the lot owner owns a rental lot.

912 (b) Notwithstanding Subsection (2)(a), a rule may:

913 (i) limit or prohibit a rental lot owner from using the common areas for purposes other
914 than attending an association meeting or managing the rental lot;

915 (ii) if the rental lot owner retains the right to use the association's common areas, even
916 occasionally:

917 (A) charge a rental lot owner a fee to use the common areas; or

918 (B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable
919 limit on the number of individuals who may use the common areas and facilities as guests of
920 the lot tenant or lot owner; or

921 (iii) include a provision in the association's governing documents that:

922 (A) requires each tenant of a rental lot to abide by the terms of the governing
923 documents; and

924 (B) holds the tenant and the rental lot owner jointly and severally liable for a violation
925 of a provision of the governing documents.

926 (3) (a) A rule criterion may not abridge the rights of a lot owner to display religious
927 and holiday signs, symbols, and decorations inside a dwelling on a lot.

928 (b) Notwithstanding Subsection (3)(a), the association may adopt time, place, and
929 manner restrictions with respect to displays visible from outside the dwelling or lot.

930 (4) (a) A rule may not regulate the content of political signs.

931 (b) Notwithstanding Subsection (4)(a):

- 932 (i) a rule may regulate the time, place, and manner of posting a political sign; and
933 (ii) an association design provision may establish design criteria for political signs.
- 934 (5) (a) A rule may not interfere with the freedom of a lot owner to determine the
935 composition of the lot owner's household.
- 936 (b) Notwithstanding Subsection (5)(a), an association may:
- 937 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
938 or
- 939 (ii) limit the total number of occupants permitted in each residential dwelling on the
940 basis of the residential dwelling's:
- 941 (A) size and facilities; and
942 (B) fair use of the common areas.
- 943 (6) (a) A rule may not interfere with an activity of a lot owner within the confines of a
944 dwelling or lot, to the extent that the activity is in compliance with local laws and ordinances.
- 945 (b) Notwithstanding Subsection (6)(a), a rule may prohibit an activity within a dwelling
946 on an owner's lot if the activity:
- 947 (i) is not normally associated with a project restricted to residential use; or
948 (ii) (A) creates monetary costs for the association or other lot owners;
949 (B) creates a danger to the health or safety of occupants of other lots;
950 (C) generates excessive noise or traffic;
951 (D) creates unsightly conditions visible from outside the dwelling;
952 (E) creates an unreasonable source of annoyance to persons outside the lot; or
953 (F) if there are attached dwellings, creates the potential for smoke to enter another lot
954 owner's dwelling, the common areas, or limited common areas.
- 955 (c) If permitted by law, an association may adopt rules described in Subsection (6)(b)
956 that affect the use of or behavior inside the dwelling.
- 957 (7) (a) A rule may not, to the detriment of a lot owner and over the lot owner's written
958 objection to the board, alter the allocation of financial burdens among the various lots.
- 959 (b) Notwithstanding Subsection (7)(a), an association may:

- 960 (i) change the common areas available to a lot owner;
- 961 (ii) adopt generally applicable rules for the use of common areas; or
- 962 (iii) deny use privileges to a lot owner who:
 - 963 (A) is delinquent in paying assessments;
 - 964 (B) abuses the common areas; or
 - 965 (C) violates the governing documents.
- 966 (c) This Subsection (7) does not permit a rule that:
 - 967 (i) alters the method of levying assessments; or
 - 968 (ii) increases the amount of assessments as provided in the declaration.
- 969 (8) (a) Subject to Subsection (8)(b), a rule may not:
 - 970 (i) prohibit the transfer of a lot; or
 - 971 (ii) require the consent of the association or board to transfer a lot.
- 972 (b) Unless contrary to a declaration, a rule may require a minimum lease term.
- 973 (9) (a) A rule may not require a lot owner to dispose of personal property that was in or
- 974 on a lot before the adoption of the rule or design criteria if the personal property was in
- 975 compliance with all rules and other governing documents previously in force.
 - 976 (b) The exemption in Subsection (9)(a):
 - 977 (i) applies during the period of the lot owner's ownership of the lot; and
 - 978 (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of
 - 979 the rule described in Subsection (9)(a).
- 980 (10) A rule or action by the association or action by the board may not unreasonably
- 981 impede a declarant's ability to satisfy existing development financing for community
- 982 improvements and right to develop:
 - 983 (a) the project; or
 - 984 (b) other properties in the vicinity of the project.
- 985 (11) A rule or association or board action may not interfere with:
 - 986 (a) the use or operation of an amenity that the association does not own or control; or
 - 987 (b) the exercise of a right associated with an easement.

988 (12) A rule may not divest a lot owner of the right to proceed in accordance with a
989 completed application for design review, or to proceed in accordance with another approval
990 process, under the terms of the governing documents in existence at the time the completed
991 application was submitted by the owner for review.

992 (13) Unless otherwise provided in the declaration, an association may by rule:

993 (a) regulate the use, maintenance, repair, replacement, and modification of common
994 areas;

995 (b) impose and receive any payment, fee, or charge for:

996 (i) the use, rental, or operation of the common areas, except limited common areas; and

997 (ii) a service provided to a lot owner;

998 (c) impose a charge for a late payment of an assessment; or

999 (d) provide for the indemnification of the association's officers and board consistent
1000 with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

1001 (14) (a) Except as provided in Subsection (14)(b), a rule may not prohibit the owner of
1002 a residential lot from constructing an internal accessory dwelling unit, as defined in Section
1003 10-9a-530, within the owner's residential lot.

1004 (b) Subsection (14)(a) does not apply if the construction would violate:

1005 (i) a local land use ordinance;

1006 (ii) a building code;

1007 (iii) a health code; or

1008 (iv) a fire code.

1009 [~~14~~] (15) A rule shall be reasonable.

1010 [~~15~~] (16) A declaration, or an amendment to a declaration, may vary any of the
1011 requirements of Subsections (1) through (13), except Subsection (1)(b)(ii).

1012 [~~16~~] (17) A rule may not be inconsistent with a provision of the association's
1013 declaration, bylaws, or articles of incorporation.

1014 [~~17~~] (18) This section applies to an association regardless of when the association is
1015 created.

- 1016 Section 16. **Effective date.**
- 1017 (1) Except as provided in Subsection (2), this bill takes effect on May 5, 2021.
- 1018 (2) The actions affecting the following sections take effect on October 1, 2021:
- 1019 (a) Section [10-8-85.4](#);
- 1020 (b) Section [10-9a-530](#);
- 1021 (c) Section [17-27a-526](#);
- 1022 (d) Section [17-50-338](#);
- 1023 (e) Section [57-8a-209](#); and
- 1024 (f) Section [57-8a-218](#).