

**Planning Commission Public Hearing and
Possible recommendation to the City Council on
ORDNANCE 2021-16**

**An Ordinance Amending the Text of the Moab Municipal Code (MMC) to Revise
Section 17.70 Accessory Dwelling Units (ADUs) and Section 17.06.020 Definitions**

To: Moab City Planning Commission
Staff: Nora Shepard, Planning Director
Date: August 26, 2021
Applicant: City Initiated Code Amendments

Attachments:

Exhibit 1: Ordinance 2021-16 approving text amendments to revise section 17.70 Accessory Dwelling Units and Section 17.06.020 Definitions
Exhibit 2: House Bill 82, as adopted

Public Hearing and Potential Actions:

Exhibit 1 is the draft Ordinance 2021-16 amending the Accessory Dwelling Units (ADUs). The ordinance breaks ADUs into to two types, Internal ADUs (IADUs) and External ADUs (EADUs). This distinction was made because of the passage of HB 82 by the State Legislature. HB 82 addresses only IADUs.

The Planning Commission is being asked to open the public hearing, accept input and close or continue the Public Hearing and consider forwarding a recommendation to City Council. The options include:

1. **Forward a Positive Recommendation** to the City Council on Ordinance 2021-16 without or without changes; or
2. **Continue** the item with specific direction to staff as to additional information that may be needed to make a decision or to make changes to the draft ordinance prior to action; or
3. **Forward a Negative Recommendation** to City Council.

Potential Motion to Forward a Positive Recommendation:

I move to forward a positive recommendation the City Council on Ordinance 2021-16 An Ordinance Amending the Text of the Moab Municipal Code (MMC) to Revise Section 17.70 Accessory Dwelling Units (ADUs) and Section 17.06.020 Definitions

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 (IADUs). A copy of HB82 is attached (Exhibit 2) for your use. The other reason is to remove regulatory barriers for ADUs by modifying some of the development standards that are currently in City Code.

The Planning Commission discussed potential amendments at two work sessions. The draft Code Amendments highlights the standards that the Planning Commission may wish to modify, including

- The City has the option to require that ADUs are only allowed in association with a primary residential use. In other words, the main home on the property would have to be owner occupied. The Planning Commission discussed not adding this a requirement.
- The current standards state that the front yard setback for an ADU shall be at least equal to the plane of the front wall of the principal structure. The Planning Commission discussed eliminating this and allow ADUs in the front yard, if they meet the code required setback.
- Building height is also a barrier. The MMC currently states: *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.* The Planning Commission discussed modification to allow additional building height, if the ADU meets the zone required setbacks.
- Size – the new state law does not allow us to regulate the size of an internal ADU. The Planning Commission discussed sizes of EADUs. The draft states that an EADU maximum floor area is 1,000 square feet.
- Currently, the MMC does not allow more than 1 ADU per lot. The Planning Commission discussed allowing multiple ADUs per lot. The Commission may want to consider allowing that in the R-3. Having additional units in the R-2 could result in a significant change in residential character.
- Deed Restriction – the current restriction prohibits the use of an ADU as a nightly rental. That provision should be maintained.
- The code requires setbacks consistent with the underlying zoning. The draft ordinance allows for reduced setbacks if an ADU is 20ft in height or under.

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-1, R-2, R-3, R-4 and RA-1 Zones. There are standards and criteria that apply to ADUs. It has been a few years since these provisions have been adopted and it is appropriate to reevaluate them based the experience over the last 4 years.

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 2 is a copy of the legislation. 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.