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**CITY OF MOAB, UT  
ORDINANCE 2021-16  
An Ordinance Amending the Text of the Moab Municipal Code  
(MMC) to Revise Section 17.70 Accessory Dwelling Units and  
Section 17.06.020 Definitions  
DRAFT 8.20.2021**

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

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

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

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

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

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

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

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

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

**SECTION 1. AMEND CHAPTER 17.70 ACCESSORY DWELLING UNITS  
AS FOLLOWS:**

**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.

**17.70.020 Types of ADUs**

**There are two types of ADUs permitted in Moab, Internal ADUs (IADU) and External ADUs (EADUs).**

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- A. Internal Accessory Dwelling Units (IADUs) means an accessory dwelling unit created:
  - 1. within a primary dwelling;
  - 2. within the footprint of the primary dwelling; and
  - 3. for the purpose of offering a long-term rental (30 consecutive days or longer) for employees working in and around Moab and for Workforce housing.
- B. External Accessory Dwelling Units (EADUs) means an accessory dwelling created:
  - 1. on the same parcel or lot the contains a primary single household dwelling;
  - 2. separate from the primary single household dwelling; and
  - 3. for the purpose of offering a long-term rental of 30 consecutive days or longer.
- C. Other Definitions
  - 1. Primary dwelling means a single family unit that:
    - a. is detached; and
    - b. is occupied as the primary residence of the owner of record
  - 2. Rental Dwelling means 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
    - b. Available to be rented, loaned, leased or hired out for a period of one month or longer; or
    - c. Arranged, designed, or built to be rented, loaned, leased, or hired out for a period of one month or longer.

17.70.020030 ~~General standards~~ Internal ADUs (IADUs)-

- A. Permitted Use. IADUs shall be considered a permitted in the R-1 Single-Household Residential Zone, R-2 Single-Household and Two-Household Residential Zone, R-3 Multi-Household Residential Zone, and R-4 Manufactured Housing Residential Zone.
- B. Restrictions. A City 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.
- C. IADU Requirements. The following requirements apply to all IADUs:
  - 1. IADUs must include the code required bedroom window egress, installation of a separate water utility meter is prohibited.
  - 2. IADUs must be designed to maintain the appearance of the primary dwelling,
  - 3. one additional on-site parking space,
  - 4. IADUs require a Letter of Zoning Compliance prior to building permit issuance.
  - 5. IADUs are not allowed if the primary dwelling is served by a failing septic tank,
  - 6. IADUs cannot be rented for a period less than 30 consecutive days, and
  - 7. IADUs are allowed only in owner-occupied primary dwellings.

**Commented [NS1]:** This could be deleted. If the units are on the same water meter, it makes later illegal subdivision more difficult.

**Commented [NS2]:** The Planning Commission discussed eliminating this requirement. This could be deleted.

#### D. Criteria for Approval

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

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

1. Size. There is no maximum size for IADUs
2. 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.
3. Accessory Dwellings Per Lot. No more than one accessory dwelling may be located on a lot.
4. Property to Remain Undivided. Properties with accessory dwelling permits shall remain recorded as one lot.
5. Subdivision of Property. The accessory dwelling shall not be sold.
6. 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."*
7. Nightly Rentals. Accessory dwellings are intended for long-term rental of 30 days or more, to the same individual, and may not be used for nightly rentals. (Ord. 18-20 (part), 2018; Ord. 18-01 (part), 2018; Ord. 12-05 (part), 2012. Formerly 17.69.030)

**Commented [NS3]:** The Planning Commission could modify this section to allow additional ADUs per lot

#### 17.070.040 External ADUs (EADUs)

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

#### B. EADU Requirements

1. EADUs shall not occupy more than twenty-five percent of any rear of side yard.
- ~~1. 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.~~
2. The setbacks for an accessory dwelling shall be what is allowed in the Zoning District within which the EADU is located. The side setback can be reduced to 5 feet, if the EADU does not exceed a building height of 20 feet. The rear setback can be reduced to 5 feet if the EADU does not exceed a building height of 20 feet.

Where pre-existing structures meet the development standards of this chapter, the original structure may be designated as the accessory dwelling..

3. An accessory dwelling shall not be constructed prior to the principal structure.

**Commented [NS4]:** Is this important? It could be deleted

4. An accessory dwelling may be constructed above a detached garage and consist of the same floor area; provided, that it shall not protrude beyond any ground floor wall and shall not consist of more than one story above the ground floor. The overall structure shall not exceed ~~twenty feet in height.~~ 30 feet if all zone required setbacks are met. If the structure encroaches into a side or rear setback, the maximum height shall be 20 feet as allowed in "C" above.

5. 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.

#### C. Criteria for Approval

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

1. Size. The maximum size for accessory living quarters shall be no more than one thousand square feet. The minimum size for an ADU is three hundred and fifty square feet.

**Commented [NS5]:** Planning Commission may want to modify this to allow larger units. This applies to External ADUs only. IADUs cannot have maximum size limits per State Code. Should we put a minimum square footage in the Code?

2. 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.

3. Accessory Dwellings Per Lot. No more than one accessory dwelling may be located on a lot.

**Commented [NS6]:** Planning Commission may want to delete, or modify this to allow more than 1 EADU per lot.

4. Property to Remain Undivided. Properties with accessory dwelling permits shall remain recorded as one lot.

5. Subdivision of Property. The accessory dwelling shall not be sold.

6. 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."

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

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(Ord. 18-20 (part), 2018; Ord. 18-01 (part), 2018; Ord. 12-05 (part), 2012.  
Formerly 17.69.030)

**17.70.0540 Enforcement--Revocation of permit.**

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

~~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.~~

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

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- f. The written notice of lien shall state that the property is subject to a lien, specify the lien amount, in an amount of up to \$100 for each day of violation after the day on which the property's owner of record; and any other individual designated to receive notice in the owner's license or permit record and be posted on the property.
5. If an owner of property files a written objection in accordance with Subsection the City shall:
- a. hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, to conduct a review and determine whether the specific violation described in the written notice of violation under has occurred; and
  - b. notify the owner in writing of the date, time, and location of the hearing. The hearing notice shall be send no less than 14 days before the day on which the hearing is held.
6. If an owner of property files a written objection the City may not record a lien until the City holds a hearing and determines that the specific violation has occurred.
7. If the City determines at the hearing that the specific violation has occurred, the City may impose a lien in an amount of up to \$100 for each day of violation after the day on which the opportunity to cure the violation expires, regardless of whether the hearing is held after the day on which the opportunity to cure the violation has expired.
8. If an owner cures a violation within the time period prescribed in the written notice of violation the City may not hold a lien against the property, or impose any penalty or fee on the owner, in relation to the specific violation described in the written notice of violation.

## **SECTION 2. AMENDMENTS TO MMC CHAPTER 17.06 DEFINITIONS**

### **ADDING OR MODIFYING DEFINITIONS OF :**

#### A. Dwelling, Accessory dwelling unit

1. "Accessory dwelling unit" (ADU, granny-flat, mother-in-law-apartment) means a habitable living unit added to, created within, or detached from a primary one-unit single-household dwelling, and includes separate cooking, sleeping, and bathroom facilities. An ADU does not constitute a two-household dwelling. ~~Only one ADU is permitted in addition to the main dwelling on one-platted lot of record. ADUs shall not be used for nightly or weekly rentals, and shall not be occupied for periods of less than thirty one consecutive days. ADUs shall be a permanent structure and travel trailers, boats, or RVs shall not be used.~~

2. Internal Accessory Dwelling Units (IADUs) means an accessory dwelling unit created

- a. within a primary dwelling;
- b. within the footprint of the primary dwelling; and

**Commented [NS7]:** This language was removed because it is regulatory. Definitions should not contain regulatory language.

c. for the purpose of offering a long-term rental (30 consecutive days or longer) for employees working in and around Moab and for Workforce housing

3. External Accessory Dwelling Units (EADUs) means an accessory dwelling created:

- a. on the same parcel or lot the contains a primary single household dwelling;
- b. separate from the primary single household dwelling; and
- c. for the purpose of offering a long-term rental of 30 consecutive days or longer.

**B. Dwelling, Primary Residential**

1. Primary dwelling means a single family unit that:

- a. is detached; and
- b. is occupied as the primary residence of the owner of record

**C. Dwelling, Rental**

1. Rental Dwelling means "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
- b. Available to be rented, loaned, leased or hired out for a period of one month or longer; or
- c. Arranged, designed, or built to be rented, loaned, leased, or hired out for a period of one month or longer.

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

A. Permitted uses

- 1. Accessory dwelling units as per Chapter 17.70. Both External and Internal ADUs are permitted

**PASSED** by the City Council in a public meeting on \_\_\_\_\_ by the following vote:

**MOAB CITY COUNCIL:**

*Those voting aye:* \_\_\_\_\_

*Those voting nay:* \_\_\_\_\_

*Those abstaining:* \_\_\_\_\_

*Those absent:* \_\_\_\_\_

\_\_\_\_\_  
Emily Niehaus, Mayor

\_\_\_\_\_  
Date

**ATTEST:** \_\_\_\_\_

Sommar Johnson, Clerk/Recorder