Moab City Council Agenda Item
Meeting Date: October 26, 2021

Title: 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

Presenter: Nora Shepard, Planning Director

Attachment(s):
Attachment A: Revised Draft Ordinance 2021-16
Attachment B: HB 82

Recommended Motion:
The City Council is being asked to discuss and consider approving Ordinance 2021-16. The options for action include:

1. Approve 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. Deny Ordinance 2021-16

Potential Motion to Approve the Ordinance:
I move to approve Ordinance 2021-16 An Ordinance Amending the Text of the Moab Municipal Code (MMC) to Allow ADUs in all Residential Zone Districts and to Revise Section 17.70 Accessory Dwelling Units (ADUs) and Section 17.06.020 Definitions

Background/Summary:
The City Council reviewed a draft of Ordinance 2021-16 at the meeting on October 12, 2021. The City Council raised a number of questions and asked the Planning Staff to make some revisions to the draft ordinance. I also received comments after the meeting from Councilmember Jones. The attached draft incorporates the changes that were agreed upon, as follows:

1. Primary Dwelling Requirement. The definitions have been revised to eliminate the requirement that the ADU be accessory to a “primary” residential dwelling. This would mean that any single household home, whether occupied by a renter, second homeowner or owner would be eligible to have ADUs.

Staff Comment: The Planning Commission and staff recommended that an IADU be allowed only in association with a primary residence, that is, occupied by the property owner. These are supposed to be “accessory” units. The idea of most
ADUs is that there will be minimal impact on the neighborhood because the one of the units must be occupied by the property owner. The owner is there to monitor and resolve nuisance situations. Otherwise, an home with an IADU becomes a de facto duplex, allowing each unit to be used as a second home or rental. The burden of nuisance enforcement shifts to the City in those situations.

2. **Minimum Length of Rental.** Several City Council members expressed a desire for a longer mandatory rental period, such as 3 months or 4 months. The ordinance has been modified to indicate a 3-month minimum.
   
   *Staff Comment: This would be tricky to enforce and monitor. We could add this requirement to the deed restriction associated with the parcel, but enforcement may be difficult and time consuming. This is especially true if there is no owner occupation on the site. Additional information on how other similar communities regulate length of lease is being gathered and will be presented to the City Council under separate cover.*

3. **Retirees and Family.** The definition of Active Employment Household has been modified to include retirees that want to use an ADU as their full-time residence and family members.

4. **Minimum Unit Size.** The minimum unit size for EADUs has been eliminated.

5. **Duplexes and ADUs.** The draft ordinance has been modified to clarify that one (1) ADU be allowed with an existing Duplex. One of the three (3) units would have to be a primary residence.

**Items for Discussion/Unresolved Questions**

1. **Licensing, Enforcement or Registration.** As currently drafted, there is no licensing or registration required for ADUs. The City Council mentioned working with the Housing Authority of SE Utah (HASU) on enforcement of deed restrictions. Discussions on deed restriction enforcement and monitoring has been discussed with HASU. At this time, HASU does not have adequate funding or staff to commit to deed restriction enforcement. We will continue these discussions.

   There was also discussion of requiring some type of license or registration so these units can be tracked and, if there is not an owner occupation requirement, a responsible local manager. These could be considered administrative steps to enact the ordinance and need not be codified at this time. The Staff is looking for direction on this.