Moab City Council Agenda Item  
Meeting Date: November 9, 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):
Exhibit A: Revised Draft Ordinance 2021-16 as of 11.3.2021  
Exhibit B: HB 82  
Exhibit C: Summary Table of ADUs in other communities

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 meetings on October 12, and October 26, 2021. The staff has also received specific comments Councilmembers Duncan, Derasary and Jones. Based on that input, the staff has reorganized and simplified the proposed Code Amendments. I summary, the changes made include:
  1. Reorganized the ordinance to have definitions first
  2. Added RA-1 consistently
  3. Simplified and consolidated the IADU and IADU requirement and criteria
  4. Eliminated redundancy
As a result, the draft ordinance is much shorter and easier to read.

The most recent draft (as of 11.3.2021) is attached as exhibit A. I also included some of the unresolved comments from the individual Councilmember’s comments.
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, a 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, 4 months or 180 days. 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 is attached as Exhibit C.

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.

   *Staff Comment:* The language on retirees and family members needs to be discussed further and clarified

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.

2. **ADUs and Utility Connections.** Several City Council members had questions about whether new, separate water and sewer hooks up would be required. The practice at this time is to allow the existing water and sewer for the Main house to be used (and extended, as necessary) for ADUs. This assumes that the existing water and sewer connections are adequately sized. If the existing service is not of adequate size or capacity, improvement or a new connection may be required. No change in this policy is proposed.

3. **ADUs and Taxes.** The Planning Staff had a conversation with the County Assessor's Office. Each new ADU is evaluated individually to determine their tax status. There is no across the board rule applying to taxing of ADUs.

4. **Primary Residency and IADUs.** As mentioned above, direction from the Council on requiring primary residency for the main part of a dwelling containing and IADU.

5. **Retirees and Family occupancy of ADUs.** The staff needs direction on how to amend the definition of Active Employment Households to address family members and retirees.

6. **Minimum rental period.** Originally, the draft stated that rentals had to be for more than 30 days. The attached draft specifies 90 days, or 3 months. Councilmember Derasary suggested 180 days. Further direction is needed on this.

7. **IADUs and Building Code Requirements.** HB 82 allows IADUs to be associated with *primary* dwellings. The bill indicates that the City could impose some basic building safety requirement as follows:
   A. require bedroom window egress, prohibit installation of a separate utility meter
   B. require that the IADU design not change the appearance of the primary dwelling,
   C. 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,
   D. prohibit an IADU in a mobile home,
   E. require an IADU permit or license,
   F. prohibit an IADU if the primary dwelling is served by a failing septic tank,
   G. prohibit an IADU if the lot is 6,000 sq. ft. or less,
   H. prohibit the renting of the IADU for less than 30 consecutive days.
If the *primary* dwelling requirement is removed, it is possible that additional health safety measures could be considered by the Building Official. This will be discussed further at the work session.