CITY OF MOAB, UT
ORDINANCE 2021-16
An Ordinance Amending the Text of the Moab Municipal Code (MMC) to allow ADUs in all residential Zones subject to a revised Section 17.70 Accessory Dwelling Units and Section 17.06.020 Definitions
REVISED DRAFT 11.3.2021

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, it is better planning practice to encourage infill in order to reduce sprawl.

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.

WHEREAS, it is the intent of the City Council that ADUs be used for employee/workforce housing. The intent is not for ADUs to be used as second homes.

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

SECTION 1. AMENDMENTS TO MMC CHAPTER 17.06 DEFINITIONS ADDING OR MODIFYING DEFINITIONS OF:

Commented [NS1]: Mike’s Comment: Delete this clause or make it clear this is not the legal definition. Who qualifies should be defined once precisely, as it is in Section 2.

The Planning Commission felt strongly that this intent be included in the recitals.
A. “Accessory dwelling unit” (ADU, granny-flat, mother-in-law-apartment) means a habitable living unit added to, created within, or detached from a single-household dwelling and, in some cases duplexes, and includes separate cooking, sleeping, and bathroom facilities. A Single ADU does not constitute a two-household dwelling.

B. “Accessory Dwelling Unit, Internal (IADU)” means an accessory dwelling unit created:
   1. within an existing single household dwelling primary dwelling;
   2. within the footprint of the main dwelling; and
   3. for the purpose of offering a long-term rental for Active employment households. The intent of ADUs is not to provide additional second home opportunities.

C. “Accessory Dwelling Unit, External (EADU)” means an accessory dwelling created:
   1. on the same parcel or lot that contains the main single household dwelling;
   2. physically separate from the single household dwelling; and
   3. for the purpose of offering a long-term rental for Active employment households. The intent of ADUs is not to provide additional second home opportunities.

D. “Dwelling, Primary” means a Single Household Dwelling unit that:
   1. is detached; and
   2. is occupied as the primary residence of the owner of record

E. “Dwelling, Rental” means a building or portion of a building that is:
   1. used or designated for use as a residence by one or more persons;
   2. Available to be rented, loaned, leased or hired out for a period of one month or longer;

F. “Active employment household” or “actively employed household” means a household with at least one adult who meets one of the following criteria; provided, however, where there are unrelated individuals living together in one household, at least 50 percent of all the adults comprising the household shall meet one of the following criteria:
1. A full-time (aggregate of 30 hours of employment per week) employee of an entity or entities located within Grand County; or

2. An owner or owner’s representative of a business or entity with a primary place of business within Grand County; or

3. A full-time (aggregate of 30 hours of employment per week for nine months out of each calendar year) worker who is self-employed or works out of their home must provide their entire list of clients/workload so that it can be verified that a minimum of 75 percent of their work/clients are based within Grand County.

4. A person who is unable to work or does not have a work history required under subsections A.1 through 3 of this section due to a disability; or

5. A family member of the owner of the property

6. A retiree with a work history required under subsections A.1 through 3 of this section for the five years prior to retirement, that intends to make the ADU their full-time place of residence.

SECTION 2. AMEND CHAPTER 17.70 ACCESSORY DWELLING UNITS AS FOLLOWS:

17.70.010 Purpose.
A. Accessory dwelling units are encouraged as dwellings for persons to increase affordable housing opportunities in the RA-1 Residential-Agricultural Zone, 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.

17.70.020 Types of ADUs

There are two types of ADUs permitted in Moab, Internal ADUs (IADU) and External ADUs (EADUs). It is the intent of the City Council that ADUs be used for employee/workforce housing, a family member, or a full-time retiree. The intent is not for ADUs to be used as second homes.
17.70.030 Internal ADUs (IADUs)

A. Permitted Use. IADUs shall be considered a permitted use in the RA-1 Residential Agricultural Zone, 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. IADU Requirements. The following requirements apply to all IADUs:

1. IADUs must include the code required bedroom window egress:

2. Installation of a separate water utility meter is prohibited:

3. IADUs must be designed to maintain the appearance of the primary dwelling:

4. IADUs require a Letter of Zoning Compliance prior to building permit issuance:

5. IADUs are not allowed if the main dwelling is served by a failing septic tank:

6. IADUs cannot be rented for a period less than 3-months:

7. IADUs are allowed only in owner-occupied primary dwellings; and

8. No IADUs are allowed for lots containing a duplex.

9. There is no maximum size for IADUs.

10. No more than one IADU may be located within a Single Household Dwelling.

11. Properties with IADUs shall remain recorded as one lot. The IADU shall not be sold separately from the main home.

12. 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.
13. **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.” Modified deed restriction language may be proposed by the City.

17.070.040 External ADUs (EADUs)

A. **Permitted Use.** EADUs shall be considered a permitted use in the RA-1 Residential-Agricultural Zone, 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.** The following requirements apply to all IADUs:

1. 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.

2. A minimum separation between and EADU and any adjacent structures must be 10 feet, even if that structure is on an adjoining lot. The Building Official may waive or modify this requirement if adequate fire separation can be achieved by other means.

3. Where pre-existing structures meet the development standards of this chapter for an EADU, the original structure may be designated as the accessory dwelling if a new main structure is constructed on site.

4. An EADU shall not be constructed prior to the principal structure, except in cases where new home construction has been permitted. An EADU may be permitted prior to construction of the single household dwelling for purposes of living on-site during the construction of the single household dwelling.

5. An EADU 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 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.

6. Any request for Accessory Dwelling Units 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.

7. One EADU is allowed if the main structure on the parcel is a duplex. One of the three (3) resulting units must be owner-occupied.

8. The maximum size for accessory living quarters shall be no more than twelve hundred (1,200) square feet. Lots larger than 20,000 square feet in size may increase the maximum to fifteen hundred (1,500) square feet. There is no minimum size for ADUs. All ADUs must meet minimum building code requirements.

9. 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.

10. Accessory Dwellings Per Lot. One (1) EADU may be permitted on a parcels up to 20,000 square feet. Parcels that are greater than 20,000 square feet may apply for a maximum of two (2) ADUs.

11. Property to Remain Undivided. Properties with EADUs shall remain recorded as one lot. The accessory dwelling shall not be sold separately.

12. 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.

13. 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 rentals."
The lease period for an EADU shall be a minimum of three (3) months.

17.70.050 Enforcement—Revocation of permit

A. Process for Revocation: If the owner of the property violates any of the provisions of this Chapter, the City 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:

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 sends the written 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 notice of objection

Commented [NS10]: Does this language need to be modified or eliminated?
Commented [NS11]: This section has been taken directly from HB 82.
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

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 sent 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 3: MODIFY LANGUAGE IN ALL RESIDENTIAL ZONES as follows:

A. Permitted uses
   1. Accessory dwelling units as per Chapter 17.70. Both External (EADUs) and Internal ADUs (IADUs) are permitted uses.

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