# Midway City Council
# 1 February 2022
# Regular Meeting

# Ordinance 2022-06 /
# Internal Accessory Dwelling Units

Midway

# CITY COUNCIL MEETING STAFF REPORT

**DATE OF MEETING:** February 1, 2022

**NAME OF APPLICANT:** Midway City

**AGENDA ITEM**: Code Text Amendment of Title 16.13: Supplementary Requirements in Zones

Midway City is proposing an amendment to Section 16.13: Supplementary Requirements in Zones of the Midway City Municipal Code. The proposed amendment would regulate internal accessary dwelling units.

## BACKGROUND:

In the 2021 Utah Legislative Session, the legislator adopted H.B. 82 which modifies state code requiring counties and municipal governments to allow Internal Accessory Dwelling Units (IADU) in their communities. It appears that their intent in creating the new requirement was to address the statewide housing shortage.

The IADU units are intended to be full living units located within a property owners primary dwelling. State code prescribes the minimum and maximum requirements that can be imposed by a local government on an IADU, but it also provides some optional requirements that a local government can adopt including a minimum lot size (6,000 sf.), additional/replacement parking, requiring a permit/license, etc. Part of the bill, which included modifications to some building code requirements, went into effect on May 5th, 2021. The balance of the bill went into effect October 1st, 2021. If local governments do not adopt the mandatory and optional requirements, then the minimum provisions adopted in state code would prevail.

Below is a list of highlights from the bill:

- 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;

The IADU legislation was recently discussed with the City Council who provided some direction to the city attorney to aid in the preparation of a draft code. The proposed draft code would be incorporated into title 16, our municipal land use code.

Below in *red* is the proposed code language which would be adopted as section 16.13.38.

***Section 16.13.38 Internal Accessory Dwelling Units.***

*1. As used in this section:*
*a. "Internal Accessory Dwelling Unit" means an accessory dwelling unit created:*
*i. Within a primary dwelling;*
*ii. Within the existing footprint of the primary dwelling at the time the internal accessory dwelling unit is created; and*
*iii. For the purpose of offering a long-term rental of 30 consecutive days or longer.*
*b. "Primary dwelling" means a single-family dwelling that:*
*i. Is detached; and*
*ii. Is occupied as the primary residence of the owner of record.*

*2. Permitted Use.*
*a. The use of one internal accessory dwelling unit within a primary dwelling is a permitted use in any area zoned primarily for residential use.*
*b. An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes, except that:*
*i. A structure whose egress window in an existing bedroom complied with the construction code in effect at the time that*

*the bedroom was finished is not required to undergo a physical change to conform to the current construction code if the change would compromise the structural integrity of the structure;*

*ii. The discharge of return air from an accessory dwelling unit into another dwelling unit, or into an accessory dwelling unit from another dwelling unit, is not prohibited; and*

*iii. An occupant of an accessory dwelling unit is not required to have access to the disconnect serving the dwelling unit in which they reside.*

*c. Except as provided in Subsection 3, the City may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:*

*i. The size of the internal accessory dwelling unit in relation to the primary dwelling;*

*ii. Total lot size; or*

*iii. Street frontage.*

*3. Restrictions and Requirements:*

*a. The following are prohibited in all internal accessory dwelling units located in the City:*

*i. Installing a separate utility meter;*

*ii. Creating an internal accessory dwelling unit within a mobile home;*

*iii. Creating an internal accessory dwelling unit within a primary dwelling served by a failing septic tank;*

*iv. Renting an internal accessory dwelling unit located within a dwelling that is not the owner's primary residence;*

*v. Renting or offering to rent an internal accessory dwelling unit for a period of less than 30 consecutive days;*

*b. The following are required of all internal accessory dwelling units located in the City:*

*i. One additional on-site parking space, regardless of whether the primary dwelling is existing or new construction;*

*ii. Any required parking spaces contained within a garage or carport removed for the creation of an internal accessory dwelling unit must be replaced, which could require the creation of new onsite parking spaces. Parking associated with an internal accessory dwelling unit (both required and voluntary) may not be in tandem with required parking of the main dwelling.*

*iii. The owner of a primary dwelling desiring to rent out an internal accessory dwelling unit must obtain a City license and any applicable permits to do so;*

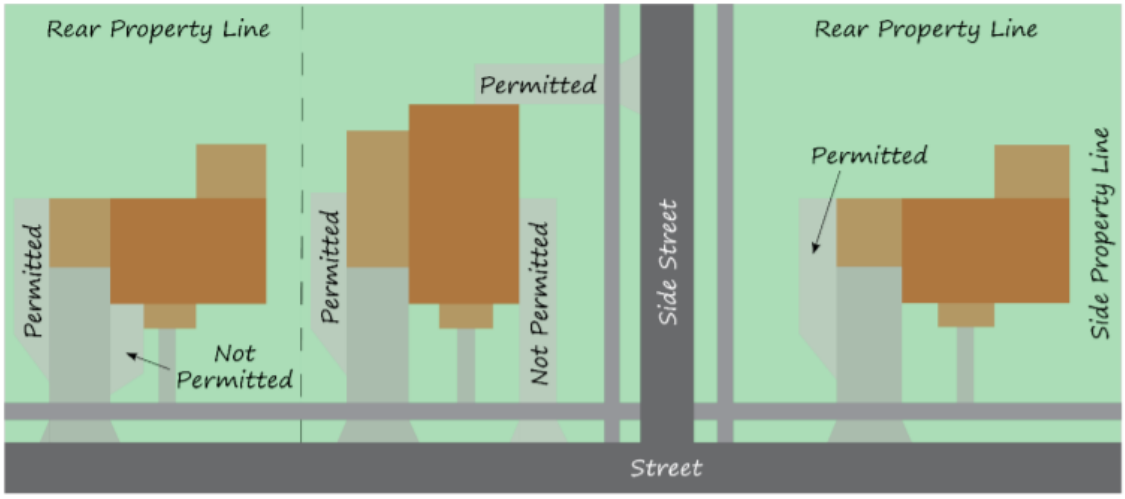
*iv. Lot containing the primary dwelling shall be a minimum of 6,000 square feet in size;*

*1. No common or limited common area may count towards the 6,000 square foot minimum.*

*v. An internal accessory dwelling unit should be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling. Specifically, it must comply with the following:*

*1. New exterior entrances that benefit an internal accessory dwelling unit are prohibited along the front façade of the structure. This does not prevent the internal accessory dwelling unit from using an existing front entrance but prevents the creation of a new entrance for the internal accessory dwelling unit along the front façade of the structure. An additional entrance may be added along the side or rear façades of the structure.*

*2. No parking spaces may be located within the front or side yard setbacks adjacent to a street, except for within an approved driveway.*




*3. The minimum width of parking areas and driveways shall be paved with concrete or asphalt.*

*c. The City has discretion to pursue the following concerning internal accessory dwelling units:*

*i. The City may hold a lien against a property containing an internal accessory dwelling unit in accordance with Subsection 4; and*

*ii. The City may record a notice for an internal accessory dwelling unit in accordance with Subsection 5.*

4. *Liens.*
    a. *In addition to any other legal or equitable remedies available to the City, the City may hold a lien against a property containing an internal accessory dwelling unit if:*
        i. *The owner of the property violates any of the provisions of Subsections 3 or 4;*
        ii. *The City provides a written notice of violation in accordance with Subsection (4)(b);*
        iii. *The City holds a hearing and determines that the violation has occurred in accordance with Subsection (4)(d), if the owner files a written objection in accordance with Subsection (4)(b)(iv);*
        iv. *The owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection (4)(b);*
        v. *The City provides a written notice of lien in accordance with Subsection (4)(c); and*
        vi. *The City records a copy of the written notice of lien described in Subsection (4)(a)(iv) with the Wasatch County recorder.*
    b. *The written notice of violation shall:*
        i. *Describe the specific violation;*
        ii. *Provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation that is:*
            1. *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*
            2. *No less than 30 days after the day on which the City sends the written notice of violation, for any other violation;*
        iii. *State that if the owner of the property fails to cure the violation within the time period described in Subsection (4)(b)(ii), 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;*
        iv. *Notify the owner of the property:*
            1. *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*
            2. *Of the name and address of the City office where the owner may file the written objection;*
        v. *Be mailed to:*
            1. *The property's owner of record; and*

2. *Any other individual designated to receive notice in the owner's license or permit records; and*

vi. *Be posted on the property.*

c. *The written notice of lien shall:*

i. *State that the property is subject to a lien;*

ii. *Specify the lien amount, in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;*

iii. *Be mailed to:*

1. *The property's owner of record; and*
2. *Any other individual designated to receive notice in the owner's license or permit records; and*

iv. *Be posted on the property.*

d. *If an owner of property files a written objection in accordance with Subsection (4)(b)(iv), the City shall:*

i. *Hold a public hearing to conduct a review and determine whether the specific violation described in the written notice of violation under Subsection (4)(b) has occurred; and*

ii. *Notify the owner in writing of the date, time, and location of the hearing described in Subsection (4)(d)(i) no less than 14 days before the day on which the hearing is held.*

iii. *If an owner of property files a written objection under Subsection (4)(b)(iv), the City may not record a lien under this Subsection 4 until the City holds a hearing and determines that the specific violation has occurred.*

iv. *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.*

e. *If an owner cures a violation within the time period prescribed in the written notice of violation under Subsection (4)(b), 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 under Subsection (4)(b).*

5. *Recording Notices.*

a. *If the City issues a license and any applicable permits to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, the City may record a notice in the office of the Wasatch County recorder.*

b. *The notice described in Subsection (5)(a) shall include:*

i. *A description of the primary dwelling;*

*ii. A statement that the primary dwelling contains an internal accessory dwelling unit; and*

*iii. A statement that the internal accessory dwelling unit may only be used in accordance with the City's land use regulations.*

*c. The City shall, upon recording the notice described in Subsection (5)(a), deliver a copy of the notice to the owner of the internal accessory dwelling unit.*

*6. Home Owner Associations.*

*a. A home owner association may not restrict or prohibit the rental of an internal accessory dwelling unit constructed within a lot owner's residential lot, if the internal accessory dwelling unit complies with all applicable:*

*i. Land use ordinances;*

*ii. Building codes;*

*iii. Health codes; and*

*iv. Fire codes.*

In compliance with state code, we are proposing that IADUs are listed as a permitted use in all residential zones (R-1-7, R-1-9, R-1-11, R-1-15, R-1-22, RA-1-43). In addition to the residential zones, we are proposing that IADUs are added as a permitted use in the commercial (C-2 and C-3) and Resort zones. The following language would be added in the specified sections:

**16.5.2 Permitted and Conditional Uses (C-2 and C-3)**

| USES | C-2 | C-3 |
|---|---|---|
| Internal Accessory Dwelling Unit | P | P |

**16.7.2 Permitted Uses (R-1-7)**

**J. Internal Accessory Dwelling Unit**

**16.8.2 Permitted Uses (R-1-9)**

**J. Internal Accessory Dwelling Unit**

**16.9.2 Permitted Uses (R-1-11)**

**G. Internal Accessory Dwelling Unit**

**16.10.2 Permitted Uses (R-1-15)**

**G. Internal Accessory Dwelling Unit**

**16.11.2 Permitted Uses (R-1-22)**

**G. Internal Accessory Dwelling Unit**

**16.12.2 Permitted Uses (RA-1-43)**

**J. Internal Accessory Dwelling Unit**

**16.15.4.A.F.3 Permitted and Conditional Uses in Resort Zone (RZ)**

| USES | RZ |
|---|---|
| Internal Accessory Dwelling Unit | P |

**POSSIBLE FINDINGS:**

- Regardless of whether the city adopts a code regarding IADUs, state code currently allows property owners to install IADUs assuming the minimum requirements outlined in state code are met

- The creation of IADUs could help improve the availability of housing in our community

- By adopting this code, Midway City will be able to actively permit and track the creation of IADUs. By tracking the permitted units, Midway will be able to enforce the removal of non-conforming units that are in violation of the proposed title

- The option of recording a notice against the property will ensure that there is a recorded record for future property owners letting them know what the implications are for having an internal accessory dwelling unit (e.g. owner occupied, long-term rental only)

- Approval of the proposed code would list IADUs as permitted uses in all residential, commercial and resort zones.

**PLANNING COMMISSION RECOMMENDATION:**

**Motion:** Commissioner Simons: I make a motion that we recommend to approve an amendment to Section 16.13: Supplementary Requirements in Zones of the Midway City Municipal Code. The proposed amendment would regulate internal accessary dwelling units. Accept staff findings and adding that we require that an internal accessory dwelling unit be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling, by allowing a separate entrance located on the side or the back of the home, not on the front. Also, any additional driveway area, must be on the same side of the original driveway for the main home unless the home is on a corner lot. To list the IADU code as a permitted use in each zone. Add that it is listed as a permitted

use in the commercial zones only if the home is grandfathered in as a primary residential unit and they may have an IADU. No common area shall be counted towards the six thousand square foot minimum in order to qualify for an IADU.

**Seconded:** Commissioner Garland
**Chairman Nicholas:** Any discussion on the motion?
**Chairman Nicholas:** All in favor.
**Ayes:** Commissioners: Cliften, Bouwhuis, Ream, Wardle, Garland and Simons
**Nays:** None
**Motion: Passed**

**ALTERNATIVE ACTIONS:**

1. Approval. This action can be taken if the City Council finds that the proposed language is an acceptable amendment to the City's Municipal Code.

    a. Accept staff report
    b. List accepted findings

2. Continuance. This action can be taken if the City Council would like to continue exploring potential options for the amendment.

    a. Accept staff report
    b. List accepted findings
    c. Reasons for continuance
        i. Unresolved issues that must be addressed
    d. Date when the item will be heard again

3. Denial. This action can be taken if the City Council finds that the proposed amendment is not an acceptable revision to the City's Municipal Code.

    a. Accept staff report
    b. List accepted findings
    c. Reasons for denial

# Exhibits

## Exhibit A – H.B. 82 as adopted by the Utah Legislature

# Exhibit A

# SINGLE-FAMILY HOUSING MODIFICATIONS

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Raymond P. Ward**

Senate Sponsor: Jacob L. Anderegg

**LONG TITLE**

**General Description:**

This bill modifies provisions related to single-family housing.

**Highlighted Provisions:**

This bill:

- 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.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**10-8-85.4**, as enacted by Laws of Utah 2017, Chapter 335

**10-9a-505.5**, as last amended by Laws of Utah 2012, Chapter 172

**10-9a-511.5**, as enacted by Laws of Utah 2015, Chapter 205

**15A-3-202**, as last amended by Laws of Utah 2020, Chapter 441

**15A-3-204**, as last amended by Laws of Utah 2016, Chapter 249

**15A-3-206**, as last amended by Laws of Utah 2018, Chapter 186

**17-27a-505.5**, as last amended by Laws of Utah 2015, Chapter 465

**17-27a-510.5**, as enacted by Laws of Utah 2015, Chapter 205

**17-50-338**, as enacted by Laws of Utah 2017, Chapter 335

**35A-8-505**, as last amended by Laws of Utah 2020, Chapter 241

**57-8a-209**, as last amended by Laws of Utah 2018, Chapter 395

**57-8a-218**, as last amended by Laws of Utah 2017, Chapter 131

ENACTS:

**10-9a-530**, Utah Code Annotated 1953

**17-27a-526**, Utah Code Annotated 1953

**35A-8-504.5**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **10-8-85.4** is amended to read:

**10-8-85.4. Ordinances regarding short-term rentals -- Prohibition on ordinances restricting speech on short-term rental websites.**

(1) As used in this section:

(a) "Internal accessory dwelling unit" means the same as that term is defined in Section 10-9a-511.5.

[~~(a)~~] (b) "Residential unit" means a residential structure or any portion of a residential structure that is occupied as a residence.

[~~(b)~~] (c) "Short-term rental" means a residential unit or any portion of a residential unit that the owner of record or the lessee of the residential unit offers for occupancy for fewer than 30 consecutive days.

[~~(c)~~] (d) "Short-term rental website" means a website that:

(i) allows a person to offer a short-term rental to one or more prospective renters; and

(ii) facilitates the renting of, and payment for, a short-term rental.

(2) Notwithstanding Section 10-9a-501 or Subsection 10-9a-503(1), a legislative body may not:

(a) enact or enforce an ordinance that prohibits an individual from listing or offering a short-term rental on a short-term rental website; or

(b) use an ordinance that prohibits the act of renting a short-term rental to fine, charge, prosecute, or otherwise punish an individual solely for the act of listing or offering a short-term rental on a short-term rental website.

(3) Subsection (2) does not apply to an individual who lists or offers an internal accessory dwelling unit as a short-term rental on a short-term rental website if the municipality records a notice for the internal accessory dwelling unit under Subsection 10-9a-530(6).

Section 2. Section **10-9a-505.5** is amended to read:

**10-9a-505.5. Limit on single family designation.**

(1) As used in this section, "single-family limit" means the number of [~~unrelated~~] individuals allowed to occupy each residential unit that is recognized by a land use authority in a zone permitting occupancy by a single family.

(2) A municipality may not adopt a single-family limit that is less than:

(a) three, if the municipality has within its boundary:

(i) a state university; or

(ii) a private university with a student population of at least 20,000; or

(b) four, for each other municipality.

Section 3. Section **10-9a-511.5** is amended to read:

**10-9a-511.5. Changes to dwellings -- Egress windows.**

(1) [~~For purposes of~~] As used in this section[~~, "rental~~]:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(c) "Rental dwelling" means the same as that term is defined in Section 10-8-85.5.

(2) A municipal ordinance adopted under Section 10-1-203.5 may not:

(a) require physical changes in a structure with a legal nonconforming rental dwelling use unless the change is for:

(i) the reasonable installation of:

(A) a smoke detector that is plugged in or battery operated;

(B) a ground fault circuit interrupter protected outlet on existing wiring;

(C) street addressing;

(D) except as provided in Subsection (3), an egress bedroom window if the existing bedroom window is smaller than that required by current State Construction Code;

(E) an electrical system or a plumbing system, if the existing system is not functioning or is unsafe as determined by an independent electrical or plumbing professional who is

licensed in accordance with Title 58, Occupations and Professions;

(F) hand or guard rails; or

(G) occupancy separation doors as required by the International Residential Code; or

(ii) the abatement of a structure; or

(b) be enforced to terminate a legal nonconforming rental dwelling use.

(3) (a) A municipality may not require physical changes to install an egress or emergency escape window in an existing bedroom that complied with the State Construction Code in effect at the time the bedroom was finished if:

[~~(a)~~] (i) the dwelling is an owner-occupied dwelling or a rental dwelling that is:

[~~(i)~~] (A) a detached one-, two-, three-, or four-family dwelling; or

[~~(ii)~~] (B) a town home that is not more than three stories above grade with a separate means of egress; and

[~~(b) (i)~~] (ii) (A) the window in the existing bedroom is smaller than that required by current State Construction Code; and

[~~(ii)~~] (B) the change would compromise the structural integrity of the structure or could not be completed in accordance with current State Construction Code, including set-back and window well requirements.

(b) Subsection (3)(a) does not apply to an internal accessory dwelling unit.

(4) Nothing in this section prohibits a municipality from:

(a) regulating the style of window that is required or allowed in a bedroom;

(b) requiring that a window in an existing bedroom be fully openable if the openable area is less than required by current State Construction Code; or

(c) requiring that an existing window not be reduced in size if the openable area is smaller than required by current State Construction Code.

Section 4. Section **10-9a-530** is enacted to read:

**10-9a-530. Internal accessory dwelling units.**

(1) As used in this section:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(2) In any area zoned primarily for residential use:

(a) the use of an internal accessory dwelling unit is a permitted use; and

(b) except as provided in Subsections (3) and (4), a municipality may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:

(i) the size of the internal accessory dwelling unit in relation to the primary dwelling;

(ii) total lot size; or

(iii) street frontage.

(3) An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes.

(4) A municipality may:

(a) prohibit the installation of a separate utility meter for an internal accessory dwelling unit;

(b) require that an internal accessory dwelling unit be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling;

(c) require a primary dwelling:

(i) to include one additional on-site parking space for an internal accessory dwelling unit, regardless of whether the primary dwelling is existing or new construction; and

(ii) to replace any parking spaces contained within a garage or carport if an internal accessory dwelling unit is created within the garage or carport;

(d) prohibit the creation of an internal accessory dwelling unit within a mobile home as

defined in Section 57-16-3;

(e) require the owner of a primary dwelling to obtain a permit or license for renting an internal accessory dwelling unit;

(f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area that is equivalent to:

(i) 25% or less of the total area in the municipality that is zoned primarily for residential use; or

(ii) 67% or less of the total area in the municipality that is zoned primarily for residential use, if the main campus of a state or private university with a student population of 10,000 or more is located within the municipality;

(g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a failing septic tank;

(h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;

(i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;

(j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;

(k) hold a lien against a property that contains an internal accessory dwelling unit in accordance with Subsection (5); and

(l) record a notice for an internal accessory dwelling unit in accordance with Subsection (6).

(5) (a) In addition to any other legal or equitable remedies available to a municipality, a municipality may hold a lien against a property that contains an internal accessory dwelling unit if:

(i) the owner of the property violates any of the provisions of this section or any ordinance adopted under Subsection (4);

(ii) the municipality provides a written notice of violation in accordance with

Subsection (5)(b);

(iii) the municipality holds a hearing and determines that the violation has occurred in accordance with Subsection (5)(d), if the owner files a written objection in accordance with Subsection (5)(b)(iv);

(iv) the owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection (5)(b);

(v) the municipality provides a written notice of lien in accordance with Subsection (5)(c); and

(vi) the municipality records a copy of the written notice of lien described in Subsection (5)(a)(iv) with the county recorder of the county in which the property is located.

(b) The written notice of violation shall:

(i) describe the specific violation;

(ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation that is:

(A) no less than 14 days after the day on which the municipality 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

(B) no less than 30 days after the day on which the municipality sends the written notice of violation, for any other violation;

(iii) state that if the owner of the property fails to cure the violation within the time period described in Subsection (5)(b)(ii), the municipality 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;

(iv) notify the owner of the property:

(A) 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

(B) of the name and address of the municipal office where the owner may file the written objection;

(v) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(vi) be posted on the property.

(c) The written notice of lien shall:

(i) comply with the requirements of Section 38-12-102;

(ii) state that the property is subject to a lien;

(iii) specify the lien amount, in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(v) be posted on the property.

(d) (i) If an owner of property files a written objection in accordance with Subsection (5)(b)(iv), the municipality 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 Subsection (5)(b) has occurred; and

(B) notify the owner in writing of the date, time, and location of the hearing described in Subsection (5)(d)(i)(A) no less than 14 days before the day on which the hearing is held.

(ii) If an owner of property files a written objection under Subsection (5)(b)(iv), a municipality may not record a lien under this Subsection (5) until the municipality holds a hearing and determines that the specific violation has occurred.

(iii) If the municipality determines at the hearing that the specific violation has occurred, the municipality 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.

(e) If an owner cures a violation within the time period prescribed in the written notice of violation under Subsection (5)(b), the municipality 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 under Subsection (5)(b).

(6) (a) A municipality that issues, on or after October 1, 2021, a permit or license to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, may record a notice in the office of the recorder of the county in which the primary dwelling is located.

(b) The notice described in Subsection (6)(a) shall include:

(i) a description of the primary dwelling;

(ii) a statement that the primary dwelling contains an internal accessory dwelling unit; and

(iii) a statement that the internal accessory dwelling unit may only be used in accordance with the municipality's land use regulations.

(c) The municipality shall, upon recording the notice described in Subsection (6)(a), deliver a copy of the notice to the owner of the internal accessory dwelling unit.

Section 5. Section **15A-3-202** is amended to read:

**15A-3-202. Amendments to Chapters 1 through 5 of IRC.**

(1) In IRC, Section R102, a new Section R102.7.2 is added as follows: "R102.7.2 Physical change for bedroom window egress. A structure whose egress window in an existing bedroom is smaller than required by this code, and that complied with the construction code in effect at the time that the bedroom was finished, is not required to undergo a physical change to conform to this code if the change would compromise the structural integrity of the structure or could not be completed in accordance with other applicable requirements of this code, including setback and window well requirements."

(2) In IRC, Section R108.3, the following sentence is added at the end of the section:

"The building official shall not request proprietary information."

(3) In IRC, Section 109:

(a) A new IRC, Section 109.1.5, is added as follows: "R109.1.5 Weather-resistant exterior wall envelope inspections. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section R703.1 and flashings as required by Section R703.8 to prevent water from entering the weather-resistive barrier."

(b) The remaining sections are renumbered as follows: R109.1.6 Other inspections; R109.1.6.1 Fire- and smoke-resistance-rated construction inspection; R109.1.6.2 Reinforced masonry, insulating concrete form (ICF) and conventionally formed concrete wall inspection; and R109.1.7 Final inspection.

(4) IRC, Section R114.1, is deleted and replaced with the following: "R114.1 Notice to owner. Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or other pertinent laws or ordinances or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent or to the person doing the work; and shall state the conditions under which work will be permitted to resume."

(5) In IRC, Section R202, the following definition is added: "ACCESSORY DWELLING UNIT: A habitable living unit created within the existing footprint of a primary owner-occupied single-family dwelling."

[~~(5)~~] (6) In IRC, Section R202, the following definition is added: "CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4)."

[~~(6)~~] (7) In IRC, Section R202, the definition of "Cross Connection" is deleted and replaced with the following: "CROSS CONNECTION. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam,

gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow, Water Distribution")."

[~~(7)~~] (8) In IRC, Section 202, in the definition for gray water a comma is inserted after the word "washers"; the word "and" is deleted; and the following is added to the end: "and clear water wastes which have a pH of 6.0 to 9.0; are non-flammable; non-combustible; without objectionable odors; non-highly pigmented; and will not interfere with the operation of the sewer treatment facility."

[~~(8)~~] (9) In IRC, Section R202, the definition of "Potable Water" is deleted and replaced with the following: "POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction."

[~~(9)~~] (10) IRC, Figure R301.2(5), is deleted and replaced with R301.2(5) as follows:

"TABLE R301.2(5)

GROUND SNOW LOADS FOR SELECTED LOCATIONS IN UTAH

| City/Town | County | Ground Snow Load (lb/ft2) | Elevation (ft) |
|---|---|---|---|
| Beaver | Beaver | 35 | 5886 |
| Brigham City | Box Elder | 42 | 4423 |
| Castle Dale | Emery | 32 | 5669 |
| Coalville | Summit | 57 | 5581 |
| Duchesne | Duchesne | 39 | 5508 |
| Farmington | Davis | 35 | 4318 |
| Fillmore | Millard | 30 | 5138 |
| Heber City | Wasatch | 60 | 5604 |
| Junction | Piute | 27 | 6030 |
| Kanab | Kane | 25 | 4964 |

| | | | | |
|---|---|---|---|---|
| Loa | Wayne | 37 | 7060 |
| Logan | Cache | 43 | 4531 |
| Manila | Daggett | 26 | 6368 |
| Manti | Sanpete | 37 | 5620 |
| Moab | Grand | 21 | 4029 |
| Monticello | San Juan | 67 | 7064 |
| Morgan | Morgan | 52 | 5062 |
| Nephi | Juab | 39 | 5131 |
| Ogden | Weber | 37 | 4334 |
| Panguitch | Garfield | 41 | 6630 |
| Parowan | Iron | 32 | 6007 |
| Price | Carbon | 31 | 5558 |
| Provo | Utah | 31 | 4541 |
| Randolph | Rich | 50 | 6286 |
| Richfield | Sevier | 27 | 5338 |
| St. George | Washington | 21 | 2585 |
| Salt Lake City | Salt Lake | 28 | 4239 |
| Tooele | Tooele | 35 | 5029 |
| Vernal | Uintah | 39 | 5384 |

| |
|---|
| Note: To convert lb/ft2 to kN/m2, multiply by 0.0479. To convert feet to meters, multiply by 0.3048.<br>1. Statutory requirements of the Authority Having Jurisdiction are not included in this state ground snow load table.<br>2. For locations where there is substantial change in altitude over the city/town, the load applies at and below the cited elevation, with a tolerance of 100 ft (30 m).<br>3. For other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utahsnowload.usu.edu/, for ground snow load values. |

[~~(10)~~] (11) IRC, Section R301.6, is deleted and replaced with the following: "R301.6 Utah Snow Loads. The snow loads specified in Table R301.2(5b) shall be used for the jurisdictions identified in that table. Otherwise, for other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utahsnowload.usu.edu/, for ground snow load values."

[~~(11)~~] (12) In IRC, Section R302.2, the following sentence is added after the second sentence: "When an access/maintenance agreement or easement is in place, plumbing, mechanical ducting, schedule 40 steel gas pipe, and electric service conductors including feeders, are permitted to penetrate the common wall at grade, above grade, or below grade."

(13) In IRC, Section R302.3, a new exception 3 is added as follows: "3. Accessory dwelling units separated by walls or floor assemblies protected by not less than 1/2-inch (12.7 mm) gypsum board or equivalent on each side of the wall or bottom of the floor assembly are exempt from the requirements of this section."

[~~(12)~~] (14) In IRC, Section R302.5.1, the words "self-closing device" are deleted and replaced with "self-latching hardware."

[~~(13)~~] (15) IRC, Section R302.13, is deleted.

[~~(14)~~] (16) In IRC, Section R303.4, the number "5" is changed to "3" in the first sentence.

(17) In IRC, Section R310.6, in the exception, the words "or accessory dwelling units" are added after the words "sleeping rooms".

[~~(15)~~] (18) IRC, Sections R311.7.4 through R311.7.5.3, are deleted and replaced with the following: "R311.7.4 Stair treads and risers. R311.7.5.1 Riser height. The maximum riser height shall be 8 inches (203 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.2 Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12-inch (305 mm) walk line shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.3 Profile. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4-inch diameter (102 mm) sphere.

Exceptions.

1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).

2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches

(762 mm) or less."

[~~(16)~~] (19) IRC, Section R312.2, is deleted.

[~~(17)~~] (20) IRC, Sections R313.1 through R313.2.1, are deleted and replaced with the following: "R313.1 Design and installation. When installed, automatic residential fire sprinkler systems for townhouses or one- and two-family dwellings shall be designed and installed in accordance with Section P2904 or NFPA 13D."

(21) In IRC, Section R314.2.2, the words "or accessory dwelling units" are added after the words "sleeping rooms".

(22) In IRC, Section R315.2.2, the words "or accessory dwelling units" are added after the words "sleeping rooms".

[~~(18)~~] (23) In IRC, Section 315.3, the following words are added to the first sentence after the word "installed": "on each level of the dwelling unit and."

[~~(19)~~] (24) In IRC, Section R315.5, a new exception, 3, is added as follows: "3. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for hard wiring, without the removal of interior finishes."

[~~(20)~~] (25) A new IRC, Section R315.7, is added as follows: " R315.7 Interconnection. Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.1, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes."

[~~(21)~~] (26) In IRC, Section R317.1.5, the period is deleted and the following language

is added to the end of the paragraph: "or treated with a moisture resistant coating."

[~~(22)~~] (27) In IRC, Section 326.1, the words "residential provisions of the" are added after the words "pools and spas shall comply with".

[~~(23)~~] (28) In IRC, Section R403.1.6, a new Exception 3 is added as follows: "3. When anchor bolt spacing does not exceed 32 inches (813 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(24)~~] (29) In IRC, Section R403.1.6.1, a new exception is added at the end of Item 2 and Item 3 as follows: "Exception: When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(25)~~] (30) In IRC, Section R404.1, a new exception is added as follows: "Exception: As an alternative to complying with Sections R404.1 through R404.1.5.3, concrete and masonry foundation walls may be designed in accordance with IBC Sections 1807.1.5 and 1807.1.6 as amended in Section 1807.1.6.4 and Table 1807.1.6.4 under these rules."

[~~(26)~~] (31) In IRC, Section R405.1, a new exception is added as follows: "Exception: When a geotechnical report has been provided for the property, a drainage system is not required unless the drainage system is required as a condition of the geotechnical report. The geological report shall make a recommendation regarding a drainage system."

Section 6. Section **15A-3-204** is amended to read:

**15A-3-204. Amendments to Chapters 16 through 25 of IRC.**

(1) In IRC, Section M1602.2, a new exception is added at the end of Item 6 as follows: "Exception: The discharge of return air from an accessory dwelling unit into another dwelling unit, or into an accessory dwelling unit from another dwelling unit, is not prohibited."

(2) A new IRC, Section G2401.2, is added as follows: "G2401.2 Meter Protection. Fuel gas services shall be in an approved location and/or provided with structures designed to

protect the fuel gas meter and surrounding piping from physical damage, including falling, moving, or migrating ice and snow. If an added structure is used, it must provide access for service and comply with the IBC or the IRC."

Section 7. Section **15A-3-206** is amended to read:

**15A-3-206. Amendments to Chapters 36 through 44 and Appendix F of IRC.**

(1) In IRC, Section E3601.6.2, a new exception is added as follows: "Exception: An occupant of an accessory dwelling unit is not required to have access to the disconnect serving the dwelling unit in which they reside."

[~~(1)~~] (2) In IRC, Section E3705.4.5, the following words are added after the word "assemblies": "with ungrounded conductors 10 AWG and smaller".

[~~(2)~~] (3) In IRC, Section E3901.9, the following exception is added: "Exception: Receptacles or other outlets adjacent to the exterior walls of the garage, outlets adjacent to an exterior wall of the garage, or outlets in a storage room with entry from the garage may be connected to the garage branch circuit."

[~~(3)~~] (4) IRC, Section E3902.16 is deleted.

[~~(4)~~] (5) In Section E3902.17:

(a) following the word "Exception" the number "1." is added; and

(b) at the end of the section, the following sentences are added: "2. This section does not apply for a simple move or an extension of a branch circuit or an outlet which does not significantly increase the existing electrical load. This exception does not include changes involving remodeling or additions to a residence."

[~~(5)~~] (6) IRC, Chapter 44, is amended by adding the following reference standard:

| "Standard reference number | Title | Referenced in code section number |
|---|---|---|
| USC-FCCCHR 10th Edition Manual of Cross Connection Control | Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA 90089-2531 | Table P2902.3" |

[~~(6)~~] (7) (a) When passive radon controls or portions thereof are voluntarily installed, the voluntary installation shall comply with Appendix F of the IRC.

(b) An additional inspection of a voluntary installation described in Subsection [~~(6)~~] (7)(a) is not required.

Section 8. Section **17-27a-505.5** is amended to read:

**17-27a-505.5. Limit on single family designation.**

(1) As used in this section, "single-family limit" means the number of [~~unrelated~~] individuals allowed to occupy each residential unit that is recognized by a land use authority in a zone permitting occupancy by a single family.

(2) A county may not adopt a single-family limit that is less than:

(a) three, if the county has within its unincorporated area:

(i) a state university;

(ii) a private university with a student population of at least 20,000; or

(iii) a mountainous planning district; or

(b) four, for each other county.

Section 9. Section **17-27a-510.5** is amended to read:

**17-27a-510.5. Changes to dwellings -- Egress windows.**

(1) [~~For purposes of~~] As used in this section[~~, "rental~~]:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(c) "Rental dwelling" means the same as that term is defined in Section 10-8-85.5.

(2) A county ordinance adopted under Section 10-1-203.5 may not:

(a) require physical changes in a structure with a legal nonconforming rental dwelling use unless the change is for:

(i) the reasonable installation of:

(A) a smoke detector that is plugged in or battery operated;

(B) a ground fault circuit interrupter protected outlet on existing wiring;

(C) street addressing;

(D) except as provided in Subsection (3), an egress bedroom window if the existing bedroom window is smaller than that required by current State Construction Code;

(E) an electrical system or a plumbing system, if the existing system is not functioning or is unsafe as determined by an independent electrical or plumbing professional who is licensed in accordance with Title 58, Occupations and Professions;

(F) hand or guard rails; or

(G) occupancy separation doors as required by the International Residential Code; or

(ii) the abatement of a structure; or

(b) be enforced to terminate a legal nonconforming rental dwelling use.

(3) (a) A county may not require physical changes to install an egress or emergency escape window in an existing bedroom that complied with the State Construction Code in effect at the time the bedroom was finished if:

[~~(a)~~] (i) the dwelling is an owner-occupied dwelling or a rental dwelling that is:

[~~(i)~~] (A) a detached one-, two-, three-, or four-family dwelling; or

[~~(ii)~~] (B) a town home that is not more than three stories above grade with a separate means of egress; and

[~~(b) (i)~~] (ii) (A) the window in the existing bedroom is smaller than that required by current State Construction Code; and

[~~(ii)~~] (B) the change would compromise the structural integrity of the structure or could not be completed in accordance with current State Construction Code, including set-back and window well requirements.

(b) Subsection (3)(a) does not apply to an internal accessory dwelling unit.

(4) Nothing in this section prohibits a county from:

(a) regulating the style of window that is required or allowed in a bedroom;

(b) requiring that a window in an existing bedroom be fully openable if the openable area is less than required by current State Construction Code; or

(c) requiring that an existing window not be reduced in size if the openable area is smaller than required by current State Construction Code.

Section 10. Section **17-27a-526** is enacted to read:

**17-27a-526. Internal accessory dwelling units.**

(1) As used in this section:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(2) In any area zoned primarily for residential use:

(a) the use of an internal accessory dwelling unit is a permitted use; and

(b) except as provided in Subsections (3) and (4), a county may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:

(i) the size of the internal accessory dwelling unit in relation to the primary dwelling;

(ii) total lot size; or

(iii) street frontage.

(3) An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes.

(4) A county may:

(a) prohibit the installation of a separate utility meter for an internal accessory dwelling unit;

(b) require that an internal accessory dwelling unit be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling;

(c) require a primary dwelling:

(i) to include one additional on-site parking space for an internal accessory dwelling unit, regardless of whether the primary dwelling is existing or new construction; and

(ii) to replace any parking spaces contained within a garage or carport if an internal accessory dwelling unit is created within the garage or carport;

(d) prohibit the creation of an internal accessory dwelling unit within a mobile home as defined in Section 57-16-3;

(e) require the owner of a primary dwelling to obtain a permit or license for renting an internal accessory dwelling unit;

(f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area that is equivalent to 25% or less of the total unincorporated area in the county that is zoned primarily for residential use;

(g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a failing septic tank;

(h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;

(i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;

(j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;

(k) hold a lien against a property that contains an internal accessory dwelling unit in accordance with Subsection (5); and

(l) record a notice for an internal accessory dwelling unit in accordance with Subsection (6).

(5) (a) In addition to any other legal or equitable remedies available to a county, a county may hold a lien against a property that contains an internal accessory dwelling unit if:

(i) the owner of the property violates any of the provisions of this section or any ordinance adopted under Subsection (4);

(ii) the county provides a written notice of violation in accordance with Subsection (5)(b);

(iii) the county holds a hearing and determines that the violation has occurred in accordance with Subsection (5)(d), if the owner files a written objection in accordance with Subsection (5)(b)(iv);

(iv) the owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection (5)(b);

(v) the county provides a written notice of lien in accordance with Subsection (5)(c); and

(vi) the county records a copy of the written notice of lien described in Subsection (5)(a)(iv) with the county recorder of the county in which the property is located.

(b) The written notice of violation shall:

(i) describe the specific violation;

(ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation that is:

(A) no less than 14 days after the day on which the county 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

(B) no less than 30 days after the day on which the county sends the written notice of violation, for any other violation; and

(iii) state that if the owner of the property fails to cure the violation within the time period described in Subsection (5)(b)(ii), the county 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;

(iv) notify the owner of the property:

(A) 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

(B) of the name and address of the county office where the owner may file the written objection;

(v) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(vi) be posted on the property.

(c) The written notice of lien shall:

(i) comply with the requirements of Section 38-12-102;

(ii) describe the specific violation;

(iii) specify the lien amount, in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(v) be posted on the property.

(d) (i) If an owner of property files a written objection in accordance with Subsection (5)(b)(iv), the county 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 Subsection (5)(b) has occurred; and

(B) notify the owner in writing of the date, time, and location of the hearing described in Subsection (5)(d)(i)(A) no less than 14 days before the day on which the hearing is held.

(ii) If an owner of property files a written objection under Subsection (5)(b)(iv), a

county may not record a lien under this Subsection (5) until the county holds a hearing and determines that the specific violation has occurred.

(iii) If the county determines at the hearing that the specific violation has occurred, the county 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.

(e) If an owner cures a violation within the time period prescribed in the written notice of violation under Subsection (5)(b), the county 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 under Subsection (5)(b).

(6) (a) A county that issues, on or after October 1, 2021, a permit or license to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, may record a notice in the office of the recorder of the county in which the primary dwelling is located.

(b) The notice described in Subsection (6)(a) shall include:

(i) a description of the primary dwelling;

(ii) a statement that the primary dwelling contains an internal accessory dwelling unit; and

(iii) a statement that the internal accessory dwelling unit may only be used in accordance with the county's land use regulations.

(c) The county shall, upon recording the notice described in Subsection (6)(a), deliver a copy of the notice to the owner of the internal accessory dwelling unit.

Section 11. Section **17-50-338** is amended to read:

**17-50-338. Ordinances regarding short-term rentals -- Prohibition on ordinances restricting speech on short-term rental websites.**

(1) As used in this section:

(a) "Internal accessory dwelling unit" means the same as that term is defined in Section 10-9a-511.5.

[~~(a)~~] (b) "Residential unit" means a residential structure or any portion of a residential structure that is occupied as a residence.

[~~(b)~~] (c) "Short-term rental" means a residential unit or any portion of a residential unit that the owner of record or the lessee of the residential unit offers for occupancy for fewer than 30 consecutive days.

[~~(c)~~] (d) "Short-term rental website" means a website that:

(i) allows a person to offer a short-term rental to one or more prospective renters; and

(ii) facilitates the renting of, and payment for, a short-term rental.

(2) Notwithstanding Section 17-27a-501 or Subsection 17-27a-503(1), a legislative body may not:

(a) enact or enforce an ordinance that prohibits an individual from listing or offering a short-term rental on a short-term rental website; or

(b) use an ordinance that prohibits the act of renting a short-term rental to fine, charge, prosecute, or otherwise punish an individual solely for the act of listing or offering a short-term rental on a short-term rental website.

(3) Subsection (2) does not apply to an individual who lists or offers an internal accessory dwelling unit as a short-term rental on a short-term rental website if the county records a notice for the internal accessory dwelling unit under Subsection 17-27a-526(6).

Section 12. Section **35A-8-504.5** is enacted to read:

**35A-8-504.5. Low-income ADU loan guarantee pilot program.**

(1) As used in this section:

(a) "Accessory dwelling unit" means the same as that term is defined in Section 10-9a-103.

(b) "Borrower" means a residential property owner who receives a low-income ADU loan from a lender.

(c) "Lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other entity that provides low-income ADU loans directly to borrowers.

(d) "Low-income ADU loan" means a loan made by a lender to a borrower for the

purpose of financing the construction of an accessory dwelling unit that is:

(i) located on the borrower's residential property; and

(ii) rented to a low-income individual.

(e) "Low-income individual" means an individual whose household income is less than 80% of the area median income.

(f) "Pilot program" means the two-year pilot program created in this section.

(2) The executive director shall establish a two-year pilot program to provide loan guarantees on behalf of borrowers for the purpose of insuring the repayment of low-income ADU loans.

(3) The executive director may not provide a loan guarantee for a low-income ADU loan under the pilot program unless:

(a) the lender:

(i) agrees in writing to participate in the pilot program;

(ii) makes available to prospective borrowers the option of receiving a low-income ADU loan that:

(A) has a term of 15 years; and

(B) charges interest at a fixed rate;

(iii) monitors the activities of the borrower on a yearly basis during the term of the loan to ensure the borrower's compliance with:

(A) Subsection (3)(c); and

(B) any other term or condition of the loan; and

(iv) promptly notifies the executive director in writing if the borrower fails to comply with:

(A) Subsection (3)(c); or

(B) any other term or condition of the loan;

(b) the loan terms of the low-income ADU loan:

(i) are consistent with the loan terms described in Subsection (3)(a)(ii); or

(ii) if different from the loan terms described in Subsection (3)(a)(ii), are mutually

agreed upon by the lender and the borrower; and

(c) the borrower:

(i) agrees in writing to participate in the pilot program;

(ii) constructs an accessory dwelling unit on the borrower's residential property within one year after the day on which the borrower receives the loan;

(iii) occupies the primary residence to which the accessory dwelling unit is associated:

(A) after the accessory dwelling unit is completed; and

(B) for the remainder of the term of the loan; and

(iv) rents the accessory dwelling unit to a low-income individual:

(A) after the accessory dwelling unit is completed; and

(B) for the remainder of the term of the loan.

(4) At the direction of the board, the executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the minimum criteria for lenders and borrowers to participate in the pilot program;

(b) the terms and conditions for loan guarantees provided under the pilot program, consistent with Subsection (3); and

(c) procedures for the pilot program's loan guarantee process.

(5) The executive director shall submit a report on the pilot program to the Business and Labor Interim Committee on or before November 30, 2023.

Section 13. Section **35A-8-505** is amended to read:

**35A-8-505. Activities authorized to receive fund money -- Powers of the executive director.**

At the direction of the board, the executive director may:

(1) provide fund money to any of the following activities:

(a) the acquisition, rehabilitation, or new construction of low-income housing units;

(b) matching funds for social services projects directly related to providing housing for special-need renters in assisted projects;

(c) the development and construction of accessible housing designed for low-income

persons;

(d) the construction or improvement of a shelter or transitional housing facility that provides services intended to prevent or minimize homelessness among members of a specific homeless subpopulation;

(e) the purchase of an existing facility to provide temporary or transitional housing for the homeless in an area that does not require rezoning before providing such temporary or transitional housing;

(f) the purchase of land that will be used as the site of low-income housing units;

(g) the preservation of existing affordable housing units for low-income persons; [~~and~~]

(h) providing loan guarantees under the two-year pilot program established in Section 35A-8-504.5; and

[~~(h)~~] (i) other activities that will assist in minimizing homelessness or improving the availability or quality of housing in the state for low-income persons; and

(2) do any act necessary or convenient to the exercise of the powers granted by this part or reasonably implied from those granted powers, including:

(a) making or executing contracts and other instruments necessary or convenient for the performance of the executive director and board's duties and the exercise of the executive director and board's powers and functions under this part, including contracts or agreements for the servicing and originating of mortgage loans;

(b) procuring insurance against a loss in connection with property or other assets held by the fund, including mortgage loans, in amounts and from insurers it considers desirable;

(c) entering into agreements with a department, agency, or instrumentality of the United States or this state and with mortgagors and mortgage lenders for the purpose of planning and regulating and providing for the financing and refinancing, purchase, construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of residential housing undertaken with the assistance of the department under this part;

(d) proceeding with a foreclosure action, to own, lease, clear, reconstruct, rehabilitate,

repair, maintain, manage, operate, assign, encumber, sell, or otherwise dispose of real or personal property obtained by the fund due to the default on a mortgage loan held by the fund in preparation for disposition of the property, taking assignments of leases and rentals, proceeding with foreclosure actions, and taking other actions necessary or incidental to the performance of its duties; and

(e) selling, at a public or private sale, with public bidding, a mortgage or other obligation held by the fund.

Section 14. Section **57-8a-209** is amended to read:

**57-8a-209. Rental restrictions.**

(1) (a) Subject to Subsections (1)(b), (5), [~~and~~] (6), and (10), an association may:

(i) create restrictions on the number and term of rentals in an association; or

(ii) prohibit rentals in the association.

(b) An association that creates a rental restriction or prohibition in accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a recorded declaration of covenants, conditions, and restrictions, or by amending the recorded declaration of covenants, conditions, and restrictions.

(2) If an association prohibits or imposes restrictions on the number and term of rentals, the restrictions shall include:

(a) a provision that requires the association to exempt from the rental restrictions the following lot owner and the lot owner's lot:

(i) a lot owner in the military for the period of the lot owner's deployment;

(ii) a lot occupied by a lot owner's parent, child, or sibling;

(iii) a lot owner whose employer has relocated the lot owner for two years or less;

(iv) a lot owned by an entity that is occupied by an individual who:

(A) has voting rights under the entity's organizing documents; and

(B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or

(v) a lot owned by a trust or other entity created for estate planning purposes if the trust

or other estate planning entity was created for:

(A) the estate of a current resident of the lot; or

(B) the parent, child, or sibling of the current resident of the lot;

(b) a provision that allows a lot owner who has a rental in the association before the time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of the county in which the association is located to continue renting until:

(i) the lot owner occupies the lot;

(ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the lot, occupies the lot; or

(iii) the lot is transferred; and

(c) a requirement that the association create, by rule or resolution, procedures to:

(i) determine and track the number of rentals and lots in the association subject to the provisions described in Subsections (2)(a) and (b); and

(ii) ensure consistent administration and enforcement of the rental restrictions.

(3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the following occur:

(a) the conveyance, sale, or other transfer of a lot by deed;

(b) the granting of a life estate in the lot; or

(c) if the lot is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.

(4) This section does not limit or affect residency age requirements for an association that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

(5) A declaration of covenants, conditions, and restrictions or amendments to the declaration of covenants, conditions, and restrictions recorded before the transfer of the first lot from the initial declarant may prohibit or restrict rentals without providing for the exceptions,

provisions, and procedures required under Subsection (2).

(6) (a) Subsections (1) through (5) do not apply to:

(i) an association that contains a time period unit as defined in Section 57-8-3;

(ii) any other form of timeshare interest as defined in Section 57-19-2; or

(iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009, unless, on or after May 12, 2015, the association:

(A) adopts a rental restriction or prohibition; or

(B) amends an existing rental restriction or prohibition.

(b) An association that adopts a rental restriction or amends an existing rental restriction or prohibition before May 9, 2017, is not required to include the exemption described in Subsection (2)(a)(iv).

(7) Notwithstanding this section, an association may restrict or prohibit rentals without an exception described in Subsection (2) if:

(a) the restriction or prohibition receives unanimous approval by all lot owners; and

(b) when the restriction or prohibition requires an amendment to the association's recorded declaration of covenants, conditions, and restrictions, the association fulfills all other requirements for amending the recorded declaration of covenants, conditions, and restrictions described in the association's governing documents.

(8) Except as provided in Subsection (9), an association may not require a lot owner who owns a rental lot to:

(a) obtain the association's approval of a prospective renter;

(b) give the association:

(i) a copy of a rental application;

(ii) a copy of a renter's or prospective renter's credit information or credit report;

(iii) a copy of a renter's or prospective renter's background check; or

(iv) documentation to verify the renter's age; or

(c) pay an additional assessment, fine, or fee because the lot is a rental lot.

(9) (a) A lot owner who owns a rental lot shall give an association the documents

described in Subsection (8)(b) if the lot owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

(b) If an association's declaration of covenants, conditions, and restrictions lawfully prohibits or restricts occupancy of the lots by a certain class of individuals, the association may require a lot owner who owns a rental lot to give the association the information described in Subsection (8)(b), if:

(i) the information helps the association determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions; and

(ii) the association uses the information to determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions.

(10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the rental of an internal accessory dwelling unit, as defined in Section 10-9a-530, constructed within a lot owner's residential lot, if the internal accessory dwelling unit complies with all applicable:

(a) land use ordinances;

(b) building codes;

(c) health codes; and

(d) fire codes.

[~~(10)~~] (11) The provisions of Subsections (8) [~~and (9)~~] through (10) apply to an association regardless of when the association is created.

Section 15. Section **57-8a-218** is amended to read:

**57-8a-218. Equal treatment by rules required -- Limits on association rules and design criteria.**

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association provides to lot

owners;

(ii) differ between residential and nonresidential uses; and

(iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner.

(2) (a) If a lot owner owns a rental lot and is in compliance with the association's governing documents and any rule that the association adopts under Subsection (4), a rule may not treat the lot owner differently because the lot owner owns a rental lot.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental lot owner from using the common areas for purposes other than attending an association meeting or managing the rental lot;

(ii) if the rental lot owner retains the right to use the association's common areas, even occasionally:

(A) charge a rental lot owner a fee to use the common areas; or

(B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner; or

(iii) include a provision in the association's governing documents that:

(A) requires each tenant of a rental lot to abide by the terms of the governing documents; and

(B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) A rule criterion may not abridge the rights of a lot owner to display religious and holiday signs, symbols, and decorations inside a dwelling on a lot.

(b) Notwithstanding Subsection (3)(a), the association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling or lot.

(4) (a) A rule may not regulate the content of political signs.

(b) Notwithstanding Subsection (4)(a):

(i) a rule may regulate the time, place, and manner of posting a political sign; and

(ii) an association design provision may establish design criteria for political signs.

(5) (a) A rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.

(b) Notwithstanding Subsection (5)(a), an association may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas.

(6) (a) A rule may not interfere with an activity of a lot owner within the confines of a dwelling or lot, to the extent that the activity is in compliance with local laws and ordinances.

(b) Notwithstanding Subsection (6)(a), a rule may prohibit an activity within a dwelling on an owner's lot if the activity:

(i) is not normally associated with a project restricted to residential use; or

(ii) (A) creates monetary costs for the association or other lot owners;

(B) creates a danger to the health or safety of occupants of other lots;

(C) generates excessive noise or traffic;

(D) creates unsightly conditions visible from outside the dwelling;

(E) creates an unreasonable source of annoyance to persons outside the lot; or

(F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.

(c) If permitted by law, an association may adopt rules described in Subsection (6)(b) that affect the use of or behavior inside the dwelling.

(7) (a) A rule may not, to the detriment of a lot owner and over the lot owner's written objection to the board, alter the allocation of financial burdens among the various lots.

(b) Notwithstanding Subsection (7)(a), an association may:

(i) change the common areas available to a lot owner;

(ii) adopt generally applicable rules for the use of common areas; or

(iii) deny use privileges to a lot owner who:

(A) is delinquent in paying assessments;

(B) abuses the common areas; or

(C) violates the governing documents.

(c) This Subsection (7) does not permit a rule that:

(i) alters the method of levying assessments; or

(ii) increases the amount of assessments as provided in the declaration.

(8) (a) Subject to Subsection (8)(b), a rule may not:

(i) prohibit the transfer of a lot; or

(ii) require the consent of the association or board to transfer a lot.

(b) Unless contrary to a declaration, a rule may require a minimum lease term.

(9) (a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all rules and other governing documents previously in force.

(b) The exemption in Subsection (9)(a):

(i) applies during the period of the lot owner's ownership of the lot; and

(ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule described in Subsection (9)(a).

(10) A rule or action by the association or action by the board may not unreasonably impede a declarant's ability to satisfy existing development financing for community improvements and right to develop:

(a) the project; or

(b) other properties in the vicinity of the project.

(11) A rule or association or board action may not interfere with:

(a) the use or operation of an amenity that the association does not own or control; or

(b) the exercise of a right associated with an easement.

(12) A rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the governing documents in existence at the time the completed application was submitted by the owner for review.

(13) Unless otherwise provided in the declaration, an association may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas; and

(ii) a service provided to a lot owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association's officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(14) (a) Except as provided in Subsection (14)(b), a rule may not prohibit the owner of a residential lot from constructing an internal accessory dwelling unit, as defined in Section 10-9a-530, within the owner's residential lot.

(b) Subsection (14)(a) does not apply if the construction would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

[~~(14)~~] (15) A rule shall be reasonable.

[~~(15)~~] (16) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (13), except Subsection (1)(b)(ii).

[~~(16)~~] (17) A rule may not be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.

[~~(17)~~] (18) This section applies to an association regardless of when the association is created.

Section 16. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on May 5, 2021.

(2) The actions affecting the following sections take effect on October 1, 2021:

(a) Section 10-8-85.4;

(b) Section 10-9a-530;

(c) Section 17-27a-526;

(d) Section 17-50-338;

(e) Section 57-8a-209; and

(f) Section 57-8a-218.

Midway

# ORDINANCE
# 2022-___

**AN ORDINANCE TO AMEND SECTION 16.13 OF THE MIDWAY CITY LAND USE CODE TO REGULATE INTERNAL ACCESSORY DWELLING UNITS.**



**WHEREAS**, pursuant to Utah Code Section 10-9a-509 the Midway City Council may formally initiate proceedings to amend city ordinances; and

**WHEREAS**, in the 2021 Utah Legislative Session, the Utah Legislature adopted House Bill 82, which modifies state code requiring counties and municipalities to allow Internal Accessory Dwelling Units ("IADU") in their communities; and

**WHERAS**, the IADU units are intended to be full living units located within a property owner's primary dwelling; and

**WHEREAS**, the Utah code provides some IADU requirements that must be imposed by local governments, but also provides some options that local governments can choose whether to impose; and

**WHEREAS**, the Midway City Council desires to amend Section 16.13 of the Midway City Land Use Code to incorporate the Utah code requirements regarding IADUs, and to specify the optional requirements it has chosen to impose on IADUs.

**NOW THEREFORE**, be it ordained by the City Council of Midway City, Utah, as follows:

**Section 16.13** shall be amended to read as follows:

**16.13.38 Internal Accessory Dwelling Units**

1. As used in this section:
    a. "Internal Accessory Dwelling Unit" means an accessory dwelling unit created:
        i. Within a primary dwelling;

ii. Within the existing footprint of the primary dwelling at the time the internal accessory dwelling unit is created; and
iii. For the purpose of offering a long-term rental of 30 consecutive days or longer.

b. "Primary dwelling" means a single-family dwelling that:
i. Is detached; and
ii. Is occupied as the primary residence of the owner of record.

2. Permitted Use.
a. The use of one internal accessory dwelling unit within a primary dwelling is a permitted use in any area zoned primarily for residential use.
b. An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes, except that:
i. A structure whose egress window in an existing bedroom complied with the construction code in effect at the time that the bedroom was finished is not required to undergo a physical change to conform to the current construction code if the change would compromise the structural integrity of the structure;
ii. The discharge of return air from an accessory dwelling unit into another dwelling unit, or into an accessory dwelling unit from another dwelling unit, is not prohibited; and
iii. An occupant of an accessory dwelling unit is not required to have access to the disconnect serving the dwelling unit in which they reside.
c. Except as provided in Subsection 3, the City may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:
i. The size of the internal accessory dwelling unit in relation to the primary dwelling;
ii. Total lot size; or
iii. Street frontage.

3. Restrictions and Requirements:
a. The following are prohibited in all internal accessory dwelling units located in the City:
i. Installing a separate utility meter;
ii. Creating an internal accessory dwelling unit within a mobile home;
iii. Creating an internal accessory dwelling unit within a primary dwelling served by a failing septic tank;
iv. Renting an internal accessory dwelling unit located within a dwelling that is not the owner's primary residence;
v. Renting or offering to rent an internal accessory dwelling unit for a period of less than 30 consecutive days;
b. The following are required of all internal accessory dwelling units located in the City:
i. One additional on-site parking space, regardless of whether the primary dwelling is existing or new construction;
ii. Any required parking spaces contained within a garage or carport removed for the creation of an internal accessory dwelling unit must

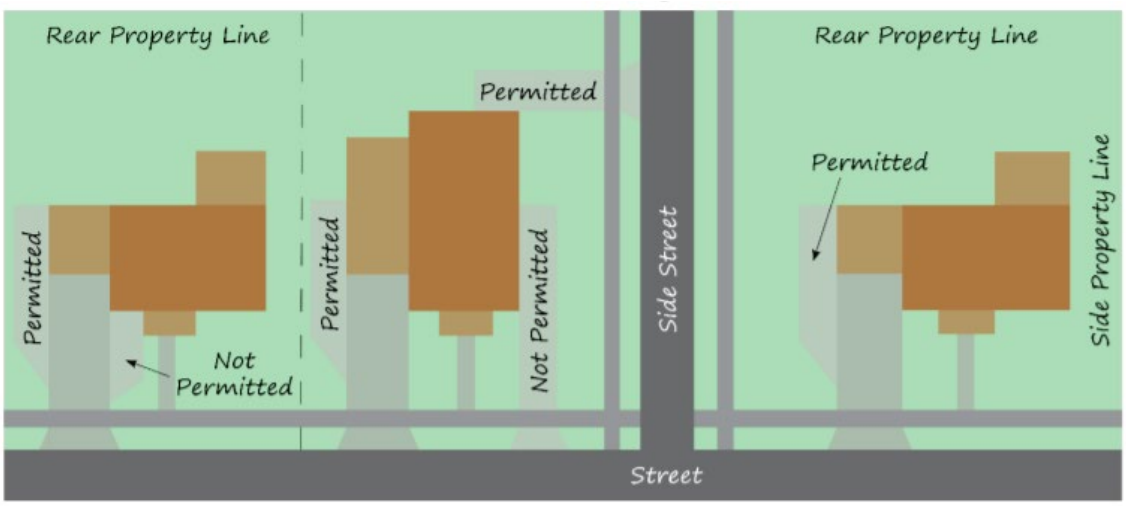
be replaced, which could require the creation of new onsite parking spaces. Parking associated with an internal accessory dwelling unit (both required and voluntary) may not be in tandem with required parking of the main dwelling.

iii. The owner of a primary dwelling desiring to rent out an internal accessory dwelling unit must obtain a City license and any applicable permits to do so;

iv. Lot containing the primary dwelling shall be a minimum of 6,000 square feet in size;
   1. No common or limited common area may count towards the 6,000 square foot minimum.

v. An internal accessory dwelling unit should be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling. Specifically, it must comply with the following:
   1. New exterior entrances that benefit an internal accessory dwelling unit are prohibited along the front façade of the structure. This does not prevent the internal accessory dwelling unit from using an existing front entrance but prevents the creation of a new entrance for the internal accessory dwelling unit along the front façade of the structure. An additional entrance may be added along the side or rear façades of the structure.
   2. No parking spaces may be located within the front or side yard setbacks adjacent to a street, except for within an approved driveway.






   3. The minimum width of parking areas and driveways shall be paved with concrete or asphalt.

c. The City has discretion to pursue the following concerning internal accessory dwelling units:
   i. The City may hold a lien against a property containing an internal accessory dwelling unit in accordance with Subsection 4; and

ii. The City may record a notice for an internal accessory dwelling unit in accordance with Subsection 5.

4. Liens.
    a. In addition to any other legal or equitable remedies available to the City, the City may hold a lien against a property containing an internal accessory dwelling unit if:
        i. The owner of the property violates any of the provisions of Subsections 3 or 4;
        ii. The City provides a written notice of violation in accordance with Subsection (4)(b);
        iii. The City holds a hearing and determines that the violation has occurred in accordance with Subsection (4)(d), if the owner files a written objection in accordance with Subsection (4)(b)(iv);
        iv. The owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection (4)(b);
        v. The City provides a written notice of lien in accordance with Subsection (4)(c); and
        vi. The City records a copy of the written notice of lien described in Subsection (4)(a)(iv) with the Wasatch County recorder.
    b. The written notice of violation shall:
        i. Describe the specific violation;
        ii. Provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation that is:
            1. 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
            2. No less than 30 days after the day on which the City sends the written notice of violation, for any other violation;
        iii. State that if the owner of the property fails to cure the violation within the time period described in Subsection (4)(b)(ii), 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;
        iv. Notify the owner of the property:
            1. 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
            2. Of the name and address of the City office where the owner may file the written objection;
        v. Be mailed to:
            1. The property's owner of record; and
            2. Any other individual designated to receive notice in the owner's license or permit records; and
        vi. Be posted on the property.
    c. The written notice of lien shall:
        i. State that the property is subject to a lien;

ii. Specify the lien amount, in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;
iii. Be mailed to:
1. The property's owner of record; and
2. Any other individual designated to receive notice in the owner's license or permit records; and
iv. Be posted on the property.

d. If an owner of property files a written objection in accordance with Subsection (4)(b)(iv), the City shall:
i. Hold a public hearing to conduct a review and determine whether the specific violation described in the written notice of violation under Subsection (4)(b) has occurred; and
ii. Notify the owner in writing of the date, time, and location of the hearing described in Subsection (4)(d)(i) no less than 14 days before the day on which the hearing is held.
iii. If an owner of property files a written objection under Subsection (4)(b)(iv), the City may not record a lien under this Subsection 4 until the City holds a hearing and determines that the specific violation has occurred.
iv. 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.

e. If an owner cures a violation within the time period prescribed in the written notice of violation under Subsection (4)(b), 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 under Subsection (4)(b).

5. Recording Notices.
a. If the City issues a license and any applicable permits to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, the City may record a notice in the office of the Wasatch County recorder.
b. The notice described in Subsection (5)(a) shall include:
i. A description of the primary dwelling;
ii. A statement that the primary dwelling contains an internal accessory dwelling unit; and
iii. A statement that the internal accessory dwelling unit may only be used in accordance with the City's land use regulations.
c. The City shall, upon recording the notice described in Subsection (5)(a), deliver a copy of the notice to the owner of the internal accessory dwelling unit.

6. Home Owner Associations.

a. A home owner association may not restrict or prohibit the rental of an internal accessory dwelling unit constructed within a lot owner's residential lot, if the internal accessory dwelling unit complies with all applicable:
    i. Land use ordinances;
    ii. Building codes;
    iii. Health codes; and
    iv. Fire codes.

**16.5.2 Permitted and Conditional Uses (C-2 and C-3)**

| USES | C-2 | C-3 |
|---|---|---|
| Internal Accessory Dwelling Unit | P | P |

**16.7.2 Permitted Uses (R-1-7)**

**J. Internal Accessory Dwelling Unit**

**16.8.2 Permitted Uses (R-1-9)**



**J. Internal Accessory Dwelling Unit**

**16.9.2 Permitted Uses (R-1-11)**

**G. Internal Accessory Dwelling Unit**

**16.10.2 Permitted Uses (R-1-15)**

**G. Internal Accessory Dwelling Unit**

**16.11.2 Permitted Uses (R-1-22)**

**G. Internal Accessory Dwelling Unit**

**16.12.2 Permitted Uses (RA-1-43)**

**J. Internal Accessory Dwelling Unit**

**16.15.4.A.F.3 Permitted and Conditional Uses in Resort Zone (RZ)**

| USES | RZ |
|---|---|
| **Internal Accessory Dwelling Unit** | **P** |

This ordinance shall take effect upon publication as required by law.

**PASSED AND ADOPTED** by the City Council of Midway City, Wasatch County, Utah this ____ day of _____, 2022.

| | AYE | NAY |
|---|---|---|
| Council Member Steve Dougherty | _____ | _____ |
| Council Member Jeff Drury | _____ | _____ |
| Council Member Lisa Orme | _____ | _____ |
| Council Member Kevin Payne | _____ | _____ |
| Council Member JC Simonsen | _____ | _____ |



APPROVED:

_____
Celeste Johnson, Mayor

ATTEST:

_____
Brad Wilson, City Recorder

APPROVED AS TO FORM:

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Corbin Gordon, City Attorney

(SEAL)