



PLANNING MEMORANDUM

1600 E. South Weber Drive
South Weber, UT 84405

www.southwebercity.com

801-479-3177
FAX 801-479-0066

To: Development Review
From: Trevor Cahoon, Community Services Director
Re: Internal Accessory Dwelling Unit – Draft Ordinance

PURPOSE

Within the parameters of HB82, the Planning Commission is tasked to amend/revise this ordinance and make a final recommendation to the City Council.

The adoption of an Internal Accessory Dwelling Unit (IADU) City ordinance is a legislative action. The Planning Commission's role is to consider the draft ordinance and to make a recommendation to the City Council. In making its decision, the Planning Commission may consider policy-based input. The ordinance has been drafted by the City Attorney, City Planner, staff, and the Code Committee.

BACKGROUND

In the 2021 general session, the Utah Legislature passed HB82, requiring that cities allow internal accessory dwelling units in no less than 75% of the zones that allow for residential uses. By no later than October 1, 2021, Utah municipalities are required to have an ordinance in place that complies with the provisions of HB82 or IADUs will be allowed in any residential property.

The bill defines IADU as an accessory dwelling unit created within a primary dwelling, within the primary dwelling's footprint, and for the purpose of renting for 30 consecutive days or longer. The primary dwelling is a single-family dwelling in which the owner occupies the primary residence, and the dwelling is detached.

In areas zoned primarily for residential use (a determination up to the municipality), IADUs are permitted uses. However, a municipality may prohibit IADUs in up to 25% of the total area in the municipality, zoned for primarily residential, or, if a state or private university with a student population of 10,000 or more is located in the municipality, 67% or less.

A municipality may not establish restrictions on the construction or use of an IADU, including IADU size within the primary dwelling, total lot size, or street frontage. However, HB 82 allows a municipality to adopt the following IADU restrictions and requirements: require bedroom window egress, prohibit installation of a separate utility meter, require that the IADU design not change the appearance of the primary dwelling, require one additional on-site parking space and replace any garage or carport parking spaces if the IADU is created in the garage or carport, prohibit an IADU in a mobile home, require an IADU permit or license, prohibit an IADU if the primary dwelling is served by a failing septic tank, prohibit an IADU if the lot is 6,000 sf or less, prohibit the renting of the IADU for less than 30 consecutive days, and prohibit renting an IADU that is not in an owner-occupied primary dwelling.

Draft Ordinance Summary

The draft ordinance follows state law in what Cities must do and cannot do. While the City has some discretion on several items within the code, what can be prohibited or restricted is reflected within the draft ordinance with few exceptions. The prerogative of the Planning Commission is to make recommendations on what restrictions or prohibitions, allowable under state law, are to be recommended to the City Council.

Some notable areas within the draft ordinance are:

- There is no prohibition on the changing of external appearance
 - As the Committee discussed this, we determined that because setbacks, height limits and other things are in place regarding building placement, an addition to a home for an IADU doesn't create any greater of an impact than an addition for a living room or any other purpose.
 - Each unit's entrance shall be distinct from the other and shall be on separate planes of the primary dwelling unit.
- The property owner must occupy the dwelling in order to utilize the IADU
- A minimum 15-foot common wall or floor space is required between the IADU and the main unit
 - This will prevent property owners from having a breezeway or some other similar structure connecting two separate units, under the guise of having a single dwelling unit on the property.
- IADUs are allowed in all residential zones, excluding the Residential Multi-Family (R-7) and Residential Patio (R-P).

In order to determine the zones where IADUs would be allowed, the Committee had Jones & Associates (the City's engineering firm) analyze and break down the zoning data in the city. The data they presented is as follows:

	# of Parcels	Acreage	Area %	# Parcels < 6000 Sq Ft
Residential Very Low Density (A)	232	916.02	49%	1
Residential Low Density (R-L)	416	247.54	13%	2
Residential Low Moderate Density (R-LM)	118	60.68	3%	1
Residential Moderate Density (R-M)	1598	593.81	32%	17
Residential Patio (R-P)	96	18.44	1%	10
Residential Multi-Family (R-7)	202	17.49	1%	198
Total	2662	1853.99	100%	229

A clear criteria should be set to exclude zones or areas within the city to disallow IADUs. Upon review of city zoning code, and the specific prohibitions that are allowed under the state statute, it is recommended that the R-7 zone and R-P are the most defensible zones to prohibit IADUs in order to create a standard criteria.

GUIDANCE

There are things that municipalities CAN do, things they MUST do, and things they CANNOT. Those things are:

Cities CAN

- Require bedroom window egress
- Prohibit installation of a separate utility meter
- Require that the IADU design not change the appearance of the primary dwelling
- Require one additional on-site parking space and replace any garage or carport parking spaces if the IADU is created in the garage or carport
- Prohibit an IADU in a mobile home
- Require an IADU permit or license
- Prohibit an IADU if the primary dwelling is served by a failing septic tank
- Prohibit an IADU if the lot is 6,000 sf or less
- Prohibit the renting of the IADU for less than 30 consecutive days
- Prohibit renting an IADU that is not in an owner-occupied primary dwelling.

Cities MUST

- Have an ordinance in place by October 1, 2021, that meets requirements of HB82
- Allow IADUs in 75% or more of the residentially zoned areas within the city
- Amend the definition of single family to remove the word “unrelated”
- Create exemptions for IADUs related to wall thickness, ventilation, and other changes, per the State Construction Code

Cities CANNOT

- Limit the size of an IADU
 - Issue a blanket ban on IADUs
 - Limit the lot size and frontage of lots containing IADU (noted exception above)
 - Prohibit IADUs in more than 25% of residentially zoned areas in the city
 - Require installation of a separate utility meter
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