

STAFF REPORT

To: Town of Brighton Mayor and Town Council

From: Polly McLean, Town Attorney

Date: August 13, 2024

Re: IADUs (Internal Accessory Dwelling Units) and STRs (Short Term Rentals)

The Town has received questions regarding IADUs and STRs. These questions are regulated by section 19.42.030 of the Brighton Town Code.

1) Can homes with an IADU be rented as a Short Term Rental? Brighton Town Code prohibits this use. If there is an IADU in a home, the IADU can only be rented long term if the primary owner lives in the house. STR use is not permitted in a home with an IADU. (19.15.110). Therefore, the options for a home with an IADU are: i) owner lives in the main home and rents out the IADU monthly (the primary owner could chose to live in the IADU and rent out the rest of the home monthly) or, ii) rent out the entire home either monthly or as a STR (there can be only one user of the entire property).

2) What about homes with second kitchens? If the home has a second kitchen and the owner signed an affidavit as was required before 2021 (and before Brighton was incorporated), the owner affirmed that the second kitchen was not part of a separate dwelling. These homes can only be rented as STRs if the entire home is rented out.

3) Can an owner who lives full time in their home rent out just a bedroom? Yes, there is no prohibition from renting out a bedroom only whether long term or short term because there isn't a separate unit involved so IADU regulations don't apply. This hasn't seemed to be offered for STRs but if it was – the requirements for a STR would apply – parking, etc. (and these would fall under the caps.)

4) If a full time resident owner (primary residence) lives in the IADU, can they rent the rest of their home as an STR? If a full time resident owner lives in the main part of the house, can they rent the IADU as an STR?

No. Prohibited by 1) 5.19.010 (C) " Accessory Dwelling Units whether attached or detached are not permitted as a Short-Term Rental in the Town of Brighton." https://brighton.municipalcodeonline.com/book?type=ordinances#name=5.19_SHO RT-TERM_RENTALS and 2) 19.42.030 (M) Short-Term Rental Use Prohibited. Units approved as IADUs shall not be used as short-term rentals. Any rentals shall be for 30 consecutive days or more. https://brighton.municipalcodeonline.com/book?type=ordinances#name=19.42.030_Accessory Dwelling Units, Internal There is no loophole or exception for either part of the home being rented out.

5) **If a home has an IADU, can they rent it as 2 different STR's?** Absolutely Not.

6) **If the home has an IADU can they rent the entire home as one STR?** The Town interpreted the code to allowed the entire home to be rented out as an STR because the IADU isn't being used as a separate dwelling. (see below for possible clarification/update).

7) **Note** that according to the 19.42.030 K – all IADUs whether rented or not are required to recording the affidavit and notice. And 19.42.030 (H)(2). Before an IADU can be rented, all other applicable provisions of this chapter and the Town of Brighton Code must be met. Existing non-compliant IADUs may come into compliance by receiving a permit and verifying existing work was done according to code.

POSSIBLE AMENDMENTS/CLARIFICATIONS –

- 1) Council may want to decide or have the STR committee review is amending the language so that if you have an IADU in your home, STR is not allowed. This amendment would make the prohibition easier to enforce and prevent confusion by owners. It would only apply for new license applications. Existing licenses would be grandfathered if they were legally acquired in the past.
- 2) Update the code and the Notice so that it is clear that the “IADU” is the portion of the home that is not being lived in by the primary home owner.

Other information –

The MSD went through their records for STRs and they found out of 76 properties outside of Solitude Resort, 7 of them have been issued STR licenses and 1 is in the application process despite having a second kitchen or an IADU. Staff is reviewing each of these licensees and will report back with a suggestion on how to move forward with them and whether they come into compliance with the IADU requirements.

In addition, in a review of minutes from a water company meeting back in 2021, STR subcommittee meetings, and council meetings, the topic of allowing STRs in IADUs was brought up numerous times. Consistently it was determined that STRs cannot be in IADUs. The water companies were concerned with the amount of water usage if there are two dwellings on the property.

Recommendation

Direct staff to clarify the code as outlined above.