

BRIGHTON, UTAH

ORDINANCE NO. 2024-O-____ - ____

AN ORDINANCE AMENDING 19.42.030 ACCESSORY DWELLING UNITS, INTERNAL TO CLARIFY NO SHORT TERM RENTAL USE ALLOWED ON PROPERTY AND TO CLARIFY DEFINITIONS OF 19.04.020 (19) DWELLING UNITS, (54) OWNER OCCUPANCY, (59) PRIMARY DWELLING AND (66) SECOND KITCHEN

WHEREAS, the intent of allowing internal accessory dwelling units is to provide long term rental opportunities;

WHEREAS, clarity is needed in defining a dwelling unit;

WHEREAS, Utah State Code 10-9a-530 requires internal accessory dwelling units to be permitted;

NOW, THEREFORE, BE IT ORDAINED by the Brighton Town Council that:

Section 1. Amended. Sections 19.04.020 and 19.42.030 of the Brighton Code of Ordinances is amended as shown the attached Exhibit 1.

Section 2. Effective Date. This ordinance shall go into effect upon publication.

PASSED AND APPROVED THIS ____ Day of _____, 2024.

TOWN OF BRIGHTON

By: _____
Dan Knopp, Mayor

ATTEST

Kara John, Town Clerk

Exhibit 1.

19.42.030 ACCESSORY DWELLING UNITS, INTERNAL

A. Purpose. The Town of Brighton recognizes that Internal Accessory Dwelling Units in single-family residential zones can be an important tool in the overall housing plan for the Town of Brighton. The purposes of the Internal Accessory Dwelling Unit standards of this code are to:

1. Comply with State of Utah legislation which allows for Internal Accessory Dwelling Units generally and requires municipalities to adopt an ordinance if they wish to regulate certain requirements of the dwellings;
2. Allow opportunities for property owners to provide social or personal support for family members where independent living is desirable;
3. Provide for affordable housing opportunities;
4. Make housing units available to moderate income people who might otherwise have difficulty finding housing in the Town of Brighton;
5. Provide opportunities for additional income to offset rising housing costs;
6. Develop housing units in single-family neighborhoods that are appropriate for people at a variety of stages in the life cycle;
7. Preserve the character of single-family neighborhoods by providing standards governing development of Internal Accessory Dwelling Units; and
8. Ensure that Internal Accessory Dwelling Units are properly regulated by requiring property owners to obtain a business license and a building permit for an IADU prior to renting the IADU.

B. Allowed Areas and Zones.

1. IADUs incorporated within the single- family residence shall be a permitted use on single family home lots in the Forestry zones where the minimum area of the lot is 6,000 square foot or greater.
2. In no case shall an IADU be permitted in a townhome, a multi-family PUD, or other attached unit type or on any lot that cannot satisfy parking or other conditions of the code.

C. Number of Residents Allowed in Accessory Units. IADUs shall not be occupied by more than four persons.

D. Parking Requirements. In addition to the required parking for the existing home. the property owner must demonstrate that one (1) on-site parking space is available for an IADU. A property owner bears the burden of showing by a preponderance of the evidence that sufficient parking is available. In cases where attached garage conversions are done to create an IADU,

replacement of on-site parking spaces are required for the primary dwelling in a number equal to the parking spaces eliminated by such IADU.

E. Water Availability. Applications for an IADU must include submittal of a written approval from the water company servicing the property stating that sufficient water is available for the IADU and that the IADU complies with all applicable water service requirements.

F. Owner Occupancy. The primary dwelling or the IADU must be occupied as the owner's primary residence. An application for an IADU shall include evidence of occupancy as the owner's primary residence.

G. Number of IADUs per Lot. Only one IADU is allowed per lot.

H. IADU Standards.

1. An approved building permit is required for all IADUs before an IADU is constructed.
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.
3. The IADU shall conform to all applicable building, fire, and health codes, including applicable water service requirements and sewer, black-water tank, or septic requirements.
4. Conversions of an existing space to an IADU will require compliance with safety requirements per building code including, but not limited to, egress windows with window wells in case of emergency, close off door(s) if needed between the IADU and main unit, and sufficient HVAC and climate control for the IADU.
5. IADUs will not require a separate HVAC or firewall.
6. Owner shall provide a separate address marking for emergency services and mailing services.
7. Single-family residences with an IADU shall retain the same appearance as a single-family residence.
8. IADUs shall not be located in a detached accessory structure connected by a Breezeway.
9. No IADU may be located in a primary dwelling that is served by a failing septic and/or black-water tank.

I. Affidavit and Notice of Accessory Dwelling Unit.

1. Applicants for IADUs shall provide an affidavit stating that the owner of the property will live in either the primary dwelling or IADU as their primary residence which is defined as means a property where the property owner resides as reflected in title records makes his or her legal primary residence at the site, as evidenced by voter registration vehicle registration driver's license county assessor records or similar means.

2. The affidavit shall include acknowledgment that no part of the property shall be used as a short term rental. This prohibition applies to the entire home, the primary dwelling and the IADU.

2. Upon approval of the IADU by the building official, a Notice of Internal Accessory Dwelling Unit including the affidavit shall be recorded against the property to provide notice to a future owner of the owner occupancy requirement for the IADU. The Notice shall include:

- a. A description of the primary dwelling, including number of bedrooms, bathrooms, and kitchens;
- b. A statement that the primary dwelling contains an internal accessory dwelling unit; and
- c. A statement that the internal accessory dwelling unit may only be used in accordance with regulations in this Chapter and also referenced to in the Notice as “the Town of Brighton’s Internal Accessory Dwelling Units Regulations”.
3. Upon sale of the property, if the new owner wishes to continue use of-a previously approved IADU, the new owner shall be required to sign and record a new affidavit, update their information with the planning and business license departments, and comply with current administrative IADU requirements.
4. A copy of the recorded notice will be provided to the applicant.

J. Business Licensing. Prior to renting any IADU, a business license must be obtained. That license must be maintained and renewed annually as long as the unit is rented out.

K. Non-Rental Use Of IADUs. IADUs used for housing that does not include the payment of rent or other monetary compensation will follow the same approval process as all other IADUs including recordation of the Affidavit and Notice except that a business license is not required.

1. Should an IADU used for non-rental uses later be rented for compensation, a business license must be obtained prior to doing so.
2. Examples that fall under non-rental use may include housing family members, caretakers, nannies, or other in-home employees

L. Retention of Single-Family Residence Status.

1. IADUs are part of a single-family residence and shall not be treated as a multi-family residence.
2. IADUs may not be separately metered apart from the single-family residence.
3. IADUs may not be sold or subdivided separately from the single-family residence.

M. Short-Term Rental Use Prohibited. No part of the property with an IADU shall be used as a short term rental. This prohibition applies to the entire home, the primary dwelling and the IADU. Units approved as IADUs shall not be used as short-term rentals. Any rentals shall be for 30 consecutive days or more.

N. Remedies for Violations. In addition to any other legal or equitable remedies available to the Town of Brighton, the Town of Brighton may hold a lien against a property that contains an internal accessory dwelling unit in accordance with the provisions and procedures of Utah Code Annotated § 10-9a-530. If the owner of the property violates any of the provisions of that Section or any of the provisions of this Ordinance.

19.04.020 GENERAL DEFINITIONS

19. "Dwelling Unit (d.u.)" means one or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping. Buildings with more than one (1) kitchen or set of cooking facilities are considered to contain more than one (1) dwelling unit unless the additional cooking facilities are clearly accessory to a dwelling unit as determined by the development services director. Facilities for cooking are not required to have a range or 220v hookups. Factors for determining whether cooking facilities are accessory to a dwelling unit may include but are not limited to:

- a. A building design which allows all occupants ready access to all portions of the building including cooking facilities;
- b. No portion of the building containing cooking facilities can be separated from the remaining rooms to form a separate dwelling unit;
- c. There is only one electric and/or gas meter for the building.

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33. "Kitchen" means a room or area designed to be used for food preparation and cooking which contains at a least: one (1) sink, one (1) hard surface for food preparation, and one (1) oven/cooktop stove and/or electrical or gas hookups to accommodate such.

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54. "Owner Occupancy" or "Primary Residence" means a property where the property owner resides as reflected in title records makes his or her legal primary residence at the site, as evidenced by voter registration vehicle registration driver's license county assessor records or similar means.

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59. "Primary Dwelling" means a single-family dwelling that is detached and is occupied as the primary residence of the owner of record.

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66. "Second Kitchen" means an additional kitchen with typical appliances and surfaces including a range and/or the 220v or gas hookups for a range. Second kitchens are only permitted as a part of an Interior Accessory Dwelling Unit.. A wet bar without the range or hookups is not considered a kitchen so long as it is clearly accessory -to a dwelling unit as determined by the development services director. Factors for determining whether cooking facilities are accessory to a dwelling unit may include but are not limited to:

- a. A building design which allows all occupants ready access to all portions of the building including cooking facilities;

b. No portion of the building containing cooking facilities can be separated from the remaining rooms to form a separate dwelling unit; Second kitchens are only permitted as a part of an Interior Accessory Dwelling Unit.