



# Provo City Planning Commission

## Report of Action

September 24, 2025

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**\*ITEM 1** Provo City Council requests an Ordinance Text Amendment to Provo City Code 14.06.020 to clarify the "owner occupant" definition. Citywide application. Melia Dayley (801) 852-6136 [mdayley@provo.gov](mailto:mdayley@provo.gov) PLOTA20250503

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The following action was taken by the Planning Commission on the above described item at its regular meeting of September 24, 2025:

### RECOMMENDED DENIAL

On a vote of 7:1, the Planning Commission recommended that the Municipal Council deny the above noted application.

Motion By: Matt Wheelwright

Second By: Joel Temple

Votes in Favor of Motion: Matt Wheelwright, Joel Temple, Jonathon Hill, Barbara DeSoto, Lisa Jensen, Daniel Gonzales, Jon Lyons

Votes Against the Motion: Melissa Kendall

*Jonathon Hill was present as Chair.*

- New findings stated as basis of action taken by the Planning Commission or recommendation to the Municipal Council; Planning Commission determination is not generally consistent with the Staff analysis and determination.

### TEXT AMENDMENT

The text of the proposed amendment is attached as Exhibit A.

### STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

### CITY DEPARTMENTAL ISSUES

- The Coordinator Review Committee (CRC) has reviewed the application and given their approval.

### NEIGHBORHOOD MEETING DATE

- Citywide Application; all Neighborhood District Chairs received notification.

### NEIGHBORHOOD AND PUBLIC COMMENT

- This item was Citywide or affected multiple neighborhoods.
- Neighbors or other interested parties were present or addressed the Planning Commission.

### CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Housing affordability and the need for parents to help their children financially when buying a house.
- Couples who buy a house together, but then separate or divorce, leaving one individual in the house while both hold ownership.

### APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following:

- Interpretation by Legal Department that Provo City Code 14.06.020 “Owner Occupant” (d)(ii) does not explicitly grant an exemption to the owner occupant definition, and is unclear in purpose.

### **PLANNING COMMISSION DISCUSSION**

Key points discussed by the Planning Commission included the following:

- Housing affordability and the need for parents to help their children financially when buying a house.
- The effect which ADUs have on housing affordability, and the need to encourage them throughout the city.
- The language in Subsection (a) of the owner occupant definition, and its conflict with other subsections.

### **FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION**

The Planning Commission identified the following findings as the basis of this decision or recommendation:

- Several subsections of the owner occupant definition found in Provo City Code 14.06.020 conflict and cause confusion for ADU applicants.
- Further amendments, or a rewrite of the section, would further clarify the owner occupant definition and avoid future confusion.



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Planning Commission Chair



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Director of Development Services

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (\*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to the Development Services Department, 445 W Center Street, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

**BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS**

## EXHIBIT A

### 14.06.020

#### **Definitions.**

For the purposes of this Title, certain words and phrases have the following meanings:

“Owner occupant” means, except as set forth in Subsection (d) of this definition:

- (a) an individual who:
  - (i) possesses, as shown by a recorded deed, fifty (50) percent or more ownership in a dwelling unit; and
  - (ii) occupies the dwelling unit with a bonafide intent to make it his or her primary residence; or
- (b) an individual who:
  - (i) is a trustor of a family trust which:
    - (A) possesses fee title ownership to a dwelling unit;
    - (B) was created for estate planning purposes by one (1) or more trustors of the trust; and
  - (ii) occupies the dwelling unit owned by the family trust with a bonafide intent to make it his or her primary residence. Each living trustor of the trust must so occupy the dwelling unit except for a trustor who temporarily resides elsewhere due to a disability or infirmity. In such event, the dwelling unit must nevertheless be the domicile of the trustor during the trustor’s temporary absence.
- (c) an LLC which:
  - (i) is currently registered with the state; and
  - (ii) each member of the LLC occupies the dwelling unit with a bonafide intent to make it his or her primary residence.
- (d) A person who meets the requirements of Subsections (a), (b), or (c) of this definition may not be

deemed an owner occupant if the property on which the dwelling unit is located has more than one (1) owner and all owners of the property do not occupy the dwelling unit with a bona fide intent to make the dwelling unit their primary residence.

(i) A claim that a person is not an owner occupant may be rebutted only by documentation, submitted to the Development Services Department, showing that the person who occupies the dwelling unit has a bona fide intent to make the dwelling unit one's primary residence as indicated by the following documents which show such person:

- (A) is listed as a primary borrower on documents for any loan presently applicable to the property where the dwelling unit is located;
- (B) has claimed all income, deductions, and depreciation from the property on one's tax returns for the previous year;
- (C) is the owner listed on all rental documents and agreements with tenants who occupy the dwelling unit, including any accessory apartment;
- (D) is the owner listed on all insurance, utility, appraisal, or other contractual documents related to the property; and
- (E) is a full-time resident of Utah for Utah State income tax purposes.

~~(ii) Any person who claims to be an owner of the dwelling unit, but who does not occupy it, shall provide documentation to the Development Services Department which shows such person:~~

- ~~(A) has not claimed any income, tax deduction, or depreciation for the property on the person's tax returns for the previous year;~~
- ~~(B) is not listed as an owner on any rental document or agreement with any tenant who occupies the dwelling unit, including any accessory apartment; and~~
- ~~(C) is not listed as an owner on any insurance, utility, appraisal, or an agreement related to the property.~~

~~(iii) (ii) Any person, or group of persons, who fails, upon request of the Development Services Department, to provide any of the documents set forth in Subsections (ed)(i) or (e)(ii) of this definition or who provides a document showing that ownership of a dwelling unit is shared among persons who do not all occupy the dwelling unit shall mean for the purpose of this Title that such person or persons shall not be deemed an "owner occupant" of the dwelling unit in question.~~

(e) The provisions of Subsection (d) of this definition shall apply to any person who began a period of owner occupancy after March 1, 2009, regardless of when the person purchased the property where such person resides.