



## PLANNING COMMISSION MEETING AGENDA

Department of Community and Economic Development  
Meeting Date: July 21, 2021

**NOTICE** is hereby given that the Cottonwood Heights Planning Commission will hold a Work Session Meeting, beginning at 5:00 p.m. in Room 124 (Council Workroom) and a Business Meeting, beginning at 6:00 p.m. in Room 5 (Council Chambers) located at 2277 E. Bengal Blvd., Cottonwood Heights, Utah, 84121 on **Wednesday, July 21, 2021**. The public may remotely hear the open portions of the meeting through live broadcast by connecting to <http://mixlr.com/chmeetings>.

**To View the Work Session:** Each citizen desiring to view the Work Session must register in advance to view the online video broadcast at the following link:

[https://cwh.zoom.us/webinar/register/WN\\_Gi7qVXYQSDWkpG1verZTVA](https://cwh.zoom.us/webinar/register/WN_Gi7qVXYQSDWkpG1verZTVA)

**To View or Participate in the Business Meetings:** Citizens will be able to make live verbal comments during the “General Public Comment” or public hearing portions through the City’s online video broadcast via Zoom. Each citizen desiring to make a citizen comment must register in advance to view or participate in the online video broadcast at the following link:

[https://cwh.zoom.us/webinar/register/WN\\_0\\_4nEKlftISkRS9IDw5CGg](https://cwh.zoom.us/webinar/register/WN_0_4nEKlftISkRS9IDw5CGg)

### 5:00 p.m. WORK MEETING

#### 1.0. Review Business Meeting Agenda

*The Commission will review and discuss agenda items.*

#### 1.1. Additional Discussion Items

*The Commission may discuss the status of pending applications and matters before the Commission and new applications and matters that may be considered by the Commission in the future.*

### 6:00 p.m. BUSINESS MEETING

#### 1.0 Welcome and Acknowledgements

- 1.1 Ex parte communications or conflicts of interest to disclose.

#### 2.0 General Public Comment

*(Please note: In order to be considerate of everyone attending the meeting and to more closely follow the published agenda times, public comments will be limited to three minutes per person per item. A spokesperson who has been asked by a group that is present to summarize their concerns will be allowed five minutes to speak. Comments which cannot be made within these limits should be submitted in writing to the Senior Planner at [ahulka@ch.utah.gov](mailto:ahulka@ch.utah.gov) prior to noon the day before the meeting.)*

#### 3.0 Business Items

##### 3.1 Project CUP-21-010

A public hearing to receive comments and take possible action on a request for a conditional use permit to operate an insurance office within an existing building at 2751 E. Fort Union Blvd. in the Residential Office (RO-ZC) Zone.

##### 3.2 Project ZTA-21-002

A public hearing to receive comments and make possible recommendation to the City Council on a city-initiated zoning text amendment to Chapter 19.89 – “Short Term Rentals.” ***This is a continuation from the July 7, 2021 Planning Commission meeting.***

### 3.3 Project ZTA-21-001

A public hearing to receive comments and make possible recommendation to the City Council on a proposed land use ordinance to create regulations for owner-occupied accessory dwelling units.

## 5.0 Adjourn

### Meeting Procedures

Items will generally be heard in the following order:

1. Staff Presentation
2. Applicant Presentation
3. Open Public Hearing (if item has been noticed for public hearing). Written public comment received prior to the meeting will be distributed to the Planning Commission.
4. Close Public Hearing
5. Planning Commission Deliberation
6. Planning Commission Motion and Vote

Planning Commission applications may be tabled if: 1) Additional information is needed in order to act on the item; OR 2) The Planning Commission feels there are unresolved issues that may need further attention before the Commission is ready to make a motion. **NO agenda item will begin after 9 pm** without a unanimous vote of the Commission. The Commission may carry over agenda items, scheduled late in the evening and not heard, to the next regularly scheduled meeting.

### Submission of Written Public Comment

Written comments on any agenda item should be received by the Cottonwood Heights Community and Economic Development Department prior to 12:00 p.m. on the day before the meeting date to be entered into the record and distributed to the Planning Commission. Comments should be emailed to [ahulka@ch.utah.gov](mailto:ahulka@ch.utah.gov). Comments received after 12:00 p.m. on the day before the meeting date will be distributed to the Commission members after the meeting.

### Notice of Compliance with the Americans with Disabilities Act (ADA)

In compliance with the Americans with Disabilities Act, individuals needing special accommodations or assistance during this meeting shall notify the City Recorder at (801) 944-7021 at least 24 hours prior to the meeting. TDD number is (801) 270-2425 or call Relay Utah at #711.

### Confirmation of Public Notice

On Friday, July 16<sup>th</sup>, 2021, a copy of the foregoing notice was posted in conspicuous view in the front foyer of the Cottonwood Heights City Offices. The agenda was also posted on the City's website at [www.cottonwoodheights.utah.gov](http://www.cottonwoodheights.utah.gov) and the Utah public notice website at <http://pmn.utah.gov>.

DATED THIS 16<sup>th</sup> DAY OF JULY 2021, Paula Melgar, City Recorder



## PLANNING COMMISSION MEMO

CUP-21-010 – American Family Insurance Office

Meeting Date: July 21, 2021

Staff Contact: Samantha DeSeelhorst, Associate Planner & Sustainability Analyst

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### Request

Lance Paulson has submitted a Conditional Use Permit application to operate an insurance office within an existing building at 2751 E. Fort Union Blvd., in the Residential Office with Zoning Conditions Zone. The structure has historically been used as the site of a licensed home occupation for this same insurance office. The applicant is now requesting approval to convert it to a commercial office use to accommodate the growth of his business.

The applicant anticipates that the business will eventually grow to four employees and approximately two clients visiting per day. He shared that even prior to the COVID-19 pandemic, most of his clients preferred to meet and converse virtually in lieu of in-person. The proposed operating hours for this business are 9:00 a.m. to 5:00 p.m., Monday – Friday.

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### Background & Summary

The subject property was recently rezoned from Residential Single-Family (R-1-8) to Residential Office with Zoning Conditions (RO-ZC). During the rezone process, the City Council adopted zoning conditions which prohibit the following uses at this property: medical, optical, dental offices and clinics for health professionals, including those currently described in code section 19.35.030(A) and (L) or their successors.

The proposed use is categorized as an administrative, general, or professional office, which is a conditional use in the underlying zone. Uses of this type must contain no more than 5,000 square feet on any one floor, and 10,000 gross occupiable square feet. This project conforms to these requirements.

The proposed use requires five parking stalls per the City Code, all of which must meet current city standards for width, angle, striping, accessibility, etc. The subject property contains both a front and rear parking area, but neither are formally laid out with striped stalls, so it is currently unclear whether these parking areas meet city standards. The Planning Commission can approve deviations from city parking standards at the recommendation of the City Engineer, but to begin staff has requested that the applicant submit a detailed parking plan with parking stall specifications.

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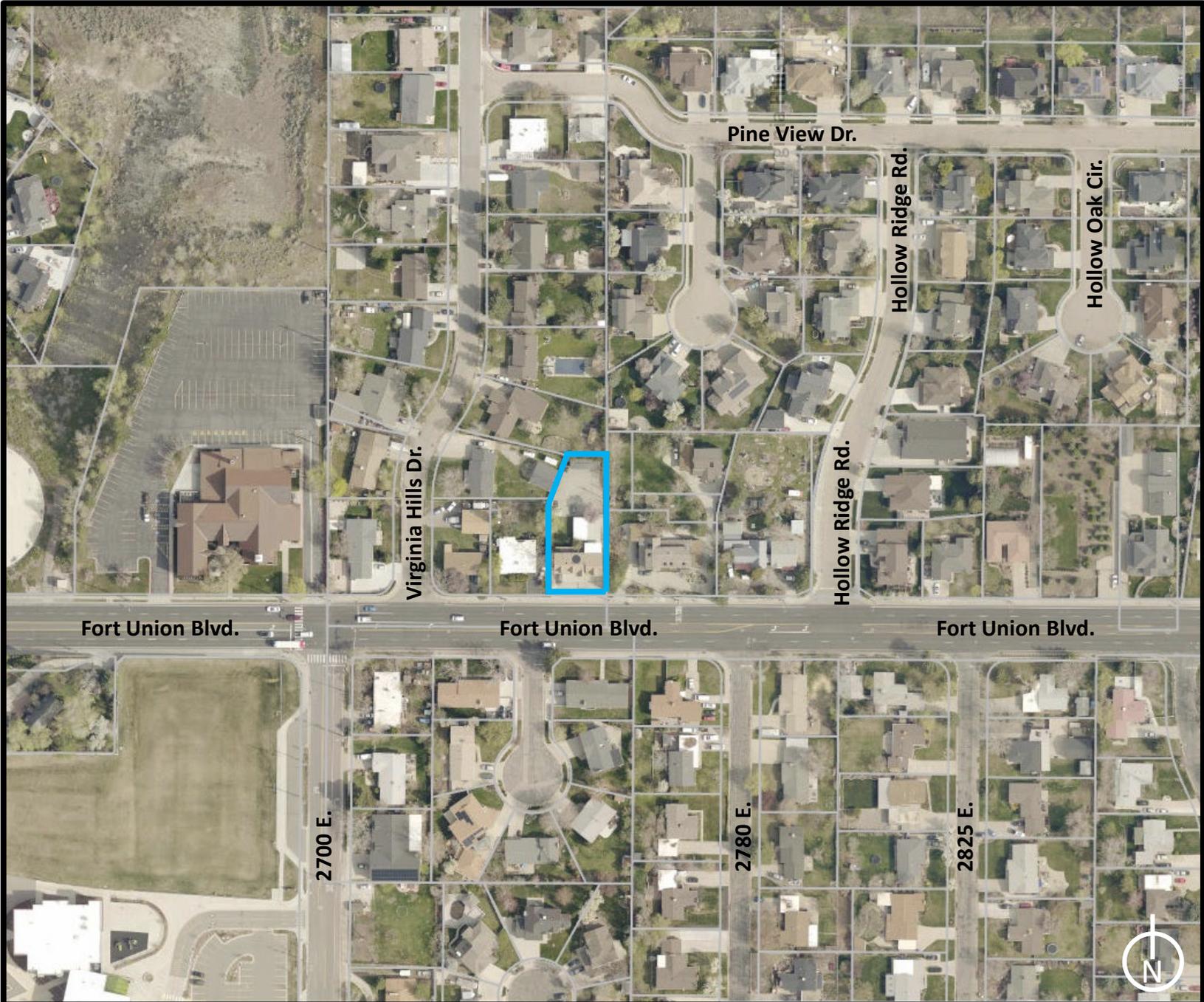
### Recommendation

Staff recommends that the Commission continue this project to the August 4<sup>th</sup>, 2021 meeting to allow the applicant time to provide a detailed parking plan.

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### Attachments

1. Context Map





## PLANNING COMMISSION MEMO

Zoning Text Amendment – Short-Term Rentals (19.89)

Meeting Date: July 7, 2021

Staff Contact: Mike Johnson, CED Director

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### Request

The City Council has directed staff to prepare a zoning text amendment to the city's short-term rental ordinance to better clarify enforcement measures and penalties for violation of the ordinance, including the operation of short-term rentals illegally in zones where they are not permitted.

A Summary of proposed modifications is as follows (note – the exact proposed language is being refined and finalized by the city attorney and is subject to minor adjustment):

#### Consider updating the definition of short-term rental to match the State code definition:

- Proposed modification: “the rental, letting of rooms or sub-leasing/renting of any structure, dwelling or portion thereof for occupancy, dwelling, lodging or sleeping purposes for ~~at least three but not more than 30 consecutive days in duration~~ **fewer than 30 consecutive days in duration.**”

#### Clarify enforcement measures and potential penalties:

- Update the ‘Violations and Penalties’ section of the ordinance (19.89.190) as follows:
  - Failure to comply with this chapter shall constitute a violation of this code for which a citation may be issued, and penalties may be imposed by the city. Each day that a violation occurs or continues is a separate violation.
  - Operation of a property in the city without a permit or a business license shall be in violation of this code and shall be deemed guilty of a misdemeanor and punishable by imprisonment in the county jail not exceeding six months or by a fine in any sum less than \$1,000 or both, except that in all cases where a corporation is convicted of an offense for the commission of which a natural person would be punished as for a misdemeanor and there is no other punishment prescribed by the ordinance, such corporation is punishable by a fine not to exceed \$5,000 (see 1.08.020)
  - (Remove 19.89.190.C)

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### Background & Summary

For many years, the city has had a short-term rental ordinance in place. The ordinance allows short-term rentals (defined in state code as any rental fewer than 30 days in length, and defined in city code as any rental at least 3 but fewer than 30 days in duration) in very limited locations throughout the city (i.e. private developments in multi-family or mixed-use zones) via conditional use permit and business license. In practice, the ordinance has been very effective at administering and regulating legally licensed short-term rentals.

With the growing popularity and lucrative nature of AirBnB, VRBO, and other short-term/vacation rental platforms, the city has experienced an increase of short-term rentals being operated illegally without permits or licenses in non-compliant areas of the city (i.e. single-family residential zones). These illegal units become a matter of code enforcement, which is made very challenging due to the citation and justice court process. Recent state legislative action further complicates this process by prohibiting cities from enforcing illegal short-term rentals solely based on website listings.

Staff and Council regularly hear concerns from residents regarding short-term rentals being operated illegally in their neighborhoods. However, based on the extent of resources required to identify and prosecute these illegal rentals, enforcement can be challenging and time consuming. An ordinance change alone does not fully resolve these concerns but is part of a multi-faceted approach by the city to more effectively discourage and enforce illegal short-term rentals.

A draft ordinance is attached that includes some updated and enhanced language specific to the potential penalties and fines associated with operating an illegal short-term rental. Staff seeks the Planning Commission and public's input prior to returning to the City Council for final consideration.

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## Recommendation

Staff recommends that the Commission forward a recommendation of approval to the City Council.

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## Attachments

1. Draft ordinance with proposed modifications to clarify enforcement measures



## PLANNING COMMISSION MEMO

Zoning Text Amendment – Accessory Dwelling Units

Meeting Date: July 21, 2021

Staff Contact: Mike Johnson, CED Director

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### Request

Planning Commission consideration and recommendation on a proposed Accessory Dwelling Unit (ADU) ordinance compliant with House Bill 82 (HB82) from the 2021 Utah Legislative Session, which allows internal ADUs as permitted uses in all single-family zones across Utah.

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### Background & Summary

In its 2021 session, the Utah legislature passed House Bill 82 (HB82), which preempts local land use authorities to allow internal accessory dwelling units (ADUs) as permitted uses in all single-family residential zones. Effective October 1<sup>st</sup>, 2021, it will be illegal for cities to prohibit accessory dwelling units in single-family areas. The legislation strongly limits the extent that cities will be allowed to regulate ADUs but provides a small list of local regulations that may be imposed. In order to be able to impose such regulations, cities must have ordinances adopted and in place by October 1, 2021.

A brief summary of the legislation is provided below:

- Internal ADUs will be allowed in all single-family residential zones
- The following is a brief summary of local regulation that is allowed:
  - Prohibit short-term rentals in ADUs
  - Require owner-occupancy in ADUs
  - Prohibit detached ADUs
  - Prohibit ADUs on lots smaller than 6,000 square feet
  - Prohibit separate utility meters
  - Require licenses/permits
  - Prohibit the creation of ADUs within a zoning district covering an area that is equivalent to 25% or less of the total area in the city zoned for residential use

HB82 applies the same limitations and allowances for ADUs in private developments, and the legislation preempts any established private codes, covenants, and restrictions present in those areas. These limitations do not apply to detached ADUs, and cities may continue to prohibit or regulate detached units with full local authority.

From 2017-2019, a proposed ADU ordinance was drafted and underwent substantial public input and consideration by the Commission and City Council. The Commission recommended approval of the ordinance, but the City Council denied it. To date, ADUs have been prohibited in Cottonwood Heights. In response to the State legislation, staff has utilized the previous ordinance draft as a starting point. Changes reflected in the attached draft ordinance were made in direct response to State-imposed limitations on local ordinances.

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### Recommendation

Staff recommends that the Commission forward a recommendation of approval to the City Council.

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### Attachments

1. Draft ADU ordinance

## Chapter 19.75 ACCESSORY DWELLING UNITS

### Sections:

- 19.75.010 Purpose.**
- 19.75.020 Definitions.**
- 19.75.030 Where permitted.**
- 19.75.040 Approval process.**
- 19.75.050 Development standards.**
- 19.75.060 Affidavit.**
- 19.75.070 Inspection.**
- 19.75.080 Termination.**

### **19.75.010 Purpose.**

Accessory dwelling units (“ADUs”) in single-family residential zones are an important tool in the overall housing goals and needs of the city, and allow for alternative and flexible housing options in owner-occupied single-family residences. The purposes of the ADU standards of this chapter are to:

- A. Preserve and enhance life safety standards required for residential occupancy through the creation of a regulatory process for ADUs;
- B. Provide housing options for individuals and families in all stages of life and/or with moderate income who might otherwise have difficulty finding adequate housing within the city;
- C. Provide opportunities to offset rising housing costs and promote reinvestment in existing single-family residential zones;
- D. Preserve the character of single-family neighborhoods through adequate standards governing ADUs; and
- E. Comply with UTAH CODE ANN. 10-9a-530, which designates internal ADUs as permitted uses in all single-family residential zones and imposes limitations on the extent that municipalities may regulate ADUs.

### **19.75.020 Definitions.**

“*Accessory dwelling unit*” or “*ADU*” means a permanent, residential dwelling unit meant for one additional single family located in a separate dwelling unit on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached accessory building. A mobile home (as defined in UTAH CODE ANN. 57-16-3, as amended) or other portable structure does not qualify as an ADU, nor may an ADU be located within a mobile home or other portable structure.

“*Detached ADU*” means an ADU located in an accessory building on the property and not attached to or within the principal dwelling unit.

“*Dwelling unit*” means a portion of a building designated as the residence of one family or individual with suitable approved provisions for eating, sleeping, cooking, and sanitation.

“*Flag lot*” means a lot not fronting on or abutting a public roadway and where access to the public roadway is limited to a narrow private right-of-way.

“*Internal ADU*” means an ADU created (a) within a primary dwelling unit; (b) within the footprint of the primary dwelling unit at the time the internal ADU is created; and (c) for the purpose of offering a long-term rental of 30 consecutive days or longer.

“*Owner occupancy*” means that a property’s owner of record makes such owner’s legal residence at the site for at least 200 days per calendar year, as evidenced by voter registration, vehicle registration, driver’s license, county assessor records or similar means.

*“Primary dwelling”* means a single-family dwelling that (a) is detached; and (b) is occupied as the primary residence of the owner of record.

*“Short-term rental”* means the rental, letting of rooms or sub-leasing/renting of any structure, dwelling or portion thereof for occupancy, dwelling, lodging or sleeping purposes for fewer than 30 consecutive days in duration.

#### **19.75.030 Where permitted.**

A. Internal ADUs are permitted in primary dwellings under owner occupancy on lots containing more than 6,000 square feet located in the city’s R-1 (single-family), RR-1 (rural residential), and F-1 (foothill residential) zones, subject to the approval process detailed in this chapter. Internal ADUs are prohibited on any lot containing 6,000 or fewer square feet, or on lots where the primary dwelling is served by a failing septic tank. Internal ADUs in eligible areas shall be allowed as permitted uses.

B. Detached ADUs may be allowed as conditional uses in the city’s R-1 (single-family), RR-1 (rural residential), and F-1 (foothill residential) zones as provided in this chapter.

#### **19.75.040 Approval process.**

The approval process for ADUs in the city is as follows:

A. An internal ADU may be allowed as a permitted use upon completion and filing of an ADU application form; payment of all applicable fees; completion of a satisfactory property inspection; the city’s receipt of the completed, signed affidavit required by this chapter; issuance of any necessary building permits; and compliance with all other applicable requirements of this chapter. Permits for internal, compliant ADUs may be renewed annually upon a satisfactory property inspection and payment of an administrative renewal fee. A portion of a principal dwelling unit with the characteristics of a separate dwelling unit but not occupied by a second family is exempt from obtaining an ADU permit and from paying the yearly renewal fee upon completion and recordation of an exemption form provided by the city. Internal ADUs shall comply with all other applicable building permit, zoning code, fire code and building code requirements.

B. A detached ADU may be allowed as a conditional use upon completion and filing of an ADU application form; payment of all applicable fees; completion of a satisfactory property inspection; the city’s receipt of the completed, signed affidavit required by this chapter; issuance of any necessary building permits; compliance with all other applicable requirements of this chapter and any additional requirements deemed necessary by the planning commission (and approval by the planning commission following a public hearing). Permits for detached ADUs may be renewed annually upon a satisfactory property inspection and payment of a renewal fee. A detached structure with the characteristics of a separate dwelling unit but not occupied by a second family is exempt from obtaining an ADU permit and from paying the yearly renewal fee upon completion and recordation of an exemption form provided by the city. Detached ADU units shall comply with all other applicable building permit, zoning code, fire code and building code requirements.

#### **19.75.050 Development standards.**

A. The property’s record owner (including titleholders and contract purchasers) must occupy either the primary dwelling unit or the approved ADU as such owner’s permanent residence and at no time receive rent for the owner-occupied unit. An application for an ADU permit shall include evidence of owner occupancy in the form of the affidavit required by Section 19.77.060 and such other verification(s) as the city reasonably may require.

B. ADUs shall not be used as short-term rentals.

C. Only one ADU may be created per lot or property.

D. The design and size of the ADU shall conform to all current applicable standards in the building, plumbing, electrical, mechanical, fire, health, and any other applicable codes. When a new internal ADU is proposed in an existing home, the entire internal ADU shall be brought up to all minimum standards, as inspected and approved by city staff.

E. The installation of separate utility meters for an ADU is prohibited.

G. Each internal ADU shall require one off-street parking space in addition to required parking for the primary dwelling unit. In no case shall fewer than three total off-street parking stalls be provided for any property with an internal ADU. The additional required parking space shall not be located behind or in front one of the required parking spaces for the primary dwelling (i.e., tandem parking is prohibited).

H. Each detached ADU shall require two off-street parking spaces in addition to required parking for the primary dwelling unit. Creation of additional off-street parking spaces, excluding previously existing driveways, is prohibited in the front yard of the subject property. Additional required parking spaces for detached ADUs shall not be located behind or in front of one of the required parking spaces for the primary dwelling or the detached ADU (i.e., tandem parking is prohibited).

I. Any parking spaces contained within a garage or carport shall be replaced if an internal ADU is created within the garage or carport.

J. Each internal ADU shall be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling.

K. An internal ADU may not be created within a mobile home as defined in UTAH CODE ANN. 57-16-3, as amended.

L. Detached ADUs shall be required to install fencing and/or a landscaping buffer to mitigate the impact of parking areas and ADU entrances from adjoining property owners. Fencing shall be a solid visual barrier and shall comply with applicable fencing requirements. Landscaping shall be designed to obstruct visual impact from adjoining properties. In considering detached ADUs, the planning commission may require additional buffering requirements if it finds that such requirements will mitigate a perceived negative impact created by the ADU.

M. Detached ADUs shall be subject to the following additional development standards:

1. Any detached ADU shall be a permanent structure. Trailers, mobile homes, and other portable structures shall not be permitted as detached ADUs. The city's building official shall make the determination of whether or not a structure is permanent.

2. Any detached ADU shall be subject to all primary structure setback standards for the zone in which it is located;

3. Any detached ADU shall meet all accessory building standards for height, lot coverage, rear-yard coverage, size, and any other applicable standards for the zone in which it is located;

4. Any detached ADU on a flag lot shall meet primary structure flag lot setback standards for the zone in which it is located; and

5. Conversion of existing accessory buildings to detached ADUs is only permitted if the structure meets or is modified to meet all current city standards and all applicable provisions of this chapter.

#### **19.75.060 Affidavit.**

All applications for ADU permits shall include a notarized affidavit, signed by the record owner of the property, that includes a description of the primary dwelling unit; a statement that the primary dwelling unit contains an internal accessory dwelling unit or that the property contains a detached ADU, as applicable; and a statement that the ADU may only be used in accordance with the city's land use regulations. Change in ownership of the primary dwelling shall not require any additional public hearing, but shall require an updated ADU permit, site inspection (if applicable), and signed affidavit.

**19.75.070 Inspection.**

A. Prior to approval of an ADU permit, all required building permits shall be completed by the applicant and inspected by the city's building inspector to verify compliance with all applicable city standards.

B. If no additional work is proposed or required to ready an ADU for occupancy, the applicant shall submit a minimum-fee building permit application, accompanied by an inspection by the city's building inspector, to ensure compliance with all applicable standards.

**19.75.080 Termination.**

If the primary dwelling's record owner changes and is not accompanied by a new ADU application, or if the primary dwelling's record owner is no longer permanently residing in the primary dwelling, then the ADU shall be immediately vacated and shall no longer be used as an ADU. The city may revoke, or may choose to deny license renewal, to any property with unresolved violations of this code arising from or related to operation of an ADU. The city may also hold a lien against a property that contains an ADU that violated this chapter pursuant to the procedures detailed in UTAH CODE ANN. 10-9a-530(5), as amended.