

Chapter 17.70

ACCESSORY DWELLING UNITS

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Prior legislation: Ords. 12-05, 18-01, 18-20. Formerly 17.69.010--17.69.040.

Editor's note: Ord. No. [10-13](#), adopted September 14, 2010, repealed Chapter 17.70, 17.70.010--17.70.090, which pertained to bed and breakfast facilities and derived from Ord. No. [90-06](#); Ord. No. [95-01](#); Ord. No. [99-12](#); Ord. No. [00-02](#), 2000 and Ord. No. [06-13](#), 2006. Ord. No. [18-20](#), adopted November 13, 2018, renumbered Chapter 17.69 as Chapter 17.70.

17.70.010 Purpose.

- A. Accessory dwelling units are encouraged as dwellings for persons to increase affordable housing opportunities in the RA-1 residential-agricultural zone, R-1 single-household residential zone, R-2 single-household and two-household residential zone, R-3 multi-household residential zone, and R-4 manufactured housing residential zone.
- B. Type 1 and Type 2 ADU rental/leasing occupancy shall be restricted to active employment households as defined by Chapter [17.06](#), Definitions. (Ord. 21-16 § 2, 2021)

17.70.020 Types of ADUs.

There are three types of ADUs permitted in Moab, Type 1, Type 2, and Type 3, defined under Chapter [17.06](#). It is the intent of the City Council that Type 1 and Type 2 ADUs be used for active employment households defined under Chapter [17.06](#); and Type 3 ADUs be permitted to the extent required by State statute. The intent is not for ADUs to be used as second homes. (Ord. 21-16 § 2, 2021)

17.70.030 Type 1 ADUs: External accessory dwelling units with optional owner-occupied primary dwelling.

A. *Permitted Use.* Type 1 ADUs shall be considered a permitted use in the RA-1 residential-agricultural zone, R-1 single-household residential zone, R-2 single-household and two-household residential zone, R-3 multi-household residential zone, and R-4 manufactured housing residential zone.

B. *Type 1 ADU Requirements.* The following requirements apply to all Type 1 ADUs:

1. The setbacks for an accessory dwelling shall be what is allowed in the zoning district within which the EADU is located. The side setback can be reduced to five feet if the EADU does not exceed a building height of twenty feet. The rear setback can be reduced to five feet if the EADU does not exceed a building height of twenty feet.
2. A minimum separation between an EADU and any adjacent structures must be ten feet, even if that structure is on an adjoining lot. The Building Official may waive or modify this requirement if adequate fire separation can be achieved by other means.
3. Where pre-existing structures meet the development standards of this chapter for an EADU, the original structure may be designated as the accessory dwelling if a new main structure is constructed on site.
4. An EADU shall not be constructed prior to the main dwelling structure, except in cases where new home construction has been permitted. An EADU may be permitted prior to construction of the main dwelling for purposes of living on site during the construction of the main dwelling.
5. An EADU may be constructed above a detached garage and consist of the same floor area; provided, that it shall not protrude beyond any ground floor wall and shall not consist of more than one story above the ground floor. The overall structure shall not exceed thirty feet if all zone required setbacks are met. If the accessory structure complies with accessory structure setbacks and encroaches into the underlying zone side and rear setbacks, the maximum height shall be twenty feet.
6. Any request for accessory dwelling units within residential zones shall be reviewed for compliance with the standards in this chapter and approved by City staff. A letter of compliance shall be issued to the applicant by the Zoning Administrator prior to issuance of a building permit.
7. One EADU is allowed if the main structure on the parcel is a duplex. One of the three resulting units must be owner-occupied.
8. The maximum size for accessory living quarters shall be no more than one thousand two hundred square feet. Lots larger than twenty thousand square feet in size may increase the maximum to one thousand five hundred square feet. There is no minimum size for ADUs. All ADUs must meet minimum building code requirements.

9. One on-site parking space shall be provided in addition to the underlying parking requirement. The parking space may be provided in tandem if the existing driveway length exceeds thirty-five feet as measured from the property line.
10. *Accessory Dwellings per Lot.* One Type 1 EADU may be permitted on parcels up to twenty thousand square feet. Parcels that are greater than twenty thousand square feet may apply for a maximum of two ADUs.
11. *Property to Remain Undivided.* Properties with EADUs shall remain recorded as one lot. The accessory dwelling shall not be sold separately.
12. Accessory dwellings are intended for long-term rental of thirty days or more, to the same individual, and may not be used for nightly rentals.
13. *Deed Restriction.* A deed restriction must be filed with the County Recorder which states:

1) A permit for an accessory dwelling was issued to _____, the current owner of this property on _____. The owner shall strictly adhere to the prohibition of the use of the accessory dwelling as nightly or short-term rental. The lease period for a Type 1 ADU shall be a minimum of three (3) months.

2) A permit for a Type 1 ADU, was issued to _____, the current owner of this property on _____. The owner, occupant, and structure shall strictly adhere to the International Residential Code and Moab Municipal Code requirements and regulations for this Type of Accessory Dwelling Unit.

Modified deed restriction language may be proposed by the City. (Ord. 21-16 § 2, 2021)

17.70.040 Type 2 ADUs: Internal accessory dwelling unit with optional owner-occupied primary dwelling.

- A. *Permitted Use.* Type 2 ADUs shall be considered a permitted use in the RA-1 residential-agricultural zone, R-1 single-household residential zone, R-2 single-household and two-household residential zone, R-3 multi-household residential zone, and R-4 manufactured housing residential zone.
- B. *Type 2 ADU Requirements.* The following requirements apply to all Type 2 ADUs:
 1. Type 2 ADUs must include the code required bedroom window egress;
 2. Type 2 ADUs require one additional on-site parking space; the parking space may be provided in tandem if the existing driveway length exceeds thirty-five feet as measured from the property line;

3. Type 2 ADUs require standard zoning approval on building permit applications, accompanied with a letter of zoning compliance, prior to building permit issuance;
4. Type 2 ADUs are not allowed if the main dwelling is served by a failing septic tank;
5. Type 2 ADUs cannot be rented for a period less than three months;
6. Type 2 ADUs shall be constructed as two-family dwellings, as referenced and required by International Residential Code;
7. Type 2 ADUs are not allowed for lots containing a duplex;
8. There is no maximum size for Type 2 ADUs;
9. No more than one Type 2 ADU may be located within a single-household dwelling;
10. Properties with Type 2 ADUs shall remain recorded as one lot. The Type 2 ADU shall not be sold separately from the main home;
11. Accessory dwellings are intended for long-term rental of thirty days or more, to the same individual, and may not be used for nightly rentals;
12. *Deed Restriction.* A deed restriction must be filed with the County Recorder which states:

1) A permit for an accessory dwelling was issued to _____, the current owner of this property on _____. The owner shall strictly adhere to the prohibition of the use of the accessory dwelling as nightly or short-term rental. The lease period for a Type 1 ADU shall be a minimum of three (3) months.

Modified deed restriction language may be proposed by the City.

2) A permit for a Type 2 ADU, was issued to _____, the current owner of this property on _____. The owner, occupant, and structure shall strictly adhere to the International Residential Code and Moab Municipal Code requirements and regulations for this Type of Accessory Dwelling Unit.

Modified deed restriction language may be proposed by the City. (Ord. 21-16 § 2, 2021)

17.70.050 Type 3 ADUs: Internal accessory dwelling units with required owner-occupied primary dwelling.

A. *Permitted Use.* Type 3 ADUs shall be considered a permitted use in the RA-1 residential-agricultural zone, R-1 single-household residential zone, R-2 single-household and two-household residential zone, R-3 multi-household residential zone, and R-4 manufactured housing residential zone.

B. *Type 3 ADU Requirements.* The following requirements apply to all Type 3 ADUs:

1. Type 3 ADUs must include the code required bedroom window egress;
2. Type 3 ADUs require one additional on-site parking space; the parking space may be provided in tandem if the existing driveway length exceeds thirty-five feet as measured from the property line;
3. Type 3 ADUs require standard zoning approval on building permit applications, accompanied with a letter of zoning compliance, prior to building permit issuance;
4. Type 3 ADUs are not allowed if the main dwelling is served by a failing septic tank;
5. Type 3 ADUs cannot be rented for a period less than three months;
6. Type 3 ADUs may be constructed with the appropriate International Residential Code regulations determined by State statute for "ADUs";
7. Type 3 ADUs are not allowed for lots containing a duplex;
8. There is no maximum size for Type 3 ADUs;
9. No more than one Type 3 ADU may be located within a single-household dwelling;
10. Properties with a Type 3 ADU shall remain recorded as one lot. The Type 3 ADU shall not be sold separately from the main home;
11. Accessory dwellings are intended for long-term rental of thirty days or more, to the same individual, and may not be used for nightly rentals;
12. *Deed Restriction.* A deed restriction must be filed with the County Recorder which states:

1) A permit for an accessory dwelling was issued to _____, the current owner of this property on _____. The owner shall strictly adhere to the prohibition of the use of the accessory dwelling as nightly or short-term rental.

Modified deed restriction language may be proposed by the City.

2) A permit for a Type 3 ADU, was issued to _____, the current owner of this property on _____. The owner, occupant, and structure shall strictly adhere to the International Residential Code and Moab Municipal Code requirements and regulations for this Type of Accessory Dwelling Unit.

Modified deed restriction language may be proposed by the City. (Ord. 21-16 § 2, 2021)

17.70.060 Enforcement--Revocation of permit.

In addition to any other legal or equitable remedies available to a municipality, a municipality may hold a lien against a property that contains an internal accessory dwelling unit if the owner of the property violates any of the provisions of this section.

A. *Process for Revocation.* If the owner of the property violates any of the provisions of this chapter, the City may revoke the accessory dwelling permit for noncompliance. In addition to any other legal or equitable remedies, Moab City may hold a lien against a property that contains an internal accessory dwelling unit if, as follows:

1. The City provides a written notice of violation;
2. The City holds a hearing and determines that the violation has occurred, if the owner files a timely written objection;
3. The owner fails to cure the violation within the time period prescribed in the written notice of violation;
4. The City provides a written notice of lien with the County Recorder of the county in which the property is located. The written notice of violation shall:
 - a. Describe the specific violation;
 - b. Provide the owner of the accessory dwelling unit a reasonable opportunity to cure the violation no less than fourteen days after the day on which the City sends notice of violation, if the violation results from the owner renting or offering to rent the internal accessory dwelling unit for a period of less than thirty consecutive days or no less than thirty days after the day on which the City sends the written notice of violation, for any other violation;
 - c. State that if the owner of the property fails to cure the violation within the relevant time period, the City may hold a lien against the property in an amount of up to one hundred dollars for each day of violation after the day on which the opportunity to cure the violation expires;
 - d. Notify the owner of the property that:
 - i. The owner may file a written objection to the violation within fourteen days after the day on which the written notice of violation is postmarked or posted on the property; and

- ii. Of the name and address of the municipal office where the owner may file the written objection;
 - e. Be mailed to the property's owner of record, and any other individuals designated to receive notice in the owner's license or permit records, and be posted on the property;
 - f. The written notice of lien shall:
 - i. State that the property is subject to a lien, specify the lien amount, in an amount of up to one hundred dollars for each day of violation after the day on which the opportunity to cure the violation expires;
 - ii. Be mailed to the property's owner of record and any other individual designated to receive notice in the owner's license or permit record; and
 - iii. Be posted on the property.
5. If an owner of property files a written objection in accordance with this section the City shall:
 - a. Hold a hearing in accordance with Chapter [52-4](#) Utah Code, Open and Public Meetings Act, to conduct a review and determine whether the specific violation described in the written notice of violation under this section has occurred; and
 - b. Notify the owner in writing of the date, time, and location of the hearing. The hearing notice shall be sent no less than fourteen days before the day on which the hearing is held;
6. If an owner of property files a written objection the City may not record a lien until the City holds a hearing and determines that the specific violation has occurred;
7. If the City determines at the hearing that the specific violation has occurred, the City may impose a lien in an amount of up to one hundred dollars for each day of violation after the day on which the opportunity to cure the violation expires, regardless of whether the hearing is held after the day on which the opportunity to cure the violation has expired;
8. If an owner cures a violation within the time period prescribed in the written notice of violation, the City may not hold a lien against the property, or impose any penalty or fee on the owner, in relation to the specific violation described in the written notice of violation;
9. A municipality that issues a permit or license to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, may record a notice in the office of the Grand County Recorder. The notice shall include:
 - a. A description of the primary dwelling;
 - 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 the municipality's land use regulations;
- d. The municipality shall, upon recording the notice described, deliver a copy of the notice to the owner of the internal accessory dwelling unit. (Ord. 21-16 § 2, 2021)

The Moab Municipal Code is current through Ordinance 23-04, and legislation passed through April 11, 2023.

Disclaimer: The City Recorder's Office has the official version of the Moab Municipal Code. Users should contact the City Recorder's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: moabcity.org](http://moabcity.org)

[City Telephone: \(435\) 259-5121](tel:(435)259-5121)

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