

Ordinance 2024-3

SHORT TITLE:


AN ORDINANCE AMENDING PROVO CITY CODE CHAPTER 14.30
(ACCESSORY DWELLING UNITS) TO UPDATE AND CLARIFY REGULATION
(PLOT202301312)

I PASSAGE BY MUNICIPAL COUNCIL

ROLL CALL


DISTRICT	NAME	FOR	AGAINST	OTHER
CW 1	KATRICE MACKAY	✓		
CW 2	GARY GARRETT	✓		
CD 1	CRAIG CHRISTENSEN	✓		
CD 2	GEORGE HANDLEY	✓		
CD 3	BECKY BOGDIN	✓		
CD 4	TRAVIS HOBAN	✓		
CD 5	RACHEL WHIPPLE	✓		
TOTALS		7		

This ordinance was passed by the Municipal Council of Provo City, on the 9th day of January 2024,
on a roll call vote as described above. Signed this 25th day of January 2024.


Chair

II APPROVAL BY MAYOR

This ordinance is approved by me this 25th day of January 2024.


Mayor

Ordinance 2024-3

III

CITY RECORDER'S CERTIFICATE AND ATTEST

This ordinance was signed and recorded in the office of the Provo City Recorder on the

25th day of January 2024

and was published on the Utah Public Notice Website on the

10th day of January 2024. I hereby certify and attest that the foregoing constitutes a true and

accurate record of proceedings with respect to Ordinance Number 2024-3.





City Recorder

ORDINANCE 2023-3.

AN ORDINANCE AMENDING PROVO CITY CODE CHAPTER 14.30
(ACCESSORY DWELLING UNITS) TO UPDATE AND CLARIFY
REGULATION (PLOT202301312)

RECITALS:

It is proposed that Provo City Code Chapter 14.30 (Accessory Dwelling Units) be amended to update and clarify regulations; and

On December 6, 2023, the Planning Commission held a duly noticed public hearing to consider the proposed amendment, and after such meeting, the Planning Commission recommended approval to the Municipal Council by a vote of 6:0; and

On December 12, 2023 and January 9, 2024, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

After considering the facts presented to the Municipal Council, the Council finds that (i) Provo City Code should be amended as set forth below, and (ii) such action furthers the health, safety, and general welfare of the citizens of Provo City.

THEREFORE, the Municipal Council of Provo City, Utah ordains as follows:

PART I:

Provo City Code 14.30 is amended as shown in Exhibit A.

PART II:

- A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance prevails.
- B. This ordinance and its various sections, clauses, and paragraphs are severable. If any part, sentence, clause, or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance is not affected by that determination.
- C. This ordinance takes effect immediately after it has been posted or published in accordance with Utah Code Section 10-3-711, presented to the Mayor in accordance with Utah Code Section 10-3b-204, and recorded in accordance with Utah Code Section 10-3-713.

43 D. The Municipal Council directs that the official copy of Provo City Code be updated to
44 reflect the provisions enacted by this ordinance.

Exhibit A

Chapter 14.30

ACCESSORY DWELLING UNITS

Sections:

14.30.010 Purpose and Objectives.

14.30.020 Permitted Use of Accessory Dwelling Units.

14.30.030 Accessory Dwelling Unit (ADU) Development Standards.

14.30.040 Special Use Permit for ~~Internal~~ Accessory Dwelling Unit.

Prior legislation: Ords. 1991-07, 1998-55, 2000-15, 2009-17, 2010-28, 2013-49, 2019-45.

14.30.010

Purpose and Objectives.

(1) The purpose of the accessory dwelling unit (ADU) development standards is to encourage promotion of an environment for family life by providing for the establishment of ADUs in conjunction with one-family detached dwellings on individual lots. These development standards are hereby established to promote the use of ADUs; to provide flexibility for the changes in household size associated with life cycle; to offer financial security for home owners; and to offer security against problems associated with frailty in old age.

(2) "Accessory Dwelling Unit (ADU)" means a residential dwelling unit occupied as a separate dwelling unit on the same lot as a primary dwelling unit, either within the same building as the primary dwelling unit (referred to as an internal ADU), attached to the single-family dwelling, or in a detached building. An accessory building, as defined, is not a mobile home or other portable structure that does not qualify as an ADU.

(3) ~~As required by Utah Code Section 10-9a-530, as amended,~~ The use of an accessory dwelling unit in areas zoned primarily for residential use is a permitted use, except as otherwise provided in this Chapter.

(a) For purposes of this Chapter, the phrase "areas zoned primarily for residential use" means areas in the following zones: RA, R1, R2, LDR, MDR, HDR, CMU, VLDR, RM, RC, any Project Redevelopment Option (PRO) zone, and Specific Development Plan Overlay zones 2 through 5.

(Am 2021-46)

14.30.020

Permitted Use of Accessory Dwelling Units.

(1) Notwithstanding the regulation of permitted uses in other chapters of this Title, the regulation of the permitted use of accessory dwelling units is governed by this Section.

~~(2) As required by Utah Code Section 10-9a-530, as amended, the use of an internal accessory dwelling unit in areas zoned primarily for residential use is a permitted use, except as otherwise provided in this Section.~~

~~(a) For purposes of this Section, the phrase “areas zoned primarily for residential use” means areas in the following zones: RA, R1, R2, LDR, MDR, HDR, CMU, VLDR, RM, RC, any Project Redevelopment Option (PRO) zone, and Specific Development Plan Overlay zones 2 through 5.~~

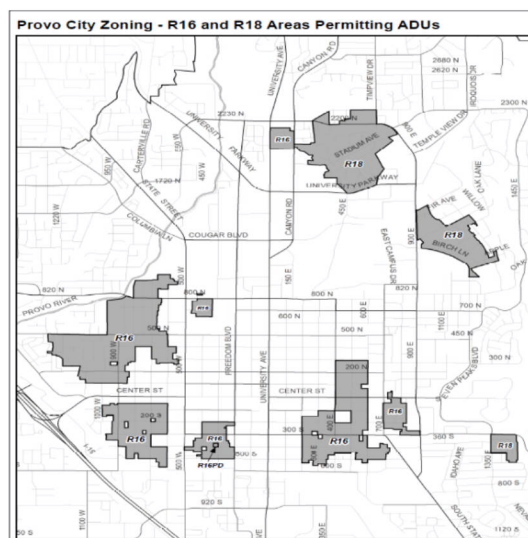
~~(3)~~ (2) Notwithstanding ~~Subsection (2) of this~~ Section 14.30.010, Provo City Code, Utah Code Section [10-9a-530](#) allows the prohibition of **internal** accessory dwelling units in some areas zoned primarily for residential use. Accordingly, **internal** accessory dwelling units are prohibited in the following areas zoned primarily for residential use:

(a) All Project Redevelopment Option (PRO) zones, ~~except: the High Density Mixed Use PRO zone, the Arbors on the Avenue PRO zone, the Independence Avenue PRO zone, the Hollows at Riverwoods PRO zone, the Liberty Place PRO zone, and the Spring Creek High Occupancy PRO zone;~~

~~(b) Areas in the Lakeview Fields (SDP-4) Specific Development Plan Overlay zone and the Villages at Celebration (SDP-5) Specific Development Plan Overlay zone;~~

~~(c)~~ (b) Areas designated **RM, R16, R17, R18, R19, or R110**, including such areas with the Performance Development overlay, **except as shown in the map below:**

~~(d) Areas designated R16 or R18, including such areas with the Performance Development overlay, except as shown in the map below:~~



~~(4) Detached accessory dwelling units and detached accessory structures containing an ADU are a permitted use in those areas where internal ADUs are permitted under this Section.~~

~~(5)~~ (3) Notwithstanding Subsection ~~(3)~~ (2) of this Section, the use of an ~~internal~~ accessory dwelling unit in areas zoned primarily for residential use is a permitted use in all areas west of Interstate Highway 15.

(Am 2021-46, Am 2022-46)

14.30.030

Accessory Dwelling Unit (ADU) Development Standards.

ADUs shall be subject to the following development standards:

(1) *Number.* No more than one (1) ADU shall be permitted in conjunction with each one-family detached dwelling.

(2) *Location.* ADUs may be located only:

(a) Over an attached garage, provided the ADU has access to required parking and does not otherwise disrupt required covered parking;

(b) Inside a one-family detached dwelling;

(c) In an addition to a one-family detached dwelling; provided, that the addition will not alter the one-family character of the building; or

(d) As a detached accessory structure or within a detached accessory structure located in the rear and/or side yard in accordance with the following requirements:

(i) The accessory structure in which the ADU is located shall have a building footprint and height less than the main dwelling, but in no case shall the accessory structure be less than two hundred (200) square feet in area;

(ii) A detached ADU or a detached accessory structure containing an ADU shall be set back from any property line no less than ten (10) feet or the distance of the existing setback of the one-family dwelling from that same property line, whichever is less;

(iii) The accessory structure shall be architecturally compatible with the main dwelling;

(iv) The accessory structure shall be permanently affixed to a site-built foundation and shall be designed in accordance with Provo City adopted building codes;

(v) The accessory structure must be approved for, and permanently connected to, all required utilities with a connection and meter independent and separate from the one-family dwelling; and

(vi) Shipping containers shall not be permitted for use as an ADU unless they can meet all

building codes and are clad with materials similar to and architecturally compatible with those of the main dwelling.

(3) *Appearance.* The ADU shall not alter the appearance of the structure as a one-family detached dwelling and shall not resemble in any degree a side-by-side, side-to-back, back-to-back, or other type of two-family dwelling. There shall be no external evidence from a street view of occupancy by more than one (1) family, such as two (2) front doors on the main dwelling. The yard areas of the property shall be maintained free of weeds, junk, solid waste, or other materials constituting a violation of the Provo City Code. An ADU shall not be authorized on a property that has outstanding ordinance violations.

(4) *Occupancy.* A one-family dwelling with an ADU, which is authorized by and conforms to the requirements set forth in this Section, shall, for purposes of this Subsection, consist of two (2) component parts: the main dwelling unit and the ADU. Those two (2) parts shall be occupied as follows:

(a) Except as otherwise provided in Subsection (4)(d) of this Section, either the main dwelling unit or the ADU must be occupied by an owner occupant as that term is defined in Section [14.06.020](#), Provo City Code. If this requirement is not met, no ADU shall be permitted.

(b) The occupancy of the main dwelling unit shall be limited to one (1) "family" as that term is defined in Chapter [14.06](#), Provo City Code, except that if the ADU is also occupied, the occupancy of the main dwelling unit may not include the two (2) additional related or unrelated individuals described in Subsection (b)(i)(B) of the "Family" definition in Section [14.06.020](#), Provo City Code.

(c) The ADU shall not be occupied by more than three (3) related or unrelated adults, together with any minor children of those adults.

(d) Owner occupancy shall not be required when the owner has submitted a temporary absence application prior to beginning of the temporary absence and meets the following criteria:

(i) The owner has a bona fide, temporary absence of three (3) years or less for activities such as temporary job assignments, sabbaticals, military service, or voluntary service (indefinite periods of absence from the dwelling shall not qualify for this exception); or

(ii) The owner is placed in a hospital, nursing home, assisted living facility or other similar facility.

(iii) The owner has resided in the residence for at least one (1) year prior to beginning the temporary absence.

(5) *Parking.* A one-family dwelling with an ADU shall have at least four (4) off-street parking spaces. Two (2) tandem parking spaces (front to rear) shall be permitted when the front and back spaces are both designated to serve either the ADU or the principal part of the dwelling unit. Parking spaces for a one-family dwelling with an associated ADU may be located on a driveway in a required front yard, provided the driveway leads to the minimum number of required covered off-street parking spaces. In no case shall the number of off-street parking spaces be less than the number of vehicles being maintained on the premises. Parking shall comply with all other regulations of Chapter [14.37](#), Provo City Code.

(6) *Utility Meters.* A one-family dwelling with an internal ADU shall have at least one (1) but no more than two (2) meters for each water, gas, and electricity utility service, and each meter shall be in the property owner's name. A detached ADU or a detached accessory structure containing an ADU must have its own separate meter, and each meter shall be in the property owner's name.

(7) *Addresses.* The ADU shall have its own address assigned by Provo City.

(8) *Outside Entrances.* Outside entrances to the ADU shall be on the side or rear of the building. Only one (1) front entrance shall be visible from the front yard.

(9) *Building Codes.* All existing construction and remodeling shall comply with building codes in effect at the time of the original construction or remodeling. Newly constructed ADUs shall meet current building codes.

(10) *Rental Dwelling License.* In accordance with Chapter [6.26](#), Provo City Code, any person operating an ADU under this Chapter shall obtain a rental dwelling license (RDL). Such license shall be in addition to any building permits that may be necessary. Before a rental dwelling license for an ADU is issued, the applicant shall:

(a) Submit a site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings and building entrances, proposed buildings or additions, dimensions from buildings or additions to property lines, the location of parking stalls, and utility meters.

(b) Include detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses. Floor plans must have the interior connection clearly labeled.

(c) Pay an application fee as shown on the [Consolidated Fee Schedule](#) adopted by the Municipal Council.

(d) Noncompliance with the standards of this Section shall be just cause for the denial or revocation of a rental dwelling license for an ADU. Revocation shall be in accordance with the license regulations in Chapters [6.01](#) and [6.26](#), Provo City Code.

(e) Notwithstanding Section [6.01.090](#), Provo City Code, the approval of a rental dwelling

license for an ADU shall automatically expire one (1) year after the date of the approval, or upon transfer of the property to another owner, whichever occurs first; provided, however, that the existing owner may reapply or the new owner may apply for an extension of such rental dwelling license.

(f) The owner shall cooperate with the Development Services Department in recording a deed restriction with the County Recorder evidencing the restrictions under which the accessory apartment unit is constructed and occupied. This deed restriction shall run with the land as long as the property is in an overlay zone described in this Chapter, or otherwise contains an accessory apartment as provided in this Chapter.

(g) The owner shall renew the rental dwelling license annually and confirm that the dwelling is the owner's primary residence by providing at least two of the following forms of verification: a current driver license, current vehicle registration, voter registration card, last filed state tax return, and/or last filed federal tax return.

(Am 2021-46, Am 2022-17, Am 2022-46)

14.30.040

Special Use Permit for ~~Internal~~ Accessory Dwelling Unit.

(1) A property owner seeking to allow an ~~internal~~ accessory dwelling unit on a parcel in an area where such units are otherwise prohibited by Chapter [14.30](#), Provo City Code, may submit a special use permit application to the Development Services Department seeking conditional approval of such use.

(2) *Application.* Application for an ~~internal~~ accessory dwelling unit special use permit must be made on a form authorized by the Development Services Department and must be filed with that Department. The application must include:

(a) The fee established for the application by the [Consolidated Fee Schedule](#);

(b) A list of addresses including the property for which the permit is sought and every immediately adjacent residential property, as defined in this Section.

(i) "Immediately adjacent residential property" means each and every property:

(A) For which residential use is a permitted use; and

(B) That shares a common border with, or is immediately across or immediately diagonal from, or that lies within the same cul-de-sac as, the property for which the permit is sought, including any property separated only by a local street, canal, right-of-way, or other similar feature from the property for which the permit is sought;

(c) The name, address, and signature of the owners of at least sixty-six percent (66%) of the properties described in Subsection [\(2\)\(b\)](#) of this Section indicating that they are in support of the special use permit; and

(d) An application for a rental dwelling license meeting the requirements of Chapter [6.26](#), Provo City Code.

(3) *Review and Approval.* An application shall be reviewed by Development Services Department staff. The application shall be approved, and an **internal** accessory dwelling unit special use permit shall be issued if, but only if:

(a) The application meets all the requirements of Subsection [\(2\)](#) of this Section;

(b) The property for which the permit is sought meets all the standards for **internal** accessory dwelling units in Section [14.30.030](#), Provo City Code;

(c) The applicant qualifies for and receives a rental dwelling license; and

(d) The applicant signs, on a form authorized by the Development Services Department, an acknowledgement of, and promise to abide by, all Provo City ordinances and regulations related to the use of an **internal** accessory dwelling unit, including, but not limited to:

(i) Either the main dwelling unit or the ADU must be occupied by an owner occupant;

(ii) Off-street parking must comply with parking standards as outlined in Section [14.30.030](#), Provo City Code; and

(iii) The property owner must have a valid rental dwelling license at any time the **internal** accessory dwelling unit is in use.

(4) *Application for a Permitted Use for Multiple Homes.* Instead of submitting the special use permit application described in this Section, owners of multiple contiguous properties may submit a text amendment application to the Development Services Department seeking to amend this Chapter [14.30](#), Provo City Code, in order to designate **internal** accessory dwelling units as a permitted use for all the subject properties. Such an application shall follow the procedures in Provo City Code Section [14.02.020](#), Provo City Code, except that:

(a) The filing fee specific to such an application shown on the [Consolidated Fee Schedule](#) shall be required rather than the standard amendment fee; and

(b) The application need not comply with Section [14.02.020\(1\)](#), Provo City Code, but instead must include the information described in Subsections [\(2\)\(b\)](#) and [\(c\)](#) of this Section. (Enacted 2022-46)