

COTTONWOOD HEIGHTS

ORDINANCE No. 368

AN ORDINANCE ENACTING AND CODIFYING CHAPTER 19.75 (“ACCESSORY DWELLING UNITS”) OF THE COTTONWOOD HEIGHTS CODE OF ORDINANCES

WHEREAS, the “Municipal Land Use, Development, and Management Act,” UTAH CODE ANN. §10-9a-101 *et seq.*, as amended (the “*Act*”), provides that each municipality may enact a land use ordinance and a zoning map establishing regulations for land use and development; and

WHEREAS, pursuant to the Act, the municipality’s planning commission shall prepare and recommend to the municipality’s legislative body, following a public hearing, a proposed land use ordinance and a zoning map, or amendments thereto, that represents the planning commission’s recommendations for zoning the area within the municipality; and

WHEREAS, the Act also provides certain procedures for the municipality’s legislative body to adopt or amend the land use ordinance and zoning map for the City; and

WHEREAS, on 14 July 2005, the legislative body (the “*Council*”) of the city of Cottonwood Heights (the “*City*”) enacted its Ordinance No. 25 adopting a land use ordinance for the City and codifying such ordinance as Title 19 of the City’s code of ordinances (the “*Code*”); and

WHEREAS, thereafter, the City’s planning commission (the “*Planning Commission*”) proposed amending the Code (the “*Amendment*”) by enacting new Chapter 19.75 (“Accessory Dwelling Units”) (“*Chapter 19.75*”); and

WHEREAS, on 21 July 2021, a public hearing was held before the Planning Commission where citizens were given the opportunity to provide written or oral comment concerning the proposed Amendment; and

WHEREAS, such public hearing before the Planning Commission was preceded by all required legal notices; and

WHEREAS, following the public hearing, the Planning Commission recommended the Amendment to the Council for adoption; and

WHEREAS, the Council has reviewed and is familiar with Chapter 19.75, a copy of which is annexed as an exhibit to this ordinance, and is authorized to formulated revisions to Chapter 19.75 pursuant to UTAH CODE ANN. 10-9a-502(2); and

WHEREAS, on 21 September 2021, the Council met in regular meeting to consider, among other things, amending Title 19 of the Code to enact Chapter 19.75, as and if revised; and

WHEREAS, after careful consideration of the recommendations of the Planning Commission, comments at the public hearing, and other relevant input, the Council has determined that it is in the best interest of the health, safety and welfare of the citizens of the City to adopt and enact Chapter 19.75 as proposed;

NOW, THEREFORE, BE IT ORDAINED by the city council of the city of Cottonwood Heights as follows:

Section 1. **Adoption of Chapter 19.75.** The Council hereby approves and adopts Chapter 19.75 in the form of the attached exhibit, and hereby codifies the same as Chapter 19.75 of the Code; provided, however, that the city attorney, with such assistance as he may require from other city officers and staff, is authorized and directed without further Council action to make such additional formatting and technical corrections to Chapter 19.75 as he may consider to be appropriate in connection with inclusion of Chapter 19.75 in the Code.

Section 2. **Action of Officers.** All actions of the officers, agents and employees of the City that are in conformity with the purpose and intent of this Ordinance No. 368 (this "Ordinance"), whether taken before or after the adoption hereof, are hereby ratified, confirmed and approved.

Section 3. **Severability.** It is hereby declared that all parts of this Ordinance are severable, and if any section, paragraph, clause or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect the remaining sections, paragraphs, clauses or provisions of this Ordinance.

Section 4. **Repealer.** All ordinances or parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 5. **Effective Date.** This Ordinance shall take immediate effect as soon as it shall be published or posted as required by law and deposited and recorded in the office of the City's Recorder, or such later date as may be required by Utah statute.

PASSED AND APPROVED this 21st day of September 2021.

ATTEST:

By: *Paula Melgar*
Paula Melgar, Recorder
Heather Stralquist
Deputy Recorder

COTTONWOOD HEIGHTS CITY COUNCIL
By: *Michael J. Peterson*
Michael J. Peterson, Mayor



VOTING:

Michael J. Peterson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Douglas Petersen	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Tali C. Bruce	Yea <input type="checkbox"/>	Nay <input checked="" type="checkbox"/> excuse
Christine Watson Mikell	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

DEPOSITED in the Recorder's office this 21st day of September 2021.

POSTED this ___ day of September 2021.

Exhibit to Ordinance 368

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.

F. 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).

G. 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).

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

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

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

K. 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.

L. 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.