

ORDINANCE NO. 2021-18

AN ORDINANCE ENACTING CHAPTER 12.60 OF THE CENTERVILLE ZONING CODE REGARDING INTERNAL ACCESSORY DWELLING UNITS

WHEREAS, the Utah Legislature recently adopted H.B. 82 regarding Single-Family Housing Modifications, requiring municipalities to classify certain accessory dwelling units as permitted dwelling units in any area zoned primarily for residential use as more particularly set forth in Utah Code § 10-9a-530; and

WHEREAS, the proposed amendments to the Zoning Code set forth new definitions and regulations for internal accessory dwelling units as required by State law to be set forth in Chapter 12.60 of the Zoning Code; and

WHEREAS, the proposed amendments to the Zoning Code as set forth herein have been reviewed by the Planning Commission and the City Council and all appropriate public notices have been provided and appropriate public hearings have been held in accordance with Utah law to obtain public input regarding the proposed revisions to the Zoning Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CENTERVILLE CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. Enactment. Chapter 12.60 of the Centerville Zoning Code regarding Internal Dwelling Units is hereby enacted to read in its entirety as set forth in Exhibit A, attached hereto and incorporated herein by reference.

Section 2. Severability. If any section, part, or provision of this Ordinance is held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect any other portion of this Ordinance, and all sections, parts and provisions of this Ordinance shall be severable.

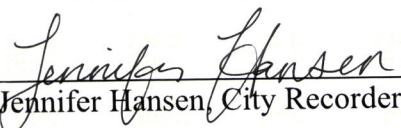
Section 3. Omission Not a Waiver. The omission to specify or enumerate in this ordinance those provisions of general law applicable to all cities shall not be construed as a waiver of the benefits of any such provisions.

Section 4. Effective Date. This Ordinance shall become effective immediately upon publication or posting, or thirty (30) days after passage, whichever occurs first; provided, the regulations and code provisions adopted herein shall not become effective until September 30, 2021 to coordinate with the effective date of State regulations adopted by H.B. 82.

PASSED AND ADOPTED BY THE CITY COUNCIL OF CENTERVILLE CITY, STATE OF UTAH, ON THIS 7th DAY OF SEPTEMBER, 2021.

ATTEST:

CENTERVILLE CITY


Jennifer Hansen, City Recorder

By: 
Mayor Clark A. Wilkinson

Voting by the City Council:

	“AYE”	“NAY”	“ABSENT”
Councilmember Fillmore	<u>X</u>	_____	_____
Councilmember Ince	<u>X</u>	_____	_____
Councilmember Ivie	<u>X</u>	_____	_____
Councilmember McEwan	<u>X</u>	_____	_____
Councilmember Mecham	<u>X</u>	_____	_____

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provisions of the U.C.A. § 10-3-713, as amended, I, the municipal recorder of Centerville City, hereby certify that foregoing ordinance was duly passed by the City Council and published or posted at: (1) 250 North Main; (2) 655 North 1250 West; and (3) RB’s Gas Station, on the foregoing referenced dates.

Jennifer Hansen
JENNIFER HANSEN, City Recorder

DATE: 9/9/2021

RECORDED this 9th day of September, 2021.

PUBLISHED OR POSTED this 9th of September, 2021.



EXHIBIT A

Centerville Zoning Code – Chapter 12.60 (Internal Accessory Dwelling Units)

[New Section] Chapter 12.60 Internal Accessory Dwelling Units

- [Add] 12.60.010 Purpose.
- 12.60.020 Scope
- 12.60.030. Definitions
- 12.60.040. Approval and Authorization
- 12.60.050. Use Allowed
- 12.60.060. Limitations, Termination, and Exemptions
- 12.60.070. General Development Standards
- 12.60.080. Design Standards
- 12.60.090. Occupancy Requirements, Licenses, and Owner Affidavits
- 12.60.100. Violations and Enforcement
- 12.60.110. Other Applicable Regulations and Codes

[Add] **12.60.010. Purpose**

The purpose of this Chapter is to establish the use and development regulations for the allowance of internal accessory dwelling units (Internal ADUs) within the City. These regulations are intended to provide opportunity for an internally located secondary separated living quarters (i.e., dwelling unit) within a primary single-family dwelling in accordance with applicable State law, including, but not limited to Utah Code § 10-9a-530.

[Add] **12.60.020. Scope**

The requirements of this Chapter shall apply to any Internal ADU created or established within the City. Such requirements shall not be construed to prohibit or limit other applicable provisions of this Title, the Centerville Municipal Code, or other laws.

[Add] **12.60.030. Definitions**

Certain words and phrases in this Chapter, including uses, are defined in CZC 12.12 (Definitions). In addition to the definitions set forth in CZC 12.12 (Definitions), the following words and phrases shall have the following meanings:

- (a) Internal Accessory Dwelling Unit (Internal ADU). An internal accessory dwelling unit means an accessory dwelling unit created within a primary dwelling as more particularly defined in Utah Code § 10-9a-511.5.
- (b) Primary Dwelling or Primary Single-Family Dwelling. Primary dwelling or primary single-family dwelling means a single-family dwelling that is detached and is occupied as the primary residence of the owner of record as more particularly defined in Utah Code § 10-9a-511.5.

[Add] **12.60.040 Approval and Authorization.**

The Zoning Administrator is authorized to issue permits for Internal ADUs in accordance with the procedures and objective standards for review as set forth in this Chapter and as set forth in CZC 12.21.090 (Permitted Use Review). Decisions regarding the review, approval, or denial of Internal ADUs are administrative proceedings and shall be made in accordance with the provisions of this Chapter and CZC 12.21.060 regarding decision-making standards for administrative proceedings.

[Add] **12.60.050. Use Allowed**

Internal ADUs are allowed in residential zones as set forth in CZC 12.36 (Table of Uses). Permitted and conditional uses are indicated by “P” or “C,” respectively. Uses not permitted are indicated by “N.”

[Add] **12.60.060. Limitations, Termination, and Exemptions**

(a) *Use in Combination.* An Internal ADU shall be established as an internally located secondary accessory dwelling unit and shall only be established in combination within a primary single-family dwelling.

(b) *Owner Occupancy Required.* An Internal ADU shall only be established for a primary single-family dwelling that is occupied by an owner in accordance with the “Owner Occupancy” requirements of CZC 12.60.090.

(c) *Number allowed.* Only one Internal ADU is allowed for:

- (1) A lot, parcel, or tract of land greater than 6,000 square feet; and
- (2) A primary single-family dwelling located within a primarily residential use zone as more particularly designated in CZC 12.36 (Table of Uses).

(d) *Location or Placement.* An Internal ADU may be integrated within or as a part of the primary single-family dwelling structure and shall maintain the character of the primary single-family dwelling structure and such neighborhood context.

(e) *Separate Dwelling Units.* Any portion of a primary single-family dwelling that has been sectioned off, mechanically, physically, or by other means, so that any occupant in the primary single-family dwelling does not have full and free access to the separated portion of the dwelling and such separated area contains living quarters which provide sleeping, sanitary, and fixed kitchen facilities, or any separate accessory building or structure containing the same, shall be subject to the provisions of this Chapter, regardless of the relationship of the occupants.

(f) *No Short-Term Rental.* An Internal ADU may not be used as a short-term rental for fewer than 30 consecutive days as more particularly defined and regulated pursuant to Utah Code § 10-8-85.4. In order to regulate and prohibit short-term rentals, the City shall require and record a notice for any approved Internal ADU with the Davis County Recorder's Office in accordance with Utah Code § 10-9a-530.

(g) *Termination of Internal ADU Use.* The approval permit for an Internal ADU shall become null and void if the occupancy requirements of this Chapter are not satisfied, or the owner declares termination through writing or through neglect or any other confirmed non-corrected action that violates the provisions of this Chapter. Upon such termination of an Internal ADU use, the owner shall remove one or more features that make up an Internal ADU including but not limited to living, sleeping, or kitchen facilities, including electrical, gas, or plumbing, as deemed acceptable to the City to render the Internal ADU removed or unusable.

(h) *Exemptions.* Internal ADUs shall not be included in the gross density calculations for primarily single-family zoning districts.

[Add] **12.60.070. General Development Standards**

The development standards set forth in this Section shall apply to any Internal ADU that is created or established within the City. The purposes of these development standards are to ensure that the Internal ADU is clearly and distinctly an accessory use and internally located as part of the approved primary single-family dwelling use located on the property.

(a) *Creation.* An Internal ADU shall only be established through the following methods:

- (1) Converting existing living area, attic, basement, or other area of a primary single-family dwelling. The conversion of the primary single-family dwelling's garage space is prohibited without providing the required parking stalls in another appropriately City approved location;
- (2) Adding floor area to the primary single-family dwelling; or
- (3) Integrating an Internal ADU into the design plan for new construction of a primary single-family dwelling.

(b) *Minimum Lot Size.* The minimum lot size for establishing an Internal ADU shall be 6,000 square feet or more within a primary single-family dwelling.

(c) *Setbacks.*

An Internal ADU created within or attached to the primary single-family dwelling shall meet the applicable front, side, and rear yard setbacks for “*main buildings*” as listed in the development standards of the respective zone.

(d) *Heights.*

An Internal ADU created within or attached to the primary single-family dwelling shall meet the applicable height requirement for primary or main buildings as listed in the development standards of the respective zone.

(e) *Parking.* At least one additional parking space shall be provided for an Internal ADU; provided, however that the existing parking requirements for the primary single-family dwelling are to remain in place or restored if missing. The Internal ADU parking space may be located in tandem with other required parking spaces. All required parking spaces must be located behind the front yard setback line of the lot.

(f) *Bulk Yard Area Limitation.* The combined building footprint coverage of a lot area for the primary single-family dwelling and the Internal ADU shall not exceed the impervious surface allowance for the respective zoning district in which it is located.

[Add]

12.60.080. Design Standards

The design standards set forth in this Section are to apply to any Internal ADU that is created or established within the City. The purposes of these design standards are to ensure Internal ADU compatibility with the general pattern, character, and livability of Centerville’s typical low density single-family neighborhoods.

(a) *Exterior Finish Materials.* The exterior finish materials should be compatible with, or visually appear to be harmonious with the type, size, and colors of the finish materials utilized on the primary single-family dwelling on the lot or parcel.

(b) *Location of Entrances.* Only one additional entrance may be located on the wall facade that can be viewed from the public street directly adjacent to the same lot or parcel in which the Internal ADU is located. All other entrances must be located on wall facades facing interior to the lot.

(1) *Ground Entrance Restrictions.* Ground entrances and coverings are prohibited on a wall facade facing a perimeter lot line, unless such wall facade is at least 10 feet from a perimeter lot line and such coverings are located at least 6 feet from any perimeter lot line.

(2) *Upper Story Entrance Restrictions.* Upper story entrances and coverings (*e.g., access from balconies and decks*) having no other ground entrances are

prohibited on a wall façade facing a perimeter lot line unless such wall façade is located 10 feet from the perimeter lot line and such coverings are located at least 6 feet from any perimeter lot line.

- (c) *Roof Pitch.* The roof pitch should be compatible or visually appear to be harmonious with the roof pitch style of the primary single-family dwelling on the lot or parcel in which the ADU is located.
- (d) *Windows.* Windows should be compatible or visually appear to be harmonious in proportion (*i.e., width to height*) and orientation (*i.e., horizontal, or vertical*) to windows used for the primary single-family dwelling.
- (e) *Eaves.* Building eaves for Internal ADUs should meet one of the following designs:
- (1) The eaves are to project from the walls the same distance as the eaves on the primary single-family dwelling.
 - (2) The eaves are to project from the walls at least one foot on all elevations.
 - (3) If the primary single-family dwelling style has no eaves, then eaves are not required for the Internal ADU.
- (f) *Design.* The Internal ADU shall be designed and maintained in a manner that does not change the appearance of the primary single-family dwelling.
- (g) *Exceptions.* If there is a conflict between these design standards and the adopted Construction Codes of the City, then the applicable Construction Code shall govern that particular design element.

[Add]

12.60.090. Occupancy Requirements, Licenses, and Owner Affidavits

The occupancy requirements set forth in this Section shall apply to any ADU that is created or established within the City. The purposes of these occupancy requirements are to accommodate internal secondary separated living quarters (*i.e., dwelling unit*) with reasonable limitations on their use and to minimize the impact on neighboring properties and the desired setting of the City's single-family neighborhoods.

- (a) *Definitions and Terms.* The following definitions or terms are applicable to the creation and use of Internal ADUs;
- (1) *Owner.* An owner is defined as a person occupying the premises as their sole primary residence and having at least 50% or greater ownership interest in the property.
 - (2) *Full-Time Residency.* Full-time residency means the owner must live in a dwelling for at least six months of each calendar year.

- (3) *Internal ADU Occupation.* The Internal ADU is exclusively used for other family members or for long-term rental with a minimum rental period of 30 days or more.
 - (4) *Owner Occupancy Affidavit.* A signed and notarized owner-occupancy acknowledgement for the property for sanctioning an Internal ADU and filed with the City Recorder’s Office and/or recorded at the Davis County Recorder’s Office.
 - (5) *Temporary Owner Absence Waiver.* An approval granting a waiver of the occupancy requirement due to specific short-term or temporary absences.
- (b) *Full Time Owner Residency.* Either the primary single-family dwelling or the Internal ADU is to be occupied by a full-time residency property owner as shown on the Davis County Tax Assessment rolls.
- (c) *Owner Occupancy Affidavit and License.* An Internal ADU owner must apply for an Internal ADU License and sign an “owner occupancy affidavit” with the City and have it filed with the City Recorder and/or recorded at the Davis County Recorder’s Office prior to receiving authorization of constructing and/or use of an Internal ADU. Such license and affidavit shall at minimum establish the following:
- (1) That he/she/they are owner(s) of the property located in Centerville, Utah.
 - (2) That he/she/they applied and intend to receive approval to construct or use an Internal ADU pursuant to Centerville City ordinances.
 - (3) That the owner(s) of the property confirm that the Internal ADU will be used for the purpose of offering a long-term rental of at least 30 days or more to any occupant of the Internal ADU.
 - (4) That an owner with at least a 50% interest in the property will occupy either the primary single-family dwelling or Internal ADU for six months of each calendar year, except where a “temporary owner absence waiver” is granted in accordance with Subsection (d).
 - (5) That if the owner(s) of property are unable or unwilling to fulfill the requirements for use of an Internal ADU, then the owners agree to remove one or more features that make it an Internal ADU, including but not limited to living areas, sleeping areas, or kitchen facilities, including electrical, gas, or plumbing and further agree to terminate, in writing, the Internal ADU permit and approval.
 - (6) That the license and affidavit shall run with the land and be binding upon all owners, heirs, and assigns, and upon all parties acquiring any right, title, or interest in the property.
 - (7) That the owners and their heirs, successors, and assigns will inform all

prospective purchasers of the property of the terms and conditions of the permit authorizing the ADU.

- (d) *Recorded Notice of Internal ADU.* On or after October 1, 2021, the City may record against the property a notice of any approved Internal ADU in the Davis County Recorder’s Office in accordance with Utah Code § 10-9a-530(6).
- (e) *Temporary Owner Absence Waiver.* The owner(s) shall comply with the Full-Time Owner Residency Requirements, or such absence or abandonment shall terminate the Internal ADU permit, as approved by the City. Nonetheless, an owner may receive a one-time waiver of the occupancy requirement upon submitting in writing evidence showing good cause of temporary absence, such as:
- (1) A job re-location;
 - (2) Military assignment;
 - (3) Medical or other care of others;
 - (4) Sabbatical leave;
 - (5) Educational pursuits; or
 - (6) Personal Illness.

A one-time waiver of the occupancy requirement will then be authorized, by the City’s Zoning Administrator, up to a maximum of three years and one month. Thereafter, if not re-occupied by the property owner, then the Internal ADU permit shall be deemed null and void and one or more features constituting the Internal ADU shall be removed immediately, upon notice from Centerville City, or the property will subject to applicable enforcement measures.

[Add] **12.60.100. Violations and Enforcement.**

The applicable enforcement procedures for violations of these Internal ADU ordinance provisions shall be subject to the civil or criminal penalties of CZC 12.23 (Enforcement). Additionally, the City may utilize the enforcement provisions of Utah Code § 10-9a-530 (Internal Accessory Dwelling Units) regarding violations and holding liens against the property.

[Add] **12.60.110 Other Applicable Regulations and Codes**

The creation and use of Internal ADUs are subject to other pertinent codes, restrictions, and regulations that address applicable life, safety, and welfare concerns. Any Internal ADU shall comply with the following:

- (a) *Construction and Fire Codes.* An Internal ADU shall be subject to all related

regulations regarding the building construction and fire codes, as adopted by the City and State.

- (b) *Utilities and Charges.* An Internal ADU shall provide the necessary utilities and services such as, but not limited to, sewer, water, gas, electricity, and garbage collection. All City provided utilities shall be established in the property owner(s) name and the property owner shall be responsible for the payment of such utility services.
- (c) *Development and Impact Fees.* Internal ADUs meeting the development standards of this Title shall be exempt from payment of additional impact fees beyond the establishment of the primary single-family dwelling for the property.
- (d) *Street Addressing.* An Internal ADU will not be given a new distinct address by the City. Such Internal ADUs may refer mail/parcel packages to be delivered separately by the same address as the primary building using a subsidiary numerical or alphabetical reference (e.g., 1390 West #A), as approved by the Public Works Director, local postmaster, and emergency service agencies, or by securing a separate postal box.
- (e) *Second Kitchen in Single-Family Dwelling.* An Internal ADU is separate and distinct from a second kitchen authorization pursuant to CZC 12.55.160. If a property owner has an approved second kitchen that the property owner wants to convert into or eliminate to allow for an Internal ADU, the property owner shall notify the City of the second kitchen authorization as part of the application process for approval of an Internal ADU. Any document recorded against the property regarding conversion of or limitations on the second kitchen shall be vacated or removed from the property title prior to approval or as a condition of approval of the Internal ADU.

Related Zoning Ordinance Amendments

Chapter 12.12. Definitions

- [Edit] Dwelling, Single-Family, with Internal Accessory ~~Apartment~~ **Dwelling Unit (Internal ADU):** A **lot, parcel, or tract of land** ~~building~~ having only one **primary** single-family dwelling unit and one **internal** accessory dwelling unit.
- [Add] Internal Accessory Dwelling Unit (Internal ADU): See definition of Internal Accessory Dwelling Unit (Internal ADU) as more particularly set forth in CZC 12.60.030.
- [Add] Dwelling, Primary or Primary Single-Family Dwelling: See definition of Primary Dwelling

or Primary Single-Family Dwelling as more particularly set forth in CZC 12.60.030.

Chapter 12.36. Table of Uses

[Edit] [Residential Uses] Dwelling, Single-Family, with **Internal** Accessory ~~Apartment~~ **Dwelling**
Unit (Internal ADU) – Strike **“N”** and list as a permitted use **“P”** in the A-L, R-L, and R-M
Zones.