

# Accessory Dwellings (ADU's) and other dwelling types

NOTE: This summary is very simplified, and is provided for informational purposes. Any questions on this topic should be directed to The Office of the Property Rights Ombudsman.

## › **What is an Accessory Dwelling Unit (ADU)?**

### ✓ **Can local governments regulate ADU's?**

For the most part, state law delegates the authority of the state to regulate land use in general to local municipalities and counties, and allows local jurisdictions to enact their own zoning laws according to local policy and preference. But where the state legislature has directly spoken to a particular topic by legislation, state law controls and local land use regulations must conform with state law. [See Utah's Land Use, Development, and Management Act \(LUDMA\)](#).

State law considers the allowance for internal or detached ADU's in residential zones to be among the possible strategies for moderate income housing, and is included in a list of things a local government can include in its general plan to meet the required moderate income housing element. See Utah Code Sections [10-20-404 \(for municipalities\)](#), and [17-79-403 \(for counties\)](#).

Local land use regulations may both define and allow or prohibit ADU's according to local ordinance. However, the ability to regulate Internal ADU's is provided by state law, and local ordinances must comply with state law regarding Internal ADU regulations. See [dropdown below](#).

## ✓ What is an Internal Accessory Dwelling Unit (IADU or Internal ADU)?

An **Internal Accessory Dwelling Unit (IADU or Internal ADU)** is a particular kind of ADU that is regulated by state law. Specifically, it is defined to mean an ADU created within a primary dwelling for the purpose of offering a long-term rental of 30 consecutive days or longer; however, this only applies to a primary dwelling that is a detached, single-family home occupied as the primary residence of the owner of record, and where the IADU is within the footprint of the primary dwelling at the time the IADU is created. See Utah Code Sections 10-21-303 (for municipalities), and 17-80-303 (for counties).

State law provides that an IADU is a permitted use in any area zoned primarily for residential use in a county or municipality, subject to certain restrictions.

IADU's must comply with all applicable building, health, and fire codes. However, construction of an Internal ADU is not subject to impact fees. See Utah Code Section 11-36a-202.

No IADU zones - A municipality can prohibit the creation of Internal ADU's within a zoning district covering an area equivalent to 25% or less of the total area zoned primarily for residential use (or 67% or less for municipalities that have a university within its limits and a student population of 10,000 or more).

If enacted by ordinance, local governments may place certain restrictions on Internal ADU's, including prohibiting IADU's on lots smaller than 6,000 square feet, requiring that the IADU be designed so as to not change the appearance of the primary dwelling, requiring certain additional parking for the IADU, requiring a permit or license to rent an IADU, and/or prohibiting short-term rental (30 days or less) of IADU's, among others. See Utah Code Sections 10-21-303 (for municipalities), and 17-80-303 (for counties).

Where an Internal ADU would not violate a local land use ordinance or building, health, or fire code, renting an Internal ADU may also not be prohibited by any private community association by CC&R or HOA rule.

Please contact the Ombudsman's office if you have a particular question about Internal ADU's.

> **What is a Tiny Home or Tiny House?**

> **What is a Yurt?**

> **Cases on ADU's**

> **Potential Resources**

> **Related Topics**

Legal Topics

**Effective 11/6/2025**

**57-8a-209 Rental restrictions.**

- (1)
  - (a) Subject to Subsections (1)(b), (5), (6), and (10), an association may:
    - (i) create restrictions on the number and term of rentals in an association; or
    - (ii) prohibit rentals in the association.
  - (b) Except as provided in Subsection (1)(c), an association that creates a rental restriction or prohibition in accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a recorded declaration of covenants, conditions, and restrictions, or by amending the recorded declaration of covenants, conditions, and restrictions.
  - (c) An association may establish, by rule, a minimum lease term of six months or less.
- (2) If an association prohibits or imposes a restriction on the number and term of rentals or charges a fee described in Subsection (9)(c), the association shall:
  - (a) exempt the following from the prohibition, restriction, or fee:
    - (i) a lot owner in the military for the period of the lot owner's deployment;
    - (ii) a lot occupied by a lot owner's parent, child, or sibling;
    - (iii) a lot owner whose employer has relocated the lot owner for two years or less;
    - (iv) a lot owned by an entity that is occupied by an individual who:
      - (A) has voting rights under the entity's organizing documents; and
      - (B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or
    - (v) a lot owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for:
      - (A) the estate of a current resident of the lot; or
      - (B) the parent, child, or sibling of the current resident of the lot;
  - (b) allow a lot owner who has a rental in the association before the time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of the county in which the association is located to continue renting without a fee described in Subsection (9)(c) until:
    - (i) the lot owner occupies the lot;
    - (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the lot, occupies the lot; or
    - (iii) the lot is transferred; and
  - (c) create, by rule or resolution, procedures to:
    - (i) determine and track the number of rentals and lots in the association subject to the provisions described in Subsections (2)(a) and (b); and
    - (ii) ensure consistent administration and enforcement of any rental prohibition, restriction, or fee.
- (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the following occur:
  - (a) the conveyance, sale, or other transfer of a lot by deed;
  - (b) the granting of a life estate in the lot; or
  - (c) if the lot is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.
- (4) This section does not limit or affect residency age requirements for an association that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

- (5) A declaration of covenants, conditions, and restrictions or amendments to the declaration of covenants, conditions, and restrictions recorded before the transfer of the first lot from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (2).
- (6)
  - (a) Subsections (1) through (5) do not apply to:
    - (i) an association that contains a time period unit as defined in Section 57-8-3;
    - (ii) any other form of timeshare interest as defined in Section 57-19-2; or
    - (iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009, unless, on or after May 12, 2015, the association:
      - (A) adopts a rental restriction or prohibition; or
      - (B) amends an existing rental restriction or prohibition.
  - (b) An association that adopts a rental restriction or amends an existing rental restriction or prohibition before May 9, 2017, is not required to include the exemption described in Subsection (2)(a)(iv).
- (7) Notwithstanding this section, an association may restrict or prohibit rentals without an exception described in Subsection (2) if:
  - (a) the restriction or prohibition receives unanimous approval by all lot owners; and
  - (b) when the restriction or prohibition requires an amendment to the association's recorded declaration of covenants, conditions, and restrictions, the association fulfills all other requirements for amending the recorded declaration of covenants, conditions, and restrictions described in the association's governing documents.
- (8) Except as provided in Subsection (9), an association may not require a lot owner who owns a rental lot to:
  - (a) obtain the association's approval of a prospective renter;
  - (b) give the association:
    - (i) a copy of a rental application;
    - (ii) a copy of a renter's or prospective renter's credit information or credit report;
    - (iii) a copy of a renter's or prospective renter's background check; or
    - (iv) documentation to verify the renter's age;
  - (c) pay an additional assessment, fine, or fee because the lot is a rental lot;
  - (d) use a lease agreement provided by the association; or
  - (e) obtain the association's approval of a lease agreement.
- (9)
  - (a) A lot owner who owns a rental lot shall give an association the documents described in Subsection (8)(b) if the lot owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.
  - (b) If an association's declaration of covenants, conditions, and restrictions lawfully prohibits or restricts occupancy of the lots by a certain class of individuals, the association may require a lot owner who owns a rental lot to give the association the information described in Subsection (8)(b), if:
    - (i) the information helps the association determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions; and
    - (ii) the association uses the information to determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions.
  - (c) An association that permits at least 35% of the lots in the association to be rental lots may charge a lot owner who owns a rental lot a fee of up to \$200 once every 12 months to defray

- the association's additional administrative expenses directly related to a lot that is a rental lot, as detailed in a notice described in Subsection (12).
- (d) An association may require a lot owner who owns a rental lot and the renter of the lot owner's rental lot to sign an addendum to a lease agreement provided by the association.
  - (e) Before an association may charge a fee described in Subsection (9)(c), an association shall:
    - (i) provide notice to each lot owner in the association of a board meeting described in Subsection (9)(e)(ii) 15 days before the day on which the association holds the board meeting;
    - (ii) hold a board meeting to discuss and allow lot members to publicly comment on:
      - (A) the new administrative expenses that the association intends to cover using the funds from the fee; and
      - (B) the circumstances that require the association to impose or increase the fee; and
    - (iii) ensure that during the board meeting described in Subsection (9)(e)(ii), the board approves the fee by a majority vote.
- (10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the rental of an internal accessory dwelling unit, as defined in Section 10-21-101 or 17-80-101, constructed within a lot owner's residential lot, if the internal accessory dwelling unit complies with all applicable:
- (a) land use ordinances;
  - (b) building codes;
  - (c) health codes; and
  - (d) fire codes.
- (11) The provisions of Subsections (8) through (10) apply to an association regardless of when the association is created.
- (12) Within 30 days after the day on which the association imposes a fee described in Subsection (9)(c), an association shall provide to each lot owner impacted by the fee a notice describing:
- (a) the new administrative expenses that the association intends to cover using the funds from the fee; and
  - (b) the circumstances that require the association to impose or increase the fee.
- (13)
- (a) A lot owner may contest a fee described in Subsection (9)(c) by providing to the association a written request that the association waive the fee if:
    - (i) the association fails to provide the notice described in Subsection (12) within 30 days after the day on which the association imposes the fee; or
    - (ii) the notice the association provides to the lot owner does not contain the information required in Subsection (12).
  - (b) If a lot owner contests a fee under this Subsection (13) by submitting a written request, an association of lot owners shall waive the fee if:
    - (i) the association does not provide the notice described in Subsection (12) to the lot owner; or
    - (ii) a notice provided by the association does not contain the information required in Subsection (12).
- (14)
- (a) A lot owner of a rental lot may designate, in a written notice to the association, a primary contact individual who is not the lot owner with whom the association may communicate as though the primary contact individual is the lot owner.
  - (b) If a lot owner designates a primary contact individual under this Subsection (14), the association shall provide the lot owner a written notice that confirms the association has

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changed the association's records to identify the primary contact individual designated by the lot owner.

Amended by Chapter 15, 2025 Special Session 1

**Effective 11/6/2025**

**10-21-303 Internal accessory dwelling units.**

- (1) In any area zoned primarily for residential use:
  - (a) the use of an internal accessory dwelling unit is a permitted use;
  - (b) except as provided in Subsections (2) and (3), a municipality may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:
    - (i) the size of the internal accessory dwelling unit in relation to the primary dwelling;
    - (ii) total lot size;
    - (iii) street frontage; or
    - (iv) internal connectivity; and
  - (c) a municipality's regulation of architectural elements for internal accessory dwelling units shall be consistent with the regulation of single-family units, including single-family units located in historic districts.
- (2) An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes.
- (3) A municipality may:
  - (a) prohibit the installation of a separate utility meter for an internal accessory dwelling unit;
  - (b) require that an internal accessory dwelling unit be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling;
  - (c) require a primary dwelling:
    - (i) regardless of whether the primary dwelling is existing or new construction, to include one additional on-site parking space for an internal accessory dwelling unit, in addition to the parking spaces required under the municipality's land use regulation, except that if the municipality's land use ordinance requires four off-street parking spaces, the municipality may not require the additional space contemplated under this Subsection (3)(c)(i); and
    - (ii) to replace any parking spaces contained within a garage or carport if an internal accessory dwelling unit is created within the garage or carport and is a habitable space;
  - (d) prohibit the creation of an internal accessory dwelling unit within a mobile home as defined in Section 57-16-3;
  - (e) require the owner of a primary dwelling to obtain a permit or license for renting an internal accessory dwelling unit;
  - (f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area that is equivalent to:
    - (i) 25% or less of the total area in the municipality that is zoned primarily for residential use, except that the municipality may not prohibit newly constructed internal accessory dwelling units that:
      - (A) have a final plat approval dated on or after October 1, 2021; and
      - (B) comply with applicable land use regulations; or
    - (ii) 67% or less of the total area in the municipality that is zoned primarily for residential use, if the main campus of a state or private university with a student population of 10,000 or more is located within the municipality;
  - (g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a failing septic tank;
  - (h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;
  - (i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;

- (j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;
  - (k) hold a lien against a property that contains an internal accessory dwelling unit in accordance with Subsection (4); and
  - (l) record a notice for an internal accessory dwelling unit in accordance with Subsection (5).
- (4)
- (a) 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:
    - (i) the owner of the property violates any of the provisions of this section or any ordinance adopted under Subsection (3);
    - (ii) the municipality provides a written notice of violation in accordance with Subsection (4)(b);
    - (iii) the municipality holds a hearing and determines that the violation has occurred in accordance with Subsection (4)(d), if the owner files a written objection in accordance with Subsection (4)(b)(iv);
    - (iv) the owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection (4)(b);
    - (v) the municipality provides a written notice of lien in accordance with Subsection (4)(c); and
    - (vi) the municipality records a copy of the written notice of lien described in Subsection (4)(a)(v) with the county recorder of the county in which the property is located.
  - (b) The written notice of violation shall:
    - (i) describe the specific violation;
    - (ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation that is:
      - (A) no less than 14 days after the day on which the municipality sends the written 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 30 consecutive days; or
      - (B) no less than 30 days after the day on which the municipality sends the written notice of violation, for any other violation;
    - (iii) state that if the owner of the property fails to cure the violation within the time period described in Subsection (4)(b)(ii), the municipality may hold a lien against the property in an amount of up to \$100 for each day of violation after the day on which the opportunity to cure the violation expires;
    - (iv) notify the owner of the property:
      - (A) that the owner may file a written objection to the violation within 14 days after the day on which the written notice of violation is post-marked or posted on the property; and
      - (B) of the name and address of the municipal office where the owner may file the written objection;
    - (v) be mailed to:
      - (A) the property's owner of record; and
      - (B) any other individual designated to receive notice in the owner's license or permit records; and
    - (vi) be posted on the property.
  - (c) The written notice of lien shall:
    - (i) comply with the requirements of Section 38-12-102;
    - (ii) state that the property is subject to a lien;
    - (iii) specify the lien amount, in an amount of up to \$100 for each day of violation after the day on which the opportunity to cure the violation expires;
    - (iv) be mailed to:

- (A) the property's owner of record; and
- (B) any other individual designated to receive notice in the owner's license or permit records; and
- (v) be posted on the property.
- (d)
  - (i) If an owner of property files a written objection in accordance with Subsection (4)(b)(iv), the municipality shall:
    - (A) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, to conduct a review and determine whether the specific violation described in the written notice of violation under Subsection (4)(b) has occurred; and
    - (B) notify the owner in writing of the date, time, and location of the hearing described in Subsection (4)(d)(i)(A) no less than 14 days before the day on which the hearing is held.
  - (ii) If an owner of property files a written objection under Subsection (4)(b)(iv), a municipality may not record a lien under this Subsection (4) until the municipality holds a hearing and determines that the specific violation has occurred.
  - (iii) If the municipality determines at the hearing that the specific violation has occurred, the municipality may impose a lien in an amount of up to \$100 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.
- (e) If an owner cures a violation within the time period prescribed in the written notice of violation under Subsection (4)(b), the municipality 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 under Subsection (4)(b).
- (5)
  - (a) A municipality that issues, on or after October 1, 2021, 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 recorder of the county in which the primary dwelling is located.
  - (b) The notice described in Subsection (5)(a) shall include:
    - (i) a description of the primary dwelling;
    - (ii) a statement that the primary dwelling contains an internal accessory dwelling unit; and
    - (iii) a statement that the internal accessory dwelling unit may only be used in accordance with the municipality's land use regulations.
  - (c) The municipality shall, upon recording the notice described in Subsection (5)(a), deliver a copy of the notice to the owner of the internal accessory dwelling unit.

Renumbered and Amended by Chapter 15, 2025 Special Session 1