ORDINANCE NO. 2021-10-O

AN ORDINANCE OF THE CITY COUNCIL OF LINDON CITY, UTAH COUNTY, UTAH, AMENDING TITLE 17.46 ACCESSORY APARTMENT ZONING ORDINANCE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, during the 2021 Utah Legislative session the Utah Legislature adopted House Bill 82. The bill requires municipalities to classify Internal Accessory Dwelling Units as permitted land uses in an area zoned primarily for residential use in primary dwellings (single family dwellings) with limited exceptions; and

WHEREAS, the City Council is authorized by state law to enact and amend ordinances establishing land use regulations; and

WHEREAS, the proposed amendment is consistent with the goal of the General Plan that a variety of housing types should be provided where appropriate, and innovative development patterns and building methods that will result in more affordable housing being encouraged; and

WHEREAS, on July 13, 2021 the Planning Commission held a properly noticed public hearing to hear testimony regarding the ordinance amendment; and

WHEREAS, after the public hearing, the Planning Commission further considered the proposed ordinance amendment and recommended that the City Council adopted the attached ordinance; and

WHEREAS, the City Council held a public hearing on August 16, 2021, to consider the recommendation and the City Council received and considered all public comments that were made therein.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lindon, Utah County, State of Utah, as follows:

SECTION I: Amendment. Amend Lindon City Code Section 17.46 as follows:

Definitions - 17.46.015

Accessory Dwelling Unit – as defined by Utah Code 10-9a-530 or as may be amended

Internal Accessory Dwelling Unit – as defined by Utah Code 10-9a-530 or as may be amended

Primary Dwelling – as defined by Utah Code 10-9A-530 or as may be amended

17.46.100 Accessory apartments.

This section establishes requirements and regulations regarding accessory apartments.

1. Purpose Statement. It is the intent of this section to allow accessory apartments in conjunction with owner occupied single-family homes in primarily residential zones ~~where such single-family homes were not approved as part of an R2 Overlay project.~~ The purpose of the accessory apartment provisions is to:

a. Provide a mix of housing options that responds to changing family needs and smaller households;

b. Offer a means for residents, ~~particularly~~ seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship, and services;

c. Provide a broader range of affordable housing;

d. Create new housing units within existing residential zones ~~while respecting the look and scale of single family dwelling development within Lindon.~~

2. *General Requirements for All Accessory Apartments.*

a. *Location.* Accessory apartments shall be allowed only in conjunction with an owner occupied primary single-family dwellings and where such single-family dwelling was not approved as part of an R2 Overlay Project. The City prohibits accessory apartments for lots 6,000 square feet or less and in the areas adopted on the Lindon City Accessory Apartment Map. The prohibited areas identified in the Lindon City Accessory Apartment Map are adopted and incorporated into this section and the map maybe amended by ordinance and are equal to less than the twenty-five percent of primarily residential areas as allowed by Utah Code 10-9a-530 or as may be amended. ~~but shall not be approved in conjunction with other R2 Overlay projects or the Anderson Farms Planned Development zone as found in Section 17.41.150.~~

b. *Number of Accessory Apartments.* A maximum number of one (1) accessory apartment shall be allowed in conjunction with each owner-occupied single-family dwelling.

c. *Parking.*

i. *Parking for Internal Accessory Apartments.* An internal ~~single family dwelling with an~~ accessory apartment shall provide one off-street parking stall ~~at least four (4) total off street parking stalls~~ (two (2) for the single-family dwelling and one (1) ~~two (2)~~ for the accessory apartment). Parking stalls within a garage or carport utilized by the single-family dwelling shall not count toward the one (1) ~~two (2)~~ additional required parking stalls for the accessory apartment, or vice versa, unless the garage is sized for more than two (2) vehicles and an accessible route from the garage parking to the accessory apartment can be maintained. Parking for an internal accessory parking shall not be located in the front setback. Parking areas and driveways shall be provided with a dustless, hard surface material such as asphalt, concrete, compacted gravel, masonry, or concrete pavers. A path, sidewalk, or walkway shall be provided from the accessory apartment entrance to the required accessory apartment off-street parking stalls. Any parking spaces contained within a garage or carport shall be replaced if an Internal Accessory Dwelling Unit is created with the garage or carport.

ii. Parking for Detached and Substantially Attached Accessory Apartments. A single-family dwelling with ~~an~~ detached accessory apartment shall provide at least four (4) total off-street parking stalls (two (2) for the single-family dwelling and two (2) for the accessory apartment). Parking stalls within a garage or carport utilized by the single-family dwelling shall not count toward the two (2) additional required parking stalls for the accessory apartment, or vice versa, unless the garage is sized for more than two (2) vehicles and an accessible route from the garage parking to the accessory apartment can be maintained. Not more than one (1) of the designated accessory apartment parking stalls may be located within the front yard setback. Tandem (end-to-end) parking in a side yard may be acceptable for the required parking. Parking areas and driveways shall be provided with a dustless, hard surface

material such as asphalt, concrete, compacted gravel, masonry, or concrete pavers. A path, sidewalk, or walkway shall be provided from the accessory apartment entrance to the required accessory apartment off-street parking stalls.

d. *Size Restrictions.* Internal accessory apartments shall not have a size restriction. The size of ~~an~~ a detached accessory apartment shall be at least three hundred (300) square feet and shall not contain more than three (3) bedrooms.

e. *Building, fire, and health Codes.* All construction and remodeling shall comply with building, fire and health codes in effect at the time of construction or remodeling, with the exception of requirements as found Utah Code 15a-3 or as may be amended. Upon issuance of the accessory apartment building permit, the applicant shall pay fees in accordance with the currently adopted Lindon City fee schedule. Before the permit is issued the applicant shall:

i. 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, and the location of parking stalls.

ii. Include detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses and other criteria required by the chief building official.

f. *Accessory Apartment Design ~~Building Entrances~~*

i. *Detached Accessory Apartment Building Entrances.* ~~A single family dwelling approved with an accessory apartment shall not have a separate entrance at the front of the building or side of the building facing the street where the sole purpose of the entrance is to provide access to the accessory apartment.~~ Entrances to detached accessory apartments shall also not face a street unless the detached accessory apartment is placed behind the primary residence so that the entrance is not substantially visible from the street. The purpose of this requirement is to preserve the single-family residential appearance of the single-family dwelling and/or the detached accessory apartment.

ii. *Internal Accessory Apartment.* The units shall be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling.

g. New or existing garages and accessory buildings substantially attached to the main dwelling by covered walkways, covered breezeways, and covered porches may include an accessory apartment. In such instances, the garage/accessory building shall not be more than a distance of eighteen feet (18') from the main dwelling unit measured linearly between the foundation lines of the two (2) structures, and the apartment may not exceed sixty percent (60%) of the footprint of the primary residence livable floor area, but in no case shall it exceed one thousand two hundred (1,200) square feet of maximum livable floor area.

h. *Apartment Address.* The address of the accessory apartment shall be clearly posted so as to be seen from the public street.

i. *Ownership.* An accessory apartment shall not be sold separately, or subdivided from the principal dwelling unit, parcel, or lot.

3. *Additional Requirements for Detached Accessory Apartments.*

a. *Height Restrictions.* Detached accessory apartments are limited to two (2) stories above grade with a maximum height not to exceed the height of the primary residence or thirty feet (30') high~~, whichever is less~~. Building height is determined by averaging the measurements of the four (4) corners of the structure from finished grade to the highest point of the roof structure. The planning director and chief building official shall be responsible for designating and identifying the four (4) corners of a structure and determining building height.

b. *Setbacks.* A detached accessory apartment must meet the same setbacks as the primary residence for the underlying zone in which it is located, except that it shall be set back at least ten feet (10') further from a front-facing façade of the primary residence which faces a street. Detached accessory apartments on the street-side yard of corner lots are only required to be set back ten feet (10') further than the front-facing façade of the primary residence. No additional setback applies to street-side yard areas. See Table 17.46B. If a deck is constructed on the second story, the building setback will be measured from the deck.

c. *Size Limit.* The detached accessory apartment may be attached to or part of other accessory structures, but in no case shall the maximum livable floor area of the detached accessory apartment exceed one thousand five hundred (1,500) square feet or forty percent (40%) of the primary residence, whichever is less. The total livable square footage is calculated for both stories and does not apply separately to each story. Stairways for access to the second story shall be constructed on the interior of the accessory apartment. No exterior staircases shall be constructed unless required by building code. If an accessory apartment is connected to or constructed above a garage, the apartment shall have a separate entrance from the garage area.

d. *Exterior Design.* Architectural features and roofline of the detached accessory apartment shall be designed and constructed to be compatible with the character and materials used on the exterior of the primary residence.

e. *Utilities.* Except for sewer service, all public and private utility services to the detached accessory apartment shall be provided through utility lines which service the primary residence. Additional utility meters, utility laterals, or secondary service hook-ups are not permitted except as approved by the chief building official and/or the public works director in cases where options to provide utilities through the primary residence service laterals are not feasible or cause significant hardship to the applicant.

~~4. *Accessory Apartment Permit.* Any person constructing or causing the construction of a residence that has an accessory apartment or any person remodeling or causing the remodeling of a residence for an accessory apartment, or any person desiring an accessory apartment shall obtain a building permit from the city. Before the permit 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, and the location of parking stalls.

b. Include detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses and other criteria required by the chief building official. (moved to section 2e)

5. The city shall evaluate the permit and shall approve or deny the application based on the criteria as outlined in this section chapter. If the application meets all requirements, the city shall mail notice to owners of record within three hundred feet (300') of the subject property that approval has been given for the accessory apartment. The city shall list the address of the accessory apartment in the notice.

6. Upon issuance of the accessory apartment building permit, the applicant shall pay fees in accordance with the currently adopted Lindon City fee schedule.

4. 7. *Notice.* The City may record a notice, as described in Utah Code 10-9a-530 or as maybe amended, when an accessory apartment is approved. *Affidavit and Agreement Requirements.* The following affidavits and agreements shall be required prior to issuance or final approval of a building permit for an accessory apartment:

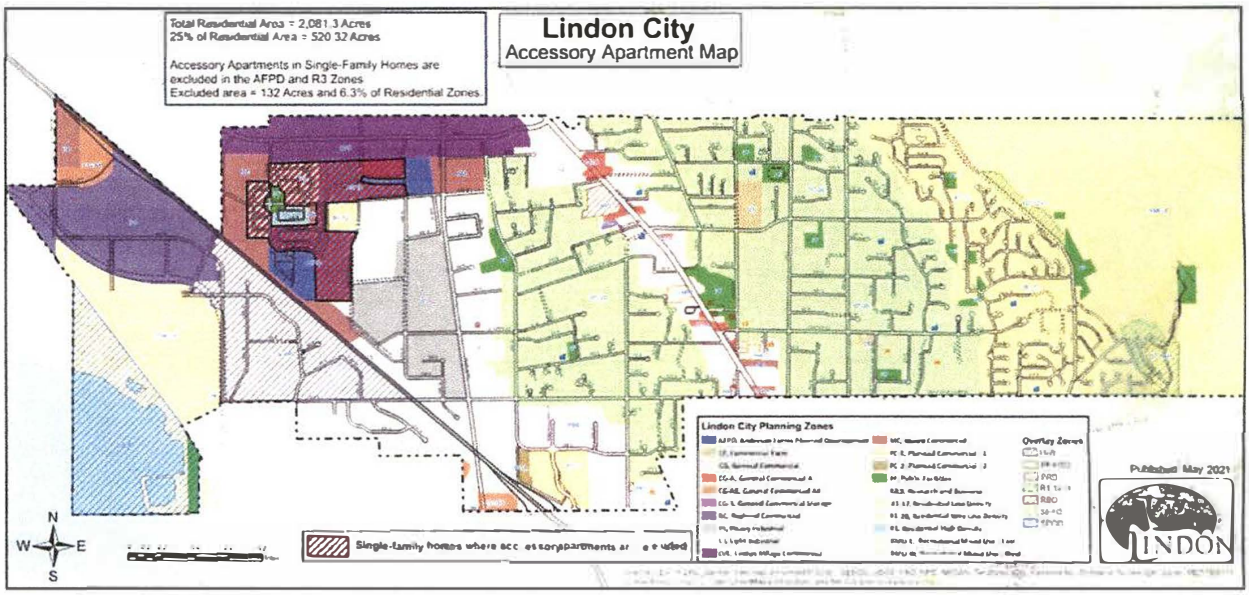
a. The owner of any single family dwelling requesting an accessory apartment shall sign an affidavit therein stating that the primary dwelling and/or the accessory apartment on the lot or parcel will be owner occupied. This affidavit shall be recorded against the property and run with the land and be binding on future successors of the property; and

b. The owner shall provide documentation that the accessory apartment rental rates will meet the "moderate income housing" definition as per Utah Code Annotated 1953. On a form approved by the city, a certification regarding the owner's understanding of the moderate income housing requirements and an agreement to abide by said requirements shall be signed by the owner and recorded against the property and shall run with the land and be binding on future successors of the property.

c. The provisions of Subsection 17.46.100(7)(b) above shall apply to any accessory apartment which was approved by Lindon City after February 1, 2012. (Ord. 2020-14 § 1, amended, 2020; Ord. 2019-6 §1, amended, 2019; Ord. 2012-2, amended, 2012; Ord. 2008-6, amended, 2008; Ord. 2008-1, amended, 2008; Ord. 2001-10, amended, 2001; Ord. 2000-13, amended, 2000; Ord. 99-22, amended, 2000; Ord. 98-13, amended, 2000)

5. Enforcement. In addition to any other legal or equitable remedies available to Lindon City, the City may hold a lien against a property that contains an Internal Accessory Dwelling Unit as provided for in Utah Code 10-9a-530 or as may be amended.

6. Accessory Apartment Map. The below map is adopted as part of this code and is also on file with Lindon City.



SECTION II: The provisions of this ordinance and the provisions adopted or incorporated by reference are severable. If any provision of this ordinance is found to be invalid, unlawful, or unconstitutional by a court of competent jurisdiction, the balance of the ordinance shall nevertheless be unaffected and continue in full force and effect.

SECTION III: Provisions of other ordinances in conflict with this ordinance and the provisions adopted or incorporated by reference are hereby repealed or amended as provided herein.

SECTION IV: This ordinance shall take effect immediately upon its passage and posting as provide by law.

PASSED and ADOPTED and made EFFECTIVE by the City Council of Lindon City, Utah, this 16 day of August, 2021.

Jeff Acerson, Mayor

ATTEST:

Kathryn A. Moosman,

Lindon City Recorder

SEAL

LINDON CITY Seal UTAH COUNTY UTAH

Effective 10/1/2021

10-9a-530 Internal accessory dwelling units.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(2) In any area zoned primarily for residential use:

(a) the use of an internal accessory dwelling unit is a permitted use; and

(b) except as provided in Subsections (3) and (4), 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; or

(iii) street frontage.

(3) An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes.

(4) 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) to include one additional on-site parking space for an internal accessory dwelling unit, regardless of whether the primary dwelling is existing or new construction; 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;

(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; 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 (5); and

(l) record a notice for an internal accessory dwelling unit in accordance with Subsection (6).

(5)

(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 (4);

(ii) the municipality provides a written notice of violation in accordance with Subsection (5)(b);

(iii) the municipality holds a hearing and determines that the violation has occurred in accordance with Subsection (5)(d), if the owner files a written objection in accordance with Subsection (5)(b)(iv);

(iv) the owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection (5)(b);

(v) the municipality provides a written notice of lien in accordance with Subsection (5)(c); and

(vi) the municipality records a copy of the written notice of lien described in Subsection (5)(a)(iv) 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 (5)(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 (5)(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 (5)(b) has occurred; and

(B) notify the owner in writing of the date, time, and location of the hearing described in Subsection (5)(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 (5)(b)(iv), a municipality may not record a lien under this Subsection (5) 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 (5)(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 (5)(b).

(6)

(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 (6)(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.

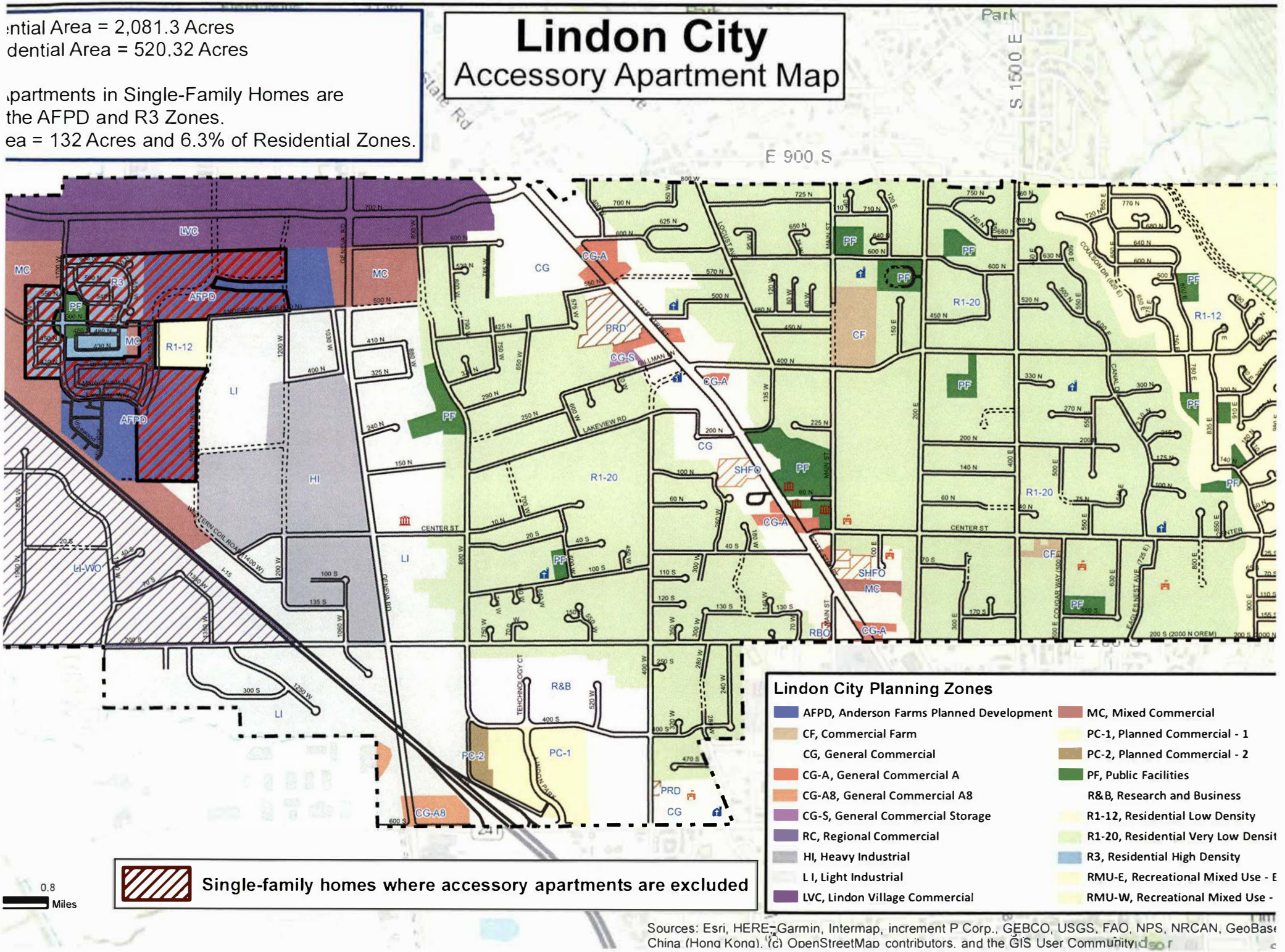
(c) The municipality shall, upon recording the notice described in Subsection (6)(a), deliver a copy of the notice to the owner of the internal accessory dwelling unit.

Enacted by Chapter 102, 2021 General Session

ntial Area = 2,081.3 Acres
dential Area = 520.32 Acres

partments in Single-Family Homes are
the AFPD and R3 Zones.
ea = 132 Acres and 6.3% of Residential Zones.

Lindon City
Accessory Apartment Map



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

CERTIFICATE OF PASSAGE

STATE OF UTAH }
}ss.
COUNTY OF UTAH }

I, Kathryn A. Moosman, City Recorder of Lindon City, Utah do hereby certify and declare that the above and foregoing is a true, full, and correct copy of an ordinance passed and adopted by the City Council of Lindon City, Utah on the 16th day of August 2021 entitled:

AN ORDINANCE OF THE CITY COUNCIL OF LINDON CITY, UTA COUNTY, UTAH, AMENDING TITLE 17.46 ACCESSORY APARTMENT ZONING ORDINANCE AND PROVIDING FOR AN EFFECTIVE DATE.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of Lindon City, Utah, this 16th day of August, 2021.

Kathryn A. Moosman, City Recorder

(SEAL)

AFFIDAVIT OF POSTING

STATE OF UTAH }
}ss.
COUNTY OF UTAH }

I, Kathryn A. Moosman, City Recorder of Lindon City, Utah do hereby certify and declare that I posted the attached ordinance in three public places on the 17th day of August 2021.

The three public places are as follows:

1. Lindon City Police Department
2. Lindon City Community Development Office
3. Lindon City Center

I further certify that the agenda of the meeting of the City Council containing notice of public hearing was published and posted according to law, and that copies of the ordinance so posted were true and correct copies of the original.

Kathryn A. Moosman

Kathryn A. Moosman, City Recorder

The foregoing instrument was acknowledged before me this 21 day of August, 2021 by Kathryn A. Moosman.

My Commission expires: January 7, 2025

Residing at: Utah County

Notary Public

BRITNI LAIDLER
Notary Public - State of Utah
Comm. No. 716032
My Commission Expires on
Jan 7, 2025