Ordinance No. 2022-10

AN ORDINANCE OF THE CITY COUNCIL OF HURRICANE, UTAH AMENDING SECTION 10-3-4 CHAPTERS 10-41, 10-51-4 AND 10-7-9 OF THE HURRICANE CITY CODE.

WHEREAS the City Council of Hurricane, Utah has previously approved accessory dwelling units in all residential zones throughout the City;

WHEREAS Hurricane City is currently facing a shortage of affordable housing and accessory dwelling units are a way to alleviate some of the shortage;

WHEREAS the City Council now finds it necessary and desirable to amend said ordinances with regards to accessory dwelling units in order to provide for the health safety and welfare of the city residents;

WHEREAS the Planning Commission of Hurricane Utah has recommended the following changes to the Hurricane City Code

BE IT HEREBY ORDAINED by the City Council of Hurricane Utah that Section 10-3-4 and Chapters 10-41, 10-51 and 10-7 of the Hurricane City Code be, and are hereby, amended to read as follows:

10-3-4 DEFINITIONS OF WORDS AND PHRASES

ACCESSORY DWELLING UNIT: A subordinate residential dwelling unit with a separate entrance, kitchen, and full bathroom facilities that is attached to or detached from a single-family structure. All accessory dwelling units must meet the requirements of chapter 41 of this title.

10-41-1: PURPOSE:

The purpose of this chapter is to establish use and development regulations for accessory dwelling units. These regulations are intended to ensure that limited use of accessory dwelling units allowed in a residential zone do not disturb the single-family residential character of a neighborhood. (Ord. 2018-04, 4-5-2018)

10-41-2: SCOPE:

The requirements of this chapter shall apply to all accessory dwelling units in single-family zones. Such requirements shall not be construed to prohibit or limit other applicable provisions of this title, this Code, and other laws. (Ord. 2018-04, 4-5-2018)

10-41-3: PERMITTED USE:

The accessory dwelling units described below shall be allowed as permitted uses in any residential zone, or any other zone in which such uses are permitted uses, subject to the development standards of section 10-41-4 of this chapter. The definition of each use is set forth in chapter 3 of this title.

Accessory dwelling units.

Guesthouse or casita.

Kitchen. (Ord. 2018-04, 4-5-2018)

10-41-4: DEVELOPMENT STANDARDS; PERMITTED USE:

The development standards set forth in this section shall apply to any accessory unit allowed as a permitted use.

A. *Definition; Setbacks and Size*: An accessory dwelling unit is an accessory use to the main residential dwelling unit. Setbacks and size and lot coverage limitations established for accessory buildings in each zone shall apply.

B. *Egress And Life Safety Requirements*: The dwelling unit must meet egress and life safety requirements of the International Residential Building Code.

C. *Ownership*: The owner or an immediate family member of the owner of the main dwelling unit shall reside on the property as their primary residence as a condition for an accessory dwelling unit to be rented. For long term occupancy, the property owner may live in the accessory building or the primary building. Only the accessory unit may be used as a short-term rental pursuant to chapter 51 of this code.

D. *Limit*: Generally, only one accessory dwelling unit and/or casita shall be established on one residential property. However, two accessory dwelling units may be allowed by a conditional use permit pursuant to section 10-7-9.

E. *Entrance*: The accessory dwelling unit shall have its own outside entrance.

F. *Landscaping*: Landscaping shall be provided and maintained to minimize impact on neighboring properties, to retain residential character, and to provide a visual buffer for onsite parking in relation to adjacent properties and the street. Landscaping may include, but shall not be limited to, planting trees in the park strip.

G. *Secondary Use*: The accessory dwelling unit shall be clearly incidental and secondary to the primary use of the dwelling for residential purposes.

H. *Maximum Size*: The accessory dwelling unit, if it is detached, must meet the size limitations for the zone or have been granted a conditional use permit.

I. *Residential Hosting*: One detached accessory dwelling unit may be used per residential lot for residential hosting pursuant to the terms of licensing for residential hosting. (Ord. 2018-04, 4-5-2018)

10-41-5: COMPLIANCE WITH DEVELOPMENT STANDARDS:

A. Residential properties with accessory dwelling units found to be in violation of the development standards set forth in section 10-42-4 of this title shall be subject to all applicable remedies set forth in chapter 9 of this title to ensure compliance.

B. In order to ensure accessory dwelling units meet the development standards, a permit must be issued by the Planning Department for any use of the unit described in section 3-9-2. (Ord. 2017-03, 1-19-2017)

Sec. 10-51-4. Development standards; home bed and breakfast and residential hosting facilities.

The development standards set forth in this section shall apply to all home bed and breakfast and residential hosting facilities.

A. *Location.* Home bed and breakfast or a residential hosting facility shall be located in a single family residential structure deemed suitable for habitation.

B. *Guestrooms.* Rentable guestrooms shall be limited to not more than four bedrooms in the primary building or four bedrooms in the entirety of a detached ADU for each home bed and breakfast or residential hosting facility. Total number of occupants, including an owner, owner's family, and guests occupying the home at one time shall be no more than ten. Maximum occupancy must be posted in each rentable guestroom.

C. *Current codes.* Guestrooms must meet current International Residential codes for egress and be provided with smoke and CO2 detectors. A fire exiting route plan must be posted in each sleeping guestroom.

D. *Meals.* If meals are offered, meals shall be served only to overnight guests.

E. *Landscaping.* Landscaping shall be provided and maintained to minimize impact on neighboring properties, to retain residential character, and to provide a visual buffer for on site parking in relation to adjacent properties and the street. Landscaping may include, but shall not be limited to, planting trees in the park strip.

F. *Parking.* Nonfrontage, off street parking shall be provided as follows:

1. Two spaces for owner.
2. One space per guestroom.
3. Parking must be located on the same property as the guestrooms.
4. Tandem parking is permitted for one space only.
5. Off street parking may not be provided within the front yard setback other than the existing driveway.
6. Landscaping is required between parking and adjoining residential properties.

G. *Signs.* Only one sign not larger than one foot by two foot in size may be used to advertise a home bed and breakfast or residential hosting facility. The sign may not be illuminated unless by a single down facing low wattage fixture.

H. *Street standards.* A home bed and breakfast or residential hosting facility shall be located on a street that meets fire code requirements.

I. *Structural modifications.* Structural modifications may not be made to separate sleeping rooms from the remainder of the house without a valid building permit.

J. *Other regulations.* A home bed and breakfast or residential hosting facility is subject to all other applicable sections of this Code, including, but not limited to, building and fire codes, transient lodging facility regulations, and transient room tax requirements.

Sec. 10-7-9. Conditional use permit.

A. *Purpose.* This section sets forth procedures for considering and approving conditional use permits.

B. *Authority.*

1. The Planning Commission is authorized to issue conditional use permits for the following uses:

Agricultural industry.
Agritourism activities.
Animal specialties.
Assisted living facility.
Greater heights than permitted by this Code in all zones except residential and residential agricultural zones.
Greater size than permitted by this Code in all zones except residential and residential agricultural zones.
Metal building in commercial and residential zones.
Multi family in commercial zones.
Public stable.
Reception center.
Recreation and entertainment, outdoor.

2. The Zoning Administrator is authorized to issue conditional use permits for the following uses:

Animals and fowl for recreation and family food production.
Greater size accessory buildings than permitted by this Code in residential zones.
Greater size accessory buildings than permitted by this Code in residential and residential agricultural zones.
Greater height accessory buildings than permitted by this Code in residential and residential agricultural zones.
Multiple accessory dwelling units in residential and commercial zones

C. *Initiation.* A property owner, or the owner's agent, may request a conditional use permit as provided in subsection D1 of this section.

D. *Procedure.* An application for a conditional use permit shall be considered and processed as provided in this subsection.

1. A complete application shall be submitted to the office of the Zoning Administrator in a form established by the administrator along with any fee established by the City's schedule of fees. The application shall include at least the following information:

a. The name, address and telephone number of the applicant and the applicant's agent, if any;

b. The address and parcel identification of the subject property;

c. The zone, zone boundaries and present use of the subject property;

d. A description of the proposed conditional use;

e. A plot plan showing the following:

(1) Applicant's name;

(2) Site address;

(3) Property boundaries and dimensions;

(4) Layout of existing and proposed buildings, parking, landscaping, and utilities; and

(5) Adjoining property lines and uses within 100 feet of the subject property;

f. Traffic impact analysis, if required by the City Engineer or the Planning Commission;

g. A statement by the applicant demonstrating how the conditional use permit request meets the approval standards for the conditional use desired; and

h. Such other and further information or documentation as the Zoning Administrator may deem necessary for proper consideration and disposition of a particular application.

2. After the application is determined to be complete, the Zoning Administrator shall schedule a public meeting before the Planning Commission as provided in section 10-7-4 of this chapter or shall review the application to determine if it meets the standards for an administrative conditional use permit.

3. A staff report evaluating the application shall be prepared by the Zoning Administrator for a conditional use permit that will be reviewed by the Planning Commission.

4. The Planning Commission shall hold a public meeting and shall thereafter approve, approve with conditions, or deny the application pursuant to the standards set forth in subsection E of this section. A conditional use shall be approved if reasonable conditions are proposed or can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with the applicable standards, the conditional use may be denied.

5. After the Planning Commission or Zoning Administrator makes a decision, the Zoning Administrator shall give the applicant written notice of the decision.

6. A record of all conditional use permits shall be maintained in the office of the Zoning Administrator.

E. *Approval standards.* The following standards shall apply to the issuance of a conditional use permit:

1. A conditional use permit may be issued only when the proposed use is shown as conditional in the zone where the conditional use will be located, or by another provision of this title.

2. Standards for each use must be reviewed. Specific standards are set forth for each use in subsections E2a through E2l of this section:

a. Standards for a reception center.

(1) Hours of operation must be compatible with adjoining uses and comply with City noise regulations.

(2) Parking must be provided.

(3) The use of on street parking to provide up to 40 percent of the required parking may be permitted if adjoining uses are not residential uses and the street is fully improved.

(4) The center must have an approved site plan.

(5) If beer, wine, or other alcoholic beverages are served, the center must be licensed by the state alcohol control board.

b. Standards for an agricultural industry.

(1) Adequate fencing and/or enclosures must be provided to ensure animals and fowl are confined safely and in conformance with acceptable animal husbandry standards.

(2) Applicant must provide a plan for how manure will be handled to prevent it becoming a nuisance and must follow the plan.

(3) Evidence must be provided on how the applicant will maintain control of flies and vermin.

(4) Animal enclosures used for intensive animal feeding operations must be at least 25 feet from any adjacent parcel that, at the time the applicant first seeks the conditional use, is zoned residential or residential-agricultural pursuant to chapters 13 or 14 of this title.

c. Standards for a public stable.

(1) Adequate fencing and/or enclosures must be provided to ensure horses are confined safely and in conformance with acceptable animal husbandry standards.

(2) Applicant must provide a plan for how manure will be handled to prevent it becoming a nuisance and must follow the plan.

(3) Evidence must be provided on how the applicant will maintain control of flies and vermin.

(4) Site must contain adequate off street parking for customers. All trailers must be contained on site.

(5) Barns must be located at least 30 feet from any adjacent parcel that, at the time the applicant first seeks a conditional use permit, is zoned residential or residential-agricultural.

d. Standards for an assisted living facility.

(1) The facility shall comply with building, safety, and health regulations applicable to similar structures.

(2) The facility shall be licensed by the state.

(3) A site plan shall be approved for the facility to ensure adequate parking and landscaping are installed.

e. Standards for greater heights than permitted by this Code.

(1) The height may not be greater than two stories or 1.5 times the average height of the immediately adjacent buildings, whichever is greater and the building must be of compatible architecture with immediately adjacent buildings.

(2) A greater height conditional use permit may not be issued for a flag lot if the proposed structure is higher than the average height of all residential structures within a 300-foot radius of the proposed structure.

(3) A greater height accessory building must be set back a minimum of five feet from side and rear property lines when the adjoining property is zoned or used for single family residential use.

f. Standards for greater size than permitted by this Code.

(1) The greater size building desired must be of compatible architecture with immediately adjacent buildings.

(2) At least 50 percent of the lot on which the building is located must remain free of buildings.

(3) The building must be for a use permitted in the zone in which it is located.

g. Standards for animals and fowl for recreation and family food production.

(1) Adequate fencing must be provided to ensure animals and fowl are confined safely.

(2) Applicant must provide a plan for how manure will be handled to prevent it becoming a nuisance and must follow the plan.

(3) Evidence must be provided on how the applicant will maintain control of flies and vermin.

(4) The number of fowl will be limited by the point system used in section 10-37-15 of this title.

(5) Livestock numbers may be limited at the administrator's discretion based on the size of the lot and the facilities available to contain and protect the animals.

h. Standards for metal buildings.

(1) In residential (R-1) zones the height and size may not be greater than permitted in the zone.

(2) The building must meet the following design standards:

(A) Exterior building materials shall be durable, require low maintenance, and be of the same or higher quality as surrounding developments.

(B) Details of proposed colors and materials, including color chips, samples, and colored building elevations, shall be shown on building plans when a development project application is submitted. Colors shall be compatible with surrounding structures.

I Reflective surfaces or colors which may produce excessive reflections or glare that may create a potential safety problem are prohibited.

(D) In a commercial zone the faces of the building visible from nearby streets must include architectural relief items of non-metal materials including wood, stone, or stucco.

i. Standards for animal specialties.

(1) Adequate fencing and/or enclosures must be provided to ensure animals are confined safely and in conformance with acceptable animal husbandry standards.

(2) Applicant must provide a plan for how manure will be handled to prevent it becoming a nuisance and must follow the plan.

(3) Evidence must be provided on how the applicant will maintain control of flies and vermin.

(4) Animal enclosures used for intensive animal feeding operations must be at least 25 feet from any adjacent parcel that, at the time the

applicant first seeks the conditional use, is zoned residential or residential agricultural pursuant to chapters 13 or 14 of this title.

j. Standards for agritourism activities.

(1) Hours of operation must be compatible with adjoining uses and comply with City noise regulations.

(2) On-site parking must be provided.

(3) The use of on street parking to provide up to 40 percent of the required parking may be permitted if adjoining uses are not residential uses and the street is fully improved.

(4) In agricultural zones, this use must be accessory to an established agricultural use.

k. In order to promote and preserve commercial growth and to allow infill development of empty and vacant lots in the area designated as downtown on the general map, vacant parcels zoned for commercial uses as listed in this title may, as a conditional use, be allowed for multi-family residential use if the following criteria are met:

1. No habitable building has been on the parcel for the previous three years.

2. The land use on at least two sides of the property are residential use at the time of application. Property on the opposite side of a public road or right-of-way shall be considered adjacent for this criteria. Properties that do not meet this criteria may be approved for mix-use development as listed below.

3. Mix use is allowed. If the proposed development is a mix of commercial use and residential use, then residential units shall be placed on a floor above the commercial use, or in a way to allow commercial buildings to front onto the public roadways. If mixed use, the commercial shall comply with the commercial zoning standards and housing shall comply with RM-3 zoning standards.

4. Homes in the downtown area shall have the front of buildings face public roadways. The only exception for this requirement is for mix use developments and for parcels that would allow development of units behind units that front the public right-of-way. Every effort should be made to ensure the frontage of roadways are faced with the frontage of buildings. Walls, fences, and the rear of buildings fronting on to public right-of-way should be avoided.

5. Dwelling units and sites shall comply with RM-3 zoning standards and density. RM-3 minimum required area shall not apply.

1. *Standards for multiple accessory dwelling units in a residential, agriculture, or commercial zone*

1. Multiple accessory dwelling units may be permitted based on the lot area of the property at a rate in the table below assuming all other conditions for an accessory dwelling unit are met.

Lot Area	Number of Accessory Dwelling Units
0.79 acres or smaller	1
0.8 acres and greater	2

2. Fifty percent (50%) of the land area on the lot must be free of buildings.
3. A parking plan must be provided that shows adequate off street parking on the lot at a rate of one space per bedroom.
4. A landscape plan must be provided that shows how buildings will be shielded from other residential lots.
5. Occupancy plan: no more than ten (10) people can stay in one (1) building.
6. Only one (1) accessory dwelling unit can be used as a short-term rental. All others must be for long term occupancy or as a guesthouse for non-paying guests.
7. Separate conditional use permits must be received for every accessory building that does not meet the height or size requirements of 10-13-4.

F. *Appeal of decision*. Any person adversely affected by a decision of the Planning Commission regarding the transfer, issuance, or denial of a conditional use permit may appeal such decision to the Appeals Board by filing written notice of appeal stating the grounds therefor within 14 days from the date of such decision.

G. *Appeal of decision by Zoning Administrator*. Any decision of the Zoning Administrator regarding the issuance or denial of a conditional use permit, shall, upon request by the applicant within ten days after a determination by the Zoning Administrator, be submitted for a de novo review and decision by the Planning Commission at their next available meeting.

H. *Effect of approval*. A conditional use permit shall not relieve an applicant from obtaining any other authorization or permit required under this title or any other title of this Code.

1. A conditional use permit may be transferred so long as the use conducted thereunder conforms to the terms of the permit.

2. Unless otherwise specified by the Planning Commission and subject to the provisions relating to amendment, revocation or expiration of a conditional use permit, a conditional use permit shall be of indefinite duration and shall run with the land.

I. *Amendment*. The procedure for amending any conditional use permit shall be the same as the original procedure set forth in this section.

J. *Revocation*. A conditional use permit may be revoked as provided in section 10-9-6 of this title.

1. In addition to the grounds set forth in section 10-9-6 of this title, any of the following shall be grounds for revocation:

a. The use for which a permit was granted has ceased for one year or more;

b. The holder or user of a permit has failed to comply with the conditions of approval or any City, state, or federal law governing the conduct of the use;

c. The holder or user of the permit has failed to construct or maintain the site as shown on the approved site plan, map, or other approval materials; or

d. The operation of the use or the character of the site has been found to be a nuisance or a public nuisance by a court of competent jurisdiction in any civil or criminal proceeding.

2. No conditional use permit shall be revoked against the wishes of the holder or user of the permit without first giving such person an opportunity to appear before the Planning Commission and show cause as to why the permit should not be revoked or the conditions amended. Revocation of a permit shall not limit the City's ability to initiate or complete other legal proceedings against the holder or user of the permit.

K. *Expiration*. A conditional use permit shall expire and have no further force or effect if the building, activity, construction, or occupancy authorized by the permit is not commenced within one year after approval.

BE IT FURTHER ORDAINED that this Ordinance shall, after adoption and approval, take effect immediately upon publication or posting as required by law.

PASSED AND APPROVED this 19th day of May 2022.

Hurricane City

Nanette Billings

Nanette Billings, Mayor

Attest:

Cindy Beteag, City Recorder

HURRICANE CITY CORPORATE SEAL WASHINGTON COUNTY UTAH

The foregoing Ordinance was presented at a regular meeting of the Hurricane City Council held at the Hurricane City Office Building on the 19th day of May 2022. Whereupon a motion to adopt and approve said Resolution was made by Kevin Thomas and seconded by Joseph Prete. A roll call vote was then taken with the following results:

	Yea	Nay	Abstain	Absent
Joseph Prete	X	___	___	___
David Sanders	X	___	___	___
David Hirschi	X	___	___	___
Kevin Thomas	X	___	___	___
Doug Heideman	X	___	___	___

Cindy Beteag, Recorder