

ORDINANCE NO. 2025-06

WHEREAS, the City Council of Smithfield City, Cache County, Utah, passed and adopted the Smithfield Municipal Code on November 11, 2015; and

WHEREAS, the City Council has determined there is a need to update, repeal, amend and/or modify certain provisions contained in the referenced Municipal Code;

NOW, THEREFORE, the City Council of Smithfield City, Utah hereby adopts, passes and publishes the following:

AN ORDINANCE PROVIDING FOR THE IMPOSITION OF OWNER OCCUPANCY COVENANTS AS PART OF THE REZONING PROCESS BY ADDING IN ITS ENTIRETY IN TITLE 17 “ZONING REGULATIONS”, CHAPTER 17.130 “RESTRICTIONS FOR OWNER OCCUPANCY”, SECTIONS 17.130.010 “PURPOSE”, 17.130.020 “DEFINITIONS”, 17.130.030 “AUTHORITY TO REQUIRE OWNER OCCUPANCY COVENANTS”, 17.130.040 “OWNER OCCUPANCY COVENANTS”, AND 17.130.050 “PENALTIES”.

BE IT ORDAINED BY THE CITY COUNCIL OF SMITHFIELD CITY, CACHE COUNTY, UTAH, AS FOLLOWS:

1. The following Chapter is added to Title 17, Zoning Regulations, to read as follows:

17.130 RESTRICTIONS FOR OWNER OCCUPANCY

17.130.010 PURPOSE

In light of the increasing demand for housing and the City’s desire to facilitate affordable and available housing within the City limits, the City Council has sought to employ methods and tools to curb the rising costs of entry-level housing in the community. The City Council has determined that one contributing factor in the rising costs of housing is the presence of investors who purchase entry-level housing with the sole purpose of renting the housing for a profit. The City Council believes that if there were prohibitions on such ownership and rental activities and if owners were required to occupy their homes as their primary dwelling, then the cost of the housing would remain more modest. Towards that end, the purpose of this Chapter is to allow the City Council to impose owner occupancy requirements on dwellings as part of the zoning process. Thus, the Sections in this Chapter shall be interpreted in light of the intent to preserve owner occupancy of dwellings within any zone in which the restrictive covenants in this Chapter have been imposed.

17.130.020 DEFINITIONS

For the purpose of this Chapter, the following terms and words and their derivations shall have the following meanings:

Owner Occupancy Covenants: A declaration of covenants, conditions, and restrictions that

meet the requirements of Section 17.130.040 “Owner Occupancy Covenants” recorded on title to any property pursuant to this Chapter.

Owner: An individual, or group of individuals, who has an ownership interest in a Dwelling. An Owner does not include a corporation, limited liability company, or any other entity of any kind. An Owner does include an individual or individuals acting in the capacity of trustor for a trust that has been established for the estate planning purposes of the Owner.

Dwelling: A Dwelling or Dwelling Unit of any kind as defined in Smithfield City Code 17.04.070 “Definitions”.

17.130.030 AUTHORITY TO REQUIRE OWNER OCCUPANCY COVENANTS

As a condition of approval of an application to rezone any property within the City to a zone that allows for a Dwelling of any kind, the City Council, in cooperation with the rezone applicant, may require the owner of the property to record Owner Occupancy Covenants that meet the requirements of this Chapter on title to the property if both parties agree to the condition during the rezone process.

17.130.40 OWNER OCCUPANCY COVENANTS

- A. Owner Occupancy Covenants required by this Chapter shall be prepared by the applicant in a manner that meets the requirements for recording at the County Recorder’s Office and shall include the following:
1. A prohibition on ownership of anything other than an Owner as defined in this Chapter;
 2. A prohibition on using the Dwelling for anything other than the primary residential dwelling of the Owner;
 3. A prohibition on short or long-term rental of the Dwelling;
 4. Exceptions to the restrictions set forth in A.1 and A.2 above for the following circumstances:
 - a. An Owner serving on active military assignment away from home;
 - b. An Owner serving away from home in a charitable endeavor such as, but not limited to, religious missions, Peace Corps or other non-government organizations, not exceeding thirty (30) consecutive months at a given time;
 - c. A Dwelling occupied by an Owner’s parent, child, or sibling;
 - d. An Owner whose employer has relocated the Owner for twenty-four

(24) months or less; and

- e. A Dwelling that is occupied by the beneficiary of the trust created for the estate planning purposes of the Owner and that has not been created or amended in the last six months. To the extent the trust has been created or amended in the last six months, it cannot qualify for this exception until to the passage of six months from the date of creation or amendment.
 - f. The rental of an internal accessory dwelling unit (ADU) cannot be restricted as long as it complies with all city, county and state codes.
 - g. Equity Cushion Exemption: If the owner-occupant lacks sufficient equity to sale the home, then he/she may apply for an equity cushion waiver with the City. The waiver will be valid for twelve (12) months. A new application for equity waiver must be applied for prior to the expiration of the 12-month waiver. The City shall grant the equity cushion waiver if the value of the home is insufficient to cover eight percent (8%) closing cost and the liens against the property. Acceptable forms of valuation are certified real estate appraisals, real estate comparable valuations from a certified real estate agent, or Zillow.com valuations. Equity cushion waivers shall not be granted within the first twelve (12) months of purchase of the home. Equity cushion waivers are only available to properties containing a single mortgage lien with the exception of homes purchased under the Utah Housing Corporation Act which utilized a first and second mortgage from the Utah Housing Corporation at the original purchase of the home or involving homes that have received a U.S. Department of Housing and Urban Development bailout and have a second lien from that process.
- 5. A provision indicating that the City is a party beneficiary of the Owner Occupancy Covenants and that the Owner Occupancy Covenants may not be amended or revoked without the express written consent of the City Council;
 - 6. A provision indicating that the Owner Occupancy Covenants run with the land and inure to any subsequent owner of the property; and
 - 7. Any other provision which the City Council may require to address the specific circumstances of any application in order to further the purposes

set forth in Section 17.130.010 “Purpose”.

B. Owner Occupancy Covenants must be approved by the City Council and may be included as part of the ordinance rezoning the property at issue in any rezone application.

17.130.050 PENALTIES

- A. In addition to any remedies available to any aggrieved party in law or equity, and without superseding or replace such remedies, a violation of any covenants contained in any Owner-Occupied Covenants recorded pursuant to this Chapter and shall be deemed a violation of this Chapter and shall be:
1. A criminal infraction subject to the provisions of Chapter 1.16 “General Penalty” of the Smithfield City Code; and
 2. Subject to any administrative and civil enforcement and penalties allowed under the Smithfield City Code.
2. Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, in whole or in part, the same shall not affect the validity of the Ordinance as whole, or any other part thereof.
 3. All ordinances, and the chapter, clauses, sections, or parts thereof in conflict with provisions of this ordinance are hereby repealed, but only insofar as is specifically provided for herein.
 4. This ordinance shall become effective after the required public hearings and upon its posting as required by law.

THIS ORDINANCE shall be attached as an amendment to the Smithfield Municipal Code above referred to.

Approved and signed this 14th day of May, 2025

SMITHFIELD CITY CORPORATION

Kristi Monson, Mayor

ATTEST:

Dana Lazcanotegui, City Recorder