

ORDINANCE NO. 2021-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, AMENDING CHAPTER 17.18.030.030 AND CREATING CHAPTER 5.39 OF THE SOUTH JORDAN CITY MUNICIPAL CODE.

WHEREAS, Utah Code § 10-9a-102 grants the City Council of the City of South Jordan (the “City Council”) authority to enact ordinances that it considers necessary or appropriate for the use and development of land in the City of South Jordan (the “City”), including the City’s aesthetics; and

WHEREAS, the City Council has adopted Title 17 (Planning and Zoning Code) and Title 5 (Business Licenses and Regulations) of the City of South Jordan Municipal Code (“City Code”); and

WHEREAS, the City Council desires to amend City Code § 17.18.030.030 (Residential Use Regulations) of Title 17, and create City Code Chapter 5.39 (Model Homes) of Title 5, to set forth regulations governing the use and operation of model homes in the City; and

WHEREAS, the South Jordan Planning Commission held a public hearing, and reviewed and made a recommendation concerning the proposed amendment to § 17.18.030.030; and

WHEREAS, the City Council held a public hearing and reviewed the subject text amendments; and

WHEREAS, the City Council finds that the subject text amendments will enhance the public health, safety and welfare, and will promote the goals of the General Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH:

SECTION 1. Amendment. City Code § 17.18.030.030 (Residential Use Regulations) is amended and City Code Chapter 5.39 (Model Homes) is created as shown in Exhibit A to this Ordinance.

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

SECTION 3. Effective Date. This Ordinance shall become effective immediately upon publication and posting as required by law.

[SIGNATURE PAGE FOLLOWS]

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, ON THIS 19 DAY OF January, 2020 BY THE FOLLOWING VOTE:

	YES	NO	ABSTAIN	ABSENT
Patrick Harris	<u>X</u>	___	___	___
Bradley G. Marlor	<u>X</u>	___	___	___
Donald J. Shelton	<u>X</u>	___	___	___
Tamara Zander	<u>X</u>	___	___	___
Jason T. McGuire	<u>X</u>	___	___	___

Mayor: *Dawn R. Ramsey*
Dawn R. Ramsey

Attest: *Anna Crookston*
City Recorder

Approved as to form:

Rae W. Joste
Office of the City Attorney



Exhibit "A"

(Deletions in ~~strikethrough~~ new language in **bold underline**)

17.18.030.030: RESIDENTIAL USE REGULATIONS:

A. General Residential Use Regulations:

1. There shall be no open storage of trash, debris, used materials or commercial goods or wrecked or neglected materials, equipment or vehicles. Containers or enclosures containing said items shall not be located in a front yard area, except for temporary use as needed for construction or disposal.
2. Home occupations may be licensed in an approved residential dwelling and according to the provisions of title 5, chapter 5.38, "Home Occupations", of this Code.
3. Farm animals may be allowed as regulated in sections 17.130.020, "Residential Chickens Floating Zone", and 17.130.040, "Farm Animal Floating Zone", of this title.
4. Household pets may be allowed as regulated by title 6, "Animals", of this Code.
5. **Model homes may be allowed as regulated by title 5, chapter 5.39, "Model Homes", of this Code.**

CHAPTER 5.39 MODEL HOMES

Unless otherwise defined in this Chapter, definitions in Title 17, Chapter 17.08 of this Code shall apply.

A model home shall be allowed for use as a sales facility only. For the purpose of this Code, a unit within a multi-family residential building used for the same purposes identified herein shall be considered a model home. Except for sales of condominium units, sales of properties or units may not be conducted or facilitated from any trailer, nonpermanent structure, or permanent structure not permitted as a model home. The following standards shall apply to all model homes:

1. **Location: Model homes are only allowed within City approved and recorded residential developments and must be located on a platted lot or site within the development.**
2. **Homes in Other Developments: Model homes may not be used to design homes or sell properties or units located in another subdivision or property located outside of the development site.**
3. **Construction Standards: Model homes must comply with all standards and conditions of approval for the development, including building materials, setbacks,**

and landscaping. They must comply with all applicable residential dwelling construction standards before and after the discontinued use as a sales office.

4. Licensure and Permitting: Model homes shall not be constructed without the application for, approval of, and issuance of a building permit as regulated by section 16.04.340 "Building Permits and Certificates of Occupancy Required" of this Code. Requirements above and beyond those normally associated with a residential structure may be required by the building division for a model home. Model homes may not operate as such without the application for, approval of, and issuance of a business license for such at that location, provided that more than one model home within the same development shall not be deemed to be a separate place of business.
5. Duration: The business license to operate a model home may be renewed yearly until a building permit is issued for the last remaining lot within the development. The business license shall expire and the use of the model home as a sales office shall be discontinued within one hundred twenty (120) days after a building permit is issued for the last remaining lot within the development.



Memo

TO: Mayor Ramsey and the South Jordan City Council **DATE: December 23, 2020**
CC: Gary Whatcott, City Manager; Brian Preece, City Commerce Director
FROM: Steven Schaefermeyer, Director of Planning
SUBJECT: Model Home Ordinance 2021-03

Mayor and City Council:

During the October 20, 2020 City Council meeting, City staff presented to you a proposed ordinance regulating model homes in the City. After the presentation and discussion, the City Council voted to table the ordinance and bring it back to the Council during a future meeting.

BACKGROUND

As a reminder, model homes are incompatible with existing residential neighborhoods because they operate as sales offices and have employees and customers coming to the home throughout the day. For some builders, they also act as a de facto construction and business office that brings additional traffic and construction vehicles to the home. City staff is proposing Ordinance 2021-03 because of an apparent trend among some builders to have semi-permanent model homes in neighborhoods where they no longer are selling units. Although City staff has not seen widespread abuse of model homes throughout the City, based on several recent instances and builder requests, City staff remains concerned and believes the proposed ordinance is necessary to protect South Jordan's neighborhoods. A recent email request from a homebuilder to the City Building Official explains this practice and demonstrates why City staff is concerned:

This email is to provide you information regarding our intent to close on model homes in Daybreak and enter into lease back agreements with the purchaser of the property. Our company across the nation has asked us to look at opportunities to reduce our "at risk" capital, which model homes represent a significant capital holding and risk. Therefore our intent is to close on model homes but continue to occupy and operate as model homes, in their current state, any property for which we can find a suitable buyer. We recognize the need to obtain the permanent [certificate of occupancy] of any property that we are currently operating with a temp[orary certificate

of occupancy], which we address in the contract with our buyer requiring us to make any changes or conversions to the model, including passing final inspection to terminate the lease and officially vacate the property.

Although the “lease back agreements” are not uncommon or particularly concerning in theory, once the City issues a permanent certificate of occupancy it is more difficult to force builders to close model homes in neighborhoods where they are no longer selling homes. Like similar requirements in neighboring cities, the proposed ordinance will allow City staff to better track model homes and clearly set the expectation that model homes cannot be permanent.

PROPOSED CHANGES

City Council instructed staff to bring back the ordinance at a future meeting with changes to the ordinance that would avoid requiring multiple model home business licenses for builders with more than one model home in the City. In response, City staff added the following language to the proposed ordinance:

Model homes may not operate as such without the application for, approval of, and issuance of a business license for such at that location, **provided that more than one model home within the same development¹ shall not be deemed to be a separate place of business.**

City staff believes the proposed language addresses the City Council’s concerns while also not creating a licensing scheme that is overly difficult for City staff to administer.

After the October 20th meeting, City staff also added the below language to the proposed ordinance to address the issue of condominium projects, which do not begin construction of the condominium building until a certain percentage of the units are presold.

Except for sales of condominium units, sales of properties or units may not be conducted or facilitated from any trailer, nonpermanent structure, or permanent structure not permitted as a model home.

It is common practice for developers to set up a temporary onsite sales center in a nonpermanent structure to presell condominium units. The proposed language is necessary to successfully develop and sell condominium units in South Jordan.

Ordinance 2021-03 and the October 20, 2020 City Council staff report (without attachments) are attached to this memo.

¹ “Development” is defined as “[a]ny use of land involving improvements and which requires site plan, plat or conditional use approval.” (South Jordan City Municipal Code 17.08.010.)

SOUTH JORDAN CITY CITY COUNCIL REPORT

Meeting Date: 10/20/2020

Application: TEXT AMENDMENT - AMENDING CHAPTER 17.18.030.030 AND CREATING CHAPTER 5.39 OF THE SOUTH JORDAN CITY MUNICIPAL CODE REGULATING MODEL HOMES

Ordinance No.: 2020-13
Applicant: South Jordan City

Submitted By: Meadow Wedekind, Long Range Planning Intern

Staff Recommendation (Motion Ready):

I move that the City Council **approve** Ordinance No. 2020-13 amending Chapter 17.18.030.030 and creating Chapter 5.39 of the South Jordan City Municipal Code regulating Model Homes.

BACKGROUND:

The City has recently identified a need for increased clarity in the City Code regulating model homes in order to prevent model homes from becoming permanent sales centers in built out residential neighborhoods. This amendment is consistent with the City’s Live Goal 3.2 on page 35 of the General Plan to “put proper zoning in place to allow for appropriate growth of existing neighborhoods with new housing units.”

This ordinance amends language in both Chapter 17.18.030.030 “Residential Use Regulations” and Title 5 “Business Licenses and Regulations” of the City Code. Upon adoption of this amendment, the majority of regulations for model homes would be contained in Title 5 of the City Code, which regulates business licensing. A reference to Title 5 would be added to the City’s Planning and Zoning Code in Chapter 17.18.030.030.

ANALYSIS:

If approved, the proposed text amendment would require model homes to obtain a business license that may be renewed yearly until a building permit is issued for the last remaining lot in the development. Once a building permit is issued for the last remaining lot in the development, the business license will expire and the use of the model home as a sales office must be discontinued within one hundred twenty (120) days. This regulation prevents model homes from becoming permanent sales centers.

Additionally, if approved the amendment clarifies that model homes may not be used to design homes or sell properties or units located in another subdivision or property located outside of the development site. This regulation ensures that the model home is not used by builders as a general sales center for their other developments outside of the development where the model home is located.

The proposed amendment would also require that model homes comply with all standards and conditions of approval for the development, including building materials, setbacks, and landscaping.

STAFF FINDINGS & CONCLUSIONS:

Facts & Findings:

- Utah Code § 10-9a-102 grants the City Council a general land use authority to enact regulations that it considers necessary or appropriate for the use and development of land in the City, including maintaining the aesthetics of the City and protecting the tax base, and the City Council has the power to amend its land use regulations. (*See Utah Code § 10-9a-501 et seq.*)
- The proposed text amendment adds clarity to the City’s regulation of model homes, preventing model homes from becoming permanent sales centers in built out neighborhoods.

Conclusions:

- The changes proposed in this text amendment are consistent with the City’s goal to “put proper zoning in place to allow for appropriate growth of existing neighborhoods with new housing units” without detrimentally impacting the City.

Recommendation:

- The proposed text amendment was presented at a public hearing and reviewed by the Planning Commission on 10/13/2020. The Planning Commission made a positive recommendation in favor the proposed amendment (4-0).
- Staff recommends that the City Council **approve** Ordinance No. 2020-13 amending Chapter 17.18.030.030 and adding Chapter 5.39 of the South Jordan City Municipal Code regulating Model Homes.

ALTERNATIVES:

- Approve Ordinance No. 2020-13 with changes.
- Deny Ordinance No. 2020-13.

SUPPORT MATERIALS:

- Ordinance No. 2020-13
 - Exhibit “A” – Proposed Text Amendment

City Council Action Requested: Steven Schaefermeyer _____ Date _____
Steven Schaefermeyer (Jan 13, 2021 09:37 MST)
Director of Planning