

ORDINANCE 470

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA REPEALING SECTION 17.20.040(C) AND AMENDING SECTION 17.20.040(D) OF THE SOLANA BEACH MUNICIPAL CODE TO PROVIDE FOR REGULATIONS CONCERNING ACCESSORY DWELLING UNITS IN RESIDENTIAL ZONES

WHEREAS, the City Council of the City of Solana Beach seeks to implement Senate Bill 1069 (SB 1069) (Chapter 720, Statutes 2016) and Assembly Bill 2299 (AB 2299) (Chapter 735, Statutes 2016) through the implementation of regulations concerning accessory dwelling units in residential zones; and

WHEREAS, accessory dwelling units are commonly referred to as "second units," and are additional living quarters on single-family lots that are independent of the primary dwelling unit. They are also known as accessory apartments, accessory dwellings, mother-in-law units, or granny flats. They may be either attached or detached to the primary dwelling unit, and they typically provide complete independent living facilities, including facilities for living, sleeping, eating, cooking, and sanitation; and

WHEREAS, state lawmakers are increasingly concerned about the unaffordability of housing in the State of California; and

WHEREAS, the State Legislature adopted SB 1069 and AB 2299 in order to eliminate barriers to accessory dwelling unit construction that the Legislature has determined is a common-sense, cost-effective approach to accommodate future growth and to encourage infill development in developed neighborhoods; and

WHEREAS, Section 65582.1 of the California Government Code provides that accessory dwelling units are one of the reforms and incentives adopted to facilitate and expedite the construction of affordable housing; and

WHEREAS, Section 65852.150(a) of the California Government Code provides that Accessory dwelling units are a valuable form of housing; that they may provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others at below market prices within existing neighborhoods; that they may add income and an increased sense of security to homeowners; that they will provide additional rental housing stock; that they offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character; and that they are an essential component of California's housing supply; and

WHEREAS, Section 65852.2(a)(4) of the California Government Code provides that any local ordinance that is inconsistent with Section 65852.2 shall be null and void and state law shall apply unless or until the local agency adopts an ordinance consistent with this new law; and

WHEREAS, Section 65852.150(b) of the California Government Code provides that the Legislature's intent with the adoption of SB 1069 was that local agencies adopt an ordinance relating to matters including unit size, parking, fees, and other requirements, that are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance; and

WHEREAS, the City of Solana Beach City Council regulates guest houses and accessory living units pursuant to subsections (C) and (D) of Section 17.20.040, which provisions, however, will not be consistent with the provisions SB 1069 and AB 2299 when they go into effect on January 17, 2017.

NOW, THEREFORE, the City Council of the City of Solana Beach hereby ordains as follows:

Section 1. All of the above statements are true; and

Section 2. Section 17.20.040(C) of the Solana Beach Municipal Code is hereby repealed.

Section 3. Section 17.20.040(D) of the Solana Beach Municipal Code is hereby amended to read as follows:

D. Accessory Dwelling Units. The purpose of this subsection is to provide regulations for the establishment of accessory dwelling units in residential zones and to define an approval process for such accessory dwelling units. The intent of this subsection is to provide opportunities for more affordable housing in areas where adequate public facilities and services are available, and impacts upon the residential neighborhoods directly affected would be minimized. It is the goal of the council that accessory dwelling units be equitably distributed throughout the city. The city council will review this subsection as necessary to determine that this goal is being carried out. If it is found that the development of accessory dwelling units is being unduly concentrated and resulting in deleterious impacts, the council may review this subsection and revise it as needed.

1. For purposes of this chapter, "accessory dwelling unit" shall have the meaning defined in Section 65852.2 of the California Government Code.
2. Accessory dwelling units are residential uses consistent with the uses permitted in (ER-1), (ER-2), (LR), (LMR), (MR), (MHR), and (HR) zones.
3. Accessory dwelling units developed pursuant to the requirements of this subsection shall not cause the lot upon which the accessory dwelling unit is located to exceed the allowable density otherwise permitted for the lot.
4. Accessory dwelling units shall be permitted in the (ER-1), (ER-2), (LR), (LMR), (MR), (MHR), and (HR) zones subject to the following standards:

- a. A detached primary single-family dwelling unit shall exist on the lot or premises.
- b. The accessory dwelling unit shall be attached to or contained within the primary dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.
- c. Any construction of an accessory dwelling unit shall conform to all property development regulations of the zone in which the property is located including, but not limited to, parking, height limits, setback, lot coverage, landscape, architectural review, and floor area ratio (FAR), as well as all fire, health, safety and building provisions of this title.
- d. No more than one accessory dwelling unit shall be permitted per single-family lot.
- e. For an accessory dwelling unit that is contained within the primary dwelling, there shall be an independent exterior access from the existing residence.
- f. The minimum allowed area of the accessory dwelling unit shall be 350 square feet.
- g. For attached accessory dwelling units, the increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.
- h. For detached accessory dwelling units, the maximum allowed area shall be 1,200 square feet.
- i. Construction of a new structure or an addition to an existing structure for an accessory dwelling unit shall not exceed sixteen (16) feet in height.
- j. No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage; provided, however, that the accessory dwelling unit shall comply with all other existing setback requirements and height restrictions for the lot.
- k. The accessory dwelling unit shall not be sold separate from the primary residence.
- l. The owner of the property must continually occupy either the main dwelling unit or the accessory dwelling unit. For purposes of this section, "owner" includes a lessee if the leasehold includes both the main dwelling and accessory dwelling unit.

- m. The accessory dwelling unit shall only be used for rentals of terms longer than thirty (30) days.
 - n. One off-street parking space shall be provided for the accessory dwelling unit, which may be provided as tandem parking on an existing driveway and shall be permitted in setback areas unless the director of community development or the director's designee makes specific findings that parking in setback areas or tandem parking is not feasible based upon specific site topographical or fire and life safety conditions, or that tandem parking is not permitted anywhere else in the city. No off-street parking shall be required in any of the following instances:
 - i. The accessory dwelling unit is located within one-half mile of public transit stop.
 - ii. The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - iii. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
 - iv. The accessory dwelling unit is located in an area of the city that on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - v. The accessory dwelling unit is located within one block of a car share vehicle pick-up location, as established by the City.
 - o. Proposed accessory dwelling units shall provide a new or separate utility connection directly between the accessory dwelling unit and the utility. The connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system; provided, however, that this fee or charge shall not exceed the reasonable cost of providing this service.
 - p. For an accessory dwelling unit that is contained within the primary dwelling, the installation of a new or separate utility connection directly between the accessory dwelling unit and the utility shall not be required, and a related connection fee or capacity charge shall not be imposed.
 - q. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.
5. Notwithstanding subsection 4, the City shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has

independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety.

6. Applications for accessory dwelling units conforming to the requirements of subsections 4 or 5 shall be considered ministerially without discretionary review or a hearing, and the director of community development shall approve or deny such applications within 120 days after receiving the application.
7. If an applicant for an accessory dwelling unit proposes new construction or an addition for an accessory dwelling unit that exceeds sixteen (16) feet in height above existing grade, the applicant shall apply for a structure development permit pursuant to Chapter 17.63.
8. If an applicant for an accessory dwelling unit proposes new construction or an addition for an accessory dwelling unit that exceeds the thresholds for the application of a development review permit under Section 17.68.040(B)(1), the applicant shall apply for a development review permit pursuant to Chapter 17.68.
9. The city may offer incentives to encourage development of accessory dwelling units. If owners of accessory units elect to file a 30-year deed restriction to rent the unit to lower income households, the city will consider waiving fees, reducing parking and development standards, or approving other forms of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code. Receipt of such incentives shall require the owner to:
 - a. Rent the accessory dwelling unit to a lower income household, as defined annually by the State Department of Housing and Community Development at a rate that shall not exceed an amount which is equal to 30 percent of the gross monthly income of a low-income household, at 80 percent of the San Diego County median income, adjusted for household size.
 - b. File an annual agreement with the city's community development department documenting the household's eligibility to occupy the accessory unit.
 - c. Record a covenant specifying the property restrictions on the accessory dwelling unit for the 30-year term.
 - d. Assign the covenant using a form of assignment and assumption approved by the director of community development in the director's reasonable direction in the event that the property is transferred or sold.

Section 4. The City Council finds that this Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to Section 15305 of the California Environmental Quality Act (CEQA) Guidelines, which exempts minor alterations in land use limitations which will not result in any changes in land use or density. The City Council further finds that there is no possibility that the activity may

have a significant effect on the environment and that therefore, pursuant to Section 15061(b)(3) of the CEQA Guidelines, the Ordinance is exempt from the provisions of CEQA.

Section 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Chapter, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

EFFECTIVE DATE: This Ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the City Clerk of the City of Solana Beach shall cause this Ordinance to be published pursuant to the provisions of Government Code Section 36933.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Solana Beach, California, on the 26th day of October, 2016; and

THEREAFTER ADOPTED at a regular meeting of the City Council of the City of Solana Beach, California, on the 9th day of November, 2016, by the following vote:

AYES: Councilmembers – Zito, Zahn, Nichols, Marshall, Heebner
NOES: Councilmembers – None
ABSENT: Councilmembers – None
ABSTAIN: Councilmembers – None



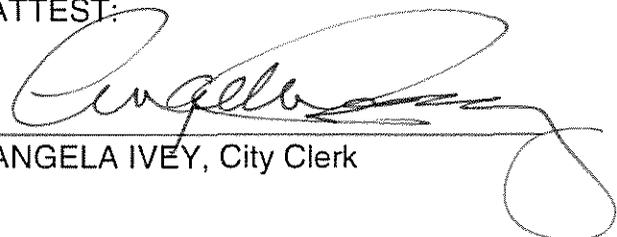
DAVID A. ZITO, Mayor

APPROVED AS TO FORM:



JOHANNA N. CANLAS, City Attorney

ATTEST:



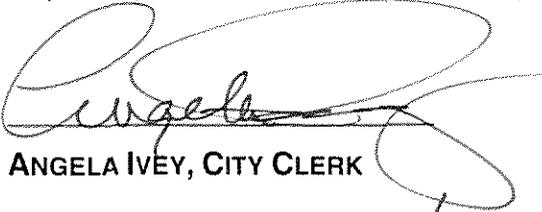
ANGELA IVEY, City Clerk



ORDINANCE CERTIFICATION

STATE OF CALIFORNIA }
COUNTY OF SAN DIEGO } §
CITY OF SOLANA BEACH }

I, ANGELA IVEY, City Clerk of the City of Solana Beach, California, DO HEREBY certify that the foregoing is a full, true and correct copy of **Ordinance 470** *repealing Section 17.20.040(c) and amending Section 17.20.040(d) of the Solana Beach Municipal Code to provide for regulations concerning accessory dwelling units in residential zones* as duly introduced on October 26, 2016 and adopted on November 9, 2016, a regular meeting, by the City Council of Solana Beach. This Ordinance has been published as required pursuant to law and the original is filed in the City Clerk's Office. (GC 40806).



ANGELA IVEY, CITY CLERK

CERTIFICATION DATE: November 4, 2016