

ORDINANCE 508

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, REPEALING SECTION 17.20.040(D) AND ADOPTING A REVISED SECTION 17.20.040(D) OF THE SOLANA BEACH MUNICIPAL CODE TO PROVIDE FOR REGULATIONS CONCERNING JUNIOR AND ACCESSORY DWELLING UNITS

WHEREAS, the City Council of the City of Solana Beach seeks to implement Assembly Bill 881 (AB 881), Assembly Bill 68 (AB 68), and Senate Bill 13 (SB 13) through the implementation of regulations concerning accessory dwelling units; 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, Section 65852.150(b) of the California Government Code provides that the Legislature’s intent with the adoption of AB 881, AB 68 and SB 13 was that local agencies adopt an ordinance relating to matters including unit size, parking, fees, and other requirements, that are not 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 proposed regulations and standards are intended to be consistent with the provisions contained in AB 881, AB 68 and SB 13 which go into effect on January 1, 2020.

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 Section 17.20.040(D) of the Solana Beach Municipal Code is hereby repealed and replaced with a new Section 17.20.040(D) of the Solana Beach Municipal Code to read as follows:

17.20.040 Specific requirements.

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.

1. For purposes of this section:

a. "Accessory dwelling unit" shall have the meaning defined in Section 65852.2 of the California Government Code.

b. "Junior accessory dwelling unit" shall have the meaning defined in Section 65852.22 of the California Government Code. An interior unit that is 500 square feet or less and built entirely within a single-family home shall be considered a junior accessory dwelling unit.

2. Junior and accessory dwelling units are residential uses consistent with the uses permitted in zones that allow for residential and mixed use residential development.

3. Junior and 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. Therefore, the ADU/JADU shall not count as units when calculating density of the lot.

4. Junior and accessory dwelling units shall be permitted in zones which allow residential and mixed use residential development and shall comply with the following standards:

a. A detached primary single-family dwelling unit shall exist or be proposed on the lot, or existing multifamily dwelling units shall exist on the lot.

b. The accessory dwelling unit may be created within the existing walls of a primary residence or accessory structure (an "interior" accessory unit), may be created by an addition attached to an existing or proposed primary residence (an "attached" accessory dwelling unit), or may be a new structure detached from the primary residence (a "detached" accessory dwelling unit). It must be located on the same lot as the existing or proposed single family home or multifamily dwelling.

c. Any construction of a junior or accessory dwelling unit shall conform to all property development regulations of the zone in which the property is located including, but not limited to, height limits, setback, lot coverage, landscape, and floor area ratio (FAR), as well as all fire, health, safety and building provisions of this title, subject to the following exceptions:

i. No setback is required for an existing living area converted to a junior or accessory dwelling unit or for an existing accessory structure converted to an accessory dwelling unit, or for a new accessory dwelling unit constructed in the same location and built to the same dimensions as an existing structure.

ii. For all other accessory dwelling units, a minimum setback of four feet is required from the rear and side property lines.

iii. Limits on lot coverage, floor area ratio, open space, and size must permit at least an eight hundred (800) square feet detached or attached accessory dwelling unit sixteen (16) feet high with four-foot side and rear yards, if the proposed accessory dwelling unit is in compliance with all other development standards.

d. No more than one junior accessory dwelling unit or one accessory dwelling unit shall be permitted per single-family lot, except as permitted in subsection 5(b) below.

e. For a junior or accessory dwelling unit that is contained within or attached to the primary dwelling, there shall be an independent exterior access.

f. The floor area of an attached or detached accessory dwelling unit shall not exceed 850 square feet for a studio or one bedroom or one thousand (1,000) square feet for a unit that contains more than one bedroom. No accessory dwelling unit may be smaller than the size required to allow an efficiency unit as defined in Section 17958.1 of the Health & Safety Code.

g. A new structure or an addition to an existing structure for an accessory dwelling unit shall not exceed sixteen (16) feet in height measured from pre-existing grade or finished grade, whichever is lower, to the highest point of the roof.

h. To ensure compliance with the provisions of the California Coastal Act of 1976 and the approved Land Use Plan of the City's Local Coastal Program, junior and accessory dwelling units may not be permitted in the following locations:

i. On any site where grading of more than 50 cubic yards is required to create the accessory dwelling unit.

ii. On any site designated as an Environmentally Sensitive Habitat Area (ESHA).

iii. On any bluff top site or in the Hillside Overlay Zone.

iv. On any site within the Wildland Urban Interface, Very High Fire Hazard Area.

i. The junior and accessory dwelling unit shall not be owned, sold, transferred, or otherwise conveyed sold separate from the primary residence.

j. For applications received after January 1, 2025, one of the dwellings on the lot must be the bona fide principal residence of at least one legal owner of the lot containing the dwelling, as evidenced at the time of approval of the accessory dwelling unit by appropriate documents of title and residency. Prior to the issuance of a building permit, the applicant shall provide evidence that a covenant has been

recorded stating that one of the dwelling units on the lot shall remain owner occupied.

k. Junior and accessory dwelling units shall only be used for rentals of terms of 30 consecutive days or more.

l. The following provisions are applicable to junior accessory dwelling units:

i. A junior accessory dwelling unit shall not exceed 500 square feet in size and shall contain at least an efficiency kitchen which includes cooking appliances (i.e. stove, oven, and microwave), refrigerator, a sink with garbage disposal, and a food preparation counter and storage cabinets that are of reasonable size in relation to the junior accessory dwelling unit.

ii. The junior accessory dwelling unit shall include access to sanitation facilities.

iii. One of the dwellings on the lot must be the bona fide principal residence of at least one legal owner of the lot, as evidenced at the time of approval and upon demand thereafter of the junior accessory dwelling unit by appropriate documents of title and residency.

iv. Prior to issuance of a building permit for a junior accessory dwelling unit, the owner shall record a covenant in a form prescribed by the city attorney, which shall run with the land and provide for the following:

(a) A prohibition on the separate ownership, sale, transfer, or other conveyance of the junior accessory dwelling unit separate from the sale of the single-family residence;

(b) A restriction on the size and attributes of the junior accessory dwelling unit consistent with this section;

(c) A prohibition against renting the junior accessory dwelling unit for fewer than 30 consecutive calendar days; and

(d) A requirement that either the primary residence or the junior accessory dwelling unit be the owner's bona fide principal residence, unless the owner is a governmental agency, land trust, or housing organization.

m. 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 in locations determined by the director of community development or the director's designee 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. No off-street parking shall be required for the accessory dwelling unit in any of the following instances:

- i. The accessory dwelling unit is located within one-half mile walking distance of a 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 where 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.

n. Design.

- i. A junior or accessory dwelling unit, whether attached or detached, shall utilize the same architectural style, exterior materials, and colors as the existing or proposed primary dwelling, and the quality of the materials shall be the same or exceed that of the primary dwelling.
- ii. The primary entrance to the accessory dwelling unit(s) shall not be visible from the street adjacent to the front yard setback.
- iii. A minimum building separation of six feet shall be maintained (eave to eave) between the primary residence and a detached accessory dwelling unit. A minimum building separation of 10 feet shall be maintained (eave to eave) from the entrance of an accessory dwelling unit if it is facing the wall of another structure on the property.
- iv. ADU parking in setback areas visible from the street shall be screened by vegetation that has a maximum maturity height of 42 inches.

o. Except as provided in subparagraph (p) below, 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 in square feet 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. A sub-meter may be allowed to meet this requirement.

p. 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 for the following:

i. Junior accessory dwelling unit.

ii. Accessory dwelling unit meeting the requirements of Section 5(a)

q. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

r. No impact fees may be imposed on a junior or accessory dwelling unit that is less than seven hundred fifty (750) square feet in size. For purposes of this section, "impact fees" include the fees specified in Sections 66000 and 66477 of the Government Code, but do not include utility connection fees or capacity charges. For accessory dwelling units that have a floor area of seven hundred fifty (750) square feet or more, impact fees shall be charged proportionately in relation to the square footage of the primary dwelling unit.

5. The following types of accessory dwelling units are required to be permitted. Other accessory dwelling units, including attached and detached accessory dwelling units, are also permitted if they conform to the requirements of subsection (4):

a. One junior accessory dwelling unit or accessory dwelling unit within the existing space of a single-family dwelling or accessory structure or the proposed space of a single-family structure, if all the following apply:

i. In an accessory structure an expansion beyond the existing physical structure is limited to 150 square feet and is permitted solely to accommodate ingress and egress.

ii. The unit has exterior access separate from the existing or proposed single family dwelling.

iii. The side and rear setbacks are sufficient for fire and safety.

iv. Any junior accessory dwelling unit complies with Section (D)(4)(I).

b. One new detached accessory dwelling unit not larger than eight hundred (800) square feet or more than sixteen (16) feet high, with side and rear yard setbacks of at least four (4) feet on a lot with an existing or proposed single-family dwelling. A junior accessory dwelling unit complying with Section (D)(4)(I) may be developed on the same lot.

c. Accessory dwelling units within the portions of an existing multifamily dwelling structure that are not used as livable space, provided that each unit complies with state building standards for dwellings. An accessory dwelling unit shall not be created within any portion of the habitable area of an existing dwelling unit in a multifamily structure. Up to 25 percent of the number of existing multifamily units in the building, but at least one unit, shall be allowed.

d. Up to two detached accessory dwelling units on a lot with an existing multifamily dwelling structure, provided that the height does not exceed sixteen (16) feet and that four-foot side and rear yard setbacks are maintained.

6. Applications for junior and accessory dwelling units conforming to the requirements of subsection (D)(4) or (5) of this section shall be considered ministerially without discretionary review or a hearing, and the director of community development shall approve or deny such applications within sixty (60) days after receiving a complete application. Incomplete applications will be returned with an explanation of what additional information is required. The city shall grant a delay in processing if requested by the applicant. If the permit application is submitted with a permit application to create a new single-family dwelling on the lot, the application for the junior or accessory dwelling unit shall not be acted upon until the application for the new single-family dwelling is approved, but thereafter shall be ministerially processed within sixty (60) days of receipt of a complete application and approved if it meets the requirements of this section. Occupancy of the junior or accessory dwelling unit shall not be allowed until the city approves occupancy of the primary dwelling.

7. In cases of conflict between this section and any other provision of this title, the provisions of this section shall prevail. To the extent that any provision of this section is in conflict with State law, the applicable provision of State law shall control, but all other provisions of this section shall remain in full force and effect.

8. The city may offer incentives to encourage development of accessory dwelling units. If owners of accessory units elect to record a ninety-nine (99) 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 thirty (30) percent of the gross monthly income of a low-income household, at eighty (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 ninety (99) 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 3. 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 4. 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 11th day of December, 2019; and

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Solana Beach, California, held on the 8th day of January, 2020, by the following vote:

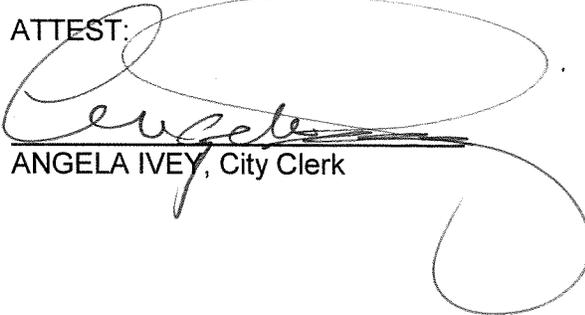
AYES: Councilmembers – Edson, Hegenauer, Becker, Harless
NOES: Councilmembers – None
ABSTAIN: Councilmembers – None
ABSENT: Councilmembers – Zito


JEWEL EDSON, Mayor

APPROVED AS TO FORM:


JOHANNA N. CANLAS, City Attorney

ATTEST:

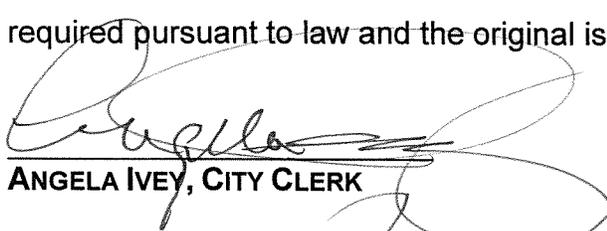

ANGELA IVEY, City Clerk



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 508** *repealing section 17.20.040(D) and adopting a revised section 17.20.040(D) of the Solana Beach Municipal Code, to provide for regulations concerning junior and accessory dwelling units* as duly introduced on December 11, 2019 and adopted on January 8, 2020, 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: January 23, 2020