

REPORT TO THE PLANNING COMMISSION



DATE: July 28, 2020

TITLE: An Ordinance of the City Council of The City of Desert Hot Springs, California Amending Title 17, Section 17.08.170 Related to “Accessory Dwelling Unit” to Harmonize with State Law.

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RECOMMENDATION

- 1) Staff Report;
- 2) Entertain questions of Staff from the Planning Commission
- 3) Open Public Hearing;
- 4) Take public testimony;
- 5) Close the Public Hearing;
- 6) City Council discussion and questions to Staff; and
- 7) Planning Commission recommends to City Council approval of “An Ordinance of the City Council of The City of Desert Hot Springs, California Amending Title 17, Section 17.08.170 Related to “Accessory Dwelling Unit” to Harmonize with State Law.”

BACKGROUND

The City of Desert Hot Springs Municipal Code (“DHSMC”) regulates accessory dwelling units in Section 17.08.170. State regulations have changed multiple times since the state made the requirement that City allow for accessory dwelling unit by right in all zones that allow for single family dwellings. The new

The ordinance proposes the following changes:

17.08.170 Accessory ~~dwelling unit.~~ **Dwelling Unit.**

A. This section provides for accessory dwelling units on lots developed or proposed to be developed with single-family dwellings, provided they comply with the requirements of this section. Accessory dwelling units are a residential use which is consistent with the General Plan objectives and zoning regulations and which enhances housing opportunities, including near transit on single-family lots.

B. This section applies to all lots that are occupied or proposed to be occupied with a single-family dwelling unit and zoned residential. Accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit it located, and are a residential use that is consistent with the existing general plan and zoning designation for the lot.

C. An accessory dwelling unit within an existing space including the primary structure, attached or detached garage or other accessory structure shall be permitted ministerially with a building permit regardless of all other standards within the chapter if it complies with:

1. Building and safety codes;
2. Independent exterior access from the existing residence; and
3. Fire codes.

D. Accessory dwelling units shall meet the following general development standards:

1. **Except as otherwise allowed under Government Code Section 65852.26, the** The unit may be rented separately from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence ~~and may be rented.~~

2. The lot is zoned for **single-family residential use** and contains an existing or proposed single-family dwelling.

3. The accessory dwelling unit is either attached or located within the living area of the proposed or existing dwelling, **including attached garages, storage areas or similar uses, or an accessory structure** or detached from the proposed or existing primary dwelling, and located on the same lot as the proposed or existing dwelling.

4. **If there is an existing primary dwelling, the** The total **floor** area of the ~~floor space~~ of an attached accessory dwelling unit shall not exceed 50 percent of the existing **primary dwelling or 1,200 square feet, whichever is less.** ~~living area or 1,200 square feet.~~ **Notwithstanding this, the attached accessory dwelling unit can be up to 850 square feet regardless of the size of the primary residence.**

5. The total **floor** area of ~~floor space~~ for a detached accessory dwelling unit shall not exceed **50 percent of the primary dwelling or 1,200 square feet, whichever is less. Notwithstanding this, the detached accessory dwelling unit can be up to 850 square feet regardless of the size of the primary residence.**

6. Local building code requirements that apply to detached dwellings, as appropriate.

7. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

8. No setback shall be required for an existing ~~garage~~ **living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure** that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than **four 5** feet from the side and rear lot lines shall be required for an accessory dwelling unit that **is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.**

9. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence and may employ alternative methods for fire protection.

~~10. The applicant for a permit issued pursuant to this section must be an owner-occupant.~~

1011. Attached accessory dwelling units shall be located in such a fashion so that it is concealed from public view (specifically the entrance) and shall have matching colors and materials as the main unit.

1112. Allow for paved parking on-site, as allowed by State law.

E. Accessory dwelling units shall be permitted ministerially if all applicable requirements and development standards of this chapter are met and no variances are required. **The City shall act on the building permit application to create an accessory dwelling unit within sixty (60) days from the date the City receives a completed application if there is an existing single-family dwelling on the lot. If the building permit application to create an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the permit application for the**

accessory dwelling unit until the City acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the sixty-day time period shall be tolled for the period of the delay. The City may charge a fee to reimburse it for costs incurred in connection with implementing this subsection.

F. Notwithstanding subsections C through E inclusive, applications for a building permit within a residential or mixed-use zone to create any of the following shall be ministerially approved:

1. One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

a. The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

b. The space has exterior access from the proposed or existing single-family dwelling.

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

d. The junior accessory dwelling unit complies with the requirements of Government Code Section 65852.22.

2. One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit. An accessory dwelling unit described in this paragraph must conform to the following conditions:

a. The total floor area is not more than 800 square feet.

b. The height is not more than 16 feet.

3. For multifamily zones:

a. Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

b. At least one accessory dwelling unit within an existing multifamily dwelling and up to twenty-five percent of the existing multifamily dwelling units.

4. Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of sixteen feet and four-foot rear yard and side setbacks.

G. Accessory dwelling units under this section shall conform to the following standards:

1. Rental of the accessory dwelling unit shall be for a term longer than 30 days.

2. As part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test must be completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.
3. No certificate of occupancy for an accessory dwelling unit shall be issued before the City issues a certificate of occupancy for the primary dwelling.

H. Enforcement. In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, the City, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

1. The accessory dwelling unit was built before January 1, 2020.

2. The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

Section 17.08.175 (“Junior Accessory Dwelling Unit”) of Chapter 17.08 (“Residential Districts”) of Title 17 (“Zoning”) of the Desert Hot Springs Municipal Code is hereby added to read in its entirety as follows:

A. Purpose and Intent.

1. This section provides for junior accessory dwelling units on lots developed or proposed to be developed with single-family dwellings, provided they comply with the requirements of this section. Junior accessory dwelling units are a residential use which is consistent with the General Plan objectives and zoning regulations and which enhances housing opportunities, including near transit on single-family lots.

B. Applicability. The provisions of this chapter apply to all lots that are occupied or proposed to be occupied with a single-family dwelling unit and which are zoned residential. Junior accessory dwelling units shall not be counted as separate and/or additional units for the purposes of density calculations.

C. Development Standards.

1. A junior accessory dwelling unit (JADU) shall not exceed five hundred square feet and must be completely contained within the space of a single-family residence. All JADUs must comply with the following requirements:

a. Limited to one JADU per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.

b. The single-family residence in which the JADU is created or JADU must be occupied by the owner of the residence, except when owner is a governmental agency, land trust or housing organization. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit.

c. The owner must record a deed restriction, a copy of which shall be filed with the City, that contains the following provisions:

(i) A prohibition on the sale of the JADU separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(ii) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this chapter.

d. The JADU must be constructed within the walls of the proposed or existing single-family residence.

e. The JADU must have a separate entrance from the main entrance to the proposed or existing single-family residence. In addition, the JADU must have a shared entrance with the main proposed or existing single-family residence.

f. The JADU must include an efficiency kitchen that includes the following:

(i) A cooking facility with appliances.

(ii) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.

g. The JADU may share a bath with the primary residence or have its own bath.

h. The JADU will be subject to inspections and any fees for such inspections, for determination of whether the JADU is in compliance with applicable building codes.

D. Permit Requirements. Applications for a permit pursuant to this chapter shall be considered ministerially, without discretionary review or a hearing. The City shall act on the building permit application to create a junior accessory dwelling unit within sixty (60) days from the date the City receives a completed application if there is an existing single-family dwelling on the lot. If the building permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. The City may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this subsection.

FISCAL IMPACT

None.

EXHIBIT(S)

1) Proposed Ordinance