

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, CALIFORNIA AMENDING SECTION 17.08.170 "ACCESSORY DWELLING UNIT" TO HARMONIZE WITH STATE LAW.**

**WHEREAS**, the City of Desert Hot Springs ("City") is a charter city organized pursuant to Article XI of the California Constitution; and

**WHEREAS**, Title 17 "Zoning," of the Desert Hot Springs Municipal Code ("DHSMC") establishes regulations that define how property in specific geographical zones can be used within the City, and regulates development, within the City's general police powers, as set forth in the California Constitution; and

**WHEREAS**, while charter cities enjoy additional freedom under the California Constitution to govern their "municipal affairs," and land use and zoning decisions have been consistently classified as a municipal affair, in enacting the legislations referenced below, the California Legislature found that such matters were a matter of statewide concern, and therefore charter cities were subject to such laws; and

**WHEREAS**, pursuant to 17.88.020 of the Desert Hot Springs Municipal Code, the City Council directs itself to have a hearing on the proposed Ordinance; and

**WHEREAS**, the City desires to amend Title 17 (Zoning) of the municipal code to comport with state law pertaining to Accessory Dwelling Units ("ADU") and Junior Accessory Dwelling Units ("JADU"); and

**WHEREAS**, recent legislation updated regulations associated with Accessory Dwelling Units and Junior Accessory Dwelling Units (Assembly Bill 68, Senate Bill 13, Assembly Bill 587, Assembly Bill 670, Assembly Bill 671, and Assembly Bill 881) (collectively, "Recent ADU Laws") and intended to reduce barriers, streamline approval and expand potential capacity for ADUs and JADUs, recognizing their unique importance in addressing California's housing needs; and

**WHEREAS**, an ADU (formerly called a "second unit") is a secondary dwelling unit with complete independent living facilities for one or more persons and generally takes three forms: (1) detached from primary structure; (2) attached to primary structure; or (3) space within primary residence converted into independent living unit; and

**WHEREAS**, a JADU is a secondary dwelling unit completely contained within a single-family residence that shares sanitation facilities or may include separate facilities; and

**WHEREAS**, among the numerous updates, the Recent ADU Laws make numerous revisions to state law with respect to size, height, and setbacks of ADUs, parking requirements, ministerial approval of certain ADU applications, and further restricts cities from adopting an ordinance in conflict with the Recent ADU Laws; and

**WHEREAS**, this Ordinance updates the Desert Hot Springs Municipal Code to comport with the Recent ADU Laws; and

**WHEREAS**, the City is required to submit their revised regulations with respect to ADUs to the California Department of Housing and Community development within 60 days after they become effective; and

**WEREAS**, on \_\_\_\_\_ 2020, in accordance with Government Code Section 65856, upon receipt of the Planning Commission recommendation, the City Council held a public hearing to consider this ordinance; and

**WHEREAS**, the City Council finds that this Ordinance is consistent with the General Plan; and

**WHEREAS**, the City Council finds that this Ordinance would promote the public interest, health, safety, convenience, or welfare of the City; and

**WHEREAS**, the City Council finds that the adoption of this ordinance is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3) because it can be seen with certainty that there is no possibility that the adoption of this Ordinance in question may have a significant effect on the environment and Section 15282(h), which provides a statutory exemption for “the adoption of an ordinance regarding second units [accessory dwelling units] in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of Government Code as set forth in Section 21080.17 of the Public Resources Code.”

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Desert Hot Springs as follows:

**Section 1.**                      **RECITALS**

That the foregoing recitals are true and correct and are herein adopted by this reference.

**Section 2.**                      **AMENDMENT OF SECTION 17.04.50 “DEFINITIONS” OF CHAPTER 17.04 “GENERAL PROVISIONS” OF TITLE 17**

## **“ZONING” OF THE DESERT HOT SPRINGS MUNICIPAL CODE**

Section 17.04.050 (“Definitions”) of Chapter 17.04 (“General Provisions”) of Title 17 (“Zoning”) of the Desert Hot Springs Municipal Code is amended as follows:

~~“Accessory dwelling unit” means an attached or a detached residential dwelling unit, which provides complete independent living facilities for 1 or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:~~

~~An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.~~

~~A manufactured home, as defined in Section 18007 of the Health and Safety Code.~~

**“Accessory dwelling unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following: (a) an efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, and (b) a manufactured home, as defined in Section 18007 of the Health and Safety Code.**

~~“Granny” Flat. This dwelling may not be rented and shall receive utilities through metering provider for the principal residence. An additional dwelling unit intended for the sole occupancy of 1 or 2 adult persons who are 62 years of age or over, and the floor area of the attached “granny” flat dwelling unit does not exceed 30 percent of the existing living area of the primary residence or the floor area of the detached “granny” flat dwelling unit does not exceed 1,200 square feet on a lot designated as residential, as defined in Government Code Section 65852.1.~~

~~“Second dwelling unit” means an additional dwelling unit which may be rented, and the floor area of the attached second dwelling unit does not exceed 30% of the existing living area of the primary residence or the floor area of the detached second dwelling unit does not exceed 1,200 square feet on a lot designated as residential, as defined in Government Code Section 65852.2.~~

**“Junior accessory dwelling unit” means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.**

**“Efficiency kitchen” means a kitchen in a junior accessory dwelling unit that may only have up to all of the following: 1) a single basin sink with a maximum waste line diameter of 1.5 inches, and/or 2) a small cooking facility, and/or 3) a maximum of two small kitchen appliances that can run on standard 120 volt outlets or natural or propane gas.**

**Section 3.**

**AMENDMENT OF SECTION 17.08.040 “LAND USE DISTRICT DEVELOPMENT—SPECIFIC STANDARDS” OF CHAPTER 17.08 “RESIDENTIAL DISTRICTS” OF TITLE 17 “ZONING” OF THE DESERT HOT SPRINGS MUNICIPAL CODE**

Section 17.08.040 (“Land Use District Development—Specific Standards”) of Chapter 17.08 (“Residential Districts”) of Title 17 (“Zoning”) of the Desert Hot Springs Municipal Code is amended to read in its entirety as follows:

In addition to the general development requirements contained in Chapter 17.40 (Property Development Standards), the following standards shall apply to specific residential districts:

**TABLE 17.08.03  
RESIDENTIAL DISTRICTS SPECIFIC STANDARDS**

<b>Specific Standards</b>	<b>R-E</b>	<b>R-L</b>	<b>R-M</b>	<b>R-MH</b>	<b>R-H</b>	<b>R-VS</b>
Accessory Structures	+	+	+	+	+	+
Day Care Center					+	+
Day Care Home, Large Family	+	+	+	+		+
Density Bonus/Affordable Housing	+	+	+	+	+	+
Golf Courses and Related Facilities	+	+	+	+	+	+
Guest Housing	+	+	+	+		+
Minimum Dwelling Size	+	+	+	+	+	+
Mobile Home and Manufactured Housing	+	+	+	+	+	+
Mobile Home Park or Subdivision				+		
Multiple-Family Housing				+	+	+
Planned Residential Development	+	+	+	+	+	+
Planned Development District	+	+	+	+	+	+
Recreational Vehicle Storage			+	+	+	+

<b>Second Dwelling Unit/“Granny Housing” Accessory Dwelling Unit/Junior Accessory Dwelling Unit</b>	+	+	+	+	+	+
Senior Citizen/Congregate Care Housing		+	+	+	+	+
Single-Family Dwelling, Existing	+	+	+	+	+	+
Single Room Occupancy			+		+	+
Small Lot Subdivisions		+	+		+	+
Second Stories for Single-Family Units in the R-L District		+				

Key: “+” = applies in the land use district.

#### **Section 4.**

#### **AMENDMENT OF SECTION 17.08.170 “ACCESSORY DWELLING UNIT” OF CHAPTER 17.08 “RESIDENTIAL DISTRICTS” OF TITLE 17 “ZONING” OF THE DESERT HOT SPRINGS MUNICIPAL CODE**

Section 17.08.170 (“Accessory Dwelling Unit”) of Chapter 17.08 (“Residential Districts”) of Title 17 (“Zoning”) of the Desert Hot Springs Municipal Code is amended to read in its entirety as follows:

#### **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 floorspace 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.

**1142.** 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 5.**

**ADDITION OF 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**

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.

#### **Section 6.**

#### **MINISTERIAL APPROVAL OF ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS**

Accessory dwelling units and junior accessory dwelling units shall be permitted in compliance with applicable State law.

#### **Section 7.**

#### **GENERAL PLAN CONSISTENCY FINDINGS**

The City Council finds this amendment is consistent and compatible with the General Plan.

#### **Section 8.**

#### **GENERAL FINDINGS**

The City Council finds this Ordinance is not detrimental to the public interest, health, safety, convenience, or welfare of the City.

**Section 9.**                    **SEVERABILITY**

That, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

**Section 10.**                    **REPEAL OF CONFLICTING PROVISIONS**

That all the provisions of the Municipal Code as heretofore adopted by the City of Desert Hot Springs that are in conflict with the provisions of this ordinance are hereby repealed.

**Section 11.**                    **AMENDING OF BAIL SCHEDULE**

That the City Attorney's Office is hereby directed to determine whether this ordinance necessitates amendment of the City's Bail Schedule and to cause such necessary amendments to be made and filed with the local branches of the Superior Court of the County of Riverside.

**Section 12.**                    **EFFECTIVE DATE**

That this ordinance shall be effective thirty days after the second reading of the ordinance.

**Section 13.**                    **CERTIFICATION**

That the City Clerk shall certify to the passage of this ordinance and shall cause the same to be published according to law.

**PASSED AND ADOPTED** by the City Council of the City of Desert Hot Springs at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2020 by the following vote:

Ayes:

Noes:

Abstain:

Absent:

\_\_\_\_\_  
Scott Matas, Mayor

**ATTEST:**

\_\_\_\_\_  
Jerryl Soriano, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jennifer A. Mizrahi, City Attorney