

## ORDINANCE NO. 308

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL REY OAKS, CALIFORNIA, ADDING CHAPTER 17.70 TO THE DEL REY OAKS MUNICIPAL CODE TO REGULATE ACCESSORY DWELLING UNITS IN THE CITY

**WHEREAS**, Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) are a form of housing in the State of California and in the City of Del Rey Oaks (City); and

**WHEREAS**, the California State Legislature and Governor recently adopted several bills relating to the planning and permitting of ADUs and JADUs; and

**WHEREAS**, the new standards will facilitate the development of ADUs and JADUs within the City, and are necessary for maintaining orderly growth and development patterns; and

**WHEREAS**, at its September 8, 2021 meeting, the City's Planning Commission considered the draft ordinance and voted unanimously to recommend Council adopt the draft ordinance as presented; and

**WHEREAS**, in the enactment of this Ordinance, the City followed the guidelines adopted by the State of California and published in the California Code of Regulations, Title 14, Section 15000, et seq.; and

**WHEREAS**, the adoption of this Ordinance is statutorily exempt from review under the California Environmental Quality Act (CEQA) per Section 15282(h) of the CEQA Guidelines as it implements Government Code Sections 65852.1 and 65852.2 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 Del Rey Oaks, California, as follows:

**SECTION 1.** The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

**SECTION 2.** Chapter 17.70 is hereby added to the Del Rey Oaks Municipal Code to read as follows:

#### **17.70 ACCESSORY DWELLING UNITS**

##### **17.70.010 Purpose and Intent.**

This chapter establishes standards for the location and construction of accessory dwelling units and junior accessory dwelling units (jointly referred to as "accessory dwelling units" in this chapter) in conformance with California Government Code Sections 65852.2 and 65852.22, as they may be amended.

The standards associated with accessory dwelling units and junior accessory dwelling units are intended to allow for accessory units as an important form of affordable housing and to comply with State Law.

#### **17.70.020 Definitions**

“Accessory Structure” means a structure that is accessory and incidental to a dwelling located on the same lot.

“Accessory dwelling unit” or “ADU” 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. An accessory dwelling unit also includes the following: (1) An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code, as may be amended; and (2) A manufactured home, as defined by Section 18007 of the California Health and Safety Code, as may be amended.

“Efficiency Kitchen” means a cooking facility with appliances, a food preparation counter or counters that are adequate for the size of the unit, and storage cabinets that are adequate for the size of the unit.

“Efficiency Unit” as defined in California Government Code Section 17958.1, has the same meaning specified in the International Building Code of the International Code Council, as incorporated by reference in Part 2 of Title 24 of the California Code of Regulations.

“Junior Accessory Dwelling Unit” or “JADU” as defined in California Government Code Section 65852.22, means a unit that is no more than 500 square feet in size, is contained entirely within a single-family residence, and contains an Efficiency Kitchen

“Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

#### **17.70.030 Approval Required.**

##### **A. Accessory Dwelling Units - Permits required**

1. Nondiscretionary Review. ADUs consistent with the requirements of this chapter are allowed by right with the issuance of a building permit.
2. Time Limit to Act. The City shall complete its review of an ADU application and approve or deny the application within 60 days of receipt of the application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an ADU is submitted with a permit application to create a new single-family dwelling on the lot, the City shall delay acting on the permit application for the ADU until the City acts on the permit application to create the new single-family dwelling. If the applicant requests a delay, the 60-day time limit shall be extended for the period of the requested delay. In either case the application to create the ADU shall be considered without discretionary review or hearing.

#### **17.70.040 General ADU and JADU Requirements.**

- A. ADUs and JADUs are permitted on a lot in any zone that allows residential use.
- B. ADUs and JADUs may not be sold separately from the primary dwelling.
- C. ADUs and JADUs shall not be rented for a period of less than thirty (30) days.

#### **17.70.050 Specific Requirements.**

##### **A. Site and design standards.**

1. General. ADUs are subject to the same requirements that apply to primary dwellings on the same lot in the applicable zoning district except as specified in this section.

2. Number of Accessory Units. No more than one JADU is permitted on a single lot with a single-family dwelling. Up to two ADUs may be permitted on a single lot with a single-family dwelling provided that one unit is created through the conversion of existing attached or detached space and one unit is created through the construction of a new detached space. Lots with multifamily dwellings shall have a number of internal or attached ADU units equal to 25% of the existing multifamily dwelling units. Fractions of units of 0.5 and above shall be rounded up.

ADUs may include portions of dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided that each unit complies with state building standards for dwellings. At least one ADU shall be permitted per lot within multifamily dwellings. Not more than two detached ADUs shall be permitted on lots with multifamily dwellings.

##### **B. Relationship to Primary Dwelling.**

1. An ADU unit may be within, attached to, or detached from the primary dwelling. Attachment to the primary dwelling shall be by sharing a common interior wall or common roof. No passageway (as defined in California Government Code Section 65852.2) is required in conjunction with the construction of an ADU.

2. An ADU unit shall have its own kitchen, bathroom facilities, and entrance separate from the primary dwelling.

3. The City shall allow JADUs as defined in California Government Code Section 65852.22 to be constructed within the walls of the proposed or existing single-family residence with a separate entrance from the main entrance to the primary dwelling, an efficiency kitchen as defined herein, and shared or independent bathroom facilities.

##### **C. Height.**

1. A single-story attached or detached ADU may not exceed 16 feet in height above grade, measured to the peak of the structure.

2. A second story or two-story attached ADU addition may be permitted subject to an architectural permit and may not exceed the height of the zoning district. The minimum allowed height shall be 16 feet.

#### D. Maximum Unit Size.

1. The maximum floor area for a studio or 1-bedroom ADU shall be 1,000 square feet. The maximum floor area for an ADU of 2 bedrooms or more shall be 1,200 square feet. In situations where an existing accessory structure is being converted to an ADU, an additional 150 square feet are allowed for expansion beyond the physical dimensions of the ADU, limited to providing ingress and egress only.

2. The maximum floor area of a JADU shall be 500 square feet.

#### E. Setbacks.

1. No setback is required for an existing accessory structure or living area that is converted to an ADU.

2. No setback is required for an ADU constructed in the same location and the same footprint as an existing accessory structure.

3. A minimum setback of four feet from the side and rear property lines is required for all other attached or detached ADUs.

#### F. Parking.

1. Except as specified in this subsection, on-site parking for ADUs shall comply with all other City parking requirements.

2. On-site parking is not required for JADUs.

3. In addition to on-site parking spaces required for the primary dwelling, one on-site parking space shall be provided for each ADU per unit or bedroom, whichever is less.

4. On-site parking spaces for ADUs may be covered or uncovered, may be tandem, and may be located within the front, side, or rear setback areas unless there is a specific site or regional condition related to fire or life safety that would make parking in setback areas unsafe.

5. Where a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, or converted to an ADU, the local agency shall not require that those off-street parking spaces for the primary unit be replaced.

6. No on-site parking is required for an ADU in the following cases:

a. The ADU is located within one-half mile walking distance of public transit.

b. The ADU is constructed within the primary residence or within an accessory structure.

c. On-street parking permits are required but not offered to the occupant of the ADU.

d. A car-share vehicle pick-up/drop-off location is located within one block of the ADU.

#### G. Utilities.

1. Attached and Detached ADUs. Consistent with California Government Code Section 66013, a utility connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed ADU, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

2. Fire Sprinklers. The installation of fire sprinklers shall not be required in an ADU if sprinklers are not required for the primary residence.

3. Sanitary Sewer. ADUs shall be connected to the sanitary sewer system through the existing lateral line serving the primary dwelling.

#### 17.70.060 Fees.

A. Impact fees shall not be imposed on an ADU less than 750 square feet in size.

B. Impact fees charged for an ADU of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling.

#### 17.70.070 Nonconforming ADUs.

Any proposed ADU or JADU not conforming to the objective standards set forth in this chapter may be allowed pursuant to a discretionary approval process.

**SECTION 3. Environmental Determination.** The City Council finds the adoption of this Ordinance is statutorily exempt from review under the California Environmental Quality Act (CEQA) per Section 15282(h) of the CEQA Guidelines as it implements Government Code Sections 65852.1 and 65852.2 as set forth in Section 21080.17 of the Public Resources Code.

**SECTION 4.** This Ordinance shall take effect thirty (30) days following its final adoption.

**SECTION 5.** The City Manager and City Clerk are directed to perform all tasks necessary to implement this ordinance.

**SECTION 6. Severability.** If any provision, section, paragraph, sentence, clause, or phrase of this Ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences,

clauses, or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

**SECTION 7. Publication.** The City Clerk of the City of Del Rey Oaks, California, is hereby directed to publish in a newspaper of general circulation.

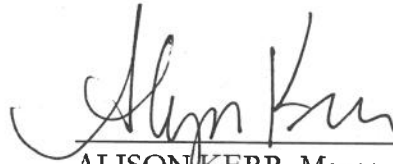
PASSED, APPROVED, AND ADOPTED by the City Council of the City of Del Rey Oaks, California, at its regular meeting held on the 26th day of October, 2021, by the following vote:

AYES: Council Member Gaglioti, Council Member Donaldson, Council Member Shirley, Vice Mayor Lintell and Mayor Kerr


NOES: None

ABSENT: None

ABSTAIN: None

  
ALISON KERR, Mayor

ATTEST:

  
JOHN GUERTIN, City Clerk