

## ORDINANCE 525

### 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 SB 13 (2019), SB 897 (2022), AB 68 (2019), AB 345 (2021), AB 881 (2019), AB 2221 (2022), AB 3182 (2020), and AB 976 (2023) through the adoption of regulations concerning accessory dwelling units; and

**WHEREAS**, Section 65852.150 of the California Government Code provides that the Legislature's intent with the aforementioned Bills 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 state law and are intended to incentivize and promote the creation of ADUs that can offer affordable rents for all household income levels; and

**WHEREAS**, the proposed amendments are consistent with and implement a portion of Sixth Cycle Housing Element Program 1B; and

**WHEREAS**, ADU and/or JADU development will assist the City in satisfying a portion of the housing units allocated to the City through the Regional Housing Needs Allocation; and

**WHEREAS**, the proposed provisions are consistent with the policies and programs of the City's General Plan and the certified Land Use Plan of the City's Local Coastal Plan; and

**WHEREAS**, the proposed regulations include objective standards for development of ADUs and JADUs that protect the health, safety and welfare of the community; and

**WHEREAS**, the City Council of the City of Solana Beach seeks to update the Accessory Dwelling Unit Regulations to comply with the Housing Policies and Programs outlined in the Housing Element Housing Plan.

**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 correct and are hereby incorporated into this Ordinance by reference; and

Section 2. Section 17.08.030 Definitions. Shall be amended to add the following definitions:

**ACCESSORY DWELLING UNIT** – a 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, which may be a single dwelling unit or a multifamily dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel that the primary residence is or will be situated. An accessory dwelling unit also includes an efficiency unit or a manufactured home, as defined in Section 18007 of the Health and Safety Code.

**ACCESSORY DWELLING UNIT, ATTACHED** - an accessory dwelling unit that is physically attached to a primary residence and share an interior wall or as an additional story above the primary dwelling unit.

**ACCESSORY DWELLING UNIT, DETACHED** - an accessory dwelling unit that is not an attached accessory dwelling unit.

**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.

Section 3. Section 17.20.040(D) of the Solana Beach Municipal Code is amended 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. Junior and accessory dwelling units are residential uses consistent with the uses permitted in zones that allow for residential or mixed-use residential development.
2. All development standards contained in the underlying zoning district or overlay shall apply to accessory dwelling units unless they are inconsistent with the provisions of this Section 17.20.040.D, in which case the standards of this Section 17.20.040.D shall apply.

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 or 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 with four-foot side and rear yard setbacks, if the proposed accessory dwelling unit is in compliance with all other development standards.

iv. Architectural features, such as eaves, awnings, canopies, bay windows, and balconies attached to a junior or accessory dwelling unit may project two feet from the exterior side of the structure. These architectural features shall not be allowed to project into the required side or rear yard setback.

- v. Attached or detached accessory structures (such as decks, patio covers, carports, and architectural features greater than two feet measured from the exterior side of the unit) associated with a junior or accessory dwelling unit shall comply to the underlying zoning regulations. These structures shall not project into the required side or rear yard setback nor be located on the roof.
- 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 accessory dwelling unit or an accessory dwelling unit, there shall be a separate entrance from the main entrance to the proposed or existing single-family residence.
- 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 the following height limitations measured from pre-existing grade or finished grade, whichever is lower, to the highest point of the roof.
- i. A height of 16 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit.
  - ii. A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. An additional two feet in height shall be allowed to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.
  - iii. A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.
  - iv. A height of 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a primary dwelling. This clause shall not allow an accessory dwelling unit to exceed two stories.
- h. Junior and accessory dwelling units shall only be used for rentals of terms of 30 consecutive days or more.
- i. 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 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. Parking is not required for a junior accessory dwelling unit.
- iv. 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.
- v. 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.
- j. 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.

vi. The accessory dwelling unit is located within one block of a car share vehicle pick-up location, as established by the city.

k. Design.

i. A junior accessory dwelling unit 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 junior accessory dwelling unit or accessory dwelling unit 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. Accessory dwelling unit parking in setback areas visible from the street shall be screened by vegetation that has a maximum maturity height of 42 inches.

l. Except as provided in subparagraph (m) 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.

m. 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)

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

o. 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 the height limitations allowed under Section (D)(4)(g), 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 the height limitations allowed under Section (D)(4)(g) 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 twenty-five (25) year deed restriction, consistent with State Law, 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 low 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 twenty-five (25) 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. Section 17.20.020(B)(1)(d) of the Solana Beach Municipal Code is amended to read as follows:

d. Accessory dwelling units shall be allowed as an accessory use in the (ER-1), (ER-2), (LR), (LMR), (MR), (MHR), and (HR) zones subject to the requirements set forth in SBMC 17.20.040(D).

Section 5. Section 17.20.020(B)(2) of the Solana Beach Municipal Code is removed.

Section 6. Table 17.12.020 of the Solana Beach Municipal Code is amended to read as follows (changes shown in underline and strikeout):

	USE	ZONE															
		ER-1	ER-2	LR	LMR	MR	MHR	HR	C	SC	LC	OP	PI	LI	A	OSR	ROW
1. RESIDENTIAL USES																	
13	Guest Houses	<del>PL</del>	<del>PL</del>	<del>PL</del>	<del>E</del>	<del>E</del>	<del>E</del>	<del>E</del>	<del>E</del>	<del>E</del>	<del>E</del>	<del>E</del>	<del>E</del>	<del>E</del>	<del>PL</del>	<del>E</del>	<del>E</del>
14	Accessory Living Units	<del>PL</del>	<del>PL</del>	<del>PL</del>	<del>PL</del>	<del>PL</del>	<del>G</del>	<del>G</del>	<del>E</del>	<del>E</del>	<del>E</del>	<del>E</del>	<del>E</del>	<del>E</del>	<del>PL</del>	<del>E</del>	<del>E</del>
13	Accessory Dwelling Units	P	P	P	P	P	P	P	PL	PL	PL	E	E	E	E	E	E

Section 7. Section 17.12.010(D)(1)(k) of the Solana Beach Municipal Code is amended to read as follows:

k. Accessory Dwelling Unit. A 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, which may be a single dwelling unit or a multifamily dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel that the primary residence is or will be situated. An accessory dwelling unit also includes an efficiency unit or a manufactured home, as defined in Section 18007 of the Health and Safety Code.

Section 8. Section 17.12.010(D)(1)(l) Accessory Living Unit. of the Solana Beach Municipal Code shall be removed.

Section 9. Section 17.24.020(B)(3)(c) of the Solana Beach Municipal Code shall be added to read as follows:

c. Accessory Dwelling Units shall be permitted as an accessory use to an existing or proposed residential structure.

Section 10. Section 17.48.040(C)(1)(c) of the Solana Beach Municipal Code shall be modified to read as follows:

c. Required parking within garages (200 square feet per space up to a maximum of 400 square feet for a single-family residence) shall be excluded from the calculation of floor area ratio.

Section 11. Section 17.52.040(A) "Accessory Living Units" shall be removed.

~~Accessory living units~~     ~~1 space in addition to those required for primary residence.~~

Section 12. The City Council finds that this Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to Section 21080.17 of the Public Resources Code relating to the construction of second units, which exempts the adoption of an ordinance by a city to implement the provisions of Government Code Section 65852.2. The City Council further finds that the Ordinance is exempt from CEQA pursuant to Section 15305 of the CEQA Guidelines, which exempts minor alterations in land use limitations that will not result in any changes in land use or density. The Ordinance updates the provisions of the City's Municipal Code to conform with state law requirement relating to development of ADUs and Junior ADUs, and it does not change permitted land uses on any property nor increase the density of residential uses that property owners are permitted to develop on their property. Further, none of the exceptions to the Section 15305 exemption included in Section 15300.2 of the CEQA Guidelines are applicable. Therefore, adoption of the Ordinance is exempt from the provisions of CEQA.

Section 13. 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.

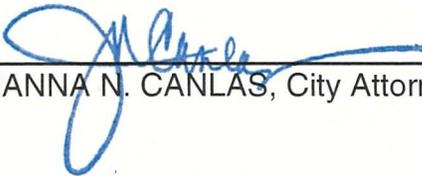
**INTRODUCED AND FIRST READ** at a special meeting of the City Council of the City of Solana Beach, California, on the 29<sup>th</sup> day of November, 2023; and

**THEREAFTER ADOPTED** at a regular meeting of the City Council of the City of Solana Beach, California, on the 13<sup>th</sup> day of December, 2023, by the following vote:

- AYES: Councilmembers – Heebner, Edson, Becker, MacDonald, Zito
- NOES: Councilmembers – None
- ABSTAIN: Councilmembers – None
- ABSENT: Councilmembers – None

  
\_\_\_\_\_  
LESA HEEBNER, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

ATTEST:

  
\_\_\_\_\_  
ANGELA IVEY, City Clerk

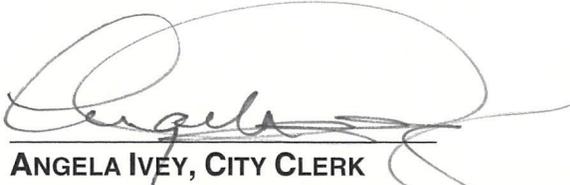




## ORDINANCE CERTIFICATION

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 525** *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* 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: December 20, 2023

