

**CITY OF OJAI
ORDINANCE NO. 875**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF OJAI, CALIFORNIA, AMENDING OJAI MUNICIPAL
CODE SECTION 10-2.1709 GOVERNING SECOND
RESIDENTIAL UNITS AND ACCESSORY DWELLING
UNITS TO CONFORM TO NEW STATE STATUTORY
MANDATED ACCESSORY DWELLING UNIT
ORDINANCE REQUIREMENTS AND TO FURTHER
MODIFY ACCESSORY DWELLING UNIT STANDARDS
AND FINDING THAT THE ADOPTION OF THE
AMENDMENTS IS EXEMPT FROM THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

WHEREAS, a second residential unit, also known as an accessory dwelling unit, is an attached or a detached residential dwelling unit which provides complete independent living facilities for one (1) or more persons that includes permanent provisions for living, sleeping, eating, cooking, and sanitation and is situated on the same parcel or parcels as the primary residential unit; and

WHEREAS, as permitted by Government Code section 65852.2, the City Council previously adopted an ordinance providing for the creation and regulation of second units; and

WHEREAS, last year the Legislature amended Government Code section 65852.2, adding additional requirements for the City's second unit ordinance, now referred to in the Government Code as an accessory dwelling unit ordinance, including that the City must permit by right a detached second unit of at least 1,200 square feet, permit by right an attached second unit of up to 50 percent of the existing habitable area of the primary unit or 1,200 square feet (whichever is less), must reduce specified parking requirements, must permit a garage conversion to maintain existing setbacks and may only impose a minimum setback of 5 feet from side and rear lot lines for second units constructed above existing garages, and must permit compliant second units to be reviewed and approved ministerially, with no discretionary review required for second units meeting the minimum requirements; and

WHEREAS, on November 15, 2016, the City Council adopted an urgency ordinance revising Ojai Municipal Code section 10-2.1709 to conform with the requirements of the amended Government Code section 65852.2; and

WHEREAS, the City Council directed the Planning Commission to continue to evaluate recommended amendments to the City's accessory dwelling unit ordinance in light of the amendments to Government Code section 65852.2 and in light of the City's Housing Element, which includes a policy stating that the City will encourage the development of new second units; and

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WHEREAS, the Planning Commission recommended that the City Council adopt the following amendments to Ojai Municipal Code section 10-2.1709, revising it so that it reads as stated below, in order to encourage reasonable accessory dwelling unit development while preserving the community's existing character and minimize negative privacy impacts on adjacent properties; and

WHEREAS, on May 3, 2017 and May 17, 2017, the Planning Commission held noticed public hearings regarding the zoning code amendment and environmental determination and, notice of said hearings, including the proposed CEQA exemption determination was published in the *Ojai Valley News* at least 10 days prior to the first public hearing on May 17, 2017; and

WHEREAS, on May 17, 2017 the Planning Commission received and considered all public testimony, documentary evidence and staff recommendations submitted at the public hearings, and recommended adoption of both the text amendment and the environmental determination by the City Council, and

WHEREAS, on July 11, 2017, the City Council held a noticed public hearing regarding the zoning code amendment and environmental determination and, notice of said hearing, including the proposed CEQA exemption determination was published in the *Ojai Valley News* at least 10 days prior to the hearing; and

WHEREAS, on July 11, 2017 the City Council received and considered all public testimony, documentary evidence and staff recommendations submitted at the public hearings, and introduced this ordinance, and

WHEREAS, the City Council finds the proposed text amendment is consistent with and necessary to carry out the policies of the City's adopted General Plan because the proposed amendments modifying the requirements for accessory dwelling units will not permit land uses that are inconsistent with the approved residential land uses and densities in the Land Use Element and will affirmatively further the development of second units, now accessory dwelling units, in the City as required by the Housing Element, which directs that "the City will consider additional amendments to second unit regulations to encourage construction of second units;" and

WHEREAS, the proposed text amendment will not adversely affect the public health, safety, or welfare as the amendments do not authorize any land uses with adverse impacts on the public health, safety, or welfare, and the amendments maintain existing protections in the Ojai Municipal Code against the maintenance of any land use that constitutes a public nuisance.

WHEREAS, the proposed text amendment is exempt from review under the California Environmental Quality Act under California Code of Regulations, Title 14, Sections 15301 and 15308 of the CEQA Guidelines because it does not meet the definition of a project under CEQA Guidelines section 15061, subdivision (b)(3) and section 15378, subdivision (a) and subdivision (b)(5). The proposed changes to the second residential unit ordinance, changing the standards for second residential units as required and authorized by state law, has no potential for resulting in physical changes in the environment, directly or indirectly, because it consists of changes in the standards governing issuance of ministerial permits for accessory dwelling units and does not directly or indirectly approve any applications for particular accessory dwelling units.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OJAI DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above set forth recitals and findings are true and correct and incorporated herein by reference, as if set forth herein in full.

SECTION 2. Text Amendment. Ojai Municipal Code section 10-2.1709 is hereby amended to read as follows:

SEC. 10-2.1709. ACCESSORY DWELLING UNITS

(a) PURPOSE. The purpose of this chapter is to provide guidelines, and minimum standards to facilitate both the construction of new accessory dwelling units, also known as second units, and the legalization of unpermitted accessory dwelling units.

(b) DEFINITIONS. For the purposes of this section, certain words and phrases used in this section are defined as follows:

(1) "**Accessory Dwelling Unit**" is a residential dwelling unit that is accessory to a principal residential dwelling unit located on the same parcel of land. It is an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and be situated on the same parcel or parcels as the primary unit. An ADU must have exterior access independent from the primary unit and/or interior access independent from the primary unit.

(2) "**Attached unit**" a unit shall be considered attached to the primary unit if the unit is attached by either a common wall, floor, or ceiling.

(3) "**Attic**" means the area located between the ceiling of the top story of a building and the building's roof and not usable as habitable or commercial space.

(4) "**Basement**" means a portion of a building wholly underground or in which more than one-half the distance from the floor to the ceiling is below the average adjoining grade, and as otherwise defined in the Building Code currently in effect.

(5) "**Detached unit**" has no common walls, floors or ceilings to another residential unit.

(6) "**Efficiency unit**", as defined in Section 17958.1 of the Health and Safety Code

(7) **“Passageway”** means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(8) **“Floor area”** means the interior habitable and non-habitable areas of a dwelling unit including basements and attics, not including a garage or any accessory structure.

(9) **“Habitable Area”** An area within a building designed for general living, sleeping, eating, or cooking purposes.

(10) **“Home Split”**, The division of an existing single-family home into two (2) dwelling units, each containing a minimum of 650 square feet of living space and meet the following criteria: (i) the existing single-family home contains a minimum of 2,000 square feet of living area, is located on a legal lot comprising at least one-half ($\frac{1}{2}$) acre of land and has a current Zoning District designation of R-0-1/2, R-0-1, R-0-2 or R-0-4; (ii) entails no expansion in floor area of the existing single-family home other than to accommodate a separate kitchen and/or bathroom for the second unit not exceeding ten (10%) percent of the existing floor area; (iii) results in no change in the physical appearance of the existing single-family home or otherwise complies with the provisions of Section 10-2.2003(c); and (iv) adheres with all applicable building code requirements and development standards of the underlying Zoning District.

(11) **“Living area,”** means the interior legally permitted habitable area, with minimum dimensions of eight (8) feet by ten (10) feet and with at least seven and a half (7.5) feet of head room, of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(12) **“Lot Coverage”** means the percentage of total site area occupied by structures. Structure or building coverage includes the primary structure, all accessory structures (e.g., carports, garages, patio covers, storage sheds, trash dumpster enclosures, accessory dwelling units) and architectural features (e.g., chimneys, balconies, decks above the first floor, porches, stairs). Structure/building coverage is measured from exterior wall to exterior wall.

(13) **“Manufactured home”**, as defined in Section 18007 of the Health and Safety Code.

(14) **“Neighborhood”** has the same meaning as set forth in Government Code Section 65589.5.

(15) **“Primary unit”** means an existing single-family dwelling located on a lot in any of the following zones: all R zones, OS, A, VMU, C-1, B-P. ADUs are

only permitted in the C-1 and B-P zones if the property's existing single-family dwelling is legal, conforming or nonconforming, but not if the existing single-family dwelling lacks legal status.

(16) **"Guest House"** means living quarters (habitable space) having no kitchen facilities including no cooking or prep areas located within an accessory structure located on the same parcel with a primary dwelling unit.

(17) **"Short Term Rental"**: means the renting of a residential unit for less than thirty days.

(c) APPLICATIONS. Notwithstanding any provision of these Zoning Regulations to the contrary, an application for an Accessory Dwelling Unit shall be approved as ministerially by the Community Development Director, without discretionary review and a hearing, if the project meets the minimum standards and design criteria in this section. Any application for an Accessory Dwelling Unit that exceeds the minimum standards and design criteria in this section applicable to that type of Accessory Dwelling Unit may be approved via approval of a design review permit issued under Section 10-2.2003, subdivision (c), and subdivision (d) of this section.

(1) The applicant shall agree in writing to annually submit to the City Clerk a sworn statement or declaration, under penalty of perjury, that the property is owner-occupied.

(2) The applicant shall agree in writing to discontinue the use of the accessory dwelling unit as a separate dwelling if and when the property is not owner-occupied, unless an exception to this requirement is approved by the Planning Commission as provided for by Section 10-2.1709(i).

(3) The accessory dwelling unit shall not be offered for sale apart from the primary unit.

(d) STANDARDS. The following development standards shall apply to accessory dwelling units, with the standards set separately for each accessory dwelling unit type.

Section 10-2.1709, Table A: Accessory Dwelling Unit Development Standards

	NEW DETACHED ACCESSORY DWELLING UNIT	NEW ATTACHED ACCESSORY DWELLING UNIT ATTACHED TO AN EXISTING LEGAL PRIMARY UNIT	NEW ATTACHED ACCESSORY DWELLING UNIT SOLELY BY CONVERSION OF EXISTING INTERIOR SPACE IN AN EXISTING LEGAL PRIMARY UNIT.	NEW ACCESSORY DWELLING UNIT SOLELY BY CONVERSION OF AN EXISTING LEGAL ACCESSORY BUILDING.	NEW UNIT WITHIN A NEW SECOND STORY OVER EXISTING LEGAL PRIMARY UNIT	HOME-SPLIT, AS DEFINED ABOVE AND AS DEFINED BY SECTION 10-2.3602(H)(5)
Permitted Zones	All R zones, OS, A, VMU, C-1, B-P	All R zones, OS, A, VMU, C-1, B-P	All R zones, OS, A, VMU, C-1, B-P	All R zones, OS, A, VMU, C-1, B-P	All R zones, OS, A, VMU, C-1, B-P	R-0-1/2, R-0-1, R-0-2, or R-0-4
Setbacks	As set forth in the zoning district the unit is proposed in.	As set forth in the zoning district the unit is proposed in.	Utilizes the existing setbacks.	Utilizes existing setback if Accessory Building is legal.	As set forth in the zoning district the unit is proposed in, except if above an existing legal garage unit shall have a minimum of five feet for the site and rear lot lines.	As set forth in the zoning district the unit is proposed in.
Lot Coverage	As set forth in the zoning district the unit is proposed in.	As set forth in the zoning district the unit is proposed in.	Utilizes the existing lot coverage.	Utilizes the existing lot coverage.	As set forth in the zoning district the unit is proposed in.	As set forth in the zoning district the unit is proposed in.

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Height	As set forth in the zoning district the unit is proposed in.	Utilizes the existing height of the legal building.	Utilizes the existing height of the legal building.	Utilizes the existing height of the legal building.	As set forth in the zoning district the unit is proposed in.	As set forth in the zoning district the unit is proposed in.
Stories	As set forth in the zoning district the unit is proposed in.	Utilizes the existing height of the legal building.	Utilizes the existing height of the legal building.	Utilizes the existing height of the legal building.	As set forth in the zoning district the unit is proposed in.	As set forth in the zoning district the unit is proposed in.
Maximum Floor Area Size of Unit	1200 square feet or 50% of the existing habitable area of the legal primary unit, whichever is smaller.	1200 square feet or 50% of the existing habitable area of the legal primary unit, whichever is smaller.	1200 square feet or 50% of the existing habitable area of the legal primary unit, whichever is smaller.	1200 square feet or 50% of the existing habitable area of the legal primary unit, whichever is smaller.	1200 square feet or 50% of the existing habitable area of the legal primary unit, whichever is smaller.	1200 square feet or 50% of the existing habitable area of the legal primary unit, whichever is smaller.
Number of accessory dwelling units allowed on site	1	1	1	1	1	1
Parking for units not within 1/2 mile of a transit stop	One additional uncovered on-site paved parking space which may be tandem on an existing driveway	None	None	None	One additional uncovered on-site paved parking space which may be tandem on an existing driveway	One additional uncovered on-site paved parking space which may be tandem on an existing driveway

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Parking for units within ½ mile of a transit stop	None	None	None	None	None	None	None
Parking for units located within an Historic District	None	None	None	None	None	None	None
New Driveways to parking provided for an Accessory Dwelling Unit	Shall be pervious and shall be the minimum width to provide sufficient access to the parking.	Shall be pervious and shall be the minimum width to provide sufficient access to the parking.	Shall be pervious and shall be the minimum width to provide sufficient access to the parking.	Shall be pervious and shall be the minimum width to provide sufficient access to the parking.	Shall be pervious and shall be the minimum width to provide sufficient access to the parking.	Shall be pervious and shall be the minimum width to provide sufficient access to the parking.	Shall be pervious and shall be the minimum width to provide sufficient access to the parking.
Guest House	Each legal lot may have a guest house, under the restrictions of section 10-2.1705, or an accessory dwelling unit, not one of each.	Each legal lot may have a guest house, under the restrictions of section 10-2.1705, or an accessory dwelling unit, not one of each.	If a guest house exists, then a new accessory dwelling unit is allowed. After an accessory dwelling unit is approved, then a new guesthouse is prohibited.	If a guest house exists, then a new accessory dwelling unit is allowed. After an accessory dwelling unit is approved, then a new guesthouse is prohibited.	Each legal lot may have a guest house, under the restrictions of section 10-2.1705, or an accessory dwelling unit, not one of each.	Each legal lot may have a guest house, under the restrictions of section 10-2.1705, or an accessory dwelling unit, not one of each.	Each legal lot may have a guest house, under the restrictions of section 10-2.1705, or an accessory dwelling unit, not one of each.

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Accessory Structures ¹	Permitted, in compliance with applicable City regulations.	Permitted, in compliance with applicable City regulations.	Permitted, in compliance with applicable City regulations.	Permitted, in compliance with applicable City regulations.	Permitted, in compliance with applicable City regulations.	Permitted, in compliance with applicable City regulations.
Short Term Rental of Accessory Dwelling Unit Permitted	No	No	No	No	No	No
Deed Restriction Required, as provided for by Section 10-2.1709(j)	Yes	Yes	Yes	Yes	Yes	Yes
Design Review Permit Required	Only for two story units, units taller than 24', or units on the second story.	Only for two story units, units taller than 24', or units on the second story.	Only for new two story units or new units taller than 24', or units on the second story outside the existing legal building envelope.	Only for new two story units or new units taller than 24', or units on the second story outside the existing legal building envelope.	Only for two story units, units taller than 24', or units on the second story.	Only for two story units, units on the second story, or units entailing expansion of the existing principal residence by more than ten (10%) percent of the existing floor area.

¹ "Accessory structures" for purposes of this standard means a structure that is physically detached from, secondary and incidental to, and commonly associated with the primary structure and is either a habitable structure with no more plumbing facilities than a half-bath containing a toilet and a sink or a non-habitable structure.

(1) Standards in Common

(A) The Accessory Dwelling Unit shall include a separate entrance, kitchen, and bathroom.

(B) The Accessory Dwelling Unit shall complement the primary residence in form, materials and color.

(C) Mobile homes (except those fitting the definition of Section 18007 of the Health and Safety Code) and travel trailers shall not be permitted as second units.

(D) Accessory Dwelling units, including any portion of a pre-existing primary residential unit which would be incorporated into an Accessory Dwelling unit, shall comply with the minimum standards of Title 24, California Code of Regulations, the Uniform Building, Plumbing, Housing, and Mechanical Codes, the National Electrical Code, Fire, Health, and Safety Code and the noise insulation standards applicable at the time the building permit for the Accessory Dwelling Unit is issued or when the Accessory Dwelling Unit is permitted by the Director, whichever is most recent. Any condition of the primary unit which is detrimental to health and safety shall also be corrected by the applicant.

(E) All applicable regulations of the Municipal Code shall be met.

(F) Both primary and accessory dwelling units shall be connected to the public sewer system. All public utility services to the accessory dwelling unit shall be underground. The accessory dwelling unit does not need a separate connection to any public utility service. The primary and accessory dwelling units shall be commonly or separately metered to all public utility services, at the option of the applicant. Notwithstanding the foregoing, if an accessory dwelling unit is proposed for a property with an existing private sewage disposal system, then the accessory dwelling unit may connect to the existing private sewage disposal system, if approved by the Building Official and in compliance with all applicable regulations.

(e) DESIGN REVIEW PERMIT CRITERIA. So long as the design criteria set forth in Table A "Standards" are met for the applicable accessory dwelling unit type and the common standards set forth in Section 10-2.1709(d)(1) are met, as determined by the Director, and provided that the accessory dwelling unit: (1) does not entail new two-story construction and is no taller than twenty-four (24) feet in height; or (2) is within the building envelope of the existing legal second story of an existing legal primary unit, has independent exterior access from the existing legal primary unit, and side and rear setbacks are adequate for fire safety as determined by the Director; or (3) if a home split, does not entail two-story construction or alteration of the second story of an existing two (2) story principal residence or expansion of the existing principal residence by more than ten (10%) percent of the existing floor area, then a Design Review Permit shall not be required under Section 10-2.2003.

(f) FEES. No connection fees, capacity charges, school district fees, or similar impact fees shall be assessed on an accessory dwelling unit by the City. Accessory dwelling unit applications are subject to the City's planning and building administrative and permit applications fees applicable at the time of the application.

(g) GROWTH MANAGEMENT ALLOCATION. All Accessory Dwelling Units shall be exempt from the City of Ojai's Growth Management allocation process.

(h) SHORT TERM RENTAL. No Accessory Dwelling Unit shall be utilized as a Short Term Rental facility.

(i) TRAFFIC IMPACTS. Accessory Dwelling Units are expressly exempt from the City of Ojai's traffic mitigation policies.

(j) DEED RESTRICTION REQUIREMENT.

(1) The applicant shall agree in writing to discontinue the use of the Accessory Dwelling Unit as a separate dwelling if and when the property is not owner-occupied.

(2) Prior to the issuance of a building permit for a second unit, a deed restriction shall be recorded indicating that the use of the Accessory Dwelling Unit as a separate dwelling may only continue if the property is owner-occupied and that subsequent owners shall be required to maintain the original applicant's responsibility to submit to the City annual statements that the property is owner-occupied.

(3) An exception to owner occupied property can be granted by the Community Development Director if the property owner is able to establish a bona fide hardship to the restriction as follows:

(A) Owner is hospitalized, or requires daily living assistance that requires the owner to not be able to physically live on the property.

(B) The Owner is on active military duty requiring the owner to be unable to occupy the property.

(C) The Owner is deceased and the property being held pending dispensation of the estate.

(k) ADU/Second Unit Compliance Program. The owners of existing accessory dwelling units which existed prior to June 23, 2015, and not recognized as lawfully permitted may apply for an amnesty permit pursuant to the ADU/Second Unit Compliance Program Guidelines ("ADU/Second Unit Guidelines") adopted by the City Council pursuant to this section. If approved, as provided in the ADU/Second Unit

Guidelines, the ADU/Second Unit Compliance Permit shall convey legal nonconforming status on the second unit pursuant to Article 13.

(1) Except as specifically provided in the ADU/Second Unit Guidelines, ADU/Second Unit Compliance Permit shall not be subject to the normal requirements for residential second units specified in this Code, but instead shall be subject to the specific requirements contained in Second Unit Guidelines.

(2) Permit processing and development impact fees within the control of the City shall be discounted for residential second units which qualify for ADU/Second Unit Compliance Permit. The amount of such fees shall be set forth in a fee resolution adopted by the City Council.

(3) The ADU/Second Unit Compliance Program shall remain in effect from the effective date of the ordinance originally adding this subsection until a termination date established by ordinance or resolution of the City Council. Any such termination shall not affect a complete application for an ADU/Second Unit Compliance Permit filed with the City prior to the termination date.

SECTION 6. Environmental Determination. The City Council determines that the following findings and conclusions reflect the independent judgment of the City Council. The City Council finds that the adoption of the foregoing amendment to the Ojai Municipal Code is exempt from the California Environmental Quality Act (CEQA) for the following reasons:

- a. The adoption of the proposed ordinance does not meet the definition of a project under CEQA Guidelines section 15061, subdivision (b)(3) and section 15378, subdivision (a) and subdivision (b)(5). The proposed changes to the second residential unit ordinance, changing the standards for accessory dwelling units as required and permitted by state law, has no potential for resulting in physical changes in the environment, directly or indirectly, because it consists of changes in the standards governing issuance of ministerial permits for accessory dwelling units and does not directly or indirectly approve any applications for particular accessory dwelling units. The adoption of this ordinance is therefore exempt from CEQA review pursuant to California Code of Regulations, Title 14, Sections 15301 and 15308 of the CEQA Guidelines.

SECTION 7. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

SECTION 8. Certification. The City Clerk shall cause this Ordinance to be published once, within fifteen (15) calendar days after its passage, in the *Ojai Valley News*, a newspaper of

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general circulation, printed, published and circulated in the City, and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.


SECTION 9. Effective Date. This Ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937, shall supersede any conflicting provision of any City of Ojai ordinance, and shall continue in effect until terminated by further action of the City Council in accord with applicable law.

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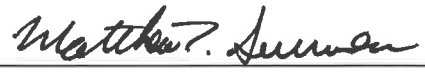
By 
John F. Johnston, Mayor

8-17-17
Date Signed

ATTEST:


Gail Davis, Deputy City Clerk

APPROVED AS TO FORM:


Matthew T. Summers, City Attorney

STATE OF CALIFORNIA)
COUNTY OF VENTURA)
CITY OF OJAI)

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I, Gail Davis, Deputy City Clerk of the City of Ojai do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Ojai held on July 11, 2017 and adopted at a regular meeting held on July 25, 2017 by the following vote:

AYES: Blatz, Haney, Weirick

NOES: Francina, Johnson

ABSTAIN: None

ABSENT: None



Gail Davis

Deputy City Clerk for the City of Ojai