RESOLUTION NO. 2017-23

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ROLLING HILLS RECOMMENDING THAT THE CITY COUNCIL APPROVE A ZONE TEXT AMENDMENT TO THE ROLLING HILLS MUNICIPAL CODE TO AMEND TITLES 15 AND 17 OF THE ROLLING HILLS MUNICIPAL CODE TO PROVIDE FOR ACCESSORY DWELLING UNITS IN SINGLE FAMILY RESIDENTIAL ZONES IN CONFORMANCE WITH STATE LAW.

The Planning Commission does hereby resolve and order as follows:

Section 1. Due to recent State legislation, staff has initiated this text amendment to replace the term “second unit” with “accessory dwelling unit” and amend Titles 15 and 17 of the Rolling Hills Municipal Code to provide for accessory dwelling units in the RA-S zones, in conformance with state law.

Section 2. The Zoning Ordinance text amendments are consistent with the goals, policies, and objectives of the General Plan because accessory dwelling units do not exceed the allowable density for the lot upon which they are located as specifically provided in state law and provide another housing opportunity to address the housing crisis in the region. Furthermore, amending the City’s existing rules to provide for new provisions of state law does not impede the City’s ability to achieve its general plan goals. Adoption of the ordinance would allow homeowners in Rolling Hills to provide an affordable housing option to alleviate the housing shortage in the state.

Section 3. On December 19, 2017, the Planning Commission conducted a duly noticed public hearing and accepted and considered all of the public testimony on the issue.

Section 4. The Planning Commission does hereby find and declare as follows:

A. In the face of California’s severe housing crisis, Assembly Bills (“AB”) 2299 and 2406, and Senate Bill (“SB”) 1069 collectively and significantly impact local authority to regulate accessory dwelling units and were drafted to apply a clear standard for the accessory dwelling unit permit review process, regardless of whether a local government has an adopted ordinance or not. Specifically, Government Code section 65852.150(b) states, “[i]t is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so 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.”
B. Signed by the Governor on September 27, 2016, AB 2299 and SB 1069 went into effect on January 1, 2017. Pursuant to Government Code section 65852.2(a)(1), a local ordinance providing for the creation of accessory dwelling units in single-family and multifamily zones must comply with the provisions of Government Code section 65852.2, otherwise the ordinance is null and void.

C. In 1983 and 1993, the City enacted Chapters 15.44 and 17.28, respectively, to prohibit the creation of second units in single-family zones. Pursuant to former Government Code section 65852.150(c), the authorization for such a prohibition was conditioned on findings acknowledging that such action may limit housing opportunities, as well as further findings that specific adverse impacts on the public health, safety, and welfare would result from allowing second units within the City. Because “second units” would negatively impact geologic stability, traffic, fire safety, density, sewer, and fire flow requirements, the City established findings sufficient to prohibit “second units” under state law. However, because the legislature has determined that ADUs can provide for additional rental housing stock, the provisions which enabled the prohibitions provided for in Section 65852.150(c) have now been repealed.

D. The City’s current ordinance banning accessory dwelling units must be amended in order to conform to state law.

Section 5. Under California Public Resources Code (CPRC) Section 21080.17, the California Environmental Quality Act (CEQA) does not apply to the adoption of an ordinance by a city or county implementing the provisions of Section 65852.2 of the Government Code, which is the State Accessory Dwelling Unit law. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the state accessory dwelling unit law.

Section 6. Based on the foregoing, the Planning Commission of the City of Rolling Hills hereby recommends that the City Council approve Zoning Text Amendment 2017-03.

Section 7. Chapter 15.44 (Second Units on Single-Family Lots) of Title 15 (Buildings and Construction) of the Rolling Hills Municipal Code is hereby repealed in its entirety.

Section 8. A new subsection R. is added to Section 17.16.030 of Chapter 17.16 (Residential Agriculture-Suburban Zone) of Title 17 (Zoning) of the Rolling Hills Municipal Code is to read as follows:

R. Accessory dwelling units subject to Chapter 17.28.
Section 9. Section 17.24.040 of Chapter 17.24 (Nonconforming Uses and Structures) of Title 17 (Zoning) of the Rolling Hills Municipal Code is hereby amended to add a subsection (C), to read as follows:

17.24.040 - Limits on structures nonconforming due to standards.

C. An existing accessory structure which is a legal nonconforming structure, due to its size, may be brought into conformity with the provisions of this title; specifically, where the size of the legal nonconforming structure is reduced through the conversion of an adequate portion of the legal nonconforming accessory structure into a legal accessory dwelling unit (pursuant to Chapter 17.28 of this title).

Section 10. Chapter 17.28 (Second Units on Single-Family Lots) of Title 17 (Zoning) of the Rolling Hills Municipal Code is hereby repealed and replaced to read as follows:

Chapter 17.28
ACCESSORY DWELLING UNITS AND
JUNIOR ACCESSORY DWELLING UNITS ON SINGLE-FAMILY LOTS

17.28.010 – Purpose and Applicability.

The purpose of this Chapter is to implement the requirements of Government Code section 65852.2, to allow accessory dwelling units and junior accessory dwelling units in a manner that accounts for the City’s unique land use characteristics including landslide susceptibility, lack of sewers, fire flow requirements, and extremely limited public infrastructure. In accordance with state law, accessory dwelling units are an accessory use to the primary use of a parcel as a one-family dwelling unit and do not exceed the allowable density for the parcel.

17.28.020 – Definitions.

"Accessory Dwelling Unit" means an attached or detached 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 on the same parcel as the primary single-family dwelling is situated. An accessory dwelling unit also includes the following:

(1) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code; or

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

"Existing space" means an allowable space that can be converted to an accessory dwelling unit within the walls and roofline of any structure existing on or after January 1, 2017, that can be made safely habitable under the City’s building codes at the determination of the City’s building official.
“Junior accessory dwelling unit” shall mean a unit that is no more than 500 square feet in size and contained entirely within an existing single-family dwelling.

“Owner-occupant” means a person who is domiciled at a particular residence and who is also the owner of that property. A domicile of a person is that place in which his or her habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning.

“Passageway” means a pathway that is unobstructed clear to the sky and extends from a street.

“Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another, to one entrance of the accessory dwelling unit.

17.28.030 - Accessory Dwelling Units.

A. Generally. Accessory dwelling units shall comply with the following standards:

1. The unit is located within either the RA-S1 or RA-S2 zone;
2. In the event the unit is rented, it shall not be rented for a period of less than 30 days;
3. The lot shall contain a proposed or existing single-family dwelling;
4. The accessory dwelling unit is either attached to the existing dwelling or an accessory structure, or detached from the existing dwelling and located on the same lot as the existing dwelling;
5. Both the primary residence and the accessory dwelling unit shall permanently remain under one ownership and shall not be sold separately;
6. Existing animal-keeping uses and structures, including, but not limited to barns, stables, run-in sheds, animal pens or other similar animal shelters, which are greater than 800 square feet, shall not be converted into an accessory dwelling unit. Structures 800 square feet or less in size may be completely converted to an accessory dwelling unit; for partial conversions, however, no portion in excess of the accessory dwelling unit may be maintained for animal-keeping uses and the structure must otherwise comply with the requirements for mixed-use structures pursuant to section 17.16.210 of the Rolling Hills Municipal Code;
7. The unit complies with Title 15 of the Rolling Hills Municipal Code, except that the construction of an accessory dwelling unit is not required to adhere to the grading requirements outlined in Title 15; and
8. The sewage disposal system has been approved by the Los Angeles County Public Health Department, where applicable.

B. Parking.
Parking requirements for accessory dwelling units shall not exceed one parking space per unit. These spaces may be provided as uncovered tandem parking on a driveway, as defined in Section 17.12.200 of this title. However, on shared driveways that provide access for multiple lots, parking shall not be permitted on portions of the driveway that are used to provide access to more than one lot. No onsite parking is required for an accessory dwelling unit when one or more of the following is applicable:

1. The accessory dwelling unit is part of an existing or proposed primary single-family dwelling or accessory structure;
2. The property is listed on the California Register of Historic Places; or
3. The property is located within one-half mile of a public transit stop. For the purposes of this section, “public transit” shall include a bus stop with fixed route bus service.

C. Setback. Existing garages that are converted to accessory dwelling units shall not be required to conform to setback requirements. Any existing accessory structures that are converted to accessory dwelling units and any new accessory dwelling unit structures shall conform to the setback requirements for the zone in which they are located.

D. Size.

1. Size of Lot. Accessory dwelling units shall only be permitted on a lot with a minimum net lot area of 1 acre or greater. For lots with a minimum net lot area less than 1 acre, only an existing legal detached accessory structure may be converted into a legal accessory dwelling unit; the accessory structure shall be permitted to be expanded to 800 square feet.
2. Size of Accessory Dwelling Unit. The maximum size (habitable floor area) for an accessory dwelling unit on any lot shall be 800 square feet, but no less than 450 square feet.

E. Development Standards. The construction of a new accessory dwelling units shall comply with the following:

1. Section 17.16.070, maximum level of site development pertaining to lot coverage and disturbance;
2. Section 17.16.080, height limitations; and
3. Section 17.16.170, maintenance of an area developed with or set aside and usable for a stable, contiguous corral and access thereto that complies with the criteria set forth in Chapter 17.18 of this title.

17.28.040 - Accessory Dwelling Unit Conditions of Approval, Application Review, Approval Process and Timelines.

A. An administrative review application shall be required for an accessory dwelling unit. As set forth in Chapter 17.44, the City Manager or his/her designee shall make a decision on a complete administrative application for an accessory dwelling unit within 120 days of receipt thereof.
B. Mandatory approval required: The City Manager or his/her designee shall approve the administrative application and issue a zone clearance permit if all of the following requirements are met:

1. There is only one accessory dwelling unit per single-family lot, and the unit is fully contained within the space of either an existing single-family residence or accessory structure;
2. The proposed accessory dwelling unit has exterior access which is independent from the existing primary residence or accessory structure;
3. The side and rear setbacks are sufficient for fire safety;
4. Fire sprinklers have been installed where required by the Los Angeles County Building and Fire Codes;
5. The accessory dwelling unit complies with Section 17.28.030; and
6. The owner occupies either the existing primary residence or the accessory dwelling unit.

For the purposes of this subsection (B), a new or separate utility connection directly between the accessory dwelling unit and the utility is not required.

If any of the requirements in this section have not been met, then the City Manager or his/her designee have the option of approving the administrative application for an accessory dwelling unit, subject to the provisions in subsection (C), below.

C. Optional approval required: For accessory dwelling units that do not meet all of the criteria in subsection (B) above, the City Manager or his/her designee shall approve the administrative application and issue a zone clearance permit when all of the following requirements are met:

1. The owner-occupant of the primary residence located on the residential lot shared by the accessory dwelling unit has applied for the administrative accessory dwelling unit application;
2. The accessory dwelling unit meets the criteria enumerated in Section 17.28.030;
3. The proposed accessory dwelling unit will not result in any danger to the public health or safety. For the purposes of this subsection, it shall be a danger to the public health or safety to create an accessory dwelling unit on any property whose property lines fall within an active landslide area, as determined by the City’s Building Department;
4. The proposed accessory dwelling unit does not create impacts on the privacy of neighboring residences and, where applicable, the accessory dwelling unit will provide privacy mitigation measures including, but not limited to, the proposed location of the accessory dwelling unit on the lot, window and door placement and design, or screening from adjacent residential properties (via landscaping, etc.);
(5) Where the proposed ADU will be located within a new structure, the applicant will provide a new or separate utility connection directly between the accessory dwelling unit and the utility;
(6) The owner occupies either the existing primary residence or the accessory dwelling unit.

D. A covenant in a form approved by the City Attorney shall be recorded with the County Recorder’s Office detailing the restriction on the size and attributes of the accessory dwelling unit as set forth in this section. The covenant shall include a prohibition on the sale of the accessory dwelling unit separate from the sale of the single-family dwelling, including a statement that the deed restriction may be enforced against future purchasers. An application approving the use of an accessory dwelling unit may be subject to revocation in the event of breach of the terms of the covenant or as otherwise provided in this Chapter.

Section 17.28.050 - Junior Accessory Dwelling Units.

A. An administrative application shall be required for a junior accessory dwelling unit. As set forth in Chapter 17.44, the City Manager or his/her designee shall make a decision on a complete administrative application for a junior accessory dwelling unit within 120 days of receipt thereof.

B. The City Manager or his/her designee shall approve the administrative application when all of the following requirements are met:
   (1) The owner-occupant of the primary residence located on the residential lot shared by the junior accessory dwelling unit has applied for the administrative junior accessory dwelling unit application;
   (2) The unit is constructed within the existing walls of a primary single-family dwelling and utilizes an existing bedroom in the dwelling;
   (3) The unit includes a separate entrance from the main entrance to the structure, with an interior entry to the main living area;
   (4) The unit includes an efficiency kitchen, which shall include all of the following:
      (a) A sink with a maximum waste line diameter of 1.5 inches;
      (b) A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas; and
      (c) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior unit.
   (5) There is only one junior accessory dwelling unit per single-family lot, and the unit is contained within the existing space of a single-family residence;
   (6) The primary residence in which the junior accessory dwelling unit exists shall be owner-occupied; and
(7) Both the primary residence and the junior accessory dwelling unit shall permanently remain under one ownership and shall not be sold separately.

C. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing single-family dwelling. For the purposes of providing service for water, sewer, or power, or for fire or life protection, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

D. This Section shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine whether the junior accessory dwelling unit is in compliance with applicable building standards.

E. No parking space shall be required for junior accessory dwelling units.

F. In the event the unit is rented, it shall not be rented for a period of less than 30 days.

G. A covenant in a form approved by the City Attorney shall be recorded with the County Recorder's Office detailing the restriction on the size and attributes of the junior accessory dwelling unit as set forth in this section. The covenant shall include a prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family dwelling, including a statement that the deed restriction may be enforced against future purchasers.

**Section 11.** Subsection (D) of Section 17.44.020 of Chapter 17.44 (Zone Clearance) of Title 17 (Zoning) of the Rolling Hills Municipal Code is hereby amended to read as follows:

D. All other miscellaneous projects and structures, including, but not limited to architectural features and elements, porches and patios not higher than twelve inches above the natural grade, driveways, entryways, outdoor barbecues and fire places, gazebos, pilasters, service yard, boundary fences, hardscape, drainage devices, solar panels and similar structures, provided the construction thereof does not trigger grading (except that the construction of an accessory dwelling unit is not required to adhere to the grading requirements outlined in Title 15), is not part of a development plan which otherwise requires a discretionary approval, such as site plan review, conditional use permit or a variance and meet all the requirements of this title.

**Section 12.** Subsection (F) of Section 17.44.020 of Chapter 17.44 (Zone Clearance) of Title 17 (Zoning) of the Rolling Hills Municipal Code is hereby added to read as follows:
F. Creation of either an accessory dwelling unit or a junior accessory dwelling unit, as specified in Chapter 17.28.

Section 13. Section 17.44.050 of Chapter 17.44 (Zone Clearance) of Title 17 (Zoning) of the Rolling Hills Municipal Code is hereby amended to read as follows:

17.44.050 - Proceedings.

A. Upon acceptance of a complete application for zone clearance, the City Manager or designee shall review the application for conformance with the provisions of this title. The application shall be reviewed solely for the purpose of assuring that the proposed use or structure is in compliance with the requirements of this title and other provisions of this code. No public hearing on the application shall be required.

B. Administrative review for accessory dwelling units and/or junior accessory dwelling units shall be completed within 120 days of receipt of a complete application and subject to the provisions outlined in Chapter 17.28.

Section 14. Subsection (e) of section 17.46.020 of Chapter 17.46 (Site Plan Review) of Title 17 (Zoning) of the Rolling Hills Municipal Code is hereby amended to read as follows:

e. Structures and uses listed in Section 17.16.140 (Permitted projections), Section 17.16.150 (Structures and driveways permitted within setbacks), Chapter 17.28 (Accessory dwelling units), and Section 17.44.020 (Zone clearance) of this title.

Section 15. Subsection (C) of section 17.46.040 of Chapter 17.46 (Site Plan Review) of Title 17 (Zoning) of the Rolling Hills Municipal Code is hereby amended to read as follows:

C. The Commission shall act to approve, conditionally approve or deny the application. The Commission may impose such conditions on an approval as it deems necessary to assure compliance with the requirements of this title. The Commission may condition approval to require site plan review for any future construction on the lot, regardless of whether site plan review would ordinarily be applicable to such construction. Notwithstanding any such condition, if future construction requires a variance or a conditional use permit, a site plan review is not also required.

Further, notwithstanding any such condition on a discretionary plan review, the City Manager or designee may, without site plan review, approve the following construction provided that such construction meets the development standards of this title and no discretionary review is otherwise required under this title:

1. Structures ancillary to the primary residence such as trellises, barbecues, fireplaces, fountains, and similar minor amenities where the
cumulative total of all such improvements does not exceed three hundred square feet;
2. Hardscape improvements, walkways and pathways that do not exceed standards in this title;
3. Garden and decorative walls not to exceed three feet in height;
4. Play areas (excluding sport courts) not to exceed one thousand square feet in area and which do not require more than a total of fifty cubic yards of dirt;
5. Creation of an accessory dwelling unit and junior accessory dwelling unit, as specified in Chapter 17.28;
6. Similar minor improvements determined by the City Manager or designee to not have greater impacts on the property than those enumerated above.

PASSED, APPROVED AND ADOPTED THIS 19th DAY OF DECEMBER 2017.

BRAD CHELF
CHAIRMAN

ATTEST:

YVETTE HALL
CITY CLERK

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in section 17.54.070 of the Rolling Hills Municipal Code and Code of Civil Procedure Section 1094.6.
STATE OF CALIFORNIA  )
COUNTY OF LOS ANGELES  ) §§
CITY OF ROLLING HILLS  )

I certify that the foregoing Resolution No. 2017-23 entitled:

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ROLLING HILLS RECOMMENDING THAT THE CITY COUNCIL APPROVE A ZONE TEXT AMENDMENT TO THE ROLLING HILLS MUNICIPAL CODE TO AMEND TITLES 15 AND 17 OF THE ROLLING HILLS MUNICIPAL CODE TO PROVIDE FOR ACCESSORY DWELLING UNITS IN SINGLE FAMILY RESIDENTIAL ZONES IN CONFORMANCE WITH STATE LAW.

was approved and adopted at a regular meeting of the Planning Commission on December 19, 2017 by the following roll call vote:

AYES: Commissioners Cardenas, Cooley, Kirkpatrick, Seaburn and Chair Chelf.

NOES: None.

ABSENT: None.

ABSTAIN: None.

and in compliance with the laws of California was posted at the following:

Administrative Offices.

YVETTE HALL
CITY CLERK