



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

### **OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA**

**AN ORDINANCE AMENDING CHAPTER II OF THE NEVADA COUNTY LAND USE AND DEVELOPMENT CODE SECTION L-II 3.19.1 TO INCENTIVIZE THE DEVELOPMENT AND LONG TERM RESIDENTIAL USE OF ACCESSORY DWELLING UNITS (ADUs) BY: 1) PROHIBITING SHORT TERM RENTAL OF ADUs; 2) PROVIDE AN EXCEPTION TO THE EXISTING OWNER OCCUPANCY REQUIREMENT FOR EITHER THE PRIMARY OR ADU; 3) PROVIDE A ROAD AND SEWER MITIGATION FEE DEFERRAL PROCESS FOR ADUs WHEN CERTAIN CRITERIA ARE MET. PROJECT ALSO PROVIDES CLARIFICATION REGARDING SEPTIC AND WATER REQUIREMENTS FOR AN ADU AND ALLOWS FOR THE DEVELOPMENT OF A DETACHED ADU ON PACELS LESS THAN ONE ACRE (ORD 18-1).**

THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

#### **SECTION I:**

Pursuant to Land Use and Development Code Section L-II 5.9.G, the Board of Supervisors hereby finds and determines as follows:

1. That the zoning text amendments are intended encourage the development of ADUs and the long term availability of ADUs to provide affordable housing by design; and
2. That the proposed amendments will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, and supports the development of additional, equal opportunity, affordable housing; and
3. That the proposed ordinance amendment is statutorily exempt pursuant to Sections 15061(b)(3), 15268 and 15282(h) of the California Environmental Quality Act (CEQA) Guidelines.

## SECTION II:

Section L-II 3.19.1 “Accessory-Second Dwelling Units” of Article 3 of Chapter II of the Land Use and Development Code of the County of Nevada, is hereby amended to read as set forth in Exhibit “A”, attached hereto and incorporated herein by reference.

## SECTION III:

If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

## SECTION IV:

This Ordinance shall take effect and be in full force thirty (30) days from and after introduction and adoption, and it shall become operative on the \_\_\_\_ day of October, 2018, and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the Supervisors voting for and against same in the Union, a newspaper of general circulation printed and published in the County of Nevada.

## Exhibit A

### Sec. L-II 3.19.1 Accessory Dwelling Units

**A. Purpose.** To maintain the social fabric of families and to improve affordable housing opportunities for the County's workforce, family members, students, senior citizens, in-home health providers, the disabled, and others at below market prices in existing neighborhoods in Nevada County.

**B. Standards.** An accessory dwelling unit shall be ministerially permitted, regardless of minimum parcel size and zoning densities, on all parcels within the R1, R2, RA, AE, AG, FR and TPZ zoning districts, subject to zoning compliance and building permit issuance and the following standards:

1. Accessory dwelling units may be a conventionally on-site constructed attached or detached structure, a manufactured home or a converted area within a legally existing residential unit or accessory structure provided that building permits are obtained, and the following size limitations are satisfied:
  - a. ~~On parcels of less than one acre in size, all accessory dwelling units shall be attached to the main dwelling.~~
  - a. The accessory dwelling unit shall not exceed the following size limitations, as measured from the interior walls:
    - 1) Attached Units: maximum 50% of the existing residence gross floor area, but not to exceed 1,200 square feet.
    - 2) Detached Units: maximum size shall be 1,200 square feet.
    - 3) Detached accessory dwelling units may have an attached garage or carport that does not exceed 480 square feet.
    - 4) Covered decks and entryways shall not exceed a 10-foot depth. Enclosed decks or porches shall not exceed 15% of the total gross floor area of the accessory dwelling unit and shall be constructed as non-habitable space.
2. There shall be no more than one accessory dwelling unit, as provided for in this Chapter, per parcel. The accessory dwelling unit is not intended for sale separate from the primary residence and may be rented. ~~for long term use only (30 consecutive calendar days or more); short term rentals are prohibited.~~
3. ~~Owner Occupancy:~~ Either the primary or accessory dwelling unit on the site shall be owner occupied, ~~unless the property meets the criteria below.~~ A certified letter, stating that one unit will be owner occupied shall be filed with the Planning Department prior to issuance of a building permit. ~~A property with a primary and accessory dwelling unit may be exempt from the owner occupancy criteria if the following is met:~~
  - a. ~~The owner submits a certified letter to the Planning Department prior to building permit issuance, providing written documentation that they have entered into a contract with a professional property management company/individual to ensure the ongoing maintenance and upkeep of the property. Said letter shall provide the name and contact information of the company/individual, a copy of the contract and shall acknowledge that the property owner will remain in contract with the property~~

~~management entity for the duration of time that either unit is not owner occupied. This requirement shall run with the land and be binding upon the applicant or successor property owner.~~

3. Previously approved senior citizen or disabled housing units may be modified to increase the square footage, not to exceed 1,200 square feet or change the occupancy to rescind previously recorded restrictive covenants, subject to all applicable development fees and standards in effect at the time and consistent with this Chapter.
4. An accessory dwelling unit shall not be allowed on any parcel on which employee housing has been established pursuant to Land Use and Development Code Chapter II Sec. L-II 3.10.
5. Compliance and consistency with recorded deed restrictions and/or Codes, Covenants, and Restrictions (CC&R) provisions, not required by the County, shall be the sole responsibility of the property owner.
6. If the accessory dwelling unit is proposed to be constructed within a City's Sphere of Influence, the accessory unit must also comply with any standards (including, but not limited to, the unit's size and permitting requirements) of the City that are more restrictive than those provided for in this Chapter.
7. All water supply and sewage disposal requirements shall be complied with as administered by the Department of Environmental Health ~~or other appropriate serving entity.~~ Local Area Management Plan (LAMP) and Onsite Wastewater Treatment System (OWTS) Policy. Accessory Dwelling Units (ADU) constructed with kitchens, which includes cooking equipment, will be required to install an additional septic tank to reduce the load on the existing disposal field, if the existing disposal field is of adequate capacity to handle the additional flow from the ADU. In the event that the existing disposal field cannot handle the additional load or flow from the ADU, a new, separate septic system shall be installed to accommodate the ADU.
8. Compliance is required with all local Fire Safety Regulations that are generally applicable to single-family residential development including Chapter II (Zoning), IV (Subdivisions), V (Buildings), VII (Street Addressing and Naming), XVI (Fire Safety Regulations), and XVII (Road Standards) of this Code, certified as equaling or exceeding the California Fire Safe Regulations pursuant to Public Resources Code Section 4290.
9. Prior to issuance of a building permit for an accessory dwelling unit, the applicant ~~unit must comply with all conditions,~~ shall pay all applicable permit and mitigation fees, unless the accessory dwelling unit meets one of the criteria provided below. If the accessory dwelling unit meets one of the criteria below, the applicant shall qualify for a fee deferral and the payment of all permit and traffic and sewer mitigation fees shall be completed prior to issuance of the certificate of occupancy for the accessory dwelling unit. ~~including payment of any mitigation fees, which are imposed upon the issuance of any permit.~~ At the time of building permit submittal, the applicant shall submit a written request to the Building and Planning Department for the deferral of fees and shall submit an agreement to pay form specific to this request. The written request shall document which criteria the unit qualifies for to receive the deferral.

- a. The property owner may deed-restrict the accessory dwelling unit to very low or low income qualified individuals or families for a minimum of 10 years. Prior to issuance of a building permit for second dwelling unit, the owner shall record the deed restriction. The declaration shall run with the land and be binding upon the applicant and successor property owner.
- b. Construction of an 800 square foot unit or less in size.

10. The onsite driveway access shall meet the minimum fire safe driveway standard pursuant to Land Use and Development Code Chapter XVI, Sec. L-XVI 3.2.
11. All accessory dwelling units that are located beyond the dead-end road limit as established by Land Use and Development Code Chapter XVII are subject to the following provisions:
  - a. The applicant shall provide a minimum of one turnout visible from both directions along the property road frontage and an additional turnout every 800-feet of property frontage as necessary. Said turnouts shall meet the minimum fire safe turnout standard pursuant to Land Use and Development Code Chapter XVI, Sec. L-XVI 1.2. In the event that the road meets the minimum Fire Safe Road Standard then turnouts shall not be required.
  - b. The accessory dwelling unit shall utilize a shared driveway encroachment with the primary dwelling, unless the applicant can demonstrate that a common encroachment is infeasible due to site constraints such as topography, building site location and/or environmental resources.
  - c. Prior to issuance of final occupancy, the property owner shall record a Notice to Property Owner stating that the accessory dwelling unit is located beyond the dead-end road limit established by the Nevada County Land Use and Development Code Chapter XVII Road Standards.
12. All accessory dwelling units within the High and Very High Fire Severity Zone as defined on the State Responsibility Area (SRA) maps and all accessory dwelling units beyond the dead-end road limit (as outlined in the Land Use and Development Code Chapter XVII) regardless of their SRA Fire Severity Zone, are subject to the following provision:
  - a. As a part of the building permit application, the applicant shall submit a Fire Protection Plan, which shall be site specific and address the following issues:
    - 1) The proximity to emergency responders and estimated emergency response times;
    - 2) Describe the primary (and secondary if applicable) access road conditions;
    - 3) Identify the project's emergency water supply or emergency water storage facilities consistent with Article 4 of Chapter XVI of the Land Use and Development Code;
    - 4) Identify if a fire sprinkler system is proposed or required;
    - 5) Provide a Fuels Management Plan that requires:
      - a) Defensible space design consistent with Public Resources Code 4291;
      - b) Identification of high fuel load areas;
      - c) How adequate defensible space will be ensured;
      - d) The mechanism for maintaining defensible space; and
      - e) Identification of a feasible evacuation plan and/or safe evacuation routes for use by future occupants of the project.

13. All accessory dwelling units shall be subject to all Land Use and Development Code standards, permits and mitigation fees applicable to single-family residential construction within the zoning district where the subject property is located, including but not limited to building height, setbacks, lot coverage, parking, resource standards, and site plan review, unless otherwise modified or exempted by Sections L-II 4.2.5 (Building Setbacks) or L-II 4.2.9 (Parking).
14. Nevada County recommends, but does not mandate that the following accessibility improvements are considered when constructing an accessory dwelling unit:
  - a. At least one accessible bathroom (enough room for wheelchair maneuverability).
  - b. Bathroom with reinforced walls for grab bars.
  - c. Minimum 36" hallways and 36" clear space on doors into one bathroom and the exterior.
  - d. Design and construct accessory units to allow wheelchair access. Where there are duplicate uses of rooms (i.e., two bathrooms, two bedrooms), one of those rooms should be made accessible.
  - e. Provide a no step entry with accessible path from the parking area.
  - f. Wheelchair maneuverability in kitchen.
  - g. 32-inch clear space on interior doors, exterior door should be 36 inches.
  - h. Light switches at 44 to 48 inches.
  - i. Lever hardware.
  - j. View windows.
  - k. Construction design that will allow for easy adaptability, such as counter section (36-inches wide) that can be lowered or pull out board that can be used as work space, cabinet doors that can be removed to allow access to sinks, straight stairway to second floor units or stacked closets to allow for an elevator. (Ord. 2441, Adopt. 9/12/17, Eff. 10/12/17; Ord. 2366, 8/13/13; Ord. 2236, 5/21/07; Ord. 2149).