



## STAFF REPORT

### Planning Commission

**Meeting Date:** 12/5/2016

**Staff Report Number:** 16-101-PC

**Public Hearing:** Consider Zoning Ordinance Amendments Relating to Secondary Dwelling Units

### Recommendation

Staff recommends that the Planning Commission recommend that the City Council approve an Ordinance Amending Chapters 16.04 and 16.79 of the Menlo Park Municipal Code (Attachment A) in order to make City regulations consistent with applicable California law regarding secondary dwelling units.

### Policy Issues

The proposed Zoning Ordinance Amendments would ensure that the Municipal Code would be in compliance with relevant State regulations. The amendments would also support Housing Element Policy H4.11, which encourages the development of secondary dwelling units.

### Background

Assembly Bill 2299 (AB 2299) and Senate Bill 1069 (SB 1069) passed in the 2015-2016 legislative session and amended California laws relating to Secondary Dwelling Units (also referred to as Accessory Dwelling Units). The amendments relate to Government Code § 65852.2. Any existing municipal codes that do not meet the requirements of state law shall be considered null and void, and that agency shall thereafter apply the standards established in state law for the approval of Secondary Dwelling Units, unless and until the agency adopts an ordinance that complies with state law.

The draft amendments to the City of Menlo Park's Code relating to Secondary Dwelling Units are intended to bring the Code into compliance with California State law as amended by AB 2299 and SB 1069. The amendments are not intended to expand or restrict the current Codes relating to Secondary Dwelling Units in any manner, except to comply with the requirements of state law.

There are areas of the law which are unclear and not tested as to exactly what limitations and restrictions a city may place on the regulation of Secondary Dwelling Units. These issues arise most notably because the legislature did not intend for both AB 2299 and SB 1069 to pass. The fact that both bills passed, means that the amendments to Government Code § 65852.2 are a hybrid of SB 1069 and AB 2299.

Prior to the adoption of AB 2299 and SB 1069, the City adopted Zoning Ordinance Amendments relating to secondary dwelling units in 2013 and 2014, in association with Housing Element Updates. These updates clarified and streamlined the City's secondary dwelling unit regulations. Since these revisions, the City has issued an unprecedented number of building permits for secondary dwelling units, helping address one critical housing strategy.

## Analysis

The intent of the Planning Commission meeting is to provide the Planning Commission the opportunity to review and provide a recommendation on the Municipal Code amendments relating to Secondary Dwelling Units to comply with state law.

### ***Assembly Bill 2299 and Senate Bill 1069***

#### Secondary Dwelling Unit Standards and Regulations

Effective January 1, 2017, AB 2299 and SB 1069 amend California Government Code § 65852.2 to require any local ordinance regulating Secondary Dwelling Units to include certain specified standards and regulations. Those standards and regulations include: designation of certain areas within the jurisdiction where secondary dwelling units may be permitted; imposing standards on parking, height, setback, lot coverage, landscape, architectural review, maximum unit size, and standards that prevent adverse impacts on property that is listed in the California Register of Historic Places; provide that Secondary Dwelling Units do not exceed the allowable density for the lot on which the unit is located and that Secondary Dwelling Units are for residential use that is consistent with the existing General Plan and zoning designation; and require that Secondary Dwelling Units comply with all of the following:

1. The unit is not intended for sale separate from the primary residence and may be rented;
2. The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling;
3. The Secondary Dwelling Unit is either attached to the existing dwelling, or located within the living area of the existing dwelling, or detached from the existing dwelling and located on the same lot as the existing dwelling;
4. The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet;
5. The total area of floor space for a detached accessory dwelling unit shall not exceed 1,200 square feet;
6. No passageway shall be required in conjunction with the construction of a Secondary Dwelling Unit;
7. No setback shall be required for an existing garage that is converted to a Secondary Dwelling Unit and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above an existing garage;
8. Local building code requirements that apply to detached dwellings, as appropriate.
9. Parking Requirements as follows:
  - a. Parking requirements shall not exceed one parking space per unit or per bedroom. These parking spaces may be provided as tandem parking on an existing driveway;
  - b. Off-street parking shall be permitted in setback area in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback area or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction;
  - c. Parking requirements shall not apply to any of the following Secondary Dwelling Units:
    - i. If the Secondary Dwelling Unit is located within one-half mile of public transit;
    - ii. If the Secondary Dwelling Unit is located within an architecturally and historically significant district;
    - iii. If the Secondary Dwelling Unit is part of the existing primary residence or an existing accessory structure;
    - iv. When on-street parking permits are required but not offered to the occupant of the Secondary Dwelling Unit;
    - v. When there is a car share vehicle located within one block of the Secondary Dwelling Unit.

10. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of a Secondary Dwelling Unit, and the local agency requires that those off-street parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the Secondary Dwelling Unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts, except that it does not apply to units exempt from parking requirements.

### Permit Review

Under the amendments to the Government Code, local ordinances must include an approval process for Secondary Dwelling Units that includes only ministerial approval and shall not include any discretionary processes, provisions or requirements for those units, except as otherwise provided (i.e. Section 65901, which provides authorization of the zoning administrator to hear and decide applications for conditional uses or other permits when the zoning ordinance provides, and 65906, which provides authorization and procedures for variances, or any local ordinance regulating the issuance of variances or special use permits). The approval must be within one hundred and twenty (120) days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments enacted during the 2001-2002 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of Secondary Dwelling Units.

### Failure to Comply with Government Code § 65852.2

If a local agency does not have an ordinance in place relating to Secondary Dwelling Units when it receives a permit to create a Secondary Dwelling Unit, the local agency must accept the application and approve or disapprove the application ministerially without discretionary review pursuant to Government Code § 65852.2(a).

### ***Proposed Municipal Code Amendments***

Attachment A is the draft proposed ordinance in proper form and Attachment B is a redline comparison of the existing and proposed regulations. The proposed amendments do all of the following:

1. Amend the definition of Secondary Dwelling Unit to coordinate with the State law definition amendment to Accessory Dwelling Unit, to include specific definitions for “Attached Secondary Dwelling Units,” and “Detached Secondary Dwelling Units.”
2. Amend the regulations and conditions to comply with the State law requirements.
3. Include a Secondary Dwelling Unit application review process that complies with State law.

### ***Conclusion***

Staff believes the proposed amendments would bring local regulations into consistency with the recent State law changes, and support the City’s existing policy to encourage appropriate secondary dwelling unit development. The amendments are not intended to expand or restrict the current Codes relating to Secondary Dwelling Units in any manner, except to comply with the requirements of state law. Staff recommends that the Planning Commission recommend that the City Council approve an Ordinance Amending Chapters 16.04 and 16.79 of the Menlo Park Municipal Code (Attachment A).

### **Impact on City Resources**

This consistency update is being accommodated within the existing budgets of the Planning Division and City Attorney, and is not expected to otherwise affect City resources.

### **Environmental Review**

The proposed ordinance amendment is not subject to the provisions of the California Environmental Quality Act ("CEQA") because the activity is not a project as defined by Section 15378 of the CEQA Guidelines. The proposed ordinance amendments have no potential for resulting in physical change to the environment either directly or indirectly.

### **Public Notice**

Public Notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting. Public notification also consisted of publishing a notice in the local newspaper.

### **Attachments**

- A. Draft Ordinance of the City Council of the City of Menlo Park Amending Section 16.04.295 [Definition of Dwelling Unit, Secondary] and Amending and Restating Chapter 16.79 [Secondary Dwelling Units] of Title 16 [Zoning] of the Menlo Park Municipal Code to Conform to Changes in State Law
- B. Redline Comparison of Existing and Proposed Ordinances

Report prepared by:

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Report reviewed by:

Thomas Rogers, Principal Planner

ORDINANCE NUMBER \_\_\_\_\_

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AMENDING SECTION 16.04.295 [DEFINITION OF DWELLING UNIT, SECONDARY] AND AMENDING AND RESTATING CHAPTER 16.79 [SECONDARY DWELLING UNITS] OF TITLE 16 [ZONING] OF THE MENLO PARK MUNICIPAL CODE TO CONFORM TO CHANGES IN STATE LAW**

The City Council of the City Menlo Park does hereby ordain as follows:

SECTION 1. FINDINGS AND DETERMINATIONS.

- A. There is an increased need for housing in the San Francisco Bay Area as more than two million new residents will be added by 2040.
- B. Secondary units (also called in-law units or accessory dwelling units) are well-suited as an infill strategy for low-density residential areas because they offer hidden density, housing units not readily apparent from the street- and are relatively less objectionable to neighbors.
- C. Recognizing the potential for secondary units as a housing strategy, California has passed several laws to lower local regulatory barriers to construction, which includes a requirement that each City have a ministerial process for approving secondary units.
- D. The most recent California legislation (AB 2299 and SB 1069) was passed as a means to streamline current statewide regulations as well as encourage the building of new secondary units to create more housing options.
- E. In order to fully comply with the most recent California legislation, the City of Menlo Park must amend its Zoning Ordinance.
- F. The City Council of the City of Menlo Park finds and declares an amendment to Chapters 16.04 [Definitions] and 16.79. [Secondary Dwelling Units] is necessary for the above reasons.

SECTION 2. AMENDMENT OF CODE. Section 16.04.295 [Dwelling unit, secondary] of Chapter 16.04 [Definitions] of Title 16 [Zoning] is hereby amended in its entirety as follows:

16.04.295 Dwelling unit, secondary.

A "secondary dwelling unit" (which is referred to as an "accessory dwelling unit" in State law) means a dwelling unit on a residential lot which provides complete independent living facilities for one or more persons, and shall include permanent provisions for living, sleeping, eating, cooking, and sanitation independent of the main dwelling existing on the residential lot. For purposes of a secondary dwelling unit, permanent provisions for eating and cooking include the following: (1) permanent range, (2) counters, (3) refrigerator, and (4) sink. There are two (2) types of secondary dwelling units: (1) units attached to the existing dwelling, including units located within the living area of an existing dwelling unit

("Attached Secondary Dwelling Units"); and (2) units detached from the existing dwelling unit and located on the same lot as the existing dwelling unit ("Detached Secondary Dwelling Units").

SECTION 3. AMENDMENT OF CODE. Chapter 16.79 [Secondary Dwelling Units] of Title 16 [Zoning] is hereby amended in its entirety as follows:

Sections:

<u>16.79.010</u>	Purpose.
<u>16.79.020</u>	Permitted use.
<u>16.79.030</u>	Conditional use.
<u>16.79.040</u>	Development regulations.
<u>16.79.045</u>	Conversion of accessory buildings.
<u>16.79.050</u>	Mitigation monitoring.
<u>16.79.060</u>	Application review and approval process.

16.79.010 Purpose.

The purpose of this chapter is to provide for the creation of secondary dwelling units in single-family residential zones and to set forth criteria and regulations of those secondary dwelling units.

16.79.020 Permitted use.

Secondary dwelling units as defined in Section 16.04.295 are a permitted use in the City's single-family residential zoning districts for residential use that is consistent with the City's general plan and the specific zone for the lot on which the secondary dwelling unit is to be located. Secondary dwelling units must comply with the development standards applicable to the single-family zoning district in which the lot is located, including, but not limited to parking, height, setback, lot coverage, landscape, architectural review, maximum size, and to other standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places, except as otherwise provided elsewhere in this Chapter 16.79.

16.79.030 Conditional use.

Secondary dwelling units that require modification to the development regulations set forth in this Chapter through issuance of a variance or other special use permit are conditionally permitted in the single-family residential zoning districts, subject to the use permit requirements of Chapter 16.82.

16.79.040 Development and use regulations.

Secondary dwelling units are permitted within single-family residential zones, subject to the following standards, restrictions and regulations. Development and use regulations for secondary dwelling units are as follows:

- (1) Minimum lot area: six thousand (6,000) square feet.
- (2) Primary Residence.
  - (A) A single-family residence must be located on the lot.

(B) The secondary dwelling unit may not be sold separately from the primary residence.

(3) Density. No more than one (1) secondary dwelling unit may be allowed on any one lot.

(4) Subdivision. A lot having a secondary dwelling unit may not be subdivided in a manner that would allow for the main dwelling and secondary dwelling unit to be located on separate lots that do not meet the minimum lot area, width and/or depth required by the single-family zoning district in which the lot is located.

(5) Minimum Yards.

(A) Attached Secondary Dwelling Units shall comply with all minimum yard requirements for the main dwelling established by the single-family zoning district in which the lot is located;

(B) Detached Secondary Dwelling Units shall comply with all minimum yard requirements for the main dwelling established by the single-family zoning district in which the lot is located, with the exception that the minimum rear yard is ten (10) feet. Furthermore, the interior side and rear yards may be reduced to five (5) feet, subject to written approval of the owner(s) of the contiguous property abutting the portion of the encroaching structure. If the contiguous interior side or rear property line is an alley, the minimum setback is five (5) feet. The provisions of Section 16.62.020 (1) shall not apply to a Detached Secondary Dwelling Unit.

(6) Unit Size.

(A) Detached Secondary Dwelling Units shall not exceed six hundred forty (640) square feet, except buildings complying with all aspects of the disabled access requirements for kitchens, bathrooms, and accessible routes established in the California Building Code for adaptable residential dwelling units shall have a maximum square footage of seven hundred (700) square feet.

(B) Attached Secondary Dwelling Units shall not exceed fifty percent (50%) of the existing living area, with a maximum increase in floor area of six hundred forty (640) square feet, except buildings complying with all aspects of the disabled access requirements for kitchens, bathrooms, and accessible routes established in the California Building Code for adaptable residential dwelling units shall have a maximum square footage of seven hundred (700) square feet.

(C) All secondary dwelling units shall be limited to studio or one (1) bedroom units and one (1) bathroom.

(D) No passage way shall be required in conjunction with the construction of a secondary dwelling unit.

(7) Building Coverage. Secondary dwelling units shall count towards the total building coverage for the lot and the entire building coverage of all buildings may not exceed the permitted building coverage established by the single-family zoning district in which the lot is located.

(8) Height. The maximum permitted height of a secondary dwelling unit is the same as the maximum permitted height for the single-family zoning district in which the lot is located, except that in no instance shall the maximum total height for any secondary dwelling unit exceed seventeen (17) feet.

(9) Daylight Plane. A daylight plane shall begin at a horizontal line nine (9) feet, six (6) inches above the average natural grade at a line three (3) feet from the side property

lines and shall slope inwards at a forty-five (45) degree angle. There are no permitted intrusions into the daylight plane. "Average natural grade" means the average of the highest and lowest points of the natural grade of the portion of the lot directly below a line three (3) feet from the side property lines.

(10) Parking. One (1) off-street parking space is required, except as provided in Section 11 (Parking Exceptions) below, in addition to the required parking for the main dwelling unit, that may be provided in the following configurations and areas in addition to the areas allowed for the main dwelling:

(A) In tandem, meaning one (1) car located directly behind another car, including a single-car driveway leading to two (2) required parking spaces for the main dwelling;

(B) Within required interior side yards;

(C) Within required front yards if no more than five hundred (500) square feet of the required front yard are paved for motor vehicle use (inclusive of the main residence driveway and parking areas) and a minimum setback of eighteen (18) inches from the side property lines is maintained.

The required off-street parking can be provided in either a covered or uncovered space, but all covered parking shall comply with the setback requirements of the main dwelling, if the parking is attached, or the accessory building regulations, if the parking is detached.

(11) Parking Exceptions. The off-street parking requirement of Section (10) Parking, does not apply to the following secondary dwelling units:

(A) Secondary dwelling units located within one-half mile of public transit as determined by the community development director.

(B) Secondary dwelling units located within an architecturally and historically significant historic district.

(C) Existing secondary dwelling units that were permitted without additional parking.

(D) When on-street parking permits are required but not offered to the occupant of the secondary dwelling unit.

(E) When a car share vehicle is located within one block of the secondary dwelling unit as determined by the community development director.

(12) Consistency. All secondary dwelling units shall comply with all applicable development regulations for the single-family zoning district in which the lot is located and building code requirements set forth in Title 12, Buildings and Construction, unless otherwise specifically provided for in this section.

(13) Aesthetics. The secondary dwelling unit shall have colors, materials, textures and architecture similar to the main dwelling.

(14) Tenancy. Either the main dwelling or the secondary dwelling unit shall be occupied by the property owner when both units are occupied as dwelling units. If a property owner does not occupy one of the dwelling units, the property owner may apply for a non-tenancy status for a term of one (1) year through a registration process established by the community development director. To be eligible for the registration process, a property owner must have lived at the subject property for a minimum of two (2) years of the previous five (5) years from the date of application. The property owner may renew the registration annually, not to exceed four (4) years in total, subject to the

review and approval of the community development director, pursuant to the following criteria and process established by the community development director. In no instance shall either the main dwelling or secondary dwelling unit be rented for a term of less than thirty (30) days.

(A) The application for the registration and renewal(s) shall be accompanied by a fee, set by the city council.

(B) The application for registration and renewal shall state the reason for the request and provide supporting documentation. The registration shall be approved for any of the following reasons: (i) temporary job relocation, with the intent to return, (ii) relocation for school (e.g., mid-year career change), and (iii) physically unable to live in the house.

(C) The application shall provide a property management plan that includes the name and contact information to address issues or concerns about the use of the property should they arise. The plan should also include information about parking, including (i) a site plan with the parking layout for the property, (ii) how parking will be assigned between tenants, and (iii) an action plan that demonstrates how parking issues will be resolved effectively and efficiently between tenants if tandem parking is provided.

(D) A use permit is required for non-tenancy status longer than four (4) years or for waiver of the requirement that the owner reside in the unit for not less than two (2) of the previous five (5) years prior to the date of application or for a reason other than those stated in subsection (11)(B) of this section.

#### 16.79.045 Conversion of accessory buildings.

(1) An accessory building may be eligible to convert into a secondary dwelling unit, subject to meeting criteria as outlined in subsection (2) of this section and approval through the process outlined in Section 16.79.060. No additional off-street parking shall be required to convert an accessory building into a secondary dwelling unit.

(2) Eligibility. The following criteria must be met in order to be eligible for the conversion of an accessory building:

(A) The accessory building must have received building permits and commenced construction prior to June 13, 2014. Other supporting documentation to show the building was legally built may be substituted for a building permit subject to review by the community development director.

(B) The accessory building must be upgraded to meet the building code requirements based on the change of occupancy at the time of the conversion.

(C) The accessory building must meet all of the development regulations of Section 16.79.040, with the exception that no setback shall be required, if the conversion is of an existing garage, and a setback of no more than five (5) feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above an existing garage.

(3) All or any portion of an accessory building that meets the eligibility criteria as provided in this section may be demolished and reconstructed to meet the building code requirements based on the change of occupancy at the time of conversion. The secondary dwelling unit that replaces the accessory building may retain the setbacks and the footprint of the legally constructed accessory building. The existing setbacks

and footprint of the accessory building must be evidenced by valid building permits or other supporting documentation subject to review by the community development director. Nothing in this section shall be deemed to authorize the expansion of the footprint or reduction of the setbacks beyond that evidenced by a valid building permit or other supporting documentation subject to review by the community development director or to allow the continuation of any other nonconformity.

#### 16.79.050 Mitigation monitoring.

All second unit development shall comply, at a minimum, with the mitigation monitoring and report program (MMRP) established through Resolution No. 6149 associated with the Housing Element Update, General Plan Consistency Update, and Zoning Ordinance Amendments Environmental Assessment prepared for the Housing Element adopted on May 21, 2013.

#### 16.79.060 Application Review and Approval Process,

Each development of a secondary dwelling unit requires review for compliance with this Chapter 16.79 prior to submittal of a building permit for the creation of a secondary dwelling unit.

(1) Application. Requests for compliance review shall be made in writing by the owner of the property, on a form prescribed by the city. The application shall be accompanied by a fee, set by the city council, and plans showing the details of the proposed secondary dwelling unit per submittal guidelines established by the community development director.

(2) Compliance Determination. The community development director or his or her designee shall make a determination of compliance in writing after reviewing the project plans. The determination of the community development director is final and not subject to appeal.

(3) All applications for secondary dwelling units that meet and comply with the requirements under this Chapter shall be approved without discretionary review or a hearing within one-hundred twenty (120) days after receipt of a substantially complete application. The application shall be denied if the proposed secondary dwelling unit does not comply with all applicable requirements of this Chapter or it may be conditionally approved subject to conditions that will bring the proposed secondary dwelling unit into compliance with this Chapter.

SECTION 4. SEVERABILITY. If any section of this ordinance, or part hereof, is held by a court of competent jurisdiction in a final judicial action to be void, voidable or unenforceable, such section, or part hereof, shall be deemed severable from the remaining sections of this ordinance and shall in no way affect the validity of the remaining sections hereof.

SECTION 5. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION. The City Council hereby finds that this ordinance is not subject to the provisions of the California Environmental Quality Act ("CEQA") because the activity is not a project as defined by Section 15378 of the CEQA Guidelines. The ordinance has no potential for resulting in physical change to the environment either directly or indirectly.

SECTION 6. EFFECTIVE DATE AND PUBLISHING. This ordinance shall take effect 30 days after adoption. The City Clerk shall cause publication of the ordinance within 15 days after passage in a newspaper of general circulation published and circulated in the city or, if none, the posting in at least three public places in the city. Within 15 days after the adoption of the ordinance amendment, a summary of the amendment shall be published with the names of the council members voting for and against the amendment.

INTRODUCED on the \_\_ day of \_\_\_\_\_, 2016.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said Council on the \_\_ day of \_\_\_\_\_, 2016, by the following vote:

AYES:	Councilmembers:
NOES:	Councilmembers:
ABSENT:	Councilmembers:
ABSTAIN:	Councilmembers:

APPROVED: \_\_\_\_\_  
Mayor

ATTEST:  
  
\_\_\_\_\_  
Pamela Aguilar, City Clerk

## Chapter 16.04 DEFINITIONS

### 16.04.295 Dwelling unit, secondary.

A "secondary dwelling unit" (which is referred to as an "accessory dwelling unit" in State law) means a dwelling unit on a residential lot which provides complete independent living facilities for one or more persons, and shall include permanent provisions for living, sleeping, eating, cooking, and sanitation independent of the main dwelling existing on the residential lot. For purposes of a secondary dwelling unit, permanent provisions for eating and cooking include the following: ~~1) permanent range, 2) counters, 3) refrigerator, and 4) sink.~~ (1) permanent range, (2) counters, (3) refrigerator, and (4) sink. There are two (2) types of secondary dwelling units: (1) units attached to the existing dwelling, including units located within the living area of an existing dwelling unit ("Attached Secondary Dwelling Units"); and (2) units detached from the existing dwelling unit and located on the same lot as the existing dwelling unit ("Detached Secondary Dwelling Units").

## Chapter 16.79 SECONDARY DWELLING UNITS

Sections:

- 16.79.010 Purpose.
- 16.79.020 Permitted use.
- 16.79.030 Conditional use.
- 16.79.040 Development regulations.
- 16.79.045 Conversion of accessory buildings.
- 16.79.050 Mitigation monitoring.
- 16.79.060 Application review and approval process.

### 16.79.010 Purpose.

The purpose of this chapter is to provide for the creation of secondary dwelling units in single-family residential zones and to set forth criteria and regulations ~~to control the development~~ of those secondary dwelling units ~~within the~~.

### 16.79.020 Permitted use.

Secondary dwelling units as defined in Section 16.04.295 are a permitted use in the City's single-family residential zoning districts, for residential use that is consistent with the City's general plan and the specific zone for the lot on which the secondary dwelling unit is to be located. Secondary dwelling units must comply with the development standards applicable to the single-family zoning district in which the lot is located, including, but not limited to parking, height, setback, lot coverage, landscape, architectural review, maximum size, and to other standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places, except as otherwise provided elsewhere in this Chapter 16.79.

### 16.79.020 Permitted use.

~~A secondary dwelling unit developed within the main dwelling or structurally attached to the main dwelling as defined in Section 16.04.145 Buildings, structurally attached, or a secondary dwelling unit detached from the main dwelling, are permitted in a single-family residential zoning district, subject to the provisions set forth in Section 16.79.040.~~

### **16.79.030 Conditional use.**

~~A secondary~~Secondary dwelling ~~unit~~units that ~~is either attached or detached and requesting~~require modification to the development regulations, ~~except for items (2) density and (3) subdivision, as established set forth in this Chapter through issuance of a variance or other special use permit are conditionally permitted in the single-family residential zoning districts, subject to the use permit requirements of Chapter 16.79.040-82.~~

### **16.79.040 Development and use regulations.**

Secondary dwelling units are permitted within single-family residential zones, subject to the following standards, restrictions and regulations. Development and use regulations for ~~a~~ secondary dwelling ~~unit~~units are as follows:

(1) Minimum lot area: six thousand (6,000;) square feet.

(2) Primary Residence.

(A) A single-family residence must be located on the lot.

(B) The secondary dwelling unit may not be sold separately from the primary residence.

(3) Density:— No more than one (1) secondary dwelling unit may be allowed on any one ~~(1) lot;~~

(34) Subdivision:— A lot having a secondary dwelling unit may not be subdivided in a manner that would allow for the main dwelling and secondary dwelling unit to be located on separate lots that do not meet the minimum lot area, width and/or depth required by the single-family zoning district in which the lot is located;

(45) Minimum yards:Yards.

~~(a) Structurally attached secondary dwelling units: Secondary dwelling units developed within the main dwelling or structurally attached to the main dwelling as defined in Section 16.04.145 Buildings, structurally attached,~~(A) Attached

Secondary Dwelling Units shall comply with all minimum yard requirements for the main dwelling established by the single-family zoning district in which the lot is located;

~~(b) Detached secondary dwelling units: Detached secondary dwelling units~~Secondary Dwelling Units shall comply with all minimum yard requirements for the main dwelling established by the single-family zoning district in which the lot is located, with the exception that the minimum rear yard is ten (10) feet. Furthermore, the interior side and rear yards may be reduced to five (5) feet, subject to written approval of the owner(s) of the contiguous property abutting the portion of the encroaching structure. If the contiguous interior side or rear property line is an alley, the minimum setback is five (5) feet. The ~~provision~~provisions of Section 16.62.020 (1) shall not apply to a ~~detached secondary dwelling unit~~Detached Secondary Dwelling Unit.

~~(56) Unit size:Size.~~

~~(a) The square footage of all levels of the secondary dwelling unit shall not exceed 640~~(A) Detached Secondary Dwelling Units shall not exceed six hundred forty

(640) square feet, except buildings complying with all aspects of the disabled access requirements for kitchens, bathrooms, and accessible routes established in the California Building Code for adaptable residential dwelling units shall have a maximum square footage of seven hundred (700) square feet.

(B) Attached Secondary Dwelling Units shall not exceed fifty percent (50%) of the existing living area, with a maximum increase in floor area of six hundred forty (640) square feet, except buildings complying with all aspects of the disabled access requirements for kitchens, bathrooms, and accessible routes established in the California Building Code for adaptable residential dwelling units shall have a maximum square footage of 700 square feet. The maximum square footage does not include the square footage of an attached accessory building for which there is no internal connection to the secondary dwelling unit; seven hundred (700) square feet.

(b) — Secondary C) All secondary dwelling units shall be limited to studio or one- (1) bedroom units and one (1) bathroom.

(6D) No passage way shall be required in conjunction with the construction of a secondary dwelling unit.

(7) Building Coverage. Secondary dwelling units shall count towards the total building coverage for the lot and the entire building coverage of all buildings may not exceed the permitted building coverage established by the single-family zoning district in which the lot is located.

(8) Height:— The maximum total permitted height is of a secondary dwelling unit is the same as the maximum permitted height for the single-family zoning district in which the lot is located, except that in no instance shall the maximum total height for any secondary dwelling unit exceed seventeen (17) feet.

(79) Daylight Plane:— A daylight plane shall begin at a horizontal line nine (9) feet, six (6) inches above the average natural grade at a line three (3) feet from the side property lines and shall slope inwards at a forty-five (45) degree angle. There are no permitted intrusions into the daylight plane. “Average natural grade” means the average of the highest and lowest points of the natural grade of the portion of the lot directly below a line three (3) feet from the side property lines.

(810) Parking:— One (1) off-street parking space is required, except as provided in Section 11 (Parking Exceptions) below, in addition to the required parking for the main dwelling unit, that may be provided in the following configurations and areas in addition to the areas allowed for the main dwelling:

(aA) In tandem, meaning one (1) car located directly behind another car, including a single-car driveway leading to two (2) required parking spaces for the main dwelling;

(bB) Within required interior side yards;

(eC) Within required front yards if no more than five hundred (500) square feet of the required front yard is are paved for motor vehicle use (inclusive of the main residence driveway and parking areas) and a minimum setback of eighteen (18) inches from the side property lines is maintained.

The required off-street parking can be provided in either a covered or uncovered space, but all covered parking shall comply with the setback requirements of the main dwelling, if the parking is attached, or the accessory building regulations, if the parking is detached.

(9) — Consistency: (11) Parking Exceptions. The off-street parking requirement of Section (10) Parking, does not apply to the following secondary dwelling units:

(A) Secondary dwelling units located within one-half mile of public transit as determined by the community development director.

(B) Secondary dwelling units located within an architecturally and historically significant historic district.

(C) Existing secondary dwelling units that were permitted without additional parking.

(D) When on-street parking permits are required but not offered to the occupant of the secondary dwelling unit.

(E) When a car share vehicle is located within one block of the secondary dwelling unit as determined by the community development director.

(12) Consistency. All secondary dwelling units shall comply with all applicable development regulations for the single-family zoning district in which the lot is located and building code requirements set forth in Title 12 Building, Buildings and Construction of the Municipal Code, unless otherwise specifically provided for in this section;.

(4013) Aesthetics:—. The secondary dwelling unit shall have colors, materials, textures and architecture similar to the main dwelling.

(414) Tenancy:—. Either the main dwelling or the secondary dwelling unit shall be occupied by the property owner when both units are occupied as dwellingdwelling units. If a property owner does not occupy one of the dwelling units, the property owner may apply for a non-tenancy status for a term of one (1) year through a registration process established by the Community Development Director—community development director. To be eligible for the registration process, a property owner must have lived at the subject property for a minimum of two (2) years of the previous five (5) years from the date of application. The property owner may renew the registration annually, not to exceed four (4) years in total, subject to the review and approval of the Community Development Directorcommunity development director, pursuant to the following criteria and process established by the Community Development Director.—community development director. In no instance shall either the main dwelling or secondary dwelling unit be rented for a term of less than thirty (30) days.

(A) —The application for the registration and renewal(s) shall be accompanied by a fee, set by the City Council.—city council.

(B) —The application for registration and renewal shall state the reason for the request and provide supporting documentation. The registration shall be approved for any of the following reasons: 4(i) temporary job relocation, with the intent to return, 2(ii) relocation for school (e.g.: mid-year career change), and 3(iii) physically unable to live in the house.

(C) —The application shall provide a property management plan that includes the name and contact information to address issues or concerns about the use of the property should they arise. The plan should also include information about parking, including 4(i) a site plan with the parking layout for the property, 2(ii) how parking will be assigned between tenants, and 3(iii) an action plan that demonstrates how parking issues will be resolved effectively and efficiently between tenants if tandem parking is provided.

(D) —A use permit is required for non-tenancy status longer than four (4) years or for waiver of the requirement that the owner reside in the unit for not less than two (2) of

the previous five (5) years prior to the date of application or for a reason other than those stated in ~~item 2 above~~subsection (11)(B) of this section.

#### 16.79.045 Conversion of accessory buildings.

~~(1) An accessory building may be eligible to convert into a secondary dwelling unit, subject to meeting criteria as outlined in Section 16.79.045(2) and approval of an administrative permit per Chapter 16.82-subsection (2) of this section and approval through the process outlined in Section 16.79.060. No additional off-street parking shall be required to convert an accessory building into a secondary dwelling unit.~~

~~(2) Eligibility: The following criteria must be met in order to be eligible for the conversion of an accessory building:~~

~~(A) The accessory building must have received building permits and commenced construction prior to June 13, 2014. Other supporting documentation to show the building was legally built may be substituted for a building permit subject to review by the Community Development Directorcommunity development director.~~

~~(a) The property owner shall have one (1) year from June 13, 2014 to submit a complete administrative permit application, including all applicable fees and plans, to qualify for the conversion process.~~

~~(B) The accessory building must be upgraded to meet the Building Codebuilding code requirements based on the change of occupancy at the time of the conversion.~~

~~(C) The accessory building must meet all of the development regulations of Section 16.79.040, with the exception of minimum yards, which shall be established in the administrative permitthat no setback shall be required, if the conversion is of an existing garage, and a setback of no more than five (5) feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above an existing garage.~~

~~(3) All or any portion of an accessory building that meets the eligibility criteria as provided in this Section 16.79.045section may be demolished and reconstructed to meet the Building Codebuilding code requirements based on the change of occupancy at the time of conversion. The secondary dwelling unit that replaces the accessory building may retain the setbacks and the footprint of the legally constructed accessory building. The existing setbacks and footprint of the accessory building must be evidenced by valid building permits or other supporting documentation subject to review by the Community Development Directorcommunity development director. Nothing in this Sectionsection shall be deemed to authorize the expansion of the footprint or reduction of the setbacks beyond that evidenced by a valid building permit or other supporting documentation subject to review by the Community Development Directorcommunity development director or to allow the continuation of any other nonconformity.~~

~~(4) This section 16.97.045 shall sunset in its entirety and no longer be effective one (1) year from June 13, 2014 for any administrative permit application not received by said date. The City Council, by resolution, may extend the effective date without further public hearings by the Planning Commission and City Council.~~

#### 16.79.050 Mitigation ~~Monitoring~~monitoring.

All second unit development shall comply, at a minimum, with the ~~Mitigation Monitoring and Report Programmitigation monitoring and report program~~ (MMRP) established

through Resolution No. 6149 associated with the Housing Element Update, General Plan Consistency Update, and Zoning Ordinance Amendments Environmental Assessment prepared for the Housing Element adopted on May 21, 2013.

**16.79.060 Application Review and Approval Process,**

Each development of a secondary dwelling unit requires review for compliance with this Chapter 16.79 prior to submittal of a building permit for the creation of a secondary dwelling unit.

(1) Application. Requests for compliance review shall be made in writing by the owner of the property, on a form prescribed by the city. The application shall be accompanied by a fee, set by the city council, and plans showing the details of the proposed secondary dwelling unit per submittal guidelines established by the community development director.

(2) Compliance Determination. The community development director or his or her designee shall make a determination of compliance in writing after reviewing the project plans. The determination of the community development director is final and not subject to appeal.

(3) All applications for secondary dwelling units that meet and comply with the requirements under this Chapter shall be approved without discretionary review or a hearing within one-hundred twenty (120) days after receipt of a substantially complete application. The application shall be denied if the proposed secondary dwelling unit does not comply with all applicable requirements of this Chapter or it may be conditionally approved subject to conditions that will bring the proposed secondary dwelling unit into compliance with this Chapter.