

CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov



CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Thursday, July 27, 2017

7:00 PM

Council Chambers

Planning Commission

MEMBERS OF THE AUDIENCE WISHING TO ADDRESS THE PLANNING COMMISSION:

Obtain a speaker’s identification card, fill in the requested information, and give the card to the Commission Secretary. The Secretary will give the card to the Commission Chair who will call on you when the item in which you are interested is being considered. When your name is called, walk to the rostrum, state your name and address for the record and proceed with your comments. The Chair may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens for organization. Speakers are expected to honor the allotted time.

CALL TO ORDER Pledge of Allegiance

PUBLIC COMMENTS

The PUBLIC COMMENTS section provides an opportunity to address the Planning Commission on items not listed on the agenda. The Commission welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Commission is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff for further action.

ACTION ITEMS:

The Commission will permit comment as each item is called for Public Hearing. Please submit a speaker card to the Secretary if you wish to speak on a public hearing item.

PUBLIC HEARINGS:

For agenda item No. 01, the Planning Commission may make a recommendation to the City Council.

1. [PH 17-072](#) Zoning Text Amendment to Update Regulations Related to Accessory Dwelling Units and Establish a New Review Fee Associated with Amendments to Chapter 10, Planning, Zoning and Subdivisions, of the Hayward Municipal Code (Zoning Text Amendment Application No. 201701087); City of Hayward (Applicant).

- Attachments:** [Attachment I - Staff Report](#)
[Attachment II - Proposed Amendments and Strikethroughs](#)
[Attachment III - Government Code Section 65852.2](#)
[Attachment IV - Proposed Master Fee Schedule](#)

COMMISSION REPORTS:

Oral Report on Planning and Zoning Matters

Commissioners' Announcements, Referrals

ADJOURNMENT

PLEASE TAKE NOTICE:

That if you file a lawsuit challenging any final decision on any public hearing item listed in this agenda, the issues in the lawsuit may be limited to the issues which were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing.

PLEASE TAKE FURTHER NOTICE:

That the City Council has adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.

****Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the Permit Center, first floor at the above address. Copies of staff reports for agenda items are available from the Commission Secretary and on the City's website the Friday before the meeting.****

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or TDD (510) 247-3340



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

File #: PH 17-072

DATE: July 27, 2017

TO: Planning Commission

FROM: Planning Manager

SUBJECT

Zoning Text Amendment to Update Regulations Related to Accessory Dwelling Units and Establish a New Review Fee Associated with Amendments to Chapter 10, Planning, Zoning and Subdivisions, of the Hayward Municipal Code (Zoning Text Amendment Application No. 201701087); City of Hayward (Applicant).

RECOMMENDATION

That the Planning Commission recommend to the City Council adoption of the Zoning Text Amendment to Chapter 10, Planning, Zoning, and Subdivisions, of the Hayward Municipal Code to update regulations related to the construction of Accessory Dwelling Units and to establish a new review fee in the City's Master Fee Schedule.

ATTACHMENTS

Attachment I - Staff Report

Attachment II - Proposed Accessory Dwelling Unit Regulations with Strikethroughs

Attachment III - California Government Code Section 65852.2

Attachment IV - Proposed Fee Schedule for Zoning Conformance Permit

DATE: July 27, 2017

TO: Planning Commission

FROM: Sara Buizer, Planning Manager

SUBJECT: Zoning Text Amendment to Update Regulations Related to Accessory Dwelling Units and Establish a New Review Fee Associated with Amendments to Chapter 10, Planning, Zoning and Subdivisions, of the Hayward Municipal Code (Zoning Text Amendment Application No. 201701087); City of Hayward (Applicant).

RECOMMENDATION

That the Planning Commission recommend to the City Council adoption of the Zoning Text Amendment to Chapter 10, Planning, Zoning, and Subdivisions, of the Hayward Municipal Code to update regulations related to the construction of Accessory Dwelling Units and to establish a new review fee in the City's Master Fee Schedule.

SUMMARY

City staff is proposing amendments to Chapter 10, Planning, Zoning, Subdivisions, of the Hayward Municipal Code (HMC) to be consistent with recently effective State legislation regarding the construction of Accessory Dwelling Units (ADUs). Additionally, City staff is proposing an amendment and update to the City's Master Fee Schedule for Zoning Conformance Permits to cover staff time review for ensuring all proposed ADUs comply with the proposed regulations.

BACKGROUND

The State of California, especially the San Francisco Bay Area, is currently experiencing a severe housing crisis with a substantially higher demand for housing than exists. This directly impacts housing affordability, including homeowners and renters alike. ADUs, commonly referred to as in-law units, granny flats, second dwellings, and/or cottages, assist to provide housing opportunities in a flexible manner to address the unmet demand for affordable housing for the community including, but not limited to, students, young professionals, small families, disabled individuals, extended family, senior citizens, etc., while also simultaneously assisting homeowners to offset the cost of homeownership and maintenance by renting out accessory units as an additional source of revenue.

On September 27, 2016, Governor Brown signed Assembly Bill 2299 (Bloom) and Senate Bill 1069 (Wieckowski) into law (Attachment III), requiring local agencies to revise and ease their restrictions on ADUs. This new set of legislation changed development standards and regulations to provide greater flexibility associated with the construction of ADUs, including, but not limited to, location criteria, dwelling unit sizes, minimum setbacks, parking

requirements, owner occupancy, garage conversions, fire sprinkler requirements, utility fees, etc.

On January 1, 2017, new State regulations related to ADUs became effective requiring cities, counties, and utility agencies to relax restrictions placed on the construction of ADUs. State law mandates that any existing local ordinance that fails to fully meet the requirements of State law shall be deemed null and void, unless and until the local agency adopts an ordinance that complies with the provisions identified within the above-referenced laws.

Current Regulations. Given that the City's current local ordinance for the construction of ADUs is not in compliance with the provisions of State law, it is deemed null and void pursuant to Section 65852.2 of the Government Code. Therefore, until the City of Hayward develops and adopts a local ordinance for ADUs consistent with the provisions of State law, ADUs are subject to the standards of the State.

Previously, the regulations for ADUs (now void) were located within the Minimum Design and Performance Standards section within the underlying residential zoning district, as well as within specified transect zones within the Mission Boulevard Corridor and South Hayward BART Form Based Code areas. In order to maintain consistency between development standards and various permitted zoning districts for ADUs, a new section within the Hayward Zoning Ordinance will be codified for consolidation purposes.

City Council Work Session. On March 14, 2017, the City Council held a Work Session ([Staff Report](#) and [Minutes](#)) to examine recent State legislation which allows greater flexibility in development standards to promote the creation of ADUs, review staffs' recommendations on proposed regulations consistent with State law, and discuss grey areas within State law that allow for local discretion on certain standards and provisions. Key issues that were identified between City Council and staff were the following:

- a) Conflict between the authority and provisions of State legislation and existing Conditions, Covenants, and Restrictions (CC&Rs) enforced by Homeowners Associations, as applicable;
- b) Additional on-street parking and traffic impacts in already congested residential neighborhoods within the community due to permitted garage conversions and relaxed parking requirements imposed by the State;
- c) Develop a notification method to adjacent property owners and/or tenants of proposed ADUs to be constructed nearby; and
- d) Prohibition of ADUs to be used as short-term rentals (e.g. AirBNB, VRBO, Homeaway, etc.) instead of long-term (greater than 30-day rental period) housing stock.

DISCUSSION

Staff recommends that Chapter 10 of the HMC be amended to include Section 10-1.2740 for the proposed regulations and development standards for ADUs within the City. The proposed

amendments are included in Attachment II, with deletions shown in ~~striketrough~~ and new text shown in underlined red text. The items below highlight the most significant changes from the existing regulations to the HMC.

Location Criteria. To ensure that all proposed ADUs are consistent with the goals and policies of the Hayward 2040 General Plan and the intent of appropriate zoning districts, City staff proposes permitting the construction of ADUs in the following zoning districts as accessory, secondary uses: Agricultural (A), Single-Family Residential (RS), Residential Nature Preserve (RNP), Medium-Density Residential (RM), and the Suburban (T3) transect zone within the Mission Boulevard Corridor Form Based Code area provided the property contains a singular existing, lawfully constructed single-family residence.

Additionally, based on the flexible development configurations granted for Planned Development (PD) rezones, staff concludes that ADUs would not be permitted in already developed PD zones due to conflicting CC&Rs, minimal parking availability, setbacks, and architectural consistency within the development. However, ADUs will be permitted to be constructed into new single-family residential PD projects at the time of development as an amenity to the development to encourage homeownership and flexible design, as well as provide additional housing stock.

Design and Development Standards for All ADUs. All proposed ADUs, either attached, detached, or internal, shall conform to the design and development standards; however, ADUs proposed to be within an existing accessory structure (workshop, pool house, garage, etc.) shall also be subject to the additional provisions of Section 10-1.2745 of the HMC. New language has been proposed to limit the size of all proposed ADUs to a maximum of 50% of the existing habitable floor area of the primary residence, or 1,200 square-feet whichever is less. Habitable floor area shall not include patio covers, porches, garages, balconies, decks, etc. to maintain an ADU that is subordinate and proportional to the primary dwelling. In addition, regardless of ADU type, the unit shall not exceed two bedrooms and there shall be no more than one ADU per parcel.

Parking Requirements. The most significant deviation from the previous provisions are in relation to parking. State law provides immense flexibility with required parking for ADUs, with a maximum standard of one parking space per unit or bedroom. Previous HMC standards did not require any additional parking for ADUs, provided the primary structure maintained their parking requirement. As such, the proposed regulations will require one additional off-street parking space for a studio/one-bedroom unit, and two additional off-street parking spaces for a two-bedroom unit. The parking spaces will be permitted in a flexible configuration including covered, uncovered, and tandem on the parcel in which the ADU is proposed, including parking within the required front yard setback. In the event the parking requirement for the primary residence is converted (i.e. enclosed garage) for the purposes of creating an ADU, then replacement parking shall be required in the same amount and located on-site, but can also be provided in the flexible configurations listed above.

However, pursuant to State law, parking requirements shall be exempt if it meets the following standards: a) the unit is located within one-mile of public transit and bus stations, b)

the unit is located within an architecturally and historically significant historic district, c) the unit is located within the existing building envelope of the primary residence or accessory structure, and d) where there is designated car-share vehicle parking within one block of the unit. Staff will evaluate each ADU on a case-by-case basis to determine whether the listed exemptions would be applicable.

Owner Occupancy and Deed Restriction. The proposed regulations will require that the legal property owner of the parcel shall be required to reside in either the accessory dwelling unit or the principal residence located on the property. At no time, shall the property owner rent out the principal residence and the accessory dwelling unit separately while the property owner resides elsewhere. This restriction will further the State objectives of creating additional permanent housing, while avoiding the deleterious effects of the conversion of housing stock into commercial enterprises. As such, the accessory dwelling unit and the principal residence shall not be permitted to be used as short-term rentals, with lease periods less than 30 days. In addition, the property owner shall be required to submit proof of a recorded deed restriction with the County of Alameda County Clerk's Office for current and subsequent property owners acknowledging and binding conformance with the proposed regulations.

Permits Required. Under the proposed regulations, ADUs would be subject to the review and approval of a Zoning Conformance Permit (ZCP) prior to the submission of construction level drawings to the Building Division. The ZCP application is a non-discretionary, ministerial Planning permit that will be reviewed administratively and shall be either disapproved or approved within 120 days of the submission of a complete application per State law. Staff believes that the ZCP process is warranted to ensure all proposed ADUs comply with the underlying zoning district and adopted design and development standards. Further, a ZCP will assist in maintaining a current record of ADUs as rentable housing stock for the City's Regional Housing Needs Allocation (RHNA), and to ensure ongoing compliance with the City's Rental Inspection Program monitored by the Code Enforcement Division.

However, a discretionary Site Plan Review application will be required for all accessory dwelling units to be proposed atop of existing, legally constructed detached garages that exceed the maximum height limitations for detached, accessory structures. To address concerns of privacy impacts on adjacent properties posed by minimal setback requirements permitted by the State, the Site Plan Review process will allow staff to notice proposed projects and determine whether any mitigation measures can be incorporated into two-story ADUs such as design features, landscaping buffers, or increased setbacks. In addition, this will also allow staff to ensure that the proposed detached, two story ADU remains architecturally subordinate and accessory to the primary residential structure.

Text Amendment Findings for Approval. In order for the Zoning Text Amendment to be adopted, the following findings shall be made by the City Council:

- a) Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward;

The proposed text amendment will promote the public health, safety, convenience, and general welfare of the residents of Hayward by providing the flexibility to create a diverse type of housing options for students, young professionals, small families, disabled individuals, extended families, senior citizens, and residents to live, work, study, and play. Additionally, the State Legislature finds, as substantial proof, that ADUs are a valuable form of rental housing stock in California, homeowners benefit from the creation of ADUs as added income, ADUs offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character, and California is in a severe housing crisis. The owner occupancy deed restriction will also ensure that all ADUs are compatible with existing single-family neighborhoods they are to be located in. It will maintain accountability with the property owner to verify that all ADU rentals are compliant with health, safety, general welfare, and housing conditions for prospective tenants.

b) The proposed change is in conformance with all applicable, officially adopted policies and plans;

The proposed text amendment will be consistent with the following goals, policies, and objectives of the Hayward 2040 General Plan and Complete Communities Strategic Plan:

- Infill Development in Neighborhood Land Use Policy LU-3.7: The City shall protect the pattern and character of existing neighborhoods by requiring new infill developments to have complimentary building forms and site features.
- Diversity of Housing Types Policy H-3.1: The City shall implement land use policies that allow for a range of residential densities and housing types, prices, ownership, and size.
- Flexible Development Standards Policy H-4.1: The City shall review and adjust as appropriate residential development standards, regulations, ordinances, departmental processing procedures, and residential fees that are determined to be a constraint on the development of housing.
- Complete Communities Strategic Plan Goal 2: Provide a mix of housing stock for all Hayward residents and community members, including the expansion of affordable housing opportunities and resources.

c) Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified; and

No properties are proposed to be reclassified with the proposed text amendment. The zoning districts in which ADUs will be permitted within the proposed regulations will remain consistent with the previous voided regulations. Therefore, streets and public facilities existing and proposed will be adequate to serve the potential development of ADUs as accessory, secondary uses.

d) All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

No properties are proposed to be reclassified with the proposed text amendment. A beneficial effect will be achieved with the proposed revision to the HMC, as it will allow for more flexible development standards than previously existed and spur greater development of ADUs with infill development consistent with the existing neighborhood character and scale.

ENVIRONMENTAL REVIEW

The proposed text amendment is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the Public Resources Code that exempts the adoption of an ordinance regarding accessory dwelling units in single-family and multi-family zones by cities and counties that implement the provisions of Section 65852.2 of the California Government Code. Therefore, no environmental review is necessary.

ECONOMIC IMPACT

The proposed regulations for ADUs will have a positive economic impact in the community as the updated regulations will provide greater flexibility to spur the development of additional rental stock in the City. Such relaxed development standards will assist in removing constraints on housing development in accordance with the intent of State law which can help address housing needs in the City by expediting construction, and lowering development costs.

FISCAL IMPACT

The ZCP permit fee for ADUs is proposed to be a \$328 flat fee, which is the equivalent of two hours of planning staff time (Attachment IV). Similar to other ministerial permits, the proposed flat fee is based on the average amount of time spent processing an ADU request during the application in-take, plan review, verification of code compliance, issuance of the Zoning Conformance Permit, and the post-permit records management. Based on the existing fee structure of other ministerial permits issued by the City, staff believes the new fee amount for ADU's is appropriate, reasonable and necessary for full cost recovery and administrative efficiency.

PUBLIC CONTACT

In April 2017, City staff implemented the Hayward Empathy Action Response Team (HEART) and visited nine different residential neighborhoods within City boundaries to gather a survey sample (in-person and electronically) from the community on the potential benefits and impacts associated with the new State legislation. Approximately seventy-five responses were collected identifying the interest, obstacles, motivators, and impacts from the potential construction of ADUs in their neighborhoods. Survey responses were collected, compiled, and incorporated into the creation of the proposed ADU regulations. In summary, the survey showed that while the public would support the construction of an ADU for additional income and/or for extended family, the biggest obstacle was project cost and unfamiliarity with the City's permitting process for ADUs. Additionally, residents identified on- and off-street

parking as their most significant concern. As such, staff has incorporated and is recommending a minimum parking requirement within the proposed regulations, which are consistent with the provisions and intent of State law.

On July 14, 2017, notice of the public hearing related to the proposed Zoning Text Amendment was published in The Daily Review, and around that date, notices were posted at City Hall and the Hayward Public Library for review by the general public. In addition, the notice and agenda was sent to an interested parties list via electronic mail.

NEXT STEPS

City staff will incorporate the input from the Planning Commission and forward the Commission's recommendation to the City Council for a public hearing tentatively scheduled for October 17, 2017. The City Council meeting will be noticed in compliance with the procedures set forth in Section 66016 of the California Government Code for adopting and levying a new fee.

Prepared by: Marcus Martinez, Assistant Planner

Recommended by:



Sara Buizer, AICP
Planning Manager

Approved by:



Stacey Bristow
Interim Development Services Director

CHAPTER 10 – PLANNING, ZONING, AND SUBDIVISIONS
ARTICLE 1 – ZONING ORDINANCE

SECTION 10-1.200 – SINGLE FAMILY RESIDENTIAL DISTRICT (RS)

SEC. 10-1.215 - USES PERMITTED.

b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the primary uses permitted in the RS District:

(1) Residential Uses.

- (a) ~~Attached second dwelling unit. (Also referred to as a "Granny or in-law unit." See Section 10-1.245n. for criteria)~~ Accessory dwelling unit. (Also referred to as "Granny flat, in-law unit, second dwelling unit." See Section 10-1.2740 for criteria and standards.
- (b) Second single-family dwelling. (Where one single-family dwelling already exists on a lot, one additional single-family dwelling may be constructed provided the minimum development standards (lot size, setbacks, height, etc., can be met for each dwelling).

SEC. 10-1.245 - MINIMUM DESIGN AND PERFORMANCE STANDARDS.

~~n. Second Dwelling Unit, Attached ("Granny or in-law unit"). An attached second dwelling unit ("Granny or in-law unit") may be constructed in accordance with the following standards:~~

- ~~(1) An attached second dwelling unit may only be added to an existing detached single family dwelling on a parcel containing no other dwellings, and which has at least two covered parking spaces, with at least one common wall between the attached second dwelling unit and the living or garage area of the existing dwelling.~~
- ~~(2) An attached second dwelling unit shall contain no more than one bedroom, shall be a minimum of 400 square feet in area and shall not exceed 640 square feet in area. No additional covered parking shall be provided.~~
- ~~(3) Any separate entry constructed for an attached second dwelling unit shall be located only in the side, side street (if approved by the Planning Director) or rear yard.~~
- ~~(4) An attached second dwelling unit shall be counted as part of the primary building coverage requirements and also shall conform to all required lot, yard, and height requirements.~~
- ~~(5) An attached second dwelling unit shall not be sold separately from the primary dwelling, but it may be rented.~~
- ~~(6) An attached second dwelling unit shall only be approved where the owner of the existing dwelling has applied for the building permit and where same owner resides in the primary dwelling at the time of application and occupancy of the attached second dwelling.~~
- ~~(7) Unless exempted, as determined by the Building Official, the primary or existing dwelling and the attached second dwelling unit shall conform to all applicable City code requirements; for example, building, fire, plumbing, electrical. A Certificate of Occupancy shall have been obtained for both units prior to occupancy of the attached second dwelling.~~

- ~~(8) An attached second dwelling unit shall not be located within the garage area or a converted garage area of the existing dwelling unless adequate substitute 2-car garage parking is provided outside required front, side, and side street yards.~~
- ~~(9) The exterior design of the attached second dwelling unit shall appear to constitute an integral part of the primary dwelling and not a separate dwelling unit.~~

SECTION 10-1.300 - RESIDENTIAL NATURAL PRESERVATION DISTRICT (RNP)

SEC. 10-1.315 - USES PERMITTED.

b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the primary uses permitted in the RNP District:

(1) Residential Uses.

- ~~(a) Attached second dwelling unit. (Also referred to as a "Granny or in-law unit." See Section 10-1.245n., for criteria)~~ Accessory dwelling unit. (Also referred to as "Granny flat, in-law unit, second dwelling unit." See Section 10-1.2740 for criteria and standards.

SECTION 10-1.400 - MEDIUM DENSITY RESIDENTIAL DISTRICT (RM)

SEC. 10-1.415 - USES PERMITTED.

b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the uses permitted in the RM District:

(1) Residential Uses.

- ~~(a) Attached second dwelling unit. (Also referred to as a "Granny or in-law unit." See Section 10-1.245n., for criteria)~~ Accessory dwelling unit. (Also referred to as "Granny flat, in-law unit, second dwelling unit." See Section 10-1.2740 for criteria and standards.
- (b) Second single-family dwelling. (Where one single-family dwelling already exists on a lot, one additional single-family dwelling may be constructed provided the minimum development standards (lot size, setbacks, height, etc., can be met for each dwelling)

SEC. 10-1.445 - MINIMUM DESIGN AND PERFORMANCE STANDARDS.

~~q. Second Dwelling Unit, Attached ("Granny or in-law unit"). An attached second dwelling unit ("Granny or in-law unit") may be constructed in accordance with the following standards:~~

- ~~(1) An attached second dwelling unit may only be added to an existing detached single-family dwelling on a parcel containing no other dwellings, and which has at least two covered parking spaces, with at least one common wall between the attached second dwelling unit and the living or garage area of the existing dwelling.~~

- ~~(2) An attached second dwelling unit shall contain no more than one bedroom, shall be a minimum of 400 square feet in area and shall not exceed 640 square feet in area. No additional covered parking shall be provided.~~
- ~~(3) Any separate entry constructed for an attached second dwelling unit shall be located only in the side, side street (if approved by the Planning Director) or rear yard.~~
- ~~(4) An attached second dwelling unit shall be counted as part of the primary building coverage requirements and also shall conform to all required lot, yard, and height requirements.~~
- ~~(5) An attached second dwelling unit shall not be sold separately from the primary dwelling, but it may be rented.~~
- ~~(6) An attached second dwelling unit shall only be approved where the owner of the existing dwelling has applied for the building permit and where same owner resides in the primary dwelling at the time of application and occupancy of the attached second dwelling.~~
- ~~(7) Unless exempted, as determined by the Building Official, the primary or existing dwelling and the attached second dwelling unit shall conform to all applicable City code requirements; for example, building, fire, plumbing, electrical. A Certificate of Occupancy shall have been obtained for both units prior to occupancy of the attached second dwelling.~~
- ~~(8) An attached second dwelling unit shall not be located within the garage area or a converted garage area of the existing dwelling unless adequate substitute 2-car garage parking is provided outside required front, side, and side street yards.~~
- ~~(9) The exterior design of the attached second dwelling unit shall appear to constitute an integral part of the primary dwelling and not a separate dwelling unit.~~

SECTION 10-1.500 - HIGH DENSITY RESIDENTIAL DISTRICT (RH)

SEC. 10-1.515 - USES PERMITTED.

b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the uses permitted in the RH District:

(1) Residential Uses.

- ~~(a) Second dwelling unit attached to single family dwelling. (Also referred to as a "Granny Unit." See Section 10-1.545.q for criteria.)~~

SEC. 10-1.545 - MINIMUM DESIGN AND PERFORMANCE STANDARDS.

~~q. Second Dwelling Unit, Attached ("Granny or in-law unit"). An attached second dwelling unit ("Granny or in-law unit") may be constructed in accordance with the following standards:~~

- ~~(1) An attached second dwelling unit may only be added to an existing detached single family dwelling on a parcel containing no other dwellings, and which has at least two covered parking spaces, with at least one common wall between the attached second dwelling unit and the living or garage area of the existing dwelling.~~
- ~~(2) An attached second dwelling unit shall contain no more than one bedroom, shall be a minimum of 400 square feet in area and shall not exceed 640 square feet in area. No additional covered parking shall be provided.~~

- ~~(3) Any separate entry constructed for an attached second dwelling unit shall be located only in the side, side street (if approved by the Planning Director) or rear yard.~~
- ~~(4) An attached second dwelling unit shall be counted as part of the primary building coverage requirements and also shall conform to all required lot, yard, and height requirements.~~
- ~~(5) An attached second dwelling unit shall not be sold separately from the primary dwelling, but it may be rented.~~
- ~~(6) An attached second dwelling unit shall only be approved where the owner of the existing dwelling has applied for the building permit and where same owner resides in the primary dwelling at the time of application and occupancy of the attached second dwelling.~~
- ~~(7) Unless exempted, as determined by the Building Official, the primary or existing dwelling and the attached second dwelling unit shall conform to all applicable City code requirements; for example, building, fire, plumbing, electrical. A Certificate of Occupancy shall have been obtained for both units prior to occupancy of the attached second dwelling.~~
- ~~(8) An attached second dwelling unit shall not be located within the garage area or a converted garage area of the existing dwelling unless adequate substitute 2-car garage parking is provided outside required front, side, and side street yards.~~
- ~~(9) The exterior design of the attached second dwelling unit shall appear to constitute an integral part of the primary dwelling and not a separate dwelling unit.~~

SEC. 10-1.600 – RESIDENTIAL-OFFICE DISTRICT (RO)

SEC. 10-1.615 - USES PERMITTED.

b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the uses permitted in the RO District:

(1) Residential Uses.

- ~~(a) Attached second dwelling unit. (Also referred to as a "Granny or in law unit." See Section 10-1.245.n for criteria)~~
- (b) Second single-family dwelling. (Where one single-family dwelling already exists on a lot, one additional single-family dwelling may be constructed provided the minimum development standards (lot size, setbacks, height, etc.) can be met for each dwelling.

SECTION. 10-1.2740 - ACCESSORY DWELLING UNITS

SEC. 10-1.2741 PURPOSE.

The ordinance codified in this section establishes regulations for the construction of accessory dwelling units subordinate to single-family dwellings. Accessory dwelling units provide housing opportunities in a flexible manner to address the unmet demand for affordable housing and achieve the goals, objectives, and policies of the Housing Element and General Plan to provide a diverse mix of housing options for the community.

SEC. 10-1.2742 DEFINITIONS.

- a. “Accessory dwelling unit(s)” shall be defined as an attached, detached, or internal 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 shall be located on the same parcel an existing single-family dwelling is situated or to be situated with the proposed development of single-family dwelling(s).

SEC. 10-1.2743 LOCATION CRITERIA.

- a. Accessory dwelling units shall only be permitted as accessory uses in the Single-Family Residential (RS), Residential Nature Preservation (RNP), Medium-Density Residential (RM), Agricultural (A) zoning districts, and in the T-3 Suburban zoning district in the Mission Boulevard Corridor Form-Based Code area, where one legally constructed single-family dwelling exists as the primary structure on the parcel.
- b. Accessory dwellings units shall not be permitted in Planned Development (PD) zoning districts, unless otherwise constructed at the time of development as an amenity.

SEC. 10-1.744 DESIGN AND DEVELOPMENT STANDARDS.

All proposed accessory dwelling units shall comply with the following design and development standards:

- a. Quantity. On any one parcel of land, no more than one accessory dwelling unit shall be allowed regardless of the number of single-family dwellings located on the lot.
- b. Unit Size. All proposed accessory dwelling units shall not exceed 50-percent of the habitable floor area of the existing single-family residence or 1,200 square-feet, whichever is less. Habitable floor area calculation shall not include garages, detached accessory structures, patio covers, porches, covered and uncovered balconies, and decks as determined by the Planning Director.
- c. Maximum Number of Bedrooms. Accessory dwelling units shall not exceed a maximum of two bedrooms as sleeping quarters.
- d. Attached Units. Accessory dwelling units proposed to be attached to the primary residence shall comply with the development standards set forth by the underlying zoning for the primary structure including, but not limited to, setbacks, lot coverage, height, and architectural compatibility.
- e. Detached Units. Accessory dwelling units proposed to be detached from the primary residence shall comply with the minimum design and performance standards set forth by the underlying zoning district for detached, accessory and secondary structures including, but not limited to, setbacks, lot coverage, height, distance between structures, location and architectural compatibility.
- f. Setbacks. Accessory dwelling units proposed to be constructed atop of existing, legal detached garages shall provide a minimum five-foot setback from the interior side and rear property lines, unless a greater setback is required pursuant to Building and Fire standards or the property is a corner lot which shall comply with the minimum street-side setback requirements. Accessory

dwelling units proposed to be attached or detached shall conform to the development standards and performance standards set forth in the underlying zoning district.

- g. Height Restrictions. Accessory dwelling units shall comply with the following height restrictions based on the proposed location of the unit:
- (1) Accessory dwelling units attached to the primary structure shall comply with the height limitations of the underlying zoning district for the principal structure.
 - (2) Accessory dwelling units to be detached from the primary structure shall be limited to the height restrictions set forth in the underlying zoning district for detached, accessory and secondary structures.
 - (3) Accessory dwelling units proposed to be constructed atop of legally constructed detached garages shall be subject to the review and approval of a discretionary Site Plan Review application in accordance with Section 10-1.3000 of the Hayward Municipal Code. In order to deny a Site Plan Review application, the Planning Director shall find that the accessory dwelling unit would be detrimental to the public health and safety or would introduce unreasonable privacy impacts to the immediate neighbors. In any instance, the accessory dwelling unit shall be limited to the maximum height restriction of the primary structure within the underlying zoning district
- h. Independent Exterior Access. Accessory dwelling units shall provide an independent exterior access separate from the primary residence. The separate entry constructed for the accessory dwelling unit shall not face the street or the public right-of-way.
- i. Owner Occupancy. The legal property owner of the lot shall be required to reside in either the primary residence or the accessory dwelling unit located on the parcel. At no time shall the property owner rent the primary dwelling and the accessory dwelling unit separately or allow the main house and the accessory dwelling unit to be sublet individually while the property owner resides elsewhere.
- i. The accessory dwelling unit shall not be sold separately from the principal residence. The rental and lease period for either unit shall be longer than a minimum of 30-days and shall not be utilized as a short-term rental.
- j. Fire Sprinklers. Accessory dwelling units shall not be required to be equipped with fire sprinklers unless fire sprinkler installation is required for the primary dwelling
- k. Park Dedication In-Lieu Fees. Each accessory dwelling unit whether detached, attached, or internal shall be required to pay the applicable Park-Dedication In-Lieu fee as set forth in Chapter 10, Article 16 of the Hayward Municipal Code (Property Developers – Obligations for Parks and Recreation) prior to the date of final inspection or the date the Certificate of Occupancy is issued for the development, whichever occurs first.
- l. Private Sewage System. If the accessory dwelling unit is proposed to incorporate or utilize a private sewage disposal system (e.g. septic tank or on-site wastewater treatment system), the applicant shall be required to provide documentation and proof by the Alameda County Department of Environmental Health at the time of application. No private sewage disposal shall be permitted where there is an available public sewer within 200-feet, measured along streets.

alleys, or public right-of-way upon which a lot abuts pursuant to Chapter 11, Article 3 (Sanitary Sewer System) of the Hayward Municipal Code.

SEC. 10-1.2745 ADDITIONAL PROVISIONS FOR THE CONVERSION OF EXISTING STRUCTURES TO CREATE ACCESSORY DWELLING UNITS.

- a. Setbacks. No side or rear yard setback shall be required for an existing, legally constructed garage or accessory structure that is converted into an accessory dwelling unit provided it is sufficient for fire safety standards as determined by the Hayward Fire Department and Chief Building Official.
- b. Utility Connection Fees. Accessory dwelling units constructed within the building envelope of the existing principal residence, garage, or accessory structure shall not be required to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.
- c. Parking. No additional parking shall be required if the accessory dwelling unit is located within the existing building envelope of the primary residence or accessory structure, unless it involves the conversion of a garage or reduction of the off-street parking requirement for the parcel.

SEC. 10-1.2746 PARKING.

Accessory dwelling units shall be required to provide parking in accordance with the following requirements:

- a. Parking Requirement for Primary Residence. In any instance, the property shall be required to meet the minimum parking requirement as set forth in Chapter 10, Article 2, Off-Street Parking Regulations for the principal residence prior to or concurrent with the application for an accessory dwelling unit.
- b. New Units. Accessory dwelling units that are proposed as a studio or one-bedroom shall be required to provide one additional parking space, and accessory dwelling units with two bedrooms shall be required to provide two parking spaces on the same lot as the unit in a covered, uncovered, or tandem configuration. Parking spaces may be located in the required setbacks provided the proposed location complies with the landscaping requirement in the front yard and minimum standards set forth within the Off-Street Parking Regulations for open parking spaces, unless otherwise approved by the Planning Director.
- c. Garage Conversions. Where garages are converted for the purpose of creating an accessory dwelling unit, replacement off-street parking shall be provided on the same lot as the unit in either a covered, uncovered, or tandem configuration provided the proposed location complies with the landscaping requirement in the front yard and the minimum standards set forth within the Off-Street Parking Regulations for open parking spaces, unless otherwise approved by the Planning Director.
- d. Parking Requirement Exemptions. Off-street parking shall not be required for accessory dwelling units if any of the following circumstances apply:
 - (1) The unit is located within one-mile of public transit and bus stations.

- (2) The unit is located within an architecturally and historically significant historic district.
- (3) Where there is designated car-share vehicle parking within one block of the unit.

SEC. 10-1.2747 PERMIT REQUIRED.

Unless otherwise noted in this Ordinance, the applicant shall be required to obtain the approval of a Zoning Conformance Permit by the Planning Division prior to the submittal of a building permit application to the Building Division. Zoning Conformance Permits shall either be disapproved or approved within 120 days of the submission of a complete application. Application submittal requirements for an Accessory Dwelling Unit shall include the following items, in addition to the required fees for each accessory dwelling unit proposed in accordance with the adopted Master Fee Schedule:

- a. Project Plans. The applicant shall be required to provide a site plan, floor plan, elevations, and cross sections of the proposed accessory dwelling unit drawn to scale. Plans shall include minimal project information, dimensions, and calculations including, but not limited to the proposed setbacks, lot coverage, height, distance between structures, square-footage, easements, materials, etc. as required by the Planning Director or his/her designee.
- b. Deed Restriction. Prior to the issuance of a building permit for the accessory dwelling unit, the property owner shall file with Alameda County Recorder a deed restriction approved by the City stating compliance with provisions of this Ordinance and Hayward Municipal Code and such deed is binding upon any successor in ownership of the property, and lack of compliance shall be grounds for Code Enforcement action and removal of the accessory dwelling unit.

SECTION 10-1.3500 – DEFINITIONS

SEC. 10-1.3510 - USES AND ACTIVITIES DEFINED.

DWELLING UNIT. One or more rooms with a single kitchen, arranged, designed, used, or intended to be used exclusively for living and sleeping purposes by one family as an independent housekeeping unit. Other definitions include the following:

- a. Accessory dwelling unit: An attached, detached, or internal 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 shall be located on the same parcel an existing single-family dwelling is situated or to be situated with the proposed development of single-family dwelling(s). See Section 10-1.2740 for criteria and standards.
- b. Apartment/multiple family dwelling(s): Any building, group of buildings, or portion thereof which includes two or more dwelling units, and which are intended as ownership units, or in the case of apartments, rental or for lease units. Apartment/multiple family dwelling projects may include private recreational facilities. See Sections [10-1.400](#) and [10-1.500](#) for requirements.

- c. Condominium dwelling(s): Any building, group of buildings, or portion thereof which includes two or more dwelling units, and for which there is a final map or parcel map. Condominium dwelling projects are usually governed by a Homeowners Association (HOA) with Covenants, Codes and Restrictions (CC&R's), and may include private recreational facilities. See Sections [10-1.400](#) and [10-1.500](#) for requirements. Within a condominium, ownership consists of the airspace within a unit and the building(s) and all land within the development are under common ownership.
- d. Single-family dwelling: A detached building containing only one dwelling unit. See [Section 10-1.200](#) for requirements.
- e. Second Single-family dwelling: A second single-family dwelling permitted on a parcel where there is one existing single-family dwelling already, provided minimum lot size and setbacks can be met for both dwellings separately. See Section 10-1.215.b.(1)(b) for requirements.
- ~~f. Second dwelling unit, Attached: A second dwelling unit attached to an existing owner-occupied single-family dwelling which may be rented and contains no more than 640 square feet and no more than one bedroom. Also referred to as a "granny or in-law unit." See Section 10-1.245.n for requirements.~~
- g. Townhouse dwelling(s): Any building, group of buildings, or portion thereof which includes two or more attached dwelling units, and for which there is a final map or parcel map. Townhouse dwelling projects are usually governed by a Homeowners Association (HOA) with Covenants, Codes and Restrictions (CC&R's), and may include private recreational facilities. See Sections [10-1.400](#) and [10-1.500](#) for requirements. Townhouse ownership includes the building, the land beneath the building and typically a patio or small yard adjacent to the structure. The remaining land within the development is under common ownership.

ARTICLE 2 – OFF-STREET PARKING REGULATIONS

SECTION 10-2.310 - RESIDENTIAL USES.

The number of off-street parking spaces required for residential shall be:

USES	PARKING SPACES REQUIRED
SINGLE-FAMILY DWELLINGS:	2.0 covered per dwelling unit
If a lot abuts a public or private street that has no parking lane on either side of the street or is posted for no parking on both sides of the street.	2.0 covered per dwelling unit plus 2.0 open per dwelling unit, which shall not block access to the covered parking
If a dwelling with a single car garage was built prior to March 24, 1959	1.0 covered per dwelling unit
MULTIPLE-FAMILY DWELLING(S):	
Studio	1.0 covered and 0.50 open per dwelling unit
One-bedroom	1.0 covered and 0.70 open per dwelling unit
Two or more bedrooms	1.0 covered and 1.10 open per dwelling unit
* Ten percent of the multiple family parking spaces required shall clearly be marked for visitor's parking, at least 70 percent of which shall accommodate standard size vehicles. Where less than 10 parking spaces are required, a minimum of one standard parking space shall clearly be marked for visitor's parking.	* Included in the rental cost, a minimum of one covered parking space shall be assigned to each studio and one-bedroom unit, and a minimum of one covered and one uncovered parking space shall be assigned to each two or more bedroom or more units. Assigned unused spaces may not be rented to any other party. Any uncovered space may be covered instead.
MOBILE HOMES	2.0 per mobile home space, plus 1.0 guest parking space per three mobile home spaces within a mobile home park
ATTACHED SECOND FAMILY UNITS (Granny Units) <u>Accessory Dwelling Unit(s)</u>	No additional parking spaces are required for attached second family units. <u>See Section 10-1.2740 for parking criteria and standards.</u>

ARTICLE 24 – SOUTH HAYWARD BART FORM BASED CODE

TABLE 9. SPECIFIC FUNCTION AND USE

	T4	T5	CS
a. Residential			
Multiple Family	P	P	-
Second Dwelling Unit	P -	P -	-
Live-Work	P	P	-
Small Group Transitional Housing	P	P	-
Large Group Transitional Housing	CU	CU	-
Small Group Supportive Housing	P	P	-
Large Group Supportive Housing	CU	CU	-
Emergency Homeless Shelter	P	-	-

(-) = Not Permitted, (P) = By Right, (AU) = Administrative Use Permit, (CU) = Conditional Use Permit

SEC. 10-24.230 BUILDING CONFIGURATION

a. General to T4 and T5 Zones

- i. Buildings on corner Lots shall have two Private Frontages as shown in Table 15. Prescriptions for the second and third Layers pertain only to the Principal Frontage. Prescriptions for the first Layer pertain to both Frontages.
- ii. All Facades shall be glazed with clear glass no less than 30% of the first Story.
- iii. Stories may not exceed 14 feet in height from finished floor to finished floor, except for a first floor Commercial Function, which shall be a minimum of 14 feet with a maximum of 25 feet. A single floor level exceeding 14 feet, or 25 feet at ground level, shall be counted as two (2) stories. Mezzanines extending beyond 33% of the floor area shall be counted as an additional Story.
- iv. In a Parking Structure or garage, each above-ground level counts as a single Story regardless of its relationship to habitable Stories.
- v. Height limits do not apply to masts or belfries, clock towers, chimney flues, elevator bulkheads, church spires, cupolas, domes, ventilators, skylights, parapet walls, cornices, solar energy systems, or necessary mechanical appurtenances usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning.
- vi. Attics shall not exceed 14 feet in height. Raised basements shall not exceed 3 feet in height up to the finished floor of the first story.

- vii. ~~The habitable area of a Second Dwelling Unit within a Principal Building or an Outbuilding shall not exceed 640 square feet, excluding the parking area. an Accessory Dwelling Unit shall conform to the criteria and standards of Section 10-1.2740 of the Hayward Municipal Code.~~
- viii. Rooftop improvements shall be required to reduce visual impacts on future buildings that could impact views from existing buildings at higher elevations on the east side of Mission Boulevard, as determined by the Planning Director. Architectural features integral to the building design and solar energy systems should not be screened from view.

SEC. 10-24.500 – DEFINITIONS AND RULES OF INTERPRETATION

~~Second Dwelling Unit: a dwelling unit that is accessory, supplementary, and secondary to the principal dwelling, which may be constructed as an addition to the principal structure or as an accessory to the principal structure. Accessory dwelling unit: An attached, detached, or internal 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 shall be located on the same parcel an existing single-family dwelling is situated or to be situated with the proposed development of single-family dwelling(s). See Section 10-1.2740 for criteria and standards.~~

ARTICLE 25 – MISSION BOULEVARD CORRIDOR FORM BASED CODE

TABLE 9. ALLOWED FUNCTIONS

	T3	T4-1	T4-2	T5	CS
a. Residential					
Multiple Family	CU	P/CU	P/CU	P/CU	-
Second Dwelling Unit	P	P/CU -	P/CU -	P/CU -	-
Single Family	P	-	-	-	-
Live-Work	-	P/CU	P/CU	-	-
Emergency Homeless Shelter	-	P/CU	P/CU	-	-
Single-Room Occupancy (SRO)	-	-	-	CU	-

(-) = Not Permitted, (P) = By Right, (AU) = Administrative Use Permit, (CU) = Conditional Use Permit

SEC. 10-25.230 BUILDING CONFIGURATION

- a. General to T3, T4-1, T4-2 and T5 Zones

- i. Buildings on corner Lots shall have two Private Frontages as shown in Table 15. Prescriptions for the second and third Layers pertain only to the Principal Frontage. Prescriptions for the first Layer pertain to both Frontages.
- ii. All Facades shall be glazed with clear glass no less than 30% of the first Story.
- iii. Stories may not exceed 14 feet in height from finished floor to finished floor, except for a first floor Commercial Function, which shall be a minimum of 14 feet with a maximum of 25 feet. A single floor level exceeding 14 feet, or 25 feet at ground level, shall be counted as two (2) stories. Mezzanines extending beyond 33% of the floor area shall be counted as an additional Story.
- iv. In a Parking Structure or garage, each above-ground level counts as a single Story regardless of its relationship to habitable Stories.
- v. Height limits do not apply to masts or belfries, clock towers, chimney flues, elevator bulkheads, church spires, cupolas, domes, ventilators, skylights, parapet walls, cornices, solar energy systems, or necessary mechanical appurtenances usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning.
- vi. Attics shall not exceed 14 feet in height. Raised basements shall not exceed 3 feet in height up to the finished floor of the first story.
- vii. ~~The habitable area of a Second Dwelling Unit within a Principal Building or an Outbuilding shall not exceed 640 square feet, excluding the parking area.~~ an Accessory Dwelling Unit shall conform to the criteria and standards of Section 10-1.2740 of the Hayward Municipal Code.
- viii. Rooftop improvements shall be required to reduce visual impacts on future buildings that could impact views from existing buildings at higher elevations on the east side of Mission Boulevard, as determined by the Planning Director. Architectural features integral to the building design and solar energy systems should not be screened from view.

SEC. 10-25.600 – DEFINITIONS AND RULES OF INTERPRETATION

~~Second Dwelling Unit: a dwelling unit that is accessory, supplementary, and secondary to the principal dwelling, which may be constructed as an addition to the principal structure or as an accessory to the principal structure.~~ Accessory dwelling unit: An attached, detached, or internal 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 shall be located on the same parcel an existing single-family dwelling is situated or to be situated with the proposed development of single-family dwelling(s). See Section 10-1.2740 for criteria and standards.



GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (*Heading of Title 7 amended by Stats. 1974, Ch. 1536.)*

DIVISION 1. PLANNING AND ZONING [65000 - 66103] (*Heading of Division 1 added by Stats. 1974, Ch. 1536.)*

CHAPTER 4. Zoning Regulations [65800 - 65912] (*Chapter 4 repealed and added by Stats. 1965, Ch. 1880.)*

ARTICLE 2. Adoption of Regulations [65850 - 65863.13] (*Article 2 added by Stats. 1965, Ch. 1880.)*

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.

(iii) The accessory 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.

(iv) 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.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to an accessory 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 a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas 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.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 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 to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that contains an existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

- (1) The accessory dwelling unit is located within one-half mile of public transit.
- (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
- (3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the

proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Accessory dwelling unit" means 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 on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

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

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

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(Amended by Stats. 2016, Ch. 735, Sec. 1.5. Effective January 1, 2017.)

B. PLANNING

1. Pre-Application Meeting ¹		No Charge
2. Code Assistance Meeting ¹		No Charge
3. Annexation Proceedings		
Costs shall also include, but not be limited to, current annexation filing fees established by the Board of Equalization in manner provided by the State Government Code Section 54902.5.	\$	15,000 Time & Material; Initial Deposit ²
4. LAFCO Utility Service Agreement		
(Preparation and processing of documents in connection with utility service to property outside of the City limits)	\$	5,000 Time & Material; Initial Deposit ²
5. Environmental/Technical Analysis (Contract) Consultant	\$	5,000 Time & Material; Initial Deposit ²
6. General Plan Amendment ¹	\$	12,000 Time & Material; Initial Deposit ²
7. Text Change to Zoning Ordinance ¹	\$	12,000 Time & Material; Initial Deposit ²
8. Rezoning and Prezoning (Including New or Major Modification to a Planned Development) ¹	\$	12,000 Time & Material; Initial Deposit ²
9. Rezoning (Planned Development Precise Plan or Preliminary Plan Minor Modification)	\$	6,000 Time & Material; Initial Deposit ²
10. Conditional Use Permit ¹	\$	6,000 Time & Material; Initial Deposit ²
11. Administrative Use Permit ¹		
a. Livestock	\$	500 Per Application
b. Food Vendors	\$	700 Per Application
c. Processed Administratively	\$	2,000 Time & Material; Initial Deposit ²
d. Involving Public Hearing	\$	6,000 Time & Material; Initial Deposit ²

12. Site Plan Review¹		
a. Processed Administratively	\$	2,000 Time & Material; Initial Deposit ²
b. Involving Public Hearing	\$	6,000 Time & Material; Initial Deposit ²
13. Variance/Warrants - Processed Administratively	\$	2,000 Time & Material; Initial Deposit ²
14. Variance/Warrants & Exceptions – Involving Public Hearing	\$	6,000 Time & Material; Initial Deposit ²
15. Modification of Approved Development Plan – Processed Administratively	\$	2,000 Time & Material; Initial Deposit ²
16. Modification of Approved Development Plan – Involving Public Hearing	\$	6,000 Time & Material; Initial Deposit ²
17. Extension of Approved Development Plan/Applications	\$	1,000 Time & Material; Initial Deposit ²
18. Designation of Historical or Architectural Significance¹	\$	6,000 Time & Material; Initial Deposit ²
19. Development Agreement		
a. Review of application, negotiation of agreements, processing through Planning Commission and City Council	\$	12,000 Time & Material; Initial Deposit ²
b. Amendment Processing	\$	6,000 Time & Material; Initial Deposit ²
c. Annual Review	\$	1,000 Time & Material; Initial Deposit ²
20. Written Verification of Zoning Designation or Similar Request	\$	500 Per Application
21. Research	\$	164 per hour after first 15 minutes

22. Zoning Conformance Permit

a Tier One: Apiaries, Unattended Collection Boxes	\$	210 Per Application
b Tier Two: Household Pets (when required)	\$	53 Per Application
c Tier Three: Accessory Dwelling Unit Application	\$	328 Per Unit

23. Sign Permits

a. Sign Permit (one business)	\$	327
b. Sign Permit (each additional business – same application)	\$	327
	\$	100 Fee Plus
c. Temporary Sign Permit (Banners, Flags, Streamers, Pennants, Bunting, Searchlights, Inflatable Signs, Human Signs)	\$	200 Deposit*

*Temporary sign deposits to be refunded upon removal of signage

d. Portable/A-Frame Signs	\$	50 Encroachment Permit
e. Mural Art	\$	50

Note: Revocable Encroachment Permit also applies to Human signs in the public right of way

24. Sign Program	\$	817
-------------------------	----	-----

25. Appeal Fee for Applicant	\$	6,000 Time & Material; Initial Deposit ²
-------------------------------------	----	--

26. Appeal Fee Other Than Applicant	\$	400
--	----	-----

27. Tentative Tract or Tentative Parcel Map

a. Processed Administratively	\$	4,000 Time & Material; Initial Deposit ²
b. Involving Public Hearing	\$	6,000 Time & Material; Initial Deposit ²

28. Final Parcel Map	\$	2,000 Time & Material; Initial Deposit ²
-----------------------------	----	--

29. Final Tract Map	\$	6,000 Time & Material; Initial Deposit ²
----------------------------	----	--

30. Lot Line Adjustment	\$	4,000 Time & Material; Initial Deposit ²
--------------------------------	----	--

31. Certificate of Merger or Certificate of Compliance	\$	4,000 Time & Material; Initial Deposit ²
---	----	--

32. Grading Permit Application	\$	4,000 Time & Material; Initial Deposit ²
---------------------------------------	----	--

33. Security Gate Application	\$	1,635
--------------------------------------	----	-------

34. Encroachment Permit – Street Events	\$	2,944
The Development Services Director or designee may reduce or waive this fee for certain events. <i>(See Fee Reduction, Waiver, and Sponsorship for Special Events Policy)</i>		
35. Encroachment Permit Application – Major Work (road closures, traffic control, more than 500 linear feet of work, etc.)	\$	4,000 Time &Material; Initial Deposit ²
36. Encroachment Permit Application – Minor Work (sewer laterals, driveway widening, etc.)	\$	327 Plus Public Works inspection fee
38. Tree Preservation		
a. Annual Pruning Certification	\$	817
b. Tree removal/pruning	\$	490
39. Mobilehome Park Closure/Change of Use	\$	9,814
40. Inspections - Planning and Landscape		
a. Code Enforcement Compliance Inspection Fee	\$	125
b. Landscape Inspection and/or re-inspection fee	\$	164 Per Hour
41. Policy Planning Fee		16% of Building Permit Fee

42. Park Dedication In Lieu Fees

a. Single-Family Detached	\$	11,953
b. Single-Family Attached	\$	11,395
c. Multi-Family (including accessory dwelling units)	\$	9,653

43. Affordable Housing Impact Fees

1. Ownership Residential Projects - 20 units or More		
a. Detached Dwelling Units		\$4.61/Square Foot of Habitable Space*
b. Attached Dwelling Units		\$3.87/Square Foot of Habitable Space*
2. Rental Residential Projects - 20 units or More		
a. Projects Receiving All Discretionary Approvals Prior to Dec. 31, 2015 and All Building Permits Prior to Dec. 31, 2017		No Fee
b. All Other Projects		\$3.63/Square Foot of Habitable Space*

*Note: Affordable housing impact fees shall be paid either prior to issuance of a building permit or prior to approval of a final inspection or issuance of an occupancy permit. Fees paid at occupancy shall be increased 10 percent, to \$5.06/sq. ft. of habitable space for detached dwelling units, to \$4.28/sq. ft. of habitable space for attached dwelling units, and to \$3.99/sq. ft. for rental units.

"Habitable Space" means floor area within a dwelling unit designed, used, or intended to be used exclusively for living and sleeping purposes and exclusive of vent shafts, eaves, overhangs, atriums, covered entries and courts and any portion of a structure above ground used for parking, parking aisles, loading areas, or accessory uses.

¹It is recommended that major projects be reviewed at a Pre-Application Meeting prior to submittal of a Development Review Application. A Code Assistance Meeting is also recommended involving project design professionals to address technical code questions.

²This is an initial deposit only. Hourly rate is \$163.58. If during the review of the project the Planning Director estimates that the charges will exceed the deposit, additional deposit(s) will be required. Also, the Planning Director may authorize a lesser initial deposit than shown if he/she determines that processing of an application will not entail need for the full initial deposit. Prompt payments of deposits or outstanding fees owed in association with the application will assure continued staff review of the project. Any surplus deposit remaining shall be refunded promptly upon project completion.