

# **REPORT TO THE CITY COUNCIL**

## ***City of Salinas, California***

DATE: December 6, 2016

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SUBJECT: **ZONING CODE AMENDMENT 2016-001; AN ORDINANCE REGARDING  
ACCESSORY DWELLING UNITS FOR CONFORMITY WITH STATE LAW**

### **RECOMMENDATION:**

Staff recommends that the City Council find the proposed action on the ordinance statutorily exempt from the California Environmental Quality Act (CEQA) and adopt the proposed ordinance amending various provisions of Chapter 37 of the Salinas Municipal Code (Zoning) with regards to accessory dwelling units for consistency and conformity with new State law.

### **DISCUSSION:**

#### Background:

On September 27, 2016, the Governor signed Senate Bill 1069 (SB 1069) and Assembly Bill 2299 (AB 2299), which amended Government Code Sections 65582.1, 65589.4, 65852.150, 65852.2, and 66412.2 related to municipal land use policies concerning Second Dwelling Units. The stated purpose of the State Legislature behind SB 1069 and AB 2299 was to “facilitate and expedite the construction of affordable housing.”

The Salinas Zoning Code currently defines a second dwelling as:

“A subordinate dwelling unit having separate living, sleeping, eating, cooking, and sanitation facilities attached to or detached from an existing single-family detached dwelling, which is not intended for sale, but may be rented, for the sole occupancy of up to two persons for an efficiency or one-bedroom unit, and three persons for a two-bedroom unit.” (SCC 37-10.280)

SB 1069 and AB 2299 will take effect on January 1, 2017 and include the following provisions:

1. Second Dwelling Units are now to be known as “Accessory Dwelling Units” (also referred to as “ADU’s”);
2. Municipalities will be prohibited from imposing parking standards and setback requirements on accessory dwelling units in certain enumerated circumstances;

3. Maximum allowed floor area for accessory dwelling units can be up to 1,200 square-feet;
4. Accessory dwelling units must be approved as Ministerial only (e.g. Building Permits), Discretionary approvals of ADU's (e.g., Conditional Use Permits) are not permitted;
5. ADU's may not be required to provide fire sprinklers if they are not required for the primary residence;
6. A municipality may not require an owner to install new or separate utility connections for accessory dwelling units; and
7. Accessory dwelling units may 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.

Currently, development standards for "Second Dwelling Units" located within the city of Salinas are governed by Zoning Code Section 37-50.250. These development standards will need to be amended to comply with the new state regulations of both SB 1069 and AB 2299 by December 31, 2016. Otherwise, less restrictive development standards for accessory dwelling units under the new state laws will preempt local zoning regulations thereby potentially resulting in negative impacts to Salinas neighborhoods.

#### Planning Commission Review:

On November 16, 2016, after public review and comment, the Planning Commission voted 6:0 (Huerta absent) to approve the attached Planning Commission Resolution 2016-09 recommending that the City Council adopt the accompanying ordinance amending various provisions of Chapter 37 of the Salinas Municipal Code (Zoning) with regards to accessory dwelling units for consistency and conformity with new state law. Brian Finegan, Attorney, voiced a concern with respect to the Future Growth Areas and whether they will be permitted to develop accessory dwelling units on top of detached garages. The Future Growth Area developments will be subject to Specific Plans which can provide clarity in this area and which will control the development of these areas. Also, the principal dwelling units in the Future Growth Area are expected to be two-story, which would be more compatible with a two-story accessory dwelling unit on top of a garage.

#### ANALYSIS:

The proposed amended language concerning accessory dwelling units is included on the draft Ordinance in strikethrough/underline format (see attached). The revised Ordinance has been drafted with new definitions, use classifications, and standards. Two types of accessory dwelling units are proposed:

1. Accessory dwelling units, interior; and
2. Accessory dwelling units, other.

Currently, accessory dwelling units are allowed as a permitted use (with a building permit) in A (Agriculture), R (Residential), and NU (New Urbanism) zoned lots with a single-family detached unit pursuant to Zoning Code Section 37-50.250. A maximum of one accessory dwelling unit is permitted per lot or parcel and it shall not be sold separately from the principal dwelling unit. In this regard, the City's existing zoning regulations are consistent with the new state regulations. The City also requires a deed restriction to be recorded on title to control temporary lodging uses, such as a conversion for a short term vacation rental use and other potential uses that may result in adverse impacts to the neighborhood. Development standards concerning maximum height, required yard, usable open space, and distance between structures shall be in accordance with the development regulations established

for the single-family dwelling unit in the applicable zoning district. Because the primary changes to accessory dwelling units required by SB 1069 and AB 2299 concern development standards in floor area and parking, much of the Salinas Zoning Code relating to accessory dwelling units remains intact. The proposed change to the Zoning Code proposes two classes of ADU's, either "Interior" or "Other," discussed in turn, below.

#### Accessory Dwelling Units, Interior

Interior accessory dwelling units are those units which are constructed on a Residential – Low Density (R-L-5.5) zoned property and are entirely within the existing and legally created space of a single-family residence or accessory structure (see Section Two of attached draft Zoning Code Ordinance). Accessory Dwelling Units, Interior, are a permitted use in the R-L-5.5 Zoning District only (i.e., building permit). They would not be permitted in any other Zoning District.

The maximum allowed floor area for an interior accessory dwelling unit is 50% of maximum allowed floor area not to exceed a maximum gross floor area of 1,200 square-feet. Currently, the maximum allowed floor area for a second dwelling unit is 750 square-feet, except for second story units which are limited to a maximum of 250 square-feet. The minimum gross floor area for an interior accessory dwelling unit is 150 square-feet. Because the new state law does not differentiate between first and second floor accessory dwelling units, the proposed change in the Zoning Code will not permit second story accessory dwelling units unless the primary residence is a two-story residence.

Pursuant to state law, interior accessory dwelling units must also have exterior access independent from the existing single-family home, side and rear setbacks sufficient for fire safety, no requirement for new or separate utility connection directly between the accessory dwelling unit and the utility, and no requirement for fire sprinklers unless they are also required for the existing single-family residence.

#### Accessory Dwelling Units, Other

Accessory Dwelling Units, Other, are those units which are constructed as either a new detached accessory structure; as an addition to an existing single family home or an existing accessory structure; or entirely within the existing and legally created space of a single-family residence or accessory structure, but not in the R-L-5.5 District. Like interior accessory dwelling units, other accessory dwelling units are a permitted use where allowed (i.e. building permits). The proposed zoning code amendment would allow accessory dwelling units, other to become permitted uses in A (Agriculture), all Residential Districts, and in the NE (Neighborhood Edge/Low Density Residential), NG-1 (Neighborhood General 1/Medium Density Residential), and NG-2 (Neighborhood General 2/High Density Residential) Districts. They would not be permitted in any other Zoning District.

Currently, Zoning Code Section 37-50.250 allows for a maximum of 750 square-feet of floor area for a detached and for attached dwelling units, except for an attached second story accessory dwelling unit, which is limited to a maximum of 250 square-feet of gross floor area. However, under the current Zoning Code, the maximum allowed floor area for a second story attached accessory dwelling unit may be increased to 750 square-feet with a discretionary Minor Conditional Use Permit (CUP) for Residential Design Review. The minimum floor area is 150 square-feet.

Currently, the Zoning Code only allows a maximum of two (2) bedrooms for an accessory dwelling unit. The restrictions on the maximum number of bedrooms would be deleted pursuant to new state law. In addition, occupancy is limited by the current Code to no more than (2) persons for an efficiency, studio, or one-bedroom unit and three persons for a two-bedroom unit. Because occupancy

restrictions are not allowed, the occupancy restriction is proposed to be removed from Zoning Code Section 37-50.250.

In addition, the new state law now permits a maximum allowed floor area for an attached accessory dwelling unit to be 50% of the existing primary residence, not to exceed a maximum of 1,200 square-feet of total building area. For a detached accessory dwelling unit, the maximum allowed floor area is increased from 750 to 1,200 square-feet. The development standards requirements for accessory dwelling units, including usable open space, distance between structures, maximum height, required yards would remain the same.

Per the new law, if the accessory dwelling unit replaces an existing garage, carport, or covered parking structure, replacement spaces must be provided to meet Zoning Code standards. The Zoning Code requires that garaged parking for a minimum of two (2) vehicles shall be required for the primary residence. Off-street parking for the accessory dwelling unit is required at one (1) space per bedroom, unless there are specific instances which precludes this requirement (see discussion regarding parking, below).

### Parking

Currently, Zoning Code Section 37-50.250(e) requires one (1) off-street parking space to be provided for each bedroom in the accessory dwelling unit and a minimum of one (1) space for an efficiency unit. The new state law permits local regulations for off-street parking requirements so long as these requirements do not exceed one (1) parking space per unit or per bedroom. However, the new state law provides that the City may not require off-street parking spaces 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 structures.
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.

Existing Zoning Code requirements for minimum off-street parking spaces would still be required for the primary residence. The proposed zoning code amendment maintains the City's existing off-street parking requirement for accessory dwelling units (that is, of one (1) space per bedroom), providing for an exception as required under the new state law if any of the above five (5) instances occurs. Off-street parking in the required front and corner-side yards and open space areas of a site remains not permitted in any Zoning District. Parking requirements for properties governed by a Planned Unit Development Permit (PUD) and/or a Covenants, Conditions, and Restrictions Document (CC&R's) would still be governed by the applicable document.

Much of the parking exemptions required under the new state law have limited applicability in Salinas, with the exception of the City's comprehensive public transportation map. Concerning No. 1 above, much of the City of Salinas is located within a half-mile of a bus-stop and/or route of Monterey-Salinas Transit (MST) (see attached map) and therefore, most accessory dwelling units constructed after January 1, 2017 may not be required to provide off-street parking spaces. Concerning No. 2 above, there are currently no architecturally or historically significant historic districts within the city

limits, and as such, this exemption is unlikely to apply. Concerning No. 3, if an accessory dwelling unit is part of an existing primary residence or accessory structure (i.e. garage), then there would be no requirement to provide off-street parking for the unit. For No. 4, the only parking-restricted area in the city of Salinas that would be effected is the area around the Salinas Valley Memorial Hospital. Finally, concerning No. 5, staff is not aware of any private car sharing services (Zipcar, etc.) that are currently operating in the City of Salinas.

#### ADU Summary of Development Standards

	Current Zoning Code	ADU – Interior	ADU - Other
Bedroom Count	Maximum of two (2)	No maximum	No Maximum
Floor Area	Maximum of 750 s.f. Attached second-story unit shall not exceed 250 s.f, unless greater floor area up to 750 s.f is approved with a CUP.	Minimum 150 s.f. Maximum of 1,200 s.f., or maximum of 50% of the existing living area of the primary residence, whichever is less.	Minimum 150 s.f. Maximum of 1,200 s.f. However, ADU's that require additional floor area on the second floor are prohibited.
Yard Setbacks	Per Zoning Code in the underlying district.	Side and rear yard setbacks must be determined to be sufficient for fire safety by the Building Official.	Per Zoning Code in the underlying district.
Open Space	Per Zoning Code in the underlying district.	Per Zoning Code in the underlying district.	Per Zoning Code in the underlying district.
Parking	One space per bedroom, maximum of two (2).	One space per bedroom, except in certain circumstances. If part of an existing structure, no parking is required for the ADU.	One space per bedroom, except in certain circumstances. If located within ½ mile of public transit, no parking is required for the ADU.

#### **ENVIRONMENTAL REVIEW:**

The environmental impacts of the project have been analyzed in accordance with the California Environmental Quality Act (CEQA). The proposed Zoning Code Amendment is statutorily exempt from further environmental analysis per CEQA Guidelines Public Resources Code 21080.17.

#### **ISSUE:**

Shall the City Council adopt the proposed Ordinance amending the Zoning Code for adoption at a future meeting?

#### **FISCAL IMPACT:**

No significant impacts to the City's General Fund, Measure V funding, or Measure G are anticipated with the City Council's adoption of the proposed Ordinance.

## **TIME CONSIDERATIONS:**

Although, the proposed Zoning Code Amendment is a legislative act and is not subject to the Permit Streamlining Act (PSA), staff recommends that the Ordinance be adopted and go into effect prior to January 1, 2017, when the new State rules go into effect.

The City Council can adopt the Ordinance as presented at this meeting pursuant to a unanimous vote under Charter Section 11.3. This will shorten the time period in which the ordinance becomes effective. Alternatively, the City Council can introduce the Ordinance as presented at this meeting and then adopt the same at the next meeting, or may utilize the emergency provisions of Charter Section 11.8 by finding that immediate adoption and implementation of the Ordinance is required for the immediate preservation of the public peace, health, or safety. Utilizing this Charter provision, which requires the affirmative vote of at least six (6) Council members, the proposed Ordinance can take effect immediately. The City Council find that the proposed Ordinance is required for the immediate preservation of the public health or safety in that the proposed Ordinance will allow for the development of additional housing opportunities in the city. Salinas is in need of additional housing units to alleviate overcrowding and homelessness, both of which have negative effects on the public health and safety.

## **ALTERNATIVES/IMPLICATIONS:**

1. Affirm the findings set forth in the attached ordinance, finding the project exempt from the California Environmental Quality Act (CEQA), and approve Zoning Code Amendment 2016-001 with modifications;
2. Affirm the findings set forth in the attached ordinance, finding the project exempt from the California Environmental Quality Act (CEQA), and approve Zoning Code Amendment 2016-001, and exercise emergency provisions of the City's Charter; or
3. Find that the amendment is not appropriate and establish findings at the public hearing denying Zoning Code Amendment 2016-001.

## **CITY COUNCIL GOALS:**

The City's adoption of the proposed Ordinance supports the City Council's goal of a well planned City and excellent infrastructure by ensuring the City's regulations governing development of accessory dwelling units is consistent with State law.

## **CONCLUSION:**

The Salinas Zoning Code, like most regulations, must be regularly amended to be consistent with evolving state law. This Amendment brings the Zoning Code into compliance with State law concerning the regulation of development standards for accessory dwelling units.

Back Up Pages:  
Draft Ordinance  
Planning Commission Staff Report dated November 16, 2016, w/o exhibits  
Planning Commission Resolution 2016-09  
Map of MST bus stops and ½-mile radius  
HCD Information Bulletin (2016-06) (SHL) dated November 9, 2016