



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: May 2, 2017

TO: Carolyn Lehr, City Manager

FROM: Charles S. Bryant, Community Development Director

SUBJECT: **Ordinance Of The City Council Of The City Of Emeryville Amending The Planning Regulations In Title 9 Of The Emeryville Municipal Code Regarding Accessory Dwelling Units (CEQA Status: Exempt Pursuant To State CEQA Guidelines Section 15061(b)(3))**

RECOMMENDATION

The Planning Commission recommends that the City Council adopt the first reading of the attached ordinance amending the Planning Regulations in Title 9 of the Emeryville Municipal Code to amend Article 14 of Chapter 5 and related provisions of Chapters 2, 4, 5, and 7, to make state-mandated changes related to Accessory Dwelling Units, formerly known as Secondary Residential Units.

BACKGROUND

An Accessory Dwelling Unit (ADU) is a single dwelling unit located on a lot with an existing Single-Unit Dwelling (the main house). The ADU can be detached, attached, or inside of the house. An ADU is an accessory use. The owner must occupy either the Single-Unit Dwelling or the ADU (Planning Regulations Section 9-5.1410).

In the current Planning Regulations, Secondary Residential Units are ministerial, as required by State law, and the parking and rear setback requirements are less than for other units. In 2016, two Secondary Residential Second Units were approved.

In 2016, in order to create additional housing for low-income households, the California legislature passed and Governor Brown signed SB1069 and AB2299, which further relaxed the requirements for Secondary Residential Units and changed their name to "Accessory Dwelling Units" or ADUs. These requirements took effect on January 1, 2017, and are mandatory on all cities in California.

A summary of the changes required by the SB 1069 and AB 2299 is provided below:

Standards Generally:

- Approval Process – Jurisdictions must approve or deny ADUs within 120 days of receiving an ADU application. They may not impose requirements beyond those specified in State law. Approval of ADU applications is exempt from CEQA.

- Density – ADUs do not count against the maximum density of sites.
- Fire Sprinklers – Jurisdictions may not require ADUs to provide fire sprinklers if they are not also required for the primary residence.

Accessory Dwelling Units in Additions or New Accessory Structures:

- Size Limits – Jurisdictions must allow detached ADUs to be at least 1,200 square feet and attached ADUs to be at least 1,200 square feet or 50% of the main dwelling, whichever is less.
- Parking – ADUs within half a mile of transit do not need to provide parking. If a garage is demolished to build an ADU or converted into an ADU, and the jurisdiction requires the homeowner to replace the parking, the homeowner may provide the parking in any configuration, including in required setbacks.

Accessory Dwelling Units Located in Existing Structures:

- Applications must be approved if the ADU is in a single family zone, is in an existing legal structure, provides direct outside access, and has sufficient setbacks for fire safety.

DISCUSSION

The State statutes adopted in the fall of 2016 require cities to amend their planning regulations for ADUs in terms of approval time, unit size, parking and setbacks. The following table summarizes the current and proposed regulations for the topics that would change in the Emeryville Planning Regulations:

Topic	Current Regulations	Proposed Regulations
Title	Secondary Residential Units (SRUs)	Accessory Dwelling Units (ADUs)
Approval time	No requirement	Within 120 days of application if requirements are met
Floor area limit where main house area is 1,000 square feet or more	50% of main house up to 900 square feet	50% of main house up to 1200 square feet for attached ADUs, 100% of main house up to 1200 square feet for detached ADUs
Parking for SRU/ADU	None for studio or one-bedroom SRU, one for two-bedroom SRU	None for any ADU
Parking for main house if garage is converted	Behind front of house, out of front yard setback, out of street side yard setback	In front of house or in front yard or street side yard setback if there is no other place for the parking
Setback	Same as main house except 5 feet rear setback	Same except no setback for garage conversion

Emeryville does not need to make all of the mandated changes because some are already in the City's current code, including limits on what standards the City can set for ADUs, exempting ADUs from residential density regulations, and relaxing rules for ADUs in existing houses.

On March 23, 2017, the Planning Commission voted unanimously to recommend City Council adoption of the code changes set forth in the attached ordinance.

FINDINGS

Emeryville Municipal Code Section 9-7.1305 provides that the City Council, in approving amendments to the Planning Regulations, must make the following findings:

- (a) The proposed amendment is consistent with the General Plan.
- (b) The proposed amendment is necessary for public health, safety and welfare or will be of benefit to the public.
- (c) The proposed amendment has been reviewed in compliance with the requirements of the California Environmental Quality Act.

In the Planning Commission's view, these findings can be made, as detailed in the attached draft Ordinance.

ENVIRONMENTAL REVIEW:

The proposed amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) under the "general rule" at Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment. This is true because the ordinance involves no or minimal physical changes to land or structures.

FISCAL IMPACT

This ordinance would not have fiscal impacts on the City.

STAFF COMMUNICATION WITH THE PUBLIC

As noted above, the Planning Commission considered the proposed amendments to the Planning Regulations on March 23, 2017, and voted unanimously to recommend that the City Council adopt them.

CONFLICT OF INTEREST

None.

CONCLUSION

Staff recommends that the City Council take the following actions:

1. Introduce the Ordinance after a motion to read by title only.
2. Take public testimony regarding the Ordinance.
3. Adopt the first reading of the Ordinance.

PREPARED BY: Diana Keena, Associate Planner

**APPROVED AND FORWARDED TO THE
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



Carolyn Lehr, City Manager

Attachment: Proposed Ordinance