



DATE: March 28, 2017

CATEGORY: Public Hearing,

DEPT.: Community Development

TITLE: **Companion Unit Ordinance Update
and Other Potential Text
Amendments**

RECOMMENDATION

Introduce an Ordinance Amending Mountain View City Code Sections 36.12.60 through 36.12.75, 36.06.50, 36.10.05, 36.32.50, 36.60.05, 36.60.09, and 36.60.23 to Achieve Consistency with California Senate Bill 1069, Assembly Bill 2406, and Assembly Bill 2299 Pertaining to the Construction of Accessory Dwelling Units, to be read in title only, further reading waived, and set a second reading for April 25, 2017 (Attachment 1 to the Council report).

BACKGROUND

In June 2016, the City updated its Companion Unit or Accessory Dwelling Unit (“ADUs”) Ordinance (Attachment 2—City of Mountain View Companion Unit Regulations). The revised ordinance relaxed many existing development standards, such as eliminating the minimum lot size requirement and reducing the Park Land Dedication In-Lieu Fee, to encourage development of more companion units within the City.

In September 2016, Governor Brown signed [Senate Bill 1069](#) and [Assembly Bill 2299](#), amending multiple Government Code sections related to land use. These laws are intended to address the current housing crisis and increase affordable housing opportunity and availability by streamlining the local development review process, allowing more flexibility, and relaxing current regulations related to ADUs. The Statute is clear that if local ordinances do not conform to the State’s new Accessory Dwelling Unit regulations by January 1, 2017, they will be considered null and void. The State regulations remain effective until the local jurisdiction adopts a conforming ordinance.

ANALYSIS

Staff has completed a consistency review of the Mountain View City Code relating to the new ADU legislation and has identified necessary modifications to bring the City Code into conformance with the State law. The modifications are related to parking requirements, building setbacks, and the conversion of interior living area of an existing single-family house (or a detached garage) to an ADU. The attached table (Attachment 4—Analysis of New Laws) summarizes the changes needed to bring the City’s ADU ordinance into compliance with State law.

Proposed Accessory Dwelling Unit Ordinance

The proposed ADU ordinance is based on the City’s previous Companion Unit Ordinance with minor changes to comply with the new State law. The ordinance aims to strike a balance between the City Council’s direction to ease local companion unit regulations while limiting significant changes that could impact the residential character of neighborhoods.

Environmental Planning Commission Meeting

The EPC reviewed the proposed draft text amendments at their meeting on March 1, 2017 (see Attachment 5—EPC Staff Report). The EPC recommended approval of all the draft text amendments and recommended that City Council consider allowing Junior Accessory Dwelling Units in addition to the proposed ADU ordinance as shown in Attachment 2 (Zoning Ordinance Amendment (Chapter 36) with JADU). Analysis of Junior Accessory Dwelling Unit policies is discussed later in the report.

Summary of Proposed Revisions

In summary, the following City Code sections have been identified for revisions to reflect the amendments in the Government Code:

1. “Accessory Dwelling Unit” Definition:

All references to the term “Companion Unit” in the Mountain View City Code, when used in the context of an “accessory dwelling unit” have been replaced to conform to the new State law. In addition, the definition of “Companion Unit” has been updated to match the State’s definition of an “accessory dwelling unit” and moved to the appropriate alphabetical order in Section 36.60.05.

Discussion: This is not a requirement of the State law. However, staff believes this is an appropriate opportunity to make the local ordinance consistent with the State definition to reduce confusion in the terminology.

2. Conversion of Existing Garage or Accessory Structures into an ADU:

The new State law allows conversion of an existing detached garage or any other accessory structure into an ADU while maintaining minimum fire safety setbacks. Per City's current companion unit regulations, there is no minimum side yard setback for an accessory structure located in the rear yard. No minimum rear yard setback is required if the cumulative width of all the accessory structures in the required rear yard is less than 33 percent of the width of the lot.

Discussion: The current City regulations require a minimum ten foot (10') rear yard setback and five foot (5') side yard setback for a new ADU. Based on the new State law, one can construct a detached garage and convert it into an ADU later at reduced setbacks that are much closer to the property lines. Staff notes that such conversions could result in potential significant privacy impacts. Since this is a clear requirement of the new State law, the new ADU ordinance allows such conversions. Such conversions will still have to conform to Building Code requirements such as fire-rated walls at the property line.

This change in code will also allow conversion of existing nonconforming accessory structures into an ADU provided no structural modifications are made to the existing structure and it meets the current Building Code. The City's current nonconforming Code section does not allow structural modifications to nonconforming buildings.

3. Required Parking:

- a. *ADU Parking:* Currently, the City requires one parking space/unit (covered or uncovered) for an ADU in addition to two required spaces for the primary residence. However, the new State legislation mandates that if the lot meets certain criteria, such as being within one-half mile of public transit or in an architecturally significant historic district, or if an ADU is part of an existing primary residence or an existing garage, no parking spaces are required for the ADU.

Discussion: The new State legislation is ambiguous on the specific definition of "public transit." Based on the intent of the new State legislation to encourage ADU development by relaxing development requirements, staff

has interpreted public transit in this context for Mountain View to include any public transit stop or public transit line (bus, VTA light rail, or Caltrain).

Several neighboring cities have taken a different approach and limited the definition of public transit to only rail or bus stops. Staff's recommendation provides for a broader definition of public transit that meets the intent of encouraging more ADU development.

- b. *Primary Dwelling Unit Parking:* The existing ordinance requires replacement parking when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, whether attached or detached. However, State law now allows applicants to provide these replacement off-street parking spaces in any combination, including uncovered, covered, carport, tandem, or mechanical automobile lifts.

Discussion: Current City regulations require two parking spaces (one covered and one uncovered) for the primary dwelling unit. Based on the new State law, if an existing garage, which provides the required covered parking for the primary home, is converted into an ADU, the parking lost in this conversion can be replaced as an uncovered parking space. This can result in properties with only uncovered parking spaces.

4. Allowable Unit Size:

- a. *Minimum Unit Size:* The new State law requires a minimum ADU size of 150 square feet. This new minimum unit size has been added to the ADU development standards in Section 36.12.70.

Discussion: This is a requirement of State law and has been incorporated in the proposed ordinance.

- b. *Maximum Unit Size:* The State legislation allows ADUs up to 1,200 square feet.

Discussion: Maximum ADU sizes were discussed during the ordinance update in June 2016. At that time, the City Council decided to maintain the maximum ADU size of 700 square feet with an additional 200 square feet for a garage. Staff discussed whether cities could limit the size of dwelling units to less than 1,200 square feet with HCD staff who said that cities have the discretion to limit the maximum size. The existing City regulations intend for ADUs to be an accessory use on a property by limiting the unit size to 700

square feet, which for most lots in Mountain View would be smaller than the primary dwelling unit. To continue the current City policy to have ADUs be an accessory use on a lot, staff recommends maintaining the maximum ADU size of 700 square feet with an additional 200 square feet for a new garage.

5. Second Story ADU:

The new State law allows for ADUs to be built “above an existing garage” with a minimum five feet (5’) rear and side setback.

Discussion: The City’s current regulations require a second-story ADU to have the same setback as the primary dwelling unit (i.e., 25 percent of the average lot depth). This setback requirement is intended to reduce privacy impacts from second-story developments. Staff notes that a reduced setback of only five feet (5’) from the rear and side property lines for a second-story ADU may create privacy impacts to surrounding homes. Currently, only uninhabitable single-story accessory structures are allowed less than ten feet (10’) from the rear and side property lines in order to avoid privacy impacts to surrounding properties.

Several neighboring cities have adopted regulations to limit second-story detached ADUs with additional height, landscaping, and location restrictions because of concerns over potential privacy issues. Staff recommends that second-story ADUs above detached garages continue to meet the required second-story setbacks of the primary dwelling unit in order to address potential privacy impacts to surrounding homes.

6. Permit Processing:

The new legislation requires ADUs be approved “ministerially” if they conform to the city’s ordinance. This means that no separate planning permit is required, only a building permit. Approval must occur within one hundred twenty (120) days after receiving the ADU application.

Discussion: This revision to the Mountain View City Code does not change the City’s current process for review of ADUs, which is ministerial. With the proposed changes, the procedure will be clearly described in the City Code.

7. Junior Accessory Dwelling Units:

Assembly Bill 2406 signed by the Governor on September 28, 2016, created special rules for Junior Accessory Dwelling Units (JADUs), which are ADUs with an area

of 500 square feet or smaller, located entirely within an existing single-family residence, and with an internal access to the primary residence and an external entry. Under State law, at least one of the units on the site (JADU or the primary dwelling unit) to be owner occupied; a JADU can share a bathroom with the primary dwelling unit; and can only have an efficiency kitchen which includes a sink, small plug-in cooking appliances (up to 120 volts), and reasonable counter space. The law allows cities the option of creating specific standards for JADUs, or to regulate them as ADUs.

Discussion: At the March 1, 2017 public hearing, the EPC noted that JADUs can contribute to the overall number of housing units in the City. The Commission found that JADUs can be very helpful for taking care of aging family members, as they maintain privacy of the unit occupant while providing ease for caregiving as the JADU is attached to the primary dwelling unit. The EPC recommended that the City Council allow JADUs as part of the proposed ADU ordinance.

A JADU can be compared with renting a private room in a single-family residence. Staff has included the following table that compares JADUs with private room rentals.

Table 1: JADU and Private Room Rental Comparison

	JADU	Private Room Rental
Owner Occupancy	Required	Not Required
Deed Restriction	Required	Not Required
Park Land Dedication In-Lieu Fee Payment	Required	Not Required
School Fee Payment	Required	Not Required
Counted Towards RHNA	Could be Counted*	Not counted
Building Permit and Inspections	Required	Not Required
Separate Entrance	Required	Not Required
Kitchen Facilities	Must have an efficiency kitchen (with a sink, small plug-in cooking appliances (up to 120 volts), and reasonable counter space).	A full kitchen is not allowed. Counter space with microwave or hot plate is allowed.
Bathroom	Shared or Private	Shared or Private

* Units reported to the Department of Finance as part of the DOF annual City and County Housing Unit Change Survey can be credited toward the RHNA based on the appropriate income level. Local governments can track actual or anticipated affordability to assure the JADU is counted to the appropriate income category.

Staff believes additional regulatory requirements such as proof of owner occupancy for one of the units on the parcel and deed restrictions may not help encourage companion unit development. This will also require additional enforcement mechanisms to make sure ownership is maintained throughout the life of the project(s).

For these reasons, staff does not recommend including JADUs in the ADU ordinance at this time. If the City decides to consider this, an optional ordinance is attached to this report (Attachment 2 – Zoning Ordinance Amendment (Chapter 36) with JADU).

FISCAL IMPACT

No significant fiscal impacts; additional staff resources will be required if the City Council elects to include JADUs within the proposed ordinance.

Environmental Review

The proposed project complies with the California Environmental Quality Act (CEQA) because the proposed amendment is categorically exempt under CEQA pursuant to Section 15282(h) (“Other Statutory Exemptions: Second Units”).

ALTERNATIVES

1. Recommend denial of the proposed text amendments.
2. Adopt the proposed amendments to include the JADUs.
3. Modify the proposed text amendments.
4. Provide other direction.

PUBLIC NOTICING

The City Council's agenda is advertised on Channel 26, and the agenda and this report appear on the City's Internet website. Notice of the public hearing was published in the newspaper pursuant to Government Code Section 65090 and mailed to over 50 interested stakeholders.

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- Attachments:
1. Zoning Ordinance Amendment (Chapter 36) without JADU
 2. Zoning Ordinance Amendment (Chapter 36) with JADU
 3. City of Mountain View Companion Unit Regulations
 4. Analysis of New Laws
 5. [March 1, 2017 Environmental Planning Commission Staff Report](#)