

ORDINANCE NO. 2017-06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AMENDING ARTICLES 6, 39, 65, AND 70 OF THE ESCONDIDO ZONING CODE TO UPDATE THE CITY'S REGULATIONS OF SECOND UNITS (ALSO CALLED ACCESSORY DWELLING UNITS)

APPLICANT: City of Escondido
PLANNING CASE NO.: AZ 16-0007

The City Council of the City of Escondido, California, DOES HEREBY ORDAIN as follows:

SECTION 1. There is a statutory recognition that the availability of housing is a matter of statewide importance and that the cooperation between government and the private sector is critical to attainment of the State's housing goals.

SECTION 2. Second dwelling units, accessory apartments, or granny flats (hereinafter collectively referred to as accessory dwelling units) provide an important source of rental housing within existing neighborhoods and can provide more housing options for the elderly, in-home health care providers, family members, students, and others.

SECTION 3. California Government Code Section 65852.2 requires that all cities and counties apply specific standards and requirements for the approval of accessory dwelling units in single-family and/or multi-family zones, except as otherwise provided. A city 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 State law.

SECTION 4. That proper notices of a public hearing have been given and public hearings have been held before the Planning Commission and City Council on this issue.

SECTION 5. The City Council has duly reviewed and considered all evidence submitted at said hearings, including, without limitation:

- a. Written information;
- b. Oral testimony from City staff, interested parties, and the public;
- c. The staff report, dated July 19, 2017, which along with its attachments is incorporated herein by this reference as though fully set forth herein; and
- d. Additional information submitted during the Public Hearing.

SECTION 6. That the City Council has reviewed and considered the Notice of Exemption prepared for this project, in conformance with the California Environmental Quality Act ("CEQA") Section 15061(b)(3) "General Rule", and has determined that all environmental issues have been addressed and finds that no significant environmental impact will result from approving these code amendments.

SECTION 7. That upon consideration of the staff report, Planning Commission recommendation, Planning Commission staff report, all public testimony presented at the hearing held on this project, and the "Factors to be Considered" attached as Exhibit "A" to this Ordinance and incorporated herein by this reference as though fully set forth

herein, this City Council finds the Zoning Code Amendments are consistent with the General Plan and all applicable specific plans of the City of Escondido.

SECTION 8. That the specified sections of the Escondido Zoning Code Article 70 are amended as set forth in Exhibit "B" to this Ordinance and incorporated herein by this reference as though fully set forth herein.

SECTION 9. SEPARABILITY. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 10. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 11. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 16th day of August, 2017 by the following vote to wit:

AYES : Councilmembers: DIAZ, GALLO, MORASCO, ABED

NOES : Councilmembers: MASSON

ABSENT : Councilmembers: NONE

APPROVED:



SAM ABED, Mayor of the
City of Escondido, California

ATTEST:



DIANE HALVERSON, City Clerk of the
City of Escondido, California

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO : ss.
CITY OF ESCONDIDO)

I, DIANE HALVERSON, City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2017-06 passed at a regular meeting of the City Council of the City of Escondido held on the 16th day of August, 2017, after having been read at the regular meeting of said City Council held on the 19th day of July, 2017.



DIANE HALVERSON, City Clerk of the
City of Escondido, California

ORDINANCE NO. 2017-06

EXHIBIT "A"
FACTORS TO BE CONSIDERED
AZ 16-0007

Zoning Code Amendment

1. The public health, safety, and welfare would not be adversely affected by the proposed Zoning Code amendments.
2. The proposed Zoning Code amendments would not conflict with any State law. Pursuant to Article XI, Section 7 of the California Constitution, a city may make and enforce within its limits, all police, sanitary, and other ordinances that are not in conflict with general laws. The State Legislature has made recent changes in State law to encourage the creation of Accessory Dwelling Units by easing provisions relating to unit location, parking, fees and other requirements. Pursuant to Section 65852.150 of the Government Code, Accessory Units are a valuable form of housing in California and that those units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, within existing neighborhoods. The proposed Zoning Code amendments will ensure that the City's Zoning Code is consistent with California Government Code requirements for Accessory Units.
3. The proposed Zoning Code amendments would not be detrimental to surrounding properties because the amendments involve existing development application types. The amendment would not expand or reduce the type of land uses that may be established in the City and no physical improvements are proposed as part of this Zoning Code amendment. Future construction of Accessory Dwelling Units must comply with any applicable laws and standards. This includes the Building Code, the Fire Code, and any property standards by-laws.
4. The proposed Zoning Code amendments would be consistent with the goals and policies of the General Plan because it encourages compact, efficient urban form, which makes more efficient use of existing infrastructure. It also supports increasing the stock of rental accommodation in an area by providing more housing options for extended families or for a live-in caregiver. The proposed Zoning Code amendments would not diminish the Quality of Life Standards of the General Plan, nor adversely impact the community health or natural resources.
5. The proposed Zoning Code amendments do not conflict with any specific plan.

EXHIBIT "B"
PROPOSED CHANGES TO THE ZONING CODE
AZ 16-0007

Amend the various zoning code sections to read as specified below.

ARTICLE 6: RESIDENTIAL ZONES

Revise Section 33-102 as set forth below.

(g) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone for the primary structure, unless otherwise permitted by Article 70.

Revise Section 33-103 as set forth below.

(f) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone for the primary structure, unless otherwise permitted by Article 70.

ARTICLE 39: OFF-STREET PARKING

Revise the *Second dwelling unit* use category in Section 33-765 to *Accessory dwelling unit* [emphasis added to former and latter categories], and revise note as set forth below.

One (1) parking space for the unit, in addition to those spaces required by this section for the primary residential use in accordance with section 33-1474 of Article 70. All spaces shall be located on-site.

ARTICLE 65: OLD ESCONDIDO NEIGHBORHOOD

Revise Section 33-1373 (b) as set forth below.

~~Second~~Accessory dwelling units as defined in section 33-8, are permitted subject to a ~~second~~an accessory dwelling unit permit in conformance with Article 70 of this chapter.

ARTICLE 70: SECOND DWELLING UNIT

Replace Article title from *Second Dwelling Units* to *Accessory Dwelling Units* [emphasis added to former and latter titles]. A similar change shall be made, without limitation, to any and all Municipal Code and/or Zoning Code table of contents or charts that reference this article title.

Revise Section 33-1470, Purpose and Intent.

The purpose of this article is to provide regulations for the establishment of secondaccessory dwelling units in residential zones. The intent of the article is to provide affordable housing in areas where adequate public facilities and services are available, and where impacts upon the residential neighborhoods directly affected would be minimized. Notwithstanding the intent of California Government Code Section 65852.2, should any provision of this article be found not to be in compliance with State law, that provision should be severed and stricken from Article 70 as if it had never been adopted. ~~Second dwelling units shall be designed to minimize the effect of the new second dwelling unit on adjacent properties, any potential impacts shall be oriented to the primary residence.~~

Section 33-1471, Definition.

Delete section title and content. Reserve section number for future use.

Revise Section 33-1472, Permitted zones, as set forth below.

~~Second~~Accessory dwelling units shall be permitted in the RA, RE, R1, R2, R3 and R4 zones on properties with only one (1) single-family residence on the lot, subject to the approval of an secondaccessory dwelling unit permit. ~~Second~~Accessory dwelling units within the Old Escondido Neighborhood shall observe the same standards and review procedures required of similar building expansions in that neighborhood. ~~Second~~Accessory dwelling units shall not be permitted on property developed in a planned development zone or as a part of a planned unit approval, unless approved as a part of the original PD or PUA and the subject lot is not less than six thousand (6,000) square feet in size.

Revise Section 33-1473, Occupancy limitations, as set forth below.

- (a) Owner-occupied. The owner of the property shall reside on the parcel on which the secondaccessory dwelling unit is located. The secondaccessory dwelling unit is not intended for sale, except in conjunction with the sale of the primary residence and property.
- (b) Deed restriction. Building permits will not be issued for the establishment of an secondaccessory dwelling unit or its occupancy prior to the applicant's submittal of evidence that a deed restriction, which sets forth the occupancy limitations prescribed by the ordinance, has been filed with the county recorder. This deed restriction shall run with the land; inure to the benefit of the city as well as to the benefit of the other residential property owners within the subdivision; and, be coterminous in tenure with the life of the secondaccessory dwelling unit.

Revise Section 33-1474, Development standards, as set forth below.

~~Second~~Accessory dwelling units shall be subject to all development standards of the zone in which the property is located, except as modified below:

- (a) Lot area. Construction of one accessory dwelling unit shall be permitted, subject to the following minimum parcel standards.
- (1) The minimum lot size for the development of an accessory dwelling unit is 8,000 square feet if the permit application involves the construction of a new structure or an exterior addition to an existing structure.
- (2) There is no minimum lot size requirement for the development of an accessory dwelling unit within the Old Escondido Neighborhood on properties that have public street and alley access.
- (3) Notwithstanding subdivisions (1) and (2), ~~Second~~accessory dwelling units may be constructed on any legal lot in a residential zone provided all requirements of this article and the zoning and building codes are met and the unit is located entirely within the building envelop of a single-family dwelling or detached accessory structure and involves no expansion of the existing structure.
- (b) Number of bedrooms. For units 800 square feet or less, aA maximum of one (1) bedroom shall be permitted. Two bedrooms may be permitted if the living area of the accessory dwelling unit exceeds 800 square feet. No more than two bedrooms shall be permitted.
- (c) Location on lot. ~~Secondaccessory dwelling units must be physically attached to the primary structure by a substantial contiguous wall and shall also have access from the primary structure except second dwelling units proposed in the Old Escondido Neighborhood historic district where second units may be detached when the unit is accessed from an alley or located over a detached garage. An accessory dwelling unit may be established within the existing interior of a single-family residence, or attached as an addition to a single-family residence, or established as a new detached structure. With the exception of properties located within the Old Escondido Neighborhood historic district, the minimum lot area for the construction of a detached accessory dwelling unit is 10,000 square feet. Attached accessory dwelling units shall have an independent, exterior access.~~
- (d) Setbacks. Accessory dwelling units shall conform to the setback requirements of the underlying residential zone for the primary structure.

(1) An accessory dwelling unit proposed to be constructed above an existing detached garage shall have a minimum five-foot setback to side and rear property lines.

- (e) Maximum unit size. For lots less than ten thousand (10,000) square feet, attached second dwelling units shall not exceed five hundred (500) square feet. For lots over (10,000) square feet, second dwelling units shall not exceed six hundred forty (640) square feet. The maximum accessory dwelling unit size is determined by the size of the lot as provided in Table 33-1474. The living area of the accessory dwelling unit shall not exceed more than fifty percent of the existing living area of the primary residence.

Table 33-1474

<u>Lot size</u>	<u>Maximum Permitted Accessory Dwelling Unit Size</u>
<u>Less than 10,000 square feet</u>	<u>500 square feet</u>
<u>10,001 to 15,000 square feet</u>	<u>640 square feet</u>
<u>15,001 to 20,000 square feet</u>	<u>800 square feet</u>
<u>> 20,000 square feet</u>	<u>1,000 square feet</u>

- (f) Minimum unit size. The minimum permitted size of a second accessory dwelling unit shall be the size of an efficiency unit as defined by the Uniform Building Code and Uniform Housing Code California Health and Safety Code. The minimum unit size of the residential zone shall not apply to the second accessory dwelling unit that is built on the same legal lot as the primary residence in compliance with all local development standards.
- (g) Height. Second Accessory dwelling units shall conform to the height limits of the zone and shall be limited to one (1) story.
- (h) Lot coverage. The entire combined area of all structures on a lot shall conform to the lot coverage limitation of the zone in which the property is located.
- (i) Parking requirements. Off-street parking for the primary dwelling shall conform to the current parking standards, as required in Article 39 of the Escondido Zoning Code and:
- (1) One (1) additional off street parking space, covered or uncovered, shall be provided for a second accessory dwelling unit, and shall not be tandem. Parking provisions may be provided as tandem parking on an existing driveway or permitted within a setback area in accordance with Sections 28-300 and 33-110 of the Escondido Zoning Code, in locations determined to be satisfactory by the Director of Community Development, unless the Director determines that

parking in setback areas or tandem parking is not feasible based on specific site or regional topographical or fire and life safety conditions, or not permitted anywhere else in the jurisdiction.

(2) Required parking for the ~~second~~accessory dwelling unit shall be permitted in a side yard or rear yard only when said yard is abutting an alley and a minimum backup of twenty-four (24) feet is provided.

(3) Parking for the ~~second~~accessory dwelling unit shall be ~~accessible, not conflict with access and required parking for the primary structure and be located to minimize impacts on adjacent properties~~ through landscaping, a wall/fence, or other screening treatment.

(4) Notwithstanding any other law, the City will not impose parking standards for an accessory dwelling unit when the unit is located within one-half mile of public transit, located within the Old Escondido Neighborhood or when there is a car share vehicle located within one block of the unit. The City will also waive parking requirements for new accessory dwelling units when the accessory dwelling 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.

(5) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, replacement parking may be located in any configuration on the same lot as the accessory dwelling unit.

~~(j)~~ Garage conversions and personal storage. If an existing garage is converted to an accessory dwelling unit and no replacement garage space is provided, a minimum of 160 additional cubic feet of lockable, enclosable storage must be provided on the same lot to mitigate the loss of personal storage space.

~~(j)~~(k) Design of the unit. Accessory dwelling units shall be designed to minimize the effect of the new accessory dwelling unit on adjacent properties.

(1) Any potential impacts shall be oriented to the primary residence. The ~~second dwelling unit shall not create a second front entrance visible from adjacent streets.~~ Access doors and entry for the ~~second~~accessory dwelling unit shall not be oriented to the nearest adjacent property line or create a second "front door" that is comparable to the main entrance. The design, construction, and presence of the accessory dwelling unit shall conform with the single family character of the neighborhood.

(2) Proposed accessory dwelling units shall respect the residential scale and design character of existing homes. The accessory dwelling unit's color and materials must match those of the primary residence, maintaining compatibility with the neighborhood. The ~~planning staff~~ Director shall review ~~second~~ accessory dwelling unit applications to ensure the addition is integrated with the primary structure with respect to roof design, height, compatible materials, color, texture, and design details. If the accessory dwelling unit is an addition to a site with known historic resources or has been determined have historic value by the Director, all improvements shall retain the historical and/or architectural value and significance of the landmark, historical building, or historical district. The improvements shall be compatible with and retain the texture and material of the primary building(s) and/or structure(s) or its appurtenant fixtures, including signs, fences, parking, site plan, landscaping and the relationship of such features to similar features of other buildings within an historical district.

- (j)(l) Addresses. The addresses of both units shall be displayed in such a manner that they are clearly seen from the street.
- (m) Fire Sprinklers. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

Revise Section 33-1475, Other regulations, as set forth below.

- (a) Garage conversions. ~~Garage conversions to second accessory dwelling units are prohibited unless replacement covered off-street parking is provided which conforms to Article 39 of this chapter. Converted garages must meet all building code requirements for a dwelling unit and provisions of the ordinance. No setback shall be required for an existing garage that is converted to an accessory dwelling unit.~~
- (b) Guest house. An attached guest house may be converted to a ~~second~~ accessory dwelling unit provided all provisions of this article and the building code and zoning code are met. A guest house and a ~~second~~ accessory dwelling unit may occur on the same lot provided the lot is over twenty thousand (20,000) square feet in area and provided the guest house does not contain kitchen facilities and is not rented. No more than one (1) ~~second~~ accessory dwelling unit or no more than one (1) guest house are permitted on a lot.
- (c) ~~The City may require a new or separate utility connection for any attached or detached accessory dwelling units that are not contained within the existing space of a single family residence or accessory structure.~~

Replace Section 33-1476 title from *Existing nonpermitted second units* to *Existing nonpermitted accessory units* [emphasis added to former and latter titles].

Revise Section 33-1476, Existing nonpermitted accessory units, as set forth below.

This article shall apply to all ~~second~~accessory dwelling units which exist on the date of passage of the ordinance. All units which do not have a permit, or cannot receive a permit, upon passage of the ordinance codified herein shall be considered in violation and shall be subject to code enforcement action.

Revise Section 33-1477, Application and procedure, as set forth below.

The ~~director~~Director of Community Development shall approve a ~~second dwelling unit permit for an accessory dwelling unit~~ within 120 days of submission of a complete application, unless ~~he or she determines~~it is determined that ~~such~~the permit does not meet the requirements of this article. The ~~director~~Director may refer any unit to the planning commission or Historic Preservation Commission prior to the ~~director's~~Director's decision for conformance with the specific criteria outlined in section 33-1474(i).

Revise Section 33-1478, Findings for approval and denial, as set forth below.

The decision to deny an application shall be in writing and shall state the reasons therefor. A permit for an accessory dwelling unit shall be issued upon a finding that all of the following have been established: ~~In granting a second dwelling unit permit, the following findings shall be established as complete without further written action:~~

- (a) Adequate public facilities and services are available;
- (b) All requirements of this article and the zoning code are met;
- (c) The project will not create a second front entrance;
- (d) The unit is integrated with the primary structure with respect to roof design, height, compatible materials, color, texture, and design details; and
- (e) The accessory dwelling unit does not create any adverse impact on any real property that is listed in the local, state, or federal Register of Historic Places.

Revise Section 33-1480, Fees, as set forth below.

- (a) Upon the filing of an permit for an accessory dwelling unit, a fee in an amount to be established by resolution of the city council shall be paid by the applicant to the city.

- (b) Any party who appeals the director's determination made by the Director of the Community Development shall submit an appeal processing fee as determined by the city council.
- ~~(b) For purposes of determining building permit fees, a second dwelling unit shall be considered a room addition and shall not be subject to subarea facilities plan fees.~~
- (c) The City may require a new or separate utility connection directly between the accessory dwelling unit and the utility. 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.