

ORDINANCE NO. 1845

AN ORDINANCE OF THE CITY OF SAN BRUNO AMENDING TITLE 12 (LAND USE) OF THE SAN BRUNO MUNICIPAL CODE TO IMPLEMENT STATE LAW RELATING TO ACCESSORY DWELLING UNITS

WHEREAS, homeowners who create accessory dwelling units benefit from added income, and an increased sense of security;

WHEREAS, allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock;

WHEREAS, the availability of housing is a substantial concern for individuals of all demographics, ages, and economic backgrounds in communities throughout the State of California;

WHEREAS, accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character;

WHEREAS, San Bruno's 2009 General Plan and 2015-2023 Housing Element include policies and programs that support the creation of affordable housing in a diverse range of housing types, and implementation actions including the adoption of amendments to the San Bruno Zoning Ordinance;

WHEREAS, on September 27, 2016, the Governor signed into law Assembly Bill 2299 (SB 2299) and Senate Bill 1069 (AB1069), which amended Government Code Section 65852.2, to address California's housing crisis by removing barriers that have discouraged homeowners from adding affordable second units. The amended state law establishes new standards and regulations for accessory dwelling units, simplifies the approval process and reduces costs associated with their creation;

WHEREAS, Government Code Section 65852.2 provides that a local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones and that ordinance shall designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted and 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;

WHEREAS, it is the intent of the City Council to adopt an ordinance amending the existing second dwelling unit ordinance to comply with the amended state law for accessory dwelling unit.

WHEREAS, the proposed ordinance includes provisions relating to unit size, parking, fees, and other requirements for the creation of accessory dwelling units, which do not unreasonably restrict the ability of homeowners to create accessory dwelling units in residential zones in compliance with amended state law;

WHEREAS, tandem parking is not allowed by right for residential uses in San Bruno as per zoning code Section 12.100.080(C)(1) and parking in required yards is regulated per zoning code Section 12.100.060(C)&(D);

WHEREAS, the amendments are within the scope of the Program EIR for the 2009 General Plan and no further environmental review is required for adoption of the zoning ordinance amendments pursuant to the California Environmental Quality Act (CEQA) Guidelines sections 15168 and 15162;

WHEREAS, on January 17, 2017, the Planning Commission held a duly noticed public hearing to consider the proposed Zoning Code amendments related to accessory dwelling units, received the staff report and staff presentation, received comments from the public and interested parties, and discussed the matter;

WHEREAS, by Resolution No. 2016-11, the Planning Commission recommended that the City Council adopt amendments to the City of San Bruno Zoning Code related to accessory dwelling units;

WHEREAS, on February 18, 2017, notice of the City Council public hearing was published in the San Mateo Daily Journal in compliance with California Government Code Section 65090, and

WHEREAS, on February 28, 2017, the City Council of the City of San Bruno conducted a public hearing on the item, and considered all oral and written comments submitted to the City regarding the same prior to taking its actions on the item.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN BRUNO DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The foregoing recitals are true and correct and are incorporated into the findings herein.


Section 2. Based on the Record, the City Council finds the Zoning Code amendments are not subject to CEQA. The amendments are within the scope of the Program EIR for the 2009 General Plan and the Planning Department recommends that no further environmental review is required for adoption of the zoning ordinance amendments pursuant to the California Environmental Quality Act (CEQA) Guidelines sections 15168 and 15162.

Section 3. The City Council hereby finds that the proposed Zoning Ordinance amendments to Title 12 of the Municipal Code are in the best interest of the City because they further established goals, policies and implementation programs of the General Plan Housing Element, including promoting housing opportunities, modifying the existing accessory dwelling unit provisions to ensure consistency with state law, maintaining a diverse range of housing options, providing infill housing that is potentially affordable, and encouraging the improvement of existing housing stock while preserving quality of life in residential zones. The amendments are consistent with and implement the following General Plan Housing Element policies and programs:

- A. Goal 2. Accommodate regional housing needs through a community-wide variety of residential uses by size, type, tenure, affordability, and location.
- B. Program 1-C. Conserve and facilitate legalization of second units in residential zones.
- C. Goal 5. Ensure the continued availability of affordable housing for very low, low and moderate income households, senior, persons with disabilities, single parent households, large families, and other special needs groups.
- D. Program 5-I. Promote the Second Unit Ordinance. Continue to inform homeowners about the Second Unit Ordinance which permits second units by right on appropriate residential sites.
- E. Implementation Action, Program 5-I. Encourage second units in new single-family development to accommodate multigenerational and other housing needs, with a goal of approving 32 second units during the planning period.
- F. Implementation Action, Program 5-I. Review development standards to create more opportunities for new second units that are compatible with the neighborhood during the zone code update.
- G. Program 3-H. Consider updating parking standards to allow tandem parking to satisfy the parking requirement for second units by right as suggested by State law (Government Code Section 65852.2(e)). Currently, tandem parking is only allowed by securing a parking exception from the Planning Commission.

Section 4. Offstreet parking is not permitted through tandem parking because it is not allowed by right for residential uses in San Bruno as per zoning code Section 12.100.080(C)(1) and parking in required yards shall comply with zoning code Section 12.100.060(C)&(D);

Section 5. Title 12 (Land Use) of the San Bruno Municipal Code is hereby amended, including 12.80 (Definitions), 12.92.031 (Second Dwelling Units), 12.96 (Establishment and Description of Districts), 12.100 (Off-Street Parking and Loading), and new Chapter 12.90 (Accessory Dwelling Units) is hereby added, as specified in Exhibit A, Amendments, to implement new state law pertaining to Accessory Dwelling Units.



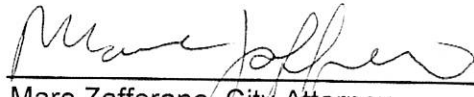
Jim Ruane, Mayor

ATTEST:



Carol Bonner, City Clerk

APPROVED AS TO FORM:



Marc Zafferano, City Attorney


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I hereby certify that foregoing **Ordinance No. 1845**
was introduced at a regular meeting of the San Bruno City Council on
February 28, 2016, and adopted by the San Bruno City Council at a regular meeting on
March 14, 2016, by the following vote:

AYES: Councilmembers: Ibarra, M. Medina, R. Medina, O'Connell, Mayor Ruane

NOES: Councilmembers: None

ABSENT: Councilmembers: None



Carol Bonner, City Clerk

Exhibit A

San Bruno Municipal Code Title 12 (LAND USE) Amendments

Delete ~~12.92.031. SECOND DWELLING UNITS~~

Add Chapter 12.90

ACCESSORY DWELLING UNITS

12.90.010 Purpose.

The purpose of this article is to comply with amendments made in 2016 to California Government Code Section 65852.2 which provides for cities to set standards for the development of accessory dwelling units so as to increase the supply of smaller and affordable housing while ensuring that they remain compatible with existing neighborhoods.

12.90.020 Definitions.

A. "Accessory dwelling unit" means a residential dwelling unit that is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling 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 that conforms to this subsection shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot, and shall be deemed an accessory use or an accessory building, as defined in Section 12.80.015, and shall not be considered to exceed the allowable density for the lot upon which it is located. An accessory dwelling unit is not an "excess housekeeping units" as defined in Section 12.92.030 of the San Bruno zoning ordinance.

An accessory dwelling unit also includes the following:

1. "Efficiency unit", as defined in Section 17958.1 of Health and Safety Code, means a separate living space for occupancy by no more than two persons, which has a minimum floor area of 150 square feet containing partial kitchen or bathroom facilities.

2. "Manufactured home", as defined in Section 18007 of Health and Safety Code, means a transportable structure which in the traveling mode is eight feet or more in width and forty feet or more in length and is a minimum of three hundred twenty square feet and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contain therein. Maximum allowable size is 640 square feet.

B. "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

C. "Neighborhood" means an area commonly identified as such in planning documents and among individuals who reside and work within close proximity.

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

Exhibit A

12.90.030 Location.

A. No more than one accessory dwelling unit may be located on any buildable lot whose zoning permits residential units and which is either undeveloped or contains only a legal single-family detached dwelling.

B. The accessory dwelling unit may be within the living area of the existing dwelling unit, attached to the existing dwelling unit, or detached from and located on the same lot as the existing dwelling unit.

C. No accessory dwelling unit may be approved if located on, or adjacent to, real property that is listed in the California Register of Historic Places.

D. No accessory dwelling unit shall be approved if located on a lot with an excess housekeeping unit.

E. Any accessory dwelling unit located in the 65 CNEL area, as shown on the Noise Compatibility Zones map of the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco Airport, shall be designed to Aircraft Noise Insulation Program standards.

F. No accessory dwelling unit shall be approved if located on a lot within the CNEL 70 dB noise contour, as shown on the Noise Compatibility Zones map of the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco Airport.

G. Any accessory dwelling unit located in an earthquake special studies zone shall have a geotechnical survey performed and the unit shall be designed according to the appropriate seismic building codes.

12.90.040 Permitting procedures.

A. No person shall construct an accessory dwelling unit without an accessory dwelling unit permit.

B. As required by state law, any application for an accessory dwelling unit that meets the location and development standards contained in subsections (C) and (F) of this section as well as Chapters 12.96 and 12.200 shall be approved ministerially without discretionary review or public hearing.

12.90.050 Submittal requirements and application processing.

A. Step one: Submittal. The application package for an accessory dwelling unit permit shall be submitted to the Department of Community Development concurrent with the submittal of an application for building permit. The planning division application fee for an accessory dwelling unit shall be the same as the fee for a residential conditional use permit or as otherwise established in the San Bruno Master Fee Schedule. Applicants shall comply with building codes and obtain all associated permits. In addition to the standard submittal requirements for a building permit, the accessory dwelling unit application package shall include:

1. Plot plan (drawn to scale): Dimension the perimeter of parcel on which the second dwelling will be located. Indicate the location and dimensioned setbacks of all existing and proposed structures on the project site and structures located within fifty feet of the project site. All easements, building envelopes, and special requirements of the subdivision as shown on the

Exhibit A

final map and improvement plans shall be included. Provide average slope calculations for the project site.

2. Floor plans: Each room shall be dimensioned and the resulting floor area calculation included. The use of each room shall be identified. The size and location of all windows and doors shall be clearly depicted.

3. Elevations: north, south, east and west elevations which show all openings, exterior finishes, original and finish grades, stepped footing outline, roof pitch, materials and color board for the existing residence and the proposed accessory dwelling unit.

4. Cross section: Provide building cross sections including, but not limited to: structural wall elements, roof, foundation, fireplace and any other sections necessary to illustrate earth-to-wood clearances and floor to ceiling heights.

5. Photographs of the site and adjacent properties. The photos shall be taken from each of the property lines of the project site to show the project site and adjacent sites. Label each photograph and reference to a separate site plan indicating the location and direction of the photograph.

6. Deed restriction completed as required, signed and ready for recordation.

B. Step two: Issuance. The Department of Community Development shall approve or disapprove an accessory dwelling unit within 120 days of receipt of the application provided it meets the specific standards contained in subsections (C) and (F) of this section, as well as Chapters 12.96 and 12.200 of the San Bruno zoning ordinance and upon a site visit by community development department staff.

12.90.060 Development standards.

An accessory dwelling unit permit will only be issued if it complies with the following development standards:

A. Setbacks:

1. The main dwelling unit setbacks, based on the zoning district in which it is located, shall also apply to the accessory dwelling unit.

2. A detached accessory dwelling unit shall not be closer to the main dwelling (on the same lot) than that permitted by the Uniform Building Code.

3. A detached accessory dwelling unit shall not be closer than six feet from the main building on the same lot or adjacent lot.

4. An accessory dwelling unit shall be located within one hundred feet of the main dwelling unit.

5. An accessory dwelling unit may be located within the same envelope as the main dwelling.

B. Other zoning district standards: all other development regulations found in San Bruno zoning code Chapter 12.96 for the district in which the second unit is located shall apply. This includes but is not limited to lot coverage and floor area ratio standards.

C. San Bruno zoning ordinance Chapter 12.200, which regulates construction of new residences and additions, shall remain in full force and effect. No accessory dwelling unit

Exhibit A

requiring additional floor area may be approved where a conditional use permit would be required per Chapter 12.200 or where the development regulations for the particular zoning district would not be met.

D. Unit size:

1. No newly constructed accessory dwelling unit may have more than one bedroom, nor contain a gross floor area in excess of 640 square feet or less than 150 square feet.

2. Internal conversion: An accessory dwelling unit created by the internal conversion of an existing single family dwelling shall not occupy more than forty percent of the total habitable floor area of the building, with the maximum size of the dwelling unit not to exceed 640 square feet, but excluding the garage area.

3. The increased floor area of an attached accessory dwelling unit as part of an addition shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 640 square feet.

4. The total area of floorspace for a detached accessory dwelling unit shall not exceed 640 square feet.

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

6. 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.

E. Height: no detached second unit shall exceed twenty-five feet in height.

F. Off-street parking: one parking space shall be required for each proposed accessory dwelling unit in addition to those required for the primary units.

1. The additional parking space may be uncovered and may be located adjacent to the required driveway for the primary residence or in the side yard as allowed per Zoning Code Section 12.100.060.

2. The off-street parking for the accessory dwelling unit shall not be a tandem space because tandem parking is not allowed by right for residential uses in San Bruno as per Zoning Code Section 12.100.080(C)(1).

3. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, those off-street parking spaces must be replaced. The replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit as covered spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision d below:

4. Onsite parking is not required for an accessory dwelling unit in any of the following instances:

a. The accessory dwelling unit is located within one-half mile of public transit.

b. The accessory dwelling unit is located within an architecturally and historically significant historic district.

Exhibit A

c. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.

d. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

e. When there is a car share vehicle located within one block of the accessory dwelling unit.

G. Architectural compatibility: the accessory dwelling unit shall incorporate the same or similar architectural features, building materials, and colors as the main dwelling unit or dwellings located on adjacent properties.

H. Privacy: any window or door of a second story accessory dwelling unit shall utilize one of the following techniques to lessen the privacy impacts onto adjacent properties. These techniques are use of obscured glazing, window placement above five feet, six inches (eye level), windows and doors located toward the existing on-site residence, or screening treatments.

I. Permanent foundation: a permanent foundation shall be required for all accessory dwelling units.

J. A sanitary sewer cleanout conforming to city standards shall be provided at the property line. A cleanout shall be provided for each sanitary sewer line crossing the property line.

K. Downspouts and gutters draining to the curb shall be provided on the primary and accessory dwelling unit.

L. The San Bruno building official shall assign a new address to the accessory dwelling unit.

M. Existing development: a single-family dwelling must exist on the lot. If the lot is undeveloped, then the applicant may be subject to discretionary review.

N. Number per lot: a maximum of one accessory dwelling unit shall be permitted on any lot.

O. Occupancy: the property shall be the residence of the property owner. The owner may occupy either the main dwelling unit or accessory dwelling unit as his/her principal residence.

12.90.070 Deed restrictions.

Before obtaining an accessory dwelling unit building permit, the property owner shall file with the county recorder a declaration or agreement of restrictions, which has been approved by the city attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:

A. The accessory dwelling unit shall not be sold separately;

B. The accessory dwelling unit is restricted to the maximum size allowed per the development standards in subsection F;

C. The accessory dwelling unit shall be considered legal only as long as the owner of record of the property occupies either the primary residence or the accessory dwelling unit; and

D. The accessory dwelling unit shall not be rented for less than 30 days.

Exhibit A

E. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner. (Ord. 1682 § 1, 2003)

12.90.080 Administrative review.

The decision of the Community Development Director granting or denying an accessory dwelling unit permit is a ministerial decision as required by State law. Ministerial approvals are not subject to review at a public hearing. In considering accessory dwelling unit permits, review is limited to the objective standards and criteria established by the City as set forth in this Chapter 12.90 for accessory dwelling units. A request for an Administrative review that is limited to the objective standards and criteria for accessory dwelling units may be made by filing an application and paying applicable fees with the Planning Division. Any application for administrative review must be filed with the Planning Division within ten calendar days of the date that the decision of Community Development Director was made. Any Administrative Review proceedings before the Planning Commission and the City Council shall not be public hearings. The Planning Commission and City Council shall apply the criteria contained in 12.90 in an objective and ministerial manner. All costs of the proceedings shall be the responsibility of the party requesting review. The Administrative Reviews should be scheduled so as to minimize delay of approval of an accessory dwelling unit.

12.90.090 Expiration of issued permit.

Accessory dwelling unit permits shall expire if not vested within two years of the date of approval. As used in this section, vesting means: (1) recordation of required deed restrictions; (2) securing a valid building permit and/or other permits related to the approval; and (3) substantial completion of improvements in accordance with the secured building permit and/or other permits. The Community Development Director shall grant the extension if (s)he finds that there has been no change in the factual circumstances surrounding the original approval.

12.90.090 Termination of accessory dwelling.

Termination of the use requires the elimination by the property owner of any secondary utility meters and removal of all kitchen cabinetry, kitchen sink, refrigerator, dishwasher, cooking facilities. The property owner shall apply for building permits to remove such features, as required under the City's building and fire codes.

Exhibit A

Amend Chapter 12.80

DEFINITIONS

12.80.012 Accessory dwelling unit.

“Accessory dwelling unit” means a residential dwelling unit that is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling 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.

Amend Chapter 12.96

ESTABLISHMENT AND DESCRIPTION OF DISTRICTS

12.96.060 R-1 and R-1-D single family residential districts.

B. Permitted Uses. The following uses are permitted in the R-1 and R-1-D districts:

2. Accessory buildings and uses, including accessory dwelling units;

12.96.070 R-2 low density residential district.

B. Permitted Uses. The following uses are permitted in the R-2 district:

3. Accessory buildings and uses, including accessory dwelling units;

12.96.080 R-3 medium density residential district.

B. Permitted Uses. The following uses are permitted in the R-3 district:

3. Accessory buildings and uses, including accessory dwelling units;

12.96.090 R-4 high density residential district.

B. Permitted Uses. The following uses are permitted in the R-4 district:

3. Accessory buildings and uses, including accessory dwelling units;

Exhibit A

Amend Chapter 12.100

OFF-STREET PARKING AND LOADING

12.100.090 Number of parking spaces required.

Uses

Parking Spaces Required

RESIDENTIAL

Accessory Dwelling Units

One parking space in addition to those required for the primary unit.

The required parking spaces for the accessory dwelling unit may be uncovered and may be located adjacent to the required driveway for the primary residence or in the side yard as allowed per Zoning Code Section 12.100.060.

The off-street parking for the accessory dwelling unit shall not be a tandem space because tandem parking is not allowed by right for residential uses in San Bruno as per Zoning Code Section 12.100.080(C)(1).

When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, those off-street parking spaces must be replaced. The replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit as covered spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described below:

Onsite parking is not required for an accessory dwelling unit in any of the following instances:

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