

Resolution No. **2018-03-08-0501**

STOCKTON PLANNING COMMISSION

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF STOCKTON RECOMMENDING THE CITY COUNCIL APPROVE AN AMENDMENT TO TITLE 16 OF THE STOCKTON MUNICIPAL CODE RELATED TO ACCESSORY DWELLING UNITS IN COMPLIANCE WITH STATE PLANNING AND ZONING LAW

The Planning Commission is authorized by section 16.212.040 of the Stockton Municipal Code (SMC) to review and make a recommendation to the Council to amend the provisions of Title 16 related to accessory dwelling units; and

Amending the provisions of Title 16 related to accessory dwelling units will ensure compliance with state law (Government Code § 65852.2); now, therefore:

**BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF
STOCKTON AS FOLLOWS:**

1. The Planning Commission of the City of Stockton, in accordance with section 16.116.050B, finds and determines:

A. The proposed amendment of the SMC's provisions for accessory dwelling units is consistent with applicable General land uses, objectives, policies, programs, and actions of all elements of the General Plan on balance and will not create any inconsistencies with the Development Code. The proposed amendment will serve to comply with Government Code section 65852.2 and be consistent with the following General Plan goals and policies:

- i HE-2.5 Second Units in New Projects. The City shall encourage the development of second units within new single-family projects.
- ii HE-2.6 Second Unit Infill. The City shall encourage development of second units to provide additional affordable housing opportunities in existing single-family neighborhoods.
- iii HS-3.4 Affordable Housing Incentives. The City shall explore incentives, bonuses, and flexibility in standards and requirements in the Development Code that could benefit affordable housing development, such as density bonuses, flexible development standards, and deferred payment of fees.
- iv HE-5.5 Creativity and Flexibility. The City shall allow for flexibility in the application of development standards to encourage creative and innovative housing solutions.

B. The proposed amendment will amend Title 16 of the SMC to address accessory dwelling units, including Section 16.80.310 "Secondary Dwelling Units," and Chapter 16.240.020 "Definitions of Specialized Terms and Phrases." The proposed amendment will change secondary dwelling units to accessory dwelling units and changes development standards to comply with state zoning law (Government Code § 65852.2).

C. The proposed amendment will not endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the City, because the amendment will bring the City into compliance with state zoning law (Government Code § 65852.2).

D. The proposed SMC amendment is exempt from the California Environmental Quality Act (CEQA) under the "general rule" that CEQA applies only to projects that have the potential for causing significant environmental effects, as specified in section 15061(b)(3). Approval of the required amendment will bring the City into compliance with state zoning law (Government Code § 65852.2) and constitutes an administrative action that will not result in direct or indirect physical changes in the environment, and any future projects that would rely on these amendments, will require further case-specific environmental review under CEQA.

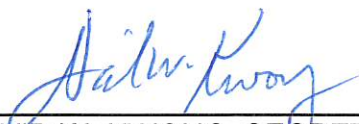
E. The proposed amendment is internally consistent with other applicable provisions of the Development Code.

2. The Planning Commission hereby recommends that the City Council adopt an amendment to Title 16, Chapter 16.80, section 16.80.310; and Chapter 16.240, section 16.240.020; related to accessory dwelling units as set forth in Exhibit 1, attached hereto and incorporated by this reference.

PASSED, APPROVED and ADOPTED: March 8, 2018.


DON AGUIARD, CHAIR
CITY OF STOCKTON PLANNING COMMISSION

ATTEST:



DAVID W. KWONG, SECRETARY
CITY OF STOCKTON PLANNING COMMISSION

ORDINANCE NO.

AN ORDINANCE AMENDING TITLE 16, CHAPTER 16.80, SECTION 16.80.310, AND CHAPTER 16.240, SECTION 16.240.020 OF THE STOCKTON MUNICIPAL CODE RELATED TO ACCESSORY DWELLING UNITS AND DEVELOPMENT STANDARDS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION I. FINDINGS AND INTENT

The City Council of the City of Stockton finds that the current Stockton Municipal Code provisions for accessory dwelling units and development standards require amendment in order to comply with state zoning law (Government Code 65852.2).

The City Council finds that an amendment which addresses specific requirements for accessory dwelling unit and development standards identified in state zoning law (Government Code 65852.2) will bring the city into compliance.

SECTION II: AMENDMENT OF CODE

Title 16, Chapter 16.80, Section 16.80.210 of the Stockton Municipal Code is hereby amended to read, as follows:

16.80.310 Accessory Dwelling Units

This section provides standards for the establishment of accessory dwelling units.

- A. **Number of Accessory Dwelling Units Allowed.** Only one (1) accessory dwelling unit shall be allowed on a single-family parcel.
- B. **Site General Requirements.** A parcel proposed for an accessory dwelling unit shall comply with all the following requirements:
 - 1. The accessory dwelling unit may be located on any residentially-zoned parcel that is occupied with a single-family dwelling unit or will be improved with a single-family dwelling unit prior to or at the same time as the construction of the accessory dwelling unit;
 - 2. The floor area of a detached accessory dwelling unit shall not exceed 1,200 square feet. The calculation of the floor area of the detached accessory dwelling unit includes all floor area within the building envelope of the entire detached structure, excluding the garage space and exterior stairs;
 - 3. The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet. "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or carport or an accessory structure. If a garage or carport is provided for the

attached accessory dwelling unit, the calculation of the floor area of the accessory dwelling unit does not include the floor area of the garage or carport;

4. An accessory dwelling unit shall not be included in the calculation of the density of the lot on which the accessory dwelling unit is located; and

5. No passageway shall be required in conjunction with the construction of an accessory dwelling unit. A "passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

C. Development Standards.

1. The height, lot coverage, and setback requirements applicable to the lot on which the accessory dwelling unit is located apply to the accessory dwelling unit, except for the following:

- a. No setback is required for an existing accessory legal structure that is converted to an accessory dwelling unit; and
- b. An accessory dwelling unit constructed within newly added space above an existing accessory legal structure shall have a minimum rear-yard setback of five feet; and a minimum side-yard setback required by the zoning designation for the primary dwelling unit or five feet, whichever is less. The minimum setbacks stated above only apply to the newly added space above the accessory structure, and not to the existing accessory structure.

2. There are no minimum off-street parking requirements for accessory dwelling units. If off-street parking space is voluntarily provided for the accessory dwelling unit, it may be uncovered, covered, or enclosed, but must be on a paved surface and accessible from a paved driveway.

D. Design Standards.

1. An attached and detached accessory dwelling unit shall be architecturally compatible with the main dwelling unit;

2. No portion of an accessory dwelling unit balcony, deck, or open stair landing that faces the rear lot line or the side lot nearest to the accessory dwelling unit shall be higher than three feet from the ground;

3. For accessory dwelling units that do not meet the zoning designation's setback for the main dwelling unit, no portion of any window that faces the lot line where the setback requirement for the main dwelling unit is not met may extend above 10 feet from the ground;

4. An accessory dwelling unit located within the Magnolia historic overlay district or accessory to a landmark shall not require a certificate of appropriateness, as identified in Chapter Section 16.28.060 (Magnolia historic overlay district) and Chapter Section 16.220.070 (Landmarks), and instead shall be subject to design review in compliance with Chapter 16.120 (Design Review);

5. An accessory dwelling unit located within a design review overlay district shall be subject to Design Review in compliance with Chapter 16.120 (Design Review), except if the front, side and/or rear is not visible from a public right-of-way or internal circulation route; and
6. An accessory dwelling located within the Channel area overlay district shall not require a Use Permit, as identified in Chapter Section 16.28.040 (Channel area overlay district), and instead shall be subject to design review in compliance with Chapter 16.120 (Design Review).

E. Conversion of existing structures. The requirements in subsection A through D, above, do not apply to an accessory dwelling unit that (1) is entirely contained within an existing single-family dwelling unit or existing legally-constructed accessory structure, (2) is not located within the Magnolia historic overlay district or, if located within the Magnolia historic overlay district, does not involve modifications to the exterior of the existing structure, (3) does not involve a landmark or, if involving a landmark, does not involve modifications to the exterior of the landmark or, (4) has exterior access independent from the existing main dwelling unit, and (5) the side and rear setback are sufficient for fire safety.

F. Parking. The accessory dwelling unit shall not be subject to minimum parking requirements. Further, when an existing garage, carport or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, there is no minimum requirement for replacement of off-street parking for the main dwelling unit.

G. Rental of Unit. An accessory dwelling unit may be rented, although rental is not required. The accessory dwelling unit shall not be sold separately from the main dwelling unit. (Ord. 001-08 C.S. § 23; Ord. 023-07 C.S. §§ 94, 95, prior code § 16-365.290)

SECTION III: AMENDMENT OF CODE

Title 16, Chapter 16.240, Section 16.240.020 "Definitions of Specialized Terms and Phrases" is hereby amended by adding the definition of Accessory Dwelling Unit to read as follows:

- A -

Academic Schools. See "Educational facilities."

Access. The physical arrangement for ingress to and egress from a parcel or structure (e.g., driveway, walkway, stairs, etc.).

Accessory Dwelling Units. An attached or a detached residential dwelling unit 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 a single-family dwelling unit is situated; further accessory dwelling units are as defined in California Government Code section 65852.2.

Accessory Living Quarters. See "Guest house."

Accessory Residential Uses and Structures. Any use and/or structure that is customarily a part of, and clearly incidental and secondary to, a residence and does not change the character of the residential use. These uses include the following detached accessory structures, and other similar structures normally associated with a residential use of property:

garages	spas and hot tubs
gazebos	storage sheds
greenhouses	studios
parking lots (except parking for single-family dwellings, duplexes and triplexes)	swimming pools
	tennis and other on-site sport courts
	workshops

Also includes the indoor storage of automobiles (including their incidental restoration and repair), personal recreational vehicles and other personal property, accessory to a residential use. Does not include home satellite dish and other receiving antennas for earth-based TV and radio broadcasts; see "Communications facilities."

SECTION IV: AMENDMENT OF CODE

The following definitions for Secondary Dwelling Units within the "Definitions of Specialized Terms and Phrases" in Title 16, Chapter 240, Section 16.240.020 of the Stockton Municipal Code are deleted:

Secondary Residential Units. A second permanent dwelling that is accessory to a primary dwelling on the same site. A secondary residential unit provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, sanitation, and parking.

SECTION V. SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given without the invalid provision or application, and to this end the provisions of this act are severable.

//

//

SECTION VI. EFFECTIVE DATE.

This Ordinance shall take effect and be in full force thirty (30) days after its passage.

ADOPTED: _____

EFFECTIVE: _____

MICHAEL TUBBS
Mayor of the City of Stockton

ATTEST:

BRET HUNTER, CMC
City Clerk of the City of Stockton