

## ORDINANCE 2017-002

### ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AMENDING CHAPTERS 17.32, 17.42, 17.54, 17.60, 17.68 AND 17.70 OF THE SAN PABLO MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS TO COMPLY WITH STATE LAW AND TO ADDRESS THE NEEDS OF SAN PABLO

The City Council of the City of San Pablo does ordain as follows:

**Section 1.** The City Council makes the following findings, pursuant to Section 17.22.040 of the San Pablo Municipal Code:

- A. This ordinance was initiated by City of San Pablo staff in response to changes in state law and recommended by the City Council of the City of San Pablo following a duly noticed public hearing on May 15, 2017.
- B. A duly noticed public hearing was held by the City Council on June 5, 2017 to consider this amendment to the Zoning Ordinance of the City of San Pablo codified as Title 17 of the San Pablo Municipal Code.
- C. As further described in the City Council staff report accompanying this Ordinance, the Ordinance is consistent with the City of San Pablo General Plan, including the Housing Element, and meets the intent of the following policies in that accessory dwelling units (“ADU”) provide a housing type that serves the economic needs of the community:

**General Plan LU-G-5:** *Promote a variety of housing types and prices within neighborhoods to serve the economic needs of all segments of the community.*

**Housing Goal H-3 Affordability and the Adequate Provision of Housing:** *Provide a diversity of housing types to meet the needs of all economic segments and family types in San Pablo.*

**Policy H-3.3 Housing Variety, Choice and Innovation.** *Continue to encourage the provision of a variety of housing choices and types in the community, including innovative forms of housing.*

**Program H-3.3.1 Promote Second Units.** *Continue to promote the development of second units as an affordable housing alternative in single-family areas, with reduced setback requirements. To promote the development of secondary dwelling units, the City will provide information in annual e-mailings to residents.*

- D. As further described in the City Council staff report accompanying this Ordinance, this Ordinance is consistent with the purposes of the Zoning Ordinance:

*Pursuant to Zoning Ordinance Section 17.01.020, "Purpose," the ordinance promotes growth of the city in an orderly manner and promotes and protects the public health, safety, peace, comfort, and general welfare. In addition, pursuant to Zoning Ordinance Section 17.32.010, "Purpose," the ordinance helps to produce healthy, safe, and attractive neighborhoods in San Pablo. The ordinance addresses neighborhood compatibility and provides standards to address concerns about neighborhood parking clutter and safety.*

*This is done in part by finding that the requirements for a minimum parcel size for the construction of a new ADU is 5,000 square feet with at least 50 feet of frontage along a public street, a maximum of two bedrooms, a maximum height limit, and parking requirements if the ADU is not within a ½ mile radius of bus stops on frequent service routes will address already existing issues of parking shortage and neighborhood clutter that occurs with the lack of off-street parking. In addition, requiring a conditional use permit for an ADU larger than 700 square feet and up to 1200 square feet will allow consideration of setback, lot coverage, height, parking and neighborhood clutter and congestion issues and the general health, safety, peace, morals, comfort and general welfare of those in the community, pursuant to Section 17.20.040.*

E. The Ordinance is consistent with Government Code section 65852.2:

*The proposed ordinance ministerially permits the conversion of existing living area, and provides standards for new construction and parking for ADUs consistent with State Law. ADUs less than 700 square feet that meet the standards set forth in the Ordinance will not require a conditional use permit. Only if the ADU is larger than 700 square feet will a conditional use permit be required in order to allow consideration of neighborhood compatibility, parking, and public health, safety, peace, comfort, and general welfare of the community.*

F. Pursuant to the California Environmental Quality Act, the proposed ordinance is categorically exempt based on Section 15305 Minor Alterations in Land Use Limitations and the City Manager is directed to ensure that a Notice of Exemption is filed with the County Clerk.

*The proposed ordinance consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density, in that the provisions in that the ordinance does not change the underlying land use and density standards in residential zones. There is no potential for causing a significant effect on the environment.*

**Section 2.** Table 17.32-A, "Residential Districts: Use Regulations," of the San Pablo Municipal Code is amended to include the following:

**Table 17.32-A – Residential Districts: Use Regulations**

Land Use/Zoning District	R-1	R-2	R-3	R-4	RMU	Special Provisions
Accessory Dwelling Units	R(1)	R(1)	R(1)	R(1)	R (1)	Section 17.60.070

(1) Only permitted in conjunction with single family dwellings

*[all other provisions of Table 17.32-A remain the same]*

**Section 3.** Table 17.32-B, “Residential Districts: Development Standards,” of the San Pablo Municipal Code is amended to include the following:

**Table 17.32-B—Residential Districts: Development Standards**

Land Use/Zoning District	R-1 (and Substandard Parcels in R-2, R-3, and R-4 Districts) <sup>1</sup>	R-2	R-3	R-4	RMU
Accessory Dwelling Units and Accessory Structures					
Accessory Dwelling Units					
Per Parcel, max	1	1	1	1	1
Size, max	See Section 17.60.070				

1. Parcels not meeting the minimum parcel area or parcel frontage requirements are subject to the provisions of Section 17.08.050, Nonconforming parking.

*[all other provisions of Table 17.32-B remain the same]*

**Section 4.** Subsection (D) of Section 17.42.020, “Applicability,” of the San Pablo Municipal Code is amended in its entirety to read as follows:

For the purposes of this chapter, accessory dwelling units are not considered accessory structures and are separately defined and regulated pursuant to Section 17.60.070, Accessory dwelling units, and this chapter.

*[all other provisions of this section remain the same]*

**Section 5.** Subsection (A) of Section 17.42.040, “Accessory structure development standards,” of the San Pablo Municipal Code is amended in its entirety to read as follows:

Development Standards for All Accessory Structures. Accessory structures containing full indoor cooking facilities (combination of a sink, cooking apparatus, and refrigeration appliance) and a full bath are accessory dwelling units and additionally follow Section 17.60.070. Pool houses that conform to the requirements of this chapter are permitted.

*[all other provisions of this section, including subsections A.1 through A.9, remain the same]*

**Section 6.** Table 17.42-A, “Development Standards for Residential Accessory Structures,” of the San Pablo Municipal Code is amended to include the following:

**Table 17.42-A – Development Standards for Residential Accessory Structures**

Minimum Setback Distance (from Property Line) <sup>1</sup>				Minimum Distance between Structures	Maximum Height	Other
Residential Accessory Structure	Front/Street Side	Interior Side	Rear			
Closed-Roof Structure (including but not limited to sheds, pool houses, detached garages, accessory dwelling unit, gazebos, etc.)	Same as primary structure	3 feet; increase to 5 feet for high-density residential	3 feet rear; 5 feet alley	6 feet	12 feet (one story) <sup>2</sup>	Located on rear half of lot

2. Conditional use permit required for height between twelve feet and sixteen feet. Accessory dwelling units meeting the requirements of Section 17.60.070 are permitted with a **maximum** height of 16 feet to the roof peak, or the height of the existing primary dwelling, whichever is less.

*[all other provisions of Table 17.42-A remain the same]*

**Section 7.** Subsection (E) of Section 17.54.020 is amended in its entirety to read as follows:

E. Dwellings, Single-Family. The following provisions apply to attached and detached single-family dwellings:

1. For single-family dwellings located on a lot with a width of at least fifty feet, two enclosed parking spaces are required. If the spaces are located in the front half of the property, the required spaces must be garage spaces with garage doors. If located on the rear half of the property, the spaces may be either garage spaces or carport spaces. Tandem spaces may be allowed subject to an administrative review.
2. For single-family dwellings located on a lot with a width of less than fifty feet, two enclosed spaces are required. Alternatively, subject to approval by a use permit, one space in a garage located in the front half of the lot and one uncovered space in the driveway may be provided.
3. Each driveway shall lead to a covered parking space.
4. Paved or unpaved driveways not leading to a required parking space are prohibited. In no case shall driveways or paved areas exceed 50 percent of the front and side street yards.
5. Only one driveway per parcel shall be allowed, except that a second driveway may be allowed on a corner lot to serve a secondary unit, subject to approval by the zoning administrator.
6. Carports. Only permanent structures are allowed. Carports are allowed on the rear half of lot and must meet setbacks.

*[all other provisions of this section remain the same except as provided below]*

**Section 8.** Subsection (I) of Section 17.54.020 is amended in its entirety to read as follows:

I. Accessory Dwelling Units. The following parking spaces are required for accessory dwelling units:

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1. Newly Constructed or Expanded Structures.
    - a. In addition to the parking spaces required for the primary residence, at least one off-street parking space shall be provided for each accessory dwelling unit, which may be provided as tandem parking in an existing driveway.
    - b. If a garage, carport, or covered parking structure is converted or demolished in conjunction with the construction of an accessory dwelling

unit, those off-street parking spaces shall be replaced. The replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, covered spaces, uncovered spaces, or tandem spaces. Replacement parking may only occur on driveways leading to a required parking space. In no case shall driveways or paved areas exceed 50 percent of the front and side street yards

c. Additional parking is not required in the following instances:

- i. Is within a half mile from public transit. Public transit includes bus stops that provide service at 15 minute intervals during peak hours operated by the Alameda-Contra Costa Transit District, and any light rail or train stations.
- ii. Is within an architecturally and historically significant historic district as adopted by the City.
- iii. Is in an area where on-street parking permits are required, but not offered to the occupant of the ADU.
- iv. Is located within one block of a car share area.

d. Conversions of Existing Space

The applicant shall not be required to provide an off-street parking space for the accessory dwelling unit. However, the applicant shall be required to replace any parking spaces lost as a result of the conversion of the existing space to an accessory dwelling unit. The replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, covered spaces, uncovered spaces, or tandem spaces. Replacement parking may only occur on driveways leading to a required parking space. In no case shall driveways or paved areas exceed 50 percent of the front and side street yards.

*[all other provisions of this section remain the same except as provided above]*

**Section 9.** Section 17.60.070, is renamed and amended in its entirety to read as follows:

17.60.070 Accessory Dwelling Units

- A. Purpose. The purpose of this section is to allow for accessory dwelling units to be established by right according to State Law through administrative approval. Facilitating the development of accessory dwelling units will increase the housing options for family members, seniors, low-wage workers, persons with disabilities, students and others in the community. An accessory dwelling unit that conforms to all applicable requirements shall not be considered in the calculation of allowable density for the lot upon which it is located, and is deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot.

B. Requirements Applicable to All Accessory Dwelling Units:

1. Principal Use. An accessory dwelling unit shall only be allowed when the principal use on the parcel is dwellings, single-family. Accessory dwelling units are not permitted in conjunction with duplex or multi-family units.
2. Number of Units per Parcel. Only one accessory dwelling unit shall be allowed on any one parcel.
3. Exterior Materials: Exterior materials, colors and appearance of accessory dwelling units shall match the primary dwelling on the same lot.
4. Entrances: Entrances shall be incidental to the primary dwelling and minimally visible from the front of the primary dwelling. No passageway to the primary dwelling shall be required with the construction of the accessory dwelling unit.
5. Facilities. The accessory dwelling unit shall contain kitchen and bathroom facilities separate from those of the primary dwelling and have a separate entrance.
6. Percentage of Total Dwelling Size: No accessory dwelling unit, either attached or detached shall exceed 50 percent of size of the living area of the primary dwelling.
7. Code Compliance. The accessory dwelling unit shall be constructed in accordance with provisions of the latest edition of Title [15](#) and other codes adopted by the City of San Pablo.
8. Rental Occupancy. One dwelling unit on the parcel, either the accessory dwelling unit or the primary dwelling, must be occupied by a property owner of the subject parcel. The Development Services Director shall require recordation of a deed restriction to the effect that the property shall be owner occupied prior to issuance of the building permit.
9. Certificate of Compliance. The property owner shall provide an annual certificate of compliance pursuant to Chapter 15.52 stating that an owner is occupying the main or secondary accessory dwelling unit.
10. Existing Units. Existing accessory dwelling units that have not been approved by the city are required to obtain approval in order to be considered a lawful use. Existing unapproved accessory dwelling units are not considered a legal nonconforming use.
11. Accessory dwelling units shall not be required to provide fire sprinklers unless required for the primary residence.

C. Requirements Applicable to Newly Constructed or Expanded Structures.

1. Parcel Size and Maximum Unit Size. The minimum parcel size for construction of a new accessory dwelling unit or an expansion of an existing primary dwelling is 5,000 square feet. The required minimum parcel width is 50 feet. Accessory dwelling units shall not be allowed on parcels under 5,000 square feet. The maximum unit size for an accessory dwelling unit is 700 square feet. Accessory dwelling units in excess of 700 square feet may be approved by a conditional use permit, but may not exceed 1200 square feet.
2. Lot Coverage: The maximum lot coverage for the primary dwelling and accessory dwelling unit shall be no more than 45 percent, including all structures on the property.
3. Number of bedrooms: The maximum number of bedrooms is two.
4. Setbacks and Height:
  - a. Attached units: An accessory dwelling unit that shares a common wall with the single-family residence shall conform to the development standards for the single-family residence, including but not limited to standards for front, rear, and side yard setbacks, and height.
  - b. Detached Units: A detached accessory dwelling unit shall conform to the zoning ordinance requirements applicable to accessory buildings as set forth in Chapter 17.42, Accessory Structures, except that an accessory dwelling unit may have a height up to 16 feet if accessory structure setbacks are met. Maximum height is 16 feet to the roof peak or the height of the existing primary dwelling, whichever is less.
5. Utilities: *The City shall not require* the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility, unless the utility connection is required by the utility provider. The applicant may voluntarily install a new or separate utility connection. Any utility charges or fees must be consistent with California Government Code section 65852.2.
6. Distance Between Primary Building and Detached Accessory Dwelling Units: Six feet required.
7. Location: No detached unit may be placed in front of the primary dwelling.
8. Parking: See Section 17.54.020.
9. Design Review: Compliance with the Residential Design Guidelines is required per Section 17.18.090 Minor design review.

#### D. Requirements Applicable to Conversions of Existing Space

1. Approval: An application for a building permit to create one accessory dwelling unit per single-family lot shall be approved subject to Section 17.18.020, "Plan

check/zoning clearance,” provided the unit is contained within the existing space of a legally permitted accessory structure or single-family dwelling. Design review shall not be required for minimal exterior changes that do not expand the existing structure.

2. Setbacks: The side and rear setbacks must be sufficient for fire safety. Conversion of detached structures that do meet standards for side and rear setbacks and distance between buildings may be denied if a finding is made that the setbacks are insufficient for fire safety.
3. Access: The unit shall have an independent exterior access from the existing residence. No passageway between the existing residence and the accessory dwelling unit shall be required.
4. Size: No conversions from existing space shall exceed 1,200 square feet in size and shall not exceed 50 percent of the living area pursuant to Section 17.60.070 B. 6.
5. Parking: See Section 17.54.020.
6. Utilities: The City shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility, unless the utility connection is required by the utility provider. The applicant may voluntarily install a new or separate utility connection. Any utility charges or fees must be consistent with California Government Code section 65852.2.
7. Conversions of Existing Space. No setback is required for an existing structure that is converted to an accessory dwelling unit. For conversion of existing space above a garage, a minimum five-foot rear and side yard setback shall be required.

**Section 10.** Section 17.68.020, “Universal Definitions,” is amended to include the following definitions and to replace any existing definitions with the same term:

**Building.** Any structure built for the support, shelter, or enclosure of persons, animals, fowl, chattels, or personal property of any kind.

**Existing Structure.** For the purposes of defining an allowable space that can be converted to an Accessory Dwelling Unit existing structure means within the four walls and roofline of any structure existing on or after January 1, 2017 that can be made safely habitable under local building codes at the determination of the building official regardless of any non-compliance with zoning standards.

**Living area.** Living area means the interior habitable area of a dwelling unit as defined by the Uniform Building Code, including basements and attics but does not include a garage or any accessory structure.

Lot Coverage. The area of a lot covered by buildings excluding eaves, projecting balconies, ground-level paving, landscaping, and open recreational facilities.

Structure. Anything constructed or built. An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Structure, Accessory. A subordinate building which is incidental and not attached to the primary building or use on the same lot. If an accessory building is attached to the primary building or if the roof is a continuation of the primary building roof, the accessory building shall be considered an addition to the primary building. Includes structures regardless of whether a building permit is required, including, but not limited to, enclosed and unenclosed patios, barns, guesthouses, accessory dwelling units, garages, carports, storage buildings/sheds, trellis, gazebos, decks, and real or artificial rockscapes.

*[all other definitions remain the same]*

**Section 11.** Subsection (Q) of Section 17.70.010, “Residential Use Classifications,” is amended in its entirety to read as follows:

Q. Dwelling, Accessory. Accessory dwelling unit means 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 the single-family dwelling is situated. An accessory dwelling unit includes an efficiency unit as defined in California Health and Safety Code Section 17958.1 and a manufactured home as defined in California Health and Safety Code Section 18007.

*[all other provisions of this section remain the same]*

**Section 12. Severability.** If any sections, subsections, sentences, clauses, phrases or portions of this ordinance are for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause of this ordinance whether or not any one or more sections, subsections, phrases or clauses may be declared invalid or unconstitutional on their face or as applied.

**Section 13. Effective Date; Publication.** This ordinance shall become effective thirty (30) days following its adoption. The City Clerk’s Office shall publish and post the ordinance in accordance with California Government Code section 36933.

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First read at a regular meeting of the City Council of the City of San Pablo on May 15, 2017 and finally passed and adopted at a regular meeting of said City Council held on June 5, 2017 by the following vote:

AYES:	COUNCILMEMBERS:	Kinney, Morris, Calloway and Valdez
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	Cruz
ABSTAIN:	COUNCILMEMBERS:	None

ATTEST: APPROVED:

/s/ Ted J. Denney  
Ted J. Denney, City Clerk

/s/ Cecilia Valdez  
Cecilia Valdez, Mayor