



TOWN OF HILLSBOROUGH

San Mateo County
1600 Floribunda Avenue
Hillsborough, CA 94010

8

**PUBLIC HEARING
CITY COUNCIL MEETING
DECEMBER 12, 2016**

AGENDA STAFF REPORT

ITEM SUBJECT: ORDINANCE AMENDING HILLSBOROUGH MUNICIPAL CODE TITLE 17 REGARDING SECOND UNITS - ADOPTION

SUMMARY: On November 14, 2016, the City Council introduced an ordinance revising Hillsborough Municipal Code Title 17 allowing greater flexibility for the creation of second dwelling units (referred to under the new legislation as “accessory dwelling units” or “ADUs”) as required by recently enacted State law. The ordinance reflects the following key components:

1. ADUs within existing legally created structures (including accessory structures and residences) shall be ministerially approved, and are not subject to size limitations other than regular zoning standards.
2. ADUs within existing legally created structures (including accessory structures and residences) are not required to provide fire sprinklers if they are not also required for the primary residence nor be required to install new or separate utility connections.
3. A maximum of one parking space per unit or per bedroom may be required, and required parking may be tandem unless specific findings are made related to unique circumstances.
4. No additional parking may be required if the ADU is located within one-half mile of a public transit stop or car share vehicle pickup location, or within part of an existing legal structure.
5. ADUs may not be used for rentals of terms of 30 days or less.
6. ADUs shall not be considered new residential uses for the purpose of calculating connection fees or capacity charges. However, for ADUs that are not contained in existing structures, a local agency may require new or separate utility connections.

Failure to enact regulations reflective of the new State law by January 1, 2017, will result in the Town defaulting to State law.

FISCAL IMPACT: There is no fiscal impact associated with adoption of the proposed ordinance.

ENVIRONMENTAL ISSUES: Adoption of the proposed ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17.

ATTACHMENTS: Ordinance

PREPARED BY: Elizabeth Cullinan, Director of Building and Planning

RECOMMENDATION:

1. Open the public hearing and receive comments;
2. Close the public hearing; and
3. Waive the second reading and adopt the ordinance titled "Ordinance of the City Council of the Town of Hillsborough Amending Title 17 of the Hillsborough Municipal Code Regarding Second Units".

ORDINANCE NO. ____

**ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF HILLSBOROUGH
AMENDING TITLE 17 OF THE HILLSBOROUGH MUNICIPAL CODE
REGARDING SECOND UNITS**

THE CITY COUNCIL OF THE TOWN OF HILLSBOROUGH HEREBY FINDS AND ORDAINS:

Section 1. Legislative Findings.

1. On September 27, 2016, AB 2299 and SB 1069 were enacted, amending Government Code Section 65852.2 to require changes in local zoning regarding the creation of second dwelling units (referred to under the new legislation as “accessory dwelling units” or “ADUs”) in an effort to streamline housing production due to the existing affordable housing crisis.
2. Under the adopted legislation, local zoning codes are required to be amended to conform to Government Code Section 65852.2 as revised. The Town’s existing regulations will be superseded by State Law as of January 1, 2017 in the event that Town does not amend the zoning to meet the requirements of the legislation.
3. Ensuring that the character of the Town is preserved through local legislation consistent with Section 65852.2 as revised will ensure that the Town’s second unit ordinance will be consistent with the Housing Element of the General Plan and will continue to promote the health, safety and welfare of the community.
4. Section 65852.2(g) states that the Town may adopt less restrictive requirements for creation of second units than specified in Section 65852.2. Program 3C-5 of the Town’s Housing Element states that the Town will allow second units as large as 1,400 square feet to better accommodate families with children, consistent with fair housing laws and with the intent of state law to provide more housing for a variety of income levels and household types. Restricting the size of the units would have a negative impact on families with children and could potentially violate federal fair housing laws. Therefore, the Town has elected to adopt a provision less restrictive than prescribed by Section 65852.2 by permitting second units larger than required by that section.

Section 2. Section 2.12.070.A.2.c.ix is hereby amended in its entirety to read as follows:

- ix. Second units. Second units, however, are not subject to public notice requirements and must be acted upon ministerially as required by Government Code Section 65852.2.

Section 3. Section 17.36.035 is hereby amended in its entirety to read as follows:

17.36.035 Parking spaces for second units.

- A. Parking spaces for second units shall be governed by this section and not by the other sections of this chapter except that Subsection E of Section 17.36.010, Subsection D of

Section 17.36.030, and the second sentence of Section 17.36.020 shall apply to second units.

- B. The required minimum parking for second units is as follows:
 - (i) Unit with one or two bedrooms: one unenclosed parking space; and
 - (ii) Unit with three or more bedrooms: two unenclosed parking spaces; and
 - (iii) Parking for second units may be provided as tandem parking on an existing driveway.

- C. Notwithstanding Subsection B of this section, no additional parking shall be required for second units located within one-half mile of a public transit stop or car share vehicle pickup location, second units located entirely within an existing primary residence or an existing accessory structure, or second units otherwise exempt under Government Code Section 65852.2(d) or successor provision. If a second unit replaces an existing garage, carport, or covered parking structure, replacement spaces must be provided to meet the requirements of Chapter 17.36 but may be provided as covered spaces, uncovered spaces, tandem spaces, or mechanical parking lifts.

Section 4. Section 17.52.010 is hereby amended in its entirety to read as follows:

17.52.010 Definitions.

The term "second unit" means a residential dwelling unit that provides complete independent living facilities for one or more persons and is located on the same lot as the single-family dwelling ("primary dwelling"). The term "second unit" includes accessory dwelling units as defined by Government Code Section 65852.2 or successor provision. The second unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation.

The term "attached second unit" means a second unit that is structurally attached to the primary dwelling but which has independent, direct access from the exterior.

The term "detached second unit" means a second unit that is not structurally attached to the primary dwelling.

Section 5. Sections 17.52.020(B) through 17.52.020(H) are hereby amended in their entirety to read as follows:

17.52.020 General provisions.

- B. This section allows a second unit to be (1) created within an existing dwelling; (2) created by converting an existing detached accessory structure (such as a freestanding cabana or pool house); (3) developed as a new detached accessory structure to an existing dwelling; (4) developed as part of an addition to an existing single-family home; or (5) developed in conjunction with construction of a dwelling, either as a detached or attached second unit.

- C. The creation of a second unit shall be approved if all of the following requirements are met:

1. The property owner has submitted to the town written acknowledgement that (i) the second unit may not be sold separately from the primary dwelling and (ii) either the second unit or the primary dwelling may be rented, but not both at the same time unless both are rented to the same party. This section shall apply retroactively to any acknowledgement submitted to the town, prior to the effective date hereof, in compliance with this section at the time of such submittal.
 2. The lot is zoned for single-family dwellings.
 3. The lot contains an existing single-family dwelling, or the second unit is part of the application for a building permit for the primary dwelling.
 4. For second units which are developed as a new detached accessory structure, developed as part of an addition to an existing single family home or an existing accessory structure, or developed in conjunction with construction of a primary dwelling, the following provisions apply:
 - a. The increased floor area of an attached second unit shall not exceed the lesser of fifty percent of the floor area of the primary dwelling excluding garages or one thousand four hundred square feet.
 - b. If a second unit is added to an existing detached accessory structure, the total floor area of the second unit portion of the accessory structure shall not exceed the lesser of one thousand four hundred square feet or fifty percent of the floor area of the primary dwelling excluding garages, and the total floor area of the other (i.e., non-second unit) portion of the accessory structure may be as much as one thousand square feet; provided, however, that in all events the entire accessory structure (both the second unit and the non-second unit portions) shall comply with the floor area ratio and lot coverage provisions set forth in Chapter 17.32.
 - c. The total floor area of a detached second unit shall not exceed one thousand four hundred square feet.
 5. Second units which are created entirely within an existing legally created dwelling or existing accessory structure shall have independent exterior access from the primary dwelling unit and shall maintain side and rear setbacks sufficient for fire safety.
 6. Except as otherwise provided by this chapter, second units shall meet all the requirements of titles 15 and 17 applicable to dwellings, including, but not limited to, requirements relating to height, setback, lot coverage, FAR, and architectural review.
- D. A second unit conforming to the requirements of this chapter shall not be considered to exceed the allowable density for the lot upon which the unit is located and shall be deemed to be a residential use consistent with the existing general plan and zoning designations for the lot.

- E. A second unit, whether attached or detached, may have its own (separate) utility connections and meters or may be supplied from the utility connections and meters of the primary dwelling.
- F. The renting of either the primary dwelling or the second unit shall not be considered a business and shall not be subject to the provisions of Chapter 5.04.
- G. Second units shall not be used for rentals with terms of 30 days or less.
- H. A notice (prepared by the town) shall be recorded by the property owner to notify future owners of the requirements set forth in subsections C.1 and G of this section.

Section 6. The City Council finds and declares that the foregoing amendments to the Town’s Municipal Code are statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 (adoption of an ordinance by a city to implement the provisions of Section 65852.1 or Section 65852.2 of the Government Code).

Section 7. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be unconstitutional or otherwise invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the Town of Hillsborough hereby declares that it would have adopted the remainder of this ordinance, including each section, subsection, sentence, clause, phrase, or portion irrespective of the invalidity of any other article, section, subsection, sentence, clause, phrase, or portion.

Section 8. This ordinance shall be printed and posted upon the three official bulletin boards of the Town of Hillsborough and shall be effective thirty days after adoption by the City Council.

Mayor of the Town of Hillsborough

Attest: City Clerk

ORDINANCE NO. ____ of the Town of Hillsborough introduced on _____, and adopted on _____, by the following vote of the City Council:

AYES: Councilmembers _____

NOES: Councilmembers _____

ABSENT: Councilmembers _____

ABSTAIN: Councilmembers _____