



567 El Camino Real
San Bruno, CA 94066
Voice: (650) 616-7074
Fax: (650) 873-6749
www.sanbruno.ca.gov

STAFF

David Woltering, AICP, *Community Development Director*
Mark Sullivan, AICP, *Long Range Planning Manager*
Michael Smith, *Senior Planner*
Matt Neuebaumer, *Associate Planner*
Megan Wooley-Ousdahl, AICP, *Associate Planner*
Matt Jones, *Contract Assistant Planner*
Marc Zafferano, *City Attorney*

PLANNING COMMISSION

Rick Biasotti, *Chair*
Marie Kayal, *Vice Chair*
Kevin Chase
Mary Lou Johnson
Sujendra Mishra
Perry Petersen
Joe Sammut

**PLANNING COMMISSION
STAFF REPORT
AGENDA ITEM NO. 5.C
DECEMBER 20, 2016**

REQUEST

Hold Public Hearing, receive report, take public testimony, and provide feedback to staff on proposed zoning code amendments to implement California Government Code Section 65852.2 related to accessory dwelling units and adopt new regulations governing junior accessory dwelling units pursuant to California Government Code Section 65852.22, and make a recommendation to the City Council regarding adoption of the proposed amendments.

RECOMMENDATION

Staff recommends that the Planning Commission approve the attached Resolution recommending that the City Council adopt the proposed ordinance amending Title 12 of the Municipal Code, 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 adding new Chapter 12.90 (Accessory Dwelling Units and Junior Accessory Dwelling Units), and adopt resolution recommending that the City Council adopt the proposed amendments (Exhibit 1).

REVIEWING AGENCIES

Community Development Department, City Attorney

LEGAL NOTICE

1. Agenda Notice posted on December 10, 2016

ENVIRONMENTAL REVIEW

The proposed 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 CEQA Guidelines sections 15168 and 15162. Policies related to the continued implementation and facilitation of accessory dwelling units were included in the 2009 General Plan, and 2015 Housing Element and requisite environmental review was conducted in the adoption of those plans.

BACKGROUND

In 2003, the City of San Bruno adopted amendments to the second unit ordinance establishing a ministerial process for approval of second units and allowing them as a permitted use in all residential zones to comply with state law. The state legislature adopted AB 1866 in 2002, which was intended to simplify the approval process and thereby increase the number of secondary units. AB

1866 prohibited cities from requiring conditional use permits or variances for secondary units provided that the secondary units meet development standards (such as height, parking, setbacks, and unit size) as may be established by the local jurisdiction.

On September 27, 2016, the Governor Brown signed into law three bills to address the current housing crisis and increase affordable housing opportunity and availability through the development of accessory dwellings - AB 2299, SB 1069 and SB 2406, which modify Government Code Section 65852.2 (Accessory Dwelling Units) and 6585.22 (Junior Accessory Dwelling Units). These laws streamline the approval process for affordable dwellings by allowing more flexibility and relaxing current regulations for Accessory Dwelling Units and Junior Accessory Dwelling Units. To review the state law related to ADU and JADU, see Exhibit 3.

The changes to Government Code Section 65852.2 require jurisdictions to update their Municipal Code requirements for accessory dwelling units prior to January 1, 2017. If a jurisdiction has not adopted the updates by that date, State law will apply where the City code is inconsistent with the new law.

While Government Code Section 65852.22 does not require jurisdictions to adopt ordinances allowing junior accessory dwelling units, if a jurisdiction does adopt a JADU ordinance, it must comply with the state law. Local jurisdictions have had little time to adopt the new rules, however, if the Planning Commission recommends approval of the amendments, the City Council will consider adoption of the ordinance in January 2017.

The proposed amendments further the implementation of the General Plan, Zoning Ordinance, and 2015-2023 Housing Element while maintaining compliance with state legislation regarding accessory dwelling units. The City's Housing Element encourage a mix of housing types, densities, affordability levels and designs including the development of Accessory Dwelling Units (ADUs). Specific policies and implementation programs of the 2015-2023 Housing Element include:

- Goal 2. Accommodate regional housing needs through a community-wide variety of residential uses by size, type, tenure, affordability, and location.
- Program 1-C. Conserve and facilitate legalization of second units in residential zones. Continue to legalize excess housekeeping units in R-1 and R-2 zones that were constructed prior to June 30, 1977 and met the California Building Code at the time of construction.
- 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.
- 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.
- 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.
- 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.
- 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.

DISCUSSION

Existing Second Unit Ordinance

The City of San Bruno created a second unit ordinance (see Exhibit 2) to comply with amendments made in 2002 to California Code Section 65852.2 which provides for local jurisdictions to set standards for the development of second dwelling units to increase the supply of smaller and affordable housing while ensuring that they remain compatible with the existing neighborhood.

Currently, Municipal Code Section 12.92.031, Second dwelling units, defines a second unit as a dwelling unit, attached or detached from the primary dwelling unit, and having sleeping, cooking and sanitation facilities separate from the primary unit. The current second unit provisions set the following requirements (amongst others):

- Size limit- 640 square feet and 150 square feet minimum
- On-site parking- the second dwelling unit shall provide one more off-street parking space than required for a single-family dwelling
- Utilities - including sewer and water hook-ups
- A second dwelling unit is any residential dwelling unit that provides complete independent living facilities on the same parcel as a legal single family residence and including, but not limited to, the permanent provisions for living, sleeping, eating, cooking and sanitation.
- A second dwelling unit is a small but separate, complete housekeeping unit with kitchen, sleeping, and full bathroom facilities, which is part of, an extension to, or on the same lot as a detached single-family dwelling.
- A second dwelling unit also includes efficiency units and manufactured homes. A second dwelling unit may be considered a residential use that is consistent with the existing general plan and zoning designation for the lot.

The proposed amendments modify four chapters of Title 12. The most substantive amendments occur in Section 12.92.031 (Second Dwelling Units) and the addition of Chapter 12.260 (Accessory Dwelling Units and Junior Accessory Dwelling Units), while amendments to Chapter 12.80 (Definitions), 12.96 (Establishment and Description of Districts) and 12.100 (Off-Street Parking and Loading) are necessary only to ensure consistency throughout the code. The amendments would move Accessory Dwelling Units out of Chapter 12.92 (Nonconforming Lots, Structures and Uses) into a new Chapter 12.90 (Accessory Dwelling Units). Some amendments are required pursuant to recently adopted State law, such as the incorporation of new parking standards, while others are not necessarily prescribed. A complete list of the proposed changes is included in Exhibit 3, with deletion crossed out and additions underlined. Staff has highlighted proposed changes below.

Accessory Dwelling Units (ADU)

Required Changes

- "Second Units" are now referred to only as "Accessory Dwelling Units."

Parking

- When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those off-street parking spaces 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, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.
- Parking is not required for an accessory dwelling unit in any of the following instances:
 - The ADU is located within one-half mile of public transit. (See Exhibit 4)
 - The ADU is located within an architecturally and historically significant historic district.
 - The ADU 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 ADU.
 - When there is a car share vehicle located within one block of the ADU.

Rental and Sale

- The accessory dwelling unit is not intended for sale separate from the primary residence and may be rented

Chapter 12.80 Definitions

- Definitions updated to reflect changes to 12.92.031

Chapter 12.100 Parking

- Updated to maintain consistency with updates to 12.92.031

Other Changes

Permitted Zones

- Add ADU as permitted use in all residential zones, 12.96.060 R-1, 12.96.070 R-2, 12.96.080 R-3, and 12.96.090 R-4 districts. to

Size of Unit

- Maximum size of ADU created by internal conversion changed to not more than 1,200 square feet.
- Maximum size of new ADU, as an addition or an accessory building, changed from 640 to 1,200 square feet.

Rental

- The unit may not be rented for less than 30 days

Appeals

- Now an "administrative review" process that maintains ministerial review while providing option for review of the Community Development Director's decision.

Some of the most substantive changes to the State's Code have implications for building, fire and utilities that are not necessarily reflected in the proposed zoning amendments, but will be addressed by the applicable City Departments as appropriate. Some of these changes are summarized below:

- ADU shall not be required to provide fire sprinklers if they are not required for the primary residence.
- ADU shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.
- For ADU created within an existing structure, a local agency shall not require the applicant to install a new or separate utility connection directly between the ADU and the utility or impose a related connection fee or capacity charge.
- For ADU created through the addition of new floor area, a local agency may require a new or separate utility connection directly between the ADU and the utility.
- Accessory dwelling units of any kind are not required to provide fire sprinklers if they are not required for the primary residence.

Junior Accessory Dwelling Units (JADU)

The term "Junior Accessory Dwelling Unit" (JADU) is generally used to identify a specific type of accessory dwelling unit (ADU) that results from the conversion of existing interior space. This is in contrast to a more typical type of ADU, created through the addition of new floor area and is either attached or detached to an existing structure. JADU are further differentiated from traditional ADU by less stringent planning and building requirements.

Staff believes that the proposed ordinance amendments appropriately respond to the direction of the Housing Element while maintaining compliance with State Law. While the state law does not require jurisdictions to adopt ordinances allowing junior accessory dwelling units, if a jurisdiction does adopt a JADU ordinance, it must comply with Government Code Section 65852.22. The new state law includes, but is not limited to the following provisions:

- Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence already built on the lot.
- Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
- Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:
 - A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.
- Maximum unit size of 500 square feet with no minimum unit size. *Nowhere in the Government*

Code does the law establish a minimum unit size, nor does it explicitly suggest that a City may establish a minimum size for JADU.

- Require a permitted junior accessory dwelling unit to be constructed within the existing walls of the structure, and require the inclusion of an existing bedroom.
- Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.
- Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:
 - A sink with a maximum waste line diameter of 1.5 inches.
 - A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.
 - A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
- An ordinance shall not require additional parking as a condition to grant a permit.

Under state law, JADU and ADU are now differentiated in the following ways:

- JADU are limited to 500 square feet of floor area, where the maximum floor area of ADU may be 1,200 square feet.
- JADU must incorporate an existing bedroom and must be within the existing footprint of a structure, whereas ADU may be attached or detached and does not need to utilize an existing bedroom
- JADU do not require fire separation between the JADU and primary dwelling
- JADU may only include an efficiency kitchen, whereas ADU have greater flexibility
- JADU may or may not have a shared bathroom, whereas ADU require an independent bathroom
- Parking may not be required for JADU, whereas ADU may be subject to parking standards (albeit in limited ways and in limited circumstances)

Staff has included the following provisions in addition to the state requirements: Parking

- A permit for a Junior Accessory Dwelling Unit shall not be issued for a site containing an illegal nonconforming parking condition unless the existing illegal parking condition is corrected or a variance or other applicable permit approval is granted to allow the existing illegal parking condition to remain.
- Reconstruction and/or remodeling and/or expansion of existing residential structures to which Chapter 12.100 - Off-Street Parking and Loading applies, shall be required to comply with the applicable parking standards, but an additional off-street parking space shall not be required for a Junior Accessory Dwelling Unit that is part of or created at the same time as the reconstruction and/or remodeling and/or expansion.

Rentals

- The Junior Accessory Dwelling Unit shall not be rented for less than thirty consecutive days.

FINDINGS

Zoning Code Amendment Findings

*Pursuant to the City's Municipal Code, the Planning Commission shall not recommend approval of the amendment unless the Commission makes the following findings. Required findings are in **bold** followed by staff's analysis of how the findings can be made.*

The amendment is in general conformance with the general plan. (SBMC 12.136.030)

The amendment is in conformance with the 2015-2023 Housing Element of the General Plan because it addresses goals, programs and implementation actions related to the expansion of housing opportunities and availability through the development of accessory dwellings. The Housing Element directs the City to accommodate regional housing needs through a community-wide variety of residential uses by size, type, tenure, affordability, and location; to conserve and facilitate legalization of second units in residential zones, and; to review development standards to create more opportunities for new second units that are compatible with the neighborhood. The State of California also explicitly encourages the expansion of housing opportunity and availability through the development of accessory dwellings. Most recently, this has been expressed through the passage of AB 2299 and SB 1069 which amend the state government code relating to accessory dwelling units.

The public necessity, convenience and general welfare require adoption of the proposed amendment. (SBMC 12.136.030)

The purpose of the proposed zoning code amendments is to maintain compliance with State law and also revisit other aspects of the ordinance. Staff believes that the proposed ordinance amendments appropriately respond to the direction of the Housing Element while maintaining compliance with State Law.

RECOMMENDATION

Staff recommends that the Planning Commission approve the attached Resolution recommending that the City Council adopt the proposed amendments to Title 12 of the San Bruno Municipal Code related to accessory dwelling units and junior accessory dwelling units.

EXHIBITS

1. Planning Commission Resolution
- 1-A. Proposed Municipal Code Amendments
2. Existing Section 12.92.031 Second Dwelling Units
3. California Government Code Sections 65852.2 related to Accessory Dwelling Units and Section 65852.22 related to Junior Accessory Dwelling Units
4. Map of Parcels Within 1/2 Mile of Transit

Date of Preparation: December 12, 2016
Prepared by: Mark Sullivan, Long-Range Planning Manager
Reviewed by: David Woltering, Community Development Director

RESOLUTION NO. 2016-11

RESOLUTION OF THE SAN BRUNO PLANNING COMMISSION RECOMMENDING ADOPTION OF AMENDMENTS TO CHAPTER 12 OF THE SAN BRUNO MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

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; and

WHEREAS, the 2009 General Plan and 2015 Housing Element updates included policies and programs to support and create affordable housing, a diverse range of housing types and provisions for a new Junior Second Unit Ordinance through the adoption of amendments to the San Bruno Zoning Ordinance; and

WHEREAS, in 2016, the Legislature passed new laws including AB 2299 and SB 1069 intended to increase the number of accessory dwelling units by simplifying the approval process and reducing costs associated with their creation, creates new standards and regulations modifying the City's ability to regulate Accessory Dwelling Units; and

WHEREAS, in 2016 the Legislature passed a new law, AB 2406, intended to provide for the creation of junior accessory dwelling units and establishing standards for the creation of ordinances regulating such units; and

WHEREAS, the conversion of existing space within single-family homes will not impose any additional impacts on the community, as any impacts associated therewith were previously considered in conjunction with the approval of the residence itself; and

WHEREAS, the proposed Zoning Code amendments comply with the legislative amendments made in 2016, to State Law Section 65852.2 and 65852.22 which establish standards for the development of accessory dwelling units and junior accessory dwelling units so as to increase the supply of smaller and affordable housing while ensuring that they remain compatible with the existing neighborhood; and

WHEREAS, the project qualifies for statutory exemptions under Article 18, Guidelines Section 15061(b)(3), of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, based on the record, the Planning Commission finds that the Zoning Ordinance amendments are consistent with and facilitates the Housing Element and the General Plan; and

WHEREAS, on December 20, 2016, the Planning Commission held a duly noticed public hearing, received the staff report and a reviewed a presentation from the Planning Department, and received comments from the public and interested parties and continued the matter for further consideration to October 25, 2016; and

WHEREAS, on October 25, the Planning Commission held a public hearing, received the staff report and reviewed a presentation from the Planning Department and received comments from the public and interested parties, and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of San Bruno as follows:

1. The Planning Commission has reviewed and considered the staff reports, and proposed amendments to Title 12 of the Municipal Code related to Accessory Dwelling Units and Junior Accessory Dwelling Units

2. The Planning Commission finds that the proposed amendments as shown in Exhibit A, is in the best interest of the City because it furthers established goals, policies and implementation programs of the General Plan to promote housing opportunities, maintain a diverse range of housing options, providing infill housing that is potentially affordable, encouraging the improvement of existing housing stock while preserving quality of life in residential zones. The amendments specifically are consistent with and implement the following General Plan and 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.

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.

3. Based on the fact, analysis and findings contained in this Planning Commission Resolution the amendments will not have a significant effect on the environment.

4. The Planning Commission recommends that the City Council adopt the proposed amendments to Title 12 of the Municipal Code related to Accessory Dwelling Units and Junior Accessory Dwelling Units to effectuate the intent of the Housing Element and G.

5. The Planning Commission directs the Secretary of the City of San Bruno Planning Commission to forward to the City Council a certified copy of this resolution together with an attested copy.

Amendments to Title 12 (Land Use) of the San Bruno Municipal Code Pertaining to Accessory Dwelling Units and Junior Accessory Dwelling Units

Amend 12.92.031. Second Dwelling Units (move to new Chapter 12.90)

1.	12.92.031 NONCONFORMING LOTS, STRUCTURES AND USES – Second Dwelling Units <u>12.90 Accessory Dwelling Units</u>
2.	A. Purpose.
3.	The purpose of this article is to comply with amendments made in 2002-2016 to California Government Code Section 65852.2 which provides for cities to set standards for the development of second dwelling units <u>accessory dwelling units</u> so as to increase the supply of smaller and affordable housing while ensuring that they remain compatible with existing neighborhoods.
4.	B. Definitions.
5.	<p>1. Second dwelling unit <u>Accessory dwelling unit: 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. any residential dwelling unit that provides complete independent living facilities on the same parcel as a legal single family residence and including, but not limited to, the permanent provisions for living, sleeping, eating, cooking and sanitation. A second dwelling unit also includes efficiency units and manufactured homes. A second dwelling unit may be considered a residential use that is consistent with the existing general plan and zoning designation for the lot. Second dwelling units are not “accessory uses” as defined in Section 12.80.015 nor are they “excess housekeeping units” as defined in Section 12.92.030 of the San Bruno zoning ordinance. A second dwelling unit is a small but separate, complete housekeeping unit with kitchen, sleeping, and full bathroom facilities, which is part of, an extension to, or on the same lot as a detached single-family dwelling.</u></p> <p><u>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.</u></p> <p><u>An accessory dwelling unit also includes the following:</u></p>
6.	a. Efficiency unit, <u>as defined in Section 17958.1 of Health and Safety Code: a separate living space for occupancy by no more than two persons, which has with a minimum floor area of one hundred fifty 150 square feet and a maximum of six hundred forty square feet containing partial kitchen and/or bathroom facilities, and intended for occupancy by no more than two persons.</u>
7.	b. Manufactured home, <u>as defined in Section 18007 of Health and Safety Code: 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.</u> Maximum allowable size is six hundred forty <u>750</u> square feet.
8.	c. Junior accessory units means a unit that is <u>no more than 500 square feet in size and contained entirely within an existing single-family structure, including the utilization of an existing bedroom. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure. A junior accessory dwelling unit must include an efficiency kitchen with all of the following: and a food preparation area that is of reasonable size in relation to the size of the unit.</u>
9.	<u>2 Living area: the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.</u>
10.	<u>23</u> . Neighborhood: an area commonly identified as such in planning documents and among individuals who reside and work within close proximity.

11.	<u>4. Passageway: a pathway that is unobstructed clear to the sky and extends from the street to one entrance of the accessory dwelling unit.</u>
12.	C. Location.
13.	1. No more than One second dwelling unit <u>accessory dwelling unit</u> 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.
14.	2. Second dwelling units are not required to meet the density requirements of the general plan. 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.
15.	3. No second dwelling unit <u>accessory dwelling unit</u> may be approved if located on, or adjacent to, real property that is listed in the California Register of Historic Places.
16.	4. No second dwelling unit <u>accessory dwelling unit</u> shall be approved if located on a lot with an excess housekeeping unit.
17.	5. Any second dwelling unit <u>accessory dwelling unit</u> located in the 65 CNEL area must be designed to Aircraft Noise Insulation Program standards.
18.	6. Any second dwelling unit <u>accessory dwelling unit</u> located in an earthquake special studies zone must have a geotechnical survey performed and the unit must be designed according to the appropriate seismic building codes.
19.	D. Permitting Procedures
20.	No person shall construct aan second dwelling unit <u>accessory dwelling unit</u> without aan second dwelling unit <u>accessory dwelling unit</u> permit.
21.	As required by state law, any application for aan second dwelling unit <u>accessory dwelling unit</u> 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.
22.	E. Submittal Requirements and Application Processing.
23.	1. Step one: Submittal. The application package for aan second dwelling unit <u>accessory dwelling unit</u> 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 aan second dwelling unit <u>accessory dwelling unit</u> 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 second dwelling unit <u>accessory dwelling unit</u> application package shall include:
24.	a. 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 final map and improvement plans shall be included. Provide average slope calculations for the project site.
25.	b. 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.
26.	c. 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 second dwelling unit <u>accessory dwelling unit</u> .
27.	d. 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.
28.	e. 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.
29.	f. Deed restriction completed as required, signed and ready for recordation.

30.	2. Step two: Issuance. The Department of Community Development shall issue aan second dwelling unit <u>accessory dwelling unit</u> building permit 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.
31.	F. Development Standards.
32.	AAn second dwelling unit <u>accessory dwelling unit</u> permit will only be issued if it complies with the following development standards:
33.	1. Setbacks: the main dwelling unit setbacks, based on the zoning district in which it is located, shall also apply to the second dwelling unit <u>accessory dwelling unit</u> . No second dwelling unit <u>accessory dwelling unit</u> shall be closer to the main dwelling (on the same lot) than that permitted by the Uniform Building Code. AAn second dwelling unit <u>accessory dwelling unit</u> shall not be closer than six feet from the main building on the same lot or adjacent lot. AAn second dwelling unit <u>accessory dwelling unit</u> shall be located within one hundred feet of the main dwelling unit. AAn second dwelling unit <u>accessory dwelling unit</u> may be located within the same envelope as the main dwelling.
34.	2. Other zoning district standards: all other development regulations 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.
35.	3. San Bruno zoning ordinance Chapter 12.200, which regulates construction of new residences and additions, shall remain in full force and effect. No second dwelling unit <u>accessory dwelling unit</u> 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. A second dwelling unit may be approved only as part of an existing structure that exceeds the standards of Chapter 12.200 if it was approved with building permits prior to the implementation of this ordinance.
36.	4. Unit size:
37.	a. No newly constructed second dwelling unit <u>accessory dwelling unit</u> may have more than one bedroom, nor contain a gross floor area in excess of six hundred forty <u>750</u> square feet or less than one hundred fifty <u>150</u> square feet.
38.	Internal conversion: AAn second dwelling unit <u>accessory dwelling unit</u> created by the internal conversion of an existing single family dwelling shall not occupy more than <u>forty percent</u> of the total habitable floor area of the building, including any proposed addition, but excluding the garage area.
39.	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 750 square feet.
40.	The total area of floorspace for a detached accessory dwelling unit shall not exceed 750 square feet.
41.	No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
42.	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
43.	5. Height: no detached second unit shall exceed <u>twenty-five feet in height</u> .
44.	6. Off-street parking: one parking space shall be required for each proposed accessory dwelling unit in addition to those required for the primary units. the second dwelling unit shall provide one more off-street parking space than required for a single-family dwelling. The off-street parking for the second 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).
45.	a. 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 z <u>Z</u> oning e <u>C</u> ode Section 12.100.060.
46.	b. The off-street parking for the second accessory dwelling <u>unit</u> shall not be a tandem space because tandem parking is not allowed by right for residential uses in San Bruno as per z <u>Z</u> oning e <u>C</u> ode Section 12.100.080(C)(1).

47.	<u>c. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those off-street parking spaces 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, as covered spaces, uncovered spaces, or tandem 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:.</u>
48.	<u>d. Onsite parking is not required for an accessory dwelling unit in any of the following instances:</u>
49.	<u>(i) The accessory dwelling unit is located within one-half mile of public transit.</u>
50.	<u>(ii) The accessory dwelling unit is located within an architecturally and historically significant historic district.</u>
51.	<u>(iii) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.</u>
52.	<u>(iv) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.</u>
53.	<u>(v) When there is a car share vehicle located within one block of the accessory dwelling unit.</u>
54.	7. Architectural compatibility: the second dwelling unit <u>accessory dwelling unit</u> shall incorporate the same or similar architectural features, building materials, and colors as the main dwelling unit or dwellings located on adjacent properties.
55.	8. Privacy: any window or door of a second story second dwelling unit <u>accessory dwelling unit</u> 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.
56.	9. Permanent foundation: a permanent foundation shall be required for all second dwelling unit <u>accessory dwelling units</u> .
57.	10. 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.
58.	11. Downspouts and gutters draining to the curb shall be provided on the primary and second dwelling unit <u>accessory dwelling unit</u> .
59.	12. The San Bruno building official shall assign a new address to the second dwelling unit <u>accessory dwelling unit</u> .
60.	13. 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.
61.	14. Number per lot: a maximum of one second dwelling unit <u>accessory dwelling unit</u> shall be permitted on any lot.
62.	15. Occupancy: the property shall be the residence of the property owner. The owner may occupy either the main dwelling unit or second dwelling unit <u>accessory dwelling unit</u> as his/her principal residence.
63.	G. Deed Restrictions
64.	Before obtaining aan second dwelling unit <u>accessory dwelling unit</u> 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:
65.	1. The second dwelling unit <u>accessory dwelling unit</u> shall not be sold separately;
66.	2. The second dwelling unit <u>accessory dwelling unit</u> is restricted to the maximum size allowed per the development standards in subsection F;
67.	3. The second dwelling unit <u>accessory dwelling unit</u> shall be considered legal only as long as the owner of record of the property occupies either the primary residence or the second dwelling unit <u>accessory dwelling unit</u> ; and
68.	<u>4. The accessory dwelling unit shall not be rented for less than 30 days.</u>
69.	<u>45. 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)</u>
70.	<u>Administrative Review.</u>
71.	<u>The decision of the Planning Director granting or denying an accessory dwelling unit permit or junior accessory dwelling permit is a ministerial decision as required by State law. Ministerial</u>

	<u>approvals are not subject to review at a public hearing. In considering junior accessory dwelling unit permits, review is limited to the objective standards and criteria established by the City as set forth in Section 12.90 of this chapter for accessory dwelling units. A request for an Administrative review that is limited to the objective standards and criteria for accessory dwelling units and junior accessory 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 planning 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 or junior accessory dwelling unit.</u>
72.	<u>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. Prior to the expiration of a junior accessory dwelling unit approval, the applicant may apply to the Planning Director for an extension of not more than one year from the original date of expiration. The Planning Director shall grant the extension if (s)he finds that there has been no change in the factual circumstances surrounding the original approval.</u>
73.	<u>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.</u>

Amend 12.80 Definitions

1	12.80 DEFINITIONS
2	<u>12.80.012 Accessory Dwelling Unit. "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.</u>
3	<u>12.80.272 Junior Accessory Dwelling Unit. "Junior accessory unit means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure, including the utilization of an existing bedroom. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure. A junior accessory dwelling unit must include an efficiency kitchen with a sink, a cooking facility, and a food preparation area.</u>

A4mend 12.96 Establishment and Description of Districts

1	12.96.060 R-1 and R-1-D single family residential districts. B. Permitted Uses. 2. Accessory buildings and uses, <u>including accessory dwelling units and junior accessory dwelling units;</u>
3	12.96.070 R-2 low density residential district. B. Permitted Uses. 3. Accessory buildings and uses, <u>including accessory dwelling units and junior accessory dwelling units;</u>
5	12.96.080 R-3 medium density residential district. B. Permitted Uses. 3. Accessory buildings and uses, <u>including accessory dwelling units and junior accessory dwelling units;</u>

6.	<u>Definition</u>
7.	<u>Junior accessory units means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure, including the utilization of an existing bedroom. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure. A junior accessory dwelling unit must include an efficiency kitchen with all of the following: a sink with a maximum waste line diameter of 1.5 inches, a cooking facility with appliances that do not require electrical service greater than 120 volts, propane or gas, and a food preparation area that is of reasonable size in relation to the size of the unit.</u>
8.	<u>Permitted Districts</u>
9.	<u>Junior accessory dwelling units shall be allowed as permitted uses in the R-1 single family, R-2 low density, R-3 medium density, and R-4 high density residential districts; provided that the submitted application satisfies the requirements of this chapter.</u>
10.	<u>Development Standards</u>
11.	<u>A junior accessory dwelling unit shall be subject to the following regulations:</u>
12.	<u>Number of Units Allowed. Only one accessory dwelling unit or one junior accessory dwelling unit may be located on any appropriately zoned parcel that contains a one- family dwelling.</u>
13.	<u>Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.</u>
14.	<u>Deed Restriction. Prior to obtaining a building permit for a junior accessory dwelling unit, a deed restriction, approved by the City Attorney, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of a junior accessory dwelling unit identified in this section. Said deed restriction shall run with the land, and shall be binding upon any future owners, heirs, or assigns. A copy of the recorded deed restriction shall be filed with the Planning Department stating that:</u>
15.	<u>Sale Prohibited. A junior accessory dwelling unit shall not be sold independently of the primary dwelling on the parcel.</u>
16.	<u>Floor Area. The junior accessory dwelling unit shall have a maximum floor area of 500 square feet and a minimum floor area of 150 square feet.</u>
17.	<u>Location of junior accessory dwelling unit. A junior accessory dwelling unit must be created within the existing walls of an existing primary dwelling, and must include an existing bedroom.</u>
18.	<u>Entryways. Must include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.</u>
19.	<u>Conformance to Zoning Requirements. Any exterior improvements associated with the development of a junior accessory dwelling unit shall conform to zoning regulations.</u>
20.	<u>Kitchen Requirements. The junior accessory dwelling unit shall include an efficiency kitchen with all of the following:</u>
21.	<u>A sink with a maximum waste line diameter of 1.5 inches.</u>
22.	<u>A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.</u>
23.	<u>A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.</u>
24.	<u>Parking.</u>
25.	<u>No off-street parking is required for a junior accessory dwelling unit</u>
26.	<u>A permit for a junior accessory dwelling unit shall not be issued for a site containing an illegal nonconforming parking condition unless the existing illegal parking condition is corrected or a variance or other applicable permit approval is granted to allow the existing illegal parking condition to remain.</u>
27.	<u>Reconstruction and/or remodeling and/or expansion of existing residential structures to which Chapter 12.100 - Off-Street Parking and Loading applies shall be required to comply with the applicable parking standards, but an additional off- street parking space shall not be required for</u>

	<u>a junior accessory dwelling unit that is part of or created at the same time as the reconstruction and/or remodeling and/or expansion.</u>
28.	<u>Bathroom Requirements. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.</u>
29.	<u>The junior accessory dwelling unit shall be considered legal only so long as either the primary residence, or the accessory unit, is occupied by the owner of record of the property, except when the home is owned by an agency such as a land trust or non-profit housing organization whose primary mission is to create affordable housing.</u>
30.	<u>The junior accessory dwelling unit shall not be rented for less than the thirty consecutive days.</u>

San Bruno Municipal Code							
Up	Previous	Next	Main		Search	Print	No Frames

[Title 12 LAND USE](#)

[Article III. Zoning](#)

[Chapter 12.92 NONCONFORMING LOTS, STRUCTURES AND USES](#)

12.92.031 Second dwelling units.

A. Purpose. The purpose of this article is to comply with amendments made in 2002 to California Government Code Section 65852.2 which provides for cities to set standards for the development of second dwelling units so as to increase the supply of smaller and affordable housing while ensuring that they remain compatible with existing neighborhoods.

B. Definitions.

1. Second dwelling unit: any residential dwelling unit that provides complete independent living facilities on the same parcel as a legal single family residence and including, but not limited to, the permanent provisions for living, sleeping, eating, cooking and sanitation. A second dwelling unit also includes efficiency units and manufactured homes. A second dwelling unit may be considered a residential use that is consistent with the existing general plan and zoning designation for the lot. Second dwelling units are not “accessory uses” as defined in Section 12.80.015 nor are they “excess housekeeping units” as defined in Section 12.92.030 of the San Bruno zoning ordinance. A second dwelling unit is a small but separate, complete housekeeping unit with kitchen, sleeping, and full bathroom facilities, which is part of, an extension to, or on the same lot as a detached single-family dwelling.

a. Efficiency unit: a separate living space with a minimum floor area of one hundred fifty square feet and a maximum of six hundred forty square feet containing partial kitchen and bathroom facilities and intended for occupancy by no more than two persons.

b. Manufactured home: 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. Maximum allowable size is six hundred forty square feet.

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

C. Location.

1. One second 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.

2. Second dwelling units are not required to meet the density requirements of the general plan.

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

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

5. Any second dwelling unit located in the 65 CNEL area must be designed to Aircraft Noise Insulation Program standards.

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

D. Permitting Procedures. No person shall construct a second dwelling unit without a second dwelling unit permit.

EXHIBIT 2

As required by state law, any application for a second 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.

E. Submittal Requirements and Application Processing.

1. Step one: Submittal. The application package for a second 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 a second 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 second dwelling unit application package shall include:

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

b. 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.

c. 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 second dwelling unit.

d. 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.

e. 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.

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

2. Step two: Issuance. The Department of Community Development shall issue a second dwelling unit building permit 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.

F. Development Standards.

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

1. Setbacks: the main dwelling unit setbacks, based on the zoning district in which it is located, shall also apply to the second dwelling unit. No second dwelling unit shall be closer to the main dwelling (on the same lot) than that permitted by the Uniform Building Code. A second dwelling unit shall not be closer than six feet from the main building on the same lot or adjacent lot. A second dwelling unit shall be located within one hundred feet of the main dwelling unit. A second dwelling unit may be located within the same envelope as the main dwelling.

2. Other zoning district standards: all other development regulations 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.

3. San Bruno zoning ordinance Chapter 12.200, which regulates construction of new residences and additions, shall remain in full force and effect. No second dwelling unit 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. A second dwelling unit may be approved only as part of an existing structure that exceeds the standards of Chapter 12.200 if it was approved with building permits prior to the implementation of this ordinance.

4. Unit size:

a. No newly constructed second dwelling unit may have more than one bedroom, nor contain a gross floor area in excess of six hundred forty square feet or less than one hundred fifty square feet.

b. Internal conversion: A second 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, including any proposed addition, but excluding the garage area.

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

6. Off-street parking: the second dwelling unit shall provide one more off-street parking space than required for a single-family dwelling. This 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. The off-street parking for the second 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).

7. Architectural compatibility: the second 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.

8. Privacy: any window or door of a second story second 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.

9. Permanent foundation: a permanent foundation shall be required for all second dwelling units.

10. 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.

11. Downspouts and gutters draining to the curb shall be provided on the primary and second dwelling unit.

12. The San Bruno building official shall assign a new address to the second dwelling unit.

13. 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.

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

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

G. Deed Restrictions. Before obtaining a second 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:

1. The second dwelling unit shall not be sold separately;

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

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

4. 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)

View the [mobile version](#).

CHAPTERED CHANGES IN ACCESSORY UNIT PROVISIONS

California Government Code Section 65852.2.

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. 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.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, singlefamily dwelling.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) 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.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

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

(vii) No setback shall be required for an existing garage that is converted to a 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.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces 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, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that

contains an existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner occupant or that the property be used for rentals of terms longer than 30 days.

(7) A local agency 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 this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.

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

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

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the 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. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, 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. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "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.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "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 also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

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

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

TRACK CHANGES' VERSION: CHAPTERED CHANGES IN ACCESSORY UNIT PROVISIONS 65852.2.

(a) (1) ~~Any-A~~ local agency may, by ordinance, provide for the creation of ~~second~~ *accessory dwelling* units in single-family and multifamily residential zones. The ordinance ~~may~~ *shall* do ~~any~~ *all* of the following:

(A) Designate areas within the jurisdiction of the local agency where ~~second-accessory dwelling~~ units may be permitted. 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 ~~second-accessory dwelling~~ units on traffic ~~flow~~. *flow and public safety*.

(B) (i) Impose standards on ~~second-accessory dwelling~~ units that include, but are not limited to, parking, height, setback, lot coverage, *landscape*, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places. (ii) *Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.*

(C) Provide that ~~second-accessory dwelling~~ units do not exceed the allowable density for the lot upon which the ~~second-accessory dwelling~~ unit is located, and that ~~second accessory dwelling~~ units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single family dwelling.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) 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.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

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

(vii) No setback shall be required for an existing garage that is converted to a 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.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces 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, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. ~~Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of second units.~~ permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of ~~second units.~~ an accessory dwelling unit.

~~(b) (4) (1) An~~ When ~~existing ordinance governing the creation of an accessory dwelling unit by~~ a local agency ~~which has not adopted an ordinance governing second units in accordance with subdivision (a) or (c) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it~~ or an accessory dwelling ordinance

adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance in accordance with subdivision (a) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use permit for the creation of a second unit if the second unit complies with all of the following: that complies with this section.

~~(A) The unit is not intended for sale and may be rented.~~

~~(B) The lot is zoned for single-family or multifamily use.~~

~~(C) The lot contains an existing single-family dwelling.~~

~~(D) The second unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.~~

~~(E) The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.~~

~~(F) The total area of floorspace for a detached second unit shall not exceed 1,200 square feet.~~

~~(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.~~

~~(H) Local building code requirements which apply to detached dwellings, as appropriate.~~

~~(I) Approval by the local health officer where a private sewage disposal system is being used, if required.~~

~~(2) (5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.~~

~~(3) (6) This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed second units on lots—a proposed accessory dwelling unit on a lot zoned for residential use which contain that contains an existing single-family dwelling. No additional standards, other than those provided in this subdivision or subdivision (a),—subdivision,—shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant. owner-occupant or that the property be used for rentals of terms longer than 30 days.~~

~~(4) (7) No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any—A local agency may~~

amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of ~~second units~~ *an accessory dwelling unit* if these provisions are consistent with the limitations of this subdivision.

~~(5) (8) A second unit which conforms to the requirements of~~ *An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use which that is consistent with the existing general plan and zoning designations for the lot. The second units-accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.*

~~(e) (b) No-When a local agency shall adopt an ordinance which totally precludes second units within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing second units within singlefamily and multifamily zoned areas justify adopting the ordinance. that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.~~

~~(d) (c) A local agency may establish minimum and maximum unit size requirements for both attached and detached second-accessory dwelling units. No minimum or maximum size for a-second-an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings which-that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.~~

~~(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:~~

- ~~(1) The accessory dwelling unit is located within one-half mile of public transit.~~
- ~~(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.~~
- ~~(3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.~~
- ~~(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.~~

(5) *When there is a car share vehicle located within one block of the accessory dwelling unit.*

~~(e) Parking requirements for second units shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the second unit and are consistent with existing neighborhood standards applicable to existing dwellings. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction. Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the 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. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.~~

(f) (1) Fees charged for the construction of ~~second~~-accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section ~~66000~~. 66000) and Chapter 7 (commencing with Section 66012).

(2) *Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.*

(A) *For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.*

(B) *For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, 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. This fee or charge shall not exceed the reasonable cost of providing this service.*

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of ~~second units~~-an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ~~ordinances~~-ordinance adopted pursuant to subdivision (a) ~~or (e)~~ to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) “Living ~~area,~~ *area*” means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) “Local agency” means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, “neighborhood” has the same meaning as set forth in Section 65589.5.

(4) ~~“Second-~~ *“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. ~~A second-~~ *An accessory dwelling* unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(5) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

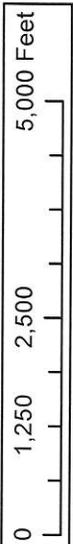
(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for ~~second-~~ *accessory dwelling* units.

Circles Indicate Areas Within 1/2 Mile of Public Transit Stops



City of San Bruno

- Route 140 buffer
- Route 141 buffer
- Caltrain_Buffer
- City Limits



June 2, 2016