

**CITY OF SAN MATEO  
DRAFT ORDINANCE**

**Amend Section 27.04.165 “Dwelling” to add a definition for “Junior Accessory Dwelling Unit,” and Amend Various Sections of Chapter 27.19, “Accessory Dwelling Unit and Junior Accessory Dwelling Unit – Residential Zones,” of the San Mateo Municipal Code.**

WHEREAS, an existing ordinance addressing accessory dwelling units and junior accessory dwelling units is codified at Chapter 27.19; and

WHEREAS, Government Code Sections 65852.2 and 65852.22 govern accessory dwelling units and junior accessory dwelling units and were recently amended; and

WHEREAS, these changes in state law necessitate amendments to Chapter 27.19; and

WHEREAS, Government Code Section 65852.2(a)(1)(B) authorizes cities to impose standards on accessory dwelling units in conformance with state law that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum unit size, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources; and

WHEREAS, Government Code Section 65852.2(h)(A) provides that the state Department of Housing and Community Development (HCD) is to make findings regarding local agency ordinance compliance with Section 65852.2; and

WHEREAS, The City reads Government Code Section 65852.2 to authorize cities to regulate ADUs within the required front setback area; and

WHEREAS, HCD has reviewed the City’s proposed ordinance and believes that Government Code Section 65852.2 authorizes the location of accessory dwelling units in required front setback areas and that the City is required to permit accessory dwelling units within required front setback areas; and

WHEREAS, Government Code Section 65852.2(h)(B)(ii) provides that, in the event that the City disagrees with an HCD finding, the City may adopt findings explaining why the ordinance is in compliance with Section 65852.2; and

WHEREAS, The City wishes to prohibit accessory dwelling units within required front setback areas based on health and safety concerns;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF SAN MATEO ORDAINS AS FOLLOWS:

**Section 1. Legislative Findings.** The City Council of the City of San Mateo finds:

(a) Government Code Section 65852.2(a)(1)(B) authorizes cities to impose parking and setback standards in conformance with state law.

(b) Government Code Section 65852.2(e) limits side and rear setbacks for accessory dwelling units to four feet, but does not address front setbacks.

(c) The City wishes to limit the location of accessory dwelling units to locations outside of the required front setback to address the following health and safety concerns:

(1) The City's required front setback areas range from 15 feet to 25 feet.

(2) Given the size of these required front setback areas, it is necessary to preserve visibility to the street from driveways and parking spaces for vehicles exiting the property in order to protect both pedestrians and passing vehicles.

**Section 2.** Subsection (c) of Section 27.04.165 of the San Mateo Municipal Code is amended as follows:

(c) "Junior accessory dwelling unit" means an additional, independent living unit constructed within the walls of a proposed or legally existing single-family residence, including attached garages.

**Section 3.** Section 27.19.010 of the San Mateo Municipal Code is amended as follows:

#### **27.19.010 Purpose**

The purpose of this Article is to set forth regulations to permit accessory dwelling units (ADUs) in accordance with state law.

**Section 4.** Section 27.19.020 of the San Mateo Municipal Code is amended as follows:

#### **27.19.020 Prohibition on Subdivision**

Properties with approved ADUs may not be subdivided at the time the units are approved or thereafter.

**Section 5.** Section 27.19.030 of the San Mateo Municipal Code is amended as follows:

#### **27.19.030 Prohibition on Sale and Limitation on Rental**

(a) An ADU shall not be sold separately from the primary residence.

(b) If an ADU is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days.

**Section 6.** Section 27.19.040 of the San Mateo Municipal Code is amended as follows:

#### **27.19.040 Ministerial Permit Required**

An ADU permit application for either an attached or a detached ADU is required in order to demonstrate that a unit is in compliance with the provisions of this Article. If the ADU is in full compliance with the provisions of this Article, a ministerial, non-discretionary permit will be issued.

**Section 7.** Section 27.19.050 of the San Mateo Municipal Code is amended as follows:

**27.19.050 Development Standards**

An ADU, as defined in Section 27.04.165, shall comply with the following development standards:

(a) Permitted Zoning Districts. ADUs shall only be constructed on property zoned to allow residential use.

(b) Number of Units. No more than the number of ADUs allowed by state law may be constructed on any site.

(c) “By Right” ADUs. A property may construct either an attached or detached ADU of at least 800 square-feet in size and of at least 16 feet in building height with four-foot side and rear setbacks regardless of any development standard based on the percentage of the proposed or existing primary dwelling, lot coverage, floor area ratio, open space, or minimum lot size that would otherwise preclude its construction. The highest point of the roof may not exceed 24 feet. The floor area of any new ADU which exceeds 800 square feet shall be applied to the maximum floor area allowance of the subject lot as prescribed by the underlying zoning district.

(d) Maximum Unit Size.

(1) Attached Accessory Dwelling Units. New ADUs attached to either an existing primary residence or accessory structure are subject to the development standards of the underlying zoning district provided those requirements do not preclude the construction of a 800 sq. ft. attached ADU of at least 16 feet in building height with four-foot side and rear setbacks (i.e. a “by-right” ADU). The highest point of the roof may not exceed 24 feet.

(2) Accessory Dwelling Unit Conversions. An ADU conversion within the walls of an existing primary residence or accessory structure may convert up to a maximum of 50 percent of the existing floor area, but in no event shall the size be restricted to be less than 850 square feet for a one-bedroom ADU or 1,000 square feet for an ADU of two bedrooms or more, provided the maximum overall floor FAR for the parcel is not exceeded. ADU conversions may be expanded up to 150 square feet beyond the existing footprint provided the expansion is used to accommodate ingress and egress to the ADU.

(3) Detached Accessory Dwelling Units. The floor area of a detached ADU shall not exceed 1,200 square feet. Existing accessory structures larger than 1,200 square-feet that are being converted into an ADU are exempt from the 1,200 square-foot maximum.

(4) Detached Accessory Dwelling Unit and Junior Accessory Dwelling Unit. One new detached ADU may be constructed on a lot with a junior accessory dwelling unit (JADU), however, in such instances the ADU will be restricted to 800 square feet in floor area and a building height limit of 16 feet. The highest point of the roof may not exceed 24 feet.

(e) Setbacks. An ADU must provide a setback of at least four feet from both the side and rear yard setbacks and outside of any required front setback except that:

(1) No setback shall be required for an existing legally permitted garage or accessory structure that is converted to an ADU which is constructed in the same location and to the same dimensions as the existing structure.

(2) A minimum setback of four feet shall be required from the side and rear lot lines for all new ADU construction not meeting the criteria set forth in subsection (1) above, including ADUs constructed above an existing legally permitted garage.

(f) The ADU, whether attached or detached, shall provide a separate exterior entrance, cooking facility/kitchen, and bathroom/shower facility.

(g) Location of Accessory Dwelling Unit. The ADU may be within, attached to, or detached from the primary dwelling unit. ADUs shall be accessory to the primary residence and are permitted in the same locations on the parcel as the primary residence as specified in the underlying zoning district provided that only a four foot side and rear setback will be required for an ADU.

(h) Number and Type of Required Parking Spaces.

(1) General Requirements. There shall be a minimum of one standard size off-street parking space for each ADU or bedroom, whichever is less. All required parking spaces shall be a minimum of 10 feet wide by 18 feet long without any obstructions. The required ADU parking may be located in a garage, carport, uncovered, or in a tandem orientation. The required parking for the primary residential dwelling unit must comply with current standards, as specified by the underlying zoning district.

(2) Location of Required Parking for Accessory Dwelling Unit. The required parking for the accessory dwelling unit may be located on the rear one-third of the property, including the required rear yard setback and a portion of the required side yard and street side yard setback areas. The required parking shall not be located within the required front, interior side yard, or street side yard setback areas outside of the rear one-third of the property.

(3) Replacement off-street parking is not required when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU.

(4) Parking Exemptions. No additional parking shall be required for an ADU in the following instances:

(A) The ADU is located within one-half (1/2) mile walking distance of public transit; or

(B) The ADU is located within an architecturally and historically significant historic district; or

(C) The ADU is in part of the proposed or existing legally permitted primary residence or an existing legally permitted accessory structure; or

(D) In an area requiring on-street parking, permits are required but not offered to the occupant of the ADU; or

(E) When the ADU is located within one block of a car sharing pick-up/drop-off location.

(i) Architectural Standards. New ADUs and conversions of an existing legally permitted structure shall be designed to comply with the following standards:

(1) Attached Accessory Dwelling Units. ADUs that are attached to the primary residential dwelling unit shall:

(A) Locate the primary entrance to the ADU so that it is not directly facing the street unless precluded by existing site conditions as determined by the City;

(B) Be of the same architectural style as the primary structure;

(C) Be constructed of the similar exterior materials, finishes, and family of colors as the primary residential dwelling unit; and

(D) Offset windows from neighbor's windows to maximize privacy.

(2) Detached Accessory Dwelling Unit. An ADU that is detached from the primary residential dwelling unit shall:

(A) Comply with the architectural standards listed above for attached ADUs;

(B) Not exceed 16 feet in building height and the highest point of the roof may not exceed 24 feet; and

(C) Offset windows from neighbor's windows to maximize privacy.

(j) Utility Service. If an ADU is constructed within existing space, a separate water connection, a sewer service connection, or power connection is not required for an ADU. If an ADU is not constructed within existing space, the City may require a new or separate utility connection.

(k) Utility Fees. For an ADU located within an existing structure, payment of a connection fee or capacity charge is not required. For an ADU that is separate from an existing structure, the City will require payment of a connection fee or capacity charge that is proportionate to the ADU's burden.

(l) Address Assignment. An application for a building permit for an ADU must include application for a separate address assignment.

(m) Other Requirements. All other zoning requirements shall be complied with unless an authorized variance is approved.

(n) For accessory dwelling units proposed within an existing multi-family structure or on a lot with an existing multi-family dwelling, the provisions of Government Code Section 65852.2(e)(1) apply.

**Section 8.** Section 27.19.060 of the San Mateo Municipal Code is amended as follows:

#### 27.19.060 Recordation of Deed Restriction

(a) A deed restriction shall be recorded to run with the land and submitted to the City prior to building permit issuance which indicates the following:

(1) Only one unit may be occupied solely by persons other than the owner or owners of record. This requirement is not applicable to ADUs approved between January 1, 2020, and December 31, 2024, per California Gov. Code (Gov. Code, § 65852.2, subd. (a)(6)).

(2) If an ADU is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days.

(3) Sale of the ADU separately from the sale of the single-family residence is prohibited.

(4) The approved size and attributes of the ADU.

(b) A copy of this deed restriction must be given to each prospective occupant.

**Section 9.** Section 27.19.070 of the San Mateo Municipal Code is amended as follows:

#### 27.19.070 Purpose

The purpose of this Article is to set forth regulations to permit junior accessory dwelling units (JADUs).

**Section 10.** Section 27.19.080 of the San Mateo Municipal Code is amended as follows:

#### 27.19.080 Prohibition on Subdivision

Properties with approved JADUs may not be subdivided at the time the JADU is approved or thereafter.

**Section 11.** Section 27.19.090 of the San Mateo Municipal Code is amended as follows:

#### 27.19.090 Prohibition on Sale and Limitation on Rental

(a) A JADU shall not be sold separately from the primary residence.

(b) If a JADU is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days.

**Section 12.** Section 27.19.100 of the San Mateo Municipal Code is amended as follows:

#### 27.19.100 Ministerial Permit Required

A JADU permit application is required in order to demonstrate that the unit is in compliance with the provisions of this Article. If the JADU is in full compliance with the provisions of this Article, a ministerial, non-discretionary permit shall be issued.

**Section 13.** Section 27.19.110 of the San Mateo Municipal Code is amended as follows:

**27.19.110 Development Standards**

A "junior accessory dwelling unit," as defined in Section 27.04.165, must comply with the following development standards:

(a) Permitted Zoning Districts. JADUs shall only be constructed on properties zoned to allow single-family residential use, and for which a single-family residence exists, or is proposed to be built. The residential property shall not be part of a condominium, townhouse, or other multi-family development.

(b) Limit to the Number of Junior Accessory Dwelling Units. The number of JADUs is limited to one per residential lot with a single-family residence. Lots with multi-family housing or more than one detached single-family dwelling are not eligible for JADUs.

(c) Setback and Other Zoning Regulations. For purposes of setbacks and other zoning regulations, the JADU shall be considered to be a part of the principal use of subject site and shall be subject to the same requirements of the underlying zoning district.

(d) Maximum Unit Size. The floor area of a JADU shall not exceed 500 square feet, including attic and basement areas as defined in Section 27.04.200 for the applicable zoning district, provided that the total floor area for the parcel or lot does not exceed the maximum allowable floor area.

(e) Construct within Existing Structure. The JADU shall be constructed within the walls of the proposed or legally existing single-family dwelling unit, including an attached garage. Detached accessory structures, including detached garages or carports, are not permitted to be converted into JADUs.

(f) Unit Access. A JADU must include:

(1) A separate exterior entry from the main entrance to the one-family dwelling, which shall be provided to serve the JADU only; and

(2) An interior entry access between the JADU and the one-family dwelling. This interior entry access may be a door equipped with a double lock. A permitted JADU may include a second interior door for sound attenuation.

(g) Efficiency Food Preparation Area. A JADU shall include an efficiency kitchen that includes the following components:

(1) Cooking facility with appliances; and

(2) Food preparation counter and storage with cabinets that are of reasonable size in relation to the size of the JADU.

(h) Sanitation Facilities. A JADU may include its own separate sanitation facilities, or may share sanitation facilities with the primary dwelling unit.

(i) Building and Fire Requirements.

(1) No fire wall separation or noise attenuation measures are required between the main dwelling and the JADU. No fire sprinklers are required for the JADU, unless the associated improvements meet the threshold for a "substantial remodel" as defined by Chapter 23, Building and Construction, of the San Mateo Municipal Code. The JADU shall have an adjoining door connected to the main living area for fire separation. A smoke alarm shall be required in the JADU and shall be connected to the smoke alarm in the main residence.

(2) The JADU shall be equipped with a carbon monoxide detector.

(j) Utility Service. A separate water connection, a separate sewer service connection, and power connection as water, sewer, and power service is not required for a JADU.

(k) Parking. No additional off-street parking is required for a JADU.

(l) Address Assignment. An application for a building permit for a JADU must include application for a separate address assignment.

**Section 14.** Section 27.19.120 of the San Mateo Municipal Code is amended as follows:

**27.19.120 Recordation of Deed Restriction**

(a) A deed restriction shall be recorded to run with the land and submitted to the City prior to building permit issuance which indicates the following:

(1) The property owner must occupy either the single-family residence or the junior accessory unit.

(2) If a JADU is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days.

(3) Sale of the JADU separately from the single-family residence is prohibited.

(4) The approved size and attributes of the JADU.

(b) A copy of this deed restriction must be given to each prospective occupant.

**Section 15. Environmental Determination.** In accordance with Public Resources Code Section 21080.17 and California Environmental Quality Act (CEQA) Guidelines, section 15282(h), the portion of this ordinance addressing accessory dwelling units is statutorily exempt from CEQA, because it relates to second units in a single family or multifamily residential zone. In accordance with CEQA Guidelines Section 15061(b)(3), the portion of this ordinance addressing junior accessory dwelling units is exempt from CEQA, because it can be seen with certainty that there is no possibility that amending the City's Zoning Code to comply with state law requirements pertaining to junior accessory dwelling units within existing residences will have a significant effect on the environment.



**Section 16. Severability.** In the event any section, clause or provision of this ordinance shall be determined invalid or unconstitutional, such section, clause or provision shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

**Section 17. Publication.** This Ordinance shall be published in summary in a newspaper of general circulation, posted in the City Clerk's Office, and posted on the City's website, all in accord with Section 2.15 of the City Charter.

**Section 18. Legislative History and Effective Date.** This ordinance was introduced on Clerk to complete., and adopted on Clerk to complete., and shall be effective 30 days after its adoption.