

ORDINANCE NO. 2339

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA AMENDING SECTION 36.350.200 (RESIDENTIAL USES—ACCESSORY DWELLING UNITS) OF DIVISION 36.350 (STANDARDS FOR SPECIFIC LAND USES) OF ARTICLE 3 (SITE PLANNING AND GENERAL DEVELOPMENT STANDARDS) OF CHAPTER 36 (ZONING) OF THE SOUTH PASADENA MUNICIPAL CODE REGARDING ACCESSORY DWELLING UNITS

WHEREAS, an “accessory dwelling unit” (ADU), also known as a “second unit,” is an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons; and

WHEREAS, ADUs may offer a benefit to homeowners in the form of supplementary rental income, which can help many modest income and elderly homeowners afford to remain in their homes; and

WHEREAS, ADUs may offer South Pasadena an opportunity to satisfy its regional housing needs while maintaining the community’s residential character; and

WHEREAS, a housing program goal of the City’s 2006-2014 Housing Element Program Performance is to “Facilitate the processing of residential second units in the City as a potential source of affordable housing”; and

WHEREAS, on October 9, 2019, Governor Newsom signed into law Senate Bill No. 13 and Assembly Bill Nos. 68 and 881; and

WHEREAS, by December 31, 2019, the City must conform Section 36.350.200 to State ADU law to avoid nullification; and

WHEREAS, Ordinance No. 2339 is statutorily exempt under Section 15282, subdivision (h), of the California Environmental Quality Act (“CEQA”) regulations because it adopts “an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Sections 21080.17 of the Public Resources Code”; and

WHEREAS, Government Code Section 36937(b) authorizes the City to adopt an ordinance as an urgency measure to protect the public peace, health or safety, containing a declaration of facts constituting the urgency and passed by a four-fifths vote of the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals. The recitals above are true and correct and incorporated herein by reference.

Section 2. Urgency Findings. The City Council finds, pursuant to Government Code Section 36937, that it is necessary to take immediate action to amend the City's existing Accessory Dwelling Unit Ordinance for compliance with Senate Bill No. 13 and Assembly Bill Nos. 68 and 881, which were signed into law on October 9, 2019, and to ensure orderly development and compliance with the goals of the General Plan; without immediate action, the violative provisions of the City's Accessory Dwelling Unit Ordinance would be considered "null and void" on January 1, 2020.

Section 3. Municipal Code Amendment. Section 36.350.200 (Residential Uses—Accessory Dwelling Units) of Division 36.350 (Standards for Specific Land Uses) of Article 3 (Site Planning and General Development Standards) of Chapter 36 (Zoning) of the South Pasadena Municipal Code is hereby amended to read as follows, with additions noted by underlined text and deletions noted by ~~struck through~~ text:

36.350.200 Residential Uses—Accessory Dwelling Units.

A. **Applicability.** The standards and criteria in this section apply to properties containing single-family or multi-family residences within the RE, RS, ~~and RM,~~ and RH zoning districts. These standards are in addition to all other applicable standards found in this Zoning Code.

B. **Applications.** Pursuant to Government Code Section 65852.2, applications for ~~second dwelling~~ accessory dwelling units shall be considered ministerially within 60 days of submission of a complete application, ~~without discretionary review or a hearing.~~ Accessory dwelling unit applications submitted with other applications for entitlements may be subject to discretionary review.

C. ~~Minimum lot area. An accessory dwelling unit may be approved only on a parcel of 12,500 square feet or larger.~~ Ownership. An accessory dwelling unit may not be owned or sold separately from the primary dwelling.

D. **Location on site.** An accessory dwelling unit may be permanently attached to or detached from the primary dwelling on the same lot. An accessory dwelling unit shall not be located above a garage, unless it is a conversion. For purposes of this section, "conversion" means the repurposing of all or a portion of an existing structure as an accessory dwelling unit entirely within the existing structure building envelope and in accordance with all required residential building and construction standards set forth in the applicable California Building Codes.

E. **Height and setback requirements.** The maximum height of a detached new accessory dwelling unit shall not exceed 16 feet and shall not be greater than one story. An accessory dwelling unit shall comply with the setback requirements of the applicable zoning district (see Article 2, Zoning Districts, Allowable Land Uses, and Zone-Specific Standards), ~~and shall not exceed 15 feet and one story in height~~ except that no setback shall be required for the

conversion of an existing structure, and a setback of no more than 4 feet from the side and rear lot lines shall be required for new construction or replacement structures.

F. Floor area. An accessory dwelling unit attached to the primary structure shall have a maximum floor area not to exceed 50 percent of the existing living area (including a basement and attic) of the primary structure, or 1,200 square feet (whichever is less). Notwithstanding the foregoing, an applicant will be allowed to build an eight hundred (800) square foot accessory dwelling unit subject to Section O. A detached accessory dwelling unit shall not exceed a maximum of 1,200 square feet. The minimum floor area for a detached or attached accessory dwelling unit shall not be less than 150 square feet pursuant to the State Health and Safety Code for Efficiency Units.

G. Interior facility requirements. An accessory dwelling unit shall provide living quarters independent from the primary dwelling, including living, sleeping, cooking and restroom facilities. An ~~second~~ accessory dwelling unit shall be limited to one bedroom.

H. Entrance location and visibility. An accessory dwelling unit shall have an outdoor entrance separate from the primary dwelling. In order to maintain the single-family residential character of the street, the ~~second~~ construction of new accessory dwelling units, located within single-family zones, shall be located so that the entrance is not visible from the public right-of-way. This provision shall not apply to accessory dwelling units located in multi-family zones or conversions.

I. Utilities. An accessory dwelling unit shall not have utility services (i.e., an electrical and/or gas meter) separate from the primary dwelling.

J. Design Standards. An accessory dwelling unit must comply with the design standards approved by the Director and must conform to the architectural design and materials of the primary dwelling.

K. Parking. A minimum of one covered or uncovered parking space shall be required for each ~~second~~ accessory dwelling unit. No ~~second~~ accessory dwelling unit shall be allowed unless the primary dwelling is also in compliance with all applicable parking requirements of this Zoning Code. No replacement parking is required for the primary dwelling unit when the existing garage is converted or demolished to make room for an accessory dwelling unit. No parking will be required for an accessory dwelling unit if:

1. The accessory dwelling unit is located within one-half mile of a bus stop or light rail station;
2. The accessory dwelling unit is within an historic district or potential historic district as identified by the National Register for Historic Places, the California Register for Historic Places, or the City's Cultural Heritage Ordinance;
3. The accessory dwelling unit is within the existing primary dwelling or existing accessory structure;
4. ~~On street parking permits are required but not offered to the occupant of the accessory dwelling unit;~~ or

5. There is a car share vehicle located within one block of the accessory dwelling unit.

~~L. Street address. An accessory dwelling unit shall not have a separate street or unit address than the primary dwelling.~~

M. Short-term rentals. An accessory dwelling unit may not be rented out for a period of less than 30 days.

N. Multi-family Dwellings.

1. Not more than two detached accessory dwelling units may be located on lots with a multi-family dwelling with the following limitations: (i) the accessory dwelling units maintain four (4) foot side and rear yard setbacks and (ii) the accessory dwelling units are not more than sixteen (16) feet high.
2. Non-living space within the existing building envelope on lots with a multi-family dwelling, including storage rooms, boiler rooms, passageways, attics, basements, or garages, may be converted into accessory dwelling units if each unit complies with state building standards for dwellings and on the condition that the number of accessory dwelling units created do not exceed twenty-five (25) percent of the existing multi-family dwelling units.

O. Exception. Notwithstanding any height, setback, floor area, lot coverage, or design standards under this section or the Zoning Code, an applicant shall be permitted to construct an eight hundred (800) square foot accessory dwelling unit that is no more than sixteen (16) feet in height with four (4) foot side and rear yard setbacks.

P. Junior Accessory Dwelling Units.

1. All the requirements under this chapter apply equally to junior accessory dwelling units, unless stated otherwise in this section.
2. “Junior accessory dwelling unit” means a unit that is contained entirely within the walls of a proposed or existing single-family residence which provides living facilities for one or more persons. Junior accessory dwelling units are limited to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.
3. The maximum floor area for a junior accessory dwelling unit shall not exceed five hundred (500) square feet.
4. No additional parking is required for a junior accessory dwelling unit.
5. All junior accessory dwelling units shall include, at a minimum, an efficiency kitchen and living area. It may include separate sanitation facilities or may share sanitation facilities with the existing structure. “Efficiency kitchen” means a cooking facility with appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

6. The owner must reside in the primary residence but may choose to reside within the remaining portion of the structure or the newly created junior accessory dwelling unit.
7. The owner must record a deed restriction and file a copy with the City. The deed restriction must include a prohibition on the sale of the junior accessory dwelling unit separate from the sale of the primary residence, including a statement that the deed restriction may be enforced against future purchasers, and a restriction on the size and attributes of the junior accessory dwelling unit that conforms to this chapter.

Q. Owner occupancy required. The owner of the property shall reside on the property, and a covenant establishing this requirement shall be recorded prior to a final building inspection for the second dwelling unit. Certificate of occupancy. A certificate of occupancy for an accessory dwelling unit shall not be issued before the issuance of a certificate of occupancy for the primary dwelling.

R. Permit Termination. An accessory dwelling unit permit validly issued pursuant to this section shall terminate when any one or more of the following occur:

1. The permit is not used within 360 days from the date of permit's issuance;
2. The permit has been abandoned or discontinued for 360 consecutive days;
3. The accessory dwelling unit owner files a declaration with the Director of Planning and Community Development that the permit has been abandoned or discontinued and the accessory dwelling unit has been removed from the property;
4. The permit has expired by its terms; or
5. The permit has been revoked as provided in this section.

S. Permit Revocation. In the event an accessory dwelling unit permit was obtained by fraud or misrepresentation, or a permitted accessory dwelling unit dwelling is used, operated, or maintained in violation of this chapter or applicable state or federal law, or the accessory dwelling unit has been used or is being used in a manner so as to constitute a public nuisance, the Director of Planning and Community Development, on not less than 10 days written notice to the accessory dwelling unit owner, may hold a permit revocation hearing which shall be heard by a hearing officer in accordance with applicable law.

1. The Director and the accessory dwelling unit owner shall each be permitted to present evidence with respect to the proposed permit revocation.
2. The hearing officer shall issue a written decision within 10 days of the conclusion of the hearing. The decision of the hearing officer shall be final.
3. Upon revocation, the accessory dwelling unit shall be removed. However, if at the time of revocation there are tenants occupying the accessory dwelling unit pursuant to a valid and binding rental or lease agreement that is consistent with the provisions of this chapter, such tenants shall be permitted to continue to occupy the accessory dwelling unit until the expiration or earlier termination of the rental or lease agreement, and upon such expiration or earlier termination the accessory dwelling unit shall be removed.

Nothing herein shall preclude or prevent the city from undertaking any other enforcement action with respect to the accessory dwelling unit which the city is otherwise authorized under this code or applicable state or federal law, including but not limited to the abatement of public nuisances.

T. Appeals. The decision of the Director is final and is not appealable. Fees.

1. An accessory dwelling unit application must be submitted to the city along with the appropriate fee as established by the city council by resolution in accordance with applicable law.
2. The City may impose a fee on the applicant in connection with approval of an accessory dwelling unit for the purpose of defraying all or a portion of the cost of public facilities related to its development, as provided for in Government Code sections 65852.2(f)(1) and 66000(b).
3. The City will not consider an accessory dwelling unit to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.
4. The City shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

Section 4. CEQA. The City Council has considered all of the evidence in the record, including the staff reports, the testimony received during the public hearing on the matter held by the City Council, and hereby determines that Ordinance No. ___ is statutorily exempt under Section 15282, Subdivision (h), of the California Environmental Quality Act (“CEQA”) regulations because it adopts “an ordinance regarding accessory dwelling units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Sections 21080.17 of the Public Resources Code.”

Section 5. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, or otherwise not in force or effect, such decision shall not affect the validity, force, or effect, of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or otherwise not in force or effect.

Section 6. Recording. The City Clerk shall submit a copy of this Urgency Ordinance to the California Department of Housing and Community Development within 60 days of its adoption pursuant to Government Code section 65852.2, subdivision (h).

Section 7. Immediate Effect. This Urgency Ordinance is adopted by 4/5 vote of the City Council and shall take effect immediately pursuant to Government Code section 36937.

Section 8. Certification. The City Clerk shall cause this Urgency Ordinance to be published in accordance with California Government Code Section 36933, shall certify to the adoption of this Urgency Ordinance, and shall cause this Urgency Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City Council. The City Clerk shall certify to the adoption of this ordinance and shall cause the same to be published or posted in the manner prescribed by law.

PASSED, APPROVED, AND ADOPTED this 18th day of December, 2019.

/s/
Robert S. Joe, Mayor

ATTEST:

APPROVED AS TO FORM:

/s/
Evelyn G. Zneimer, City Clerk
(seal)

/s/
Teresa L. Highsmith, City Attorney

Date: _____

I HEREBY CERTIFY the foregoing ordinance was duly adopted by the City Council of the City of South Pasadena, California, at a regular meeting held on the 18th day of December, 2019, by the following vote:

AYES: Cacciotti, Khubesrian, Mahmud, Schneider, and Mayor Joe

NOES: None

ABSENT: None

ABSTAINED: None

/s/
Evelyn G. Zneimer, City Clerk
(seal)