

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

ORDINANCE NO. 2003 - __

AN ORDINANCE REPEALING SECTION 2-576 OF THE SAN LEANDRO ZONING CODE AND ADDING A NEW SECTION 2-576 RELATING TO REGULATION OF SECONDARY DWELLING UNITS

The City Council of the City of San Leandro ORDAINS as follows:

SECTION 1. Section 2-576 of the City of San Leandro Zoning Code is hereby repealed.

SECTION 2. The City of San Leandro Zoning Code is hereby amended by adding a new Section 2-576, entitled "Secondary Dwelling Units," to said Code, as follows:

"Section 2-576 Secondary Dwelling Units

This section is intended to implement the General Plan housing policy on second dwelling units, adopted in part in response to Government Code Section 65852.1 et seq., by allowing Secondary Dwelling Units through ministerial review in any residential district, subject to meeting the criteria defined below.

- A. Where Permitted. In any residential district, a Secondary Dwelling Unit may be permitted on a lot with a single-family dwelling, subject to meeting the regulations of this section. Additional Dwelling Units in the RO District only are subject to the regulations of Section 2-254.
- B. Ministerial Review and Approval Required. A secondary dwelling unit in a residential district will be approved if it fully conforms to all the following criteria.

1. Application Requirements.

Applicants for second dwelling units shall submit an application to the Community Development Department, Planning Services Division, which, at a minimum, shall include:

- A. Plot plan (drawn to scale): Dimensions of 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 50 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. Deed restriction completed as required, signed and ready for recordation.
2. Findings Necessary for Approval. The Zoning Enforcement Official shall approve a secondary dwelling unit upon finding the following:
- a. The dwelling conforms to all the design and development standards for secondary dwelling units established in Subsection C of this section;
 - b. The secondary unit maintains the scale of, and is visually compatible with, adjoining residences and the residences in the immediate vicinity; Building materials, forms (e.g., roof pitch), colors and exterior finishes are substantially the same as those on the existing dwelling;
 - c. Public and utility services including emergency access are adequate to serve both dwellings;
 - d. The secondary unit is not located on, or adjacent to, real property that is listed in the California Register of Historic Places;
 - e. The secondary unit will not exceed the allowable density for the property upon which it is located;
 - f. The secondary dwelling unit is consistent with the General Plan and the zoning for the property.

- g. For Secondary Units located in a RO, RS, or RS-VP District, the main dwelling or secondary dwelling will be owner-occupied and eligible for a homeowner's exemption for state tax purposes.

C. Design and Development Standards.

1. Unit size. A secondary dwelling constructed within or attached to an existing dwelling or garage shall contain at least three hundred 300 square feet but not more than thirty (30%) percent of the heated floor area of the existing dwelling or four hundred fifty (450) square feet, whichever is lesser.
2. Prohibition - Garage Conversions. No secondary dwelling unit may be constructed, installed or created from the conversion of an existing garage unless a garage or covered parking structure, such as a carport, replaces the converted garage and is provided on the lot.
3. Required Setbacks. Attached secondary dwelling units shall not be permitted in a required yard. Detached units are required to meet setback requirements established by Section 2-546 related to Accessory Structures, while detached units in the RO District shall comply with all setback requirements defined for RO District.
4. Height and Building Coverage. The basic requirements of Article 5 shall apply unless modified by an overlay district.
5. Parking. A minimum of one (1) independently accessible off-street parking space in addition to any parking spaces required for the residential dwelling shall be required for a lot containing a secondary dwelling, unless a finding is made that additional parking requirements are directly related to the use of the second unit and consistent with applicable neighborhood standards applicable to the existing dwelling. Parking for a secondary dwelling unit may be provided in a tandem arrangement if located in the driveway and outside the front yard setback.
6. Subordinate to Existing Dwelling. The secondary unit shall be visually subordinate to the existing dwelling, with an exterior entry that is clearly made to appear secondary to the entry for the existing dwelling.
7. Attached and Detached Units Allowed. Both attached and detached secondary dwelling units are allowed, however, detached units must be sited on parcels containing at least 10,000 square feet.

A detached secondary dwelling unit that is sited on a property less than

10,000 square feet may be considered through a Site Plan Review process through the Zoning Enforcement Official. Detached units on smaller parcels shall be considered as long as all other requirements relating to parking, lot coverage, building height and setbacks are met.

8. Residential Site Plan Review. Secondary Dwelling Units located in a RO, RS, or RS-40 District that meet the standards for Residential Site Plan Review as defined in Section 2-580(D) shall comply with the Residential Site Plan Review Standards contained in Section 2-580(H).
 9. View Preservation/Site Plan Review. For Secondary Units located in a RS-VP District that meet the standards for View Preservation/Site Plan Review as defined in Section 2-582(D)(1), the Secondary Unit shall comply with the View Preservation/Site Plan Review Standards contained in Section 2-582(D)(6).
- D. Conditions Recorded. The City shall file a Notice of Occupancy Restriction (pursuant to subsection (B)(2)(g), above) with the Alameda County Recorder within thirty (30) days from the date the approval of the secondary dwelling unit .
- E. Prohibition - Subdivision - Separate Tax Assessment. Approval of a secondary dwelling unit shall not be deemed to be a division of land for purposes of Government Code Section 66410 et seq. or Title VII of the Municipal Code, nor shall the ministerial approval in accord with this Article entitle the applicant to:
- (1) such a division of land; or
 - (2) to have each of the two (2) dwelling units on the parcel separately assessed for property tax purposes."

SECTION 3. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of the Ordinance is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part hereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause and phrase of the Ordinance irrespective of the fact that one or more of them would be declared unconstitutional or invalid. To this end, the provisions of the Ordinance are declared to be severable.