



# Ordinance Fact Sheet

TO: CITY COUNCIL

DATE: August 16, 2004

FROM: CITY ATTORNEY

**TITLE OF PROPOSED ORDINANCE:**

AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 17 (THE ZONING CODE) TO ALLOW SECOND DWELLING UNITS IN THE RS (SINGLE-FAMILY RESIDENTIAL) ZONING DISTRICTS

**PURPOSE OF ORDINANCE:**

The purpose of the ordinance is to set forth development standards, regulations and designate areas within the City where second-units may be constructed.

**REASONS WHY LEGISLATION IS NEEDED:**

The State Legislature passed AB 1866 which became effective on July 1, 2003, which requires that applications for second-units be considered ministerially. AB 1866 allows the City to adopt or amend a second-unit ordinance which requires that second-units comply with specific development standards such as height, setbacks and size. If a City does not adopt its own development standards, the new legislation requires that the standards set forth in the State Government Code Section 65800 *et. seq.* be applied.

The City Council directed preparation of the attached ordinance at the public hearing held on June 21, 2004. Consistent with State law, the proposed ordinance sets forth development standards, parking, residency, minimum lot size and distance requirements.

**PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED:**

The Planning and Development Department will implement the proposed ordinance.

73383.1

MEETING OF 8/16/2004

AGENDA ITEM NO. 9.A.(1)

**FISCAL IMPLICATIONS:**

There will be no fiscal impacts associated with the proposed code amendments since the amendment will be reviewed as part of the plan check process. Fees are collected to cover the costs associated with plan checks.

**ENVIRONMENTAL CLEARANCE:**


Second units approved ministerially are statutorily exempt from CEQA pursuant to Section 15268 of the CEQA Guidelines (Ministerial Projects) and Section 21080(b)(1) of the Public Resources Code.

**POLICY CHANGES:** Applications for construction of second-units will be reviewed ministerially without discretionary review or a hearing.

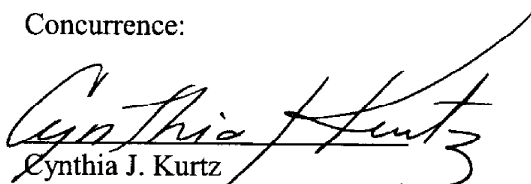
Respectfully submitted,

  
MICHELE BEAL BAGNERIS  
City Attorney

Prepared by:

  
Maribel S. Medina  
Assistant City Attorney

Concurrence:

  
Cynthia J. Kurtz  
City Manager

Introduced by Councilmember \_\_\_\_\_

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 17 (THE ZONING CODE) TO ALLOW SECOND DWELLING UNITS IN THE RS (SINGLE-FAMILY RESIDENTIAL) ZONING DISTRICTS**

WHEREAS the City of Pasadena (“City”) permits and regulates the construction, use and occupancy of second dwelling units in single family residential zones, as authorized by Government Code Section 65852.2 (the “Second Dwelling Statute”) and

WHEREAS in 2003, the State Legislature enacted Assembly Bill No. 1866, which amended the Second Dwelling Statute and requires public agencies to approve or disapprove applications for second dwelling units ministerially without discretionary review or a hearing; and

WHEREAS Government Code Section 65852.2(a) states that, in permitting and regulating second dwelling units, local agencies may do any of the following, among other things:

1. Designate areas within the jurisdiction of the local agency where second 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 units on traffic flow.
2. Impose standards on second units that include, but are not limited to, parking, height, setback, lot coverage, architectural review, maximum size of a unit.
3. Establish minimum and maximum unit sizes for second dwelling units, provided a minimum efficiency unit can be provided in accordance with state law; and

WHEREAS the City Council finds that notwithstanding the legislative mandate created by the Second Dwelling Statute to permit second dwelling units within the City, the City Council is authorized under its police power as conferred by Article XI, section 7 of the California Constitution, its Charter and the Second Dwelling Statute to enact regulations applicable to second dwelling units that: preserve the single-family character of single-family residential neighborhoods; and prevent specific, adverse impacts caused by second units, including traffic, noise, and negative impacts on City services such as water, sewer, and police services; and

WHEREAS the City Council finds that second dwelling units can have an impact on the privacy of neighboring properties, especially properties to the rear of a property with a detached second unit. Accordingly, the City Council finds that the restriction imposed by this Ordinance in Section 17.64.390 limiting the height of second dwelling units will act to significantly limit the privacy impacts to neighboring properties that would otherwise be caused by second dwelling units; and

WHEREAS the City Council finds that changing the minimum lot size on which a new second dwelling unit may be constructed to a minimum of 15,000 square feet will protect against potential impacts caused by second dwellings and the intensification of land in single-family neighborhoods; and

WHEREAS the City Council finds that the over-concentration of second dwelling units in individual neighborhoods may result from recent legal events affecting second units. This over-concentration can potentially lead to impacts on traffic flow, noise, and the demand on City services. It is also reasonably foreseeable that the elimination of discretionary review for second dwelling units will cause an increase in second dwelling unit applications. To prevent the proliferation of second units in single family neighborhoods and the de facto rezoning of single-family neighborhoods into duplex neighborhoods, the City Council finds that it is appropriate and necessary to require a minimum distance between properties containing second dwelling units. The distance requirement of 500 feet imposed by this Ordinance will limit the over-concentration of second dwelling units in individual neighborhoods. The City Council finds that imposing the 500-foot distance requirement is intended to prevent impacts associated with over-concentration of second units on a particular block, especially traffic and the impact to City services. The City Council further finds that this regulation, by preventing a proliferation of second dwelling units, will protect the character and integrity of single family neighborhoods. The City Council further finds that the minimum distance requirement set forth in this Ordinance is enacted pursuant to its police power, as well as its authority under Government Code Section 65852.2(a)(1)(A) to designate "areas" within City limits where second units may be located based on criteria that include the adequacy of water, sewer, and emergency services, and the impacts of second units on traffic flow; and

WHEREAS the City Council finds that it is necessary and desirable to prevent single-family properties with second dwelling units from becoming de facto duplex rental properties and takes legislative notice that the Second Dwelling Statute permits local agencies to require that the owner of the property reside in either the primary or secondary dwelling. The Council finds that maintaining such a requirement will assist in the preservation of the character of RS Zoning Districts as single family neighborhoods; and

WHEREAS the City Council finds that the requirement of two additional parking spaces per second unit is directly related to the use of the additional dwelling unit on the single family parcel and that it is necessary and desirable to maintain the character of the neighborhoods in which second dwelling units will be constructed pursuant to the Second Dwelling Statute and

this Ordinance; and

WHEREAS, based on the above-described impacts of second units in single family zoned areas, this ordinance is necessary for the immediate preservation of the public peace and safety related to impacts on noise, traffic, City services, privacy, and preservation of the character of single family zoned neighborhoods;

**NOW THEREFORE** the people of the City of Pasadena ordain as follows:

**SECTION 1.** This ordinance, due to its length and corresponding cost of publication will be published by title and summary as permitted by Section 508 of the Charter. The approved summary of this ordinance is as follows:

**“SUMMARY**

Ordinance No. \_\_\_\_\_ amends various provisions of Title 17 (Zoning Code) and adds a new Section 17.64.390, to provide that second dwelling units that meet minimum quantifiable, fixed and objective standards shall be approved ministerially, in compliance with state law. The Ordinance further sets forth site regulations applicable to new applications for second units in the City, including residency, minimum lot size and distance requirements, as well as development standards, including unit size requirements, height limits, and parking requirements.

Ordinance No. \_\_\_\_\_ shall take effect upon its publication by title and summary.”

**SECTION 2.** Section 17.16.030 of Title 17, entitled, "Residential use classifications" is hereby amended by adding the use classification, "Second Dwelling Unit" in the proper alphabetical sequence to read as follows:

"Second Dwelling Unit. A detached residential dwelling unit that provides complete independent living facilities for one or more persons on the same parcel as a legal single-family residence. A second dwelling unit shall include permanent provisions that include, but are not limited to, living, sleeping, eating, cooking, and sanitation."

**SECTION 3.** Section 17.20.020 of the Pasadena Municipal Code, entitled, "Land use regulations" is amended as follows:

- (a) By amending the scheduled entitled, "RS-1, RS-2, RS-4, AND RS-6 DISTRICTS: LAND USE REGULATIONS" as shown in Exhibit 1, attached hereto and incorporated by this reference.

- (b) By amending the schedule entitled, "RS-1, RS-2, RS-4, AND RS-6 DISTRICTS: ADDITIONAL LAND USE REGULATIONS" by adding the following:

"(O) Sec Section 17.64.390, Second dwelling units."

**SECTION 4.** A new Section 17.64.390 is hereby added to Chapter 17.64, entitled, "Site regulations" to read in its entirety as follows:

"17.64.390 - Second Dwelling Units.

Second dwelling units shall meet the following regulations:

A. General Requirements.

1. May be developed on any legal parcel of 15,000 square feet or more in any RS zoning district.
2. Shall be prohibited on properties within the Hillside and Landmark Overlay Districts.
3. Shall only be built when there is an existing single-family residence (e.g., primary dwelling unit) on the site. If a site is vacant, a second dwelling unit may be constructed at the same time as the primary dwelling unit.
4. There shall be a minimum distance of five-hundred (500) feet between properties with second dwelling units constructed under these provisions. This distance shall be measured from the nearest property line to the nearest property line.
5. The property owner shall occupy one of the two units on the site as a primary residence. If thereafter, the owner occupies neither unit, the second dwelling unit shall automatically become a non-habitable space, shall not be used as a dwelling, and shall not be rented.
6. A second dwelling unit is only permitted on a lot that is connected to a sewer system.
7. Existing single-family structures shall not be demolished to allow the construction of a second dwelling unit.
8. Trailers, or pre-fabricated housing shall not be permitted.
9. No more than twenty (20) second dwelling units shall be permitted

per calendar year within the City boundaries, with no more than two hundred (200) permitted in a ten-year period.

10. Some flexibility from the standards of this ordinance is permitted for the relocation of a historic resource onto the front of a property with an existing single-family residence. Flexibility could include using the rear house as a second dwelling unit even though it may exceed the maximum size for a second dwelling unit. Waivers from these standards to accommodate the relocation of a historic resource shall be subject to the review and approval of the Director of Planning and Development.

B. Development Standards.

1. Except as set forth herein, second dwelling units shall comply with all of the development standards (i.e. setbacks, lot coverage, floor area, encroachment plane, height, etc.) that apply to the primary dwelling unit.

2. Shall not be more than 800 square feet in size.

3. Shall be limited to a height of one-story, not to exceed twelve feet to the top plate and 17 feet to the highest ridgeline, and shall not exceed the height of the main structure.

4. Shall be located behind the rear building line of the primary dwelling unit, and be clearly subordinate by size and location.

5. A minimum building separation of six feet shall be maintained (eave to eave) between the primary dwelling unit and a detached second dwelling unit. A minimum distance of ten feet shall be maintained from the entrance of a second dwelling unit if it is facing the wall of another structure on the property.

6. No entry to a second dwelling unit shall be visible from the public right-of-way.

C. Parking and Circulation.

1. The primary dwelling unit shall provide the required two covered parking spaces on-site prior to allowing a second dwelling unit on the property. An additional two covered parking spaces shall be provided for a second dwelling unit.

2. No overnight parking permits shall be issued for a property with a second dwelling unit approved under these provisions.

3. A second dwelling unit shall share the driveway with the existing primary dwelling unit on the site. A second driveway shall only be permitted from an alley, if there is an alley that serves the site.”

**SECTION 5.** The City Clerk Shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

**SECTION 6.** This ordinance shall take effect upon its publication by title and summary.

Signed and approved this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Bill Bogaard  
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council on the City of Pasadena at its regular meeting held on \_\_\_\_\_, 2004, by the following vote:

AYES:

NOES:

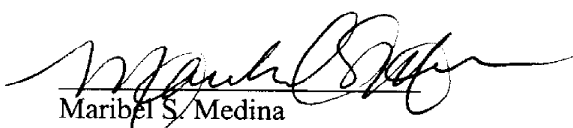
ABSENT:

ABSTAIN:

Published:

\_\_\_\_\_  
Jane L. Rodriguez  
City Clerk

APPROVED AS TO FORM:

  
Maribel S. Medina  
Assistant City Attorney



**Exhibit 1 – Ordinance amending Title 17 (Second Dwelling Unit Ordinance)**

<b>RS-1, RS-2, RS-4, AND RS-6 DISTRICTS:</b>					
<b>LAND USE REGULATIONS</b>					
<b>Use Classifications</b>	<b>RS-1</b>	<b>RS-2</b>	<b>RS-4</b>	<b>RS-6</b>	<b>Additional Use Regulations</b>
<b>Residential</b>					
Adult Day Care, Limited	P	P	P	P	
Family Day Care Homes:					
Small	P	P	P	P	
Large	MC	MC	MC	MC	(A)
Residential Care, Limited	P	P	P	P	
<u>Second Dwelling Unit</u>	P	P	P	P	(O)
Single-family Residential	P	P	P	P	
<b>Public and Semi-Public</b>					
Adult Day Care, General	C	C	C	C	(D)
Child Day Care Center	C	C	C	C	(M)
Cultural Institutions	C	C	C	C	(D)
Park and Recreation Facilities	C	C	C	C	
Public Safety Facilities	C	C	C	C	(D)
Religious Assembly	C	C	C	C	(D)(E)
With Columbarium	MC	MC	MC	MC	(G)
With Temporary Homeless Shelter	C	C	C	C	(I)
Utilities, Major	C	C	C	C	(D)
Utilities, Minor	P	P	P	P	
<b>Commercial</b>					
Horticulture, Limited	C	C	C	C	
Wireless Telecommunications					
Antenna Facility: Minor (excluding building mounted and co-located facilities)	MC	MC	MC	MC	(F)
<b>Accessory</b>					
Accessory Uses	P/C	P/C	P/C	P/C	
Home Occupations	P	P	P	P	(H)