



Town Council Agenda Report

Date: March 24, 2020 Item No. 4

To: Honorable Mayor and Town Council

Subject: SECOND READING OF ORDINANCE 530, AMENDING TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY MODIFYING PROVISIONS RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AS REQUIRED FOR COMPLIANCE WITH GOVERNMENT CODE 65852.2 AND 65852.22.

From: Douglas Robertson, Town Manager

Submitted by: Pam Cupp, Senior Planner
Planning Department

Budgeted Item: Yes No N/A

RECOMMENDED ACTION:

Adopt Ordinance No. 530

BACKGROUND:

At its March 10, 2020 meeting, the Town Council introduced ordinance No. 530 that modifies the Development Code by amending provisions relating to accessory dwelling units and junior accessory dwelling units as required for compliance with Government Code Section 65852.2 and 65852.22.

Fiscal Impact:

Not Applicable

Attachments:

Ordinance No. 530

ORDINANCE NO. 530

A ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING CHAPTER 9.08 “DEFINITIONS” AND SECTION 9.29.120 “ACCESSORY DWELLING UNITS” OF CHAPTER 9.29 “SPECIFIC USE REGULATIONS” AS REQUIRED BY SB 13, AB 68 AND AB 881.

WHEREAS, the General Plan of the Town of Apple Valley was adopted by the Town Council on August 11, 2009; and

WHEREAS, Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on April 27, 2010; and

WHEREAS, in 2019, the California Legislature approved, and the Governor signed into law a number of bills (“New ADU Laws”) that, among other things, amended Government Code section 65/852.2 and 65852.22 to impose new limits on local authority to regulate accessory dwelling units and junior accessory dwelling units; and

WHEREAS, Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley has been previously modified by the Town Council on the recommendation of the Planning Commission; and

WHEREAS, specific changes are proposed to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by amending Chapter 9.29 “Specific Use Regulations” and Chapter 9.08 “Definitions” as it pertains to accessory dwelling units and junior accessory dwelling units; and,

WHEREAS, Development Code Amendment No. 2019-017 is consistent with the Town's General Plan and Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley and shall promote the health, safety, and general welfare of the citizens of the Town of Apple Valley; and

WHEREAS, pursuant to Section 21080.17 of the State Guidelines to Implement the California Environmental Quality Act (CEQA), this proposal is exempt because CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.1 or Section 65852.2 of the Government Code; and

WHEREAS, on February 28, 2020, Development Code Amendment No. 2019-017 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, on March 10, 2020 the Town Council of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2019-017 receiving testimony from the public; and

NOW, THEREFORE, the Town Council of the Town of Apple Valley, State of California, does ordain as follows:

Section 1. Find that the changes proposed by Development Code Amendment No. 2019-017 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

Section 2. Pursuant to Section 21080.17 of the State Guidelines to Implement the California Environmental Quality Act (CEQA), this proposal is exempt because CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.1 or Section 65852.2 of the Government Code; and,

Section 3. Modify Chapter 9.08 “Definitions” to changing the definition of Accessory Dwelling Unit as follows:

“ACCESSORY DWELLING UNIT

Accessory dwelling unit” or “ADU” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:

- (a) An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and
- (b) A manufactured home, as defined by Section 18007 of the California Health and Safety Code.”

Section 4. Replace Section 9.29.120 “Accessory Dwelling Units” of Chapter 9.29 “Specific Use Regulations for Residential Districts” with the following:

“9.29.120 Accessory Dwelling Units

A. Purpose. The purpose of this Section is to expand the variety of housing opportunities in the Town by implementing Government Code sections 6585.2 and 65852.22 to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). Implementation of these regulations will ensure that accessory dwelling units are located in areas where services are adequate for support and that accessory dwelling units are designed and maintained as a compatible and integral part of the Town's residential zoning districts.

B. Applicability. In compliance with the requirements of Government Code 65852.2, the provisions of this Chapter shall apply to all accessory dwelling units located within any zoning designation for single-family, multifamily or mixed-uses,

or any property with an existing single-family dwelling unit or multi-family dwelling structure.

C. Definitions. As used in this section, terms are defined as follows:

1. "Accessory dwelling unit" or "ADU" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:
 - a. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and
 - b. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.
2. "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
3. "Complete independent living facilities" means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.
4. "Efficiency kitchen" means a kitchen that includes each of the following:
 - a. A cooking facility with appliances.
 - b. A food preparation counter or counters that total at least 15 square feet in area.
 - c. Food storage cabinets that total at least 30 square feet of shelf space.
5. "Junior accessory dwelling unit" or "JADU" means a residential unit that
 - a. is no more than 500 square feet in size,
 - b. is contained entirely within an existing or proposed single-family structure,
 - c. includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and
 - d. includes an efficiency kitchen, as defined in subsection (c)(4) above.
6. "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.
7. "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.
8. "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
9. "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
10. "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

11. "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

D. Permit Requirements. All accessory dwelling units shall be subject to a building permit and comply with all Building and Fire Codes. Applications for accessory dwelling units shall be approved or disapproved ministerially pursuant to the requirements of this Section within sixty (60) days of a determination that the application is complete, as required by Gov. Code, § 65852.2(b).

E. Density. As provided by Government Code Section 65852.2(a)(1)(C), accessory dwelling units are exempt from the density limitations of the General Plan and subject to the following:

1. Lots with an existing or proposed single-family dwelling may be permitted (1) accessory dwelling unit, and one (1) junior accessory dwelling unit located within the primary residence.
2. Lots with an existing multifamily dwelling structure may incorporate accessory dwelling units into non-habitable areas of the existing structure. The number of this type of accessory dwelling units is limited to one (1), or twenty-five (25) percent of the number of existing multifamily dwelling units within the multifamily dwelling structure, whichever is number is greater. Lots with an existing multifamily dwelling structure may also have no more than two (2), detached accessory dwelling units.

F. Public Utility Requirements.

1. Construction of an accessory dwelling unit will require the entire property be connected to sewer, when available. When public sewer is not available, and in compliance with the State of California Lahontan Regional Water Quality Control Board, the following provisions apply:
 - a. The accessory dwelling unit will occupy bedrooms within an existing single-family dwelling with an onsite wastewater system sized appropriately for the use as determined by the Building Official.
 - b. An accessory structure constructed prior to January 1, 2020 may be converted to an accessory dwelling unit when connected to an existing, onsite wastewater system sized appropriately for the use, as determined by the Building Official.
2. No onsite wastewater systems shall be installed or expanded for an accessory dwelling unit unless the site is one (1) acre or more in size.

G. Use of Property.

1. On properties with an existing or proposed single-family residence, the primary dwelling or accessory dwelling unit, must be occupied by the property owner. *(This provision does not apply to an accessory dwelling unit for which a permit is issued between 1/1/2020 and 1/1/2025.)*

2. The creation of a junior accessory dwelling unit shall require the owner to occupy either the primary dwelling, accessory dwelling, or junior accessory dwelling unit on the property. This provision does not apply if the owner is a governmental agency, land trust, or housing organization.
3. The accessory dwelling unit or junior accessory dwelling unit may be rented separately from the primary residence but may not be sold or otherwise conveyed separately from the primary residence.
4. The rental term for an accessory dwelling unit or junior accessory dwelling unit shall not be less than thirty (30) days.
5. The correction of a legal nonconforming zoning condition shall not be required for the creation of an accessory dwelling unit or junior accessory dwelling unit.
6. When constructed concurrently with a primary dwelling, the accessory dwelling unit shall not receive its final inspection for occupancy prior to that of the primary dwelling.

H. *Design and Development Standards*

1. An accessory dwelling unit may be attached to, or detached from, an existing or proposed single-family residence or converted from an existing accessory structure, attached garage, storage area or other similar non-habitable structure on the same lot as the single-family residence. An accessory dwelling may be converted from non-habitable space within an existing multi-family structure and may be detached from but on the same lot as a multifamily dwelling structure.
2. An accessory dwelling unit shall be located on the same lot as the proposed or existing primary dwelling.
3. The accessory dwelling unit or junior accessory dwelling unit may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing primary dwelling or converted accessory structure. An expansion beyond the physical dimensions of the existing structure shall be limited to accommodating ingress and egress.
4. An attached accessory dwelling unit or junior accessory dwelling unit must have separate, exterior access from the proposed or existing primary dwelling.
5. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, those off-street parking spaces do not need to be replaced.
6. No parking shall be required for any accessory dwelling unit; however, the accessory dwelling unit may have an attached garage if the total footprint of the accessory dwelling unit with the garage does not exceed seventy-five (75) percent of the total area under roof of the primary dwelling. Paved access must be provided to any attached garage.

7. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary dwelling unit.
8. No provisions within this Code, including lot coverage or legal nonconformity, shall preclude either an attached or detached 800 square foot accessory dwelling unit that is at least sixteen (16) feet in height with four (4)-foot side yard and rear yard setbacks.
9. The driveway serving the primary dwelling shall be used to serve the accessory dwelling unit unless otherwise required for fire safety.
10. The owner may meter the accessory dwelling unit separately from the main dwelling for gas, electricity and water/sewer services.
11. No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit.

I. *Junior Accessory Dwelling Units* (Pursuant to Government Code Section 65852.22).

1. Owner occupancy shall be required on the property which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the primary or accessory dwelling unit or the junior accessory dwelling unit. This provision does not apply if the owner is a governmental agency, land trust, or housing organization.
2. The junior accessory dwelling unit shall be provided with a separate exterior entrance from the main entrance to the proposed or existing single-family residence or accessory dwelling unit. The separate entrance may not be on the same elevation as the primary entrance to the proposed or existing single-family residence or accessory dwelling unit.
3. The junior accessory dwelling unit must include an efficiency kitchen that includes a cooking facility with appliances, a food preparation counter this is at least fifteen (15) square feet and include at least thirty (30) square feet of storage cabinet or shelf space.
4. Floor area for junior accessory dwelling unit shall not be less than 220 square feet or greater than 500 square feet, excluding bathroom.
5. The junior accessory dwelling unit may have bathroom or share with the proposed or existing single-family dwelling or accessory dwelling unit.
6. Additional parking shall not be required.

J. *Attached Accessory Dwelling Units.*

1. The maximum size for an attached accessory dwelling unit is fifty (50) percent of the habitable floor area of the primary dwelling or 1,200 square feet, whichever is greater.
2. The materials and colors of the exterior walls, roof, windows and doors must match the appearance and architectural design of those of the primary dwelling.
3. The roof slope must match that of the dominant roof slope of the primary dwelling. The dominant roof slope is the slope shared by the largest portion of the roof.
4. Independent access to the accessory dwelling unit shall not be located on the same elevation as the access to the primary dwelling.
5. The new construction of an attached accessory dwelling unit shall not be permitted with an existing multi-family dwelling; however, conversion of existing non-habitable space may be permitted subject to the above density provisions.

K. *Detached Accessory Dwelling Units.*

1. On lots with an existing multifamily dwelling, the maximum height of an accessory dwelling unit shall be sixteen (16) feet with minimum rear yard and side yard setbacks of four (4)-foot.
2. The accessory dwelling unit shall be located upon a permanent foundation and must include the use of the same colors, materials and architectural style of the primary dwelling unit.
3. For lots less than two and one-half (2-1/2) acres in size, detached accessory dwelling units on property with an existing or proposed single-family dwelling shall comply with the following:
 - a. Shall be located to the rear of the primary dwelling unit;
 - b. On corner lots, the minimum front or street side yard setback of the accessory dwelling unit shall be at least ten (10) feet greater than the primary dwelling or have its access from the street opposite that of the primary dwelling. Notwithstanding the foregoing, an accessory dwelling unit may be in front of the primary dwelling when constructed with the same architectural style as the primary dwelling.
 - c. The maximum habitable floor area shall be fifty (50) percent of the total footprint of the primary dwelling, or 1,200 square feet, whichever is greater.
 - d. Lots one (1) acre or more in size may be permitted a larger accessory dwelling unit with the Planning Commission's approval of a Minor Development Permit.

4. For lots two and one-half (2-1/2) acres or more in size, detached accessory dwelling units on property with an existing or proposed single-family dwelling shall comply with the following:
 - a. The maximum habitable floor area shall be fifty (50) percent of the total footprint of the primary dwelling, or 1,200 square feet, whichever is greater.
 - b. The maximum habitable floor area of an accessory dwelling unit may exceed the above, with habitable floor area based upon lot coverage subject to the Planning Commission's approval of a Minor Development Permit."

Section 5. Notice of Adoption. The Town Clerk of the Town of Apple Valley shall certify to the adoption of this ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the Town in a manner permitted under Section 36933 of the Government Code of the State of California.

Section 6. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

Section 7. Severability. If any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications and, to this end, the provisions of this Ordinance are declared to be severable.

Approved and Adopted by the Town Council and signed by the Mayor and attested to by the Town Clerk this 24th day of March 2020.

Honorable Scott Nassif, Mayor

ATTEST:

Ms. La Vonda M. Pearson, Town Clerk

Approved as to form:

Approved as to content:

Mr. Thomas Rice, Town Attorney

Mr. Douglas B. Robertson, Town Manager