




STAFF REPORT

Date: Tuesday, January 24, 2017
To: Bryan H. Montgomery, City Manager
From: Joshua McMurray, Planning Manager
Subject: Proposed amendments to Sections 9.1.406 and 9.1.1102 of Article 4 and Article 11 of Chapter 1 of Title 9 of the Oakley Municipal Code necessary to comply with recent changes to State Law regarding Accessory Dwelling Units (ADU's) (RZ 03-16)

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

Summary and Recommendation

This is a City-initiated amendment to two sections (9.1.406 and 9.1.1102) of the Zoning Code necessary to comply with recent changes to State Law regarding Accessory Dwelling Units (ADUs) (RZ 03-16). Specifically the amendments bring the City's code up to date with Senate Bill (SB) 1069 and Assembly Bill (AB) 2299.

Staff recommends the City Council waive the first reading and introduce the attached ordinance Amending Sections 9.1.406 and 9.1.1102 of Article 4 and Article 11 of Chapter 1 of Title 9 of the Oakley Municipal Code dealing with Accessory Dwelling Units.

Background and Analysis

The California legislature found and declared that, among other things, allowing ADUs in single family and multifamily zones provides additional rental housing and is an essential component in addressing housing needs in California. Over the years, ADU law has been revised to improve its effectiveness such as recent changes in 2003 to require ministerial approval. In 2017, changes to ADU laws further reduce barriers to expand capacity to accommodate the development of ADUs.

SB 1069 (Chapter 720, Statutes of 2016) made several changes to address barriers to the development of ADUs and expanded capacity for their development. The following is a brief summary of the changes.

Parking

SB 1069 reduces parking requirements to one space per bedroom or unit. The legislation authorizes off street parking to be tandem or in setback areas unless specific

findings such as fire and life safety conditions are made. SB 1069 also prohibits parking requirements if the ADU meets any of the following:

- Is within a half mile from public transit.
- Is within an architecturally and historically significant historic district.
- Is part of an existing primary residence or an existing accessory structure.
- Is in an area where on-street parking permits are required, but not offered to the occupant of the ADU.
- Is located within one block of a car share area.

Fees

SB 1069 provides that ADUs shall not be considered new residential uses for the purpose of calculating utility connection fees or capacity charges, including water and sewer service. The bill prohibits a local agency from requiring an ADU applicant to install a new or separate utility connection or impose a related connection fee or capacity charge for ADUs that are contained within an existing residence or accessory structure. For attached and detached ADUs, this fee or charge must be proportionate to the burden of the unit on the water or sewer system and may not exceed the reasonable cost of providing the service. The City of Oakley has separate Districts that handle water (Diablo Water District) and sewer (Ironhouse Sanitary District). These Districts have been notified of the changes to State Law. The Diablo Water District did contact the City after notification and stated that it has been a 20-year policy to not charge any fees for second units unless someone wants a larger water meter, which they stated is very rare.

Fire Requirements

SB 1069 provides that fire sprinklers shall not be required in an accessory unit if they are not required in the primary residence.

ADUs within Existing Space

Local governments must ministerially approve an application to create within a single family residential zone one ADU per single family lot if the unit is:

- contained within an existing residence or accessory structure.
- has independent exterior access from the existing residence.
- has side and rear setbacks that are sufficient for fire safety.

These provisions apply within all single family residential zones and ADUs within existing space must be allowed in all of these zones. No additional parking or other development standards can be applied except for building code requirements.

No Total Prohibition

SB 1069 prohibits a local government from adopting an ordinance that precludes ADUs.

Generally, AB 2299 (Chapter 735, Statutes of 2016) requires a local government to ministerially approve ADUs if the unit complies with certain parking requirements, the maximum allowable size of an attached ADU, and setback requirements, as follows:

- The unit is not intended for sale separate from the primary residence and may be rented.

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- The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.
- The unit is either attached to an existing dwelling or located within the living area of the existing dwelling or detached and on the same lot.
- The increased floor area of the unit does not exceed 50% of the existing living area, with a maximum increase in floor area of 1,200 square feet.
- The total area of floorspace for a detached accessory dwelling unit does not exceed 1,200 square feet.
- No passageway can be required.
- No setback can be required from an existing garage that is converted to an ADU.
- Compliance with local building code requirements.
- Approval by the local health officer where private sewage disposal system is being used.

Environmental Review

The amendments to the Zoning Code are exempt from CEQA pursuant to Section 15061(b)(3), Review for Exemption, because it can be seen with certainty that the project will not have a significant effect on the environment; therefore the project is not subject to CEQA.

Findings

Proposed findings to support the amendments are included in the attached ordinance.

Recommendation

Staff recommends the City Council waive the first reading and introduce the attached ordinance Amending Sections 9.1.406 and 9.1.1102 of Article 4 and Article 11 of Chapter 1 of Title 9 of the Oakley Municipal Code dealing with Accessory Dwelling Units.

Attachments

1. Proposed Ordinance – Accessory Dwelling Units
2. Strikeout/Underline of Code Section 9.1.406
3. Strikeout/Underline of Code Section 9.1.1102

ORDINANCE NO. XX-17

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY MAKING FINDINGS AND AMENDING SECTIONS 9.1.406 AND 9.1.1102 OF CHAPTER 1 OF TITLE 9 OF THE OAKLEY MUNICIPAL CODE DEALING WITH MULTIPLE FAMILY RESIDENTIAL DISTRICTS AND SECONDARY DWELLING UNITS

The City Council of the City of Oakley does ordain as follows:

SECTION 1. Findings.

The City Council hereby finds and determines as follows:

- A. State Law requires the City to provide a means to permit Secondary Dwelling Units as required by Senate Bill 1069 and Assembly Bill 2299; and
- B. The amended Section's 9.1.406 and 9.1.1102 dealing with Accessory Dwelling Units as follows complies with State Law.

SECTION 2. Code Amendments

- A. Section 9.1.406(b) of Chapter 1 of Title 9 of the Oakley Municipal Code is hereby amended to read as follows:

"b. Permitted Uses. Uses permitted in the M-9, M-12, and M-17 districts shall be as follows:

- 1. A detached single-family dwelling on each lot and the accessory structures normally auxiliary to it;
- 2. Accessory Dwelling unit per Section 9.1.1102;
- 3. Duplex;
- 4. Multiple family buildings, but not including motels or hotels;
- 5. Motor court and greenway cluster housing (small lot detached housing with garages accessed off a motor court or alley);
- 6. Home-based businesses, per Section [9.1.1120](#);
- 7. Residential care facilities serving six or fewer persons;
- 8. Supportive housing;

9. Transitional housing.”

B. Section 9.1.1102 of Chapter 1 of Title 9 of the Oakley Municipal Code is hereby amended in its entirety to read as follows:

“9.1.1102 Accessory Dwelling Units.

a. Purpose and Intent. The purpose of this section is to increase the supply of smaller dwelling units and rental housing units by allowing accessory dwelling units to be developed on certain lots which are zoned for single-family and multiple-family residential uses and to establish design and development standards for accessory dwelling units to ensure that they are compatible with existing neighborhoods.

b. Permissible Locations. No accessory dwelling unit may be approved if located on, or adjacent to, real property that is listed in the California Register of Historic Places.

c. Permit Required.

1. An accessory unit in any single-family and multiple-family residential zoning district shall require a permit from the Community Development Director. This application must be approved within 120 days of receipt.

2. An application for an accessory dwelling unit shall be ministerially approved without being subject to the other requirements of Government Code section 65852.2 if: (1) the accessory dwelling unit is proposed to be contained within the existing space of a single-family residence or accessory structure; (2) the property is in a single-family residential zone; (3) the accessory dwelling unit has independent exterior access from the existing residence; and (4) the side and rear setbacks are sufficient for fire safety. In addition, such accessory dwelling units shall not be required to provide fire sprinklers if they are not also required for the primary residence nor be required to install new or separate utility connections.

d. Application Contents. An application for a permit approving an accessory unit must be made in writing to the Department of Community Development concurrent with the submittal of an application for a building permit and contain the following information:

1. The name(s) and address(es) of applicant(s) and property owner(s).

2. The address and assessor’s parcel number for the property.

3. The manner in which the accessory dwelling unit will be established, including conversion of a portion of the existing primary residence, addition of an attached accessory dwelling unit to the existing residence, or creation of a detached accessory dwelling unit.

4. Floor plans and elevations for the primary residence and accessory dwelling unit. The floor plans shall identify use and dimensions of each room in both structures, as well as the resulting total square footage of each structure. The size and location of all windows and doors shall be clearly depicted. Floor plans may be provided as part of the site plan described in subsection (d)(5) of this section. The application shall also include north, south, east, and west elevations that show all architectural features, openings, exterior finishes, original and finish grades, stepped footing outline, roof pitch, materials, and color board for the existing residence and the proposed accessory dwelling unit.
5. A site plan, drawn to scale and showing:
 - i. A north arrow to indicate parcel orientation;
 - ii. Lot dimensions and labels for all property lines;
 - iii. The location of the primary residence and the accessory dwelling unit on the lot;
 - iv. The required setbacks of all existing and proposed structures on the project site and all structures and improvements located on adjacent lots. All structures shall be identified;
 - v. All other existing improvements, including driveways and parking areas;
 - vi. All easements, building envelopes, and special requirements of the subdivision as shown on the final map and improvement plans; and
 - vii. A grading plan, indicating how the property is to be graded and drained.
6. 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.
7. The location and description of utility, water, and sanitary services for both the primary residence and the accessory dwelling unit.
8. The property owner's consent to physical inspection of the premises.
9. Color photographs of the site and adjacent properties. The photos shall be taken from each of the property lines of the project site to show the project site and adjacent sites. Each photograph shall be labeled and reference to the site plan described in subsection (d)(5) of this section, indicating the location and direction of the photograph.
10. The deed restriction described in subsection (l)(i) of this section, completed as required, signed, and in a recordable form.
11. A written legal description of the property.

12. A letter from water, natural gas, electricity, and sewer service providers that they have adequate capacity to serve the accessory dwelling unit. If the applicant intends to use a private water or sewage disposal service, pursuant to Section (e)(4) of this chapter, a letter from the water or sewer service provider shall not be required.

e. Development Standards. All accessory dwelling units shall comply with the following development standards:

1. Except as otherwise provided by this ordinance, the accessory dwelling unit satisfies lot size, lot width, lot depth, lot coverage, and other zoning requirements generally applicable to residential development in the zoning district of the primary residence and to residential development generally. Construction of the accessory dwelling unit will not result in total structural lot coverage in excess of 40 percent.

2. The accessory dwelling unit consists of no more than one kitchen, one living room, one dining room, two bedrooms, and one and a half bathrooms. For the purposes of this section a half bathroom includes a toilet, sink, and related plumbing.

3. An accessory dwelling unit shall not exceed 1,200 square feet. If the accessory dwelling unit is an efficiency unit, it conforms to the size limitations for efficiency units provided for in the Uniform Building Code. If the accessory dwelling unit is attached to the main dwelling or created by the internal conversion of an existing single-family dwelling, it does not occupy more than 50 percent of the habitable floor area of the building, excluding the garage area.

4. If the applicant proposes to use a private sewage disposal system, water system, or both for the accessory dwelling unit, the system must meet all applicable regulations of the City and Contra Costa County, and the County Health Officer must approve the system. Any such private sewage or water system must be designed by a licensed civil engineer to meet the increased load of the accessory dwelling unit and in accordance with the requirements of the most recent version of the California Plumbing Code. The design of the private sewage disposal or water system must be approved prior to the issuance of any permits for the accessory dwelling unit.

5. The accessory dwelling unit conforms to the setback requirements of the zoning district applicable to the primary residence. If detached, the accessory dwelling unit is located no closer to structures on adjoining lots than it is to the primary residence and is not closer to the primary residence than permitted by the Uniform Building Code. No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side or rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

6. The accessory dwelling unit incorporates the same or similar architectural features, building materials, colors, design for trim, windows, roof, roof pitch, and other exterior physical features as the primary residence or compatible dwellings located on adjacent properties. If the primary residence has an identifiable architectural style, the design of

the accessory dwelling unit maintains that style. The plans for the accessory dwelling unit comply with the residential design guidelines in effect at the time the application is submitted, particularly the architectural guidelines.

7. The accessory dwelling unit has a separate entrance not visible from the street front area.

8. Access by emergency services to both the primary residence and accessory dwelling unit is adequate.

9. If the accessory dwelling unit is constructed above the primary residence or garage, all windows and doors use techniques to lessen the privacy impacts onto adjacent properties. These techniques may include, but are not limited to, use of obscured glazing, window placement above eye level, windows and doors located toward the existing on-site residence or screening treatments.

10. The accessory dwelling unit is constructed upon a permanent foundation.

11. Another dwelling unit exists on the lot or will be constructed on the lot in conjunction with the construction of the accessory dwelling unit. No more than one accessory dwelling unit may be constructed on any site. An accessory dwelling unit shall not be allowed on a site with more than one unit.

12. Parking:

i. One onsite parking space shall be required for each bedroom of the proposed accessory dwelling unit in addition to those required for the primary unit.

ii. The additional parking required may be located in lot setbacks only if the parking is tandem in a driveway. No more than two vehicles may be parked in tandem.

iii. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces.

iv. Onsite parking is not required for an accessory dwelling unit in any of the following instances:

- The accessory dwelling unit is located within one-half mile of public transit.
- The accessory dwelling unit is located within an architecturally and historically significant historic district.
- The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
- When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

- Where there is a car share vehicle located within one block of the accessory dwelling unit.

13. Frontage Improvements per Oakley Ordinance No. 10-01.

14. The accessory dwelling unit shall not be rented for less than 30 consecutive days at any time.

f. Application Processing; Payment of Fees. The Community Development Director shall ministerially review and approve or conditionally approve any complete application for an accessory dwelling unit that meets the location and development standards contained in this ordinance. Payment of all applicable development impact fees and processing fees, as well as satisfaction of any other dedication or public improvement obligations, shall be a condition of approval of an accessory dwelling unit application.

g. Limit on the Number of Accessory Dwelling Units Per Lot. A maximum of one accessory unit shall be permitted on any legal lot.

h. Unit Tenancy. If a lot or parcel contains both a primary residence and an accessory dwelling unit, and both units are occupied, only one of the units may be rented or leased to or occupied by a person or persons other than the property owner(s). Nothing herein shall be construed as prohibiting one or both such units from being vacant.

i. Nonconforming Units. Notwithstanding any other provision of the zoning ordinance, if an existing primary residence constitutes a legal nonconforming structure, an accessory dwelling unit may be constructed only if the accessory dwelling unit does not expand the nonconformity and meets all current applicable zoning district standards.

j. Variances. Variance permits to modify pertinent applicable zoning district provisions regulating accessory dwelling units may be granted as allowed by and in accordance with the involved district's regulations.

k. Building and Similar Permits. Receipt of a permit for an accessory dwelling unit under this ordinance shall not relieve the applicant from the burden of obtaining all other applicable permits, including but not limited to building and similar permits.

l. Declaration of Restrictions; Disclosure.

i. Before obtaining an accessory dwelling unit building permit, the property owner(s) shall file with the County Recorder a declaration or agreement of restrictions, which has been approved by the City Attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:

1. The accessory dwelling unit shall not be sold separately;

2. The accessory dwelling unit is restricted to the maximum size allowed per the development standards in this ordinance;

3. The accessory dwelling unit shall be considered legal only so long as either the primary residence, or the accessory dwelling unit is occupied by the owner(s) of record of the property. Nothing herein shall be construed as prohibiting one or both such units from being vacant;

4. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.

ii. The property owner shall also prepare a disclosure statement that shall be provided to any potential purchaser of the property on which the accessory dwelling unit is located. The disclosure shall indicate the requirements associated with an accessory dwelling unit permit and provide the following information in substantially the same form:

"You are purchasing a property subject to a permit for a residential accessory dwelling unit. The permit carries with it certain conditions that must be met by the owner of the property. The permit is available from the current owner or the City of Oakley Community Development Department."

SECTION 3. California Environmental Quality Act (CEQA) Finding.

This ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), Review for Exemption, because it can be seen with certainty that the project will not have a significant effect on the environment; therefore the project is not subject to CEQA.

SECTION 4. Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases may be held unconstitutional, invalid or unenforceable.

SECTION 5. Effective Date and Posting.

This ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. The City Clerk shall cause the ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation, or by publishing a

summary of the proposed ordinance, posting a certified copy of the proposed ordinance in the City Clerk's Office at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted, and within fifteen (15) days after its adoption, publishing a summary of the ordinance with the names of the Council Members voting for and against the ordinance.

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on _____, 2017 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Sue Higgins, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

b. Permitted Uses. Uses permitted in the M-9, M-12, and M-17 districts shall be as follows:

1. A detached single-family dwelling on each lot and the accessory structures normally auxiliary to it;
2. Accessory Dwelling unit per Section 9.1.1102;
3. Duplex;
- ~~43.~~ Multiple family buildings, but not including motels or hotels;
- ~~54.~~ Motor court and greenway cluster housing (small lot detached housing with garages accessed off a motor court or alley);
- ~~65.~~ Home-based businesses, per Section 9.1.1120;
- ~~76.~~ Residential care facilities serving six or fewer persons;
- ~~87.~~ Supportive housing;
- ~~98.~~ Transitional housing.

Article 11 ADDITIONAL REQUIREMENTS FOR DEVELOPMENT.

9.1.1102 Second Accessory Dwelling Units.

a. Purpose and Intent. The purpose of this section is to increase the supply of smaller dwelling units and rental housing units by allowing second accessory dwelling units to be developed on certain lots which are zoned for single-family and multiple-family residential uses and to establish design and development standards for second accessory dwelling units to ensure that they are compatible with existing neighborhoods.

b. Permissible Locations. No second accessory dwelling unit may be approved if located on, or adjacent to, real property that is listed in the California Register of Historic Places.

c. Permit Required. ~~A second unit in any zoning district shall require a permit from the Community Development Director.~~

1. An accessory unit in any single-family and multiple-family residential zoning district shall require a permit from the Community Development Director. This application must be approved within 120 days of receipt.

2. An application for an ADU accessory dwelling unit shall be ministerially approved without being subject to the other requirements of Government Code section 65852.2 if: (1) the ADU accessory dwelling unit is proposed to be contained within the existing space of a single-family residence or accessory structure; (2) the property is in a single-family residential zone; (3) the ADU accessory dwelling unit has independent exterior access from the existing residence; and (4) the side and rear setbacks are sufficient for fire safety. In addition, such ADU accessory dwelling units shall not be required to provide fire sprinklers if they are not also required for the primary residence nor be required to install new or separate utility connections.

d. Application Contents. An application for a permit approving ~~an~~ second accessory unit must be made in writing to the Department of Community Development concurrent with the submittal of an application for a building permit and contain the following information:

1. The name(s) and address(es) of applicant(s) and property owner(s).
2. The address and assessor's parcel number for the property.
3. The manner in which the second accessory dwelling unit will be established, including conversion of a portion of the existing primary residence, addition of an attached second accessory dwelling unit to the existing residence, or creation of a detached second accessory dwelling unit.

4. Floor plans and elevations for the primary residence and second accessory dwelling unit. The floor plans shall identify use and dimensions of each room in both structures, as well as the resulting total square footage of each structure. The size and location of all windows and doors shall be clearly depicted. Floor plans may be provided as part of the site plan described in subsection (d)(5) of this section. The application shall also include north, south, east, and west elevations that show all architectural features, openings, exterior finishes, original and finish grades, stepped footing outline, roof pitch, materials, and color board for the existing residence and the proposed second accessory dwelling unit.

5. A site plan, drawn to scale and showing:

i. A north arrow to indicate parcel orientation;

ii. Lot dimensions and labels for all property lines;

iii. The location of the primary residence and the second accessory dwelling unit on the lot;

iv. The required setbacks of all existing and proposed structures on the project site and all structures and improvements located on adjacent lots. All structures shall be identified;

v. All other existing improvements, including driveways and parking areas;

vi. All easements, building envelopes, and special requirements of the subdivision as shown on the final map and improvement plans; and

vii. A grading plan, indicating how the property is to be graded and drained.

6. 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.

7. The location and description of utility, water, and sanitary services for both the primary residence and the second accessory dwelling unit.

8. The property owner's consent to physical inspection of the premises.

9. Color photographs of the site and adjacent properties. The photos shall be taken from each of the property lines of the project site to show the project site and adjacent sites. Each photograph shall be labeled and reference to the site plan described in subsection (d)(5) of this section, indicating the location and direction of the photograph.

10. The deed restriction described in subsection (l)(i) of this section, completed as required, signed, and in a recordable form.

11. A written legal description of the property.

12. A letter from water, natural gas, electricity, and sewer service providers that they have adequate capacity to serve the second accessory dwelling unit. If the applicant intends to use a private water or sewage disposal service, pursuant to Section 5-A5(D) €(e)(4) of this chapter article, a letter from the water or sewer service provider shall not be required.

e. Development Standards. All second accessory dwelling units shall comply with the following development standards:

1. Except as otherwise provided by this ordinance, the second accessory dwelling unit satisfies lot size, lot width, lot depth, lot coverage, and other zoning requirements generally applicable to residential development in the zoning district of the primary residence and to residential development generally. Construction of the second accessory dwelling unit will not result in total structural lot coverage in excess of 40 percent.

2. The second accessory dwelling unit consists of no more than one kitchen, one living room, one dining room, two bedrooms, and one and a half bathrooms. For the purposes of this section a half bathroom includes a toilet, sink, and related plumbing.

3. ~~On lots less than 10,000 square feet, the total floor area of the second An~~ accessory dwelling ~~unit shall not exceed 1,000 square feet. On lots 10,000 square feet or larger, the total floor area of the second unit shall not~~ exceed 1,200 square feet. If the second accessory dwelling unit is an efficiency unit, it conforms to the size limitations for efficiency units provided for in the Uniform Building Code. If the second accessory dwelling unit is attached to the main dwelling or created by the internal conversion of an existing single-family dwelling, it does not occupy more than ~~30~~ 50 percent of the habitable floor area of the building, excluding the garage area.

4. If the applicant proposes to use a private sewage disposal system, water system, or both for the second accessory dwelling unit, the system must meet all applicable regulations of the City and Contra Costa County, and the County Health Officer must approve the system. Any such private sewage or water system must be designed by a licensed civil engineer to meet the increased load of the second accessory dwelling unit and in accordance with the requirements of the most recent version of the California Plumbing Code. The design of the private sewage disposal or water system must be approved prior to the issuance of any permits for the second accessory dwelling unit.

5. The second accessory dwelling unit conforms to the setback requirements of the zoning district applicable to the primary residence. If detached, the second accessory dwelling unit is located no closer to structures on adjoining lots than it is to the primary residence and is not closer to the primary residence than permitted by the Uniform Building Code. No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side or rear

lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

6. The second accessory dwelling unit incorporates the same or similar architectural features, building materials, colors, design for trim, windows, roof, roof pitch, and other exterior physical features as the primary residence or compatible dwellings located on adjacent properties. If the primary residence has an identifiable architectural style, the design of the second accessory dwelling unit maintains that style. The plans for the second accessory dwelling unit comply with the residential design guidelines in effect at the time the application is submitted, particularly the architectural guidelines.

7. The second accessory dwelling unit has a separate entrance not visible from the street front area.

8. Access by emergency services to both the primary residence and second accessory dwelling unit is adequate.

9. If the second accessory dwelling unit is constructed above the primary residence or garage, all windows and doors use techniques to lessen the privacy impacts onto adjacent properties. These techniques may include, but are not limited to, use of obscured glazing, window placement above eye level, windows and doors located toward the existing on-site residence or screening treatments.

10. The second accessory dwelling unit is constructed upon a permanent foundation.

11. Another dwelling unit exists on the lot or will be constructed on the lot in conjunction with the construction of the second accessory dwelling unit. No more than one accessory dwelling unit may be constructed on any site. An accessory dwelling unit shall not be allowed on a site with more than one unit.

~~12. The site plan provides for at least one off-street parking space for each bedroom in the second unit, in addition to the number of spaces required or already in existence for the primary residence. The additional parking required may be located in lot setbacks only if the parking is tandem in a driveway. No more than two vehicles may be parked in tandem.~~Parking:

i. One onsite parking space shall be required for each bedroom of the proposed accessory dwelling unit in addition to those required for the primary unit.

ii. The additional parking required may be located in lot setbacks only if the parking is tandem in a driveway. No more than two vehicles may be parked in tandem.

iii. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces.

iv. Onsite parking is not required for an accessory dwelling unit in any of the following instances:

- The accessory dwelling unit is located within one-half mile of public transit.
- The accessory dwelling unit is located within an architecturally and historically significant historic district.
- The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
- When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- Where there is a car share vehicle located within one block of the accessory dwelling unit.

13. Frontage Improvements per Oakley Ordinance No. 10-01.

14. The accessory dwelling unit shall not be rented for less than 30 consecutive days at any time.

f. Application Processing; Payment of Fees. The Community Development Director shall ministerially review and approve or conditionally approve any complete application for an secondaccessory dwelling unit that meets the location and development standards contained in this ordinance. Payment of all applicable development impact fees and processing fees, as well as satisfaction of any other dedication or public improvement obligations, shall be a condition of approval of aan secondaccessory dwelling unit application.

g. Limit on the Number of SecondAccessory Dwelling Units Per Lot. A maximum of one secondaccessory unit shall be permitted on any legal lot.

h. Unit Tenancy. If a lot or parcel contains both a primary residence and aan secondaccessory dwelling unit, and both units are occupied, only one of the units may be rented or leased to or occupied by a person or persons other than the property owner(s). Nothing herein shall be construed as prohibiting one or both such units from being vacant.

i. Nonconforming Units. Notwithstanding any other provision of the zoning ordinance, if an existing primary residence constitutes a legal nonconforming structure, aan secondaccessory dwelling unit may be constructed only if the secondaccessory dwelling unit does not expand the nonconformity and meets all current applicable zoning district standards.

j. Variances. Variance permits to modify pertinent applicable zoning district provisions regulating secondaccessory dwelling units may be granted as allowed by and in accordance with the involved district's regulations.

k. Building and Similar Permits. Receipt of a permit for aan seconaccessory dwelling unit under this ordinance shall not relieve the applicant from the burden of obtaining all other applicable permits, including but not limited to building and similar permits.

l. Declaration of Restrictions; Disclosure.

i. Before obtaining aan seconaccessory dwelling unit building permit, the property owner(s) shall file with the County Recorder a declaration or agreement of restrictions, which has been approved by the City Attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:

1. The seconaccessory dwelling unit shall not be sold separately;

2. The seconaccessory dwelling unit is restricted to the maximum size allowed per the development standards in this ordinance;

3. The seconaccessory dwelling unit shall be considered legal only so long as either the primary residence, or the seconaccessory dwelling unit is occupied by the owner(s) of record of the property. Nothing herein shall be construed as prohibiting one or both such units from being vacant;

4. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.

ii. The property owner shall also prepare a disclosure statement that shall be provided to any potential purchaser of the property on which the seconaccessory dwelling unit is located. The disclosure shall indicate the requirements associated with aan seconaccessory dwelling unit permit and provide the following information in substantially the same form:

"You are purchasing a property subject to a permit for a residential seconaccessory dwelling unit. The permit carries with it certain conditions that must be met by the owner of the property. The permit is available from the current owner or the City of Oakley Community Development Department."