

ORDINANCE AMENDING THE SECONDARY DWELLING UNIT REGULATIONS

Be It Ordained by the City Council of the City of Eureka as Follows:

SECTION 1. Eureka Municipal Code Title 15, Chapter 155, §§ 155.200 through 155.203 are hereby amended as follows:

§ 155.200 PURPOSES.

The Council finds and declares that secondary dwelling units are a valuable form of housing in California. Secondary dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. Homeowners who create secondary dwelling units benefit from added income, and an increased sense of security.

§ 155.201 SECONDARY DWELLING UNIT PERMIT REQUIRED; APPLICATION REQUIREMENTS; FEES

(A) *Permit.* An approved Secondary Dwelling Unit permit shall be obtained prior to construction, conversion and/or development of a secondary dwelling unit. Pursuant to California Government Code § 65852.2 the Secondary Dwelling Unit permit shall be considered ministerially without discretionary review or a hearing.

(B) *Data to be furnished.* Applications for Secondary Dwelling Unit permits shall be filed with the Director of Community Development on forms provided by the Community Development Department.

(C) *Fees.* An application for a Secondary Dwelling Unit permit shall be accompanied by a fee established by resolution of the City Council to cover the cost of handling the application as prescribed in this subchapter.

§ 155.202 DEVELOPMENT STANDARDS.

All secondary dwelling units shall comply with the following development standards:

(A) A secondary dwelling unit is permitted only on a lot in the One-Family Residential (RS) zone district;

(B) The property owner shall occupy either the principal or the secondary dwelling unit. If neither unit is owner-occupied; then the use of the property shall revert to a one-family residential use. Nothing in this section shall be construed to prohibit one

or both of the units remaining vacant. This owner-occupancy requirement may be temporarily waived for a period of not more than three (3) years if the Planning Commission finds that the owner has an unavoidable reason for absence and if the owner appoints in writing another person to occupy and take responsibility for maintaining the property;

(C) The secondary dwelling unit shall be accessory to a principal one-family dwelling in that it is subordinate and incidental in scale and location to the principal dwelling;

(D) The secondary dwelling unit may either be attached to the principal dwelling, or detached from the principal dwelling;

(E) The maximum gross floor area of the secondary dwelling unit shall not exceed 640 square feet

(F) The size of the secondary dwelling unit shall be counted towards the maximum floor area ratio (FAR) for the site.

(G) When a one-family dwelling of less than 640 square feet exists on a lot, a larger one-family dwelling may be constructed as the principal dwelling, provided that the existing dwelling complies with the regulations for a secondary dwelling unit as prescribed herein;

(H) A secondary dwelling unit attached to the principal dwelling shall comply with the applicable development standards for additions to a one-family residence; a detached secondary dwelling unit shall conform to the applicable development standards for an accessory structure in the RS district;

(I) Not more than one secondary dwelling unit shall be permitted on any one lot. A secondary dwelling unit shall not be permitted on a lot already having two or more dwelling units located thereon and shall not be permitted in addition to a guesthouse. A guesthouse shall not be permitted on any lot developed with a secondary dwelling unit;

(J) In accordance with the Off-Street Parking regulations, § 155.116, the lot on which the secondary dwelling unit is sited shall be developed with one off-street parking space in addition to those legally existing at the time of application for the secondary dwelling unit. When development of the secondary dwelling unit displaces existing required off-street parking (e.g., conversion of a garage) the required parking shall be replaced on the property in compliance with the Off-Street Parking regulations;

(K) The secondary dwelling unit shall provide complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation;

(L) The secondary dwelling unit may have utility services metered separately from, or with the principal dwelling unit;

(M) The secondary dwelling unit shall comply with all local, state and federal codes and standards, including the building codes as adopted by the City of Eureka. Development of the secondary dwelling unit shall not cause the principal dwelling to violate any local, state or federal codes and standards, including the building codes as adopted by the City of Eureka;

(N) A secondary dwelling unit that conforms to the requirements of this subdivision shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot;

(O) Secondary Dwelling Unit permits shall not be issued for secondary dwelling units that result in adverse impacts to the adequacy of water and sewer services, and/or that result in adverse impacts on traffic flow, and/or that result in adverse impacts on any real property that is listed in the California Register of Historic Places;

(P) All new construction, or exterior alterations to existing structures proposed under the Secondary Dwelling Unit permit shall be subject to architectural review as prescribed in §§ 155.180 through 155.187 of this chapter.

§ 155.203 EXISTING SECONDARY DWELLING UNITS.

This subchapter shall in no way validate an illegal secondary dwelling unit. An application for a Secondary Dwelling Unit permit may be made pursuant to the provisions of this chapter to convert an illegal secondary dwelling unit to a lawful secondary dwelling unit, or to allow for the replacement, alteration or expansion of an existing nonconforming secondary dwelling unit. The conversion of an illegal secondary dwelling unit to a lawful secondary dwelling unit, or the replacement, alteration or expansion of an existing nonconforming secondary dwelling unit shall be subject to the requirements of this chapter.

SECTION 2. This ordinance becomes effective thirty (30) days after the date of its enactment.

THIS ORDINANCE IS HEREBY PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the _____ day of _____, 2008, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

Mike Jones
Mayor Pro Tem

The above ordinance was submitted to me on the _____ day of _____, 2008, and I hereby approve the same.

Virginia Bass
Mayor

The above ordinance was submitted to me on the _____ day of _____, 2008, and I hereby attest the same.

Kathleen Franco Simmons
City Clerk

APPROVED AS TO ADMINISTRATION:

APPROVED AS TO FORM:

David W. Tyson
City Manager

Sheryl M. Schaffner
City Attorney