

ORDINANCE NO. 02-17

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING VARIOUS SECTIONS OF TITLE 17 OF THE ORANGE MUNICIPAL CODE TO IMPLEMENT CHANGES FOR ACCESSORY DWELLING UNITS IN ACCORDANCE WITH THE PROVISIONS OF STATE LAW.

WHEREAS, effective January 1, 2017, pursuant to AB 2299, California Government Code Section 65852.2, was amended governing regulations as they relate to second units, or accessory dwelling units; and

WHEREAS, the City's municipal code sections regulating accessory dwelling units has not been amended since 2003; and

WHEREAS, the revisions under AB 2299 result in various provisions of the existing municipal code to be inconsistent with state law; and

WHEREAS, the City desires to update its current code regarding accessory dwelling units to comply with state law and clarify any development standards or limitations for accessory dwelling units in single family zoning districts; and

WHEREAS, the ordinance amendments are statutorily exempt pursuant to California Environmental Quality Act ("CEQA") Guidelines Section 15282(h) because they were adopted by the City to implement the provisions of California Government Code Section 65852.2.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I:

Section 17.04.020 is amended to read as follows:

17.04.020 - "A" Definitions.

ACCESSORY DWELLING UNIT—An attached or detached permanent residential unit which provides complete independent living facilities for one or more persons on the same lot upon which an existing single-family dwelling is situated. For purposes of this definition, "independent living facility" shall include permanent provisions for living, sleeping, eating, cooking and sanitation facilities with plumbing and electrical connections attached to an on-site system. Such unit shall contain a maximum floor area of six hundred forty (640) square feet. An accessory dwelling unit also includes the following:

- (1) An efficiency unit, as provided under California Health and Safety Code Section 17958.1, or its successor; and
- (2) A manufactured home, as provided under California Health and Safety Code Section 18007, or its successor.

SECTION II:

Section 17.04.024 is amended to add the following:

17.04.024 - "E" Definitions.

EFFICIENCY UNIT – An accessory dwelling unit, as provided under California Health and Safety Code Section 17958.1, or its successor.

SECTION III:

Section 17.04.031 is amended to add the following:

17.04.031 - "L" Definitions.

LIVING AREA – The interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

SECTION IV:

Section 17.04.032 is amended to read as follows:

17.04.032 - "M" Definitions.

MANUFACTURED HOME - As defined in Section 18007 of the California Health and Safety Code. A manufactured home does not include a recreational vehicle (as defined in California Health and Safety Code Section 18010).

SECTION V:

Section 17.10.060.D is amended to read as follows:

17.10.060.D – Minor Site Plan Review.

D. Minor Site Plan Review.

1. Criteria. Any proposal meeting the criteria below may be considered a minor site plan unless the Community Development Director determines that the special circumstances relating to the project warrant review as required for major site plan

review. These criteria correspond to those projects identified by the California Environmental Quality Act (CEQA) as being categorically exempt.

- a. Additions to existing structures provided that the addition will not result in an increase of more than ten thousand (10,000) square feet if the project is in an area where all public services and facilities are available to allow for maximum development permissible in the general plan, and the area is not environmentally sensitive.
- b. Except for accessory dwelling units, as defined in this Title, construction of six or fewer residential units on a single parcel, when only one parcel is being developed.
- c. Construction of up to three small commercial or industrial structures, not involving the use of significant amounts of hazardous substances, and designed with a maximum occupancy load of thirty (30) persons.
- d. Conversion of a residence to a nonresidential use within zones permitting such use.
- e. Remodeling or reuse of an active or idle service station, or conversion of any portion of a service station to another use as required in Section 17.30.060.
- f. Creation of lots or building sites with no direct access to a public street.
- g. Establishment of mobile homes as a residence for a caretaker, custodian, or guard at recreational, equestrian, industrial, and institutional locations.
- h. Moving any existing structure or building onto a building site from another location or building site.
- i. Restriction of access to any required parking spaces on any property by means of fencing or gating.
- j. Construction of an attached or detached garage in any residential zone, where the garage door exceeds eight feet in height.
- k. Parking management plans for churches or religious assembly uses in industrial zones pursuant to Section 17.20.060.E.

SECTION VI:

Table 17.14.030 is amended to read as follows:

17.14.030 - Permitted Uses.

Table 17.14.030 indicates all uses permitted (P), permitted by conditional use permit (C), permitted as an accessory use (A), and not permitted (-) in the residential zones. Permitted uses with an asterisk (*) are subject to special use or development conditions outlined in Section 17.14.050. Conditional uses marked with a plus (+) also have special use or development standards as outlined in Section 17.14.060. Conditional uses marked with a pound symbol (#) must conform to special provisions contained in Section 17.14.070 (V & W), as well as City Council policy.

**Table 17.14.030
USES IN RESIDENTIAL ZONES**

LAND USE	R1-5	R1-6 to R1-15	R1-20 to R1-40 & R1-R	R2-6 to R2-8	R-3	R-4	MH
Residential Uses							
Accessory Dwelling Unit	A*	A*	A*	-	-	-	—
Residential Uses							
Single-Family Dwelling	P#	P	P	P	P	P	-
Duplex	-	-	-	P	P	P	-
Multiple-Family Dwelling	-	-	-	P*	P*	P*	-
Condominium	-	-	-	P*	P*	P*	-
Mobile Home Park	C	C	C	C	C	C	C
Mobile Home, Modular, or Manufactured Housing Unit with permanent foundation	P	P	P	P	P	P	P
Mobile Home, Modular, or Manufactured Housing Unit without permanent foundation	-	-	-	-	-	-	P
Planned Unit Developments	C+	C+	C+	C+	C+	C+	-
Boarding and Lodging Houses	-	-	-	-	C	C	-
Fraternity, sorority	-	-	-	-	C	C	-
Rest home, convalescent hospital, sanitarium	-	-	-	-	C	C	-
Community Care Facility	-	-	-	-	C	C	-
Congregate Care Home Health Facility (6 or fewer persons)	P*	P*	P*	P*	P*	P*	P*

Home for Elderly, or mentally, or physically disabled persons (6 or fewer persons)	P*						
Senior Citizen Housing Development	-	-	-	-	C+	C+	-
Supportive Housing (6 or fewer persons)	P*						
Supportive Housing (7 or more persons)	-	-	-	-	C+	C+	-
Transitional Housing (6 or fewer persons)	P*						
Transitional Housing (7 or more persons)	-	-	-	-	C+	C+	-
Day Care Uses							
Family Day Care, Large 9-14 children	P*						
Family Day Care, Small 8 or fewer children	P	P	P	P	P	P	P
Child Care Center in conjunction with a church or school	C	C	C	C	C	C	C
Child Care Center	-	-	-	-	C	C	C
Commercial Uses							
Bed and Breakfast Inn	-	-	-	C+	C+	C+	-
Garage or Yard Sales	A*						
Commercial Nursery with Seasonal Sales	C+						
Cottage Food Operation	A*						
Home Occupation	A*						
Hospital	-	-	-	-	C	C	-
Mini-Warehouse/Self Storage Facility	-	-	-	-	C	C	C
Real Estate Office, Temporary	P*						
Tree and Shrub Farm	C+						
Other Uses							
Accessory Structures, Attached and Detached	A	A	A	A	A	A	A
Agriculture/Horticulture	-	P*	P*	-	-	-	-
Animal Keeping	P*						
Antennas, Private Radio/TV	P*						
Antenna, Private Satellite Dish	P*						

Antennas, Wireless Communication	C+						
Cemetery (not including crematoriums)	C	C	C	C	C	C	C
Charitable Institutions	-	-	-	-	C	C	-
Church, Museum, Library	C	C	C	C	C	C	C
Creation of a lot without frontage on a public street	P*						
Keeping of Horses and Livestock	-	-	A*	-	-	-	-
Moving an existing structure or building onto a building site from another location	P*						
Public Recreation Facility or Park	P	P	P	P	P	P	P
Public Utility/Structure	C	C	C	C	C	C	C
Recreational Vehicle Storage Facility	C+						
School, College (public/private)	C	C	C	C	C	C	C

KEY:

P = Permitted Use.

C = Conditional Use Permit required. Refer to administrative procedure provisions in Section 17.08.030.

- = Not Permitted.

A = Accessory Use.

* = Use subject to special provisions contained in Section 17.14.050.

+ = Use subject to special provisions contained in Section 17.14.060.

= Use subject to special provisions contained in Sections 17.14.070 (V) and (W).

SECTION VII:

Section 17.14.050 is amended to read as follows:

17.14.050 - Special Use Regulations.

Accessory uses and permitted uses marked with an asterisk (*) in Table 17.14.030 are permitted subject to the following use regulations:

- A. Accessory Dwelling Unit.

1. Accessory dwelling units shall be permitted only on lots which contain one existing permanent single-family dwelling unit in a single family residential zone, but in no case shall be permitted where there is an existing accessory dwelling unit. Lots that are not developed with a permanent single-family dwelling unit but are occupied solely by a tent, trailer and/or other temporary structure shall not be considered for development of an accessory dwelling unit. The accessory dwelling unit may be created within the existing floor space of a single-family residence or accessory structure.
2. The accessory dwelling unit or the contiguous land area surrounding the unit shall not be sold separately from the existing (principal) dwelling unit.
3. The floor area of the accessory dwelling unit shall not exceed six hundred forty (640) square feet, and the unit shall contain a minimum floor area of four hundred fifty (450) square feet. The Community Development Director may authorize an efficiency unit, as defined in this Chapter, subject to the development standards contained in Title 17.
4. The accessory dwelling unit may be attached or detached but if detached, shall comply with the provisions of Section 17.14.120.
5. All construction shall conform to Code requirements of height, setback, lot coverage, local building architectural compatibility standards, fees, charges, and other zoning requirements applicable to residential construction in the applicable zone; provided, however, that irrespective of whether the construction of a detached accessory dwelling unit would cause the property to exceed the square footage limitation of Section 17.14.160E, a property owner shall be permitted to construct an accessory dwelling unit that qualifies as an efficiency unit, which otherwise meets all other requirements of this Code.
6. One unenclosed parking space in excess of the code parking requirement for the existing (principal) residential use shall be required, unless one of the five exemptions in Table 17.34.060A applies. Required parking shall not be permitted within the front yard setback.
7. If a private sewage disposal system is being used, approval by the local health officer shall be obtained prior to issuance of a building permit.
8. The accessory dwelling unit shall not be allowed in any portion of the City defined by City Council resolution as being significantly impacted by insufficient capacity for traffic circulation, parking, public utilities, or similar infrastructure needs.
9. An accessory dwelling unit may only be occupied by persons using the unit as a single-family residence as defined in this code.
10. An accessory dwelling unit shall not require fire sprinklers if they are not required for the primary residence.
11. Except for those accessory dwelling units located in a historic district, all applications for accessory dwelling units that meet the requirements of Title 17 shall receive ministerial approval.

12. The accessory dwelling unit shall have independent exterior access from the existing residence.
13. Side and rear yard setbacks designated for the zoning classification of the subject lot shall be deemed sufficient for fire safety.
14. Accessory dwelling units shall not be considered new residential uses for the purposes of calculating City connection fees or capacity charges for utilities, including water and sewer service.
15. New or separate utility connections, connection fees, or capacity charges shall not be required for accessory dwelling units created within the existing floor space of a single-family residence or accessory structure. Utility connections, connection fees and capacity charges may occur for accessory dwelling units that are new floor space, however only at a rate commensurate to the size and burden of the unit on the water and sewer system, and shall not exceed the reasonable cost of providing the service.

SECTION VIII:

Section 17.14.120 is amended to read as follows:

17.14.120 - Distance Between Dwellings and/or Principal Structures, Accessory Structures, and Accessory Dwelling Units.

Distance between dwellings and/or principal structures, accessory structures, and accessory dwelling units are required in order to provide adequate light and air and privacy. The provisions outlined in Table 17.14.120 shall apply, as well as specific provisions found in building and fire codes.

Table 17.14.120

REQUIRED DISTANCES BETWEEN BUILDINGS

Minimum Required Distance Between Dwellings and/or Principal Structures, Accessory Structures, and Accessory Dwelling Units on the Same Lot (a)

Number of Structures	Front/Any Other Building Wall	All Other Configurations	Minimum Distance Between Principal and Accessory Structure or Accessory Dwelling Unit
One	N/A	N/A	6 feet
Two to Four	15 feet	8 feet	6 feet
Five or More	25 feet from view allowing windows in 1 structure to facing windows in any adjacent structure. 15 feet minimum between solid facing walls, or when		6 feet

windows are located on only one facing wall.

NOTE: (a) For obliquely aligned buildings, the required distance between two principal structures may be decreased by up to five feet if the distance at the opposite corner is increased by an equal or greater distance.

SECTION IX:

Section 17.14.160 is amended to read as follows:

17.14.160 - Accessory Structures, Garages, and Accessory Dwelling Units.

- A. Purpose and Intent. The purpose of these standards is to accommodate residential accessory structures that provide conveniences and amenities for single-family residences, while ensuring preservation of neighborhood quality and character.
- B. Principal Structure Required. Accessory structures or garages shall only be permitted on a lot developed with an existing legal single-family, duplex, or multiple-family dwelling units under the same ownership. Accessory dwelling units shall only be permitted on a lot with one existing permanent single-family dwelling unit located in a single-family residential zone. For purposes of this section the term accessory structure shall mean either habitable or non-habitable accessory structures.
- C. Attached Accessory Structures, Garages, or Accessory Dwelling Units. Where a garage, accessory structure, or accessory dwelling unit is attached to and made a part of the principal structure, at least fifty (50) percent of the length of one of the walls of the accessory structure, garage, or accessory dwelling unit shall be an integral part of the principal structure, and the garage, accessory structure, or accessory dwelling unit shall comply in all respects with the requirements of this title applicable to a principal structure.
- D. Detached Accessory Structure, Garages, or Accessory Dwelling Units. Where a garage, accessory structure, or accessory dwelling unit is detached from the principal structure, the setback and height requirements outlined in Table 17.14.160.A shall apply. Setback requirements in Table 17.14.160.A shall not apply to accessory dwelling units resulting from the conversion of an existing permitted dwelling unit area to an accessory dwelling unit or the conversion of an existing permitted accessory structure to an accessory dwelling unit. This shall not be construed to authorize the loss of a required garage for a principal single-family dwelling for the creation of a detached accessory dwelling unit unless a replacement garage can be provided.
- E. Square Footage Limitation. The total aggregate square footage of all attached or detached accessory structures on a lot shall not exceed fifty (50) percent of the square footage of the principal structure.
 - 1. Habitable Accessory structures greater than four hundred fifty (450) gross aggregate square feet are allowed subject to the approval of a conditional use permit by the Zoning Administrator in accordance with Section 17.10.030.E.1.d.

2. Accessory dwelling units authorized by the Community Development Director that qualify as an efficiency unit may exceed fifty (50) percent of the square footage of the principal residence.
- F. Interior Plumbing. Interior plumbing facilities are permitted in accessory structures as follows:
1. Any non-habitable accessory structure, such as a workshop or garage, may contain a utility sink, washer and dryer, and/or water heater or other accessory plumbing facilities deemed similar by the Community Development Director. In the case of residential garages, such facilities are allowed provided that the garage remains available for parking in accordance with Section 17.34.050.
 2. Except for accessory dwelling units, habitable accessory structures of any size on lots less than twenty thousand (20,000) square feet in size may contain plumbing facilities subject to the approval of a conditional use permit.
 3. Habitable accessory structures on lots larger than twenty thousand (20,000) square feet in size may contain plumbing facilities as a permitted use provided that they are limited in size to not more than four hundred fifty (450) gross square feet.

**Table 17.14.160.A
SETBACK REQUIREMENTS**

Detached Accessory Structures, Garages, and Accessory Dwelling Units (a)

Zone	Minimum Distance from Principal Structure (in feet)	Minimum Front Yard Setback (in feet)	Minimum Interior Side Yard Setback (in feet)	Minimum Street Side Yard Setback of Corner or Reverse Corner Lot (in feet)	Minimum Rear Yard Setback (in feet)
R1-6 through R1-R	6	20	0 (c,d,e,f)	10	0 (b,c,d,e,f)
R2 through R2-8	6	20	0 (c,d,e,f)	10	0 (b,c,d,e,f)
R-3 and R-4	6	20	0 (c,d,e,f)	10	0 (b,c,d,e,f)

NOTES:

- (a) In all cases, detached garages and carports which open onto an abutting street shall be set back a minimum of twenty (20) feet from the property line.
- (b) The accessory structure may abut the rear lot line only if it is not intended for habitation (interior is unfinished, such as a garage, workshop, storage shed, etc.) and the accessory structure and permitted extensions of the primary structure do not cover more than forty (40) percent of the required rear yard area. Also, a minimum five-foot rear yard setback is required for a corner or reverse corner lot.

- (c) No eave, projection or overhang shall extend over a property line.
- (d) Precautionary measures shall be taken to ensure runoff is deflected away from side and rear property lines.
- (e) Building height shall not exceed ten feet for that portion of the accessory structure or accessory dwelling unit that occurs within the side or rear setback areas, as defined for principal structures.
- (f) Any accessory structure intended for habitation (having a finished interior, insulated ceiling and/or walls, and which can be temperature controlled, such as a guest room, recreation room, office, etc.) or accessory dwelling unit shall conform to the setback requirements for a principal building.

**Table 17.14.160.B
ACCESSORY STRUCTURES**

	Lot Size < 20,000 sq. ft.	Lot Size > 20,000 sq. ft.
Non-habitable of any size with washing machine, water heater, utility sink, or other facilities deemed similar by the Community Development Director	P	P
Habitable, less than 450 sq. ft. with plumbing facilities	CUP	P
Habitable, more than 450 gross aggregate square feet with or without plumbing facilities	CUP	CUP
Accessory Dwelling Unit	P	P

P = Permitted

CUP = Conditional Use Permit (Zoning Administrator)

G. Garage Doors. Residential garages shall be designed and constructed to accommodate motor vehicles typically associated with household use. Residential garage doors exceeding eight (8) feet in height that are visible from the street may be permitted only upon approval of a minor site plan review in accordance with Section 17.10.060 of this title.

SECTION X:

Table 17.34.060.A. is amended to read as follows:

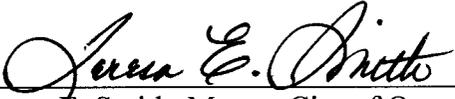
Table 17.34.060.A

REQUIRED NUMBER OF PARKING SPACES FOR RESIDENTIAL USES

USE	REQUIRED NUMBER OF SPACES
Single-family Dwelling	2 enclosed garage spaces/unit up to 4 bedrooms accessed by a 12 foot wide 20 foot long driveway. For 5 or more bedrooms, 1 additional enclosed space. For bedroom additions to homes built prior to the effective date of Ordinance 17-08, refer to Section 17.34.020(A).
	For PUDs, units with 3 or more bedrooms shall provide an additional 1.5 guest parking spaces per dwelling unit. Of this requirement, 1 open parking space may be provided at the residence subject to compliance with Section 17.16.060.
	<p>One unenclosed parking space shall be provided in excess of the code parking requirement for the existing (principal) residential use except that no parking spaces shall be required for an accessory dwelling unit in any of the following instances:</p> <ol style="list-style-type: none"> (1) The accessory dwelling unit is located within one-half mile of public transit. (2) The accessory dwelling unit is located within an architecturally and historically significant district. (3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure. (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit. (5) When there is a care share vehicle located within one block of the accessory dwelling unit. <p>An applicant for an accessory dwelling unit who is not proposing at least one parking space shall demonstrate to the satisfaction of the Community Development Director that one or more of the above criteria apply.</p>
Duplex, Duplex Residential	2 parking spaces per unit, one of which shall be in an enclosed garage.
Multifamily Residential (3 units or more)	Studio—1.2 spaces/unit
	One Bedroom—1.7 spaces/unit
	Two Bedroom—2.0 spaces/unit
	Three or More Bedrooms—2.4 spaces/unit
	Of the above requirements a minimum of one space per unit shall be

	covered. A minimum of 0.2 spaces per unit shall be provided as easily accessible and distinguishable guest parking in addition to the required parking for each unit.
Boarding house, bed and breakfast inns	1 space/rentable room, plus any other additional spaces required by the underlying zone
Supportive Housing, Transitional Housing	Supportive Housing and Transitional Housing located in a single-family dwelling unit shall be subject to the parking standards for "Single-family housing and PUD's in R-1 Zone Districts".
	Supportive Housing and Transitional Housing located within a duplex shall be subject to the parking standards for "R-2 Zone Districts".
	Supportive Housing and Transitional Housing located within a multi-family dwelling unit shall be subject to the parking standards for "Apartments, condominiums and PUDs in Multiple Family Zone Districts".
	For Transitional Housing or Supportive Housing configured as group quarters (i.e. where bed(s) are provided in individual rooms but kitchen and/or bathroom facilities are shared), 1 space per bed, plus one space per onsite staff person (during the shift with maximum staffing levels). Parking spaces may be enclosed or unenclosed, but are encouraged to be unenclosed.
Student housing (dormitory, fraternity, sorority)	0.5 space/student resident, plus 1 space/each resident staff person
Trailer park, mobilehome park	2 spaces/unit, (1 of which shall be covered, where at least 2 sides of the carport shall be at a minimum 50% open and unobstructed) plus 1 guest space/3 trailers or mobilehomes shall be provided as easily accessible and distinguishable guest parking. Tandem parking is permitted for the mobilehome.

ADOPTED this 9th day of May 2017.



Teresa E. Smith, Mayor, City of Orange

ATTEST:

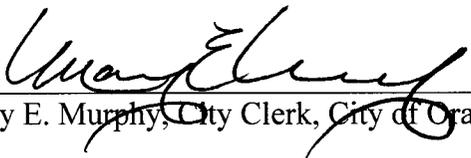


Mary E. Murphy, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, MARY E. MURPHY, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the 11th day of April 2017, and thereafter at the regular meeting of said City Council duly held on the 9th day of May 2017, was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS: Alvarez, Whitaker, Smith, Murphy, Nichols
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBERS: None



Mary E. Murphy, City Clerk, City of Orange