

ORDINANCE NO. 2502

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, AMENDING SECTIONS 20.42 (“SECOND UNITS”) AS WELL AS TABLES 20.08-1 (“PERMITTED LAND USES IN THE RESIDENTIAL ZONING DISTRICTS”), 20.16-1 (“PERMITTED LAND USES IN THE URBAN VILLAGE ZONING DISTRICTS”), AND 20.38-1 (“OFF-STREET PARKING REQUIREMENTS”); AND SECTIONS 20.08.030.F.1 (“DEVELOPMENT STANDARDS FOR RESIDENTIAL ZONING DISTRICTS, PARKING”), 20.20.010.C.3 (“URBAN TRANSITION ZONING DISTRICT, DEVELOPMENT STANDARDS”); 20.46.010 (“RESIDENTIAL DESIGN STANDARDS, PURPOSE”), AND 20.90.020 (“GLOSSARY, DEFINITIONS”) OF THE MERCED MUNICIPAL CODE**

**THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN AS FOLLOWS:**

**SECTION 1. AMENDMENT TO CODE.** Table 20.08-1, “Permitted Land Uses in the Residential Zoning Districts,” of the Merced Municipal Code is hereby amended so that “Secondary Dwelling Units (“Second Units”)” is replaced with “Accessory Dwelling Units.”

**SECTION 2. AMENDMENT TO CODE.** Section 20.08.030(F)(1), “Development Standards for Residential Zoning Districts, Parking” of the Merced Municipal Code is hereby amended to read as follows:

**“20.08.030-“DEVELOPMENT STANDARDS FOR RESIDENTIAL ZONING DISTRICTS**

**F. PARKING**

1. Within the R-1 and R-2 zoning districts, required off-street parking spaces may not be located within any required exterior setback area, except for required parking spaces for accessory dwelling units on the property.”

**SECTION 3. AMENDMENT TO CODE.** Table 20.16-1, “Permitted Land Uses in the Urban Village Zoning Districts,” of the Merced Municipal Code is hereby amended so that “Secondary Dwelling Units (‘Second Units’)” is replaced with “Accessory Dwelling Units.”

**SECTION 4. AMENDMENT TO CODE.** Section 20.20.010(C)(3), “Urban Transition Zoning District, Development Standards, Residential Density,” of the Merced Municipal Code is hereby amended to read as follows:

**“20.20.010 - Urban Transition (U-T) Zoning District**

**C. Development Standards**

3. **Residential Density.** Except for accessory dwelling units permitted under Chapter 20. 42 ( Accessory Dwelling Units), residential density of the lot may not be increased.”

**SECTION 5. AMENDMENT TO CODE.** Table 20.38-1, “Off-Street Parking Requirements,” of the Merced Municipal Code is hereby amended so that “Secondary Dwelling Units (‘Second Units’)” is replaced by “Accessory Dwelling Units” and the corresponding “Required Number of Parking Spaces” is amended to read as follows:

**“One or more bedrooms: 1 per unit”**

**SECTION 6. AMENDMENT TO CODE.** Chapter 20.42, “Second Units,” of the Merced Municipal Code is hereby repealed and amended to read as follows:

**“20.42 Accessory Dwelling Units**

**Sections:**

- 20.42.010 Purpose**
- 20.42.020 Minor Use Permit Required**
- 20.42.030 Site and Design Standards**
- 20.42.040 Occupancy Standards and Fee Requirements**

### **20.42.010 Purpose**

This chapter establishes standards for the location and construction of accessory dwelling units (“ADUs”) in conformance with Government Code Section 65852.2. These standards are intended to allow for accessory dwelling units as an important form of affordable housing while preserving the character and integrity of residential neighborhoods within the City.

### **20.42.020 Minor Use Permit Required**

Approval of a Minor Use Permit is required prior to the establishment of any accessory dwelling unit or a subdivision with multiple accessory dwelling units.

### **20.42.030 Site and Design Standards**

**A. Location.** Accessory dwelling units shall be permitted in districts zoned to allow single-family or multi-family use as provided in Part 2 (Zoning Districts).

#### **B. Site Requirements**

1. Accessory dwelling units that comply with this chapter shall be permitted on all legally established residential parcels, regardless of parcel size so long as the parcel size permits at least an ‘efficiency unit’ to be constructed in compliance with local design standards. [An ‘efficiency unit’ provides for occupancy by no more than two persons which have a minimum floor area of 150 square feet and which may also have partial kitchen or bathroom facilities.]

2. An accessory dwelling unit may only be established if a single-family dwelling unit (“primary dwelling”) exists on the parcel or is being built at the same time.

### **C. Size**

1. *Attached Accessory Dwelling Units.* The floor area of an attached second unit shall not exceed 50 percent of the living area of the primary dwelling or 1,200 square feet, whichever is less. Garages and carports are excluded from floor area calculations for both the primary dwelling and accessory unit.
2. *Detached Accessory Dwelling Units.* The floor area of a detached accessory dwelling unit shall not exceed 1,200 square feet, excluding any space devoted to a carport or garage.

### **D. Relationship to Primary Dwelling**

1. An accessory dwelling unit may be within, attached to, or detached from the primary dwelling, or within an attached or detached accessory structure. Attachment to the primary dwelling shall be by sharing a common interior wall or common roof.
2. An accessory dwelling unit shall have its own kitchen, bathroom facilities, and entrance separate from the primary dwelling.
3. The accessory dwelling unit shall be clearly subordinate to the primary dwelling by size.

### **E. Development Standards**

1. An accessory dwelling unit shall comply with all current development and design standards of the General Plan and Zoning Ordinance that are applicable to the primary dwelling, including, but not limited to, building setbacks, parcel coverage, building height, and architectural design, with certain exceptions, discussed herein. As long as existing setbacks are sufficient for fire safety, no setback shall be required for an accessory dwelling unit contained within the existing space of a single-family residence or accessory structure, including

an existing garage, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above a garage.

2. The accessory dwelling unit in compliance with this section 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 which is consistent with the existing general plan and zoning designations for the lot.

3. No lot line adjustment, subdivision of land, air rights or condominium shall be allowed to enable the sale, transfer, or disposal of the accessory dwelling unit independently of the primary dwelling unit or any portion of the property. This stipulation shall be included in a recorded deed restriction on the property.

4. The accessory dwelling unit must be eligible to receive City sewer and water services. Creation of a detached accessory dwelling unit may require installation of a new or separate utility connection.

#### **F. Design Requirements**

1. An accessory dwelling unit shall be compatible with the primary dwelling and the surrounding neighborhood with respect to structure height, scale, and massing.

2. The architectural design and detailing, roof color and material, and exterior color and finish materials of an accessory dwelling unit shall match the primary dwelling to the extent possible.

3. The parcel shall retain a single-family appearance and the accessory dwelling unit shall be integrated into the design of the existing improvements of the property.

4. The addresses of both the primary dwelling and the accessory dwelling unit shall be displayed and clearly visible from the street.

### **G. Parking**

1. Accessory dwelling units with at least one bedroom shall provide one additional off-street parking space in addition to those spaces required for the primary dwelling. Off-street parking may be provided in the setback areas or as tandem parking on a driveway, unless the City determines that such options are not feasible on the existing property, based on fire and life safety conditions. These spaces may not be covered if located within the setback areas.

2. When all or a portion of a garage, carport, or other parking structure is converted or demolished to construct an accessory dwelling unit, the parking spaces displaced by the conversion may be allowed in any configuration on the lot, including, but not limited to, covered spaces, uncovered spaces, or tandem spaces, or by use of mechanical automobile parking lifts.

3. The parking standards provided in this section and otherwise in this code do not apply to an accessory dwelling unit in any of the following instances: (a) it is located within one-half mile of public transit; (b) it is located within an official architecturally and historically significant historic district; (c) it is part of the proposed or existing primary residence or an accessory structure; (d) on-street parking permits are required but not offered to occupants of an accessory dwelling unit; and, (e) a car share vehicle is located within one block of the accessory dwelling unit. To qualify for any of the above exemptions, the applicant shall provide supporting evidence as part of a Minor Use Permit or building permit application.

## **20.42.040 Occupancy Standards and Fee Requirements**

A. *Owner Occupancy.* The owner of a parcel with an accessory dwelling unit shall be permitted to rent either the primary unit or the accessory dwelling unit, but not both, and may reside in either the primary dwelling unit or the accessory dwelling unit, if the accessory dwelling unit is located within an R-1 Zoning District only. This requirement does not apply to any other Zoning District.

B. *Deed Restrictions.* Prior to the issuance of a building permit for an accessory dwelling unit in an R-1 Zoning District, a covenant of restriction to run with the land shall be recorded by the property owner which specifies that the accessory dwelling unit cannot be sold separately, transferred, or otherwise disposed of independently from the primary dwelling unit that the property owner shall reside in either the primary or accessory dwelling unit, and that these restrictions shall be binding on successors in ownership.

C. *Fees and Other Requirements.*

1. Accessory dwelling units are not a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service; and any utility fee or charge imposed on the creation of a detached accessory dwelling unit must not exceed the reasonable cost of providing the service.

2. Accessory dwelling units contained within the existing space of a single family residence or accessory structure that have an independent exterior access and setbacks that meet fire safety requirements are not required to install a new or separate utility connection and cannot be charged for a related connection fee or capacity charge.

3. A new accessory dwelling unit shall be required to pay all applicable fees, including impact fees.

4. Prior to occupancy of the accessory dwelling unit, a new address shall be assigned by Department of Development Services.”

**SECTION 7. AMENDMENT TO CODE.** Section 20.46.010, “Residential Design Standards, Purpose,” of the Merced Municipal Code is hereby amended to read as follows:

**“20.46.010 -Purpose**

This chapter establishes design standards for residential uses, in addition to regulations set forth in Chapter 20.08 (Residential Zones), except that parking, location, and address requirements in Section 20.46.020 do not apply to accessory dwelling units.”

**SECTION 8. AMENDMENT TO CODE.** Section 20.90.020, “Definitions,” of the Merced Municipal Code is hereby amended to read as follows:

**“20.90.020 - Definitions**

1a. *Accessory Dwelling Units.* Attached or detached accessory residential dwelling units, which provide complete independent living facilities for one or more persons. Accessory dwelling units provide permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel occupied by a primary dwelling. A single attached suite of rooms (consisting of living, sleeping, cooking, and sanitation facilities) but with unimpeded access to the rest of the dwelling unit, no separate lease or utility service, and still functioning as one “household” per 20.90.020(99) may not be considered to be an accessory unit. See Chapter 20.42 (Accessory Dwelling Units).

186. *Second Units or Secondary Dwelling Units.* See Accessory Dwelling Units (#1a).”

**SECTION 9. EFFECTIVE DATE.** This Ordinance shall be in full force and effect thirty (30) days after its adoption.



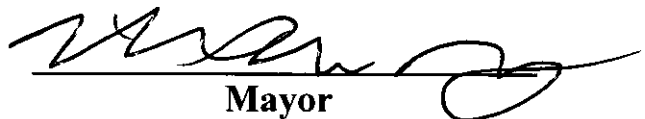
**SECTION 10. SEVERABILITY.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 11. PUBLICATION.** The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

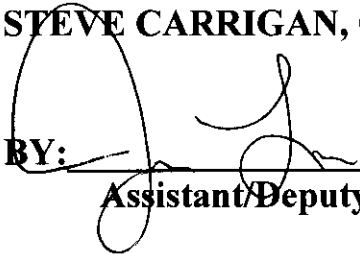
The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the 5th day of August, 2019, and was passed and adopted at a regular meeting of said City Council held on the 19th day of August, 2019, by the following called vote:

<b>AYES:</b> 6	<b>Council Members:</b> BLAKE, ECHEVARRIA, MARTINEZ, MCLEOD, MURPHY, SERRATTO
<b>NOES:</b> 0	<b>Council Members:</b> NONE
<b>ABSTAIN:</b> 0	<b>Council Members:</b> NONE
<b>ABSENT:</b> 1	<b>Council Members:</b> SHELTON

**APPROVED:**

  
\_\_\_\_\_  
Mayor

**ATTEST:**  
**STEVE CARRIGAN, CITY CLERK**

**BY:**   
Assistant/Deputy City Clerk



**(SEAL)**

**APPROVED AS TO FORM:**

 8-7-19  
City Attorney Date