

ORDINANCE NO. 2015-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ AMENDING
SECTION 24.16 PART 2 OF THE SANTA CRUZ MUNICIPAL CODE PERTAINING TO
ACCESSORY DWELLING UNITS REGARDING THE DAYLIGHT
PLANE REQUIREMENT

BE IT ORDAINED By the City of Santa Cruz as follows:

Section 1: Section 24.16 Part 2 of the Santa Cruz Municipal Code is hereby amended to read as follows:

Part 2: ACCESSORY DWELLING UNITS

24.16.100 PURPOSE.

The ordinance codified in this part provides for accessory dwelling units in certain areas and on lots developed or proposed to be developed with single-family dwellings. Such accessory dwellings are allowed because they can contribute needed housing to the community's housing stock. Thus, it is found that accessory dwelling units are a residential use which is consistent with the General Plan objectives and zoning regulations and which enhances housing opportunities that are compatible with single-family development. Accessory units provide housing for family members, students, the elderly, in-home health care providers, the disabled and others within existing neighborhoods, and homeowners who create accessory dwelling units may benefit from added income and an increased sense of security.

In addition the ordinance provides a mechanism to grant legal status to existing illegally constructed accessory units in single family neighborhoods. By encouraging legalization, safe dwellings may be added to the City's existing housing supply.

Thus it is found that accessory dwelling units are a residential use which is consistent with the General Plan objectives and zoning regulations and which enhances housing opportunities with single-family development. To ensure that accessory dwelling units will conform to General Plan policy the following regulations are established.

(Ord. 2003-17 § 2 (part), 2003; Ord. 2003-16 § 2 (part), 2003).

24.16.120 LOCATIONS PERMITTED.

Accessory dwelling units are permitted in the following zones on lots of four thousand five hundred (4,500) square feet or more:

1. RS-5A, RS-10A;
2. RS-1A, RS-2A;
3. R-1-10;
4. R-1-7;
5. R-1-5;

6. R-L, R-T(A), (B), and (D).

(Ord. 2003-17 § 2 (part), 2003; Ord. 2003-16 § 2 (part), 2003).

24.16.130 PERMIT PROCEDURES.

The following accessory dwelling units shall be principally permitted uses within the zoning districts specified in Section 24.16.120 and subject to the development standards in Section 24.16.160.

1. Any accessory dwelling unit meeting the same development standards as permitted for the main building in the zoning district, whether attached or detached from the main dwelling.
2. Any single story accessory dwelling unit.
3. Accessory dwelling units on substandard lots shall be required to obtain a Design Permit as well as comply with other requirements in Section 24.08.440 of the Municipal Code.

Any accessory dwelling unit not meeting the requirements above shall be conditionally permitted uses within the zoning districts specified in Section 24.16.120 and shall be permitted by administrative use permit at a public hearing before the zoning administrator, subject to the findings per Section 24.16.150 and the development standards in Section 24.16.160.

(Ord. 2003-17 § 2 (part), 2003; Ord. 2003-16 § 2 (part), 2003).

24.16.150 FINDINGS REQUIRED FOR CONDITIONALLY PERMITTED ACCESSORY DWELLING UNITS.

Before approval or modified approval of an application for an accessory dwelling unit, the decision making body shall find that:

1. Exterior design of the accessory dwelling unit is compatible with the existing residence on the lot through architectural use of building forms, height, construction materials, or colors.
2. The exterior design is in harmony with, and maintains the scale of, the neighborhood.
3. The accessory dwelling unit does not result in excessive noise, traffic or parking congestion.
4. The property fronts on an adequate water main and sewer line each with the capacity to serve the additional accessory dwelling unit.
5. The site plan provides adequate open space and landscaping that is useful for both the accessory dwelling unit and the primary residence. Open space and landscaping provides for privacy and screening of adjacent properties.
6. The location and design of the accessory dwelling unit maintains a compatible relationship to adjacent properties and does not significantly impact the privacy, light, air, solar access or parking of adjacent properties.
7. The one and one-half to two-story structure generally limits the major access stairs, decks, entry doors, and major windows to the walls facing the primary residence, an alley, or the

Monterey Bay Sanctuary Scenic Trail if applicable. Windows that impact the privacy of the neighboring side or rear yard have been minimized.

8. The site plan shall be consistent with physical development policies of the General Plan, any required or optional element of the General Plan, any area plan or specific plan or other city policy for physical development. If located in the Coastal Zone, a site plan shall also be consistent with policies of the Local Coastal Program.

9. The orientation and location of buildings, structures, open spaces and other features of the site plan are such that they maintain natural resources including heritage or significant trees and shrubs to the extent feasible and minimize alteration of natural land forms. Building profiles, location and orientation relate to natural land forms.

10. The site plan is situated and designed to protect views along the ocean and of scenic coastal areas. Where appropriate and feasible, the site plan restores and enhances the visual quality of visually degraded areas.

11. The site plan incorporates water-conservation features where possible, including in the design of types of landscaping.

(Ord. 2003-17 § 2 (part), 2003; Ord. 2003-16 § 2 (part), 2003).

24.16.160 DESIGN AND DEVELOPMENT STANDARDS.

All accessory dwelling units must conform to the following standards:

1. **Parking.** One parking space shall be provided on site for each studio and one bedroom an accessory dwelling unit. Two parking spaces shall be provided on site for each two bedroom accessory unit. Parking for the accessory dwelling unit is in addition to the required parking for the primary residence. (See Section 24.16.180 for parking incentives.)

2. **Unit Size.** The floor area for accessory dwelling units shall not exceed ten percent (10%) of the net lot area up to a maximum of eight hundred (800) square feet. Accessory units that utilize alternative green construction methods that cause the exterior wall thickness to be greater than normal shall have the unit square footage size measured similar to the interior square footage of a traditional frame house. In no case may any combination of buildings occupy more than thirty percent (30%) of the required rear yard for the district in which it is located, except for units which face an alley or the rail trail as noted in Section 24.16.180(5).

3. **Existing Development on Lot.** A single-family dwelling exists on the lot or will be constructed in conjunction with the accessory dwelling unit.

4. **Number of Accessory Dwelling Units per Parcel.** Only one accessory dwelling unit shall be allowed for each parcel.

5. **Setbacks for Detached Accessory Dwelling Units.** The side-yard and rear-yard setbacks for construction of detached single-story structures containing an accessory dwelling unit shall not be less than three feet and the distance between buildings on the same lot must be a minimum of six feet. Accessory dwelling units higher than one story shall provide side yard setbacks of five feet and rear yard setbacks of ten feet. If any portion of an accessory dwelling unit is located in

front of the main building, then the front and side yard setbacks shall be the same as a main building in the zoning district. An existing accessory building built prior to 2014 with a valid building permit or is a legal nonconforming structure that has less than required side or rear yard setback(s) may be converted into an accessory dwelling unit as allowed under Section 24.16.130. In addition, the building shall meet all other California Building Standards Code requirements including the Alternative Means and Methods section as prescribed there in. Section 24.18.030(1) of the Municipal Code shall not apply.

6. Setbacks for Attached Accessory Dwelling Units. Attached accessory dwelling units shall meet the same setbacks as a main building in the zoning district.

7. Rear Yard Lot Coverage. An existing accessory building built prior to 2014 with a valid building permit or is a legal nonconforming structure that occupies more than thirty percent (30%) of the required rear yard setback area may be converted into an accessory dwelling unit as allowed under Section 24.16.130. Construction of a new accessory dwelling unit is required to meet the thirty percent (30%) rear yard lot coverage requirement except as allowed under Section 24.16.180(5).

8. Other Code Requirements. The accessory dwelling unit shall meet the requirements of the California Building Standards Code including the Alternative Means and Methods section as prescribed there in.

9. Occupancy.

a. The property owner or an adult member of the property owner's immediate family for whom the property owner is a court appointed conservator must occupy either the primary or accessory dwelling as his or her principal place of residence except under circumstances as established by resolution by the City Council that may require the property owner to vacate the unit during which time the property owner or a member of the property owner's family who has the property owner's power of attorney or is an executor of the property owner's estate may apply to the City Council for approval of a temporary change in use allowing both units to be rented for a period of no more than two years with a possible extension of one year by the Planning Director if circumstances warrant. Upon the expiration of the Rental Period, the property owner shall re-occupy the property, cease renting one of the units, or sell the property to a buyer who will reside on the property. A fee for such a request shall be in an amount established by resolution by the City Council.

b. For purposes of this chapter, the property owner is the majority owner of the property as shown in the most recent Santa Cruz County assessor's roll.

c. If there is more than one property owner of record the owner with the majority interest in the property shall be deemed the property owner for purposes of this chapter. Any property owner of record holding an equal share interest in the property may be deemed the majority property owner if no other property owner owns a greater interest. (For example, if the property is owned by two people, each with a fifty percent interest, either of the two owners may be deemed the property owner for purposes of the owner occupancy requirement. If three people own the property, each with a thirty-three and

one-third percent interest, any one of the three may be deemed the property owner for purposes of the owner occupancy requirement.)

d. Notwithstanding subsection (a) of this section, the Community Development Director, in consultation with the City Manager and City Attorney, shall be authorized to promulgate regulations intended to legalize accessory dwelling units which are non-confirming solely by virtue of the fact that the property owner has failed to comply with subsection (a)'s owner occupancy requirement, including but not limited to, regulations providing for the amortization of the non-conformity by specifying a period of time within which the absentee owner must either establish occupancy or discontinue the accessory dwelling unit use of the property or alternatively sell the property, and regulations providing for the recordation of land use agreements specifying the terms of amortization.

10. Building Height and Stories.

a. A one story detached accessory dwelling unit shall be no more than fifteen feet in height measured to the roof peak and shall not extend above and beyond the daylight plane having a height of seven feet at each side or rear property line and extending into the property at an angle of 45 degrees. Architectural features as described under Section 24.12.120 (a) and existing buildings described under Section 24.16.160.5 shall be exempt from the daylight plane regulation. Existing buildings described under Section 24.16.160.5 shall not have their existing height increased.

b. A one and one-half to two story detached accessory dwelling shall be no more than twenty-two feet in height measured to the roof peak.

c. An attached accessory dwelling unit may occupy a first or second story of a main residence if it is designed as an integral part of the main residence and meets the setbacks required for the main residence.

d. If the design of the main dwelling has special roof features that should be matched on the detached accessory dwelling unit to enhance design compatibility, the maximum allowed building height of the accessory dwelling unit may be exceeded in order to include such similar special roof features subject to review and approval of the zoning administrator.

11. Alley or Rail Trail Orientation. When an accessory dwelling unit is adjacent to an alley or the Monterey Bay Sanctuary Scenic Trail, the accessory dwelling unit is encouraged to be oriented toward the alley or trail with the front access door and windows facing the alley. Parking provided off the alley shall maintain a twenty-four-foot back out which includes the alley. Fences shall be three feet, six inches along the alley. However, higher fencing up to six feet can be considered in unusual design circumstances subject to review and approval of the zoning administrator.

12. Design. The design of the accessory dwelling unit shall relate to the design of the primary residence by use of the compatible exterior wall materials, window types, door and window trims, roofing materials and roof pitch.

13. Large Home Design Permit. The square footage of an attached accessory dwelling unit shall be counted with the square footage of the single-family home in determining whether a large home design permit is required. The square footage of a detached accessory dwelling unit shall not be counted toward a large home design permit.

14. Open Space and Landscaping. The site plan shall provide open space and landscaping that are useful for both the accessory dwelling unit and the primary residence. Landscaping shall provide for the privacy and screening of adjacent properties.

15. The following standards apply to accessory dwelling units located outside the standard side and rear yard setbacks for the district:

The entrance to the accessory dwelling unit shall face the interior of the lot unless the accessory dwelling unit is directly accessible from an alley, a public street, or the Monterey Bay Sanctuary Scenic Trail.

Windows which face an adjoining residential property shall be designed to protect the privacy of neighbors; alternatively, fencing or landscaping shall be required to provide screening.

16. Green Building Standards. New accessory dwelling unit construction (not conversion of existing Space) shall be required to meet Green Building prioritized permit processing. Conversion of existing space into an accessory dwelling unit shall be required to meet minimum Green Building point standards plus 15 additional points.

(Ord. 2008-04 § 1, 2008: Ord. 2003-17 § 2 (part), 2003; Ord. 2003-16 § 2 (part), 2003).

24.16.170 DEED RESTRICTIONS.

Before obtaining a building permit for an accessory dwelling unit the property owner shall file with the county recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:

1. The accessory dwelling unit shall not be sold separately.
2. The unit is restricted to the approved size.
3. The use permit for the accessory dwelling unit shall be in effect only so long as the property is in compliance with this Ordinance including Section 24.16.160.9.
4. The above declarations are binding upon any successor in ownership of the property; lack of compliance shall be cause for code enforcement and/or revoking the conditional use permit.
5. The deed restrictions shall lapse upon removal of the accessory dwelling unit.
6. For properties with accessory dwelling units that are located in a Permit Parking Program District, the primary residence and the accessory dwelling unit combined shall qualify only for the number of residential parking permits that would have been available to the primary residence. No additional permits will be granted for the accessory dwelling unit.

(Ord. 2008-04 § 2, 2008: Ord. 2003-17 § 2 (part), 2003; Ord. 2003-16 § 2 (part), 2003).

24.16.180 ZONING INCENTIVES.

The following incentives are to encourage construction of accessory dwelling units.

1. **Affordability Requirements for Fee Waivers.** Accessory dwelling units proposed to be rented at affordable rents, as established by the city, may have development fees waived per Part 4 of Chapter 24.16 of the Zoning Ordinance. Existing dwelling units shall be relieved of the affordability requirement upon payment of fees in the amount previously waived plus the difference between that amount and the fees in effect at the time of repayment.
2. **Covered Parking.** The covered parking requirement for the primary residence shall not apply if an accessory dwelling unit is provided. However, no plumbing fixtures may be installed in any remaining existing garage or newly constructed garage on a property that has an accessory dwelling unit without approval of the zoning administrator
3. **Front or Exterior Yard Parking.** Three parking spaces may be provided in the front or exterior yard setback under this incentive with the parking design subject to approval of the zoning administrator. The maximum impervious surfaces devoted to the parking area shall be no greater than the existing driveway surfaces at time of application. Not more than fifty percent of the front yard width shall be allowed to be parking area.
4. **Tandem Parking.** For a parcel with a permitted accessory dwelling unit, required parking spaces for the primary residence and the accessory dwelling unit may be provided in tandem on a driveway. A tandem arrangement consists of one car behind the other. No more than three total cars in tandem may be counted towards meeting the parking requirement.
5. **Alley or Rail Trail Presence.** If an accessory dwelling unit faces an alley or the Monterey Bay Sanctuary Scenic Trail as noted in the design standards in this chapter, the limitations on rear yard coverage as specified in Sections 24.16.160(2) and/or 24.12.140(5) do not apply.
6. **Historic Properties.** Accessory dwelling unit regulations regarding lot size and unit size may be allowed in accord with Section 24.12.445 for lots with historic buildings listed on the city historic building survey and on lots with contributing buildings within historic districts.

(Ord. 2012-19 § 5, 2012; Ord. 2008-14 § 8, 2008; Ord. 2003-17 § 2 (part), 2003; Ord. 2003-16 § 2 (part), 2003).

Section 2: This ordinance shall take effect and be in force thirty (30) days after final adoption.

ORDINANCE NO. 2015-08

PASSED FOR PUBLICATION this 12th day of May, 2015, by the following vote:

AYES: Councilmembers Chase, Terrazas, Comstock, Noroyan; Vice Mayor Mathews; Mayor Lane.

NOES: Councilmember Posner.

ABSENT: None.

DISQUALIFIED: None.

APPROVED: ss/Don Lane, Mayor

ATTEST: ss/Bren Lehr, City Clerk Administrator

PASSED FOR FINAL ADOPTION this _____ day of _____, 2015
by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk Administrator

This is to certify that the above
and foregoing document is the
original of Ordinance No. 2015-08
and that it has been published or
posted in accordance with the
Charter of the City of Santa Cruz.

City Clerk Administrator