

ORDINANCE NO. 2020-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EASTVALE, CALIFORNIA, AMENDING SECTION 120.04.010 ACCESSORY DWELLING UNITS OF THE EASTVALE MUNICIPAL CODE

WHEREAS, on October 9, 2019, the Governor of the State of California approved Assembly Bills 68 and 881 and Senate Bill 13 to address the statewide critical need for affordable housing given the high cost of living, the low supply of affordable homes for rent or purchase, and the difficulty in building more affordable housing; and

WHEREAS, AB 68, AB 881 and SB 13 became effective on January 1, 2020 and amended Sections 65852.2 and 65852.22 of the Government Code, changing state law to limit local agencies' regulatory authority over accessory dwelling units; and

WHEREAS, the new law provides that if a city does not have an ordinance that complies with the new state laws as of January 1, 2020, then any City regulation relating to accessory dwelling units is invalid, and the provisions the new State laws controls; and

WHEREAS, the City Council now wishes to amend the City's Zoning Code provisions regarding accessory dwelling units to bring them into compliance with the new State laws; and

WHEREAS, at a properly noticed public hearing held at a regular meeting of the Planning Commission of the City on January 18, 2020, the Planning Commission considered this issue and voted 4-1 recommending that the City Council adopt this Ordinance; and

WHEREAS, the City Council, after notice duly given as required by law, held a public hearing on April 8, 2020 to consider the Planning Commission's recommendation on this matter and other public testimony; and

THE CITY COUNCIL OF THE CITY OF EASTVALE DOES HEREBY ORDAIN AS FOLLOWS:

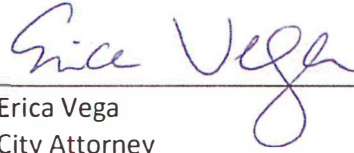
Section 1. The City Council finds that the adoption of this Ordinance is statutorily exempt from review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code section 21080.17. Under Public Resources Code section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.2 of the Government Code (the state ADU law). The ordinance implements Government Code Section 65852.2 within the City of Eastvale in a manner that is consistent with the requirements of state law. As such, the adoption of the ordinance is exempt from CEQA.

Section 2. Section 120.04.010 of the Eastvale Municipal Code is amended to read its entirety as set forth hereafter in **Attachment 'A'**.

Section 3. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be published once in the local newspaper and the same shall be in force and effect on and thirty (30) days after its passage and adoption.

PASSED, APPROVED AND ADOPTED this 22nd day of April, 2020.

APPROVED AS TO FORM:



Erica Vega
City Attorney



Brandon Plott
Mayor

ATTEST:



Marc A. Donohue, MMC
City Clerk/Communications Director

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF EASTVALE)

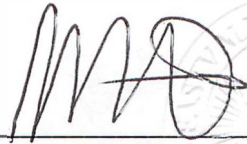
I, Marc A. Donohue, City Clerk/Communications Director of the City of Eastvale, California, do hereby certify that the foregoing Ordinance No. 20-03, was introduced at a regular meeting of the City Council of the City of Eastvale held on the 8th day of April, 2020, and was passed by the City Council of the City of Eastvale at a regular meeting held on the 22nd day of April, 2020, by the following vote:

AYES: Councilmembers Lorimore, Rigby, Tessari, Mayor Pro Tem Yow and Mayor Plott

NOES:

ABSENT:

ABSTAIN:

A handwritten signature in dark ink, appearing to be 'MA Donohue', written over a horizontal line.

Marc A. Donohue, MMC
City Clerk/Communications Director

Attachment 'A'

Sec. 120.04.010. - Accessory dwelling units.

(a) *Intent.* The intent of this section is to regulate accessory dwelling units in residential zoning districts consistent with state law. Implementation of this section is intended to expand housing opportunities for low-income and moderate-income or elderly households by increasing the number of rental units available within existing neighborhoods while maintaining the primarily single-family residential character of the area.

(b) *Applicability.*

(1) An accessory dwelling unit shall not be established without first obtaining an accessory dwelling unit permit from the city. An accessory dwelling unit permit application shall be approved ministerially by the ~~Planning Director~~ **Community Development Director** without discretionary review ~~except as otherwise provided in this section~~, if it meets the definitions and criteria listed in this section and all other applicable zoning, building and health and safety codes.

(I) Existing Single Family or Multi-family Developments

The permit application shall be acted on within 60 days from the date the city receives a completed application if there is an existing single-family or multi-family dwelling on the lot.

(II) New Single-Family Developments

If the permit application is submitted with a permit application to create a new single-family dwelling on the lot, the application shall be acted on concurrently with the building permit for the new single-family dwelling.

(2) The applicant for an accessory dwelling unit permit must be the owner of the property on which the accessory dwelling unit will be located. ***This requirement is suspended from January 1, 2020 through December 31, 2025.***

(3) For the purposes of meeting the city's applicable Regional Housing Needs Allocation (***RHNA***) as contained in the adopted housing element, accessory dwelling units may be reported as new production of housing units.

(4) ***No other local ordinance, policy, or regulation shall be the basis for the delay or denial of an accessory dwelling unit permit under this section.***

(c) *Definitions.*

(1) "Accessory dwelling unit" means an attached or detached residential dwelling which provides complete independent living facilities for one or more persons ***and is located on a lot with a proposed or existing primary residence***. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family ***or multi-family*** dwelling is or will be situated. An accessory dwelling unit also includes the following: an efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, and a manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Attached" accessory dwelling means a unit that is or will be attached to or located within the existing or proposed single family dwelling or an existing accessory structure. A "detached" accessory dwelling unit refers to a unit that is or will be detached from the proposed or existing primary dwelling but is not a conversion of an existing accessory structure.

(3) "Junior accessory dwelling unit" means an accessory dwelling unit that is no more than 500 square feet and contained entirely within a proposed or existing single-family residence. It may contain separate sanitation facilities or may share them with the primary dwelling. A junior accessory dwelling unit shall

include an efficiency kitchen consisting of a cooking facility with appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(3) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(4) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(5) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(d) *Development standards.* No accessory dwelling unit permit application shall be approved unless it complies with the following requirements:

(1) The lot is within a ***single-family or multi-family*** residential zone and includes a proposed ***single-family dwelling*** or an existing ***single-family or multi-family primary*** dwelling. ~~No more than one accessory dwelling unit may be permitted on any lot.~~

(i) ***One detached accessory dwelling unit or one junior accessory dwelling unit may be permitted per lot with a proposed or existing single-family dwelling.***

(ii) ***One attached accessory dwelling unit or junior accessory dwelling unit may be permitted per lot with a proposed or existing single-family dwelling.***

(ii) ***For accessory dwelling units on lots with existing multi-family dwellings:***

a. At least one attached accessory dwelling unit may be permitted per lot with existing multi-family residential. The total number of attached accessory dwelling units permitted on the lot shall not exceed 25 percent of the existing number of multi-family residential units on the lot.

b. Up to two detached accessory dwelling units are permitted per lot with existing multi-family residential.

(2) The accessory dwelling unit will either be attached or located within the living area of the proposed or existing primary dwelling or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(3) The total area of floor space of an attached accessory dwelling unit shall not exceed 50 percent of the living area of the proposed or existing primary dwelling living area or ***the following, whichever is less:***

(ii) ***850 ±,200-square feet if the accessory dwelling unit has one bedroom or less, or***

(iii) ***1,000 square feet if the accessory dwelling unit has more than one bedroom.***

(4) The total area of floor space for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(5) ~~No accessory dwelling unit shall be permitted that is less than 500 square feet, unless the accessory dwelling unit is an efficiency unit, as defined in the Health and Safety Code section 17958.1 and the proposed efficiency unit meets all building and safety codes applicable to efficiency units.~~

Home occupations which involve storage or materials or inventory of any kind or which involve clients visiting the home occupation may not be conducted in the accessory dwelling unit.

(6) Accessory dwelling units shall be located at the rear or in the side portions of the lot only.

(7) The accessory dwelling unit shall comply with all ***building codes and*** development standards for accessory structures of the zone in which the lot is located, including, but not limited to ***parking***, height, setbacks, ***landscaping*** and lot coverage, except as otherwise provided for in this section, ***and except for any minimum lot size requirements.***

(8) ***No setback is required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit.***

(9) ***A setback of four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimension as an existing structure.*** ~~However, no setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than 5 feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.~~

(11) For purposes of calculating allowable density, an accessory dwelling unit is not counted as an additional unit. ***Accessory dwelling units are a residential use and deemed consistent with the residential general plan and zoning designations.***

(10) All-weather access for emergency vehicles shall be provided to all accessory dwelling units as required by applicable building, safety, and fire codes.

(11) ***Fire sprinklers shall only be required in an accessory dwelling unit if they are also required for the primary residence.***

(12) ***An attached accessory dwelling unit that is within the existing space of an accessory structure may include an expansion of up to 150 square feet beyond the existing dimensions of the existing accessory structure to accommodate ingress and egress.***

(13) ***Attached accessory dwelling units, including junior accessory dwelling units, shall have independent exterior access from the primary residence.***

(14) ***Detached accessory dwelling units shall not exceed the height of the primary dwelling unit, except that if the primary dwelling is less than 16 ft high then the accessory dwelling unit could be up to 16 ft high.***

(15) ***Attached accessory dwelling units on lots with existing multi-family residential must be conversions of portions of the existing multi-family residential structure that is not used as livable space, including but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages.***

(e) ***Parking.***

(1) ***Except as provided in subsection (e)(3) below,*** off-street parking shall be required for the accessory dwelling unit in addition to any off-street parking requirements for the existing dwelling unit. One parking space shall be provided for each accessory dwelling unit. The required off-street parking for an accessory dwelling unit may be located in setback areas or through tandem parking, ***unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.***

(2) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or wholly or partially converted to an accessory dwelling unit, replacement ***off-street parking is not required to*** be provided. ~~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, or by the use of mechanical, automobile parking lifts. These allowable locations/configurations supersede and other standards for parking for single family residences contained in this code.~~

(3) No ***off-street*** parking standards shall be ***required*** for an accessory dwelling unit in the following instances. ~~These standards supersede any other standards for parking for single family residences contained in this code.~~

a. The accessory dwelling unit is located within one-half mile of an existing public transit stop.

b. The accessory dwelling unit is located within an officially designated architectural and/or historic district.

c. The accessory dwelling unit is ~~wholly within the living area of an existing primary residence, or is wholly within the square footage of an existing accessory structure that is converted to an accessory dwelling unit~~ ***an attached accessory dwelling unit or a junior accessory dwelling unit.***

d. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

e. When there is a designated car share vehicle station located within one block of the accessory dwelling unit.

(f) *Miscellaneous.*

(1) ***Attached*** accessory dwelling units, ***including junior accessory dwelling units***, shall not be required to install a new or separate utility connection directly between the accessory dwelling unit and the utility, or be subject to a related connection fees or capacity charges ***for utilities, unless the accessory dwelling unit is constructed with a new single-family dwelling and is not a junior accessory dwelling unit.***

~~Attached accessory dwelling units shall have independent exterior access from existing residences.~~ ***No impact fees shall be imposed on accessory dwelling units less than 750 square feet. For accessory dwelling units 750 square feet or larger, impact fees shall be charged proportionately in relation to the square footage of the primary dwelling.***

(3) No passageway shall be required in conjunction with the construction of a detached accessory dwelling unit.

(4) No accessory dwelling unit may later be considered a primary dwelling unit for any purpose. This provision shall not be construed to prohibit a property owner from eliminating an attached accessory dwelling unit and enlarging the primary residence to encompass the area that was formerly part of the accessory dwelling unit, provided that all development standards applicable to the primary residence are satisfied. ~~The property owner must occupy either the primary residence or the accessory dwelling unit.~~

(5) The accessory dwelling unit ***and/or*** primary residence may be occupied by any person without rent or may be rented, ***except that if the lot contains a junior accessory dwelling unit then one of the units on the lot must be owner-occupied.*** If rented, the owner must comply with Chapter 110.32 of the Code of the City of Eastvale. Compliance with this provision may be enforced in the same manner as violations of Chapter 110.32 of the Code. ***The rental of an accessory dwelling unit shall be for a term longer than 30 days.***

(6) No accessory dwelling unit shall be sold or otherwise conveyed separate from the primary residence. A deed restriction shall be recorded and a copy filed with the City that includes the following:

(i) a prohibition on the sale of the accessory dwelling unit separate from the sale of the primary residence, including a statement that the deed restriction may be enforced against future purchasers;

(ii) a restriction on the size and attributes of the accessory dwelling unit that conforms with this section.

(7) The City shall not require an applicant for an accessory dwelling unit permit to correct any existing physical improvements on the lot that do not conform with current zoning standards as a condition of the approval of an accessory dwelling unit permit.

(8) The City shall not issue a certificate of occupancy for an accessory dwelling unit before a certificate of occupancy is issued for the primary dwelling unit.

	Attached ADU	Detached ADU	Junior Dwelling Unit
ADU Permit Required	Yes	Yes	Yes
Processing time (existing)	60 days		
Processing time (new)	Concurrent review		
Size	Lesser of 50% of Floor Area of primary dwelling unit or 850 square feet for 1 bedroom or 1,000 square feet for 2 bedroom	1,200 square feet	500 square feet
Quantity (SFR)	1 Maximum	1 or 1 in combination with 1 Junior Dwelling Unit	1 or 1 in combination with 1 Attached Dwelling Unit
Quantity (MFR)	At least 1 per lot NTE 25% of units	2 max	N/A
Home Occupation	No	No	No
Location	Rear and side yard	Rear and side yard	N/A
All weather access	Required	Required	Required
Sprinklers	Required	Required	Required
Setback (Min.)	4 feet	4 feet	N/A
Height (Max.)	Height allowed per zone for SFR.	Not to exceed the height of the primary SFR*	Height allowed per zone for SFR.
Owner as applicant	2025	2025	2025
Parking	None	1 space/unit	None
Exterior Access	Required	Required	Required
Sanitation	Independent	Independent	Independent
Kitchen	Independent	Independent	Required
Impact fees	>750 square feet	>750 square feet	N/A

* Except that if the primary dwelling is less than 16 ft high then the ADU could be up to 16 ft high