

ORDINANCE NO. 1312 C.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARTINEZ
AMENDING THE MUNICIPAL CODE, TITLE 22 (ZONING), CHAPTER 22.04
(DEFINITIONS) AND CHAPTER 22.12.080 (SECONDARY HOUSING UNITS) TO
COMPLY WITH STATE LAW AB 1866 RELATING TO HOUSING**

The City Council of the City of Martinez does ordain as follows:

SECTION I. Section 22.12. 084 is hereby amended to include the following paragraph:

22.12.084 Purpose.

The purpose of this article is to comply with amendments made in 2002, to State Law §65852.2 which provides for Cities to set standards for the development of second dwelling units so as to increase the supply of smaller and affordable housing while ensuring that they remain compatible with the existing neighborhood.

SECTION II: Section 22.04 Definitions, of the Martinez Municipal Code is hereby amended to read as follows:

Section 22.04.441 Secondary Housing Unit.

"Secondary housing unit" means an additional dwelling unit constructed or adapted within, onto, or apart from an existing, or built concurrently with, a single-family dwelling in any Residential District.

SECTION III. Section 22.12.080.K is deleted in its entirety and is replaced by a new section which shall read as follows:

22.12.085 Secondary Housing Units as Permitted Use.

A. INTENT.

This section is intended to implement the City's Housing Element of the General Plan, and is adopted to comply with State law (Government Code Section 65852.1 et seq.), by allowing Secondary Housing Units through administrative review in all Residential Districts, subject to meeting the standards prescribed below.

B. WHERE PERMITTED.

A Secondary Housing Unit may be permitted, subject to the Design and Development Standards described in paragraph "C" below, on a lot in any Residential District with a single-family dwelling. In no case shall more than a total of two dwelling units; one primary, the other secondary, be permitted on any such lot.

C. DESIGN AND DEVELOPMENT STANDARDS.

1. Location on Lot. A Secondary Housing Unit may only be located within the area of the lot where the Zoning Code permits either the primary single-family dwelling, or Accessory Structure, as per the applicable requirements for minimum yards, maximum height and maximum lot coverage for the subject Residential District. Secondary Housing Units may be attached to the primary single-family residence, or detached from the residence subject to separation requirements prescribed by the Zoning Code, and the Building Code as adopted and enforced at time of application
2. Minimum Size and Facilities. The Secondary Housing Unit shall contain no less than the 150 square feet area minimum required for an Efficiency Dwelling Unit as defined in Section 17958.1 of the Health & Safety Code. This unit shall include provisions for living, sleeping, eating, cooking and sanitation.
3. Maximum Size. A Secondary Housing Unit may be no larger than 1,000 square feet, excluding the garage.
4. Parking. A minimum of one independently usable off-street parking space shall be provided for the Secondary Housing Unit, which shall be provided in addition to the required parking for the primary single-family dwelling. This space need not be covered, and shall comply with all development standard set forth in Section 22.36 (Off Street Parking and Loading Facilities). A tandem parking space may also be used to meet the parking requirement for the Secondary Housing Unit, providing such space will not encumber access to a required parking space for the primary single-family dwelling. Required parking for the primary single-family dwelling may not be removed for the creation of a Secondary Housing Unit (e.g., garage conversions), or allocated to meet the parking requirement for the Secondary Housing Unit, unless replacement covered parking is provided in a location permitted by the Zoning Code.
5. Architectural and Site Plan Standards.
 - a. The Secondary Housing Unit shall be visually subordinate to the primary single-family dwelling on the parcel, by its size, location, and design. The exterior entry to the Secondary Housing Unit shall clearly appear as a secondary entry when compared to the entry for the primary single-family dwelling.
 - b. The exterior appearance and character shall echo the architectural form and style of the primary single-family dwelling. Siding materials, roof pitches and colors are to be substantially the same as those of the primary dwelling.
 - c. Outside stairways leading to a second story Secondary Housing Unit shall not be in the front of the primary single family dwelling, or in an exterior side yard if visible from the public right-of-way. Access to a first story

unit by stairs or ADA accessible ramp may be permitted in the front of the primary dwelling.

D. VARIANCES.

1. Variances may be granted. As with the development of a single-family dwelling, a variance to certain requirements of this Zoning Code, including the quantitative requirements of Paragraph “C” above, may be granted pursuant to the requirements of Chapter 22.44. The findings for or against such a variance request shall be limited to the review standards in Section 22.44.070, and the Secondary Housing Unit use shall not be a factor in making findings for or against the application.

E. GENERAL REQUIREMENTS.

1. Use of Nonconforming Structures. An existing primary single-family dwelling that is nonconforming to the height limitations, minimum yard and maximum lot coverage requirements of the Zoning Code may be used for a Secondary Housing Unit, provided that such units are in compliance with all other standards of this Section, and any modifications made to such a structure do not increase the nonconformity.
2. Compliance with Building Codes. All Secondary Housing Units shall comply with all applicable requirements of the Building Code as adopted and enforced at time of application. In cases where a Secondary Dwelling Unit is to be created through the reconfiguration of a portion of an existing single family dwelling, both the secondary and primary dwelling shall be upgraded to comply with such Building Code requirements, which include but is not limited to noise separation between units sharing common walls, emergency egress and heating/ventilation requirements, as required by the Building Official.
3. Permanent Foundation. A permanent foundation shall be required for all second housing units.
4. Requirement for Owner Occupancy. On all lots containing Secondary Housing Units, either the primary or secondary dwelling shall be owner occupied and eligible for a “homeowners exemption” for property tax purposes. The owner shall sign a Notice of Occupancy Restriction, which the City will record with the County Recorders Office, prior to issuance of a building permit for the Secondary Housing Unit.
5. Privacy. Any window or door of a second story second housing unit shall utilize techniques to lessen the privacy impacts onto adjacent properties. These techniques may include, use of obscured glazing, window placement above eye level, windows and doors located toward the existing on-site residence or screening treatments.

6. Number per Lot. A maximum of one secondary housing shall be permitted on any lot.

F. APPLICATION REQUIREMENTS.

Prior to submitting a Building Permit application, an application for Administrative Design Review shall first be submitted, per Section 22.06.040, which, at a minimum, shall include:

1. Plot plan (drawn to scale). Dimensions of the perimeter of parcel on which the second dwelling will be located. Indicate the location and dimensioned setbacks of all existing and proposed structures on the project site and structures located within 50 feet of the project site. All easements, building envelopes, and special requirements of the subdivision as shown on the final map and improvement plans shall be included. Provide average slope calculations for the project site.
2. Floor Plans. Each room shall be dimensioned and the resulting floor area calculation included. The use of each room shall be identified. The size and location of all windows and doors shall be clearly depicted.
3. Elevation views. Provide north, south, east and west elevations which show all openings, exterior finishes, original and finish grades, stepped footing outline, roof pitch, materials and color board for the existing residence and the proposed second dwelling unit.
4. Cross Section. Provide building cross sections including, but not limited to: structural wall elements, roof, foundation, fireplace and any other sections necessary to illustrate earth-to-wood clearances and floor to ceiling heights.
5. Fees. The fee for review shall be the same as required for administrative Design Review, or as required by currently adopted Fee Resolution.

G. REVIEW and APPROVAL AUTHORITY

1. Application to be administratively approved. The Community Development Director shall administratively approve applications that are in compliance with the requirements of this Section. Appeals of the Director's action may be appealed to the Planning Commission that will review the application pursuant to the criteria in this ordinance.
2. Approval of unit does not permit land division. Approval of a Secondary Housing Unit shall not be deemed to be a division of land for purposes of Government Code Section 66410 et seq. or Title 21 of the Municipal Code, nor shall the administrative approval above entitle the applicant to either: a) such a division of land; or b) to have each of the two (2) dwelling units on the parcel separately assessed for property tax purposes.

SECTION IV: Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have passed this ordinance and adopted each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, clauses or phrases be declared invalid or unconstitutional on there face or as applied.

SECTION V: Effective date. This ordinance shall become effective thirty (30) days after the date of adoption.

SECTION VI: Posting. The City Clerk shall cause this ordinance to be published at least once, with the names of those city council members voting for and against the ordinance, in a newspaper of general circulation published and circulated in the City of Martinez.

APPROVED: Rob Schroder, Mayor

ATTEST: Mercy G. Cabral, Deputy City Clerk

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I HEREBY CERTIFY that the foregoing Ordinance was duly and regularly introduced at a regular meeting of the City Council of the City of Martinez, held on the 19th of May 2004, and duly passed and adopted at a regular meeting of said City Council held on 2nd day of June, 2004, by the following vote:

AYES: Councilmembers DeLaney, Kennedy, Wainwright, Vice Mayor Ross and Mayor Schroder

NOES: None

ABSTAIN: None

ABSENT: None

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ