



City of Rialto

Legislation Text

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For City Council Meeting [August 13, 2019]

TO: Honorable Mayor and City Council

APPROVAL: Rod Foster, City Administrator

FROM: Fred Galante, City Attorney

Request City Council to Consider and Adopt **Urgency Ordinance No. 1620**, entitled, "AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO ESTABLISHING A TEMPORARY MORATORIUM ON ANY CONSTRUCTION OR ALTERATIONS OF ACCESSORY DWELLING UNITS WITHIN THE CITY OF RIALTO," reading the ordinance by title only and waving further reading thereof.

(ACTION)

BACKGROUND:

In December 2003, the City adopted an ordinance allowing the construction of accessory dwelling units (ADU's, aka granny flats, in-law units, and second units) in the Single-Family Residential zone (R-1A), subject to approval of a precise plan of design and various development standards.

In late 2016, the California legislature adopted Assembly Bill (AB) 2299 and Senate Bill (SB) 1069, requiring cities throughout California to comply with new laws relating to ADU's or risk their ordinances being deemed null and void. The bills required the City to ministerially approve ADU's that meet certain requirements, eliminated certain parking requirements, limited utility fees charged for the conversion of existing structures into ADU's, and modified the minimum size of ADU's.

As a result of the bills, the City adopted Ordinance No. 1590 in June 2017 (**Attachment A**), which amended Section 18.10.020(J) of the Rialto Municipal Code pertaining to ADU's so that it complies with the new state laws. Since then, the City has seen a substantial increase in new ADU's and garage conversions, resulting in threats to public health, safety, and welfare.

To address the concerns, City Staff recommends that the City Council consider adopting a moratorium on the development of ADU's ("Moratorium") in order to review and potentially revise some development standards with respect to ADU's. Pursuant to Government Code Section 65858, the City Council may adopt, as an urgency measure, an interim ordinance prohibiting any uses, facilities, or improvements (i.e. a moratorium) that may conflict with a contemplated zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time.

ANALYSIS/DISCUSSION:

Current state laws and the Rialto Municipal Code

Government Code Section 65852.2 (**Attachment B**) and Rialto Municipal Code Section 18.10.020(J)

specifically address the development of ADU's within the City. The following summarizes the City's current laws on ADU's:

Conversion of Existing Structures (such as garages)

In accordance with state law, the City must ministerially approve an application to convert an existing structure within a single-family residential zone if the unit meets all of the following requirements:

- the lot will contain only one (1) ADU upon conversion;
- the ADU is contained within an existing residence or accessory structure;
- the ADU has independent exterior access from the existing residence; and
- the ADU has side and rear setbacks that are sufficient for fire safety.

Under state law, no additional parking or other development standards can be applied to conversions of existing structures into ADU's, except for building code requirements.

Approval of ADU's

Per state law, the City must ministerially approve ADU applications within 120 days, if the application complies with the following standards:

- The ADU is not intended for sale separate from the primary residence and may be rented;
- The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling;
- The ADU is either attached to the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling;
- The increased floor area of an attached ADU does not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet;
- The total area of floor space for a detached EDU does not exceed 1,200 square feet;
- Passageways are not required in conjunction with the construction of an ADU;
- Local building code requirements that apply to detached dwellings are met, as appropriate; and
- The local health officer has given their approval where a private sewage disposal system is being used, if required.

Parking Requirements

Under state law, the City cannot require an ADU to provide off-street parking if the ADU meets any

one of the following:

- is within a one-half mile from public transit (which is currently not defined);
- is within an architecturally and historically significant historic district;
- is part of an existing primary residence or an existing accessory structure;
- is in an area where on-street parking permits are required, but not offered to the occupant(s) of the ADU; or
- is located within one block of a car-share area.

Otherwise, parking requirements cannot exceed one parking space per unit, in addition to the required parking spaces serving the existing primary residence.

Density Requirements

ADU's are not counted towards the application of density standards for second units. For example, if a zoning district allows one unit per 7,500 square feet, then an ADU would not be counted as an additional unit.

Fees

An ADU cannot be considered a new residential use for the purpose of calculating utility charges. Likewise, the City cannot require a new or separate utility for the conversion of an existing structure into an ADU.

Moratorium to Review ADU Development Standards

As described above, state laws limit the ability of cities to regulate certain aspects of ADU development standards. For ADU's that require a new or partially new structure, cities can impose development standards on height, lot coverage, lot size, setbacks and maximum unit size. ADU's can be limited or denied in certain areas based on health and safety factors, such as high fire risk. Cities have less control over ADU's that are converted from existing structures, since they are limited to the standards that already exist for the structure itself. Additionally, ADU parking requirements have been set by state statute, although cities may provide regulations which allow more lenient parking standards than those set at the state level.

The City's current regulations under Section 18.10.020(J) of the Rialto Municipal Code provide for specific regulation of ADU square footage and for garage conversion ADU setbacks. There are no other specific development standards, so the City may still impose and should study additional regulations on height, lot coverage, lot size, setbacks, and maximum unit size for new structures/additions. Additionally, the City could study whether ADU's should be banned in certain parts of the City for health, safety, or public health reasons.

The City Attorney has prepared the Urgency Ordinance (**Attachment C**) for City Council consideration. Per Government Code Section 65858, a Moratorium may be adopted as an urgency

ordinance that takes effect immediately upon passage but requires a four-fifths vote from the City Council. If passed, the Urgency Ordinance will continue in effect 45 days and, thereafter, will be of no further force and effect, unless, the City Council extends the Moratorium. Any ordinance extending the moratorium requires a noticed public hearing and can be for up to an additional 10 months and 15 days. Thereafter, the Moratorium may be extended again for 1 additional year.

During the period of this Moratorium, and any extension thereof, the City Administrator or his designees must: (1) consider existing and potential development standards to implement for ADU's, and (2) issue a written report describing the measures that the City has taken to address the conditions which led to the adoption of this Urgency Ordinance. The report must be issued at least 10 days before the expiration of this Moratorium, or any extension thereof and made available to the public. The City Council will, in turn, analyze the report and determine whether conditions continue to exist to justify further extensions to the Moratorium.

ENVIRONMENTAL IMPACT:

The requested action does not constitute a "Project" as defined by the California Environmental Quality Act (CEQA). Pursuant to Section 15378(a), a "Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. According to Section 15378(b), a Project does not include: "... (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment." Additionally, pursuant to Section 15061(b) (3), the proposed Moratorium is exempt from CEQA review as there is no possibility that the Moratorium may have a significant effect on the environment, insofar as it prohibits the construction of, alterations, and improvements to ADU's under Section 18.10.020(J) of the Rialto Municipal Code.

GENERAL PLAN CONSISTENCY:

Approval of this action complies with the following City of Rialto Guiding Principles, General Plan Goals and Policies:

Our City government will lead by example, and will operate in an open, transparent, and responsive manner that meets the needs of the citizens and is a good place to do business.

LEGAL REVIEW:

The City Attorney has reviewed and approved the staff report and Ordinance.

FINANCIAL IMPACT:

Adoption of the Urgency Ordinance is not anticipated to have any significant financial impact. A reduction in ADU permit issuances will reduce revenue from PPD applications and permit issuances, with reductions in costs related to processing such permits.

RECOMMENDATION:

Staff recommends that the City Council consider and an adopt Urgency Ordinance, entitled, "AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO ESTABLISHING A TEMPORARY MORATORIUM ON ANY CONSTRUCTION OR ALTERATIONS OF ACCESSORY DWELLING UNITS WITHIN THE CITY OF RIALTO," reading the ordinance by title only and waving further reading thereof.

