

ORDINANCE NO. 22-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH AMENDING SUBSECTION 25-15.3 (R-1 ZONE (PERMITTED USES)), SUBSECTION 25-17.3 (R-1 (TN) ZONE (PERMITTED USES)), SUBSECTION 25-19.3 (R-2 AND R-3 ZONES (PERMITTED USES)), AND 25-41.9 (SPECIAL USES (SECOND RESIDENTIAL UNITS)) OF THE FIREBAUGH MUNICIPAL CODE, RELATING TO ACCESSORY DWELLING UNITS

WHEREAS, State law requires cities to permit Accessory Dwelling Units in residential zones, with the purpose being to increase the supply of affordable housing units for residents of the City of Firebaugh, and

WHEREAS, Government Code Section 65852.2(a) allows local agencies to establish ordinances to ensure that Accessory Dwelling Units and Junior Accessory Dwelling Units can be established in a manner that protects the stability, property values and character of single-family residential neighborhoods but that are not so arbitrary, excessive or burdensome so as to unreasonably restrict the ability of homeowners to create second units in residential zones where they are permitted, and

NOW THEREFORE, the City Council of the City of Firebaugh does ordain as follows:

Section 1. Subsection 25-15.3 (R-1 Zone (Permitted Uses)) of the Firebaugh Municipal Code is amended to read as follows:

25-15.3 Permitted Uses

The following uses are permitted by administrative approval, subject to development standards contained in this chapter.

- a. Single-family dwellings, including conventional stick-built, and mobile homes/modular homes subject to design standards contained in Section 25-15.9 of this chapter.
- b. Accessory buildings and structures, including garages, sheds and similar.
- c. Swimming pools, subject to standards contained in Section 25-15.5 d. (Yard Setbacks).
- d. Home occupations, subject to standards contained in Chapter 25-41 (Special Uses).
- e. ~~Second residential units~~ **Accessory Dwelling Units (ADU's) and Junior Accessory Dwelling Units (JADU's)**, subject to standards contained in Chapter 25-41.9 (Special Uses).

Section 2. Subsection 25-17.3 (R-1 (TN) Zone (Permitted Uses)) of the Firebaugh Municipal Code is amended to read as follows:

25-17.3 Permitted Uses

The following uses are permitted by administrative approval, subject to development standards contained in this chapter.

- a. Single-family dwellings, including conventional stick-built, and mobile homes/modular homes subject to design standards contained in Section 25-15.9 of this chapter.
- b. Accessory buildings and structures, including garages, swimming pools, sheds and similar.

- c. Home occupations, subject to standards contained in Chapter 25-41 (Special Uses).
- d. ~~Second residential units,~~ **Accessory Dwelling Units (ADU's) and Junior Accessory Dwelling Units (JADU's)**, subject to standards contained in Chapter 25-41, **9** (Special Uses).

Section 3. Subsection 25-19.3 (R-2 and R-3 Zones (Permitted Uses)) of the Firebaugh Municipal Code is amended to read as follows:

- a. Single-family dwellings, duplexes and tri-plex's
- b. Multi-family complexes.
- c. **Accessory Dwelling Units (ADU's) and Junior Accessory Dwelling Units (JADU's), subject to standards contained in Chapter 25-41.9 (Special Uses).**
- ~~d.~~ e. Employee Housing, subject to the issuance of a permit by the State of California Department of Housing and Community Development as provided in California Health and Safety Code Sections 17021.5 and 17030. The permit shall be prominently displayed in the housing unit and shall be provided to any peace officer, City inspector or State inspector, upon demand.”
- ~~e.~~ d. Emergency Shelter.” (R-3 zone only)
- ~~f.~~ e. Single Room Occupancy Units.”
- ~~g.~~ f. Supportive Housing.
- ~~h.~~ g. Transitional Housing.
- ~~i.~~ h. Home occupations subject to the requirements detailed in Chapter 25-41 Special Uses.
- ~~j.~~ i. Small day care homes.
- ~~k.~~ j. Mobile homes subject to design standards contained in Chapter 25-15 Single Family Residential.
- ~~l.~~ k. Licensed group care homes (six or fewer persons).
- ~~m.~~ l. Drainage basins.
- ~~n.~~ m. Water well sites.
- ~~o.~~ n. Utility facilities, including electrical substations, elevated pressure tanks, and communication equipment buildings, except for wireless telecommunications facilities.
- ~~p.~~ o. Model apartments and rental offices associated with the development of a multi-family development.
- ~~q.~~ p. Incidental and accessory structures and uses located on the same site as the permitted use including private garages and carports; storage buildings; garden structures, greenhouses; and recreation rooms, hobby shops and swimming pools.
- ~~r.~~ q. Temporary apartment rental office and signs consistent with Chapter 25-59 Signs.
- ~~s.~~ r. Enclosed temporary construction materials storage yards associated with the development of an apartment complex.

Section 5. Subsection 25-41.9 (Special Uses (Second Residential Units)) of the Firebaugh Municipal Code is amended to read as follows:

25-41.9 Second Residential Units: Accessory Dwelling Units (ADU's) and Junior Accessory Dwelling Units (JADU's)

- a. **Purpose and intent. This section is intended to meet the requirements of State law in providing for Accessory Dwelling Units ("ADUs") and Junior Accessory Dwelling Units ("JADUs") as required by and in compliance with Government Code sections 65852.2 and 65852.22, (as either may be amended from time to time). The standards established by this section shall be interpreted and applied consistent with the standards set forth in Government Code sections 65852.2 and 65852.22. If different or conflicting requirements or standards exist, the more restrictive requirements or standards shall apply, but only to the extent such requirement or standard does not conflict with the requirements and standards provided in Government Code sections 65852.2 and 65852.22.**

One second dwelling unit may be established as an addition to an existing residential dwelling unit, or as a separate freestanding dwelling unit, consistent with development standards of the zone in which the unit is located, and with the requirements of this subsection. A second dwelling unit may be a site-built structure, or a manufactured home as defined by Section 18007 of the Health and Safety Code, provided that mobile homes, trailers and recreational vehicles are not permitted to be used as a second dwelling unit.

- b. **Determinations: ADUs and JADUs are residential uses. ADUs and JADUs that comply with this section are considered accessory uses and accessory buildings and therefore do not exceed the allowable density for the lots upon which ADUs and JADUs are located. ADUs and JADUs that comply with this section are considered to be consistent with the general plan and zoning designations for the lot.**

ADUs and JADUs, and the availability to construct ADUs and JADUs, will be counted for purposes of identifying adequate sites for housing in the City's Housing Element.

- c. **Standards: ADUs and JADUs are subject to the normal requirements of the zoning district where the ADU and/or JADU will be constructed. Unless otherwise stated in this section, the requirements and standards of the Zoning Code (Chapter 25) and the Building and Housing Code (Chapter 8) that apply to the lot and the primary dwelling shall apply to any ADU and/or JADU, including lot coverage, parking, height, setback, open space, landscape, and architectural review, and the requirements and standards that apply to detached dwellings and accessory structures generally.**

All ADUs and/or JADUs Development standards: All second dwelling units shall be established and maintained in conformity with the following standards:

1. Zoning:

ADUs and JADUs are allowed on single-family and multi-family lots in all residential zoning districts, including mixed-use zones where residential uses are permitted. ADUs and JADUs are not permitted in nonresidential zoning districts where residential uses are not allowed. —A second dwelling unit shall be permitted only on lots zoned R-1 (Single-Family Residential), as shown on the Official Zoning Map of the City of Firebaugh. Second dwelling units are not permitted on lots zoned R-1-4.5 or R-1-5 or any other zone district.

2. Construction of ADUs/JADUs

ADUs may be constructed within or as an addition to an existing or proposed single-family residential dwelling unit, or as a separate free-standing accessory structure, or converted from an existing accessory structure. JADUs may be constructed within an existing or proposed single-family residential dwelling unit. ADUs and JADUs must be constructed consistent with development standards of the zone in which the unit is located, and with the requirements of this subsection. ADUs may be site-built structures, or converted from existing structures, or manufactured homes as defined by Section 18007 of the Health and Safety Code. Mobile homes, trailers and recreational vehicles are not permitted to be used as ADUs.

3. Number of units

One (1) ADU and one (1) JADU are allowed per single family residential lot. Lots with existing multifamily dwellings may construct up to two (2) detached ADUs, or ADUs up to 25 percent of the number of existing multifamily dwelling units in non-livable space (e.g., storage rooms, boiler rooms, passageways, attics, basements, or garages).

~~2. Minimum lot size: A second dwelling unit shall be permitted only on a properly zoned lot that contains at least 6,500 square feet.~~

4. Yards:

A second dwelling unit shall comply with yard requirements of the subject zone R-1 Zone, except that a setback of four (4) feet from the side and rear lot lines is permitted for a detached ADU. as-listed in § ~~25-15~~ [R-1 Zone (Conventional Single-Family Residential) Zones].

5. Space between buildings:

A second detached dwelling unit shall be located no closer than 10 feet to any other residential building on the same parcel, and not less than six feet from any accessory building.

6. Building height:

ADU's shall be limited to one (1) story and sixteen (16) feet in height. No second dwelling unit shall have a height greater than two stories, not to exceed 25 feet.

6. Lot coverage: The total lot coverage by a second dwelling unit and all other buildings and structures shall not exceed 30% of the total lot area.

7. Unit size:

For detached ADU's the following size restrictions apply:

- a. One bedroom unit: Unit may contain up to 850 square feet of floor area, maximum.
- b. Two bedroom unit: Unit may contain up to 1,000 square feet of floor area, maximum.
- c. More than two bedrooms: Unit may contain up to 1,200 square feet of floor area, maximum.

For attached ADU's the maximum permitted size is 50 percent of the floor area of the primary dwelling unit, up to 800 square feet, maximum.

Notwithstanding the foregoing standards, an ADU (whether detached or attached) shall not be less than 220 square feet in size.

For a JADU the maximum permitted size is 500 square feet of floor area. Further, a JADU shall not be less than 220 square feet in size.

The increased living area of a second dwelling unit that is attached to the primary dwelling shall not exceed 30% of the existing living area of the primary dwelling. A second unit that is detached from the primary dwelling shall not exceed 1,300 square feet of floor area.

8. Parking:

There shall be one paved on-site parking space for a second dwelling unit **an ADU, (except as allowed by Government Code section 65852.2(a) or (d)). Additional parking is not required for JADUs.** The required parking space shall be a minimum of nine feet wide and 20 feet deep and constructed to City standards. The space shall be in addition to on-site parking spaces required for the primary dwelling on the lot. The parking space for the ADU second dwelling unit may be situated as a tandem parking space within an existing driveway, provided that parking space requirements are maintained for the primary dwelling unit. If additional paved parking is required to accommodate an ADU second unit, it shall not be located within a required front yard, except within a legal driveway that is not wider than necessary to accommodate two parking spaces side by side; however, said parking space may be located within required side or rear yards. There shall be no conversion of a garage of a primary dwelling unit

~~into a second dwelling unit, unless all parking requirements are otherwise met for the primary dwelling unit.~~

9. Architectural appearance:

~~The ADU's second dwelling unit's scale, appearance and character shall be similar to and compatible in design with the primary dwelling unit in terms of siding materials and color, window types, roofing pitch and materials. Further, the second dwelling unit shall be clearly subordinate to the primary dwelling unit by size, location and appearance.~~ If attached to the primary dwelling unit, a second dwelling unit shall be attached in a manner that the addition will create the appearance of an enlargement of the primary dwelling unit, and a logical extension of roof and walls of the primary dwelling unit, rather than give the appearance of an add-on unit.

10. Building Code:

A second dwelling unit shall be subject to all applicable building, fire, health and safety codes.

11. Occupancy:

A certificate of occupancy must be issued for the primary dwelling unit before a certificate of occupancy is issued for an ADU or JADU on the lot. Owner-occupancy is not required for ADUs. ~~The owner of the subject property at the time of the application and all future owners of the property shall reside in one of the dwelling units.~~ **Owner-occupancy is required for a single-family residence with a JADU. The owner of the subject property at the time of the application for a JADU and all future owners of the property shall reside in the single-family residence or JADU.** A covenant, in a form approved by the City Attorney, running with the land between the City and the applicant shall be recorded with the Fresno County recorder's office prior to the issuance of any building permits, requiring that the primary or proposed **JADU** ~~second dwelling unit~~ shall be occupied by the owner of the property.

An ADU or JADU may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence, unless authorized by Government Code section 65852.26. Rentals of ADUs and/or JADUs must be for at least 30 days.

12. Access:

In order to preclude the appearance of a duplex unit, access to ADU's and JADU's ~~the second dwelling unit~~ shall be by an exterior doorway located on the side or rear of the **ADU or JADU**, ~~second dwelling unit~~. In no case shall the entrance be visible from a public street right-of-way.

13. Utilities:

Adequate provisions shall be made for the water and sewer service and drainage generated by the occupancy of the ADU/JADU, as determined by the City Engineer. The ADU/JADU can either have shared or separate services for electric, gas, sewer, and water. A second dwelling unit shall be provided with water, sewer, and other utilities as determined by the building official.

14. Existing dwellings:

An ADU Any second dwelling unit existing on the effective date of the ordinance adding this subsection shall constitute a violation of this subsection unless the ADU second dwelling unit meets the standards of this subsection or the ADU second dwelling unit qualifies as a permitted nonconforming use under § 25-61 (Nonconforming Uses and Structures) of this title.

15. Connection, Impact, and other Fees

Except as provided in Government Code sections 65852.2 and 65852.22, ADUs and JADUs are subject to all fees and assessments required by the Municipal Code for new residential construction, including connection fees, capacity charges, and impact fees.

An inspection fee shall be assessed for any inspection to determine if an ADU or JADU complies with applicable building standards.

16. Exceptions

All of the standards provided in this Section may be relaxed or waived in order to allow construction of an attached or detached ADU that is not more than 800 square feet and not more than 16 feet in height with at least four-foot side and rear yard setbacks, provided that the ADU is constructed in compliance with all Fire and Building and Housing Code requirements and standards of the Zoning Code. (See Government Code section 65852.2(c).)

ADUs and/or JADUs described in Government Code section 65852.2(e) shall be permitted.

17. Permit process:

The applicant shall submit a building permit application for the construction of an ADU and/or JADU second dwelling unit. An application, together with the required fee in compliance with the City's Fee Schedule, shall be filed with the Department and accompanied by detailed and fully dimensioned plans, architectural drawings/sketches, elevations, floor plans, landscape plans, and/or any other data/materials identified in the Department handout for ADU/JADU applications. Following receipt of a completed application, the Planning Director or his designee shall

review the application to determine whether it complies with the requirements of this section **and ministerially approve a compliant application.**

A permit application for an ADU or a JADU shall be considered and approved ministerially without discretionary review or a hearing. The City shall act on the application to develop an ADU or a JADU within 60 days. If the permit application to develop an ADU or a JADU is submitted with a permit application to construct a new single-family dwelling on the lot, the City may delay acting on the permit application for the ADU or the JADU until the City acts on the permit application to construct the new single-family dwelling. The applicant may request a delay in the time available for the City to act on the application, as provided by State law.

Section 6. Severability

The City Council hereby declares that it would have adopted this section and adopted each article, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more articles, subsections, sentences, clauses or phrases are declared invalid or unconstitutional. If any article, subsection, sentence, clause or phrase of this section 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 portion of this section. The Director shall apply this section as though any invalid or unconstitutional article, subsection, sentence, clause or phrase were not included in this section.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Firebaugh on December 5, 2022, and was passed and adopted at a regular meeting of the City Council on December 19, 2022 by the following vote:

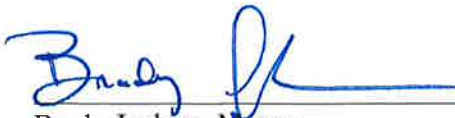
AYES: Lopez, Valdez, Perez, Renteria, Jenkins

NOES:

ABSTAIN:

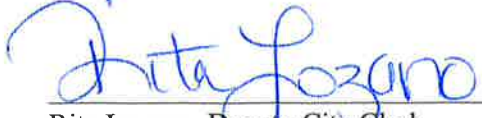
ABSENT:

APPROVED:



Brady Jenkins, Mayor
City of Firebaugh

ATTEST:



Rita Lozano, Deputy City Clerk
City of Firebaugh