ORDINANCE NO. 2914

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING DIVISION 13 OF ARTICLE V OF CHAPTER 16 OF THE MUNICIPAL CODE FROM "SECOND UNITS" TO "ACCESSORY DWELLING UNITS", REVISING THE TITLE OF SECTION 16-465 OF THE MUNICIPAL CODE TO "ACCESSORY UNITS, STANDARDS FOR REVIEW", REVISING SECTION 16-465 OF THE MUNICIPAL CODE, AMENDING A RELATED CROSS REFERENCE IN SECTION 16-21, AMENDING A RELATED DEFINITION IN SECTION 16-10, AND AMENDING PORTIONS OF SECTION 16-622 RELATING TO PARKING FOR ACCESSORY DWELLING UNITS

WHEREAS, pursuant to Municipal Code section 16-21(B)(12), permitted uses in the R-1 Single-Family zone currently include, "Second units, provided that the standards in section 16-465 are met and an application for such a unit is approved by the +director"; and

WHEREAS, the R-2 "Multiple Family", and R-3 "Garden Apartment" zones incorporate the requirements of 16-21(B)(12) and therefore also permit second units with an administrative permit; and

WHEREAS, the C-2 "General Commercial" and the CBD "Central Business District" zones allow second units with a special use permit;

WHEREAS, effective January 1, 2017, pursuant to AB 2299, Government Code § 65852.2 will be amended, and as a result, various provisions of the existing municipal code would become inconsistent with state law, unless the Oxnard Municipal Code is updated; and

WHEREAS, effective January 1, 2017, Government Code § 65852.2 will be amended to refer to "accessory dwelling units" rather than "second units"; and

WHEREAS, the revisions to this ordinance are not contingent upon the approval of the city's proposed housing element by the Department of Housing and Community Development because no accessory dwelling units are proposed to meet the RHNA requirement; and

WHEREAS, updating the ordinance will nevertheless assist in the implementation and administration of the City's Housing Element; and

WHEREAS on September 15, 2015, the California Department of Housing and Community Development tentatively approved the City's draft 2013-2021 Housing Element, which included a Program 6 to update the City's regulations of accessory dwelling units; and

WHEREAS, it is in the best interest of the public to establish and update reasonable standards relating to provision of affordable housing in specified zones in the City; and

WHEREAS, the Planning Commission held two study sessions, received and considered public comments, and vote unanimously to recommend approval of this zone text amendment at its meeting of November 17, 2016.

NOW THEREFORE, the City Council of the City of Oxnard hereby ordains as follows:

Part 1. Amend Section 16-10 "Definitions". Existing subsection (A)(2) of Municipal Code Section 16-10, "Accessory Sign", and all subsequent subsections through and including (A)(116), are renumbered, as appropriate, to make space for a new subsection (2). For example, existing subsection (A)(2) will be renumbered to be subsection (A)(3), and existing (A)(115) will become (A)(116).

Existing subsection (A)(116) of Municipal Code Section 16-10 "Second Dwelling Unit" is hereby renumbered as subsection (A)(2) of Section 16-10, and shall provide as follows:

> "(2) ACCESSORY DWELLING UNIT - An attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, and is situated on the same parcel as an existing primary single- family dwelling, but is subordinate to and smaller than the primary dwelling."

Existing subsection (117) and the subsequent subsections are not renumbered.

Part 2. Revise Section 16-21(B)(12). Subsection (12) of subsection (B) of Section 16-21 is hereby revised to provide as follows:

> "(12) Accessory dwelling units, provided that the standards in Division 13 of Article V of Chapter 16 of the Municipal Code (Starting at Section 16-465) are met and an application for such a unit is approved by the director."

Part 3. Amend Title of Division 13. The title of Division 13 of Article V of Chapter 16 of the Municipal Code is hereby revised to be "Accessory Dwelling Units". Existing section 16-465 is revised to be entitled, "Purpose and Findings". Section 16-465 is revised, and new sections 16-466 through 16-469 are added to Division 13 to provide as follows:

Section 16-465. Purpose and Findings.

A. Accessory dwelling units (also known as "second units" or "granny flats") are typically located behind or within large and primary single family units, and can provide an important source of affordable housing.
B. Accessory dwelling units, when appropriately size and located, have little impact on neighborhood quality of life.
C. Establishing reasonable regulations of accessory dwelling units is an appropriate mechanism to properly balance the need for additional affordable housing with the need to maintain existing community character and neighborhood quality of life.

Section 16-466. Ministerial Consideration.

A. *New Construction.* If the director receives an application to construct an accessory dwelling unit (by either adding on to an existing structure, or constructing a new detached structure), and the proposal meets all of the requirements of the Municipal Code, then within 120 days of the director receiving a complete application the accessory dwelling unit, the director shall ministerially approve the application without a hearing.

B. *No Expansion.* If the applicant will not be adding floor area, and instead has submitted a complete application for an accessory unit entirely within the existing space of a single-family residence or accessory structure, then the requirements of 16-469 ("Exception for Accessory Unit Within Existing Single Family Residence or Accessory Structure") shall apply.

Section 16-467. Standards for Review. Except as provided in Section 16-469, ("Exception for Accessory Unit Within Existing Single Family Residence or Accessory Structure"), all accessory dwelling units shall meet or exceed all of the following standards:

A. *Zoning Compliance.* Except as otherwise provided herein, the primary residence and the accessory dwelling unit shall meet current requirements for interior yard space, height, landscaping, setbacks and parking for the zone in which the primary residence and the accessory dwelling unit are located. The accessory dwelling unit shall not be considered when calculating the maximum number of dwelling units.

B. *Residentially Zoned.* The lot must be zoned R-1 "Single Family", R-2 "Multiple Family", or R-3 "Garden Apartment".

C. *Single Family Dwelling.* There must be an existing single-family dwelling on the lot, and the single-family dwelling must be either legal nonconforming, or legal.

D. *No Passageway.* No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

E. *Setbacks for Garage Units.* All otherwise applicable setback requirements apply except that in no event shall (1) a setback be required for a garage that is converted to an accessory dwelling unit, or (2) a required setback exceed five feet from the side and rear lot lines for an accessory dwelling unit that is constructed above a garage.

F. *Kitchen.* The accessory dwelling unit shall contain its own kitchen facility and bathroom facility separate from the primary dwelling unit. The kitchen facility shall include at least one of each of the following features: (i) sink; (ii) refrigerator of more than 5 cubic feet capacity; and (iii) range or cooktop. The accessory dwelling unit shall comply with all applicable habitability standards.

G. *Foundation.* The accessory dwelling unit shall be constructed on a permanent foundation, complying to the California Building Standards Code.

H. *Architecture.* The accessory dwelling unit shall comply with the architectural standards of section 16-23. If the accessory dwelling unit is an addition to the primary unit, the accessory dwelling unit shall be of materials, colors and in a style which are each compatible with the primary residence, as reasonably determined by the director.

I. *Public Utilities.* The accessory dwelling unit shall be served by adequate public utility facilities including, but not limited to, electric, sewer, water and streets, as certified by the public works director.

J. *Separate entrances.* The accessory dwelling unit shall have an entrance separate from the entrance to the primary residence. Only one of the entrances may be visible from the front yard of the primary residence. An entrance leading to a foyer with entrances leading from the foyer to the primary dwelling unit and the accessory dwelling unit is allowed.

K. *Occupancy by Owner.* The primary residence or the accessory dwelling unit shall be occupied by the property owner, and the property owner shall annually certify to the City such occupancy. An owner may be absent from the primary or accessory dwelling unit for up to 12 months during any 36-month period. A property owner who will be absent for more than 12 months may obtain an additional 12 months' absence with director approval if the director determines the approval will not be detrimental to the neighborhood. Before a certificate of occupancy is issued for the accessory dwelling unit, an agreement affecting real property shall be recorded against the property that imposed specific restrictions on the property including occupancy by owner of the property, the accessory unit not being for sale separate from the primary residence and limitations on rentals. The language of the agreement affecting real property shall be approved by the City prior to its recordation.

L. *Not for Sale.* The accessory dwelling unit shall not be intended to be sold or offered for sale separately from the primary residence.

M. *Rentals.* Either the accessory dwelling or the primary residence may be rented, but not both. Rental terms shall be 30 days or longer

N. *Only One Accessory Dwelling Unit.* No more than one accessory dwelling unit may be constructed on any legally existing lot.

O. *Historic Structures.* The accessory dwelling unit shall not be on any parcel that is listed in the California Register of Historic Places, and shall not be conspicuously visible from any parcel that is listed in the California Register of Historic Places. Applicant shall obtain a certificate of appropriateness from the City, prior to filing an application for an Accessory Dwelling Unit permit on a parcel that is visible from the parcel listed in the Register.

P. *Sprinklers.* Fire sprinklers are required for any accessory dwelling unit if they are required for the primary residence.

Q. *Building Code.* All building standards code requirements that apply to detached dwellings apply to accessory dwelling units.

R. *Maximum Floor Area.*

1. *Detached Unit.* If the accessory dwelling unit is detached from the existing primary dwelling unit, then the accessory dwelling unit's maximum permissible floor area shall be 50% of the square footage of the primary residence, except that the maximum shall not be less than 600 square feet, or more than 1,200 square feet, except that the otherwise applicable maximum permissible floor area shall be increased to the extent necessary for ADA compliance; provided, however, that at least an efficiency unit (as that term is defined by Health and Safety Code Section 17958.1) shall be allowed to be constructed in compliance with the local development standards.

2. *Addition to Existing Residence for Accessory Unit.* If the accessory dwelling unit is attached to an existing primary dwelling unit, and floor area is added to the existing primary dwelling unit, then the maximum floor area the applicant may add is 50% of the square footage of the primary residence, except that the maximum shall not be less than 600 square feet, or more than 1,200 square feet, except that the otherwise applicable maximum permissible additional floor area shall be increased to the extent necessary for ADA compliance; provided, however, that at least an efficiency unit (as that term is defined by Health and Safety Code Section 17958.1) shall be allowed to be constructed in compliance with the local development standards.

Section 16-468. Parking.

A. *Parking Requirements.* The requirements of Municipal Code Section 16-622.F (entitled "Schedule of Vehicle-Off-Street Parking Requirements") apply.
B. *Demolished parking spaces.* When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the off-street parking spaces are required to be replaced (*See* Code Section 16-622 for a listing of the special situations when parking is not required for accessory dwelling units), 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.

Section 16-469. Exception for Accessory Unit Within Existing Single Family Residence or Accessory Structure. Notwithstanding any other provision of this code to the contrary, the director shall, without a hearing, ministerially approve a complete application for a building permit to create an accessory dwelling unit if all of the following apply:

A. The unit is contained entirely within the existing space of a single-family residence or accessory structure (without adding floor area to the existing residence or accessory structure).
B. The unit will be on a lot zoned R-1 (Single Family), R-2 (Multiple Family), and R-3 (Garden Apartment) zones.
C. There will be only one accessory dwelling unit on the lot.
D. The unit has independent exterior access from the existing residence.
E. The side and rear setbacks are sufficient for fire safety as determined by the Fire Marshal.
F. Fire sprinklers are provided to the same extent that they are required for the primary residence.

Section 16-469.5. Accessory Uses in C-2 and CBD Zones. Accessory Dwelling Units are allowed in the C-2 and CBD zones upon the issuance of a Special Use Permit pursuant to Division 3, Section 16-530 of the Oxnard Municipal Code.

The director is directed to approve the application within 120 days of receipt of a complete application.

Part 4. Revised Code Section 16-622. Municipal Code section 16-622, entitled ("Schedule of Vehicle-Off-Street Parking Requirements") are hereby revised as follows:

The second row of the chart within subsection (F) entitled "Residential" is revised, and a row shall be added immediately thereafter, to provide as follows:

Uses	***Minimum Off-Street Parking Requirements***	***Notes***
Residential:		
Detached single-family units:		
Detached single-family dwelling with either (1) detached accessory dwelling unit or (2) the construction of additional square footage to accommodate an attached accessory dwelling unit	Same as above for the single family dwelling. For accessory dwelling units: In addition to the required parking for the single family dwelling, there shall also be a number of vehicle parking spaces equal to the greater of: (a) one; or (b) the number of bedrooms in the accessory dwelling unit. The vehicular access to the parking area for the accessory dwelling unit shall be at least ten (10) feet wide and paved. The required parking space(s) for an accessory dwelling unit are not required to be covered.	Parking for accessory units may be provided either as (1) tandem parking on an existing driveway or in an existing garage; or (2) in a setback area. The director may, however, disapprove such tandem/setback parking if the director finds that the tandem/setback parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction. The accessory dwelling unit parking space(s) may not be located in the front yard. The parking shall be located on the same lot as the primary residential dwelling unit
Note: To the extent required by Government Code 65852.2, as it may be amended from time to time, none of the following accessory dwelling units require parking: (1) the accessory dwelling unit is located within one-half mile of public transit; (2) the accessory dwelling unit is located within a city-recognized historic district; (3) the accessory dwelling unit is part of the existing legally existing primary residence or a legally existing accessory structure; (4) when on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; (5) when there is a car share vehicle located within one block of the accessory dwelling unit.		

Part 5. Development Related Fees. City staff is directed continue to collect all lawful fees relating to the approval of accessory dwelling units (previously referred to as "second units"), including but not limited to, the processing of planning applications, impact fees, connections fees, and the consideration and issuance of building and related permits, to the maximum extent allowed by Government Code § 65852.2 (d) ~~(f)~~. The City Council may update such fees by resolution.

Part 6. Severability: If any provision(s) of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end, the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, even though any one or more sections, subsections, clauses, phrases, parts or portions thereof was declared invalid or unconstitutional.

Part 7. Effective date. This ordinance shall become effective thirty (30) days after it is finally adopted.

Part 8. Publication. The City Council directs as follows:

a. The City Clerk shall certify as to the adoption of this ordinance and shall cause the summary thereof to be published within fifteen calendar (15) days of the adoption and shall post a certified copy of this ordinance, including the vote for and against the same, in the office of the City Clerk in accordance with Government Code section 36933
b. City staff is directed and authorized to take all prudent actions to effect the purposes of this ordinance.

The foregoing Ordinance was adopted at a regular meeting of the City Council of the City of Oxnard, State of California, held on the 20th day of December, 2016, by the following vote:

AYES: Councilmembers Flynn, Ramirez, MacDonald, Perello and Madrigal.

NOES: None.

ABSTAIN: None.

ABSENT: None.

Tim Flynn

Tim Flynn, Mayor

Ordinance No. 2914

ATTEST:

Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney