



AGENDA

REGULAR MEETING

* * *

CLAYTON CITY COUNCIL

* * *

TUESDAY, April 2, 2019

7:00 P.M.

*Hoyer Hall, Clayton Community Library
6125 Clayton Road, Clayton, CA 94517*

Mayor: Tuija Catalano
Vice Mayor: Julie K. Pierce

Council Members

Jim Diaz
Jeff Wan
Carl Wolfe

- A complete packet of information containing staff reports and exhibits related to each public item is available for public review in City Hall located at 6000 Heritage Trail and on the City's Website at least 72 hours prior to the Council meeting.
- Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Library, 6125 Clayton Road; 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton; and 4) City Website at www.ci.clayton.ca.us
- Any writings or documents provided to a majority of the City Council after distribution of the Agenda Packet and regarding any public item on this Agenda will be made available for public inspection in the City Clerk's office located at 6000 Heritage Trail during normal business hours.
- If you have a physical impairment that requires special accommodations to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at (925) 673-7304.

*** CITY COUNCIL ***

April 2, 2019

1. **CALL TO ORDER AND ROLL CALL** – Mayor Catalano.

2. **PLEDGE OF ALLEGIANCE** – led by Mayor Catalano.

3. **CONSENT CALENDAR**

Consent Calendar items are typically routine in nature and are considered for approval by one single motion of the City Council. Members of the Council, Audience, or Staff wishing an item removed from the Consent Calendar for purpose of public comment, question, discussion or alternative action may request so through the Mayor.

(a) Approve the minutes of the City Council's regular meeting of March 19, 2019.

[\(View Here\)](#)

(b) Approve the Financial Demands and Obligations of the City. [\(View Here\)](#)

(c) Adopt a Resolution awarding contract to Axon Enterprise Incorporated in the amount of \$89,223.13 to replace the Clayton Police Department's existing but antiquated patrol vehicles' in-car camera system. [\(View Here\)](#)

4. **RECOGNITIONS AND PRESENTATIONS**

(a) Presentation of its Annual Report for 2018 by Jeanne Boyd, President of the Clayton Community Library Foundation (CCLF). [\(View Here\)](#)

(b) Proclamation declaring the week of April 7 - 13, 2019 as "Clayton Community Library Volunteers Recognition Week," and recognition of Clayton's "Library Volunteers of the Year for 2019." [\(View Here\)](#)

(c) Proclamation declaring the week of April 7 - 13, 2019 as "Clayton Community Library Week." [\(View Here\)](#)

5. **REPORTS**

(a) Planning Commission – No meeting held.

(b) Trails and Landscaping Committee – No meeting held.

(c) City Manager/Staff

(d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.

(e) Other

6. **PUBLIC COMMENT ON NON - AGENDA ITEMS**

Members of the public may address the City Council on items within the Council's jurisdiction, (which are not on the agenda) at this time. To facilitate the recordation of comments, it is requested each speaker complete a speaker card available on the Lobby table and submit it in advance to the City Clerk. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Mayor's discretion. When one's name is called or you are recognized by the Mayor as wishing to speak, the speaker should approach the public podium and adhere to the time limit. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. The Council may respond to statements made or questions asked, or may at its discretion request Staff to report back at a future meeting concerning the matter.

Public comment and input on Public Hearing, Action Items and other Agenda Items will be allowed when each item is considered by the City Council.

7. **PUBLIC HEARINGS**

- (a) Public Hearing to consider the Introduction and First Reading of a proposed City-initiated Ordinance No. 485 amending Clayton Municipal Code Section 15.08.040 (G) regulating temporary noncommercial signs on private real properties. [\(View Here\)](#)
(Community Development Director)

Staff recommendations: **1)** Receive the staff presentation; **2)** Open the Public Hearing and receive public comments; **3)** Close the Public Hearing; **4)** Following City Council discussion and subject to any modifications to the proposed Ordinance, approve a motion to have the City Clerk read Ordinance No. 485 by title and number only and waive further reading; and **5)** Following the City Clerk's reading, adopt a motion to approve Ordinance No. 485 for Introduction with the finding this Ordinance will not result in a significant adverse environmental impact.

8. **ACTION ITEMS**

- (a) Discussion and City Council policy direction concerning the content and parameters of an Accessory Dwelling Unit (ADU) Ordinance. [\(View Here\)](#)
(Community Development Director)

Staff recommendation: Following policy discussion and opportunity for public comments, it is recommended the City Council instruct staff with its necessary and desired scope of work to initiate the internal process for an Accessory Dwelling Unit Ordinance.

9. **COUNCIL ITEMS** – limited to Council requests and directives for future meetings.

10. **CLOSED SESSION** – None.

11. **ADJOURNMENT**

The next regularly scheduled meeting of the City Council will be April 16, 2019.

#

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

TUESDAY, March 19, 2019

Agenda Date: 4-02-2019

Agenda Item: 3a

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:00 p.m. by Mayor Catalano in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Catalano, Vice Mayor Pierce and Councilmembers Diaz, Wan and Wolfe. Councilmembers absent: None. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Police Chief Elise Warren, City Engineer Scott Alman, and City Clerk/HR Manager Janet Calderon.

2. **PLEDGE OF ALLEGIANCE** – led by Mayor Catalano.

3. **CONSENT CALENDAR**

It was moved by Vice Mayor Pierce, seconded by Councilmember Wan, to approve the Consent Calendar as submitted. (Passed; 5-0 vote).

 - (a) Approved the minutes of the City Council's regular meeting of March 5, 2019.
 - (b) Approved the Financial Demands and Obligations of the City.
 - (c) Adopted Resolution No. 08-2019 awarding a low-bid contract to Cratus, Inc., in the amount of \$453,810.00 for the El Molino Drive Sanitary Sewer Improvements Project (CIP No. 10422).
 - (d) Adopted Resolution No. 09-2019 recognizing the importance of the 2020 U.S. Census.

4. **RECOGNITIONS AND PRESENTATIONS** – None.

5. **REPORTS**
 - (a) Planning Commission – Vice Chairman Peter Cloven indicated the Commission's agenda at its meeting of March 12, 2019, included a Municipal Code Amendment ZOA-01-19 regarding temporary noncommercial signs up to 16' sign with no aggregate. The Planning Commission was unable to agree on a recommendation to the City Council. The Planning Commission also welcomed Frank Gavidia and said goodbye to Community Development Director Mindy Gentry.
 - (b) Trails and Landscaping Committee – No meeting held.
 - (c) City Manager/Staff

City Manager Napper advised the City Council can expect its requested revisions to the Sign Ordinance at its next regular meeting on April 2, 2019.

- (d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.

Councilmember Diaz attended the Contra Costa Water District's Board meeting.

Councilmember Wolfe attended the Contra Costa County Mayors' Conference in San Ramon, the Clayton Library Foundation Board meeting, Bob Hoyer's Birthday celebration, the joint Legislative Town Hall meeting with Assembly Member Tim Grayson and Senator Steve Glazer, the farewell luncheon for former Community Development Director Mindy Gentry, and attended the Community Emergency Preparedness meeting.

Vice Mayor Pierce attended the Contra Costa Transportation Authority's Administration and Projects Committee meeting, the Contra Costa County Mayors' Conference in San Ramon, the Association of Bay Area Governments joint meeting of the Legislation Committee and Administration Committee, and the Community Emergency Preparedness meeting.

Councilmember Wan spoke with a local Cub Scout troop about the "Rule of Law" and with constituents about this meeting

Mayor Catalano attended the Contra Costa County Mayors' Conference in San Ramon, held Mayor's office hours this past Saturday and announced upcoming Mayor's hours this Friday at City Hall from 4:00 pm to 5:00 pm.

- (e) Other – None.

6. PUBLIC COMMENT ON NON - AGENDA ITEMS

Marci Longchamps expressed her continued concern of parolee housing noting it was clearly indicated the re-entry programs from the County are not imposing any mandatory requirements on the City of Clayton. By the Council's veto on conducting further research regarding the private park on Coyote Circle and the Oakhurst Country Club, the City Council is admitting Coyote Circle and Shell Lane will indeed be found exempt from parolee housing ordinance. She finds the veto a lack of the City performing its due diligence. She asked that residents of Clayton fight Ordinance 483 together for the safety of our children and elderly, not political gain. She concluded with a definition of deceit: "*the action or practice of deceit someone by concealing or misrepresenting the truth*"; dishonesty: "*deceiving someone's character or behavior*"; deception: "*the action of deceiving someone*"; and integrity: "*the quality of being honest and having strong moral principle.*"

Ann Stanaway, 1553 Haviland Place, directed her concerns to Councilmember Wolfe, as he was in attendance at the Emergency Preparedness community meeting, asking how he felt about continued blockage of fire lanes. She also expressed concerns about political motivation and political patronage.

Terri Denslow once again encouraged the City Council and residents to be respectful to one another with compassion, accountability, and respect. When City, residents and Council come together and ponder the development and adoption of loopholes in the name of safety and comfort, it apparently prohibits others from residing amongst us. At the last meeting she heard a resident question the Planning Commission if they could review parolee housing applications with additional scrutiny beyond the laws of the ordinance. She also heard a Councilmember suggest additional certifications as requirements for the associated Conditional Use Permit; whether it be discussions about sign size limitations, parolee housing or parking near Mt. Diablo, downtown development

and such, when we seek policy development in fear of the unknown, fear of blight, fear of legal ramifications, we lose our basic moral compass.

7. **PUBLIC HEARINGS** – None.

8. **ACTION ITEMS**

- (a) Consider a Resolution establishing a preferential parking permit pilot program at designated portions of the Regency Drive and Rialto Drive neighborhoods to alleviate on-street parking issues associated with hikers and users of the nearby Mt. Diablo State Park Regency Gate trailhead.
(Chief of Police)

Chief of Police Elise Warren presented the staff report based on residents' concerns initially brought to the City Council at its meeting of May 15, 2018. On January 15, 2019 the City Council heard the residents' concerns of the parking impacts of visitors and hikers in their neighborhood and formed a Council ad-hoc Committee. That ad-hoc committee met on January 30 and then presented its findings at the February 5th City Council meeting where the City Council directed staff to prepare a preferential parking permit pilot program based on its findings as a guideline.

Staff researched other cities' preferential parking programs and came up with the proposed pilot program. In summary the preferential parking pilot program is to run for twelve months commencing upon the completion of all administrative tasks along with installed signage and permit distribution, upon approval by the City Council. The pilot program includes portions of Regency Drive and Rialto Drive as determined by Council as either Option 1 or 2. In basic terms the pilot program would allow the residents of the affected area to purchase parking permits from the City allowing them to park on the streets during restricted days and times, and prohibiting non-permitted vehicles from doing so. The proposal includes Saturdays, Sundays, and Federal Holidays from 8:00 am to 5:00 pm. The recommended cost of the permit would be \$75.00 for the first permit including two guest permits and \$55.00 for additional permits. That cost also includes four special event permits including up to 10 permits for each residence. The recommended violation is \$45.00 for parking in the restricted area without a permit. Chief Warren also noted another option for City Council consideration is to allow all Clayton residents who do not live in the restricted areas to obtain these parking passes as one annual permit and/or allow the purchase of one-day temporary permits by anybody who wants one up to a maximum of fifty per day. In the pilot program there are some decision points to be made including the boundaries of the program, the number of permits, whether or not guest permits should be allowed, and if the Council wants to consider Options A & B.

Councilmember Wan inquired on the rationalization of allowing one or two permits per residence. Chief Warren advised when staff conducted the inventory of street parking there is approximately 115 available parking spaces on Regency Drive with fifty homes. That ratio would allow every resident two permits and two guest parking permits. Essentially, every home already has a minimum of four on-site parking spaces available on the real property; she felt two parking permits is a reasonable number. She noted another option to consider is to allow the maximum number of parking permits to be the number of registered vehicles per residence, noting the more permits that are issued the more the streets will remain impacted.

Councilmember Wan inquired on the costs of the permits, suggesting the signage is the main cost factor. Chief Warren advised the main cost factor is actually staff time and supplies needed to implement the program.

Councilmember Wan also inquired on what constitutes a violation in permit terms. Chief Warren provided several examples of a violation such as purchasing a permit for a vehicle that is registered to one's home but displayed that permit in another vehicle by giving it to a friend or relative; other examples are not filling out the paperwork properly, refusing to provide information on the application form, or providing false information on the application form.

Councilmember Wan asked if this plan is enacted and it is found to cause spillover to another neighborhood, could that matter be addressed during or at the end of the pilot program. City Manager Napper responded yes, adjustments can be made to this pilot program impacting other neighborhoods, if necessary. As this pilot program is introduced and once in place there could be pushout to other areas based on how far people are willing to walk; if additional blocks of neighborhoods advise the City Council of a new parking issue, the City Council has full ability to amend the pilot program to include additional areas without waiting for the conclusion of the pilot program.

Vice Mayor Pierce clarified the City would absorb the cost of the signage and installation; the permit fees only cover the issuance costs of staff time and supplies. City Manager Napper advised the signage, poles and installation costs are estimated as there is no contract as of yet. Furthermore, it is not only signs that show there is "no parking allowed"; additional poles and signs will direct non-permitted people where they can park in those areas, such as at the end of the spur line on Regency Drive. Whether the City Council wishes to fold in these costs to the permittees is a policy decision for the City Council. Staff heard at the last Council meeting the initial intent was to recover full cost recovery but that is a determination by the City Council. Chief Warren added staff costs are approximately \$46.00 per hour; at this point in time, since the City has not conducted such a program before, it is estimated to take about an hour per permit issuance from start to finish with some cost built in to cover signs.

Councilmember Diaz remarked the proposed signage must include verbiage that violators will be subject to citation and fines or towing, and the signs be visible and readable enough so people can understand them. City Manager Napper advised the sign will read "Parking Permit Required on Saturdays, Sundays and Federal Holidays 8:00 am to 5:00 pm, Violators will be ticketed". He noted the City Attorney was involved in the verbiage expressing concerns about the towing aspect. Chief Warren added this information was included in the staff report; the way she reads the Vehicle Code when permitting vehicle towing, it cannot be a fine and a tow; the City must fine or tow. She advised towing is very time consuming for a tow truck to be dispatched and arrive, for the officer to fill out the paperwork, then somebody must come down to the Police Department during business hours for a release, which process leaves a bunch of people stranded on Regency and Rialto Drive without transportation; there is no public transportation nearby. The City Council can elect to impose the parking penalty as a tow; however, staff recommends the penalty be a fine. When she reviewed other programs throughout the state, she did not find any similar program where the penalty was a tow. The fine staff set at \$45.00 was based on other cities' fines within Contra Costa County, and she considers that fine is a sufficient deterrent that most people would choose not to park there. The Clayton Police Department does not have sufficient resources to enforce the towing as the penalty.

Councilmember Diaz suggested the Chief look into hiring a reserve officer specifically to patrol the area on Regency and Rialto Drives and pay them four hours per day on Saturday, Sunday or Federal Holidays so as not to interrupt the regular law enforcement of the Clayton Police Department. Councilmember Diaz believes there is funding available in the Police Budget as the department is authorized for eleven officers; however, recently it had twelve officers and asked the City Manager directly how that occurred without City Council authorization. City Manager Napper advised the twelfth officer is not a permanent position; the City Council determines permanent positions. When the City Council approves the annual City Budget, the Budget Resolution specifically authorizes him as city manager to hold to the bottom line of expenditures and the Police Department has stayed within its budget with attrition and vacancies. The City Manager is charged with the responsibility keep the budget balanced; when knowing some police officers were perhaps leaving or going to other police agencies, he authorized the Chief of Police to commence recruitment in advance because it takes a while to hire sworn law enforcement individuals, screen them, and go through POST certifications; once brought onboard they must go through field training prior to being released to field work on their own. City Manager Napper indicated he was trying to work within the confines of the monetary budget the City Council approved and still provide sustained full deployment of sworn personnel to protect our community.

Vice Mayor Pierce inquired on the fee, if vehicles were towed. Chief Warren advised the vehicle release fee is \$161.00; in addition there is a fee paid to the tow yard which can be a total cost of \$300 - \$400.

Vice Mayor Pierce noted if the vehicle was towed Saturday, Sunday or on a Federal Holiday, that vehicle would not be able to be released the same day as the Police Department's Administration is closed. Chief Warren confirmed Vice Mayor Pierce's understanding.

Mayor Catalano inquired in terms of a parking ticket, the City does not really earn any money out of those, and it is a deterrent. She further inquired on the amount retained by the City for a \$45.00 ticket, for example. City Manager responded a recent study has not been conducted but considering time and motion calculations, by the time the officer arrives and the equipment or vehicle pulls over, the officer gets out the car, runs the license plate, writes up the ticket, it is not a money maker for the City. In fact, people mistakenly think a city can create budget revenues by issuing speeding tickets, noting the largest portion of a speeding ticket now funds the court system as determined by state law. The City actually loses money when speeding tickets are issued, particularly when an officer must appear at traffic court for a contested ticket.

Mayor Catalano remarked she performed some research noting San Francisco tows an average of 42,000 vehicles per year, spending approximately \$25 million per year to operate its towing program, inquiring if there is anything in code or state law today that allows for a towing violation for something like this. Recently Assembly Member Chu introduced AB 516 to prevent cities from using towing as a mechanism for any violation that does not serve a public safety purposes. City Attorney Subramanian responded Vehicle Code Section 22651 allows towing; however, it must be done by Resolution or Ordinance, requiring modification to the proposed Resolution to permit it.

Mayor Catalano also inquired on the two permits per residence: will City staff indicate a license number on the permit to prevent the permit from being sold or traded. Chief Warren advised the permits she has seen online come in a lot of varieties; most are done by zones. The City would likely have them serialized not by license plates; there would be a data base with a serial number indicating to whom that permit was issued and which vehicle it is assigned to.

Mayor Catalano inquired on one of the options allowing any Clayton resident the ability to purchase a permit, referencing Vehicle Code Section 22507 that preferential parking permits could only be issued to "adjacent streets" and therefore is this truly is an option. City Attorney Subramanian indicated it is not an option as there is a case in the City of Hermosa Beach where that city tried to create a preferential parking program near the beach wherein it wanted to allow the entire city to have these permits. There was an injunction issued because the court found that program was in conflict with the "adjacent to" requirement.

Mayor Catalano opened the matter for public comment.

Rick Lewis finds the proposed preferred parking program too restrictive and complex, finding two parking permits and two guest passes not enough for his residence. Mr. Lewis suggested parking permits for each vehicle at each residence and wanted more guest parking passes. He advised the parking problem is with the hikers and is spreading into the weekdays; he provided the City Council with photos he took earlier today.

John Hunt, 115 Regency Drive, advised there have always been hikers in the neighborhood yet over the last few years it has become more of a problem and additional litter. Mr. Hunt noted he is part of a large family and it is difficult to host an event at his home during the holidays; he is hoping the City can find a solution.

Ron Cerruti, 20 Rialto Drive, noted the problem has moved from Regency Drive over to Rialto Drive. He is in favor of a parking permit program, but would like to see an increase in the number of parking permits issued to each residence and more of a police presence. Mr. Cerruti moved specifically to Rialto Drive to be close to Mt. Diablo.

Mark Montijo, 127 Regency Drive, advised he has one of the original driveways which allows only for one vehicle while other neighbors have expanded their driveways to accommodate two vehicles. Mr. Montijo would like to see an increase in the number of guest permits issued.

Ray Grimmond, 79 Regency Drive, also feels two parking permits and guest permits are inadequate. He wondered about the distance placed between the signs as he has large frontage on his property. Mr. Grimmond added the problem is not with the neighbors, it is with the hikers.

Margaret Eraclio, 151 Regency Drive, believes the proposed parking permit should be issued with no annual fee; if anything, a one-time fee and the ability to obtain as many passes as they may need. Ms. Eraclio noted there are other streets with access to easier trails. She feels the residents are being penalized for seeking the restoration of their quality of life.

Margaret Eraclio then read a statement for her neighbor, Judy Hunt, 145 Regency Drive, who agrees with all points made and does not feel they need annual passes due to a large number of hikers infringing on the quality of life in her neighborhood. She feels visitor parking is not too much to ask for as no one else in Clayton has their problem.

Terri Denslow expressed concerns and provided suggestions regarding the proposed parking permit program noting the estimated cost of \$60,000 for signage seems expensive, the permit program may indeed move the problem elsewhere, and does not consider additional police officers would be beneficial due to the City's limited budget. She felt the proposal as designed blocks off the public street creating a member-only access and a possible division amongst Clayton residents. Ms. Denslow wondered if there is defined criteria to know if this parking permit plan is working, how will it measure success. She suggested the ad-hoc committee reconvene to discuss the proposal.

further, outreach to the All Trails app to change the Regency gate location, and if Mt. Diablo State Park would consider installation of another long-term parking lot.

Beth Walsh spoke on behalf of her neighbor, Sue Lloyd, 158 Regency Drive; she feels the cost of the parking permit is punitive to the homeowners and she does not agree with the proposal as written and it will have a negative impact on the core values. Ms. Walsh added the situation on Regency Drive is a unique one as the residents have lost the ability to have normal residential use of their neighborhood streets, adding the proposal penalizes the residents for circumstances out of their control that do not meet the definition of normal residential use. Ms. Walsh requested postponement of the vote for the residents to have an opportunity to discuss the proposal and its impacts, positive or negative.

Daniel Walsh spoke on behalf of Jeff Weiner who indicated their petition was conducted to get the City's help improving the quality of life regarding safety, and quality of life due to the increased speeding, litter, and bad behavior brought to their neighborhood with the influx of hikers parking on Regency Drive. Mr. Weiner felt the limitation of two parking passes per residence is actually worse than what is currently occurring and is at cost higher than Walnut Creek. Mr. Weiner wrote the special event passes make no sense as parking is not guaranteed, and he requested more time for the neighbors to meet to work out the issues with the proposed plan.

Kathy Benge, 139 Regency Drive, added the proposed parking permit program may not be workable based on the cost and limitations. She requested some more time to work out the issues and suggested closure of the State Park access gate with possible funding assistance from the residents.

Ann Stanaway commented there will not be any City enforcement as existing ordinances are not currently enforced. She agrees the residents on Regency Drive have a decreased quality of life; however, when one lives next to an attraction such as a state recreational facility, one will experience more of the public as it has become fashionable to be more physically fit and by hikers who enjoy more nature walks. Yet, people are not necessarily as considerate as they should be. That is the reality of the situation.

Dan Walsh requested the residents have an opportunity to meet prior to any City Council vote on this matter as the materials were not available until March 15th. He also requested use of a City facility to allow more residents to attend.

With no other speakers, Mayor Catalano closed the matter to public comment.

Vice Mayor Pierce summarized the residents desire to have more time to discuss the parking permit proposal and postpone the City Council's vote this evening. She also requested clarification on the 100' distance between signs asking if that is a State established statute. City Engineer Scott Alman advised the 100' distance is a recommendation from staff is from the sign code which is not mandated. Staff felt this distance would be adequate and not intrusive to the neighborhood, with the intent to install a sign where the permitted parking begins and ends without any encroachment on any particular parcel or lot.

Vice Mayor Pierce commented she is not convinced a parking permit program will solve the problem. She believes most residences have at least two parking spaces available on their lots; with addition of the possible two parking permits and two guest permits per residence, that option allows up to six parking spaces. She does not think there are very many neighborhoods in Clayton that have that capability. Vice Mayor Pierce noted she is struggling with the proposal and wants to find a solution that fits the situation.

Councilmember Wolfe agreed with Vice Mayor Pierce however he has more questions, preferring Option 2 as the best choice. He would also welcome the opportunity to meet with the ad-hoc committee again to talk about a solution. Councilmember Wolfe added the preferential parking permit pilot program was not intended to be a no-cost program; in looking at the time frame to order signs, installation and have a pilot program in place, there may not be relief to the residents in 2019. He would like to come up with a reasonable compromise.

Councilmember Wan wanted to move forward with a pilot program to gain additional information to focus on what works and propose any changes in the duration. He felt the Option 2 proposed program is the least intrusive and will provide some relief from the parking surge, although acknowledged spillover may occur. Councilmember Wan also advised the preferential parking pilot program is intended to be cost neutral, finding the cost could be recovered over a length of time that is fair and not requiring the residents to subsidize the program or it to be a revenue generator for the City. He suggested the proposal be modified for parking permit issuance to be equal to the number of vehicles registered at the residence and increase the number of guest parking passes which would resolve the disagreement heard during public comment. Councilmember Wan would like to track the data on how many citations are issued and the nature of the citation, inquiring is there a difference in issuing a citation under a Vehicle Code violation versus Clayton Municipal Code. City Attorney Subramanian advised she would have to conduct research to determine that answer.

Councilmember Wolfe understands the residents feel the cost of the parking permit is too expensive; he asked what is an acceptable cost to implement the program?

Councilmember Wan indicated there will be a cost to cover the pilot program, suggesting once the fees are recovered the cost would sunset.

Councilmember Diaz is not ready to make a final vote on this item as the proposal is complicated and he would be interested in a less restrictive program for the residents. He suggested increased police enforcement and requested BB&K to conduct further research.

Councilmember Wolfe requested more information on the gate issue that was brought up under public comment. Kathy Benge indicated an option to solve the parking problem would be to close off the State Park gate at Regency, and the residents sharing the cost of doing so is reasonable.

Mayor Catalano understands there could be a limitation in the issuance of parking permits as there are only so many spaces available to park on Regency and Rialto Drives; she expressed serious concerns over a likely spillover effect. She felt of the options presented this evening, she preferred Option 2, if she had to vote. Mayor Catalano advised she is open in delaying the Council vote on this item to allow the residents an opportunity to meet on this item prior to a permit parking pilot program taking place.

Vice Mayor Pierce noted some time factors to consider is preparation of bid materials, award of contract, and execution of contracts as she feels this is too large a job for City Maintenance crews to handle, requiring the use of an outside contractor. City Manager Napper responded this work is indeed considered a public works contract under state laws valued over \$5,000. That determination necessitates the preparation of project specifications so every contractor can bid on the same specifications. He added this cannot be done in-house as the City has a limited number of staff in its Maintenance Department and they are approaching a very busy season with the start of spring.

City Engineer Alman added staff envisioned the need of a public bid process for this project of approximately 60-90 days for ordering and installation to begin to take place. City Manager Napper further noted this bid process could take additional time as it is a small project and confronts the ever-present challenge the City has in finding interested contractors who are available to perform small profit-margin projects.

Mayor Catalano inquired if the cost of the sign is as indicated in the staff report at \$750.00 per sign, asking if there are less expensive options available. City Engineer Alman indicated labor, not materials, is the bulk of the installation cost per sign. City Manager Napper advised the sign cost in the staff report is an estimate only as there has been no formal bid; it may be more or less than the estimates when contractors actually bid.

Councilmember Wan favored boundary Option 2, suggested an increase to the number of guest passes and the elimination of special event passes.

At Mayor Catalano's discretion, Rick Lewis indicated he does not think the residents will mind paying for a permit parking program they find acceptable.

Vice Mayor Pierce noted she is uncomfortable in issuing parking permits beyond the number of available on-site parking spaces; she prefers a limit of two guests parking passes per residence.

Councilmember Wan disagreed, wanting to allow as many guest parking permits as residents would like. He believes the neighbors will work with one another to figure out the parking situation as more guest passes do not create the problem.

Vice Mayor Pierce understands the project's timing issue and would like to suggest staff go out to bid on signage installation for both Options, which time period then allows the residents an opportunity to meet and advise the Council ad-hoc committee on their preferred signage options and parking permit options.

City Manager Napper advised the proposal should be initiated by Resolution if inclined to actually start the parking permit pilot program; however, the City Engineer can prepare the scope of work and go out to bid, knowing the City Council is not compelled to award a bid while still allowing more time to decide on the number of permits to be issued per residence.

It was moved by Vice Mayor Pierce, seconded by Councilmember Wolfe, to direct staff to prepare a scope of work for contractor bids on Options 1 and 2 boundary signage and installation for a restricted parking district along portions of Regency Drive and Rialto Drive.

Councilmember Wan asked if the motion could be amended by requesting staff research tangible figures for time and materials required in establishing the cost of the preferential parking permit.

Vice Mayor Pierce restated the motion, seconded by Councilmember Wolfe, that staff prepare a scope of work for contractor bids on Options 1 and 2 boundary signage and installation for a restricted parking district along portions of Regency Drive and Rialto Drive, staff research tangible figures for time and materials required in establishing the cost of the preferential parking permit, that the award of contract for signage installation be placed on the same future Agenda with the City Council's continued consideration of the Resolution to enact the parking permit pilot program, and the Council ad-hoc committee can serve as the liaison to the neighborhoods' meetings and outcomes.

Motion passed (vote 5-0).

9. **COUNCIL ITEMS** – None.

10. **CLOSED SESSION** – None.

11. **ADJOURNMENT**– on call by Mayor Catalano, the City Council adjourned its meeting at 9:34 p.m.

The next regularly scheduled meeting of the City Council will be April 2, 2019.

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Respectfully submitted,

Janet Calderon, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL

Tuija Catalano, Mayor

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Agenda Date: 04/02/19

Agenda Item: 3b

Approved

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: KEVIN MIZUNO, FINANCE MANAGER, CPA

DATE: 04/02/19

SUBJECT: FINANCIAL DEMANDS AND OBLIGATIONS OF THE CITY

RECOMMENDATION:

It is recommended the City Council, by minute motion, approve the financial demands and obligations of the City for the purchase of services and goods in the ordinary course of operations.

<u>Report Title</u>	<u>Description</u>	<u>Amount</u>
Open Invoice Report	Obligations paid via check	104,551.42
ACH/EFT Activity	Non-check payments for 3/15/19-3/28/19	99,173.79
	Total Required	\$ 203,725.21

Attachments:

1. Open Invoice Report, dated 3/29/19 (3 pages)
2. ACH/EFT Activity Report (1 page)

City of Clayton Open Invoice Report Check Payments

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
All City Management Services, Inc.								
All City Management Services, Inc.	4/2/2019	4/2/2019	60125	School crossing guard svcs 2/24-3/19/19	\$594.60	\$0.00		\$594.60
<i>Totals for All City Management Services, Inc.:</i>					<u>\$594.60</u>	<u>\$0.00</u>		<u>\$594.60</u>
AT&T (CalNet3)								
AT&T (CalNet3)	4/2/2019	4/2/2019	12797258	Phones 2/22/19-3/21/19	\$2,130.75	\$0.00		\$2,130.75
<i>Totals for AT&T (CalNet3):</i>					<u>\$2,130.75</u>	<u>\$0.00</u>		<u>\$2,130.75</u>
Bassam Atwal								
Bassam Atwal	4/2/2019	4/2/2019	PC-03-19	Planning Commission stipend for March	\$120.00	\$0.00		\$120.00
<i>Totals for Bassam Atwal:</i>					<u>\$120.00</u>	<u>\$0.00</u>		<u>\$120.00</u>
Best Best & Kreiger LLP								
Best Best & Kreiger LLP	4/2/2019	4/2/2019	845128	Legal services for February	\$8,500.00	\$0.00		\$8,500.00
Best Best & Kreiger LLP	4/2/2019	4/2/2019	845129	Labor legal services for February	\$413.00	\$0.00		\$413.00
Best Best & Kreiger LLP	4/2/2019	4/2/2019	845130	Empl benefit legal services for February	\$88.50	\$0.00		\$88.50
<i>Totals for Best Best & Kreiger LLP:</i>					<u>\$9,001.50</u>	<u>\$0.00</u>		<u>\$9,001.50</u>
Janette Carrick								
Janette Carrick	4/2/2019	4/2/2019	032619	Cancellation of CCP reservation	\$73.00	\$0.00		\$73.00
<i>Totals for Janette Carrick:</i>					<u>\$73.00</u>	<u>\$0.00</u>		<u>\$73.00</u>
CCWD								
CCWD	4/2/2019	4/2/2019	1 series	Water/Irrigation 1/4/19-3/4/19	\$12,415.47	\$0.00		\$12,415.47
<i>Totals for CCWD:</i>					<u>\$12,415.47</u>	<u>\$0.00</u>		<u>\$12,415.47</u>
Anthony Chippero								
Anthony Chippero	4/2/2019	4/2/2019	PC-03-19	Planning Commission stipend for March	\$120.00	\$0.00		\$120.00
<i>Totals for Anthony Chippero:</i>					<u>\$120.00</u>	<u>\$0.00</u>		<u>\$120.00</u>
Cintas Corporation								
Cintas Corporation	4/2/2019	4/2/2019	4018613102	PW uniforms ending 3/21/19	\$72.30	\$0.00		\$72.30
<i>Totals for Cintas Corporation:</i>					<u>\$72.30</u>	<u>\$0.00</u>		<u>\$72.30</u>
City of Concord								
City of Concord	4/2/2019	4/2/2019	75366	Vehicle maintenance for February	\$4,346.15	\$0.00		\$4,346.15
City of Concord	4/2/2019	4/2/2019	75405	Dispatch services for February	\$20,089.50	\$0.00		\$20,089.50
<i>Totals for City of Concord:</i>					<u>\$24,435.65</u>	<u>\$0.00</u>		<u>\$24,435.65</u>
Peter Cloven								
Peter Cloven	4/2/2019	4/2/2019	PC-03-19	Planning Commission stipend for March	\$120.00	\$0.00		\$120.00
<i>Totals for Peter Cloven:</i>					<u>\$120.00</u>	<u>\$0.00</u>		<u>\$120.00</u>
CME Lighting Supply, Inc								
CME Lighting Supply, Inc	4/2/2019	4/2/2019	232122	Flourescent ballast	\$432.54	\$0.00		\$432.54

City of Clayton Open Invoice Report Check Payments

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
CME Lighting Supply, Inc	4/2/2019	4/2/2019	232110	Flourescent lamps	\$237.62	\$0.00		\$237.62
				<i>Totals for CME Lighting Supply, Inc:</i>	<i>\$670.16</i>	<i>\$0.00</i>		<i>\$670.16</i>
Contra Costa County Animal Svcs Dept								
Contra Costa County Animal Svcs Dept	4/2/2019	4/2/2019	ASD MK6096	Animal control services Q4 FY 19	\$17,236.31	\$0.00		\$17,236.31
				<i>Totals for Contra Costa County Animal Svcs Dept:</i>	<i>\$17,236.31</i>	<i>\$0.00</i>		<i>\$17,236.31</i>
CSAC Excess Insurance Authority								
CSAC Excess Insurance Authority	4/2/2019	4/2/2019	19401452	EAP Q4 FY 19	\$296.40	\$0.00		\$296.40
				<i>Totals for CSAC Excess Insurance Authority:</i>	<i>\$296.40</i>	<i>\$0.00</i>		<i>\$296.40</i>
Digital Services								
Digital Services	4/2/2019	4/2/2019	11309	IT services 1/30/19-3/14/19	\$2,974.57	\$0.00		\$2,974.57
				<i>Totals for Digital Services:</i>	<i>\$2,974.57</i>	<i>\$0.00</i>		<i>\$2,974.57</i>
Dillon Electric Inc								
Dillon Electric Inc	4/2/2019	4/2/2019	3862	Street light repairs 3/11/19	\$758.08	\$0.00		\$758.08
				<i>Totals for Dillon Electric Inc:</i>	<i>\$758.08</i>	<i>\$0.00</i>		<i>\$758.08</i>
William Gall								
William Gall	4/2/2019	4/2/2019	PC-03-19	Planning Commission stipend for March	\$120.00	\$0.00		\$120.00
				<i>Totals for William Gall:</i>	<i>\$120.00</i>	<i>\$0.00</i>		<i>\$120.00</i>
Frank Gavidia								
Frank Gavidia	4/2/2019	4/2/2019	PC-03-19	Planning Commission stipend for March	\$120.00	\$0.00		\$120.00
				<i>Totals for Frank Gavidia:</i>	<i>\$120.00</i>	<i>\$0.00</i>		<i>\$120.00</i>
Globalstar LLC								
Globalstar LLC	4/2/2019	4/2/2019	10154243	Sat phone 2/16/19-3/15/19	\$89.96	\$0.00		\$89.96
				<i>Totals for Globalstar LLC:</i>	<i>\$89.96</i>	<i>\$0.00</i>		<i>\$89.96</i>
Harris & Associates, Inc.								
Harris & Associates, Inc.	4/2/2019	4/2/2019	40684	Engineering inspections for January	\$3,300.00	\$0.00		\$3,300.00
Harris & Associates, Inc.	4/2/2019	4/2/2019	40685	Engineering services for February	\$9,585.00	\$0.00		\$9,585.00
Harris & Associates, Inc.	4/2/2019	4/2/2019	40686	GHAD engineering services for February	\$285.00	\$0.00		\$285.00
Harris & Associates, Inc.	4/2/2019	4/2/2019	40691	Engineering inspections for February	\$4,345.00	\$0.00		\$4,345.00
				<i>Totals for Harris & Associates, Inc.:</i>	<i>\$17,515.00</i>	<i>\$0.00</i>		<i>\$17,515.00</i>
Health Care Dental Trust								
Health Care Dental Trust	4/2/2019	4/2/2019	258636	Dental for April	\$1,911.03	\$0.00		\$1,911.03
				<i>Totals for Health Care Dental Trust:</i>	<i>\$1,911.03</i>	<i>\$0.00</i>		<i>\$1,911.03</i>
J&R Floor Services								
J&R Floor Services	4/2/2019	4/2/2019	Three 2019	Janitorial services for March	\$4,850.00	\$0.00		\$4,850.00
				<i>Total J&R Floor Services:</i>	<i>\$4,850.00</i>	<i>\$0.00</i>		<i>4,850.00</i>

City of Clayton Open Invoice Report Check Payments

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Jocelyn E Roland, PhD, APBB								
Jocelyn E Roland, PhD, APBB	4/2/2019	4/2/2019	16439	PD Pre-COE psychological screening	\$200.00	\$0.00		\$200.00
<i>Totals for Jocelyn E Roland, PhD, APBB:</i>					<u>\$200.00</u>	<u>\$0.00</u>		<u>\$200.00</u>
LarryLogic Productions								
LarryLogic Productions	4/2/2019	4/2/2019	1794	Emergency Prep Mtg Production 3/18/19	\$390.00	\$0.00		\$390.00
LarryLogic Productions	4/2/2019	4/2/2019	1795	City Council meeting production 3/19/19	\$420.00	\$0.00		\$420.00
<i>Totals for LarryLogic Productions:</i>					<u>\$810.00</u>	<u>\$0.00</u>		<u>\$810.00</u>
NBS Govt. Finance Group								
NBS Govt. Finance Group	4/2/2019	4/2/2019	219000300	CFD admin fees Q4 FY 19	\$4,634.48	\$0.00		\$4,634.48
<i>Totals for NBS Govt. Finance Group:</i>					<u>\$4,634.48</u>	<u>\$0.00</u>		<u>\$4,634.48</u>
Pond M Solutions								
Pond M Solutions	4/2/2019	4/2/2019	495	Fountain maintenance	\$650.00	\$0.00		\$650.00
<i>Totals for Pond M Solutions:</i>					<u>\$650.00</u>	<u>\$0.00</u>		<u>\$650.00</u>
Rex Lock & Safe, Inc.								
Rex Lock & Safe, Inc.	4/2/2019	4/2/2019	122993	Repair library door	\$220.00	\$0.00		\$220.00
Rex Lock & Safe, Inc.	4/2/2019	4/2/2019	123048	Rekey radar box	\$37.51	\$0.00		\$37.51
<i>Totals for Rex Lock & Safe, Inc.:</i>					<u>\$257.51</u>	<u>\$0.00</u>		<u>\$257.51</u>
Riso Products of Sacramento								
Riso Products of Sacramento	4/2/2019	4/2/2019	193656	Copier contract coverage 2/20/19-3/19/19	\$79.76	\$0.00		\$79.76
<i>Totals for Riso Products of Sacramento:</i>					<u>\$79.76</u>	<u>\$0.00</u>		<u>\$79.76</u>
Stericycle Inc								
Stericycle Inc	4/2/2019	4/2/2019	3004624678	Medical waste disposal	\$111.16	\$0.00		\$111.16
<i>Totals for Stericycle Inc:</i>					<u>\$111.16</u>	<u>\$0.00</u>		<u>\$111.16</u>
Turf Star, Inc.								
Turf Star, Inc.	4/2/2019	4/2/2019	7054981-00	Landscape machine parts	\$352.93	\$0.00		\$352.93
Turf Star, Inc.	4/2/2019	4/2/2019	7054308-00	Landscape machine parts	\$302.27	\$0.00		\$302.27
Turf Star, Inc.	4/2/2019	4/2/2019	7054985-00	Cotter pins	\$15.62	\$0.00		\$15.62
<i>Totals for Turf Star, Inc.:</i>					<u>\$670.82</u>	<u>\$0.00</u>		<u>\$670.82</u>
Workers.com								
Workers.com	4/2/2019	4/2/2019	124316	Seasonal worker week end 3/10/19	\$615.00	\$0.00		\$615.00
Workers.com	4/2/2019	4/2/2019	124366	Seasonal worker week end 3/17/19	\$897.91	\$0.00		\$897.91
<i>Totals for Workers.com:</i>					<u>\$1,512.91</u>	<u>\$0.00</u>		<u>\$1,512.91</u>
GRAND TOTALS:					\$104,551.42	\$0.00		\$104,551.42

City of Clayton

ACH / EFT Activity (Non-City Check Payments)

Recurring ACH/EFT payments covering the following timeframe: 3/15/2019 - 3/28/2019

For the City Council meeting dated: **4/2/2019**

The following is a detailed listing of automatic recurring and other ACH/EFT payments other than checks for the period immediately preceding the City Council meeting dated above.

Payee	Description	Service Period	Payment Date	Amount
American Fidelity	Employee other supplemental	March	3/27/2019	\$ 486.38
American Fidelity	FSA/dependent care contributions	PPE 3/24/19	3/25/2019	\$ 441.90
CalPERS	Pension plan contributions	PPE 3/24/19	3/26/2019	\$ 14,897.46
CalPERS	Council-Pension plan contributions	ending 3/24/19	3/24/2019	\$ 75.62
Nationwide	457b plan contributions	PPE 3/24/19	3/27/2019	\$ 720.00
Paychex	Payroll	PPE 3/24/19	3/27/2019	\$ 63,177.43
Paychex	Payroll taxes	PPE 3/24/19	3/27/2019	\$ 18,881.55
Paychex	Payroll processing fee	PPE 3/24/19	3/27/2019	\$ 188.86
De Lage Landen	Copier lease	3/15/19-4/14/19	3/18/2019	304.59

Total ACH / EFT Activity (other than checks) \$ 99,173.79



Agenda Date: 4-02-2019

Agenda Item: 3c

Approved:

Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: Police Chief Warren
DATE: April 2, 2019
SUBJECT: Approve the Award of Contract for the purchase of replacement Dash-mounted Cameras for the Police Department patrol vehicles

RECOMMENDATION

It is recommended the City Council approve the award of contract for the purchase of Axon Fleet In-Car Recording Platform ["dash cams"] to replace the unserviceable and antiquated Watch Guard Dash Mounted Cameras in the Police Department's patrol vehicles.

BACKGROUND

In 2008, the City purchased dash-mounted in-car cameras for the Police Department's patrol vehicles. The vendor chosen at that time was Watch Guard. The cameras were installed in each police patrol vehicle and were used to record police-related activity. This camera system has now become obsolete; the hardware is no longer functional and the software is no longer supported. The Watch Guard cameras were removed from the Police Department's fleet in late 2018 as they were no longer operational.

As the Watch Guard cameras began experiencing technological issues in mid-2018, Chief Warren and her staff began researching replacement cameras. A number of vendors gave demonstrations of their products, and for various reasons Chief Warren has identified Axon as the vendor to replace the Watch Guard dash-camera system.

DISCUSSION

The Clayton Police Department contracts with the City of Concord for all of our Police Department's technology needs, including hardware, software and support. The City of Concord has in-house IT staff that service both the City of Concord and the City of Clayton's Police Departments for law enforcement specific technology.

In 2018, the Concord Police Department purchased Axon dash camera's for its patrol fleet. Concord IT staff has been trained on the Axon system and is able to support that technology.

To remain compatible with Concord Police hardware and software, and utilize the technology services in our law enforcement services contract [e.g., dispatch, IT support services], it is prudent Clayton PD employ Axon as the vendor to replace its in-car camera system.

Axon is the leading supplier of in-car camera systems, along with other law enforcement equipment. They are a well-established company whose products are state-of-the-art. The Fleet 2 camera system includes redesigned front and back cameras and new features such as infrared and zoom, along with continuous over-the-air upgrades, wireless off-loading, and industry-leading multi camera playback. The video is stored in Axon's cloud, thus saving our City the added expense of purchasing hardware storage equipment.

The estimated life span of the camera system and technology (hardware and software) is 5 years.

FISCAL IMPACT

The total cost of the Axon patrol vehicle camera system is \$89,223.13. This cost is spread over 5 years as follows:

Year 1:	\$24,944.14
Year 2:	\$16,069.68
Year 3:	\$16,069.68
Year 4:	\$16,069.69
Year 5:	<u>\$16,069.68</u>
Total:	\$89,223.13

The cost of year one includes all of the hardware, software, licenses, digital storage, installation and training. The cost of years 2-5 is for the proprietary licensing, updates, and digital storage of the video.

Monies for this anticipated equipment replacement expense were already incorporated in the FY 2018-19 adopted City Budget. Following the initial purchase of expense from the Supplemental Law Enforcement Services Fund (SLESF; annual grant funds), tracked in the Grants Fund (No. 230), this action will leave an unassigned reserve of \$85,836. Subsequent years' expenses will also be charged to the replenished SLESF account.

RESOLUTION NO. - 2019

A RESOLUTION APPROVING THE PURCHASE OF THE AXON FLEET IN-CAR RECORDING PLATFORM FOR CLAYTON POLICE DEPARTMENT PATROL VEHICLES

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, the Clayton Police Department's existing in-car camera system is in need of replacement due to age and unserviceability; and

WHEREAS, through contract the City of Concord provides comprehensive law enforcement Information Technology (IT) services and support to the Clayton Police Department; and

WHEREAS, the Concord Police Department has selected Axon Enterprise Incorporated as its preferred vendor for its patrol vehicles' in-car camera platform, and therefore Axon Enterprise Incorporated has been identified as the suitable replacement vendor for the City of Clayton Police Department's patrol vehicles' in-car camera platform; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California does hereby formally approve as follows:

Section 1

A purchase contract is herein awarded to Axon Enterprise Incorporated for the Axon Fleet In-car Recording Platform in the multi-year amount of \$89,223.13. This law enforcement patrol vehicles' expense is spread over 5 years as follows:

Year 1:	\$24,944.14
Year 2:	\$16,069.68
Year 3:	\$16,069.68
Year 4:	\$16,069.69
Year 5:	<u>\$16,069.68</u>
Total:	\$89,223.13

Section 2

The cost of Year One includes all of the hardware, software, licenses, digital storage, installation and training. The cost of years 2-5 includes the proprietary licensing, software updates, and digital storage of the video.

Section 3

Monies for this award of purchase contract shall be expended from the City's Supplemental Law Enforcement Services Fund (No. 230) as approved and authorized in the FY 2018-19 City Budget.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held the 2nd day of April, 2019 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

Tuija Catalano, Mayor

ATTEST:

Janet Calderon, City Clerk



AXON

Clayton Police Dept. - CA

AXON SALES REPRESENTATIVE

Jared Zygowicz
(480) 463-2139
jzygowicz@axon.com

ISSUED
3/25/2019



Axon Enterprise, Inc.
 17800 N 85th St
 Scottsdale, Arizona 85255
 United States
 Phone: (800) 978-2737

Q-204948-43549.924JZ

Issued: 03/25/2019

Quote Expiration: 04/15/2019

Account Number: 116361

Start Date: 05/01/2019

Payment Terms: Net 30

Delivery Method: Fedex - Ground

SALES REPRESENTATIVE

Jared Zygowicz

Phone: (480) 463-2139

Email: jzygowicz@axon.com

Fax: 480.550.9251

PRIMARY CONTACT

Elise Warren

Phone: (925) 673-7360

Email: elise.warren@claytonpd.com

SHIP TO

Elise Warren
 Clayton Police Dept. - CA
 6000 Heritage Trail
 Clayton, CA 94517
 US

BILL TO

Clayton Police Dept. - CA
 6000 Heritage Trail
 Clayton, CA 94517
 US

Due Net 30

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages					
80022	PRO EVIDENCE.COM LICENSE: YEAR 1 PAYMENT	3	468.00	468.00	1,404.00
85110	EVIDENCE.COM INCLUDED STORAGE	90	0.00	0.00	0.00
80012	BASIC EVIDENCE.COM LICENSE: YEAR 1 PAYMENT	7	180.00	180.00	1,260.00
85110	EVIDENCE.COM INCLUDED STORAGE	70	0.00	0.00	0.00
80156	FLEET 2 UNLIMITED PACKAGE: YEAR 1 PAYMENT	8	1,548.00	1,464.25	11,714.00
85739	FLEET EVIDENCE.COM STORAGE, UNLIMITED	8	0.00	0.00	0.00
85035	EVIDENCE.COM STORAGE	1,000	0.75	0.00	0.00
Hardware					
71088	AXON FLEET 2 KIT	8	0.00	0.00	0.00
80192	5 YEAR TAP, FLEET 2 KIT	8	0.00	0.00	0.00
74110	CABLE, CAT6 ETHERNET 25 FT, FLEET	8	0.00	0.00	0.00
74001	AXON CAMERA ASSEMBLY, ONLINE, AXON BODY 2, BLK	10	499.00	0.00	0.00
74020	MAGNET MOUNT, FLEXIBLE, AXON RAPIDLOCK	10	0.00	0.00	0.00
74021	MAGNET MOUNT, THICK OUTERWEAR, AXON RAPIDLOCK	10	0.00	0.00	0.00
11553	SYNC CABLE, USB A TO 2.5MM	10	0.00	0.00	0.00
Other					
No Router	No Router (Declined)	8	0.00	0.00	0.00

Due Net 30 (Continued)

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Other (Continued)					
No Custom Triggers	No Custom Triggers (Declined)	8	0.00	0.00	0.00
Services					
74063	STANDARD FLEET INSTALLATION (PER VEHICLE)	8	1,200.00	1,200.00	9,600.00
85144	AXON STARTER	1	2,750.00	0.00	0.00
Subtotal					23,978.00
Estimated Shipping					0.00
Estimated Tax					966.41
Total					24,944.41

Year 2

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages					
85035	EVIDENCE.COM STORAGE	1,000	0.75	0.00	0.00
85739	FLEET EVIDENCE.COM STORAGE, UNLIMITED	8	0.00	0.00	0.00
80157	FLEET 2 UNLIMITED PACKAGE: YEAR 2 PAYMENT	8	1,548.00	1,548.00	12,384.00
85110	EVIDENCE.COM INCLUDED STORAGE	70	0.00	0.00	0.00
80013	BASIC EVIDENCE.COM LICENSE: YEAR 2 PAYMENT	7	180.00	180.00	1,260.00
85110	EVIDENCE.COM INCLUDED STORAGE	90	0.00	0.00	0.00
80023	PRO EVIDENCE.COM LICENSE: YEAR 2 PAYMENT	3	468.00	468.00	1,404.00
Subtotal					15,048.00
Estimated Tax					1,021.68
Total					16,069.68

Year 3

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages					
85035	EVIDENCE.COM STORAGE	1,000	0.75	0.00	0.00
85739	FLEET EVIDENCE.COM STORAGE, UNLIMITED	8	0.00	0.00	0.00
80158	FLEET 2 UNLIMITED PACKAGE: YEAR 3 PAYMENT	8	1,548.00	1,548.00	12,384.00
85110	EVIDENCE.COM INCLUDED STORAGE	70	0.00	0.00	0.00
80014	BASIC EVIDENCE.COM LICENSE: YEAR 3 PAYMENT	7	180.00	180.00	1,260.00
85110	EVIDENCE.COM INCLUDED STORAGE	90	0.00	0.00	0.00

Year 3 (Continued)

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages (Continued)					
80024	PRO EVIDENCE.COM LICENSE: YEAR 3 PAYMENT	3	468.00	468.00	1,404.00
				Subtotal	15,048.00
				Estimated Tax	1,021.68
				Total	16,069.68

Year 4

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages					
85035	EVIDENCE.COM STORAGE	1,000	0.75	0.00	0.00
85739	FLEET EVIDENCE.COM STORAGE, UNLIMITED	8	0.00	0.00	0.00
80159	FLEET 2 UNLIMITED PACKAGE: YEAR 4 PAYMENT	8	1,548.00	1,548.00	12,384.00
85110	EVIDENCE.COM INCLUDED STORAGE	70	0.00	0.00	0.00
80015	BASIC EVIDENCE.COM LICENSE: YEAR 4 PAYMENT	7	180.00	180.00	1,260.00
85110	EVIDENCE.COM INCLUDED STORAGE	90	0.00	0.00	0.00
80025	PRO EVIDENCE.COM LICENSE: YEAR 4 PAYMENT	3	468.00	468.00	1,404.00
				Subtotal	15,048.00
				Estimated Tax	1,021.68
				Total	16,069.68

Year 5

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages					
85035	EVIDENCE.COM STORAGE	1,000	0.75	0.00	0.00
80160	FLEET 2 UNLIMITED PACKAGE: YEAR 5 PAYMENT	8	1,548.00	1,548.00	12,384.00
85739	FLEET EVIDENCE.COM STORAGE, UNLIMITED	8	0.00	0.00	0.00
85110	EVIDENCE.COM INCLUDED STORAGE	70	0.00	0.00	0.00
80016	BASIC EVIDENCE.COM LICENSE: YEAR 5 PAYMENT	7	180.00	180.00	1,260.00
85110	EVIDENCE.COM INCLUDED STORAGE	90	0.00	0.00	0.00

Year 5 (Continued)

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages (Continued)					
80026	PRO EVIDENCE.COM LICENSE: YEAR 5 PAYMENT	3	468.00	468.00	1,404.00
				Subtotal	15,048.00
				Estimated Tax	1,021.68
				Total	16,069.68
Grand Total					89,223.13

Discounts (USD)

Quote Expiration: 04/15/2019

List Amount	96,330.00
Discounts	12,160.00
Total	84,170.00

**Total excludes applicable taxes*

Summary of Payments

Payment	Amount (USD)
Due Net 30	24,944.41
Year 2	16,069.68
Year 3	16,069.68
Year 4	16,069.68
Year 5	16,069.68
Grand Total	89,223.13

STATEMENT OF WORK & CONFIGURATION DOCUMENT

Axon Fleet In-Car Recording Platform

This document details a proposed system design

Agency Created For: Clayton Police Dept. - CA

Quote: Q-204948-43549.924JZ

Sold By:	Jared Zygowicz
Designed By:	Jake Borro
Installed By:	Customer
Target Install Date:	

VEHICLE OVERVIEW

SITE NAME	CUSTOMER NAME	
Headquarters	Clayton Police Dept. - CA	
Total Configured Vehicles <ul style="list-style-type: none"> • 8 Total Vehicles with this Configuration 		
Video Capture Sources <ul style="list-style-type: none"> • 16 Total Cameras Deployed • 1 Axon Signal Unit(s) Per Vehicle 		
Mobile Data Terminal Per Vehicle <ul style="list-style-type: none"> • 1 Located In Each Vehicle 		
Mobile Router Per Vehicle <ul style="list-style-type: none"> • 1 Cradlepoint IBR900 Series 		
Offload Mechanism <ul style="list-style-type: none"> • 4G LTE Cellular 		
Evidence Management System <ul style="list-style-type: none"> • Evidence.com 		
		 Axon Camera
		 Signal Unit
		 In-Car Router
		 Battery Box

SYSTEM CONFIGURATION DETAILS

The following sections detail the configuration of the Axon Fleet In-Car System

Vehicle Hardware

Vehicle Hardware	2	Axon Fleet Cameras will be installed in each vehicle
	2	Axon Fleet Battery Boxes will be installed in each vehicle
	1	Axon Signal Units will be installed in each vehicle
	1	Cradlepoint IBR900 Series router will be installed in each vehicle
Axon Battery Boxes	The battery box provides power to its connected camera for up to 4 hours allowing for video offload while the vehicle ignition state is OFF and the MDT is connected and available.	
Signal Activation Methods	When triggered, the Axon Signal Vehicle (ASV) device will activate the recording mechanism for all configured Axon cameras within 30 feet of the vehicle.	
Mobile Data Terminal	Each vehicle will be equipped with a Mobile Data Terminal provided by the customer.	
Mobile Data Terminal Requirements	<p>Operating System: Windows 7 or Windows 10 - x32 or x64 with the most current service packs and updates</p> <p>Hard Drive: Must have 25GB+ of free disk space</p> <p>RAM/Memory: Windows 7 - 4GB or greater Windows 10 - 8GB or greater</p> <p>Ethernet Port: The system requires the MDT to have one dedicated and available Ethernet port reserved for an Ethernet cable from router. The Ethernet port can be located on an electronic and stationary mobile docking station. If a docking station is used, it is the preferred location for the Ethernet port.</p> <p>Wi-Fi Card: The system requires an 802.11n compatible Wi-Fi card using 5Ghz band.</p> <p>USB Ports: If the computer is assigned to the officer and does not remain with the vehicle, then the number dongles ordered should equal the number of officers or the number of computers assigned. At least one dedicated and available USB 2.0 port for the Fleet USB dongle USB Port on MDT or Dock.</p>	

Additional Considerations	If the customer has a MiFi hotspot, embedded cellular, or USB 4G, then the customer must purchase a Cradlepoint router with an external antenna and Cradlecare. For agencies that use NetMotion Mobility, Axon traffic must be passed through; such that it does not use the Mobility VPN tunnel. Customer must provide IT and / or Admin resources at time of installation to ensure data routing if functional for Axon Fleet operation.	
	In the event an Agency is unable to support the IT requirements associated with the installation, Axon reserves the right to charge the Agency for additional time associated with on-site work completed by an Axon Employee.	
Hardware Provisioning	Customer will provide the following router for all vehicles:	Cradlepoint IBR900 Series
	The customer will provide a MDT for each vehicle	

In-Car Network Considerations

Network Requirements	Cradlepoint IBR900 Series will create a dedicated 5Ghz WiFi network within each vehicle. This network will join the Axon Fleet cameras and Mobile Data Terminal together.		
Network Addressing	IP Addressing		Total IPs Required
	Axon Fleet Cameras	16	32
	Mobile Data Terminal	8	
	Cradlepoint IBR900 Series	8	
Hardware Provisioning	Customer to provide all IP addressing and applicable network information		

Network Consideration Agreement

Network Consideration Agreement	Customer acknowledges the minimum requirements for the network to support this Statement of Work.
	All Axon employees performing services under this SOW are CJIS certified.
	If the network provided by Customer does not meet the minimum requirements, or in the event of a requested change in scope of the project, a Change Order will be required and additional fees may apply. Additional fees would also apply if Axon is required to extend the installation time for reasons caused by the customer or the customer network accessibility.

Professional Services & Training

<p>Project Management</p>	<p>Axon will assign a Project Manager that will provide the expertise to execute a successful Fleet camera deployment and implementation. The Project Manager will have knowledge and experience with all phases of the project management lifecycle and with all application modules being implemented. He/she will work closely with the customer's project manager and project team members and will be responsible for completing the tasks required to meet all contract deliverables.</p>
<p>Vehicle Installation</p>	<p>Customer will be performing the installation of all Axon Fleet vehicle hardware. Installation services purchased from Axon include a "clip" and removal of existing in-car system hardware. This does not include "full removal" of existing wiring. A "full removal" of all existing hardware and wiring is subject to additional fees. Axon provides basic Fleet operation overview to the customer lead and/or Admin at the time of install.</p> <p>Clip vs Rip installation removal:</p> <ul style="list-style-type: none"> ○ It is necessary to differentiate between the type of equipment removal to be provided by Axon. Standard Fleet Installation includes hardware removal in a fashion considered "Clip" which means Axon cuts the wires from the old system without removing multiple panels, removing all wiring and parts from the old system. In the case Axon removes the hardware Axon is not responsible for the surplus of hardware or any devices that may have been physically integrated with the removed system. In some situations, radar systems are integrated with the in-car video system and have a cable that connects to the system, if Axon removes the old in car system then Axon is not responsible for the radar system as part of the removal. ○ A "Rip" removal should be contracted through ProLogic directly. The Rip would be similar to a complete and full removal, which is more common when they retire a vehicle from service.
<p>Custom Trigger Installation</p>	<p>Axon Signal Units have multiple trigger configuration options. Any trigger configurations that include a door or magnetic door switch are considered "custom" and may be subject to additional fees. An Axon representative has discussed with the Agency the standard triggers of the Fleet System. Those standard triggers include light-bar activation, speed, crash and gun-locks. The light-bar must have a controller to allow Axon to interface for the desired position, gun-locks must be installed with existing hardware in the vehicle. Doors are considered "CUSTOM" since they required additional hardware and time for installation, typically requiring the door may need to be taken apart for the installation.</p>
<p>Training</p>	<p>End-user go-live training provides individual device set up and configuration assistance, training on device use, Evidence.com and AXON View XL. End-user go-live training and support is not included in the installation fee scope.</p>

4G / Cellular Offload Considerations

Network Considerations	The Cradlepoint IBR900 Series will be the connection which allows 4G upload of recorded video
	The customer will ensure that their cellular contract does not allow for data throttling, or service denial, once a set data threshold is met. Throttling or denial of service will negatively affect Fleet upload capabilities.
	The MDT's 4G connection will facilitate the upload of recorded video content.
Hardware Provisioning	The customer will provide all 4G sim cards as required by their mobile provider.

Axon's Sales Terms and Conditions

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement (posted at www.axon.com/legal/sales-terms-and-conditions), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Signature: _____ Date: _____
Name (Print): _____ Title: _____
PO# (Or write N/A): _____

Please sign and email to Jared Zygowicz at jzygowicz@axon.com or fax to 480.550.9251

Thank you for being a valued Axon customer. For your convenience on your next order, please check out our online store buy.axon.com

Quote: Q-204948-43549.924JZ

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CLAYTON COMMUNITY LIBRARY FOUNDATION**2018 ANNUAL REPORT**

In anticipation of celebrating the 25th birthday the Foundation Board is working to make improvements in the library building as well as planning special events for the Birthday Celebration on Saturday, March 7, 2020.

THE MISSION OF THE CLAYTON COMMUNITY LIBRARY FOUNDATION IS TO PROVIDE FUNDS FOR MATERIALS, FURNITURE, AND PUBLIC PROGRAMS, AND TO PROMOTE VOLUNTEER SUPPORT FOR THE CLAYTON COMMUNITY LIBRARY, A VITAL COMMUNITY RESOURCE. Mission statement created October 2004.

Fortunately so many community members have agreed that this Library is a vital community asset that the original donor board is full of the names of our many donors. Wood from the Keller out buildings will be used to create a new donor board. One of our long time generous donors recently donated \$10,000. New donors are encouraged join the CCLF at any of several levels. Beginning this fall into next year silver-colored 25th birthday celebration membership cards will be given to everyone who joins or renews their membership. A goal is to increase the membership of just over 400 by 25%. The Fund Raising VP keeps track of donations so that when members reach the \$1000 level a plaque with their name is added to the donor board.

As our in-library volunteers age and retire new volunteers join this hard working group. 2018 volunteers worked in the Library for just over 5,000 hours. This includes all daily volunteers, the volunteer coordinator, tutors and computer helpers. Many of these dedicated workers come in when the library is short of volunteers who perform necessary daily tasks. Often staff members have had to fill in to get the work done. In 2018 32 new volunteers were oriented with 18 or 56% still volunteering. The Library is always in need of more volunteers especially adults. The benefits are many such as new friendships and the satisfaction of giving back to the community. The 2017 Independent Sector value of volunteer work in California is \$29.09 an hour putting the value of our in-library workers at \$145,450.

CCLF shows our appreciation of all these valued volunteers both adults and students at a catered Spring luncheon, a Holiday luncheon and pizza parties for students.

Book Sale workers put in 1,084 hours during the week of setup and sorting and the weekend sale and cleanup. The semi-annual sales brought in just over \$13,000. There has been a general downward trend in income for these two sales in recent years. However Book Store sales generated just under \$3,000. On-line sales brought in over \$3,300 due in part to some excellent donations. These two activities bring book sale totals up to over \$19,000.

Unfortunately the number of book sale volunteer workers is also down along with the hours worked.

The CCLF Executive Board and other supportive members of the community donated an additional 2,155 hours to library activities: including the Clayton Garden Club, book movers, book sorters who sort and pack all donated materials, Boy Scout troop 444 and July 4th participants.

Donations from community organizations allow CCLF to supplement our fund raising efforts and give a total of almost \$37,000 in support of the Library. AAUW, Concord Clayton Valley Sunrise Rotary, Clayton Valley Woman's Club and Clayton Business & Community Association donated to the CCLF this year. CBCA gave \$6,000 to purchase Large Print books which has given a boost to that well used collection. United Way/Local Independent Charities generates individual donations and matching gifts from corporate employer charitable programs \$1911. Membership donations were over \$8200. In-kind materials, valued at almost \$4,000, donated by patrons were added to the collection. Other donations and memorials in addition to merchandise sales complete our revenue total.

Again this year CCLF gave \$2,000 to the City of Clayton to support Sunday open hours for our Library. CCLF paid \$2700 for 32 programs attended by 800 people. CCLF sent \$10,000 to the County Library to augment the materials budget. New shelving for DVDs was purchased. The Story Room closets were cleaned out and portable shelving purchased to make room for staff members to store materials for the many children's programs some of which support and complement the Summer Reading Program theme "Reading Takes You Everywhere". The book choice for the fall program Clayton Reads was The Underground Railroad by Colson White. CCLF purchased 150 copies to give to library patrons to read and hopefully pass on to others. A permanent banner to carry in the 2019 July 4th parade has been purchased. In 2018 33 people worked to prepare the float the banner and march in the parade.

The Creekside Arts Fest which was started in 2004 by Arlene Kikkawa Nielsen, Volunteer Coordinator, continued this year with the theme of "The Healing Power of Creativity". This 3 day event was part of the 23rd Library Celebration which included musical presentations, live animals, art vendors, a juried art contest, story-telling, dance and writing. Unfortunately the interest in the event seems to have diminished over the years. The event takes a lot of work and effort so it has been decided not to continue with it in the future.

Goals for 2019

Increase Foundation membership by at least 25% or more through 2020

Recruit more adult volunteers

Continue to work with the City to upgrade and maintain the Library building our most vital community asset.

Get a new Clayton Community Library website up and running with a new webmaster.

CCLF also has a Facebook page that needs someone to keep it current.

The Clayton Community Library Foundation enjoys having a Council Representative as a member of our board. We appreciate the support of all the Council members and staff as well as the work of the maintenance crew to keep the Library building at its best. From opening day to this 24th year the Clayton Community Library has had great support from the Clayton community as well as surrounding communities. In spite of technological changes, people still value what our library has to offer. It is an amazing community asset.

Jeanne Boyd
CCLF President

CCLF is a 501(c)(3) tax exempt non-profit corporation established 1989
City of Clayton owns the 15,500 square foot building and furnishings

Clayton Community Library Foundation

Approved Proposed Budget 2019

	2018 Actual	2018 Budget	2019 Budget
Income			
Donations			
Coin Box	313.60	200.00	200.00
In-Kind (used books to coll)	3,971.00	5,500.00	4,500.00
Membership Donations	8,245.00	9,000.00	8,500.00
Total Organizations	7,607.45	1,350.00	1,350.00
Total LIC/ Donations - Other	1,911.04	2,100.00	11,600.00
Total Donations	22,048.09	18,150.00	26,150.00
Fundraising			
Semi Annual Book Sale	13,119.14	14,000.00	13,500.00
Book Store	2,989.57	2,500.00	3,000.00
Book Sales on Line	3,341.22	100.00	4,000.00
All Other Fundraising	1,807.97	1,825.00	155.00
Total Fundraising	21,257.90	18,425.00	20,655.00
Investment/Other Income	101.37	-	7.00
Total Income	43,407.36	36,575.00	46,812.00
Expense			
Administrative Expense			
Membership	536.05	600.00	650.00
Newsletter	701.87	775.00	775.00
Other Expenses	828.70	335.00	831.00
Total Administrative Expense	2,066.62	1,710.00	2,256.00
Total Fundraiser Expense	700.00	1,415.00	775.00
Library Support			
City of Clayton - Sunday Support	2,000.00	2,000.00	2,000.00
In-Kind Exp Donations to Coll	3,971.00	5,500.00	4,500.00
Materials - Other	19,599.96	10,000.00	12,000.00
Total Materials	25,570.96	17,500.00	18,500.00
Total Program	3,049.47	3,000.00	3,000.00
Vol Program Support			
Adult Volunteer Luncheon	574.38	600.00	600.00
Insurance	416.80	600.00	500.00
Volunteer Coordinator	7,200.00	10,800.00	7,200.00
Other Expenses	160.07	150.00	-
Total Volunteer Support	8,351.25	12,150.00	8,300.00
Total Expense	39,738.30	35,775.00	32,831.00
Net Ordinary Income	3,669.06	800.00	13,981.00

Agenda Date: 4-02-2019

Agenda Item: 4b

**declaring
the week of April 7 - 13, 2019
as
"Clayton Community Library Volunteers Week"**

WHEREAS, the Clayton Community Library has a total of 51 in-library adult and student volunteers whose work is essential to the support and functioning of library services; and

WHEREAS, in-library volunteers contributed 4,188 hours and Foundation volunteers contributed 2,155 in 2018, for a total of 6,343 volunteer hours; and

WHEREAS, on July 4, 2018, 33 Clayton Community Library volunteers and patrons promoted the Library's Summer Reading Program at Clayton's Independence Day parade, highlighting the importance of summer reading and summer library visits; and

WHEREAS, Clayton Community Library volunteers shelve all the materials at the library, check in returned materials, do all mending of materials, read to children, deliver books to homebound patrons, and so much more; and

WHEREAS, the Annual Creekside Arts Celebration was held to showcase local artisans, performance and community groups as well as raise funds for library support; and

WHEREAS, the Clayton Community Library Foundation contributed \$37,000 in 2018 for volunteer support and recognition, library materials and furniture, Sunday operating hours, programs for adults, teens and young children, and Creekside Arts Celebration expenses.

NOW, THEREFORE, I, Tuija Catalano, Mayor, on behalf of the Clayton City Council, do hereby declare April 7-13, 2019, as "Clayton Community Library Volunteers Week," and urge my fellow citizens to recognize our Clayton Community Library volunteers are indeed a gift to the community as we gratefully thank the operational volunteers, tutors, computer helpers, parade volunteers, garden volunteers, homebound deliverers, Creekside Arts Celebration volunteers, Creekside Artists Guild artists, Library Commissioners, Foundation and Board members for their collective outstanding volunteerism.

JOAN CAROLAN
"Volunteer of the Year"
2019
for
6.5 years of
outstanding service to the
Clayton Community Library

JILL DAY
"Volunteer of the Year"
2019
for
5 years of
outstanding service to the
Clayton Community Library

MEGAN DAY
"Volunteer of the Year"
2019
for
5 years of
outstanding service to the
Clayton Community Library

HOPE KOONIN
"Volunteer of the Year"
2019
for
3.5 years of
outstanding service to the
Clayton Community Library

Agenda Date: 4-02-2019

Agenda Item: 4c

declaring
the week of April 7 - 13, 2019
as
"Clayton Community Library Week"

WHEREAS, today's libraries are not just about books but what they do for and with people; and

WHEREAS, libraries have long served as trusted and treasured institutions where people of all backgrounds can come together and connect; and

WHEREAS, libraries and librarians build strong communities through transformative services, programs and expertise; and

WHEREAS, libraries, which promote the free exchange of information and ideas for all, are cornerstones of democracy; and

WHEREAS, librarians and library workers partner with other civic organizations to make sure their community's needs are being addressed and met; and

WHEREAS, libraries are a resource for all members of the community regardless of age, gender, ethnicity, or background, by offering services and educational resources that transform lives and strengthen communities; and

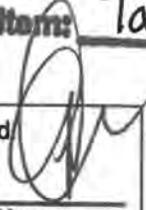
WHEREAS, libraries, librarians, library workers and supporters across America are now celebrating National Library Week.

NOW, THEREFORE, I, Tuija Catalano, Mayor, on behalf of the Clayton City Council, do hereby proclaim April 7-13, 2019 as "Clayton Community Library Week" and hereby encourage all residents to visit our wonderful library this week to take advantage of the delightful array of library resources available.



Agenda Date: 4-02-2019

Agenda Item: 7a

Approved: 
Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: DAVID WOLTERING, INTERIM COMMUNITY DEVELOPMENT DIRECTOR 

DATE: APRIL 2, 2019

SUBJECT: ORDINANCE TO AMEND THE MUNICIPAL CODE SIGN PROVISIONS FOR TEMPORARY NONCOMMERCIAL SIGNAGE (ZOA-01-19)

RECOMMENDATION

Following the Public Hearing it is recommended the City Council approve Ordinance No. 485 for Introduction/First Reading to amend Chapter 15.08 - Sign Provisions that restricts temporary noncommercial signs to a maximum size up to sixteen (16) square feet in area (**Attachment A**).

BACKGROUND

At its meeting on February 5, 2019, the City Council discussed policies regarding temporary noncommercial signage pertaining to individual sign size as well as aggregate sign size limitations (**Attachment B**). As a consequence of this discussion, the Council directed staff to provide for formal consideration an amendment to the City's Municipal Code Sign Provisions for temporary noncommercial signage to include the following provisions: 1) limit individual sign size to sixteen (16) square feet in area, and 2) no aggregate size limit.

The February 5, 2019 action of the City Council continues the community's discussion of this matter. On May 16, 2017, the City Council introduced Ordinance No. 475 updating Clayton Municipal Code (CMC) Section 15.08 - Sign Provisions to incorporate best practices and to comply with the recent (2015) United States Supreme Court Case *Reed vs. Town of Gilbert, Arizona*. This court case provided that a jurisdiction's sign code must be content-neutral. Therefore, one of the revisions to the Clayton Municipal Code Sign Provisions was to amend Section 15.08.040.G, which allowed political signs to be a maximum of three (3) square feet in area, with one (1) sign per property for each candidate, party, or issue. The staff-proposed draft amended Code removed reference to political signs as well as allowed

"temporary noncommercial signs" to have an aggregate limit of thirty (30) square feet of signage area per parcel, with no limitation on the number of individual signs. At this May 16, 2017 City Council meeting, the Council expressed its concern regarding the proposed change for temporary noncommercial signage from a maximum aggregate of three (3) square feet of area per parcel to a maximum aggregate of thirty (30) square feet of area per parcel (**Attachment C**). While the thirty (30) square-foot aggregate limit was a staff policy recommendation, staff had referenced an eighty (80) square-foot aggregate maximum sign area having been upheld by the courts for temporary noncommercial signage. The Council ultimately decided to keep the aggregate size for temporary noncommercial signs of three (3) square feet. The Ordinance was eventually adopted with this provision by the Council on July 18, 2017 (**Attachment D**).

During the 2018 municipal election, the allowed maximum size and aggregate area of signage related to temporary noncommercial signs on private property was raised as a constitutional issue when a property owner received a courtesy notice of violation based on the adopted Ordinance. At that time, the City Manager determined to suspend the enforcement of Section 15.08.040.G of the Municipal Code Sign Provisions until the matter could be revisited by the City Council. The City Council revisited the matter at its February 5, 2019 regular City Council meeting, directing staff at that meeting to prepare for consideration amendments to the City's Municipal Code Sign Provisions related to temporary noncommercial signs: 1) limit individual sign size to sixteen (16) square feet in area, and 2) no aggregate size limit.

Thereafter, at the Planning Commission's March 12, 2019 meeting, staff brought forward this matter to the Commission for its consideration. Commissioners discussed the proposed amendments at length, wanting to balance the fundamental rights and interests of assuring freedom of speech as guaranteed under the First Amendment of the Constitution of the United States, while, at the same time, assuring acceptable community aesthetics and avoiding blight. There was clear support by Commissioners to guarantee First Amendment rights for freedom of speech, but uncertainty and concerns were raised by Commissioners about the absence of an aggregate size limit on signage, the issue being the only limit would be on individual sign size at a maximum of 16 square feet, with a 42 inch separation between individual signs. Otherwise, there would be no limit on the number of signs, the location of the signs (e.g., window, exterior elevation, ground, or rooftop), the duration of how long the signs could be displayed, or, the aggregate size of all the signs placed on the property. It was understood by Commissioners that individual signs could be various dimensions up to a maximum of sixteen (16) square feet in area.

Not being able to reach a consensus to balance the interests of assuring the described First Amendment rights, while assuring an acceptable level of community aesthetics and avoiding blight, the Planning Commission adopted a Resolution of "no recommendation". A copy of the adopted Resolution and an excerpt of the March 12, 2019 Planning Commission minutes are attached (**Attachments E & F**).

DISCUSSION

A primary objective for updating Clayton Municipal Code (CMC) Section 15.08 - Sign Provisions was to incorporate best practices and comply with the judicial determinations in the United States Supreme Court Case *Reed vs. Gilbert, Arizona*. A fundamental message from this court decision is that jurisdictions' sign codes must be content-neutral and that a jurisdiction's sign code may be deemed content-based on its face if it defines categories of signs based on the message (e.g., political, ideological, etc.), with different restrictions based on individual categories. The City of Clayton addressed this issue previously by modifying the City's Municipal Code Sign Provisions from referring to individual categories, like "political" signs, to bringing these signs together under the term of temporary noncommercial signs, with consistent restrictions for these signs. This action by the City of Clayton seems consistent with the *Reed vs. Town of Gilbert* decision that jurisdictions are to avoid restrictions based on topic, idea, or message. In the proposed Ordinance, all temporary noncommercial signs would be treated equally in terms of restrictions.

It should be noted, however, the *Reed vs. Town of Gilbert* case does indicate jurisdictions can control aspects of these temporary noncommercial signs that do not affect the message. Examples given in the decision include size, building materials, lighting, moving parts, and portability. And, as previously indicated by the City Attorney, the courts have upheld jurisdictions' restrictions related to sign size and the aggregate size of the total number of signs on a property. A maximum aggregate of 80 square feet has been indicated by staff as a size that the courts upheld in the past. Given the Planning Commission's struggle with the matter of not having an aggregate size limit, the Council may want to revisit establishing an aggregate signage area maximum number to address balancing the concern of avoiding blight and better assuring acceptable community aesthetics, while at the same time, assuring First Amendment rights to freedom of speech. The current proposal to amend the City's Sign Provisions would establish only a maximum individual sign size limit of sixteen (16) square feet and, otherwise, no limit on the number, location, duration of display, or aggregate signage area of temporary noncommercial signs on private property.

FISCAL IMPACTS

Staff anticipates the enforcement of this proposed amendment to the Municipal Code Sign Provisions to be addressed as part of the City's regular Code Enforcement efforts and not require additional staff resources. Likewise, if the City Council would include a limitation on the aggregate size of temporary noncommercial signage area on an individual private property, while this could increase the demand for Code Enforcement work, it is anticipated this demand would be addressed as part of regular Code Enforcement efforts.

ATTACHMENTS

- A. Ordinance No. 485
- B. Excerpt of the Staff Report and Minutes from the February 5, 2019 City Council Meeting
- C. Excerpt of the Minutes from the May 16, 2017 City Council Meeting
- D. Ordinance No. 475
- E. Planning Commission Resolution No. 01-19 of "No Recommendation"
- F. Excerpt of the Minutes from March 12, 2019 Planning Commission Meeting

ORDINANCE NO. 485

AN ORDINANCE AMENDING CHAPTER 15.08 OF THE CLAYTON MUNICIPAL CODE REGARDING SIGN PROVISIONS

THE CITY COUNCIL

City of Clayton, California

THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS FOLLOWS:

WHEREAS, the City Council wishes to amend its temporary noncommercial signage regulations to allow individual signs up to sixteen (16) square feet and to not limit the aggregate sign area displayed at one time; and

WHEREAS, the Planning Commission on March 12, 2019 held a duly-noticed public hearing on the matter and, as a result of being unable to reach a consensus on the matter after a lengthy discussion, adopted and forwarded a resolution of "no recommendation" to the City Council; and

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, this Ordinance will ensure that City residents and others are able to exercise one's constitutional right to free speech subject to the City's substantial interests in aesthetics and otherwise ensuring the general health, safety and welfare; and

WHEREAS, the City Council has reviewed all written evidence and oral testimony presented to date on this matter.

WHEREAS, the City Council has determined that the proposed amendments to the Clayton Municipal Code do not conflict with and are in general conformance with the City of Clayton General Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON DOES ORDAIN AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are hereby incorporated into this Ordinance.

Section 2. Amendment to Clayton Municipal Code Section 15.08.040.G. Clayton Municipal Code Section 15.08.040.G is hereby amended to read in its entirety as follows:

G. Temporary noncommercial signs on private real property, provided each individual sign displayed does not exceed sixteen (16) square feet in area, with no limit on the aggregate signage displayed at one time.

Section 3. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be

unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

Section 4. **CEQA.** The City Council hereby determines that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment.

Section 5. **Conflicting Ordinances Repealed.** Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

Section 6. **Effective Date and Publication.** This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Section 2 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a noticed public hearing during a regular public meeting of the City Council of the City of Clayton, California held on April 2, 2019.

Passed, adopted, and ordered posted by the City Council of the City of Clayton, California at a regular public meeting thereof held on April 16, 2019, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

TUIJA CATALANO, Mayor

ATTEST

JANET CALDERON, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

Malathy Subramanian, City Attorney

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular public meeting of the City Council of the City of Clayton held on April 2, 2019, and was duly adopted, passed, and ordered posted at a regular public meeting of the City Council held on April 16, 2019.

Janet Calderon, City Clerk



AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: CITY ATTORNEY

DATE: FEBRUARY 5, 2019

SUBJECT: CONSIDER THE NECESSITY OF REVISIONS TO THE SIGN PROVISIONS ORDINANCE (CMC SECTION 15.08)

RECOMMENDATION

Consider options for revisions to the sign ordinance to address size limitations for temporary noncommercial signage and provide policy direction to staff to initiate the amendment process.

BACKGROUND

On May 16, 2017, the City Council introduced Ordinance No. 475 updating the Sign Provisions section of the Clayton Municipal Code (Section 15.08) to comply with recent case law and to incorporate other best practices. At the time, the recent United Supreme Court Case *Reed v. Town of Gilbert, Arizona* provided that a city's sign ordinance must be content-neutral. Therefore, one of the required revisions to the City's ordinance to comply with *Reed* was to amend Section 15.08.040G, which allowed political signs to not exceed three square feet in area, with one sign per property for each candidate, party or issue. This was revised in the proposed draft ordinance to remove the reference to political signs, making it content neutral, and to allow temporary noncommercial signs with an aggregate of thirty square feet of signage per parcel, with no limitation on individual sign size, and no limit on the number of individual signs per candidate, party or issue.

At the May 16, 2017 meeting, the Council noted its concern regarding the proposed change for temporary noncommercial signage from a maximum of three (3) square feet per parcel, to an aggregate of up to thirty (30) square feet in area of signage per parcel. At the time it was noted that thirty (30) square feet was a policy decision staff recommended pursuant to the City Attorney's office advice that eighty (80) square feet had been upheld by the courts. The Council decided to reduce the size to three (3) square feet and directed the Planning Commission to consider the revisions due to the community's concerns regarding visual

clutter during political campaign season. The Ordinance was eventually adopted by the Council on July 18, 2017 with this revision.

DISCUSSION

During the 2018 municipal election, the maximum size and aggregate area of signage related to temporary noncommercial signs was raised as an issue when a property owner received a courtesy notice of violation based on the adopted Ordinance. At the time, the City Manager determined to suspend enforcement of Section 15.08.040G of the sign ordinance until a future date when the City Council could reconsider the matter.

Below is an overview of relevant cases regarding the two elements of this sign regulation:

1. Per sign size; and
2. Aggregate sign area limits that courts have allowed and/or invalidated.

1. Per Sign Size

While some cases have invalidated restrictions on the number of signs per property (see *Arlington County Republican Committee v. Arlington County*, Va. (4th Cir. 1993) 983 F.2d 587 [invalidating two signs per lot]), the Ninth Circuit previously upheld an ordinance that limited individual political signs up to 16 square feet in area, implicitly limiting the number of signs as the ordinance also contained an aggregate sign limit. (*Baldwin v. Redwood City* (9th Cir. 1976) 540 F.2d 1360, 1368.) It has also invalidated an ordinance that limited sign size to four (4) square feet per sign. (*Verrilli v. City of Concord* (9th Cir. 1977) 548 F.2d 262, 265.)

Based on this, the City could adopt a per sign size limit of 16 square feet but it should be aware this limit is not without some risk. *Baldwin* is an older case from the 1970s and case law has become less favorable to municipalities over the years. If the Ninth Circuit revisited the issue, it might apply similar reasoning to *Arlington* and preclude per sign size restrictions.

In *Arlington*, the court explained that “we question whether the County needs to limit the number of signs on private property to protect aesthetics. As the Court noted in *Vincent*, ‘[p]rivate property owners’ esthetic concerns will keep the posting of signs on their property within reasonable bounds.’ 466 U.S. at 811, 104 S.Ct. at 2132. We also find persuasive the fact the County in this case could not show any specific aesthetic or traffic problems arising while the preliminary injunction was in force. In contrast, the district court found that after issuing the preliminary injunction, ‘additional signs posted were neatly displayed and not unreasonably numerous.’” (*Arlington* at 594.)

As *Arlington* is a Fourth Circuit case, it is not binding on the City of Clayton, which is bound by the Ninth Circuit of the United States Court of Appeals. However, the Council should be aware there is some risk that a future court might overrule *Baldwin* and determine that per sign limitations are invalid under similar reasoning.

Aggregate Size Limit

Limitations upon the aggregate area of political signs have also been permitted. For example, in *Baldwin v. Redwood City*, that City's ordinance limited the aggregate area of all signs on a single parcel to 80 square feet in order to reduce the accumulation of debris and minimize traffic hazards. (*Baldwin* at 1369.) However, a similar limitation of 64 square feet aggregate was struck down in *Verrilli v. City of Concord* because that City did not make any findings identifying the substantial public interests that could not have been protected by less restrictive regulations. (*Verrilli* at 265.) In addition, this limitation applied to all parcels, including a political campaign headquarters. Based on the outcomes of *Baldwin* and *Verrilli*, the safest approach is to assume that 80 square feet is the minimum aggregate size limit. If the sign is double sided, this would result in a 40 square feet sign. However, it is possible that a smaller amount is permissible with the appropriate record to support it.

CONCLUSIONS

Based on the above, the safest approach is to not have restrictions on individual sign size and to limit the aggregate area to 80 square feet or 40 square feet for a double sided sign. Alternatively, the City Council could place a restriction on individual sign sizes and reduce the aggregate, so long as it is comfortable with the potential risk of a challenge. In this regard, courts tend to protect property owners' rights given the core First Amendment issues at stake. This raises the bar for the City to defend its Ordinance. In addition, if the City is challenged and loses, it may be forced to pay the plaintiff's legal fees.

Lastly, the case law over the years has become less favorable to cities on infringement of First Amendment expressions, and a future court may overrule *Baldwin* given this shift. However, if the Council is willing to accept the risk, the Council could utilize a size limitation for residential parcels of sixteen (16) square foot per sign and thirty-two (32) square foot in aggregate with appropriate findings.

The Council cannot limit the number of signs per candidate, party or issue as previously provided in the sign ordinance as this is not content neutral and is impermissible under *Reed*.

Attachments

1. Minutes from May 16, 2017 City Council meeting
2. Minutes from July 18, 2017 City Council meeting
3. Sign Ordinance

Mayor Catalano inquired if the City Code would have to be updated for a pilot program. City Attorney Subramanian advised the program could come back as a resolution for the duration of a pilot program.

City Manager Napper commented inherent with the implementation of a pilot program, a number of fixtures will need installation, such as poles and street signage. In his experience with other cities once pilot programs are started it is difficult to have a termination date.

Vice Mayor Pierce indicated she will be opposing the motion as she feels there are other measures that should be taken prior to a pilot parking program, such a social media posts that recommend parking at the Mitchell Canyon entrance gate. Councilmember Wolfe recommended whatever goes out on social media should be of enforceable nature.

Mayor Catalano commented there are three actions that could be taken: 1. Permanently change the City Code to allow a preferential parking program; 2. Establish some type of pilot program, just for this street; and 3. Addressing lower level items like painting red the driveway wing tips, addressing social media to redirect the public to the Mitchell Canyon gate, post improved signage with greater enforcement. In her opinion she would like to begin with the third action.

A substitute motion was made by Vice Mayor Pierce, seconded by Mayor Catalano directing staff to try alternative methods prior to a pilot preferential parking program. The substitute motion failed (Failed, 2-3 vote; Diaz, Wan and Wolfe, no).

The vote was taken on the original motion to direct staff to prepare a Resolution implementing a pilot preferential parking permit program (Approved, 3-2 vote; Catalano and Pierce, no)

- (b) City Council consideration of the necessity for revisions to the City's existing size and number limitation regarding temporary noncommercial signage (Municipal Code 15.08.040 (G)).

City Attorney Mala Subramanian presented the staff reporting providing two options of consideration for the City Council: 1.) A per sign size; and 2.) Aggregate sign area limits. Ms. Subramanian also noted if challenged on this issue and unsuccessful these cases can be difficult to defend resulting in the possible requirement of attorney's fees to be paid to the plaintiff. She also pointed out the existing ordinance is currently written specifies if both sides of the sign are visible, the sign would be considered double-sided. For example, a 40 square foot sign visible on both sides amounts to an aggregate of 80 square feet.

Councilmember Wan clarified this is specifically about non-commercial temporary signs and does not address any other sign type in the Ordinance. City Attorney Subramanian confirmed that understanding is correct.

Mayor Catalano opened the matter to public comment.

Frank Gavidia, 104 Gold Rush Court, noted this issue is a big deal for him as 32 years ago he took an oath to the U.S. Constitution. That two hundred year old document has the First Amendment which guarantees all of us freedom of speech. As a young Marine he had an instructor once who served in Vietnam who spoke of stories when he came home to protestors and of course all of us went nuts and started to insult protestors. That

instructor said those protestors have a right to do what they do because of that document we all took an oath to. The City Council and Planning Commissioners took an Oath to that document. The words of that instructor stuck with him so much he cannot stand seeing protestors burning the flag but they have a right to do so because of the First Amendment. Last year this City had a contentious issue during election season when residents wished to display more than one sign for more than one candidate; soon there will be three seats open for City Council office. As the proposed Ordinance is written, a resident could display only one sign per candidate; that is not right. Mr. Gavidia watched the video when this Ordinance was passed recalling a complaint of sign blight. He does not think it is right to limit freedom of speech especially for something that is temporary. The First Amendment is pretty clear: freedom of speech, freedom of political speech. Some of us took an oath to protect that right with our lives and that is why this is important to him. Councilmember Diaz understands that; he took the same oath. Mr. Gavidia is sure the City Council will do the right thing on this.

Mayor Catalano closed public comments.

Vice Mayor Pierce noted that while she personally prefers the old sign ordinance provisions, we legally are not allowed to have the sign ordinance specify candidates, parties or issues with regard to what the sign is for. This Ordinance has to apply to any noncommercial sign, not just political ones. When the City Council was considering this item last year, it was meant to be no larger than 3 square feet per sign. She would like to try and keep the signs relatively small as she does not think residents will like 4x8 signs on private property. Her preference is a limited number of signs for each candidate to 3 square feet per sign; in our community these signs are almost always visible.

Councilmember Diaz agreed with Vice Mayor Pierce and does not want to see the sign blight and limit the sign size and one sign per candidate.

Vice Mayor Pierce clarified this subject only addresses signs on private property.

Councilmember Wan noted content neutral speech is not regulated if any restrictions are placed; he would challenge any restriction on favored speech. Unfavorable speech is what the First Amendment is about; it is about protecting what is unfavorable because speech is important. Any time we are going to restrict what someone can say or how they express themselves, he will be opposed.

Councilmember Wolfe noted he is not concerned with speech content but sign size, including two-sided signs.

Mayor Catalano also preferred the sign ordinance prior to 2017; she does not want to regulate speech either however she prefers the most restrictive in size.

City Attorney Subramanian confirmed the sign size could be limited to 16 square feet with an aggregate of 32 square feet with appropriate findings.

Councilmember Wan requested an example of the findings. City Attorney Subramanian provided some of the findings that were used in Redwood City which were upheld due to concerns about debris, littering, as well as traffic hazards.

Councilmember Diaz inquired on the length of time the sign could be posted and its removal. City Attorney Subramanian she is a little concerned if limitations within a certain period of time of an event as these are temporary noncommercial signs that are being discussed and it is not limited to political signs. The type of material was defined as a finding; if a sign started to decay in terms of debris and litter it could be removed.

Councilmember Diaz further inquired of when these signs would be removed?

Councilmember Wan commented based on what he has read it does not look favorable of when a sign would have to be removed. City Attorney Subramanian inquired for what is the time based limit on? The discussion is content neutral, temporary, noncommercial, not political speech.

Vice Mayor Pierce expressed her interpretation of a sign made of wood as permanent and her preference of a 90 day time limit for any temporary sign. If there is a reason that sign would have to be displayed longer, maybe it should be considered a permanent sign. She is also concerned with a 4x4 minimum sign size with a 30 foot aggregate; if it is a two-sided sign, it is restrictive and would limit speech.

Mayor Catalano inquired about the State Advertising Act indicating when signs can be put up and when they are required to be removed, encourages a particular vote in an upcoming election, can be put up no sooner than 90 days, removed no later than 10 days after an election, and up to 32 square feet. How does that Act fit into this? City Attorney Subramanian replied the State Advertising Act does not apply in Clayton as it applies to signs on the highway or certain proximity to the highway, and in addition she questions the legality of the Act as it is not content neutral.

City Attorney Subramanian added that someone could always use with a smaller sized sign as the limit being discussed is the maximum size.

Mayor Catalano shared it seems a lot of people do not want a lot of signs like in the neighboring city of Concord, so what she is hearing the minimum individual size sign could be 16 square feet and a resident could display as many candidates and ballot measures signs as they would like. She is unsure of the appropriate aggregate size to accommodate.

Councilmember Wan suggested no aggregate.

City Manager Napper noted the limitations being discussed are the maximums; if Council wishes to regulate the per sign size it would be expressed in terms of maximum size. However, with the concern of multiple candidates for multiple offices in an election and even multiple issues such as ballot measures that could be applicable, an aggregate limit could be problematic as it could be reached very quickly. There is the option of no aggregate. If you are the neighbor to someone who places signs all over their lawn in a shape or way you don't like, one may have a conversation with that individual or maybe others would to become self-limiting. From a staff perspective, the size of each sign should have limitations but tread a little more carefully on the aggregate limitation. At any given time when a ballot is full and someone wishes to support a write-in candidate plus additional ballot measures, it could become problematic in limiting free speech.

Councilmember Wolfe added that we are not just talking about political signage, but it could be about anything.

Vice Mayor Pierce inquired if there is any recourse on time limitations? Some of the materials being used for temporary signs with these days last a long time and realistically, if we are talking about a sign deteriorating that's not going to give us anything. City Attorney Subramanian advised it is currently defined as constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other substances of similar lightweight materials with or without frames which is designed or intended to be displayed for a limited amount of time.

Councilmember Wolfe advised that description is very vague. City Attorney Subramanian advised that was intentional to avoid limiting it to a period of time and event that could again be challenged.

Councilmember Wolfe inquired if we put a limit on the time what is the limit on when the sign would have to be removed and allowed to be displayed again?

City Manager Napper offered as an example to a temporary time limit, a sign could be displayed for ninety days and on day ninety-one that same individual displays a different sign that says the same thing differently or moves it slightly on their property. Such practices would be lawful and defeat any time limitation being contemplated.

Vice Mayor Pierce suggested an individual 4x4 maximum sign with the recommendation specifying no time limit or aggregate. City Manager Napper clarified the proposed ordinance amendment would be written as 16 square feet as opposed to restricting that size to a specified dimension of 4x4. City Attorney Subramanian advised it can be written as no more than 16 square feet with no aggregate and no time limit.

It was moved by Vice Mayor Pierce, seconded by Councilmember Diaz, to have staff prepare the draft Ordinance limiting the temporary noncommercial sign size to 16 square feet with no aggregate or time limit, with a hearing to the Planning Commission in the near future. (Passed 4-1 vote; Wan, no).

- (c) Council Member request to discuss consideration of the City possibly banning its use of glyphosate (Round Up) in its weed extermination services on City properties and in public rights-of-way.

Councilmember Wan opened the discussion noting various members of the public expressed concern for the use of Round Up by the City. He found it valuable to get information on the extent and nature of the City's current utilization, what safety measures are in place, and any possible alternatives. Another factor driving this item was a recent judgement involving the Benicia School District where a groundskeeper prevailed in a multi-million dollar injury case by the use of Round Up. Councilmember Wan noted he was not really proposing a ban per say, rather seeking a report of its use, liability and safety of the public and any consideration of alternative products. Councilmember Wan considered the document in the report is sufficient outlining the level of use with a remaining question of potential liability given the fact pattern of the previous ruling. After conducting his own research he has found there is no conclusive evidence and it is more of a judgement matter.

City Attorney Subramanian advised the potential risk exposure is in the Workers' Compensation situation in terms of our own employees and their utilization of the product; with safety protocols in place that will reduce the City's risk. Outreach has been made with the Municipal Pooling Authority which is looking into since they are the first line of defense for the City in these types of employee injury cases. She is unsure if Councilmember Wan is concerned with the risk exposure in terms of the public's exposure on public property; she thinks causation or any illness would be very difficult to prove.

Councilmember Wan inquired if the City's insurance would provide coverage if a claim were made by a member of the public. City Attorney Subramanian advised the City's insurance would be the first line of defense if a Workers' Compensation claim is filed by an employee of the City.

Councilmember Wan indicated he was pleased with the protocols and safety precautions used by the City provided by Maintenance Supervisor Jim Warburton.

7. PUBLIC HEARINGS

- (a) Public Hearing to consider the Introduction and First Reading of a proposed City-initiated Ordinance No. 475 updating the Clayton Municipal Code, Title 15 Building & Construction, Section 15.08 – Sign Provisions, to comply with the United States Supreme Court’s recent decision in *Reed vs. Town of Gilbert, AZ*, to prohibit mobile billboards, and to incorporate other best practices.

Mindy Gentry, Community Development Director, presented the report noting the United States Supreme Court recently ruled in the case *Reed vs. Town of Gilbert, Arizona* the provisions of a municipality’s sign code must be content-neutral. Portions of the Town of Gilbert’s sign code was struck down by the U.S. Supreme Court due to its sign code subjecting ideological, political, and directional signs to size, location, and length of display time regulations. The court was clear that, as long as the regulation is not based on a sign’s message, local governments may regulate the size, lighting, location, timing, and number of signs.

The majority of the proposed sign code changes are definitions in order to clarify and create regulations that do not distinguish between sign content such as ideological, political, or directional. Staff also recommends prohibition of mobile billboards; although this has not been an issue locally, prohibition is in the interest of the public for the safe movement of vehicular traffic, reduction of air pollution, and to maintain the aesthetic appearance of the City. Staff further recommends some clean-up language to the addition and deletion of zoning districts that have been removed or added since the last Sign Code update; consistency in height for monument signs, pole signs, commercial entry signs and noncommercial signs; and consistency with the prohibition of all signs in the public rights of way, with the exception of City-sponsored events.

Councilmember Pierce recalled last time the Sign Ordinance was updated there was a long drawn-out discussion about the size of what is now termed “temporary noncommercial signs,” i.e., political signs, and others that are posted around town. Councilmember Pierce noted the proposed Ordinance has changed the size limit to thirty (30) square feet, whereas previously it was restricted to three (3) square feet. If the size of these signs is increased for posting on residential and non-commercial properties, there will be a public outrage as Clayton’s current size restrictions are widely supported and admirably differentiate this city from others during election times.

Ms. Gentry responded that type of provision must be applied across the board severely restricting other types of signage by community organizations. She also noted thirty (30) square feet was a policy decision staff recommended pursuant to legal counsel advice that eighty (80) square feet was upheld in the courts; however, it is still possible the City Council has the ability to make a policy decision in terms of the square footage.

Councilmember Pierce indicated she would like to restrict that sign size, perhaps to four (4) feet at a maximum. Councilmember Shuey also recalled that historical discussion and would like to make a policy decision to reduce that sign size maximum, even though he noted it could be a legal risk. City Attorney Mala Subramanian advised the proposed reduction in sign size could be considered too small.

Councilmember Catalano inquired if banner sizes were also included in the proposed Sign Code Ordinance. Ms. Subramanian confirmed that banners are exempt in this section and covered under another section of the Clayton Municipal Code. She further indicated that a size modification suggested from 80 sq. ft. to 3-4 sq. ft. is a significant change to the proposed Ordinance, and therefore the Ordinance must go back to the Planning Commission for its review of the proposed modification as the provision is a part of the Zoning Code; the Commission can then make its recommendations to the City Council.

Councilmember Pierce added during a campaign season, Councilmembers receive a number of phone calls inquiring on where signs can be placed; she noted the current process of obtaining permits for the rights of way signs appear to be working.

Mayor Diaz opened the Public Hearing for public comment.

Dan Hummer, Stranahan resident, agrees with limiting the size of political signs.

Russ Remoy, 1843 Yolanda Circle, shared his concerns about high-density housing changing the character of Clayton. Mayor Diaz advised him those concerns would be allowed during the next item on the agenda.

Mayor Diaz closed the Public Hearing.

It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to refer this item back to the Planning Commission for its further review on the sign size limit change to retain the existing 3 sq. ft. aggregate limitation in the Sign Provisions Ordinance (Passed; 5-0 vote).

- (b) Public Hearing to consider a proposed City-initiated General Plan Amendment to modify the determination of residential developable acreage and density calculations and to not require a minimum density on residentially designated property with sensitive land areas and the Introduction and First Reading of Ordinance No. 476 adding Section 17.22 – Residential Density Calculations for Residential with Sensitive Land Areas to Title 17 Zoning of the Clayton Municipal Code describing and determining how General Plan densities are calculated for proposed residential projects with sensitive land areas.

Community Development Director Mindy Gentry presented the staff report noting as a real life example, the proposed Silver Oak Estates subdivision project will be discussed tonight as to why these amendments are being proposed. However, she noted that project is not on the agenda therefore staff recommends the ensuing discussion not focus on the merits or details of that project; it is merely a real-world example to illustrate the beneficial necessity of the proposed amendments.

Ms. Gentry advised the proposed Silver Oaks Estates project consists of 59 units which are comprised of seven single family homes, 28 town homes and 24 "Green Courts" in the terminus of Lydia Lane. The currently proposed project has been through various stages in the entitlement process since 2010. Due to City staff attrition and cursory review of the project, in 2016 it became apparent the proposed townhomes and green courts were not in conformance with the City's General Plan. The General Plan designation for the property is Single Family Medium Density which calls for 3.1 to 5 units per acre with a product type of single family detached homes. Consequently, the current General Plan would allow 43 to 70 units on the property. Although the proposed 59 units fits within that overall allowed density, the various single family detached product types do not; therefore, the proposed attached product type would only fit within one of three Multifamily General Plan land use designations. If the project applicant wanted to further pursue the proposed product type, a General Plan Amendment to multifamily low density would be required, resulting in a minimum unit count of 106 units, an increase of 47 units on the property above the proposed 59 units. Alternatively, if the project applicant tried to fit the proposed single family detached homes on the site resulting in a small lot single-family development of detached homes, it would likely occur with a zero lot line and/or minimal setbacks. Given the physical constraints of the property, it is questionable whether the parcel is large enough to even fit a detached

ORDINANCE NO. 475

AN ORDINANCE AMENDING CHAPTER 15.08 OF THE CLAYTON MUNICIPAL
CODE REGARDING SIGN PROVISIONS

THE CITY COUNCIL

City of Clayton, California

THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS
FOLLOWS:

WHEREAS, the City Council wishes to update its sign regulations to comply with the U.S. Supreme Court's decision in *Reed v. Town of Gilbert* and to incorporate other current best practices; and

WHEREAS, the City Council further wishes to eliminate mobile billboard advertising within the city in order to promote the safe movement of vehicular traffic, to reduce air pollution, and to maintain the aesthetic appearance of the city as recognized in *Showing Animals Respect & Kindness v. City of West Hollywood* (2008) 166 Cal.App.4th 815 and other applicable law; and

WHEREAS, this Ordinance will ensure that City residents and others are able to exercise one's constitutional right to free speech subject to the City's substantial interests in traffic safety, aesthetics and otherwise ensuring the general health, safety and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON DOES
ORDAIN AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are hereby incorporated into this Ordinance.

Section 2. Amendment. Chapter 15.08 of the Clayton Municipal Code is hereby amended to read in full as set forth in Exhibit A, attached hereto and incorporated herein by this reference. As set forth in Section 15.08.020 of Exhibit A, the graphic attached as Exhibit B to this Ordinance shall be inserted into Section 15.08.020 in any codification of this Ordinance or the Clayton Municipal Code.

Section 3. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

Section 4. CEQA. The City Council hereby determines that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment.

Section 5. Conflicting Ordinances Repealed. Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

Section 6. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Section 2 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a noticed public hearing during a regular public meeting of the City Council of the City of Clayton, California held on July 18, 2017.

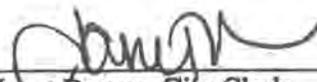
Passed, adopted, and ordered posted by the City Council of the City of Clayton, California at a regular public meeting thereof held on August 1, 2017, by the following vote:

AYES: Mayor Diaz, Vice Mayor Haydon, Councilmembers Catalano, Pierce and Shuey.
NOES: None.
ABSENT: None.
ABSTAIN: None.

THE CITY COUNCIL OF CLAYTON, CA


Jim Diaz, Mayor

ATTEST


Janet Brown, City Clerk

APPROVED AS TO FORM



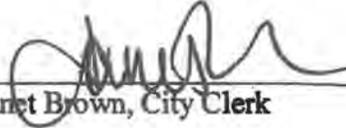
Malathy Subramanian, City Attorney

APPROVED BY ADMINISTRATION



Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular public meeting of the City Council of the City of Clayton held on July 18, 2017, and was duly adopted, passed, and ordered posted at a regular public meeting of the City Council held on August 1, 2017.



Janet Brown, City Clerk

EXHIBIT A

Chapter 15.08 SIGN PROVISIONS

Sections:

15.08.010	Purpose Statements
15.08.020	Definitions
15.08.030	Permit Procedures
15.08.040	Exempt Signs
15.08.050	Prohibited Signs
15.08.060	General Sign Requirements and Standards
15.08.070	Regulations for Special Signs
15.08.080	Computation of Sign Area and Height
15.08.090	Maintenance
15.08.100	Non-conforming Signs
15.08.105	Substitution
15.08.110	Enforcement

15.08.010 Purpose. The purpose of this chapter is to provide standards for the height, size, location, and appearance of building and street graphics, in order to:

- A. Encourage sound signing practices as an aid to business and to inform the public. Signage is to be used primarily for identification, not for advertising.
- B. Create an attractive economic and business climate.
- C. Preserve and improve the appearance of the city as a place in which to live and work and as an attraction to nonresidents who come to visit or trade.
- D. Protect and enhance the rural atmosphere of the city.
- E. Minimize adverse effects on public and private property.
- F. Prevent excessive and confusing sign displays.
- G. Reduce hazards to motorists and pedestrians.
- H. Enable the fair and consistent enforcement of sign regulations.
- I. Promote the public health, safety, and general welfare.

15.08.020 Definitions.

- A. **Address Sign:** A sign listing the street address and, in the case of a residential use, the name of the occupants of the premises.
- B. **Animated Sign:** A sign that conveys its message or attracts attention through moving, rotating, changing, or flashing lights or components.
- C. **Awning:** A hood or cover that projects from the wall of a building and is composed of rigid or non-rigid materials.
- D. **Awning Sign:** A sign or graphic attached to or printed on an awning (see Sign Illustrations).
- E. **Banner:** A temporary commercial, noncommercial, or community event sign of lightweight fabric, plastic, paper, or similar material that is mounted on a building or street light pole (see Sign Illustrations).

- F. **Billboard:** A sign that directs attention to a product, place, activity, person, institution, business, or subject that is not entirely related to the premises on which the sign is located.
- G. **Building Marker:** A sign indicating the name of a building, date of construction, and incidental information about its construction, which is cut into masonry or made of bronze or other permanent material.
- H. **Building Sign:** A permanent sign attached to a building or other structure that is an integral part of a building. A building sign includes an awning sign, a projecting sign, a suspended sign, a wall sign, and a window sign, an address sign, and a building marker.
- I. **Canopy (or Marquee):** A permanent roof-like shelter extending from part or all of a building face over a public right-of-way and constructed of some durable material such as metal, wood, glass, or plastic.
- J. **Commercial Center Entry Sign:** A sign located at the entry to a shopping center, business area, or office park identifying the center, area, or park and identifying the businesses located therein.
- K. **Commercial Sign:** Any sign with an image or message which primarily concerns the commercial or economic interests of the sign sponsor or intended audience, or which proposes a commercial transaction.
- L. **Community Event Sign:** A banner advertising a City of Clayton community event as defined by the City Council in its policies pertaining to the usage of signage in the public right-of-way per Resolution 46-2007 or any subsequent revisions thereafter.
- M. **Directory Sign:** A sign or set of similarly designed individual signs displayed in sequence that lists tenants or occupants within a building or business center, and is designed or be viewed primarily by pedestrians (see Sign Illustrations).
- N. **Flag:** Fabric, banner, or bunting containing distinctive colors, patterns, or symbols.
- O. **Ground Sign (or Freestanding Sign):** A permanent sign supported by one or more uprights, poles, or braces in or upon the ground or placed upon a planter, wall, retaining wall, or other structure that is not an integral part of a building. A ground sign includes a monument sign, a pole sign, a kiosk sign, commercial center entry sign, directory sign, multiple address sign, neighborhood/district entry sign.
- P. **Incidental Sign:** An informational sign, whose purpose is secondary to the use of the lot on which it is located, such as "no parking", "entrance", "loading only", "telephone", and other similar directives.
- Q. **Interior Sign:** A sign located in the interior of a building, mall, court, standing or enclosed lobby intended for interior viewing only.
- R. **Kiosk Sign:** A sign located on a small freestanding structure which has three (3) or more surfaces.
- S. **Mobile Billboard:** Any vehicle, or wheeled conveyance which carries, conveys, pulls, or transports any sign or billboard for the primary purpose of advertising. Mobile billboard shall not include (1) any vehicle which displays an advertisement or business identification of its owner, so long as such vehicle is engaged in the usual business or regular work of the owner, and not used merely, mainly or primarily to display advertisements; (2) buses; or (3) taxicabs.
- T. **Monument Sign:** A type of ground sign constructed upon a solid appearing base or pedestal (see Sign Illustrations).

- U. **Multiple Address Sign:** A sign or set of similarly designed individual signs displayed in sequence placed at the entrance of a private residential street or area that lists the street address and names of the occupants of the residences along the street or within the area.
- V. **Mural:** A work of art, containing no commercial message, applied to and made an integral part of an exterior wall.
- W. **Neighborhood/District Entry Sign:** A sign identifying a neighborhood or district (see Sign Illustrations).
- X. **Noncommercial Sign:** Any sign displaying a message that is not commercial.
- Y. **Noncommercial Location Sign:** A sign identifying a noncommercial use.
- Z. **Nonconforming Sign:** A sign legally existing at the time of the effective date of this Chapter which does not conform to the provisions of this Chapter.
- AA. **Off-Site Sign:** A sign directing attention to a business, service, product, or entertainment that is not sold or offered on the site where the sign is located, including billboards and other outdoor advertising signs.
- BB. **On-Site Sign:** A sign directing attention to a business, service, product, or entertainment that is sold or offered on the site where the sign is located.
- CC. **Parapet or Parapet Wall:** That portion of a building wall that rises above the roof level or eave line.
- DD. **Pennant:** A sign of lightweight fabric, plastic, or similar material that is attached to a pole at one edge (see Sign Illustrations).
- EE. **Permanent Sign:** Any sign intended for use for a period greater than thirty (30) calendar days.
- FF. **Personal Property Sale Sign:** A temporary commercial sign advertising a sale of personal property.
- GG. **Pole Sign:** A type of ground sign mounted to or hanging from a pole or similar structure (see Sign Illustrations).
- HH. **Portable Sign:** A sign not permanently attached to the ground, building, or other permanent structure and designed to be transported, including but not limited to: signs designed to be transported by means of wheels; signs in the form of A-frames or T-frames; menu or sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked in or visible from the public right of way, unless said vehicle is used in the normal day-to-day operations of the business. Portable signs do not include mobile billboards.
- II. **Projecting Sign:** A sign extending from a building face or wall so that the sign face is perpendicular or at an angle to the building face or wall (see Sign Illustrations).
- JJ. **Real Estate Sign:** A commercial sign advertising the sale, lease, or rent of property and the identification of the firm handling the sale, lease, or rent.
- KK. **Residential Open House Sign:** A temporary commercial sign advertising an open house for a house for sale.
- LL. **Roof Sign:** A sign erected upon or above a roof or parapet of a building or structure. A sign mounted on a vertical extension of a wall that extends above a roof structure is considered a wall sign.
- MM. **Sign:** Any name, identification, description, symbol, display, illustration, or device, including any structure, machine (including vending machine), component parts and paint, viewable by the general public that directs attention to a product, place, activity, person, institution, or business.

- NN. Sign Area: The area within a perimeter which forms the outside shape, including any frame, and forms an integral part of the display, but excluding the necessary supports, poles, or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas visible from any position at one (1) time will be totaled.
- OO. Sign Face: The visible portions of a sign including all characters and symbols, but excluding structural elements not an integral part of the display.
- PP. Sign Illustrations: Examples of various signs in pictorial format incorporated into Section 15.08.020 of the Clayton Municipal Code.
- QQ. String Pennant: A lightweight plastic, fabric, or other material, whether or not containing a message or symbols, suspended from a rope, wire, or string in series, usually designed to move in the wind.
- RR. Subdivision Marketing Pole Pennant: A single piece of lightweight plastic, fabric, or other material, whether or not containing a message of any kind that is temporarily suspended from a pole and is designed to move in the wind to promote the sale of newly subdivided lots and/or newly constructed dwellings.
- SS. Subdivision Marketing Signs: Temporary commercial signs, including ground signs, wall-mounted signs, pole signs, pennants, and real estate signs, designed to promote the sale of newly subdivided lots and/or newly constructed dwellings (see Sign Illustrations).
- TT. Suspended Sign: A sign attached to and located below any permanent eave, roof, or canopy (see Sign Illustrations).
- UU. Temporary Commercial Sign: Any commercial sign intended for use for a period of less than thirty (30) days.
- VV. Temporary Noncommercial Sign: Any noncommercial temporary sign displaying an ideological, political or other noncommercial message, that is constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other similar lightweight materials, with or without frames which is designed or intended to be displayed for a limited period of time.
- WW. Wall Sign: A sign not exceeding six (6) inches in thickness that is painted on, attached to, or erected against the wall of a building or structure with the exposed face of the sign parallel to the plane of said wall (see Sign Illustrations).
- XX. Window Sign: A sign displayed on window glass (including the glass of doors) or within three (3) feet of a window, designed to be viewed from the exterior of the window (see Sign Illustrations).

15.08.030 Permit Procedures.

- A. City Review - General. City review and approval is required for all signs except those specified by this Chapter as exempt or prohibited. No City review or approval is required for a change of copy on an existing permitted sign that is in full compliance with the requirements and standards of this Chapter. In addition to meeting the requirements of this Chapter, all signs shall comply with all applicable California Building Code requirements. No sign shall be constructed, placed, erected, or modified unless such construction, placement, erection, or modification is authorized by the owner, or his or her representative, of the property upon which the sign is to be placed. Application for sign review and approval shall be accompanied by written authorization from the

property owner, or his or her authorized representative, for placement of the proposed sign or signs.

B. City Review and Approval. The City shall review and approve signs according to the following procedures:

1. **Administrative Review and Approval.** The following signs shall be reviewed and approved administratively by the Community Development Department if they conform to the general sign requirements and standards of Section 15.08.060 and the regulations for special signs of Section 15.08.070.
 - a. Directory signs provided the sign does not exceed ten (10) square feet in area, nor a height of six (6) feet.
 - b. Any sign proposed for a property consistent in terms of size, number, and location with a previously-approved master sign plan, unless otherwise specified in an applicable master sign plan.
 - c. All building and ground signs proposed for individual businesses that are located on a property that have a previous approval for similar signage, and the proposed sign(s) are consistent in terms of size, number, and location with the previous approval. (This provision does not apply to a Corner Lot or Through Lot where signage is being proposed along multiple property frontages)
2. **Exception.** Any sign proposal considered within the parameters of this subsection that in the judgment of the Community Development Director may not comply with the intent or purpose of this Chapter may be referred to the Planning Commission for consideration.
3. **Planning Commission Review and Approval.** The following signs shall be reviewed and approved by the Planning Commission in accordance with Chapter 17.64 of the Clayton Municipal Code.
 - a. Master sign plans.
 - b. Neighborhood/district entry signs.
 - c. Commercial center entry signs.
 - d. Subdivision marketing sign program.
 - e. Noncommercial locational signs.
 - f. Directory signs that exceed ten (10) square feet in area and six (6) feet in height.
 - g. All building and ground signs for individual businesses that are located on a property that have not had previous approval for signage, involve signage on multiple frontages, and/or involve an increase in the previously-approved signage area, increase in the number of signs, or substantially change the location of signage.
 - h. Any sign proposal that, in the judgment of the Community Development Director, may not comply with the intent or purpose of this Chapter.
4. **Variance.** A variance shall be required from the Planning Commission for any deviations from the general sign requirements and standards of Section 15.08.060 or the regulations for special signs of Section 15.08.070 of this Chapter according to the procedures set out in Chapter 17.52 of the Clayton Municipal Code.

15.08.040 Exempt Signs. The following signs shall not require review and approval by City:

- A. Address signs, provided the sign does not exceed two (2) square feet in area.
- B. Public information, identification, civic event, and directional signs erected by a public agency or public utility.
- C. Incidental signs.
- D. Legal notices posted by law.
- E. Building markers, provided the sign does not exceed four (4) square feet in area and is not illuminated.
- F. Signs displayed by private individuals, when required by law or regulations of any governmental agency.
- G. Temporary noncommercial signs on private real property, provided the aggregate signage displayed at one time does not exceed three (3) square feet in area per parcel.
- H. Wall signs indicating the historical significance of a site or building, provided the sign does not exceed four (4) square feet in area and is not illuminated.
- I. Signs displayed in the interior of a building, mall, court, stadium, or enclosed lobby more than three (3) feet from an exterior window or door and intended for interior viewing only.
- J. Multiple address signs, provided the individual signs do not exceed four (4) inches by twenty-four (24) inches.
- K. Residential open house signs for a home sale in accordance with the standards of Section 15.08.070 of this Chapter.
- L. Flags, provided they are not used in a commercial manner or to advertise a business or its location.
- M. Murals containing no commercial message, provided the mural has intrinsic artistic value or appeal regardless of the business in the building on whose wall the mural is painted. Murals shall take into consideration the overall architecture of the building and shall not be placed on decorative surfaces or finishes. The colors and materials used shall be reasonably harmonious with those in the area.
- N. Personal property sale signs, in accordance with the standards of Section 15.08.070 of this Chapter.
- O. Real estate signs in accordance with the provisions of Section 15.08.070 of this Chapter.
- P. Portable signs in accordance with the provisions of Section 15.08.070 of this Chapter.
- Q. Banners and pennants in accordance with the provisions of Section 15.08.070 of this Chapter.
- R. Community event signs not exceeding twenty-four (24) square feet in area.

15.08.050 Prohibited Signs. The following signs are prohibited anywhere in the City:

- A. Animated signs.
- B. Flags used in a commercial manner or to advertise a business or its location.
- C. Signs that by color, wording, design, location, or illumination resemble or conflict with any traffic-control device or with safe and efficient flow of traffic.
- D. Signs that obstruct the free and clear vision of or create confusion for motorists or pedestrians.
- E. Signs with lighting detrimental to surrounding property or prevents peaceful enjoyment of residential uses.
- F. Banners and pennants, except as provided in Section 15.08.070 of this Chapter.
- G. Roof signs.

- H. String pennants.
- I. Balloons and similar inflatable signs.
- J. Permanent signs mounted on fences or deck/balcony railings.
- K. Portable signs except as provided in Section 15.08.070 of this Chapter.
- L. Temporary signs are prohibited in the public right-of-way except for signs for City-sponsored community events in location(s) approved by the City.
- M. Signs located on private property without the property owner's approval.
- N. Off-site signs except for:
 1. Temporary noncommercial signs.
 2. Residential open house signs.
 3. Garage or yard sale signs.
 4. Signs attached to trees, shrubs, or other natural features.
- O. Mobile billboard operating on a street or other public place within the city in which the public has the right of travel.

15.08.060 General Sign Requirements and Standards.

- A. Signs in the R-10, R-12, R-15, R-20, R-40, R-40-H, M-R, M-R-M, M-R-H, PF, and A Districts - Sign Permits. A sign permit is required in the R-10, R-12, R-15, R-20, R-40, R-40-H, M-R, M-R-M, M-R-H, PF, and A Districts for all non-exempt signs as follows:
 1. Noncommercial locational signs in accordance with the standards of Section 15.08.070 of this Chapter.
 2. Neighborhood/district entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
 3. Subdivision marketing sign program in accordance with the standards of Section 15.08.070 of this Chapter.
 4. No other non-exempt signs are allowed in these districts.
- B. Signs in the L-C District - Sign Permits. A sign permit is required in the L-C District for all non-exempt signs as follows:
 1. Noncommercial locational signs in accordance with the standards of Section 15.08.070 of this Chapter.
 2. Neighborhood/district entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
 3. Master sign plan in accordance with the standards of Section 15.08.070 of this Chapter.
 4. Commercial center entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
 5. Subdivision marketing sign program in accordance with Section 15.08.070 of this Chapter.
- C. Signs in the L-C District - Standards. Ground and building signs relating to on-site commercial activities are authorized in the L-C Districts in accordance with the following standards:
 1. The aggregate sign area of any combination of ground signs and building signs for a building or a business shall not exceed one (1) square foot per lineal foot of building frontage or store frontage. Exempt signs, directory signs, commercial center entry signs, pennants, and portable signs are not subject to this aggregate sign limit.

2. Monument signs (ground signs) shall not exceed eight (8) feet in height, and the size of such signs may be no greater than sixty percent (60%) of the allowable aggregate sign area for the building frontage to a maximum of twenty-four (24) square feet.
 3. Pole signs (ground signs) shall not exceed eight (8) feet in height, and the size of such signs may be no greater than sixty percent (60%) of the allowable aggregate sign area for the building frontage to a maximum of twenty-four (24) square feet.
 4. Kiosk signs (ground signs) shall not exceed twenty-four (24) square feet in area (all faces) and shall not exceed seven (7) feet in height.
 5. Projecting signs (building signs) shall not exceed twelve (12) square feet in area and shall maintain a vertical clearance of at least eight (8) feet.
 6. Suspended signs (building signs) oriented toward pedestrian areas or walkways shall not exceed six (6) square feet in area and shall maintain a vertical clearance of at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path.
 7. Suspended signs (building signs) oriented toward street traffic and/or parking lots shall maintain a vertical clearance of at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path, and may not be displayed over vehicular access. The size of such a suspended sign may be no greater than sixty percent (60%) of the allowable aggregate sign area for the building frontage to a maximum of twenty (20) square feet.
 8. Window signs (building signs) shall not cover more than forty (40) percent of the glazed area of an individual window panel or more than twenty (20) percent of the aggregate glazed area on any one building frontage or store frontage.
 9. Wall Signs (building signs) - one (1) square foot per lineal foot of building or store frontage.
 10. Awning Signs (building signs) - one (1) square foot per lineal foot of building or store frontage.
- D. Signs in the PD District. Signs in the PD District shall conform to the standards or signs for uses defined in the applicable General Plan designation. For signs in areas designated residential, cultural center, institutional, school, or open space by the General Plan, the requirements and standards for signs in the R-10, R-12, R-15, R-20, R-40, R-40-H, M-R, M-R-M, M-R-H, PF, and A Districts shall apply. For signs in areas designated commercial by the General Plan, the requirements and standards for signs in the L-C District shall apply unless otherwise specified by a master sign plan.

15.08.070 Regulations for Special Signs.

- A. Neighborhood/District Entry Signs. Neighborhood/district entry signs are allowed in all districts subject to the following standards:
 1. The sign shall include only the name of the neighborhood or district.
 2. Lettering shall not exceed eighteen (18) inches in height.
 3. The top of the letters shall not exceed six (6) feet in height.
- B. Commercial Center Entry Signs. Commercial center entry signs are allowed in commercial districts subject to the following standards:
 1. One (1) sign may be located near each main vehicular entrance to the shopping center, business area, or office park fronting on a public roadway.

2. The sign may be a pole sign or monument sign.
 3. The sign shall not exceed eight (8) feet in height.
 4. Lettering shall not exceed twenty-two (22) inches in height.
- C. **Banners.** Banners for new or relocated businesses are allowed temporarily in commercial districts subject to the following standards:
1. **Banner in lieu of permanent sign:**
 - a. The banner shall be secured on all sides.
 - b. The banner may only be displayed for up to thirty (30) days, with up to an additional thirty (30) day extension if approved administratively by the Community Development Department.
 - c. The banner must conform to the sign area dimensions and location of Section 15.08.060 C of this Chapter.
 2. **Promotional banner.** A second banner in addition to that noted above may be allowed subject to the following standards:
 - a. The banner may be a wall, window, or suspended sign.
 - b. The banner may only be displayed for up to thirty (30) days.
 - c. The banner may be no larger than the banner as approved per Section 15.08.070 C1 and must conform to the sign area dimensions of Section 15.08.060 C of this Chapter.
- D. **Pennants.** Pennants are allowed in commercial districts subject to the following standards.
1. Only one (1) pennant may be displayed by any one (1) business.
 2. The pennant shall be secured to a pole on one (1) side and shall be hanging.
 3. The pennant shall not exceed two (2) feet in width or four (4) feet in length.
 4. The pennant shall be made in a professional manner and workmanship of fabric, plastic, or similar material designed to withstand at least six (6) months of outdoor exposure. Paper pennants shall not be allowed.
 5. The bottom of a pennant shall be at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path. A pennant may not be displayed over a street, driveway, or vehicular access.
- E. **Portable Signs.** Portable signs are allowed in commercial districts subject to the following standards:
1. Only one (1) portable sign may be displayed by any one (1) business.
 2. The sign shall only be in the form of an A-frame, sandwich board, menu board, or umbrella.
 3. The sign shall not exceed three (3) feet in height or two (2) feet in width per face, except for an umbrella.
 4. The sign shall be displayed only during the hours the business is open to the public and shall be removed during non-business hours.
 5. The sign shall be displayed immediately adjacent to the business it advertises.
 6. The sign shall not be displayed in a public right-of-way nor shall it obstruct a pedestrian walkway.
 7. The sign shall be constructed out of a stable and rigid material (i.e., PVC is not considered an acceptably rigid material).
- F. **Residential Open House and Personal Property Sale Signs.** Residential open house and personal property sale signs are allowed for residential uses subject to the following standards:

1. A total of one (1) on-site sign and up to six (6) off-site signs.
 2. Only one (1) off-site sign may be displayed at any one intersection for each residential open house or personal property sale.
 3. The signs shall not exceed three (3) feet in height or two (2) feet in width.
 4. The signs shall only be displayed up to one (1) hour before, during, and up to one (1) hour following the residential open house or personal property sale.
 5. The signs shall not be displayed in a public right-of-way nor shall they obstruct a pedestrian walkway, except signs shall be allowed behind the sidewalk or behind the curb if there is no sidewalk.
 6. No signs shall be displayed on private property without the prior consent of the property owner.
 7. Balloons, flags, pennants, animated devices, and similar objects are prohibited. (see Section 17.16.020E of the Municipal Code for further regulations for Personal Property Sales).
- G. Noncommercial Locational Signs. Noncommercial locational signs are allowed in all districts subject to the following standards:
1. The signs may include building signs and ground signs.
 2. The aggregate sign area may not exceed twenty-four (24) square feet for a lot up to forty thousand (40,000) square feet in size. For lots larger than forty thousand (40,000) square feet, sign area may be increased subject to specific Planning Commission review and approval.
 3. No ground or pole sign shall exceed eight (8) feet in height.
- H. Real Estate Signs. Real estate signs are allowed in all districts subject to the following standards:
1. Only one (1) on-site real estate sign may be displayed on a front or side yard frontage. An additional real estate sign may be displayed on a rear yard frontage.
 2. Real estate signs in residential districts shall not exceed six (6) square feet in area. Real estate signs in commercial districts shall not exceed twelve (12) square feet in area.
 3. The sign may be in the form of a pole sign or a wall sign.
 4. The sign shall not exceed six (6) feet in height.
 5. The sign shall be removed within ten (10) days of the lot or building(s) being sold, leased, or rented.
 6. Real estate signs located off-site of the subject property (e.g., at nearby intersection, public landscape, public property, public right of way) are not allowed.
- I. Subdivision Marketing Sign Program. Subdivision marketing signs are allowed in residential districts subject to the approval of a subdivision marketing sign program in accordance with the following standards:
1. The program may include a combination of temporary ground signs, wall signs, subdivision marketing pole pennants, and real estate signs.
 2. All subdivision marketing signs shall be displayed within the boundaries of the subdivision.
 3. Subdivision marketing pole pennants shall not exceed twenty-five (25) feet in height or be located closer than every fifty (50) feet.

4. All subdivision marketing signs shall be removed within thirty (30) days of the opening of escrow for sale of the last home in the subdivision.
 5. The dimensions of any sign shall not exceed eight (8) feet in length, nor eight (8) feet in height, nor a total area of sixty (60) square feet.
- J. Master Sign Plan. At the discretion of the City or one or more property owners, a master sign plan may be established for a shopping center, business area, office park, or similar identifiable geographic area. Such master sign plan may impose sign requirements and standards addressing the number, height, area, color, or other sign characteristics in a manner more restrictive than that allowed by the general sign requirements and standards of Section 15.08.060 of this Chapter. Such a master sign plan may be established to promote an enhanced sense of identity, aesthetic value, or other feature. A master sign plan will not only identify and describe those sign characteristics that are more restrictive than those allowed by the general sign requirements and standards of Section 15.08.060 of this Chapter, but also the purpose or goal for which the master sign plan is established.

15.08.080 Computation of Sign Area and Height. The following principles shall govern the computation of sign area and height.

- A. Computation of Area of Individual Signs. The sign area of a sign face (which is also the sign area of a wall sign or other sign with only one (1) face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative wall when such wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.
- B. Computation of Area of Multi-Faced Signs. The sign area for a sign with more than one (1) face shall be computed by adding together the area of all sign faces visible from any one point. When two (2) sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one (1) of the faces.
- C. Computation of Height. The height of a sign shall be computed as the distance from the grade at the edge of the public way along which a sign is placed or oriented to the highest point of the sign, or any structural or architectural component of the sign. When the grade at the edge of the public way is higher than the site on which the sign is placed, that portion of the sign below the grade at the edge of the public way shall not be included in determining the sign's overall height.
- D. Computation of Total Permitted Sign Area. The total area of all individual signs permitted on a lot shall be computed according to Section 15.08.060 C of this Chapter. Property fronting two (2) or more streets are allowed the permitted sign area specified in Section 15.08.060 C for each such street frontage.

15.08.090 Maintenance. All signs shall be maintained in good repair and shall be cleaned, painted, and replaced as necessary to present a neat appearance at all times.

15.08.100 **Nonconforming Signs.**

- A. Except for regular maintenance, no non-conforming sign shall be altered, modified, added to, or increased in area, unless the entire sign is brought into conformity with the requirements and standards of this Chapter.
- B. Any non-conforming sign that is damaged or destroyed to the extent of fifty (50) percent or more of its estimated market value shall not be replaced or repaired except by a sign that conforms to the requirements and standards of this Chapter.
- C. Any non-conforming sign relating to a business that has not operated for six (6) consecutive months shall be removed.

15.08.105 **Substitution.** In each instance and under the same conditions to which this Chapter permits any sign, a sign containing an ideological, political or other noncommercial message that is constructed to the same physical dimensions of the permitted sign shall be permitted.

15.08.110 **Enforcement.** Any person erecting, displaying, or maintaining a sign in violation of this Chapter is guilty of an infraction and shall be subject to enforcement and penalties set out in Chapters 1.12, 1.14, 1.16, and 1.20 of Title 1 of the Clayton Municipal Code.

**CITY OF CLAYTON
PLANNING COMMISSION
RESOLUTION NO. 01-19**

**A RESOLUTION OF NO RECOMMENDATION TO THE CITY COUNCIL ON AN ORDINANCE
AMENDING MUNICIPAL CODE TITLE 15, "BUILDING AND CONSTRUCTION", CHAPTER 15.08
SIGN PROVISIONS
(ZOA-01-19)**

WHEREAS, the City Council has indicated an interest to amend its temporary noncommercial signage regulations to allow individual signs up to sixteen (16) square feet in area and to not limit the aggregate sign area displayed at one time; and

WHEREAS, this Ordinance is intended to ensure that City residents and others are able to exercise one's constitutional right to free speech subject to the City's substantial interests in aesthetics and otherwise ensuring the general health, safety and welfare; and

WHEREAS, this Ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment; and

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, on March 12, 2019, the Clayton Planning Commission held a duly-noticed public hearing on the matter, and received and considered testimony, both oral and documentary, and discussed the matter at length without being able to reach a consensus on a specific recommendation to the City Council on the proposed Ordinance to amend the Sign Provisions to allow individual temporary noncommercial signs up to sixteen (16) square feet in area and to not limit the aggregate sign area displayed at one time; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Clayton, based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, did not reach a consensus on the matter and provided no specific recommendation to the City Council on the proposed Ordinance to amend the Clayton Municipal Code Sign Provisions, attached hereto as Exhibit 1 and incorporated herein by this reference.

Planning Commission
Resolution No. 01-19

PASSED AND ADOPTED by the Planning Commission of the City of Clayton at a regular meeting on the 12th day of March, 2019.

APPROVED:

ATTEST:

Bassam Altwal
Chair

Mindy Gentry
Community Development Director

ATTACHMENT

Draft Ordinance No. 485 Amending the Sign Provisions

Draft
Minutes
(Excerpt)
Clayton Planning Commission Meeting
Tuesday, March 12, 2019

1. CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Chair Bassam Altwal called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton, California.

Present: Chair Bassam Altwal
Vice Chair Peter Cloven
Commissioner A. J. Chippero
Commissioner William Gall
Commissioner Frank Gavidia

Absent: None

Staff: Community Development Director Mindy Gentry
Assistant Planner Milan Sikela, Jr.

5. PUBLIC HEARINGS

- 5.a. **ZOA-01-19, Municipal Code Amendment, City of Clayton.** A City-initiated Ordinance for the purpose of making a recommendation to the City Council regarding amendments to temporary noncommercial signs within Chapter 15.08 – Sign Provisions of Title 15 in the Clayton Municipal Code.

Director Gentry presented the staff report.

Commissioner Chippero inquired what would qualify as a temporary sign? Director Gentry responded that the definition provided in the Clayton Municipal Code identified temporary signs as those types of signs that are made out materials such as cardboard and canvas.

Vice Chair Cloven had the following questions:

- So, regarding the 16 square-foot sign example provided by staff at tonight's meeting as a size example, according to our regulations, a property owner can have an unlimited amount of temporary noncommercial signs on private property? Director Gentry said that was correct.
- While I appreciate the protection of the freedom of speech, I am concerned about the possibility of visual blight.

Commissioner Gall inquired why was the aggregate sign area for temporary noncommercial signs changed to be an unlimited size. Director Gentry responded that there was discussion at the City Council level that aggregate sign areas would be self-regulating.

Commissioner Chippero had the following questions:

- So individual signs are required to have dimensions of 4 feet-by-4 feet to make the 16 square-foot maximum? Director Gentry responded that the signs could be any dimension, such as 1 foot-by-16 feet or 2 feet-by-8 feet, to make up the 16 square-foot maximum.
- How was the maximum 16 square-foot maximum per sign arrived at? Director Gentry responded that the City Council determined 16 square feet was an appropriate size in order to avoid having larger billboard type signs while still protecting first amendment rights and allow people to convey their message.

Commissioner Gavidia had the following comments:

- As I reviewed the information, it appeared that our City Attorney was concerned about a potential lawsuit over limiting maximum sign area.
- I understand the other Commissioners' concerns over visual blight but we must protect the right of free speech.
- When Americans burn the American flag, I find it extremely offensive; however, Americans have the right to do it. This is what free speech is all about.
- The first amendment is here to protect unpopular and unfavorable speech as well.
- I am against trying to place a restriction on the amount of signage on a property.
- People should be free to express themselves on their own property.
- These regulations for temporary noncommercial signage were meant for election season.

Chair Altwal had the following questions:

- Even though the proposed maximum area allowed per sign is 16 square feet, I could still have an unlimited amount of signs on my property if I wanted? Director Gentry responded that was correct.
- And on each sign I could say that same thing over and over, if I wanted? Director Gentry responded that was correct.
- How long can I display these types of signs on my property? Director Gentry responded the signs can be displayed for unlimited amount of time and added the City Attorney did not recommend placing a limit on the length of time in order to preserve the intent of the first amendment. However, the Code allows for enforcement if the signs are deteriorated or if the content of the sign is not considered to be protected speech.
- Regarding political signs, is there a law that requires political signs to be removed after an election? Director Gentry responded there is no actual law in place currently limiting the duration that signs can be displayed.
- This pertains to only temporary noncommercial signs on private property and not signs on public property or in the public right-of-way, correct? Director Gentry responded that was correct; the signs we are discussing tonight are only temporary noncommercial signs located on the private properties.

Vice Chair Cloven inquired whether his understanding was correct in that you can have as many signs as you want on your private property? Director Gentry responded that was correct.

Chair Altwal inquired whether these signs could be placed anywhere on my property such as in a window or on the roof of my house? Director Gentry responded that was correct.

The public hearing was opened.

Ann Stanaway, 1553 Haviland Place, had the following comments:

- It would be good to require signs to be taken down for a certain period of time when it is not necessary for the sign to be displayed.
- Allowing an unlimited aggregate of sign area seems totally politically motivated since, during the next election, we have three City Council positions opening up and the candidates will want as many signs as possible displayed.

The public hearing was closed.

Vice Chair Cloven indicated that, by allowing a 16-square foot maximum sign area, the City Council was seeking a middle ground and attempting not to limit free speech.

Commissioner Gavidia had the following comments and question:

- There should be no limit on signage.
- I discovered that, in a free speech class in a college on the other side of the country, Clayton was used as an example over free speech issues. I do not want Clayton to be known for infringing upon free speech.
- I believe people are decent and candidates are decent and would not abuse the unlimited aggregate amount of signage allowance.
- I believe there are decency laws that would prevent obscene or profane language, correct? Director Gentry responded that hate speech is not considered protected speech.

Chair Altwal indicated that the aggregate amount of signage and the time of duration that a sign can be displayed should both be restricted to a maximum size and duration.

Vice Chair Cloven indicated that, although he has concerns about blight caused by an unlimited amount of signage, we cannot limit free speech.

Chair Altwal indicated that, as a business owner, there were many regulations regulating such characteristics as font, color, lines of text, and a business could essentially still represent its own interests but had to comply with certain sign criteria. I think having regulations is a good idea.

Vice Chair Cloven indicated business signs are permanent in nature, not temporary.

Commissioner Gavidia indicated that business signs are different than political free speech signs and we should not be regulating someone's right to free speech. We should trust that Americans will do the right thing when it comes to free speech.

Commissioner Gall indicated he had concerns about allowing an unlimited aggregate of signs. I believe in free speech, but I think there should be a maximum allowance of aggregate signage allowed by the Code.

Chair Altwal indicated that he felt restricting aggregate sign area was not an issue related to free speech.

Since the City Council and City Attorney have already looked at this issue, I believe the direction is clear.

Vice Chair Cloven moved to adopt Resolution No. 01-19, recommending City Council approval of an Ordinance amending the City's Sign Provisions for temporary noncommercial signs. There was no second.

Commissioner Chippero indicated he was concerned about the blight that might be caused by having an unlimited aggregate but also did not want to infringe on free speech and suggested that a balance should be struck so the Planning Commission can agree on a motion.

Chair Altwal indicated there would be no infringement on free speech if we establish a maximum area for aggregate signs. A person can still express their opinion even if there is a maximum allowance for aggregate sign area.

Vice Chair Cloven indicated the Planning Commission needs to find middle ground regarding this issue.

Commissioner Gavidia had the following comments:

- We should not be creating laws restricting sign area maximums that that we cannot enforce.
- I support having no restrictions on aggregate sign areas.
- Balancing the issue of blight against the Constitution of the United States which allows for free speech, I am going to support the Constitution.
- With no aggregate limit, I do not believe that Clayton will suddenly suffer from blight caused by signs.
- I believe that the citizens of Clayton are good people and will not let our community be blight caused by signs.

Chair Altwal indicated that he does not feel comfortable with allowing maxim aggregate sign area to be unlimited.

The Planning Commission discussed ways to come to some sort of agreement on a vote.

Commissioner Gavidia indicated he was in favor of not voting on the recommendation in Planning Commission Resolution No. 01-19.

Director Gentry indicated if there is no action taken or no recommendation to the City Council then you are essentially recommending what is currently codified which is three square feet for temporary noncommercial signs.

Chair Altwal indicated I want to send something to the City Council and not just have our decision be no action.

Commissioner Gavidia said, if the Planning Commission cannot reach a decision, we should let the voters decide on this issue.

Vice Chair Cloven indicated he would be in favor of an aggregate that is larger than the current three square-foot aggregate listed in the Code.

Chair Altwal reiterated that he really wants to send a Planning Commission recommendation to the City Council and not a message that the Planning Commission is doing nothing.

Commissioner Chippero and Vice Chair Cloven both concurred that, as the Ordinance is currently written, the unlimited aggregate allowance would preclude any restriction on collective sign size anyway.

Chair Altwal explained that was the reason we should put a maximum restriction on aggregate sign area so that people may display a large amount of signs but something within reason that would not cause blight.

Director Gentry indicated that, for clarification purposes, people cannot combine the 16 square-foot signs directly adjacent to each other. Each sign has to have a minimum separation of 42 inches.

Chair Altwal indicated he was concerned about the possible abuse that may occur as a result of having unlimited aggregate sign area and wants to avoid a situation where the signs create an eyesore.

Commissioner Gavidia had the following comments:

- This issue is about political freedom of speech and we must preserve that right in our community.
- I am very passionate about the first amendment.
- Americans have the right of free speech; why are we trying to limit that right?
- We should not be recommending a limit on aggregate sign area since we cannot enforce it.

Chair Altwal indicated that the City should still have laws that govern sign aesthetics.

Vice Chair Cloven indicated that, as the proposed Ordinance is currently written, we are not limiting free speech.

Chair Altwal moved to adopt Resolution No. 01-19, adding a requirement for a maximum aggregate allowance and a maximum time limit that a sign can be displayed. There was no second.

Director Gentry indicated that, if the Planning Commission is recommending to add a maximum aggregate sign allowance or any other restrictions on signs such as duration or other criteria, there should be an actual dimensional threshold number and a time period recommended.

Chair Altwal moved to adopt Resolution No. 01-19, adding a requirement for a maximum aggregate allowance of 150 square feet. There was no second.

Vice Chair Cloven indicated there is value in having at least a maximum of 16 square feet per sign.

Commissioner Chippero moved and Vice Chair Cloven seconded a motion of no recommendation to the City Council for Resolution No. 01-19. The motion passed 4-1 (Chair Altwal voted to deny the motion).



Agenda Date: 4-02-2019

Agenda Item: 8a

Approved: 
Gary A. Nepper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: DAVID WOLTERING, INTERIM COMMUNITY DEVELOPMENT DIRECTOR *JW*

DATE: APRIL 2, 2019

SUBJECT: POLICY DISCUSSION OF ACCESSORY DWELLING UNIT REGULATIONS
(ZOA-02-17)

RECOMMENDATION

It is recommended the City Council discuss and provide direction to staff on an amendment to the Clayton Municipal Code Chapter 17.47 – Second Dwelling Units in order to address the various new State regulations pertaining to Accessory Dwelling Units (ADUs), also known as “second units”, “in-law units”, and “granny units”, in response to the passage of SB 1069, AB 2299, SB 229, and AB 494.

BACKGROUND

STATE LAW

The State of California legislature has found and declared accessory dwelling units as a valuable form of housing by providing housing for family members, students, the elderly, in-home health care providers, the disabled, and others at below market prices within existing neighborhoods. Further, the State legislature has declared a housing crisis with the availability of housing to be of vital statewide importance, and accessory dwelling units have been determined to be an essential part of California’s housing supply by providing a lower cost housing to meet the needs of existing and future residents (Government Code Section 65852.150) (**Attachments 1 and 2**).

CLAYTON MUNICIPAL CODE

The Clayton Municipal Code (CMC) Chapter 17.47 - Second Dwelling Units is currently "null and void" due to the passage of various State laws (SB 1069, AB 2299, SB 229 and AB 494) which amended the regulations pertaining to second units, now termed as Accessory Dwelling Units (ADUs). Clayton is not required to adopt an ADU ordinance. However, when a local agency has not adopted an ADU ordinance, the agency is compelled to apply the standards in Government Code Section 65852.2, subdivision (a), and either approve or disapprove the application by ministerial action within 120 days after receiving the application (**Attachment 3**). Thus, a local jurisdiction is required to process ADU applications even when its local ADU regulations have been rendered "null and void" by state law.

In order to preserve local control, the City Council may want to consider updating its ADU regulations in order to impose development standards such as parking, height, setback, lot coverage, landscape, architectural review, the maximum size of a unit and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places, as allowed for by State law. While State law provides the minimum standards that may be used to evaluate a proposed ADU, cities can adopt standards that are less restrictive. Additionally, locally adopted ADU standards must not be designed or applied in a manner that burdens the development of ADUs and should maximize the potential for ADU development.

Further, State law requires the establishment of a ministerial application review process that precludes a discretionary review or hearing; therefore, providing codified standards will assist staff as well as the public to determine and apply local Clayton requirements for review and approval of an ADU. Additionally, a ministerial review and decision of an application for an ADU shall be rendered within 120 days from application.

If a city adopts a local Ordinance pertaining to ADUs, the jurisdiction is required to send the Ordinance for review to the Department of Housing and Community Development (HCD) within 60 days of adoption.

HOUSING ELEMENT

Clayton's HCD-certified 2015-2023 Housing Element encourages and promotes the construction of second units (ADUs) and has identified Policy I.3 and Implementation Measure I.3.1, which state (**Attachment 4**):

***"POLICY I.3** The City shall encourage the development of second dwelling units on new and existing single-family-zoned lots."*

***Implementation Measure I.3.1.** The City shall continue to promote the development of second dwelling units by publicizing information in the general application packet and posting information on the City's website. The City will aim to approve two second dwelling units per year during the planning period."*

DISCUSSION

Even though Chapter 17.47 - Second Dwelling Units of the CMC is now null and void due to it being overridden by State law, it does provide an appropriate baseline of previous Council direction and a framework to begin a dialogue regarding the establishment of policies surrounding ADUs (**Attachment 5**).

Below, a number of issues and standards have been identified which can be addressed by the adoption of a local ordinance. Each issue is framed by first indicating the parameters contained in the CMC pertaining to second dwelling units and then, if applicable, it is followed by a summary of State law on that particular issue. Lastly, staff has identified policy questions for the Council to consider and to which staff is seeking direction. Based on the direction given regarding these policy issues, staff will return with a proposed ordinance at a later date for first Planning Commission and then Council consideration.

ISSUE #1: DEFINITION

Accessory Dwelling Unit (ADU) is defined by the State as an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated (**Attachment 3**). An accessory dwelling unit also includes the following:

- 1) An efficiency unit, which is defined under the California Building Code as having a living area of at least 220 square feet with a separate closet, kitchen sink, cooking appliance, and refrigeration facilities and containing a separate bathroom with a water closet, lavatory, and bathtub or shower.
- 2) A manufactured home.

State law does allow jurisdictions the ability to alter an efficiency unit definition by local ordinance and decrease the minimum square feet to 150 and only require a partial kitchen or bathroom facilities. Local jurisdictions cannot require an ADU be larger than 220 square feet.

- **POLICY QUESTIONS:** Does the City Council wish to decrease the minimum unit size of an ADU to 150 square feet and/or only require a partial kitchen and/or bathroom facilities? If no alteration is made, the minimum unit size for an ADU would be 220 square feet and require the above stated kitchen and bathroom amenities.

ISSUE #2: LOCATION

The CMC prohibits a second dwelling unit where public utilities or infrastructure services are inadequate.

Local jurisdictions have the ability to limit the construction of ADUs in designated areas based on the adequacy of water and sewer services and impacts to traffic flow and public safety. HCD guidance has warned that utilizing approaches such as restrictive overlays, limiting ADUs to larger lot sizes, burdensome lot coverage and setbacks and particularly concentration or distance requirements (e.g. no less than 500 feet between ADUs) may unreasonably restrict the ability of homeowners to create ADUs, contrary to the intent of the Legislature.

In addition, State law prevents ADUs from being counted towards the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot.

- **POLICY QUESTIONS:** Should there be a minimum lot size for new detached ADUs not contained within an existing structure?
- Should more than one ADU be allowed per lot? For example, one ADU could be allowed inside of the primary residence within the existing footprint of the house and also a detached ADU could be constructed on one lot.

ISSUE #3: SETBACKS

The CMC section pertaining to second dwelling units previously required these units to have the same setbacks as the primary residence in its respective zoning district (**Attachment 6 and 7**) and in PD zoning districts the setbacks were as follows: front setback of 20 feet, an interior side setback of five feet for a one-story portion and ten feet for a two-story portion, and exterior side setback of 20 feet, and rear setback of 15 feet.

These setbacks are still relevant, except for two instances of State law regarding garage and existing structure conversions to ADUs:

- 1) No setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of an ADU, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.
- 2) A local agency shall by ministerial action approve an application for a building permit to create within a zone for single-family use one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety.

Given Number Two above, it should be noted, the CMC provides different setback requirements for the principal dwelling and accessory structures/buildings (**Attachment 8**). Accessory buildings/structures can have reduced setbacks of five feet for both the interior side and rear setback if the building is at least 12 feet from the main building (and all other accessory buildings) and at least 65 feet from the front lot line. A homeowner could conceivably circumvent the setback requirements by first constructing an accessory structure and then converting the structure later to an ADU.

Also, the State statute uses the term "accessory structure" with an example of pool house or studio, but does not provide a definition beyond those examples. Due to the lack of a definition, staff is recommending the current definition in the CMC for "accessory structure" be renamed to a different term and to establish a new definition of "accessory structure" to be consistent with State law with respect the ADUs, including provisions the accessory building was legally constructed, as well as to remove any ambiguity.

- **POLICY QUESTIONS:** Should the setbacks remain the same as second units, which would apply setbacks for the principal dwelling to ADUs?
- Should the ADU setbacks match the requirements of an accessory structure? Or alternatively, should the setback requirements for accessory structures be changed to anticipate the construction of ADUs.
- Should different setbacks apply for small lot ADUs?
- Should an alternative set of setbacks be considered? For example, if an ADU is attached to the principal dwelling, then those setbacks would be applied; however, if it is a detached ADU, then the accessory building setbacks would apply.

ISSUE #4: UNIT SIZE

The CMC previously limited second dwelling units to 45% of total habitable floor area of an existing single-family dwelling and between 250 and 750 square feet for new construction under administrative review and up 1,000 square feet subject to Planning Commission review.

State law has determined the following maximum unit size thresholds for attached and detached ADUs:

Attached: An ADU shall not exceed 50% of the proposed or existing primary dwelling living or 1,200 square feet.

Detached: An ADU shall not exceed 1,200 square feet.

Currently, there is ambiguity in the State law whether jurisdictions must allow up to 1,200 square feet or if a lower ceiling can be established. The reigning opinion among peer staff is

that jurisdictions must provide a ministerial process for ADUs up to 1,200 square feet; however, other jurisdictions have submitted ADU ordinances with smaller maximum unit sizes to HCD, as required, without the issue being flagged. Further, the current position of HCD is that a lower threshold is acceptable, provided the standard does not unreasonably restrict or burden the creation of ADUs. HCD guidance lists "typical" maximum unit sizes ranges from 800 square feet to 1,200 square feet. HCD's analysis is not clearly supported by statutory analysis. Furthermore, HCD currently lacks statutory authority to enforce the state ADU law. Therefore, based on the legislative history and statutory text, the City Attorney's recommendation is to allow up to 1,200 square feet through a ministerial process.

As discussed above, the allowed minimum ADU size under State law is 220 square feet, which is considered to be an efficiency unit.

- **POLICY QUESTIONS:** What should be the maximum ADU unit size?
- Should the unit size be increased beyond the 1,200 square feet as mandated by State law? If so, should the larger ADUs be subject to a discretionary review by the Planning Commission and subject to additional standards?
- Should maximum unit size differ between attached and detached ADUs?

ISSUE #5: HEIGHT

The CMC for second dwelling units allows a height of an attached second dwelling unit to not exceed the height of the existing single-family dwelling or two stories, whichever is less. For a detached second dwelling, the height is restricted to one story or 15 feet, whichever is less. In light of State law allowing the conversion of existing accessory structures to ADUs, it should be highlighted the height of accessory structures is 16 feet.

State law is silent on any height requirements; however, it does indicate local government can impose standards on height.

- **POLICY QUESTIONS:** Should the height requirements be higher than one-story or 15 feet for detached ADUs?
- Should the height requirements of detached ADUs match the height requirements of accessory buildings at 16 feet?
- Should the second dwelling unit height standards be utilized?

ISSUE #6: OFF-STREET PARKING

The CMC for second dwelling units previously required one off-street parking space per bedroom and a second dwelling unit without a bedroom area to provide a minimum of one parking space. The parking space(s) could be uncovered, compact, and tandem as well as located in the front setback when located in the driveway. The parking space(s) were in addition to those required for a single-family dwelling.

The new State law contains several provisions related to off-street parking, contrary to the provision of the second dwelling unit section of the CMC:

- 1) A jurisdiction may reduce beyond the provisions contained in State law or eliminate parking requirements for any ADU.
- 2) Parking requirements for ADUs shall not exceed one parking space per unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
- 3) Off-street parking shall be permitted in setback areas in locations determined by the City 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 concerns.
- 4) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU and does not meet the criteria identified in number 5 below, the replacement spaces may be located in any configuration on the same lot as the ADU, which includes covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.
- 5) If an ADU meets the following criteria, then the City cannot impose parking standards for the ADU: 1) the ADU is located within one-half mile of public transit, 2) the ADU is located within an architecturally and historically significant historic district, 3) the ADU is part of the proposed or existing primary residence or an accessory structure, 4) when on-street parking permits are required but not offered to the occupant of the ADU, and 5) when a car share program is located within one block of the ADU.

- **POLICY QUESTIONS:** Should the parking requirements be further reduced beyond the requirements of State law or even eliminated for ADUs?

ISSUE #7: OWNER OCCUPANCY

Currently, the second dwelling unit section of the CMC requires the property owner to reside either in the principal dwelling or within the second unit or the lot containing the second unit be immediately adjacent to, on the same side of the street as, and sharing common side lot lines with the lot containing the primary residence of the property owner. This restriction is required to be memorialized in a deed restriction on the property.

State law allows local provisions requiring an applicant for an ADU to be owner-occupied either in the principal dwelling or the ADU. Further, State law also allows local jurisdictions to require the property to be used for rental of terms longer than 30 days. Lastly, ADUs are not to be sold separately from the principal dwelling unit.

- **POLICY QUESTIONS:** Should the same owner occupancy restrictions for second units be carried forward to ADUs?

- Should the owner occupancy requirement restriction be removed?
- Should there be a requirement the property be used for rentals of terms longer than 30 days?

ISSUE #8: APPEALS

Previously, the second dwelling unit section did not contain provisions regarding an appeal process and the CMC does not contain a provision in another section of the code regarding the appeal of an administrative decision. However, within other sections of the Zoning Code, administrative decisions made by the Community Development Director are appealable to the Planning Commission and then subsequently to the City Council.

- **POLICY QUESTION:** Should there be an appeal process established whereby an administrative decision can be appealed to the Planning Commission and then subsequently to the City Council?

ISSUE #9: JUNIOR ACCESSORY DWELLING UNITS

In addition to the recently passed legislation on ADU's, the State has also introduced an option for jurisdictions to permit by local ordinance Junior Accessory Dwelling Units (JADUs) (**Attachment 9**). The State has not mandated cities allow for JADUs. JADUs are limited in size of up to 500 square feet and are typically bedrooms within a single-family home that have a separate entrance from the main unit and provide kitchen facilities, including a sink, but can have common sanitation facilities. No additional parking can be required, owner occupancy is a requirement, and a fee cannot be charged for a water or sewer connection. These units do count towards a jurisdiction's Regional Housing Needs Allocation (RHNA).

- **POLICY QUESTIONS:** Should these types of units be allowed in Clayton?
- If so, should there be a requirement the rentals terms be longer than 30 days?

OTHER ISSUES

Connection Fees

For informational purposes only, staff has included the sewer and water connection fees for ADUs, which are not required for ADUs if the unit is contained within the existing space of a single-family residence or accessory structure, including but not limited to a studio, pool house, or other similar structure. However, the fees listed below do not include any Clayton development impacts fees.

- Contra Costa Water District Water Connection Fee: \$15,734
- City of Concord Sewer Connection Fee: \$2,774

FISCAL IMPACTS

Staff time and resources would be incurred to prepare the Ordinance for Planning Commission and City Council review and consideration. The costs to implement the Ordinance would be recovered through allowable charges for time and materials to be borne by the applicant.

ATTACHMENTS

1. HCD Memo Excerpt: Understanding Accessory Dwelling Units and Their Importance [pp. 2]
2. HCD Memo Excerpt: Frequently Asked Questions: Accessory Dwelling Units [pp. 9]
3. Government Code Section 65852.2 [pp. 3]
4. Excerpt from Clayton's HCD-certified 2015-2023 Housing Element [pp. 1]
5. Clayton Municipal Code Chapter 17.47 – Second Dwelling Units [pp. 4]
6. Clayton Municipal Code Chapter 17.16 - Single-Family Residential Districts [pp. 4]
7. Clayton Municipal Code Chapter - 17.20 Multiple Family Residential Districts [pp. 3]
8. Clayton Municipal Code Chapter 17.36.055 – Accessory Buildings and Structures [pp. 1]
9. HCD Memo: Junior Accessory Dwelling Units [3 pp.]

ATTACHMENT 1

Frequently Asked Questions: Accessory Dwelling Units

Should an Ordinance Encourage the Development of ADUs?

Yes, ADU law and recent changes intend to address barriers, streamline approval and expand potential capacity for ADUs recognizing their unique importance in addressing California's housing needs. The preparation, adoption, amendment and implementation of local ADU ordinances must be carried out consistent with Government Code Section 65852.150:

(a) The Legislature finds and declares all of the following:

(1) Accessory dwelling units are a valuable form of housing in California.

(2) Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.

(3) Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.

(4) Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.

(5) California faces a severe housing crisis.

(6) The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.

(7) Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.

(8) Accessory dwelling units are, therefore, an essential component of California's housing supply.

(b) It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.

Are Existing Ordinances Null and Void?



Yes, any local ordinance adopted prior to January 1, 2017 that is not in compliance with the changes to ADU law will be null and void. Until an ordinance is adopted, local governments must apply "state standards" (See Attachment 4 for State Standards checklist). In the absence of a local ordinance complying with ADU law, local review must be limited to "state standards" and cannot include additional requirements such as those in an existing ordinance.

Are Local Governments Required to Adopt an Ordinance?

No, a local government is **not required** to adopt an ordinance. ADUs built within a jurisdiction that lacks a local ordinance must comply with state standards (See Attachment 4). Adopting an ordinance can occur through different forms such as a new ordinance, amendment to an existing ordinance, separate section or special regulations within the zoning code or integrated into the zoning code by district. However, the ordinance should be established legislatively through a public process and meeting and not through internal administrative actions such as memos or zoning interpretations.

Can a Local Government Preclude ADUs?

No local government cannot preclude ADUs.

Can a Local Government Apply Development Standards and Designate Areas?

Yes, local governments may apply development standards and may designate where ADUs are permitted (GC Sections 65852.2(a)(1)(A) and (B)). However, ADUs within existing structures must be allowed in all single family residential zones.

For ADUs that require an addition or a new accessory structure, development standards such as parking, height, lot coverage, lot size and maximum unit size can be established with certain limitations. ADUs can be avoided or allowed through an ancillary and separate discretionary process in areas with health and safety risks such as high fire hazard areas. However, standards and allowable areas must not be designed or applied in a manner that burdens the development of ADUs and should maximize the potential for ADU development. Designating areas where ADUs are allowed should be approached primarily on health and safety issues including water, sewer, traffic flow and public safety. Utilizing approaches such as restrictive overlays, limiting ADUs to larger lot sizes, burdensome lot coverage and setbacks and particularly concentration or distance requirements (e.g., no less than 500 feet between ADUs) may unreasonably restrict the ability of the homeowners to create ADUs, contrary to the intent of the Legislature.

Requiring large minimum lot sizes and not allowing smaller lot sizes for ADUs can severely restrict their potential development. For example, large minimum lot sizes for ADUs may constrict capacity throughout most of the community. Minimum lot sizes cannot be applied to ADUs within existing structures and could be considered relative to health and safety concerns such as areas on septic systems. While larger lot sizes might be targeted for various reasons such as ease of compatibility, many tools are available (e.g., maximum unit size, maximum lot coverage, minimum setbacks, architectural and landscape requirements) that allows ADUs to fit well within the built environment.

Can a Local Government Adopt Less Restrictive Requirements?

Yes, ADU law is a minimum requirement and its purpose is to encourage the development of ADUs. Local governments can take a variety of actions beyond the statute that promote ADUs such as reductions in fees, less restrictive parking or unit sizes or amending general plan policies.

Santa Cruz has confronted a shortage of housing for many years, considering its growth in population from incoming students at UC Santa Cruz and its proximity to Silicon Valley. The city promoted the development of ADUs as critical infill-housing opportunity through various strategies such as creating a manual to promote ADUs. The manual showcases prototypes of ADUs and outlines city zoning laws and requirements to make it more convenient for homeowners to get information. The City found that homeowners will take time to develop an ADU only if information is easy to find, the process is simple, and there is sufficient guidance on what options they have in regards to design and planning.

The city set the minimum lot size requirement at 4,500 sq. ft. to develop an ADU in order to encourage more homes to build an ADU. This allowed for a majority of single-family homes in Santa Cruz to develop an ADU. For more information, see <http://www.cityofsantacruz.com/departments/planning-and-community-development/programs/casero-dwelling-unit-development-program>.

Can Local Governments Establish Minimum and Maximum Unit Sizes?

Yes, a local government may establish minimum and maximum unit sizes (GC Section 65852.2(c)). However, like all development standards (e.g., height, lot coverage, lot size), unit sizes should not burden the development of ADUs. For example, setting a minimum unit size that substantially increases costs or a maximum unit size that unreasonably restricts opportunities would be inconsistent with the intent of the statute. Typical maximum unit sizes range from 800 square feet to 1,200 square feet. Minimum unit size must at least allow for an efficiency unit as defined in Health and Safety Code Section 17958.1.

ADU law requires local government approval if meeting various requirements (GC Section 65852.2(a)(1)(D)), including unit size requirements. Specifically, attached ADUs shall not exceed 50 percent of the existing living area or 1,200 square feet and detached ADUs shall not exceed 1,200 square feet. A local government may choose a maximum unit size less than 1,200 square feet as long as the requirement is not burdensome on the creation of ADUs.

Can ADUs Exceed General Plan and Zoning Densities?

An ADU is an accessory use for the purposes of calculating allowable density under the general plan and zoning. 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. Minimum lot sizes must not be doubled (e.g., 15,000 square feet) to account for an ADU. Further, local governments could elect to allow more than one ADU on a lot.

New developments can increase the total number of affordable units in their project plans by integrating ADUs. Aside from increasing the total number of affordable units, integrating ADUs also promotes housing choices within a development. One such example is the Cannery project in Davis, CA. The Cannery project includes 547 residential units with up to 60 integrated ADUs. ADUs within the Cannery blend in with surrounding architecture, maintaining compatibility with neighborhoods and enhancing community character. ADUs are constructed at the same time as the primary single-family unit to ensure the affordable rental unit is available in the housing supply concurrent with the availability of market rate housing.

How Are Fees Charged to ADUs?

All impact fees, including water, sewer, park and traffic fees must be charged in accordance with the Fee Mitigation Act, which requires fees to be proportional to the actual impact (e.g., significantly less than a single family home).

Fees on ADUs, must proportionately account for impact on services based on the size of the ADU or number of plumbing fixtures. For example, a 700 square foot new ADU with one bathroom that results in less landscaping should be charged much less than a 2,000 square foot home with three bathrooms and an entirely new landscaped parcel which must be irrigated. Fees for ADUs should be significantly less and should account for a lesser impact such as lower sewer or traffic impacts.

What Utility Fee Requirements Apply to ADUs?

Cities and counties cannot consider ADUs as new residential uses when calculating connection fees and capacity charges.

Where ADUs are being created within an existing structure (primary or accessory), the city or county cannot require a new or separate utility connections for the ADU and cannot charge any connection fee or capacity charge.

For other ADUs, a local agency may require separate utility connections between the primary dwelling and the ADU, but any connection fee or capacity charge must be proportionate to the impact of the ADU based on either its size or the number of plumbing fixtures.

What Utility Fee Requirements Apply to Non-City and County Service Districts?

All local agencies must charge impact fees in accordance with the Mitigation Fee Act (commencing with Government Code Section 66000), including in particular Section 66013, which requires the connection fees and capacity charges to be proportionate to the burden posed by the ADU. Special districts and non-city and county service districts must account for the lesser impact related to an ADU and should base fees on unit size or number of plumbing fixtures. Providers should consider a proportionate or sliding scale fee structures that address the smaller size and lesser impact of ADUs (e.g., fees per square foot or fees per fixture). Fee waivers or deferrals could be considered to better promote the development of ADUs.

Do Utility Fee Requirements Apply to ADUs within Existing Space?

No, where ADUs are being created within an existing structure (primary or accessory), new or separate utility connections and fees (connection and capacity) must not be required.

Does "Public Transit" Include within One-half Mile of a Bus Stop and Train Station?

Yes, "public transit" may include a bus stop, train station and paratransit if appropriate for the applicant. "Public transit" includes areas where transit is available and can be considered regardless of tighter headways (e.g., 15 minute intervals). Local governments could consider a broader definition of "public transit" such as distance to a bus route.

Can Parking Be Required Where a Car Share Is Available?

No, ADU law does not allow parking to be required when there is a car share located within a block of the ADU. A car share location includes a designated pick up and drop off location. Local governments can measure a block from a pick up and drop off location and can decide to adopt broader distance requirements such as two to three blocks.

Is Off Street Parking Permitted in Setback Areas or through Tandem Parking?

Yes, ADU law deliberately reduces parking requirements. Local governments may make specific findings that tandem parking and parking in setbacks are infeasible based on specific site, regional topographical or fire and life safety conditions or that tandem parking or parking in setbacks is not permitted anywhere else in the jurisdiction. However, these determinations should be applied in a manner that does not unnecessarily restrict the creation of ADUs.

Local governments must provide reasonable accommodation to persons with disabilities to promote equal access housing and comply with fair housing laws and housing element law. The reasonable accommodation procedure must provide exception to zoning and land use regulations which includes an ADU ordinance. Potential exceptions are not limited and may include development standards such as setbacks and parking requirements and permitted uses that further the housing opportunities of individuals with disabilities.

Is Covered Parking Required?

No, off street parking must be permitted through tandem parking on an existing driveway, unless specific findings are made.

Is Replacement Parking Required When the Parking Area for the Primary Structure Is Used for an ADU?

Yes, but only if the local government requires off-street parking to be replaced in which case flexible arrangements such as tandem, including existing driveways and uncovered parking are allowed. Local governments have an opportunity to be flexible and promote ADUs that are being created on existing parking space and can consider not requiring replacement parking.

Are Setbacks Required When an Existing Garage Is Converted to an ADU?

No, setbacks must not be required when a garage is converted or when existing space (e.g., game room or office) above a garage is converted. Rear and side yard setbacks of no more than five feet are required when new space is added above a garage for an ADU. In this case, the setbacks only apply to the added space above the garage, not the existing garage and the ADU can be constructed wholly or partly above the garage, including extending beyond the garage walls.

Also, when a garage, carport or covered parking structure is demolished or where the parking area ceases to exist so an ADU can be created, the replacement parking must be allowed in any "configuration" on the lot, "...including, but not limited to, covered spaces, uncovered spaces, or tandem spaces, or..." Configuration can be applied in a flexible manner to not burden the creation of ADUs. For example, spatial configurations like tandem on existing driveways in setback areas or not requiring excessive distances from the street would be appropriate.

Are ADUs Permitted in Existing Residence or Accessory Space?

Yes, ADUs located in single family residential zones and existing space of a single family residence or accessory structure must be approved regardless of zoning standards (Section 65852.2(a)(1)(B)) for ADUs, including locational requirements (Section 65852.2(a)(1)(A)), subject to usual non-appealable ministerial building permit requirements. For example, ADUs in existing space does not necessitate a zoning clearance and must not be limited to certain zones or areas or subject to height, lot size, lot coverage, unit size, architectural review, landscape or parking requirements. Simply, where a single family residence or accessory structure exists in any single family residential zone, so can an ADU. The purpose is to streamline and expand potential for ADUs where impact is minimal and the existing footprint is not being increased.

Zoning requirements are not a basis for denying a ministerial building permit for an ADU, including non-conforming lots or structures. The phrase, "within the existing space" includes areas within a primary home or within an attached or detached accessory structure such as a garage, a carriage house, a pool house, a rear yard studio and similar enclosed structures.

Are Owner Occupants Required?

No, however, a local government can require an applicant to be an owner occupant. The owner may reside in the primary or accessory structure. Local governments can also require the ADU to not be used for short term rentals (terms lesser than 30 days). Both owner occupant use and prohibition on short term rentals can be required on the same property. Local agencies which impose this requirement should require recordation of a deed restriction regarding owner occupancy to comply with GC Section 27281.5

Are Fire Sprinklers Required for ADUs?

Depends, ADUs shall not be required to provide fire sprinklers if they are not or were not required of the primary residence. However, sprinklers can be required for an ADU if required in the primary structure. For example, if the primary residence has sprinklers as a result of an existing ordinance, then sprinklers could be required in the ADU. Alternative methods for fire protection could be provided.

If the ADU is detached from the main structure or new space above a detached garage, applicants can be encouraged to contact the local fire jurisdiction for information regarding fire sprinklers. Since ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, students, the elderly, in-home health care providers, the disabled, and others, the fire departments want to ensure the safety of these populations as well as the safety of those living in the primary structure. Fire Departments can help educate property owners on the benefits of sprinklers, potential resources and how they can be installed cost effectively. For example, insurance rates are typically 5 to 10 percent lower where the unit is sprinklered. Finally, other methods exist to provide additional fire protection. Some options may include additional exits, emergency escape and rescue openings, 1 hour or greater fire-rated assemblies, roofing materials and setbacks from property lines or other structures.

Is Manufactured Housing Permitted as an ADU?

Yes, an ADU is any residential dwelling unit with independent facilities and permanent provisions for living, sleeping, eating, cooking and sanitation. An ADU includes an efficiency unit (Health and Safety Code Section 17958.1) and a manufactured home (Health and Safety Code Section 18007).

Health and Safety Code Section 18007(a) **“Manufactured home,”** for the purposes of this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. **“Manufactured home”** includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

Can an Efficiency Unit Be Smaller than 220 Square Feet?

Yes, an efficiency unit for occupancy by no more than two persons, by statute (Health and Safety Code Section 17958.1), can have a minimum floor area of 150 square feet and can also have partial kitchen or bathroom facilities, as specified by ordinance or can have the same meaning specified in the Uniform Building Code, referenced in the Title 24 of the California Code of Regulations.

The 2015 International Residential Code adopted by reference into the 2016 California Residential Code (CRC) allows residential dwelling units to be built considerably smaller than an Efficiency Dwelling Unit (EDU). Prior to this code change an EDU was required to have a minimum floor area not less than 220 sq. ft unless modified by local ordinance in accordance with the California Health and Safety Code which could allow an EDU to be built no less than 150 sq. ft. For more information, see HCD's Information Bulletin at <http://www.hcd.ca.gov/codes/manufactured-housing/docs/ib2016-06.pdf>.

Does ADU Law Apply to Charter Cities and Counties?

Yes. ADU law explicitly applies to "local agencies" which are defined as a city, county, or city and county whether general law or chartered (Section 65852.2(i)(2)).

Do ADUs Count toward the Regional Housing Need Allocation?

Yes, local governments may report ADUs as progress toward Regional Housing Need Allocation pursuant to Government Code Section 65400 based on the actual or anticipated affordability. See below frequently asked questions for JADUs for additional discussion.

Must ADU Ordinances Be Submitted to the Department of Housing and Community Development?

Yes, ADU ordinances must be submitted to the State Department of Housing and Community Development within 60 days after adoption, including amendments to existing ordinances. However, upon submittal, the ordinance is not subject to a Department review and findings process similar to housing element law (GC Section 85585)

ATTACHMENT 2

Understanding Accessory Dwelling Units and Their Importance



Courtesy of Karen Chapple, UC Berkeley

California's housing production is not keeping pace with demand. In the last decade less than half of the needed housing was built. This lack of housing is impacting affordability with average housing costs in California exceeding the rest of the nation. As affordability becomes more problematic, people drive longer distances between a home that is affordable and where they work, or double up to share space, both of which reduces quality of life and produces negative environmental impacts.

Beyond traditional market-rate construction and government subsidized production and preservation there are alternative housing models and emerging trends that can contribute to addressing home supply and affordability in California.

One such example gaining popularity are Accessory Dwelling Units (ADUs) (also referred to as second units, in-law units, or granny flats).

What is an ADU

An ADU is a secondary dwelling unit with complete independent living facilities for one or more persons and generally takes three forms:

- **Detached:** The unit is separated from the primary structure
- **Attached:** The unit is attached to the primary structure
- **Repurposed Existing Space:** Space (e.g., master bedroom) within the primary residence is converted into an independent living unit
- **Junior Accessory Dwelling Units:** Similar to repurposed space with various streamlining measures

ADUs offer benefits that address common development barriers such as affordability and environmental quality. ADUs are an affordable type of home to construct in California because they do not require paying for land, major new infrastructure, structured parking, or elevators. ADUs are built with cost-effective one- or two-story wood frame construction, which is significantly less costly than homes in new multifamily infill buildings. ADUs can provide as much living space as the new apartments and condominiums being built in new infill buildings and serve very well for couples, small families, friends, young people, and seniors.

ADUs are a different form of housing that can help California meet its diverse housing needs. Young professionals and students desire to live in areas close to jobs, amenities, and schools. The problem with high-opportunity areas is that space is limited. There is a shortage of affordable units and the units that are available can be out of reach for many people. To address the needs of individuals or small families seeking living quarters in high opportunity areas, homeowners can construct an ADU on their lot or convert an underutilized part of their home like a garage

into a junior ADU. This flexibility benefits not just people renting the space, but the homeowner as well, who can receive an extra monthly rent income.

ADUs give homeowners the flexibility to share independent living areas with family members and others, allowing seniors to age in place as they require more care and helping extended families to be near one another while maintaining privacy.

Relaxed regulations and the cost to build an ADU make it a very feasible affordable housing option. A UC Berkeley study noted that one unit of affordable housing in the Bay Area costs about \$500,000 to develop whereas an ADU can range anywhere up to \$200,000 on the expensive end in high housing cost areas.

ADUs are a critical form of infill-development that can be affordable and offer important housing choices within existing neighborhoods. ADUs are a powerful type of housing unit because they allow for different uses, and serve different populations ranging from students and young professionals to young families, people with disabilities and senior citizens. By design, ADUs are more affordable and can provide additional income to homeowners. Local governments can encourage the development of ADUs and improve access to jobs, education and services for many Californians.



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GOVERNMENT CODE - GOV
TITLE 7. PLANNING AND LAND USE [65000 - 65499.86] (*Heading of Title 7 amended by Stats. 1974, Ch. 1536.*)

DIVISION 1. PLANNING AND ZONING [66000 - 66210] (*Heading of Division 1 added by Stats. 1974, Ch. 1536.*)

CHAPTER 4. Zoning Regulations [65800 - 65912] (*Chapter 4 repealed and added by Stats. 1965, Ch. 1880.*)

ARTICLE 2. Adoption of Regulations [65850 - 65863.13] (*Article 2 added by Stats. 1965, Ch. 1880.*)

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily use. The ordinance shall do all of the following:

- (A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.
- (B) (I) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.
- (II) Notwithstanding clause (I), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.
- (C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.
- (D) Require the accessory dwelling units to comply with all of the following:
- (I) The unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.
- (II) The lot is zoned to allow single-family or multifamily use and includes a proposed or existing single-family dwelling.
- (III) The accessory dwelling unit is either 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.
- (IV) The total area of floorspace of an attached accessory dwelling unit shall not exceed 50 percent of the proposed or existing primary dwelling living area or 1,200 square feet.
- (V) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.
- (VI) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
- (VII) 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 five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.
- (VIII) Local building code requirements that apply to detached dwellings, as appropriate.
- (IX) Approval by the local health officer where a private sewage disposal system is being used, if required.
- (X) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
- (II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency 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.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, and the local agency requires that those off-street parking spaces be replaced, 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. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

- (3) The accessory dwelling unit is part of the proposed or existing primary residence or an 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.
- (e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a zone for single-family use one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city may require owner occupancy for either the primary or the accessory dwelling unit created through this process.
- (f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).
- (2) Accessory dwelling units shall not be considered by a local agency, special district, or water corporation to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.
- (A) For an accessory dwelling unit described in subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.
- (B) For an accessory dwelling unit that is not described in subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.
- (g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.
- (h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. The department may review and comment on this submitted ordinance.
- (i) As used in this section, the following terms mean:
- (1) "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.
- (2) "Local agency" means a city, county, or city and county, whether general law or chartered.
- (3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.
- (4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:
- (A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
- (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
- (5) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
- (6) "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.
- (j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(Amended by Stats. 2017, Ch. 602, Sec. 1.5. (AB 494) Effective January 1, 2018.)

ATTACHMENT 4

CITY OF CLAYTON

HOUSING ELEMENT

- Modifications to development standards (on a case-by-case basis)

Responsibility: City Council, Planning Commission, Community Development Department

Time Frame: Ongoing, as projects of 10 or more units are processed through the Community Development Department. The City will monitor the implementation of this program to ensure that it does not cause a constraint to the development of housing in the City of Clayton and will make necessary revisions to the program if needed to avoid such a constraint.

Funding: General Fund

POLICY I.3 The City shall encourage the development of second dwelling units on new and existing single-family-zoned lots.

Implementation Measure I.3.1. The City shall continue to promote the development of second dwelling units by publicizing information in the general application packet and posting information on the City's website. The City will aim to approve two second dwelling units per year during the planning period.

Responsibility: Community Development Department

Time Frame: Ongoing, 2015–2023

Funding: General Fund

POLICY I.4 The City shall aggressively promote mixed-use or second-story residential units above commercial uses in the Town Center.

Implementation Measure I.4.1. To encourage development of mixed-use projects in the Town Center, the City has adopted the Clayton Town Center Specific Plan which provides detailed policy direction, standards, and guidelines that encourage mixed-use and second-story residential development. The City will continue to promote development opportunities in the Town Center, circulate a development handbook that describes the permitting process for mixed-use projects, and offer incentives such as density bonuses to incentivize mixed-use projects. The City will aim to facilitate the development of at least one mixed-use project within the planning period.

Responsibility: City Council, Planning Commission, Community Development Department

Time Frame: Annually and upon receiving development inquiries for mixed-use development.

Funding: General Fund

2/25/2019

ATTACHMENT 5

Chapter 17.47 - SECOND DWELLING UNITS

Sections:

17.47.010 - Purpose.

The purpose of this chapter is to establish standards and procedures for the administrative and discretionary review of second dwelling units in order to increase the supply of smaller and affordable dwelling units while ensuring they are compatible with existing neighborhoods.

(Ord. 373, 2004)

17.47.020 - Administrative Review.

A. Application Requirements and Review Procedures.

1. **Application Requirements.** The application for a second dwelling unit permit shall be submitted to the Department concurrent with the submittal of an application for a building permit. The second dwelling unit application shall include: a site plan, floor plans, and architectural elevations showing the proposed second dwelling unit and its relation to the principal dwelling; descriptions of proposed building materials and exterior finishes; site plan showing the parking to be provided; deed restrictions in compliance with Section 17.47.040; any required fees; and any other information required by the Department to determine whether the proposed second dwelling unit conforms to the standards set forth in Subsection 17.47.020.B.
2. **Review Procedure.** Upon receipt of a completed application, the Director shall issue a second dwelling unit permit, without discretionary review or public hearing, if the proposed second dwelling unit conforms to the standards set forth in Subsection 17.47.020.B.
3. **Deviations for Disabled Persons.** In order to encourage the development of dwelling units for disabled persons with limited mobility, the Director may make a finding that reasonable deviation from the stated standards is necessary to install features that facilitate access and mobility for disabled persons.

B. Standards of Approval. A second dwelling unit permit issued by the Director shall meet the following standards:

1. **Location.**
 - a. A maximum of one second dwelling unit may be located on any lot in a residential district (or a PD District with an underlying residential General Plan designation) that principally allows single-family dwellings.
 - b. Second dwelling units shall not be allowed where public utilities or infrastructure services are inadequate.
 - c. Second dwelling units are not required to meet the density requirements of the General Plan (or any applicable specific plan), but shall otherwise be consistent with the General Plan (or any applicable specific plan) text and diagrams.
 - d. No second dwelling unit may be approved if located on, or adjacent to, real property that is listed in the California Register of Historic Places.
2. **Setbacks.**
 - a. **Residential Districts.** Second dwelling units in the Single Family Residential Districts or the Multiple Family Residential District shall comply with the setbacks for principal dwellings in the respective zoning district in which it is located.
 - b. **Planned Development Districts.** Second dwelling units in the Planned Development (PD) District shall

maintain a front setback of twenty (20) feet; an interior side setback of five (5) feet for a one-story portion and ten (10) feet for a two-story portion; an exterior side setback of twenty (20) feet; and a rear setback of fifteen (15) feet.

3. **Building Separation Requirements.** A detached second dwelling unit shall not be closer than five (5) feet (including all structural protrusions and roof overhangs) to the principal dwelling. A detached second dwelling unit shall be located within one hundred (100) feet of the principal dwelling on the same lot.
4. **Unit Size.**
 - a. The gross floor area of a second dwelling unit created by new construction shall be at least two hundred fifty (250) square feet and shall not exceed seven hundred fifty (750) square feet. The second dwelling unit shall not have more than one bedroom.
 - b. The gross floor area of a second dwelling unit created by an addition to an existing single family dwelling shall not occupy more than forty-five percent (45%) of the total post-construction habitable floor area of the dwelling, excluding the garage area.
5. **Height.**
 - a. The height of an attached second dwelling unit shall not exceed the height of the existing single family dwelling or two (2) stories, whichever is less.
 - b. The height of a detached second dwelling unit shall not exceed one story or fifteen (15) feet, whichever is less.
6. **Residential Floor Area.** The second dwelling unit shall adhere to the residential floor area regulations in Chapter 17.7B applicable to the parcel. In the Planned Development (PD) District where residential floor area and building footprint regulations are not specified, the Director shall apply residential floor area and building footprint regulations based on the district that most closely matches the existing development in regard to lot size.
7. **Off-Street Parking.** The second dwelling unit shall provide one off-street parking space per bedroom. A second dwelling unit without a separated bedroom area shall provide a minimum of one off-street parking space. The parking space(s) may be uncovered, compact, and tandem. The parking space(s) may be located within the front setback when located in the driveway (and shall be visually screened from the street as much as practical), unless the Director makes specific findings that on-street parking directly in front of the subject lot is not available based upon specific site or regional topographical or fire and life safety conditions. The parking spaces shall be in addition to the parking spaces required for a single-family dwelling.
8. **Architectural Compatibility.** The second dwelling unit shall incorporate similar or complimentary architectural features, including exterior siding, trim, roof materials, window type/placement, and colors as the principal dwelling or dwellings located on adjacent properties. Any new entrances to an attached second dwelling unit shall be located on the side or rear of the principal dwelling.
9. **Permanent Foundation.** A permanent foundation shall be required for all second dwelling units.
10. **Existing Development.** A legal, detached single-family dwelling must exist on the lot or shall be constructed on the lot in conjunction with the construction of the second dwelling unit.
11. **Occupancy.** The lot containing the second dwelling unit shall either:
 - a. Serve as the primary residence of the property owner, with the owner occupying either the principal dwelling or second dwelling unit as their principal residence; or
 - b. Be immediately adjacent to, on the same side of the street as, and sharing common side lot lines with the lot containing the primary residence of the property owner.

17.47.030 - Planning Commission Review.

- A. Application Requirements and Review Procedure. The following procedures and requirements apply to second dwelling units which do not comply with the standards for administrative review of Section 17.47.020.
1. Application Requirements. The application for a second dwelling unit permit shall be submitted to the Department and shall comply with the requirements of Section 17.64.100, plus deed restrictions in compliance with Section 17.47.040.
 2. Review Procedure. In accordance with the provisions of Section 17.64.110, the Planning Commission may approve, approve with conditions, or deny a second dwelling unit permit, upon receipt of a completed application, if the proposed second dwelling unit conforms to the standards of approval set forth below in Subsection 17.47.030.B. (Second dwelling units requiring Planning Commission review are subject to the applicable site plan review requirements.)
- B. Standards of Approval. A second dwelling unit permit approved by the Planning Commission shall meet the following standards.
1. The standards in Subsections 17.47.020.B.1. through 17.47.020.B.3. and Subsections 17.47.020.B.6. through 17.47.020.B.11.
 2. Unit Size.
 - a. The gross floor area of a second dwelling unit created by new construction shall not exceed one thousand (1,000) square feet. The second dwelling unit shall not have more than two (2) bedrooms.
 - b. The gross floor area of a second dwelling unit created by an addition to an existing single family dwelling shall not occupy more than forty-five percent (45%) of the total post-construction habitable floor area of the dwelling, excluding the garage area.
 3. Height.
 - a. The height of an attached second dwelling unit shall comply with the building height requirements of Section 17.16.070.
 - b. The height of a detached second dwelling unit shall not exceed two (2) stories or twenty-four (24) feet, whichever is less.
- C. Required Findings. Prior to approval of a second dwelling unit, the Planning Commission shall make the following findings.
1. The second dwelling unit meets all standards of approval identified in Section 17.47.030.B.
 2. The second dwelling unit is similar or complimentary in appearance and character with the principal dwelling and the surrounding neighborhood.
 3. Public utilities and services are adequate to serve both dwellings.
 4. In order to encourage the development of dwelling units for disabled persons with limited mobility, the Planning Commission may make a finding that reasonable deviation from the stated standards of approval is necessary to install features that facilitate access and mobility for disabled persons.

17.47.040 - Deed Restrictions.

In order to obtain a second dwelling unit permit in accordance with the provisions of this chapter, the property owner shall provide a signed and notarized declaration or agreement of restrictions (including recording fees), which has been approved by the City Attorney as to its form and content, stating that:

- A. The second dwelling unit shall not be sold separately;
- B. The second dwelling unit is restricted to a maximum size;

- C. The second dwelling unit shall be considered legal only so long as the property owner either:
 - 1. Occupies either the principal dwelling, or the second dwelling unit on the subject property; or
 - 2. Occupies the residence on the property immediately adjacent to, on the same side of the street, and sharing common side lot lines, as the subject property.
- D. The restrictions shall be binding upon any successor in ownership of the subject property and lack of compliance shall void the permit and result in legal action against the property owner.

(Ord. 373, 2004)

Sections:

17.16.010 - Permitted Uses—Generally.

All land within any of the single family residential districts (map symbols R-10, R-12, R-15, R-20, R-40-H) may be used for any of the uses described in, and under the regulations of, this chapter.

(Ord. 325, 1996; Ord. 83 § 2(A), 1970; Ord. 52 Ch. II § 4(part), 1968).

17.16.020 - Permitted Uses—Principal.

The principal permitted uses in the single family residential districts shall be as follows:

- A. A detached, single family dwelling in each lot and the accessory structures and uses normally auxiliary to it;
- B. Crop and tree farming and horticulture, not including the raising or keeping of any animals other than ordinary household pets;
- C. Publicly-owned parks and playgrounds;
- D. Supportive housing and transitional housing;
- E. The keeping of equestrian livestock (R-40-H only), provided that a minimum land area to livestock ratio of forty thousand (40,000) feet of land to two (2) head of equestrian livestock shall be required.
- F. Personal property sales in accordance with the following regulations:
 1. Personal property sales shall be allowed up to a maximum of six (6) days per calendar year;
 2. Personal property sales shall be limited to the hours between 8:00 a.m. and 5:00 p.m.; and
 3. Personal property sales shall not result in adverse impacts related to noise, traffic, safety, congestion, and parking.
- G. Employee housing providing accommodations for six (6) or fewer employees.

(Ord. 420, 2009; Ord. 440, 2012; Ord. 466, 2016)

17.16.030 - Area, Lot Width and Setback Requirements.

The minimum requirements in Sections 17.16.050 through 17.16.120 shall be observed for all lands situated within the district classifications listed in those sections as so designated on the zoning map referred to in Section 17.08.010 of this title.

(Ord. 52 Ch. II § 4(c)(part), 1968; Ord. 325, 1996; Ord. 375, 2004)

17.16.040 - Lot Area.

The lot area in the single family residential districts shall be as follows:

- A. R-10, ten thousand (10,000) square feet;
- B. R-12, twelve thousand six hundred (12,600) square feet;
- C. R-15, fifteen thousand (15,000) square feet;
- D. R-20, twenty thousand (20,000) square feet;
- E. R-40, forty thousand (40,000) square feet; and
- F. R-40-H, forty thousand (40,000) square feet.

(Ord. 52 Ch. II § 4(c), 1968; Ord. 83 § 2(C), 1970; Ord. 128 § 2, 1973; Ord. 325, 1996)

17.16.050 - Lot Width.

The minimum lot width at the front setback line in the single family residential districts shall be as follows:

- A. R-10, eighty (80) feet;
- B. R-12, one hundred (100) feet;
- C. R-15, one hundred (100) feet;
- D. R-20, one hundred twenty (120) feet;
- E. R-40, R-40-H, one hundred forty (140) feet for interior lots and one hundred eighty (180) feet for corner lots.

(Ord. 52 Ch. II § 4(c)(2), 1968; Ord. 83 § 2(D), 1970; Ord. 325, 1996)

17.16.060 - Lot Depth.

The lot minimum depth in the single family residential districts shall be as follows:

- A. R-10, ninety (90) feet;
- B. R-12, one hundred (100) feet;
- C. R-15, one hundred (100) feet;
- D. R-20, one hundred twenty (120) feet;
- E. R-40, one hundred forty (140) feet;
- F. R-40-H, one hundred forty (140) feet.

(Ord. 52 Ch. II § 4(c)(3), 1968; Ord. 83 § 2(E), 1970; Ord. 325, 1996).

17.16.070 - Building Height.

The building height in the single family residential districts shall not exceed thirty-five (35) feet.

(Ord. 52 Ch. II § 4(c)(4), 1968; Ord. 325, 1996; Ord. 375, 2004)

17.16.080 - Front Setback.

The front setback in the single family residential districts shall be as follows:

- A. R-10, twenty (20) feet;
- B. R-12, twenty (20) feet;
- C. R-15, twenty (20) feet;
- D. R-20, twenty-five (25) feet;
- E. R-40 and R-40-H, forty (40) feet.

(Ord. 52 Ch. II § 4(c)(5), 1968; Ord. 83 § 2(F), 1970; Ord. 325, 1996; Ord. 375, 2004)

17.16.090 - Interior Side Setbacks.

Interior side setbacks in the single family residential districts shall be as follows:

- A. R-10, twenty (20) feet aggregate, minimum ten (10) feet
- B. R-12, twenty-five (25) feet aggregate, minimum ten (10) feet;
- C. R-15, twenty-five (25) feet aggregate, minimum ten (10) feet;
- D. R-20, thirty-five (35) feet aggregate, minimum fifteen (15) feet;
- E. R-40, forty (40) feet aggregate, minimum twenty (20) feet;
- F. R-40-H, forty (40) feet aggregate, minimum twenty (20) feet.

(Ord. 52 Ch. II § 4(c)(6), 1968; Ord. 83 § 2(G), 1970; Ord. 325, 1996; Ord. 375, 2004)

17.16.100 - Exterior Side Setbacks.

Exterior side setbacks in the single family residential districts shall be as follows:

- A. R-10, twenty (20) feet;
- B. R-12, twenty (20) feet;
- C. R-15, twenty (20) feet;
- D. R-020, twenty-five (25) feet;
- E. R-40, forty (40) feet;
- F. R-40-H, forty (40) feet.

(Ord. 52 Ch. II § 4(c)(7), 1968; Ord. 83 § 2(H), 1970; Ord. 325, 1996; Ord. 375, 2004)

17.16.110 - Rear Setback.

The rear setback in the single family residential district is fifteen (15) feet.

(Ord. 52 Ch. II § 4(c), 1968; Ord. 83 § 2(I), 1970; Ord. 325, 1996; Ord. 375, 2004)

17.16.120 - Minimum Setback.

Notwithstanding the distance calculated in accordance with the above setbacks, the minimum setback of the principal building from a property line shall be as follows:

- A. R-10, ten (10) feet.
- B. R-12, ten (10) feet.
- C. R-15, ten (10) feet.
- D. R-20, fifteen (15) feet.
- E. R-40, twenty (20) feet.
- F. R-40-H, twenty (20) feet.

(Ord. 83, 1970; Ord. 325, 1996)

17.16.130 - Equestrian or Agricultural Livestock Structures and Areas.

Any barn, stable, or shelter for equestrian or agricultural livestock shall be set back not less than one hundred (100) feet from the front property line and shall be not less than fifty (50) feet from any side or rear property line, unless the side or rear property line adjacent to the barn, stable, or shelter abuts land in an A or R-40-H District, in which case the side or rear setback is twenty (20) feet. Fenced pasture, paddocks, or other enclosed equestrian or agricultural livestock areas shall not be located nearer than ten (10) feet to any property line or nearest edge of street pavement, unless the side or rear property line abuts permanently uninhabited land, in which case, the side or rear setback is five (5) feet.

(Ord. 52 Ch. II § 4(c)(9), 1968; Ord. 83 § 2(J), 1970; Ord. 325, 1996; Ord. 375, 2004)

17.16.140 - Parking.

Every dwelling unit permitted in the single family residential districts shall have on the same lot or parcel enough automobile storage space for at least four (4) automobiles. Each space shall have dimensions of at least ten (10) feet by twenty (20), and two (2) of the spaces must be covered.

(Ord. 52 Ch. II Sub. 4(d), 1968; Ord. 325, 1996)

Chapter 17.20 - MULTIPLE FAMILY RESID

Sections:

17.20.010 - Purpose.

The intent and purpose of this chapter is to provide a low (M-R), medium (M-R-M), and high density (M-R-H) multiple family residential districts designed to provide as much compatibility as possible with nearby single family residential zoning and to provide affordable housing opportunities.

17.20.020 - Permitted Uses—Generally.

All land within any of the multiple family residential districts (map symbols M-R, M-R-M, and M-R-H) may be used for any of the uses described in, and under the regulations of, this chapter.

17.20.030 - Permitted Uses—Principal.

The principal permitted uses in the multiple family residential districts shall be as follows:

- A. Duplex, triplex, townhouses, apartments and other multifamily structures meeting and not exceeding the density limits set by the applicable General Plan Land Use Designation;
- B. Supportive housing and transitional housing;
- C. Single family dwelling units only with a Conditional Use Permit (See Section 17.60.030.B.5).
- D. Employee housing providing accommodations for six (6) or fewer employees, provided that a conditional use permit is obtained. Such permit shall be reviewed and issued under the same procedures and in the same manner as that permit issued for single family dwelling units (See Section 17.60.030.B.5).
- E. Parolee homes only with a Conditional Use Permit (See Section 17.60.030.B.7).

(Ord. 463, 2016; Ord. 466, 2016; Ord 483, § 5, 2018)

17.20.040 - Minimum Requirements Generally.

The minimum requirements in Sections 17.20.060 through 17.20.160 shall be observed in the multiple family residential districts.

17.20.050 - Lot Area.

No duplex, triplex, townhouse, apartment, or other multiple family building permitted in multiple family residential districts shall be erected or placed on a lot having less than as follows:

- A. M-R, six thousand (6,000) square feet and three thousand (3,000) square feet of land shall be provided for each dwelling unit;
- B. M-R-M, six thousand (6,000) square feet and one thousand eight hundred (1,800) square feet for each dwelling unit; and
- C. M-R-H, nine thousand (9,000) square feet and one thousand (1,000) square feet for each dwelling unit.

17.20.060 - Lot Width.

No duplex, triplex, townhouse, apartment, or other multiple family building permitted in multiple family residential districts shall be erected or placed on a lot less than as follows:

- A. M-R, sixty (60) feet in average width;
- B. M-R-M, sixty (60) feet in average width; and
- C. M-R-H, ninety (90) feet in average width.

17.20.070 - Lot Depth.

No duplex, triplex, townhouse, apartment, or other multiple family building, or other multiple family residential districts shall be erected or placed on a lot less than as follows:

- A. M-R, ninety (90) feet in average width;
- B. M-R-M, ninety (90) feet in average width; and
- C. M-R-H, ninety (90) feet in average width.

17.20.080 - Building Height.

No duplex, triplex, townhouse, apartment, or other multiple family building permitted in the multiple family residential districts shall exceed as follows:

- A. M-R, thirty-five (35) feet in height, except that when multiple family residential district abuts any single family residential district, then the building height maximum of the portion of the multiple family residential district being within fifty (50) feet of the abutting single family residential district shall be twenty (20) feet.
- B. M-R-M, thirty-five (35) feet in height.
- C. M-R-H, forty (40) feet in height, except shall be thirty-five (35) feet in height for that portion within fifty (50) feet of an abutting single family residential district.

17.20.090 - Front Setback.

The front setback in the multiple family residential districts shall be twenty (20) feet.

17.20.100 - Interior Side Setback.

The interior side setback in multiple family residential districts shall be fifteen (15) feet.

17.20.105 - Exterior Side Setback.

The exterior side setback on corner lots in multiple family residential districts shall be twenty (20) feet.

17.20.110 - Rear Setback.

The rear setback in the M-R multiple family residential districts shall be fifteen (15) feet for any principal building.

17.20.120 - Minimum Setback.

Notwithstanding the distance calculated in accordance with the above setbacks, the minimum setback of the principal building from a property line shall be fifteen (15) feet.

17.20.130 - Parking.

Off-street parking shall be provided in accordance with the requirements of Chapter 17.37 (Off-Street Parking and Loading Regulations).

17.20.140 - Lot Coverage.

No buildings or structures permitted in multiple family residential districts shall cover more than as follows:

- A. M-R, forty percent (40%) of the lot area;
- B. M-R-M, fifty percent (50%) of the lot area; and
- C. M-R-H, sixty-five percent (65%) of the lot area.

(Ord. 52 Ch. II § 6(d)(9), 1968)

17.20.150 - Open Area.

The parcel shall not be occupied by buildings, structures, or pavement, but shall be landscaped, a minimum of as follows:

- A. M-R, twenty-five percent (25%) of the lot area shall not be occupied by buildings, structures, or pavement, but shall be landscaped. Seventy-five percent (75%) of this twenty-five percent (25%) (open space) shall be planted and maintained with growing plants.;
- B. M-R-M, twenty percent (20%) of the lot area shall not be occupied by buildings, structures, or pavement, but shall be landscaped. Seventy-five percent (75%) of this twenty percent (20%) (open space) shall be planted and maintained with growing plants; and
- C. M-R-H, twenty percent (20%) of the lot area shall not be occupied by buildings, structures, or pavement, but shall be landscaped. Seventy-five percent (75%) of this twenty percent (20%) (open space) shall be planted and maintained with growing plants.

17.20.160 - Building Relationship.

Each building or structure shall be located at least twenty (20) feet from every other building or structure, except that covered walkways between buildings or structures may be permitted. A covered walkway shall not exceed twelve (12) feet in height, nor more than fifty percent (50%) of the side of the structure shall be enclosed with any material other than that necessary for roof supports, and the walkway shall not be more than ten (10) feet wide.

(Ord. 440, 2012)

ATTACHMENT 8

17.36.055 - Accessory Buildings and :

- A. Accessory buildings and structures may be located on any portion of a lot wherein a main building is permitted.
- B. No accessory building or structure shall be erected on a vacant lot unless approved by a use permit.
- C. An accessory building or structure shall not exceed sixteen (16) feet in height.
- D. Accessory buildings shall conform to the requirements of the respective zoning district, except as modified by the following standards.
 1. Interior Side Setback and Rear Setback. If an accessory building is at least twelve (12) feet from the main building (and all other accessory buildings) and at least sixty-five (65) feet from the front lot line, the interior side setback and rear setback for accessory structures are reduced to five (5) feet. These reduced setbacks must be clear of all structural protrusions, including roof overhangs.
 2. Minimum Passageway. An accessory building must be fully separated from the main building (and any other accessory buildings) by a passageway at least five (5) feet in width which is clear of all structural protrusions, including roof overhangs. The Planning Commission may determine that a wider passageway is appropriate as part of the site plan review process.
 3. Minimum Attachment. If an accessory building is attached to the main building (or any other accessory buildings), the accessory building shall be structurally part of and have a common roof or wall with the main building (or respective accessory building).
 4. Small Accessory Building. A small accessory building (e.g., storage shed) is exempt from the above interior side and rear setback, minimum passageway, and minimum attachment requirements if the small accessory building complies with all of the following:
 - a. The floor area does not exceed one hundred twenty (120) square feet;
 - b. The height (including any foundation) does not exceed eight (8) feet six (6) inches;
 - c. It is located at least ten (10) feet behind the nearest front corner of the main building; and
 - d. It is substantially concealed from public view by a legally-constructed solid fence or structure with a minimum height of six (6) feet.
- E. Accessory structures shall conform to the requirements of the respective zoning district, except as modified by the following standard:
 1. Interior Side Setback and Rear Setback. The interior side setback and rear setback for an accessory structure are reduced to five (5) feet. These reduced setbacks must be clear of all structural protrusions, including overhangs).

ATTACHMENT 9

Frequently Asked Questions: Junior Accessory Dwelling Units

Is There a Difference between ADU and JADU?



Courtesy of Lilypad Homes and Photo Credit to Jocelyn Knight

Yes, AB 2406 added Government Code Section 65852.22, providing a unique option for Junior ADUs. The bill allows local governments to adopt ordinances for JADUs, which are no more than 500 square feet and are typically bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink, but is not required to have a private bathroom. Current law does not prohibit local governments from adopting an ordinance for a JADU, and this bill explicitly allows, not requires, a local agency to do so. If the ordinance requires a permit, the local agency shall not require additional parking or charge a fee for a water or sewer connection as a condition of granting a permit for a JADU. For more information, see below.

ADUs and JADUs

REQUIREMENTS	ADU	JADU
Maximum Unit Size	Yes, generally up to 1,200 Square Feet or 50% of living area	Yes, 500 Square Foot Maximum
Kitchen	Yes	Yes
Bathroom	Yes	No, Common Sanitation is Allowed
Separate Entrance	Depends	Yes
Parking	Depends, Parking May Be Eliminated and Cannot Be Required Under Specified Conditions	No, Parking Cannot Be Required
Owner Occupancy	Depends, Owner Occupancy May Be Required	Yes, Owner Occupancy Is Required
Ministerial Approval Process	Yes	Yes
Prohibition on Sale of ADU	Yes	Yes

Why Adopt a JADU Ordinance?

JADUs offer the simplest and most affordable housing option. They bridge the gap between a roommate and a tenant by offering an interior connection between the unit and main living area. The doors between the two spaces can be secured from both sides, allowing them to be easily privatized or incorporated back into the main living area. These units share central systems, require no fire separation, and have a basic kitchen, utilizing small plug in appliances, reducing development costs. This provides flexibility and an insurance policy in homes in case additional income or housing is needed. They present no additional stress on utility services or infrastructure because they simply repurpose spare bedrooms that do not expand the homes planned occupancy. No additional address is required on the property because an interior connection remains. By adopting a JADU ordinance, local governments can offer homeowners additional options to take advantage of underutilized space and better address its housing needs.

Can JADUs Count towards the RHNA?

Yes, as part of the housing element portion of their general plan, local governments are required to identify sites with appropriate zoning that will accommodate projected housing needs in their regional housing need allocation (RHNA) and report on their progress pursuant to Government Code Section 65400. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit. Generally, a JADU, including with shared sanitation facilities, that meets the census definition and is reported to the Department of Finance as part of the DOF annual City and County Housing Unit Change Survey can be credited toward the RHNA based on the appropriate income level. Local governments can track actual or anticipated affordability to assure the JADU is counted to the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit application.

A housing unit is a house, an apartment, a mobile home or trailer, a group of rooms, or a single room that is occupied, or, if vacant, is intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.

Can the JADU Be Sold Independent of the Primary Dwelling?

No, the JADU cannot be sold separate from the primary dwelling.

Are JADUs Subject to Connection and Capacity Fees?

No, JADUs shall not be considered a separate or new dwelling unit for the purposes of fees and as a result should not be charged a fee for providing water, sewer or power, including a connection fee. These requirements apply to all providers of water, sewer and power, including non-municipal providers.

Local governments may adopt requirements for fees related to parking, other service or connection for water, sewer or power, however, these requirements must be uniform for all single family residences and JADUs are not considered a new or separate unit.

Are There Requirements for Fire Separation and Fire Sprinklers?

Yes, a local government may adopt requirements related to fire and life protection requirements. However, a JADU shall not be considered a new or separate unit. In other words, if the primary unit is not subject to fire or life protection requirements, then the JADU must be treated the same.