



CITY OF WHEATLAND

CITY COUNCIL MEETING STAFF REPORT

July 27, 2021

SUBJECT: City Council consideration of the Ordinance adding new Chapter 18.78 to, amending Sections 18.06.010, 18.60.010, and 18.63.040, and repealing Section 18.60.100 and Subdivision (c) of Section 18.60.350 of the Wheatland Municipal Code relating to Accessory Dwelling Units.

PREPARED BY: Tim Raney, Community Development Director

Recommendation

Staff recommends that the City Council (1) adopt the attached ordinance adding new Chapter 18.78 to, amending Sections 18.06.010, 18.60.010, and 18.63.040, and repealing Section 18.60.100 and Subdivision (c) of Section 18.60.350 of the Wheatland Municipal Code relating to Accessory Dwelling Units; and (2) waive the full second reading of the ordinance.

Discussion

On July 13, 2021, the City Council voted to introduce and waive the first reading of the attached ordinance adding new Chapter 18.78 to, amending Sections 18.06.010, 18.60.010, and 18.63.040, and repealing Section 18.60.100 and Subdivision (c) of Section 18.60.350 of the Wheatland Municipal Code to implement Program #5 of the City's Housing Element and create consistency with State law regarding the California Accessory Dwelling Unit Incentive Program (see Attachment 1).

The State of California identified that allowing accessory dwelling units (ADUs) in zones that allow residential uses can provide additional rental housing, and is an essential component in addressing California's housing needs. Recently, the State has revised Section 65852.2 of the California Government Code (GC) related to ADUs, which became effective on January 1, 2021, to further accommodate the development of ADUs and junior accessory dwelling units (JADUs).

Additionally, on June 18, 2020, the City of Wheatland received certification from the California Department of Housing and Community Development (HCD) for the adopted City of Wheatland's 5th Cycle (2013-2021) 4-Year Housing Element Update, which included 31 planning programs to create opportunities that do not constrain development of affordable housing and ensure compliance with State law. The adopted City of Wheatland Housing Element Update included Program #5, which states that within one year after HCD certification of the Housing Element, the City shall amend its Zoning Ordinance to permit accessory dwelling units

The proposed Ordinance amendment is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15305, Minor Alterations in Land Use Limitations.

Fiscal Impact

None

Attachments

1. Draft Ordinance adding new Chapter 18.78 to, amending Sections 18.06.010, 18.60.010, and 18.63.040, and repealing Section 18.60.100 and Subdivision (c) of Section 18.60.350 of the Wheatland Municipal Code relating to Accessory Dwelling Units.

ORDINANCE NO. 481

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF WHEATLAND, CALIFORNIA,
ADDING NEW CHAPTER 18.78 TO, AMENDING SECTIONS 18.06.010,
18.60.010, AND 18.63.040, AND REPEALING
SECTION 18.60.100 AND SUBDIVISION (C) OF SECTION 18.60.350
OF THE WHEATLAND MUNICIPAL CODE
RELATING TO ACCESSORY DWELLING UNITS**

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

SECTION 1. Purpose and Authority. The purpose of this ordinance is to add Chapter 18.78 to the Wheatland Municipal Code pertaining to the City's administration of its accessory dwelling units to improve access to affordable housing for very low-, low- and moderate-income, as well as senior citizen, housing, and to make other related changes to the Wheatland Municipal Code. This ordinance is adopted pursuant to Government Code sections 65850, 65852.2, 65852.22, and other applicable law.

SECTION 2. Findings.

The City Council finds and determines as follows:

- A. The City of Wheatland administers zoning provisions within the City's boundaries consistent with the City's General Plan as provided for in Title 18 of the Wheatland Municipal Code.
- B. Government Code sections 65852.2 and 65852.22- the State accessory dwelling unit law, authorize the City to adopt an ordinance articulating the City's procedures for and administration of the State accessory dwelling unit law within the City's boundaries.
- C. On July 13, 2021 the City Council held a duly noticed public meeting concerning the adoption of a proposed ordinance to carry out the State accessory dwelling unit law ("proposed Accessory Dwelling Unit Ordinance").
- D. The proposed Accessory Dwelling Unit Ordinance is consistent with the policies of the City of Wheatland General Plan and with the Wheatland Municipal Code.
- E. The City Council finds it necessary to pass and implement the proposed Accessory Dwelling Unit Ordinance, and that it will promote and protect the public health, safety, comfort, morals, convenience and general welfare of the residents within the City.

SECTION 3. Amendments.

- A. New Chapter 18.78 shall be added to Title 18 of the Wheatland Municipal Code to read as follows:

Chapter 18.78

ACCESSORY DWELLING UNIT REGULATIONS

Sections:

- 18.78.010 Purpose.
 - 18.78.020 Applicable Zoning Districts.
 - 18.78.030 Accessory Dwelling Unit Development Standards.
 - 18.78.040 Junior Accessory Dwelling Unit Criteria
 - 18.78.050 Permitting Requirements.
 - 18.78.060 Accessory Dwelling Units Not Complying with Development Standards.
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- 18.78.010 Purpose.

The purpose and objective of this chapter is to contribute needed housing to the community housing stock and establish reasonable standards for the development of accessory dwelling units and junior accessory dwelling units on all lots that already contain one legally created residential unit, consistent with Government Code Section 6582.2. For purposes of this chapter, an accessory dwelling unit is referred to as an "ADU" and a junior accessory dwelling unit is referred to as a "JADU."

18.78.020 Applicable zoning districts.

The provisions of this chapter shall be known as the "accessory dwelling unit regulations" and shall apply to all lots zoned to allow residential uses that include an existing or proposed single-family dwelling. ADUs and JADUs may exceed the allowable density for the lot upon which the ADU or JADU is located, and are considered a residential use that is consistent with the existing General Plan and Zoning designation for the lot. Except as authorized within the portions of existing multi-family dwelling structures, no more than one ADU and one JADU shall be placed on the same lot or parcel.

18.78.030 Accessory dwelling unit development standards.

The following standards shall apply to the establishment of ADUs:

- A. ADUs within Existing Space. An ADU within an existing space including the primary buildings, attached or detached garage or other accessory buildings shall be permitted ministerially with a building permit regardless of all other standards within the section if complying with:
 - 1. Building and safety codes;
 - 2. Independent exterior access; and
 - 3. Side and rear setbacks sufficient for fire and safety.
- B. Accessory dwelling units are required to comply with the following:
 - 1. The ADU may be rented separate from the primary residence for a minimum of 30 days, but may not be sold or otherwise conveyed separate from the primary residence unless the lot is subdivided pursuant to all applicable laws and local ordinances.

2. The lot is required to be zoned to allow residential uses that include an existing or proposed dwelling.
3. The ADU shall be located on the same lot as the existing dwelling.
4. If there is an existing or proposed primary dwelling, the floor space of an attached ADU shall not exceed fifty percent of the proposed or existing primary dwelling living area or 1,200 square feet, whichever is less.
5. The total area of floor space for a detached ADU shall not exceed 1,200 square feet.
6. A passageway shall not be required in conjunction with the construction of an ADU.
7. No setback shall be required for an existing garage that is converted to an accessory dwelling, and a setback of no more than four feet from the side and rear lot lines shall be required for an ADU that is constructed above a garage.
8. An ADU shall not be required to provide fire sprinklers if they are not required for the primary residence and may employ alternative methods for fire protection.
9. If an ADU is detached, a setback of no more than four feet from the side and rear lot lines shall be required.
10. If an ADU is detached, a five-foot separation between the primary residence and the secondary residence is required.
11. ADUs shall not be considered when calculating the maximum lot coverage allowed.
12. One additional vehicle parking space shall be required per ADU, except in any of the following instances:
 - a. The accessory dwelling unit is located within one-half mile walking distance of public transit.
 - b. The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - c. The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
 - d. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - e. When there is a car share vehicle located within one block of the accessory dwelling unit.
13. When a garage or carport structure is demolished in conjunction with the construction of an accessory dwelling unit, no parking replacement spaces shall be required. Any other required on-site parking spaces shall be maintained for the principal unit, and 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.

14. The City shall not require the applicant to install a new or separate utility connection or impose a related connection fee or capacity charge for ADUs that are contained within an existing residence or accessory buildings.
15. The height of a one-story detached ADU shall not exceed 16 feet, and a detached two-story ADU shall not exceed 25 feet.
16. Mobile homes do not meet the requirements of an ADU. A manufactured home is permitted as a detached ADU.
17. The ADU shall be constructed in accordance with provisions of the latest adopted editions of the building codes.

18.78.040 Junior accessory dwelling unit criteria.

The following criteria shall apply to the establishment of JADUs:

- A. A JADU shall be contained entirely within an existing single-family structure.
- B. A JADU shall be located within the walls of an existing or proposed single-family residence.
- C. A JADU shall include its own discrete entrance, separate from the main entrance to the structure. A permitted JADU may include an interior entry to the main living area, and may include a second interior doorway for sound attenuation.
- D. The JADU shall include an efficiency kitchen, which shall include all of the following: sink, food preparation counter, refrigerator, and storage cabinets that are of reasonable size in relation to the size of JADU.
- E. JADUs have no parking requirement.
- F. The JADU shall not be offered for sale apart from the principal unit. A deed restriction, which shall run with the land, shall be filed with the City and shall include both of the following:
 1. A prohibition on the sale of the JADU separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers; and
 2. A restriction on the size and attributes of the JADU that conforms with this section.
- G. For the purposes of any fire or life protection ordinance or regulation, JADUs shall not be considered a separate or new dwelling unit.
- H. For the purposes of providing service for water, sewer, or power, including a connection fee, a JADU shall not be considered a separate or new dwelling unit.

- I. A JADU created under this chapter shall be maintained with the provisions of this chapter and shall not be destroyed or otherwise converted to any other use (including reverting to a portion of the primary residence) except with approval of the Community Development Director. In considering such requests, the Community Development Director shall consider the length of time such permit has been in force, the conditions of approval, the exceptions granted for the permit, and the impact on the City's affordable housing supply. As a condition of termination, the Community Development Director shall require the owner to make modifications to the property to: (1) comply with current building code requirements and (2) comply with current development standards in effect at the time of the request to terminate the use of the JADU.

18.78.050 Permitting requirements.

ADUs and JADUs shall be permitted ministerially, in compliance with this chapter, within 60 days of a completed application. The building official shall issue a building permit to establish an ADU or JADU in compliance with this chapter if all applicable requirements above are met. The Community Development Director may approve an ADU or JADU that is not in compliance with the above requirements as set forth in the review process below.

18.78.060 Accessory dwelling units not complying with development standards.

An ADU or JADU that does not comply with the applicable standards listed in this article may be permitted with a site plan review permit at the discretion of the Community Development Director subject to the findings listed in the section below.

Findings.

1. The project would not be detrimental to the public health and safety.
2. That the project will have no adverse effect upon other properties including unreasonable privacy impacts.
3. That the project is consistent with the objectives and policies of the general plan and that granting the waiver will meet the purposes of this chapter.

To the discretion of the Community Development Director, Planning Commission approval of the site plan review permit may be required for an ADU or JADU that does not comply with the applicable standards listed in this article.

B. Section 18.06.010 of the Wheatland Municipal Code is amended to read as follows:

"Accessory dwelling unit" means an attached or detached dwelling unit which provides complete independent living facilities for one or more persons, with permanent provisions for living, sleeping, eating, cooking, and sanitation sited on the same parcel as the primary dwelling unit.

"Junior accessory dwelling unit" means a unit that is contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

“Family” means one or more persons living together in a dwelling unit, with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit.

C. Section 18.60.010 of the Wheatland Municipal Code is amended to read as follows:

18.60.010 Accessory buildings.

A. In any residential zone district, accessory buildings are permitted, subject to all of the following:

1. Accessory buildings include any buildings that are customarily incidental to a residence and garage including greenhouse, storage shed, studio, pool-house, workshop, detached deck and patio and similar structure that is over 18 inches in height. Buildings with less than 120 square feet of roof area that are less than eight feet in height, are not subject to this section.
2. The number of accessory buildings on any individual lot shall be limited to three.
3. The combined floor area of accessory buildings on any individual lot shall not exceed 1,200 square feet of floor area.
4. The maximum height of any accessory building is 16 feet.
5. Any accessory building shall have a minimum four-foot separation between the primary residence and/or any other accessory building. Any accessory building shall have a minimum setback four feet from the side and rear lot lines.
6. Accessory buildings shall not be considered when calculating the maximum lot coverage allowed.
7. Accessory buildings that differ from the standards provided above may be approved with a site plan review permit, provided the Community Development Director makes the findings required by Section 18.78.060 of the Wheatland Municipal Code.

B. Accessory buildings may not encroach on any recorded easement.

C. Garden shelters, greenhouses, storage shelters and covered patios are permitted as accessory buildings and need not meet the requirements for Accessory Dwelling Units if they are not proposed to be used for living quarters.

D. Section 18.60.020 of the Wheatland Municipal Code is amended to read as follows:

Accessory uses, as defined in Chapter 18.06, shall be permitted as appurtenant to any permitted use without the necessity of securing a use permit, unless otherwise provided in this title.

E. The portion of Section 18.63.040 of the Wheatland Municipal Code relating to parking requirements for “Dwellings, multiple, single-family or duplex” is amended to read as follows:

Dwellings:	
single-family	Two parking spaces for each dwelling unit
Duplex	Two parking spaces for each dwelling unit
multi-family	One covered space per unit up to two bedrooms; 1.5 covered space per unit for three bedrooms or more; plus one space per five units for guest parking (may be uncovered)
senior-housing (age restricted)	One covered space per unit, plus one space per five units for guest parking (may be uncovered)
accessory dwelling unit (ADU)	One space per unit.
junior accessory dwelling unit (JADU)	No parking requirement.

F. Section 18.60.100 of the Wheatland Municipal Code is repealed.

G. Subdivision (C) of Section 18.60.350 of the Wheatland Municipal Code is repealed, and subdivisions (D) and (E) are renumbered as subdivisions (C) and (D), respectively.

SECTION 4. Exemption from CEQA. The proposed Accessory Dwelling Unit Ordinance is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines section 15305, Minor Alterations in Land Use Limitations.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held by a court of competent jurisdiction to be invalid or unconstitutional, that portion shall be deemed a separate, distinct and independent provision, and the holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. Effective Date. This ordinance shall take effect and be enforced thirty (30) days from and after the date of its adoption.

SECTION 7 Posting. Within fifteen (15) days from the date of passage of this ordinance, the City Clerk shall post a copy of it in at least three public places in the City.

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was introduced and adopted at a regular meeting of the City Council of the City of Wheatland, held on the 13th day of July, 2021, and passed and adopted at a regular meeting thereof, held on the 27th day of July, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor of the City of Wheatland

ATTEST:

DRAFT