

ORDINANCE NO. 28149

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING ORDINANCE NO. 27606 AND REPEALING ORDINANCE NO. 28055 TO EXTEND THE ENTIRE PERIOD OF THE LIMITED PILOT PROGRAM TO ALLOW CERTAIN SECOND RESIDENTIAL UNITS FROM JANUARY 1, 2006 TO APRIL 30, 2008, WHICH PROGRAM AUTOMATICALLY TERMINATES IF 100 PERMITS ARE ISSUED, AND TO MODIFY CERTAIN PARAMETERS OF THE PILOT PROGRAM RELATED TO SIZE, SETBACKS, HEIGHT AND WINDOWS; AND AMENDING ORDINANCE NO. 27675 TO EXTEND UNTIL APRIL 30, 2008 THE TEMPORARY SUSPENSION OF CHAPTER 14.25 OF TITLE 14 OF THE SAN JOSE MUNICIPAL CODE PERTAINING TO PARK IMPACT REQUIREMENTS OTHERWISE APPLICABLE TO SECOND UNITS

WHEREAS, on November 15, 2005, the City Council approved Ordinance No. 27606 providing for a limited and temporary exception to Ordinance No. 21663, adopted by the City on May 15, 1984, which Ordinance No. 21663 precluded second units in the City of San Jose; and

WHEREAS, Ordinance No. 27606 provided for a limited pilot program for permitting second units to no more than 100 new units within the City of San Jose during the period from January 1, 2006, through December 31, 2006; and

WHEREAS, Ordinance No. 27675, adopted by the City Council on March 14, 2006, provided for a suspension of Chapter 14.25 of Title 14 of the San Jose Municipal Code for secondary unit building permits issued in accordance with the provisions of Ordinance No. 27606; and

WHEREAS, Ordinance No. 27932 extended the limited pilot program and the suspension of Chapter 14.25 of Title 14 of the San Jose Municipal Code to June 30, 2007, and Ordinance No. 27932 was repealed by the City under and pursuant to the provisions of Ordinance No. 28055, which Ordinance No. 28055 extended the limited pilot program and the suspension of Chapter 14.25 of Title 14 of the San José Municipal Code to October 31, 2007; and

WHEREAS, City desires to further extend the pilot program for second units and to extend the suspension of the requirements of Chapter 14.25 with regard to the pilot program, until April 30, 2008; and

WHEREAS, the Director of Planning pursuant to the provisions of Title 21 of the San José Municipal Code has found this Ordinance to be categorically exempt from environmental review per the provisions of Section 15282(h) of the California Environmental Quality Act of 1970, as amended, under File No. PP07-184.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Section 3 of Ordinance No. 27606 is hereby amended to read as follows as of the effective date of this Ordinance:

“Section 3. Restrictions on Issuance of Second Unit Permit.

A second unit permit shall be issued only if the application for the permit complies with all of the following requirements:

- A. **Zoning District.** A second unit shall be permitted pursuant to this Ordinance only in the R-1 Zoning District (as defined in Section 20.30.010 of Chapter 20.30 of Title 20 of the San Jose Municipal Code), or in Planned Development districts or cluster subdivisions that are authorized in accordance with Chapter 20.60 of Title 20 of the San Jose Municipal Code and that are subject to the standards and allow the uses of an R-1 Zoning District.
- B. **Minimum Lot Size.** The minimum lot size on which a second unit that is attached to a primary dwelling unit shall be allowed is 6,000 square feet. The minimum lot size on which a second unit that is detached from a primary dwelling unit shall be allowed is 8,000 square feet.
- C. **Maximum Second Unit Floor Area.** A second unit shall not exceed the following maximum gross floor area:
 - 1. Six hundred (600) square feet for a second unit on a lot with an area of 9,000 square feet or less;
 - 2. Six hundred-fifty (650) square feet for a second unit on a lot with an area of between 9,001 and 10,000 square feet; and
 - 3. Seven hundred (700) square feet for a second unit on a lot with an area of 10,001 square feet or greater.

- D. **Maximum Bedroom Area.** A second unit shall have no more than one bedroom. The bedroom shall not exceed more than 400 square feet of the maximum gross floor area of the second unit.
- E. **Maximum Accessory Storage Area.** The total amount of accessory storage area in any second unit shall not exceed 60 square feet.
- F. **Required Parking.** One additional on-site parking space, in addition to the two required on-site parking spaces for the primary dwelling unit, is required for a second unit. Tandem parking that otherwise complies with setback and paving requirements set forth in Section 20.90.120 of the Municipal Code, shall be allowed.
- G. **Development Standards.** Second units shall comply with all of the following development standards:
1. The second unit shall be subject to the setback requirements of the Zoning District in which the primary dwelling unit is located, as set forth in Chapter 20.30 of the Municipal Code except that a second unit which does not exceed one story above grade shall have a minimum rear setback of fifteen (15) feet, provided that such second unit shall not occupy more than fifty percent (50%) of the area between the rear setback otherwise required and said fifteen foot (15') rear setback.
 2. Detached second units shall be located behind the primary dwelling unit.
 3. Detached second units shall be located at least 6 feet away from the primary dwelling unit.
 4. Detached second units shall be limited to a maximum of one story and 18 feet in height, with an average roof height of no greater than 14 feet. Average roof height is measured halfway up the slope of the roof, and in no case shall any portion of the roof height of a detached second unit exceed 18 feet. Roof height shall be determined in accordance with San Jose Municipal Code Section 20.200.510.
 5. Detached second units may be attached to a detached garage provided the detached garage conforms to the setbacks required for the second unit.
- H. **Design Standards.** Second units shall comply with the following design standards:

1. Second units shall be constructed with façade materials identical in color, and similar in texture and appearance to the primary dwelling unit, including but not limited to roofing, siding, and windows and doors.
2. A second unit shall match the roof pitch and roof form of the primary dwelling unit in order to blend with the architecture of the primary dwelling unit.
3. The front door of any second unit shall not be visible from the street, meaning that it shall not be located on the same elevation fronting the street as the primary dwelling unit.
4. The windows of any second unit shall be placed on the second unit in locations that do not allow a direct view into the interiors of adjacent residential structures, or into the back yards of adjacent residential properties.”

SECTION 2. Section 8 of Ordinance No. 27606 is hereby amended to read as follows:

“Section 8. Termination of Pilot Program. This Ordinance and the second unit pilot program set forth herein shall expire and be of no further force and effect as of April 30, 2008. The expiration of this Ordinance and the second unit pilot program shall not affect the permitted legal status of second units duly authorized during the pilot program. Upon expiration of this Ordinance, or upon the issuance of 100 second unit permits, whichever first occurs, the total preclusion of second units set forth in Ordinance No. 21663 shall automatically resume.”

SECTION 3. Section 2 of Ordinance No. 27675 is hereby amended to read as follows:

“Section 2. This Ordinance shall be retroactive to January 1, 2006 and shall automatically expire and be of no further force and effect as of April 30, 2008. The suspension of the requirements Chapter 14.25 of Title 14 authorized herein shall automatically cease and be of no further force and effect as of the date on which the building permit for the 100th unit in the secondary unit pilot program is issued or the date of expiration of this Ordinance, unless the City Council takes further action by ordinance to amend or repeal this Ordinance.”

SECTION 4. Ordinance No. 28055 is hereby repealed and is no longer of any force or effect.

PASSED FOR PUBLICATION of title this 16th day of October 2007, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, CORTESE,
LICCARDO, OLIVERIO, PYLE, WILLIAMS, REED;

NOES: NONE

ABSENT: NGUYEN

DISQUALIFIED: NONE

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk