

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, AMENDING CHAPTERS 20.08, 20.42, AND 20.90 OF THE MERCED MUNICIPAL CODE TO REVISE REGULATIONS REGARDING ACCESSORY DWELLING UNITS, JUNIOR ACCESSORY DWELLING UNITS AND TINY HOMES ON WHEELS

THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 20.08 is amended by amending Section 20.08.020 to read as follows:

A. Permitted Land Uses. Table 20.08-1 identifies land uses permitted in residential zoning districts.

Table 20.08-1: Permitted Land Uses in the Residential Zoning Districts

Table 20.08-1 Permitted Land Uses in the Residential Zoning Districts							
Key	Zoning District[1]						Additional Regulations
P Permitted Use	R-R	R-1	R-2	R-3	R-4	R-MH	
M Minor Use Permit Required							
SP Site Plan Review Permit Required							
C Conditional Use Permit Required							
X Use Not Allowed							
Residential Uses							
Accessory Dwelling Units	P	P	P	P	P	X	Chapter 20.42
Duplex Homes	X	P	P	P	P	X	
Fraternities and Sororities	X	C	C	C	C	X	Sec. 20.44.060
Group/Transitional/Supportive Housing	P [3]	P [3]	P [3]	P [3]	P [3]	P [3]	
Mobile Home Parks	C	X	X	X	X	SP	
Multiple-Family Dwellings	X	X	C [4]	P	P	X	Sec. 20.46.030 Sec. 20.44.180
Residential Care Facilities, Small (1-6 persons)	P	P	P	P	P	P	

Residential Care Facilities, Large (More than 6)	C	C	C	C	C	X	
Single-Family Dwellings	P	P	P	P	P	M	Sec. 20.46.020
Single-Room Occupancy	X	X	X	SP	SP	X	Sec. 20.44.120
Small House	X	P	P	P	P	X	Sec. 20.08.060
Small House Village	X	X	C	P	P	X	Sec. 20.08.060
Community Uses							
Colleges and Trade Schools	C	C	C	C	C	X	
Community Assembly	C	C	C	C	C	C	
Community Gardens	C	C	C	C	C	C	Sec. 20.44.050
Cultural Institutions	X	C	C	C	C	X	
Day Care Centers	X	X	X	M	M	M	
Day Care, Adult (1-12 persons)	X	X	C[5]	C[5]	C[5]	X	
Day Care Home Facilities, Small (1-8 children)	P	P	P	P	P	P	
Day Care Home Facilities, Large (9-14 children)	P	P	P	P	P	P	
Foster Family Homes, Small (6 persons or fewer)	P	P	P	P	P	P	
Foster Family Homes, Large (7+ persons)	C	X	X	C	C	X	
Golf Courses	C	C	X	X	X	X	
Nursing and Convalescent Homes	C	X	X	C	C	X	
Parks and Recreational Facilities	C	C	C	C	C	C	
Public Safety Facilities	C	C	C	C	C	C	
Schools, Public or Private	C	C	C	C	C	X	
Commercial Uses							
Bed and Breakfast	C	C	C	C	C	C	Sec. 20.44.030
Commercial Recreation, Indoor	X	X	X	X	X	M [6]	
Commercial Recreation, Outdoor	C	X	X	X	X	M [6]	
Home Occupation, Major	SP[9]	SP [9]	SP [9]	SP [9]	SP [9]	SP[9]	Chapter 20.48
Home Occupation, Minor	P[9]	P[9]	P[9]	P[9]	P[9]	P[9]	Chapter 20.48
Mobile Home Sales	X	X	X	X	X	M	
Personal Services	X	X	X	SP[6]	SP[6]	SP[6]	
Retail, General (Limited)	M[7]	X	X	M [8]	M [8]	M [6]	
Temporary Subdivision Sales Offices (Max. 2 Years)	P	P	P	P	P	P	

Agriculture and Natural Resources Uses							
Animal Raising and Production	SP[10]	C [10]	C [10]	C [10]	X	X	Chapter 6.04
Crop Cultivation	SP[10]	C [10]	C [10]	C [10]	C [10]	C [10]	
Transportation, Communications, and Utilities Uses							
Utilities, Major	C	C	C	C	C	X	
Utilities, Minor	P	P	P	P	P	X	
Wireless Communications Facilities	See Chapter 20.58						

Notes:

- [1] A site plan review permit may be required per Chapter 20.32 (Interface Regulations) regardless of the uses shown in Table 20.08-1.
- [2] Reserved.
- [3] Only permitted for rooming and boarding houses as an accessory use. The maximum persons allowed are: R-1, R-R, & R-MH (1 person); R-2 (2 persons); and R-3 and R-4 (no limit).
- [4] Permitted only on lots six thousand (6,000) sq. feet or greater at the density permitted in the existing zoning district.
- [5] For day care home facilities for adults, a conditional use permit would allow up to twelve (12) adults in care.
- [6] Permitted only as an ancillary use to serve residents, not to exceed more than two thousand five hundred (2,500) square feet.
- [7] Permitted only for onsite retail for agricultural products.
- [8] Permitted only when ancillary to a multi-family use and intended to serve residents only. No exterior display or advertising is permitted. Retail use must be located within the same building as residences.
- [9] A minor use permit is required for a cottage food industry home occupation.
- [10] Agricultural uses are temporary, transitional uses in the city and should not remain on a permanent basis. The appropriate length of time for the use will be defined in the conditional use permit based on the types of crops, surrounding uses, etc. Hog-raising and onsite sale of products, including wholesale, are prohibited. See Chapter 6.04 (Animal Control) for additional regulations.

B. Duplex Homes in the R-1 Zoning Districts. One (1) duplex home per lot is permitted in the R-1 zoning districts when the following standards are met:

- 1 The lot meets the minimum lot size for the district.
2. One (1) off-street parking space for each unit is provided consistent with Chapter 20.38 (Off-Street Parking). However, no parking may be required if either of the following is true:
 - a. The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in Subsection (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code; or

- b. There is a car share vehicle located within one (1) block of the parcel.
- 3. Driveways are a minimum twenty (20) feet in length (measured from the garage/carport to the back of the sidewalk or front property line whichever is furthest from the street).
- 4. The lot does not have frontage along a designated collector or higher order street as defined in the general plan, or has a circular driveway or other driveway configuration that enables vehicles to enter and exit the site in the same direction and not back out into the street.

C. Small Houses. Small Houses may be proposed in residential planned development (RP-D), inner village residential (R-IV), outer village residential (R-OV), low density residential (R-1) low medium density residential (R-2), high medium density residential (R-3), and high density residential (R-4) zoning districts. The city may determine that a proposed Small House subdivision is not allowed where public facilities and services are insufficient for the proposed development.

- 1. Small Houses proposed within R-2, R-3, or R-4 zoning districts shall require approval of a site plan review. All subdivisions of land shall receive permits and approvals required by Title 18 (Subdivisions) of the Merced Municipal Code. Small House Villages proposed within the R-2 zoning district shall require approval of a conditional use permit.
- 2. Residential Design Standards
 - a. Small Houses. Each Small House is required to comply with Chapter 20.46.020 of this Code, except where specified below.
 - b. Small House Villages. Each Small House Village is required to comply with Chapter 20.46.030 of this Code, except where specified below.
- 3. Density and Intensity:
 - a. One (1) Small House is permitted per lot, in districts where Small Houses are permitted, subject to the regulations contained in this Chapter.
 - b. Small House Villages are permitted in the R-2, R-3, and R-4 districts at the densities permitted in the existing zone district.

Table 20.4X.XXX: Development Standards for Small Houses and Small House Villages				
	R-1	R-2	R-3	R-4
Lot and Density Standards (Minimums)				
Density	2 – 6	6-12	12-24	24-26
Lot Area in square feet – Single Family Lots	3,000	3,000	3,700	2,000
Lot Area in square feet – Small House Villages	-	11,000	5,500	5,100
Minimum Lot Width	30 ft	30 ft	30 ft	30 ft
Minimum Lot Width (Corner Lots)	45 ft	45 ft	35 ft	35 ft
Minimum Lot Depth	75 ft	75 ft	60 ft	60 ft
Primary Structure Standards				
Setbacks (Minimums)				
Front	10 ft	10 ft	10 ft	10 ft
Front Yard Setback to Garage	18 ft	18ft	18ft	18ft
Interior Side	8 ft	8 ft	8 ft	8 ft
Street Side	5 ft	5 ft	5 ft	5 ft
Rear	5 ft	5 ft	5 ft	6 ft
Lot Coverage for single family lots	60%	60%	60%	60%
Height (maximum)				
Feet	35 ft	35 ft	35 ft	35 ft
Stories	2 stories	2 stories	2 stories	2 stories

- a. Infill lots that do not meet the required lot depth and width requirements may be granted an exception if the Director finds that all other development and density standards are met.
- b. Any non-conforming or substandard residential zoned lot in compliance with Chapter 20.50 is permitted to construct one (1) Small House as a primary dwelling.
- c. Walls and Fences. Walls and fences shall be provided and developed in compliance with Chapter 20.30 (Walls and Fences).
- d. Parking Standards. Parking shall be provided and developed in compliance with Chapter 20.38 (Parking and Loading).
 - i. Within the R-1 and R-2 zoning districts, required off-street parking spaces may not be located within any required exterior setback area, except for required parking spaces for accessory dwelling units on the property.

- ii. Within the R-3 and R-4 zoning districts, off-street parking spaces may be located within required exterior setback areas if the total off-street parking requirement exceeds four (4) spaces.

When the required off-street parking for a single-family or duplex home in any residential zoning district is provided outside of a covered garage or carport, each parking space shall be located and designed so that it may later be covered by a garage or carport structure.

SECTION 2. Chapter 20.08 is amended by amending Section 20.08.030 to read as follows:

20.08.030 Development standards for residential zoning districts.

- A. Basic Standards. Tables 20.08-2 and 20.08-3 identify development standards that apply in residential zoning districts.
- B. Variation in Lot Dimensions for R-1 Subdivisions. The planning commission may approve reduced lot widths for an R-1 subdivision when the following conditions are met:
 - 1. The subdivision creates at least ten (10) lots.
 - 2. Excluding corner lots, at least twenty-five (25) percent of the remaining lots are at least five (5) feet above the minimum required width.
 - 3. Excluding corner lots, no more than forty (40) percent of the remaining lots may be less than the minimum required width.
 - 4. No lot shall have a depth less than the minimum required depth or a width less than fifteen (15) feet below the minimum required width.
 - 5. No corner lot may be less than the minimum required width or area.
 - 6. No more than two (2) lots below the minimum required width may be adjacent to one another.
- C. Residential Design Standards. All residential structures shall comply with the design standards established in Chapter 20.46 (Residential Design Standards). See Figure 20.08-1.

Figure 20.08-1 — Residential Development Standards

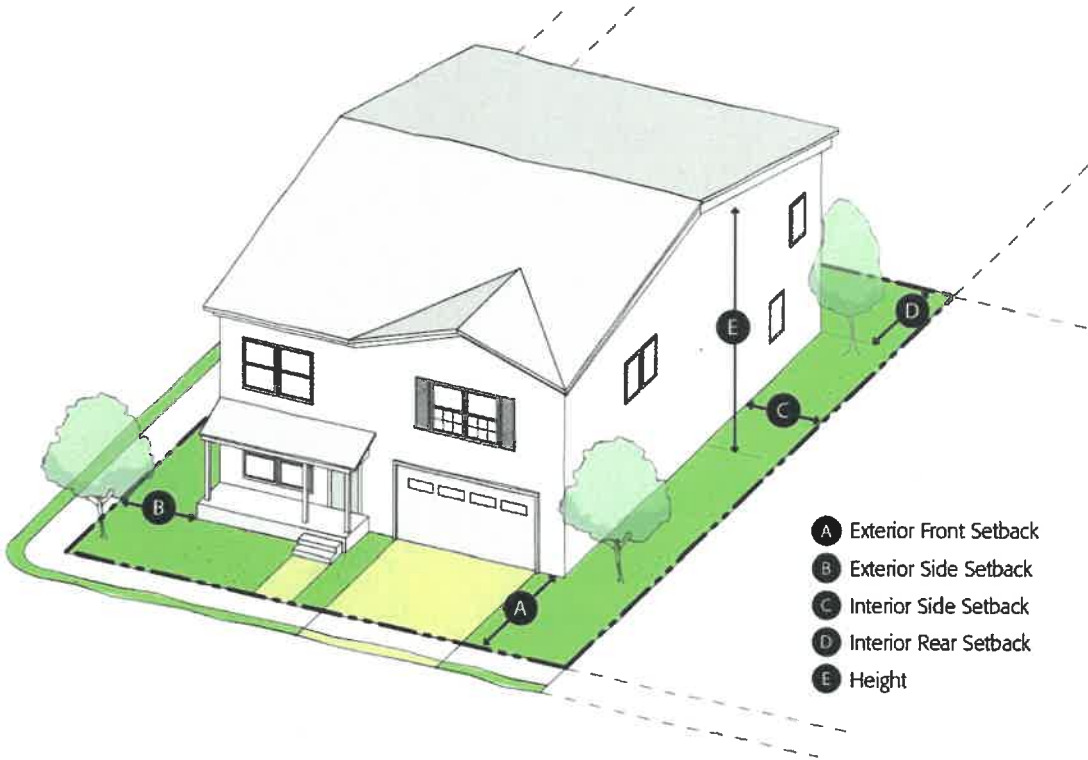


Table 20.08-2 Development Standards for Single-Family Residential Zoning Districts						
	Figure Label	Zoning District				
		R-R	R-1-20	R-1-10	R-1-6	R-1-5
Lot and Density Standards (Minimums)						
Lot Area		1 acre [4]	20,000 sq. ft.	10,000 sq. ft.	6,000 sq. ft.	5,000 sq. ft.
Lot Width [2]						
Interior Lots		125 ft.	85 ft.	70 ft.	60 ft.	50 ft.
Corner Lots		125 ft.	85 ft.	70 ft.	65 ft.	55 ft.
Lot Depth [3]		None	125 ft.	100 ft.	100 ft.	80 ft.
Lot Area per Dwelling Unit		1 acre [4]	20,000 sq. ft.	10,000 sq. ft.	6,000 sq. ft.	5,000 sq. ft.
Primary Structure Standards						
Setbacks (min.)						
Exterior Yards, Front	Ⓐ	30 ft.	30 ft.	20 ft.	20 ft.	15 ft. [1]
Exterior Yards, Side (Corner Lots only) [5]	Ⓑ	15 ft.	15 ft.	10 ft.	10 ft.	10 ft.

Exterior Yards, Cul-De-Sacs		30 ft.	30 ft. [1]	15 ft. [1]	15 ft.[1]	15 ft.[1]
One Interior Yard	ⓐⓓ	15 ft.	15 ft.	10 ft.	10 ft.	10 ft.
All Other Interior Yards	ⓐⓓ	25 ft.	10 ft.	7 ft.	5 ft.	5 ft.
Height (max.)	ⓔ					
Feet		35 ft.	35 ft.	35 ft.	35 ft.	35 ft.
Other Standards						
Accessory Dwelling Standards		See Chapter 20.42				
Accessory Structure Standards		See Chapter 20.28				
Driveway Length (min.)		20 ft.	20 ft.	20 ft.	20 ft.	20 ft.
Lot Coverage (max.)		25%	30%	40%	45%	50%
Off-Street Parking		See Chapter 20.38				
Projections Into Required Yards		See Chapter 20.26				
Separation Between Structures (min.)		As required by the California Building Code				

Notes:

- [1] Twenty-foot minimum for garages.
- [2] Lots located on curved streets, turnarounds, or cul-de-sac bulbs shall meet the minimum lot width requirement at the established front setback line.
- [3] Cul-de-sac lots located on the cul-de-sac bulbs shall meet the minimum lot depth requirement measured at the mean horizontal distance between the front and rear lot lines, but at no point shall be less than eight (80) feet in depth.
- [4] May be reduced to one-third (1/3) acre if city sewer and water serves the property.
- [5] On corner lots, if the yard abuts the exterior front yard of an adjacent lot, then it shall be considered an exterior front yard. Otherwise, it shall be considered an exterior side yard.
- [6] Driveway length is measured from the garage/carport to the back of the sidewalk or front property line whichever is furthest from the street.

Table 20.08-3 Development Standards for Multi-Family Residential Zoning Districts						
Figure Label	Zoning District					
	R-2	R-3-2	R-3-1.5	R-4	R-MH	
Lot and Density Standards (Minimums)						
Lot Area		6,000 sq. ft.	6,000 sq. ft.	7,500 sq. ft.	7,500 sq. ft.	10 acres
Lot Width						
Interior Lots		60 ft.	60 ft.	60 ft.	70 ft.	200 ft.
Corner Lots		65 ft.	65 ft.	65 ft.	70 ft.	200 ft.
Lot Depth		100 ft.	-	-	-	200 ft.

Lot Area per Dwelling Unit		3,000 sq. ft.	2,000 sq. ft.	1,500 sq. ft.	1,000 sq. ft.	[1]
Primary Building Standards						
Setbacks (min.)						
Exterior Yards, Front	Ⓐ	15 ft.	15 ft.	15 ft.	15 ft.	25 ft.
Exterior Yards, Side (Corner Lots Only)	Ⓑ	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
One Interior Yard	ⒸⒹ	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
All Other Interior Yards	ⒸⒹ	5 ft.	5 ft.	5 ft.	6 ft. [2]	10 ft.
Height (max.)	Ⓔ					
Feet		35 ft.	35 ft.	35 ft.	40 ft.	35 ft.
Other Standards						
Accessory Dwelling Standards		See Chapter 20.42				
Accessory Structure Standards		See Chapter 20.28				
Driveway Length (min.)		20 ft.	-	-	-	-
Lot Coverage (max.)		50%	55%	55%	65%	65%
Off-Street Parking		See Chapter 20.38				
Projections Into Required Yards		See Chapter 20.26				
Separation Between Structures (min.)		15 ft.	15 ft.	15 ft.	10 ft.	15 ft.

Notes:

[1] The maximum residential density in the R-MH zoning district is ten (10) dwelling units per acre.

[2] Rear yard minimum 10 (10) feet for structures over twenty-five (25) feet in height, an additional one (1) foot per each additional five (5) feet in height.

D. R-1-5 Subdivisions. Homes for R-1-5 subdivisions shall comply with the following design standards, unless exceptions from individual standards are granted through a minor use permit per Section 20.68.020:

1. A minimum of twenty-five (25) percent of the front elevations along a street shall have a minimum twenty-five-foot garage setback.
2. No three-car garages shall be allowed on five thousand-square-foot lots, except on lots with alley access or lots exceeding sixty (60) feet in width.
3. All subdivisions shall provide a variety of dwelling elevations appropriate for the scale of the project. Elevations shall be approved by the planning division. At a minimum, the same elevations shall not be repeated for adjacent houses. Varied front setbacks and heights are encouraged as ways of achieving variety.
4. Windows, doors, and garage doors (except recessed garage doors) on the front elevation shall have raised trim in order to provide visual interest and relief.
5. Plans for two-story structures immediately adjacent to a developed R-1 area shall receive special attention by the planning division. Planning division staff shall consider the relationship of second-story windows, doors, and balconies with the privacy of neighbors, and may require that these features be redesigned or omitted from second-story rear walls.

- E. Exceptions on Required Front Setback. In any residential zoning district, the required front setback may be modified with a minor use permit if at least fifty (50) percent of the homes are already constructed on the same block with front setbacks that are different from the front setback requirement in Table 20.08-2 (Setback and Height Standards for Residential Zoning Districts). In such cases, the modified setbacks shall comply with the following requirements:
 - 1. The front setback shall not exceed the average of existing front setbacks on the same block.
 - 2. The front setback shall not exceed the average of existing front setbacks of the two (2) immediately adjoining lots.
 - 3. For corner lots, the front setback shall not exceed the front setback of the immediately adjoining lot.
 - 4. The front setback for all lots shall be a minimum of ten (10) feet and a maximum of fifty (50) feet.
- F. Parking.
 - 1. Within the R-1 and R-2 zoning districts, required off-street parking spaces may not be located within any required exterior setback area, except for required parking spaces for accessory dwelling units on the property.
 - 2. Within the R-3 and R-4 zoning districts, off street parking spaces may be located within required exterior setback areas if the total off-street parking requirement exceeds four (4) spaces.
 - 3. When the required off-street parking for a single-family or duplex home in any residential zoning district is provided outside of a covered garage or carport, each parking space shall be located and designed so that it may later be covered by a garage or carport structure.

SECTION 3. Chapter 20.08 is amended by amending Section 20.08.040 to read as follows:

20.08.040 - Additional dwelling units on R-1 lots.

- A. General. Up to three (3) single-family dwelling units are permitted on an R-1 lot provided that all of the following conditions are met:
 - 1. The minimum lot size is fifteen thousand (15,000) square feet for R-1-5; eighteen thousand (18,000) square feet for R-1-6; thirty thousand (30,000) square feet for R-1-10; and sixty thousand (60,000) square feet for R-1-20.

2. The minimum lot area per dwelling unit is five thousand (5,000) square feet for R-1-5; six thousand (6,000) square feet for R-1-6; ten thousand (10,000) square feet for R-1-10; and twenty thousand (20,000) square feet for R-1-20.
 3. A minimum separation of twenty (20) feet is provided between dwelling units located behind each other.
 4. For dwelling units located side by side on one (1) lot:
 - a. The lot has a width of at least one hundred (100) feet.
 - b. A minimum separation of ten (10) feet is provided between dwelling units.
- B. Deep R-1 Lots.** R-1 lots that are over one hundred fifty (150) feet in depth with an existing dwelling unit may add an additional dwelling unit, provided that the following conditions are met:
1. The existing dwelling unit existed prior to the adoption of this title.
 2. The existing dwelling unit is located at least seventy-five (75) feet back from the front lot line.
 3. The additional dwelling unit is located on the front half of the lot.
 4. A minimum separation of twenty (20) feet is provided between the two (2) dwelling units.
- C. Rear Dwellings.**
1. No structure to the rear of a principal structure on the same lot shall be used for residential purposes unless it conforms to all the lot area, setback, open space, and off-street parking requirements of this title.
 2. Vehicle access to rear dwellings shall be provided from a public street or alley. The minimum driveway width shall be ten (10) feet for driveways serving two (2) units, and twenty-two (22) feet for driveways serving three (3) or more units.
- D. Dwelling Units Over Garages.** Dwelling units occupying an upper story above a garage may be set back three (3) feet from a rear lot line that abuts an alley. The ground floor garage shall be set back five (5) feet from the rear lot line. All other setback and open space requirements must be observed.
- E. Accessory Dwelling Units.** Dwelling Units that meet the requirements of Chapter 20.42 shall be permitted in R-1 zoning districts.

SECTION 4. Chapter 20.42 of the Merced Municipal Code is hereby amended in its entirety to read as follows:

Chapter 20.42 ACCESSORY DWELLING UNITS

20.42.010 Purpose and applicability.

This chapter establishes standards for the development of accessory dwelling units ("ADU" or "ADUs") that are intended to be in conformance with Government Code Sections 65852.2 and 65852.22. The provisions of this chapter are intended to be applied so as to not conflict with State law. These standards are intended to allow for ADUs and junior accessory dwelling units ("JADU" or "JADUs") as an important form of affordable housing while preserving the character and integrity of residential neighborhoods within the city.

The provisions of this chapter apply to all parcels in the City of Merced that are zoned residential or that allow residential uses.

20.42.020 Application process and review and nonconforming conditions.

- A. Ministerial Review. A permit application that meet the provisions of this Chapter for the installation of or construction of an ADU, JADU or THOW shall be granted with ministerial review, approval, and issuance of a building permit. The correction of nonconforming zoning conditions ("a physical improvement on a property that does not conform to zoning standards") or the installation of public improvements cannot be required as a condition for ministerial approval.
- B. Processing Time. If there is an existing single-family or multi-family dwelling on the parcel subject to the application, the city shall act on the application to create an ADU or a JADU within sixty (60) days from the date a complete application is received, unless either:
 1. The applicant requests a delay, in which case the sixty-day time period shall be tolled for the period of the delay; or
 2. The construction of a single-family dwelling is proposed at the same time as a construction of an ADU or a parcel, in which case, the city shall not approve the permit for the ADU prior to the approval of the permit for the single-family dwelling and shall not issue a certificate of occupancy for the ADU prior to the issuance of a certificate of occupancy for the single-family dwelling.

If the local agency has not acted upon the completed application within sixty (60) days, and neither of the above criteria is met, the application shall be deemed approved.

- C. Nonconforming Conditions. Notwithstanding Chapter 20.52, Nonconforming Parcels, Uses, and Structures, to the contrary, an owner of an ADU or JADU

that receives a notice to correct violations or abate nuisance, in relation to the ADU or JADU, may request a delay for 5 years in enforcement of a building standard, as long as the violation is not a health and safety issue as determined by the City of Merced, subject to compliance with the Health and Safety Code Section 17980.12 and the following conditions:

1. The ADU was built before January 1, 2020; or
 2. The ADU was built on or after January 1, 2020 in a local jurisdiction with a noncompliant ADU ordinance, but the ordinance is compliant at the time the request is made; and
 3. The city shall not approve any such applications after January 1, 2030; and
 4. This section shall remain in effect only until January 1, 2035 and as of that date is repealed.
- D. State ADU Law. If any portion of this chapter conflicts with ADU law or other applicable state law, then state law shall supersede this chapter. Any ambiguities in this chapter shall be interpreted to be consistent with state ADU law.

20.42.030 Type and number of accessory dwelling units and site and design standards.

- A. Location. ADUs shall be permitted in districts zoned to allow single-family or multi-family residential or mixed use as provided in Part 2 (Zoning Districts).
- B. Types of Accessory Dwelling Units. An ADU approved under this chapter may take any of the following forms:
1. Attached. An ADU may be a new habitable space attached to an existing or proposed single-family dwelling.
 2. Detached. An ADU may be a new detached habitable structure located on the same parcel as an existing or proposed single-family dwelling.
 3. Converted. An ADU may be located within areas converted to habitable space that complies with the California Building Code for a dwelling, such as:
 - (a) An area within an existing single-family dwelling (e.g. an attached garage); or
 - (b) An existing accessory structure (e.g. a detached garaged or pool house) located on the same parcel as the single-family dwelling; or

(c) Portions of existing multi-family structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages.

4. *Junior Accessory Dwelling Unit.* A JADU is a dwelling, contained entirely within an existing or proposed single-family dwelling, that is a maximum of five hundred (500) square feet in size. A JADU may include separate facilities or may share sanitation facilities with the existing single-family dwelling. JADUs shall comply with Section 20.42.050, Standards for Junior Accessory Dwelling Units.

5. Tiny Home on Wheels.

C. Number of Accessory Dwelling Units Permitted Per Parcel.

1. **Parcels with a Single-Family Dwelling.** One (1) attached ADU (new or converted), one (1) detached ADU (new or converted), and one (1) JADU shall be allowed per lot with a proposed or existing single-family dwelling in conformance with the rest of this chapter.

2. **Parcels with Multi-Family Dwelling(s).**

(a) **Converted ADUs.** The number of converted ADUs, on a parcel with an existing multi-family dwelling, shall not exceed twenty-five (25) percent of the total number of dwelling units.

(b) **Detached ADUs.** Not more than two (2) detached ADUs may be located on a parcel that contains an existing multi-family dwelling.

D. Site Requirements.

1. **No Minimum Parcel Size.** ADUs that comply with this chapter shall be permitted on all legally established parcels, regardless of parcel size.

2. **An ADU may only be established if a single-family or multi-family dwelling unit ("primary dwelling") exists on the parcel or is being built at the same time.**

3. **Statewide Exemption ADU.** No lot coverage, floor area ratio, open space, or minimum lot size requirement shall preclude the construction of an ADU up to eight hundred (800) square feet, sixteen (16) feet in height, and with four-foot side and rear yard setbacks. The construction of a detached statewide exemption ADU may be combined with a JADU within any zone allowing residential or mixed use.

E. Size/Floor Area.

1. **Attached or Converted Accessory Dwelling Units.** The floor area of an attached or converted ADU shall not exceed fifty (50) percent of the living

area of the existing primary dwelling on the parcel or one thousand two hundred (1,200) square feet, whichever is less. Garages and carports are excluded from floor area calculations for both the primary dwelling and accessory dwelling unit. These limits do not include up to one hundred fifty (150) square feet of area added to the primary dwelling for the sole purpose of providing ingress and egress to the ADU.

2. Detached Accessory Dwelling Units. The floor area of a detached ADU shall not exceed one thousand two hundred (1,200) square feet, excluding any space devoted to a carport or garage.

F. Development Standards.

1. An ADU shall comply with all current objective development and design standards of the general plan and zoning ordinance that are applicable to the primary dwelling, including, but not limited to, building setbacks, parcel coverage, building height, and architectural design, with certain exceptions, discussed in this chapter.
2. The ADU in compliance with this section 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 which is consistent with the existing general plan and zoning designations for the lot. The ADU shall be deemed to be an accessory use or accessory building and shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
3. No lot line adjustment, subdivision of land, air rights or condominium shall be allowed to enable the sale, transfer, or disposal of the accessory dwelling unit independently of the primary dwelling unit or any portion of the property except in accordance with Section 20.42.040(C). This stipulation shall be included in a recorded deed restriction on the property.
4. An ADU or JADU shall only be allowed on parcels connected to public water and sewer service.

G. Design Requirements.

1. Height. The maximum height of a detached ADU shall be as follows.
 - (a) The height of an attached ADU on a parcel containing a single-family or multi-family dwelling shall not exceed the height of the existing single-family or multi-family dwelling or twenty-five (25) feet, whichever is lower.

- (b) The height of a detached ADU on a parcel containing a single-family or multi-family dwelling shall not exceed sixteen (16) feet, unless one of the following conditions are met:
 - (i) The maximum height for a detached ADU on a parcel with an existing or proposed single-family or multi-family dwelling unit that is within one-half mile walking distance of a major transit stop or a high-quality transit corridor, as defined in Section 21155 of the Public Resources Code shall be eighteen (18) feet. The maximum height may be increased by an additional two (2) feet, to twenty (20) feet, for the purpose of accommodating a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit; or
 - (ii) The maximum height for a detached ADU on a lot with an existing or proposed multi-family, multi-story dwelling shall be eighteen (18) feet.
- 2. Finish Materials and Roof Form. The ADU or JADU entrance shall have the same exterior finish materials as the existing or proposed single-family or multi-family dwelling on the parcel and shall be of the same construction typical of other dwelling units in the zone. The ADU or JADU shall have the same roof form as the primary dwelling and shall not have a flat roof.
- 3. Setbacks.
 - (a) When an existing detached accessory structure is converted to a detached ADU, no additional setbacks shall be required.
 - (b) When an ADU is constructed above a detached garage, a four-foot side and four-foot rear setback are required.
 - (c) No additional setbacks shall be required when a new structure containing an ADU is constructed in the same location (and to the same dimensions as the existing detached accessory structure).
 - (d) Four-foot side and four-foot rear setbacks shall be required for detached ADUs on parcels containing either existing single or multi-family dwellings.
- 4. Addresses. The addresses of both the primary dwelling and the ADU shall be displayed and clearly visible from the street for public safety purposes.
- 5. Fire Sprinklers and Passageways. Fire sprinklers are not required to be provided with an ADU if they are not required for the single-family dwelling. No passageway defined as "a pathway that is not unobstructed,

clear to the sky, and extends from a street to one (1) entrance of an ADU or JADU" shall be required.

H. Parking.

1. A maximum of one (1) additional off-street parking space shall be provided for an ADU or per bedroom, whichever is less. Parking for an ADU may be provided as tandem parking on an existing driveway or in the front or rear setback areas. These spaces shall not be covered if located within the setback areas.
2. When all or a portion of a garage, carport, or other parking structure is converted or demolished to construct an accessory dwelling unit, the parking spaces displaced by the conversion are not required to be replaced.
3. The parking standards provided in this section and otherwise in this code do not apply to an ADU in any of the following instances:
 - (a) It is located within one-half mile walking distance of public transit (defined as "a location including but limited to a bus stop or train station, where the public may access strains, subways, buses, or other forms of transportation that charges set fares, runs on fixed routes, and are available to the public");
 - (b) It is located within an official architecturally and historically significant historic district;
 - (c) It is part of the proposed or existing primary residence or an accessory structure;
 - (d) On-street parking permits are required but not offered to occupants of an ADU;
 - (e) A car share vehicle is located within one (1) block of the ADU; and
 - (f) The ADU is an attached or converted ADU. To qualify for any of the above exemptions, the applicant shall provide supporting evidence as part of a building permit application.

20.42.040 Occupancy standards and fee requirements.

- A. Owner Occupancy. The city shall not impose owner occupancy requirements on any ADUs or associated primary dwellings permitted between January 1, 2020, and January 1, 2025. After January 1, 2025, the following section shall apply. The owner of a parcel with an ADU shall be permitted to rent either the primary unit or the ADU, but not both, and may reside in either the primary dwelling unit or the ADU, if the ADU is located within an R-1 Zoning District or equivalent designation in a Planned Development or Residential Planned

Development only. This requirement does not apply to any other zoning districts.

- B. Rental Term. An ADU or JADU may be rented, provided the rental term is at least thirty (30) continuous days or more. Non-continuous or transient occupancy is prohibited.
- C. Separate Conveyance. An ADU shall not be sold or otherwise conveyed separately from the principal residence, except when sold by a qualified nonprofit corporation to a qualified buyer in accordance with Government Code Section 65852.26 with affordability restrictions.
- D. Fees and Other Requirements.
 - 1. ADUs are not a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service unless the ADU or JADU is constructed with a new single-family dwelling; and any utility fee or charge imposed on the creation of a detached ADU must not exceed the reasonable cost of providing the service.
 - 2. ADUs contained within the existing space of a single-family residence or accessory structure are not required to install a new or separate utility connection and cannot be charged for a related connection fee or capacity charge.
 - 3. A new ADU shall be required to pay all applicable fees, including impact fees. However, no impact fees shall be imposed on ADUs of less than seven hundred fifty (750) square feet. For an ADU larger than seven hundred fifty (750) square feet, any impact fee shall be charged proportionately in relation to the square footage of the single-family dwelling.
 - 4. Prior to occupancy of the ADU, a new address shall be assigned by department of development services.
 - 5. A JADU shall not be considered a separate or new dwelling for the purposes of providing service for water, sewer, and/or power.20.42.050 Standards for Junior Accessory Dwelling Units.
- A. All other provisions for ADUs in this chapter shall also apply to JADUs except as provided below.
- B. Location. A JADU shall be entirely within the walls of an existing or proposed single-family dwelling.

- C. Number. A maximum of one (1) JADU is allowed per parcel within an existing or proposed single-family dwelling.
- D. Size. A JADU shall not exceed five hundred (500) square feet in size.
- E. Entrance.
 - 1. A JADU shall have an entrance that is separate from the main entrance of the existing or proposed single-family dwelling.
 - 2. A converted ADU or JADU may include an expansion of a maximum one hundred fifty (150) square feet beyond the physical dimensions as the existing accessory structure or single-family dwelling. This expansion shall be limited to accommodating ingress and egress from the ADU or JADU.
- F. Kitchen. A JADU shall include an efficiency kitchen which shall include all of the following:
 - 1. Cooking facilities with appliances; and
 - 2. Food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.
- G. Owner Occupancy. The owner shall reside on the property in either the newly created JADU or the remaining portion of the single-family dwelling, unless the owner is a governmental agency, land trust, or housing organization.
- H. No Separate Conveyance. A JADU shall not be sold or otherwise conveyed separately from the single-family dwelling on a parcel, except when sold to a qualified buyer in accordance with Government Code Section 65852.26.
- I. Deed Restriction. Prior to issuance of a building permit, a deed restriction shall be recorded on the property indicating the following:
 - 1. The size of the JADU is restricted to a maximum of five hundred (500) square feet; and the JADU shall contain cooking facilities with appliances and food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU;
 - 2. The deed restriction shall run with the land and may be enforced against future property owners;
 - 3. Owner-occupancy is required in either the JADU or the remaining portion of the single-family dwelling; and
 - 4. The JADU shall not be sold or otherwise conveyed separately from the single-family dwelling.

20.42.060 Standards for Tiny Homes on Wheels

- A. Permit. All other provisions for ADUs in this chapter shall also apply to THOW's except as provided below. In addition to building permit issuance as a detached THOW as an accessory dwelling unit, a THOW shall be approved ministerially by the Director if the following additional conditions are met:
1. The THOW is licensed and registered by the California Department of Motor Vehicles;
 2. The THOW has been certified as meeting American National Standards Institute (ANSI) A119.2, National Fire Protection Association (NFPA) 1192 standards, Recreational Vehicle Standards and A119.5 Park Model Recreational Vehicle Standard requirements;
 3. A THOW permit if approved shall cease, expire, or be revoked if any of the following occur:
 - a. The THOW is removed from the property in which it was approved; or
 - b. The THOW fails to comply with annual registration with the California Department of Motor Vehicles, including all registration fees; or
 - c. The THOW out of compliance with ANSI A119.2, NFPA 1192 standards, Recreational Vehicle Standards and A119.5 Park Model Recreational Vehicle Standard requirements
 - d. The THOW fails to renew with the City of Merced every five (5) years.
- B. Location. THOWs shall be permitted in districts zoned to allow single-family or multi-family residential or mixed use as provided in Title 20 Part 2 (Zoning Districts).
- C. Number of THOWs permitted per parcel.
1. Parcels with a Single-Family Dwelling.
 - a. One (1) THOW shall be allowed per lot with a proposed or existing single-family dwelling in conformance with the rest of this chapter.
 2. Parcels with Multi-Family Dwelling(s).
 - b. Not more than two (2) detached ADUs total (THOW or otherwise) may be located on a parcel that contains an existing multi-family dwelling.
- D. Development Standards
1. Setbacks. THOWs shall provide a minimum of five (5) foot setback for rear and side yards.
 - a. In no case shall a THOW be placed in the front exterior yard.
 - b. Additional setback requirements may be imposed as necessary to comply with any recorded utility easements or setback restrictions.

2. Distance from buildings and structures. A minimum of six (6) feet shall be required between a THOW and any building or structure at all times.
3. Floor Area. Floor area must be less than four hundred (400) square feet excluding lofts. THOWs shall have a minimum of one hundred (100) square feet of first floor interior living space.
4. Height. Total building height shall not exceed fourteen (14) feet. The maximum height is established by the California Department of Motor Vehicles for towing on public roadways at the time of application.
 - a. Ceiling heights in sleeping and storage lofts are permitted to be less than six (6) feet eight (8) inches.
5. Design Standards.
 - a. THOWs shall not be located in front of the primary residential structure and shall not be parked in the driveway.
 - b. Flat roofs are prohibited. Roof pitch or slope shall be no less than a ratio of two (2) inches vertical rise for each twelve (12) inches horizontal run (2:12).
 - c. THOWs shall have the same exterior finish materials or similar style as the existing or proposed primary dwelling on the parcel.
 - d. The THOW should be designed and built to look like a conventional building structure.
 - e. The wheels and hitch mechanism shall be attached and screened from view.
 - f. In no circumstance shall motorhomes or other recreational vehicles serve as a THOW approved by the provisions of this Chapter.
6. Utilities.
 - a. Electricity. Tiny Homes on Wheels shall be connected to a source of electricity in compliance with ANSI 119.5 and the California Electrical Code in effect at time of application for building permit.
 - b. Water and Sewer. Tiny Homes on Wheels shall be connected to service for water and sewage disposal in compliance with the California Plumbing Code in effect at time of application for building permit.
 - i. The City of Merced permits only one water and sewer connection per parcel.
7. Parking. No additional parking is required.
8. Parking Pad Requirements
 - a. All THOWs must be parked on a paved parking pad that meets one of the following requirements:
 - i. Paved pad with hard, durable asphaltic paving at least two (2) inches thick after compaction; or

- ii. Paved pad with cement paving at least three (3) inches thick; or
 - iii. Paved pad with permeable pavers or permeable interlocking concrete pavers that are at least 80 mm (3.14 inches) thick;
 - iv. Paved pad with alternative materials that may consist of porous asphalt; porous concrete, decomposed granite, crushed rock or gravel; plastic or concrete grid system confined on all sides and filled with gravel or grass in voids; or other similar materials as approved by the City where the underlying drainage material is installed to meet manufacturer's, other qualified third-party inspection, specifications.
- b. Wheels must remain attached to a THOW unit at all times. If wheels are removed and a THOW is attached to a foundation, the unit no longer qualifies as a THOW and will be subject to all California Building Standards.

F. Miscellaneous

1. No lot line adjustment, subdivision of land, air rights or condominium shall be allowed to enable the sale, transfer, or disposal of the accessory dwelling unit independently of the primary dwelling unit or any portion of the property except in accordance with Section 20.42.040(C). This stipulation shall be included in a recorded deed restriction on the property.
2. Floodplain Management. All THOWs shall meet the flood elevation requirements for manufactured homes outlined in Chapter 17.48.170 THOWs shall comply with California Building Standards including, but not limited to Fire Code, Electrical Code, Mechanical Code, and Plumbing Code.”

SECTION 5. Section 20.90.020, “DEFINITIONS,” of the Merced Municipal Code is hereby amended by amending subsection 61 to read as follows:

61. Duplex Home. A residential structure that contains two (2) dwelling units each with its own entrance. For the purposes of Section 20.90.020, a duplex may be defined as being detached or attached. Each unit within a duplex home provides complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

SECTION 6. Section 20.90.020, “DEFINITIONS,” of the Merced Municipal Code is hereby amended by adding the following subsections to be numbered and to read as follows:

184a.Small House. A detached, single-family dwelling unit that is between 400 square feet and 1,200 square feet in size. A small house can be a standalone unit on its own lot or there can be multiple small houses on a single lot in one (1) ownership.

184b.Small House Village. Three or more small houses on a single parcel, held as one with a property manager that may have common amenities/parking and private streets (i.e., a multi-family residential development but with detached units).

210a.Tiny Home on Wheels or THOW. A dwelling that provides independent living facilities and meets the requirements:

- a. It contains four hundred (400) square feet or less of gross floor area, excluding loft area space if that loft area space meets the requirements of subdivision (b) and Section 18033 of the Health & Safety Code. It may not exceed fourteen (14) feet in width at the maximum horizontal projection.
- b. It is built upon a single chassis with wheels.
- c. It may only be transported upon public highways with a permit issued pursuant to Section 35780 of the Vehicle Code and are constructed to American National Standards Institute (ANSI) A119.5 and National Fire Protection Association (NFPA) 1192 standards and are certified by a qualified third-party inspector with a label of approval such as those provided by the Recreational Vehicle Industry Association.

SECTION 7. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 8. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections,

subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 9. PUBLICATION. The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the ____ day of _____, 2023, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2023, by the following called vote:

AYES: Council Members:
NOES: Council Members:
ABSTAIN: Council Members:
ABSENT: Council Members:

APPROVED:

Mayor

ATTEST:
STEPHANIE R. DIETZ, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:



City Attorney **8/28/2023**
Date