



**PLANNING COMMISSION AGENDA  
REGULAR MEETING  
October 17, 2023 6:00 P.M.**

City Council Chambers  
103 W. Sherwood Ave, McFarland, CA

**Notice:** Pursuant to California Government Code Section 54954.3, any member of the public may directly address the Planning Commission on any item appearing on the agenda, including Consent Calendar and Public Hearing items, before or during the Planning Commission’s consideration of the item. Members of the public will be allowed two (2) minutes for comments.

**Speaker Cards:** To accommodate those wishing to address the Planning and allow for staff follow-up, speaker cards are available for any agenized topic, or any other topic delivered under Public Comment. Please fill out and provide the Comment Card to the Commission staff.

**Interpretation:** If you need an interpretation of your communications to the Planning Commission from Spanish into English, please contact the City Clerk Department at 661-792-3091 ext. 2135 or via email at [falvarado@mcfarlandcity.org](mailto:falvarado@mcfarlandcity.org) . Subject to availability, notifying at least 48 hours before will usually enable the City to make arrangements.

**Accommodation:** In compliance with the ADA, if you need special assistance to participate in a city meeting or other services offered by the City, please contact the City Clerk’s office, at (661) 792-3091 ext. 2135. Notification of at least 48 hours prior to the meeting, or time when services are needed, will assist the city staff in assuring those reasonable arrangements can be made to provide accessibility to the meeting or services

**Agenda Packets:** Prior to the Planning Commission meeting, a complete Agenda Packet is available for review on the City’s website at [www.mcfarlandcity.org](http://www.mcfarlandcity.org) and in the City Clerk’s Office at 401 W Kern Avenue, McFarland during normal business hours. Materials related to an item on this Agenda submitted to the Commission after distribution of the Agenda Packet are also available for public inspection in the City Clerk’s Office. Such documents may be available on the City’s website subject to staff’s ability to post the documents before the meeting.

**CALL TO ORDER**

**ROLL CALL**

Chairman, Marco Martinez  
Vice Chairman, Jose Hernandez Jr.  
Commissioner, Jose “Jay” Hernandez  
Commissioner, Luis Sarabia  
Commissioner, Jim White

**PLEDGE OF ALLEGIANCE**

**INVOCATION**

**PUBLIC COMMENT**

*At regularly scheduled meetings, members of the public may address the Commission on any item listed on the agenda, or on any non-listed matter over which the Commission has jurisdiction. Commissioners may respond briefly to statements made or questions posed. They may ask a question for clarification; may refer the item to staff for further study or for placement on a future agenda. Speakers are limited to two minutes for each person. Please state your name and address for the record prior to making a presentation. Fifteen minutes total will be allowed for any one subject.*

## **CONSENT AGENDA**

*The Consent Agenda consists of items that in staff's opinion are routine and non-controversial. These items are approved in one motion unless the Planning Commission removes a particular item.*

1. Planning Commission Minutes – Special Meeting – September 6, 2023

## **PUBLIC HEARINGS**

2. Accessory Dwelling Units – Zoning Code Amendment

Conduct a Public Hearing and consider adoption of Resolution No 0005-2023 recommending that the City Council approve proposed code amendments amending Chapter 17.16.060 and Chapter 17.136.150 and accept Notice of Exemption pursuant to CEQA Guidelines.

## **DEPARTMENT REQUESTS (Non-Public Hearing Items)**

3. Planning Commission Schedule November/December 2023

Consideration of cancellation of regular meetings scheduled for November 21 and December 19 and holding a special meeting on Tuesday, December 5 at 6:00 PM

## **DIRECTOR'S REPORT**

4. Community Development Department Updates

## **COMMISSIONER COMMENTS**

*On their own initiative, commission members may make an announcement or a report on their own activities. they may ask a question for clarification, make referral to staff, or take action to have staff place a matter of business on a future agenda (government code section 54954.2(a)).*

## **ADJOURNMENT**

The Next Regular Planning Commission Meeting November 21, 2023

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I, Paul Saldaña, Community Development Director, certify that I caused to be posted a copy of the Planning Commission Agenda for the regular meeting of October 17, 2023, at McFarland City Hall, 401 W. Kern Avenue, McFarland, California 93250 on October 12, 2023.



Paul M. Saldaña, CEcD  
Community Development Director

**CITY OF MCFARLAND  
PLANNING COMMISSION  
Special Meeting – September 6, 2023  
MINUTES**

**CALL TO ORDER:** Chairman Martinez called the meeting to order at 6:00 p.m.

**ROLL CALL:** Commissioners Present: M. Martinez, J. Hernandez Jr., J. White, L. Sarabia  
Commissioners Absent: J. (Jay) Hernandez

**STAFF PRESENT:** Community Development Director Saldana, Senior Planner De Leon

**PLEDGE OF ALLEGIANCE:** Vice Chairman J. Hernandez Jr.

**INVOCATION:** Chairman Martinez.

**INTERPRETATION:** Statement read by Chairman Martinez.

**PRESENTATIONS:** None

**PUBLIC COMMENTS:** Chairman opened public comment at 6:03 p.m. There being no public comments, the Chairman closed public comment at 6:03 p.m.

**CONSENT AGENDA:** None

**PUBLIC HEARINGS**

1. Initial Study and Negative Declaration; General Plan Amendment (GPA 2023-01) and Pre-Zoning Ordinance for Annexation 19. Staff Report was provided by Senior Planner DeLeon. Senior Planner DeLeon advised the Commission of corrections to the staff report, correcting the acreage and the requested action to recommend approval of a negative declaration rather than mitigated negative declaration.

Chairman Martinez opened the public hearing at 6:08. Commissioners asked question of applicant regarding potential commercial uses. Mr. Mendrin provided response as representative of the applicant. Director Saldana provided responses related to water service. There being no further public comments, the Chairman closed the public hearing at 6:10 p.m.

Chairman Martinez moved to adopt RESOLUTION NO. 2023-0004 PC A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MCFARLAND RECOMMENDING CITY COUNCIL APPROVE NEGATIVE DECLARATION, GENERAL PLAN AMENDMENT (GPA 2023-01) AND PRE-ZONING FOR ANNEXATION #19 as amended. Motion was seconded by Commissioner Sarabia and carried by unanimous vote.

**PLANNING DISCUSSION ITEMS:** Director Saldana noted that there would be no regular meeting in September due to staff attending the California Chapter of the American Planning Association Conference.

## COMMISSIONER COMMENTS

Commissioner White inquired about the water well grant received by the City. Director Saldana responded that the final grant application process is proceeding and will be completed within the next couple of weeks.

Commissioner Sarabia inquired about a gas station on the east side of 99. Mr. Mendrin who is developing commercial property on Sherwood responded to question indicating that there are plans moving forward with a gas station development on Sherwood.

Vice Chairman Hernandez asked for an update on the community garden. Senior Planner DeLeon provided an update.

**ADJOURNMENT:** There being no further business before the Commission, Chairman Martinez adjourned the meeting at 6:15.



Paul M. Saldana  
Community Development Director  
Planning Commission Secretary



## PLANNING COMMISSION STAFF REPORT October 17, 2023

<b>TO:</b>	Chair and Planning Commissioners
<b>FROM:</b>	Paul Saldana Community Development Director
<b>DATE:</b>	October 17, 2023

<b>Agenda Item</b>	
Presentation	
Departmental Reports	
Consent Agenda	
Public Hearings	X
Discussion Items	
Other	
<b>Action Requested</b>	
Ordinance	X
Resolution	X
Motion	
None	

**PROJECT DESCRIPTION:** Zoning Ordinance Amendment – Accessory Dwelling Units

**ENVIRONMENTAL DOCUMENT:** Notice of Exemption

**APPLICANT:** City of McFarland

**SECTION:** Sections 17.16.060 and 17.136.150 of Title 17 Zoning

### **STAFF RECOMMENDATION**

The staff recommends the Planning Commission consider and adopt Resolution 2023-0004 of the Planning Commission of the City of McFarland recommending the City Council adopt the Ordinance amending Title 17 of the McFarland Municipal Code related to Additional Dwelling Units and Accept California Environmental Quality Act (CEQA) A Notice of Exemption.

### **BACKGROUND**

The City of McFarland adopted Section 17.136.150 Additional Dwelling Units in 1969. This section permitted additional dwelling units in the R-1 residential zones upon the Planning Commission approving a Conditional Use Permit and complying with various other requirements. State law now requires all cities and counties to permit by right accessory dwelling units and junior accessory dwelling units in all zones that permit residential uses.

Upon adoption of the ADU ordinance by the City Council, Staff will forward the adopted ordinance to the State California Department of Housing and Community Development (HCD) for its comments which may require additional changes. The staff at HCD have 60 days in which to complete their review of the adopted ordinance and provide comments as to the adequacy of the adopted ordinance. If comments are received, the ordinance will need to be further amended to address any changes. If HCD finds that any adopted ordinance

enacted by a local jurisdiction is in any way inconsistent with state law, the ordinance is void. If this occurs, the ADU ordinance will require amending.

## **DISCUSSION**

The attached Accessory Dwelling Unit Handbook published by the California Department of Housing and Community Development- Updated July 2022 provides a comprehensive review of the state legislation and HCD's interpretation. The handbook contains a section relating to questions and answers for use by local government and residents. It also contains legislative mandates requiring cities and counties to abide by in the implementation of the state laws. The following definitions provide a general overview of the Accessory Dwelling Unit legislation.

Structure: Accessory Dwelling Unit (ADU) is accessory to a primary residence and has complete independent living facilities for one or more persons and has a few variations: Detached – the unit is separated from the primary structure; Attached – the unit is attached to the primary structure; Converted Existing Space – Space (e.g., master bedroom, attached garage, storage area, or similar use, or an accessory structure) on the lot of the primary residence that is converted into an independent living unit.

Junior ADUs: We are required to allow these smaller ADUs, only in single-family homes, and less than 500 square feet of existing space.

Separate sale of JADUs: Government Code Section 65852.26 was added which allows, under certain circumstances, the separate sale of a JADU when the property is constructed and owned by a 501(c)(3) nonprofit. The JADU must, among other requirements, remain affordable for a minimum of 45 years, and the owner of the single-family home must reside within the home.

### Fees:

Processing Fee: An ADU or JADU can only be charged for the cost of processing a new single-family dwelling (SFD). Impact/development fees can only be charged if the ADU is greater than 750 square feet. The fee must be prorated based on fees for the SFD.

Lot size: The state has removed any requirement for a minimum lot size.

Number of ADUs: Any lot where an ADU is permitted may have one ADU and one JADU. In situations where multi-family units exist, two detached ADUs are permitted plus additional units up to 25 percent of the existing unit total. These units can be constructed within existing unit space, subject to limitations. No JADUs are permitted in multi-family units.

Setbacks, Size and Height: A detached ADU can now have side and rear setbacks of just four feet, and the height of the building can be up to 16 feet. In McFarland's code, the height of the ADU may be the height permitted in the applicable zone district. An ADU must be at least 110 square feet based on the California Building Code.

Utility Meters: An ADU is not considered a new residential use for purposes of calculating connection fees unless constructed concurrent with a new SFD onsite.

Parking: A previous revision of the state's legislation allows parking within setback areas or as tandem parking on driveways. Covered parking is not required. If a carport or garage is converted or demolished for the construction of an ADU, the primary home parking is no longer required.

Processing time: The overall time to process an ADU and/or JADU must be reduced to 60 days.

Nonconforming: The correction of nonconforming structures requesting conversion to accessory units shall not be a condition for ministerial permits.

Owner-occupied: If a JADU is constructed within a single-family home, the owner must reside in either the JADU or the primary home. A Covenant Agreement is required to be recorded. For an ADU, there is no requirement for the owner to occupy either the primary unit or the ADU.

### **ENVIRONMENTAL REVIEW**

The proposed amendment to Title 17 Zoning, amending Chapters 17.16.060 by adding language and amending Section 17.136.150 to delete the language from subpart (A) and (B) and add 17.136.150.010 through 17.136.150.130 is exempt per Section 15061(b)(3) (General Rule) of the California Environmental Quality Act (CEQA) Guidelines because the project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed ordinance amendments are covered by the commonsense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed ordinance amendments are to bring city regulations into compliance with state mandates and will not affect any scenic highway or resources, propose development on a hazardous waste site which is included on any list compiled pursuant to Section 65962.5 of the Government Code, does not affect any site that could qualify as historical resources and no structures are to be demolished, nor would the project have a significant adverse impact on a historic resource.

### **ATTACHMENTS**

1. Planning Commission Resolution No. 0004-2023
2. Draft Ordinance amending Title 17 of the Municipal Code
3. Draft Ordinance Amending Title 17 Zoning by adding language to Chapter 17.16.060 and amending Section 17.136.150 by deleting subparts (A) and (B) and adding 17.136.150.010 through 17.136.150.130.

**RESOLUTION NO. 2023-0004**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MCFARLAND RECOMMENDING THAT THE CITY COUNCIL APPROVE PROPOSED ZONING CODE AMENDMENTS RELATING TO ACCESSORY DWELLING UNITS AND ACCEPT CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) A NOTICE OF EXEMPTION.**

**WHEREAS**, at its regular meeting on October 17, 2023, the Planning Commission conducted a duly noticed public hearing in which it considered all written and oral testimony, including but not limited to written and oral testimony from the public and staff presentations and reports;

**WHEREAS**, the Planning Commission therefore recommends the City Council that it adopt the proposed ordinance, attached hereto as Exhibit A (“Proposed Ordinance”).

**WHEREAS**, copies of the environmental document and additions, deletions, and amendments to Title 17 Zoning made available for public inspection during public review period at the City Clerk’s office and the City of McFarland’s Community Development Department, 401 W Ken Avenue, McFarland, CA 93250 and on the City’s website; and,

**WHEREAS**, the City proposed ordinance is exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3) of said guidelines.

**NOW, THEREFORE**, the Planning Commission of the City of McFarland (the "Planning Commission") hereby finds, determines, resolves and orders as follows:

Section 1: The recitals set forth above are true and correct and incorporated herein by this reference.

Section 2: Based upon its own independent judgment and substantial evidence in the record of proceedings related to the Proposed Ordinance amendments, the Planning Commission recommends that the City Council adopt the Notice of Exemption.

Section 3: Based upon the foregoing and its independent judgment, the Planning Commission recommends the City Council of the City of McFarland adopt the Proposed Ordinance, attached hereto as Exhibit A.

Section 4: This Resolution shall become effective immediately.

**I HEREBY CERTIFY** that the foregoing is a full,, true and correct copy of the resolution of the Planning Commission of the City of McFarland at a meeting held on October 17, 2023 duly adopted and passed by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**ATTEST**

\_\_\_\_\_  
**PAUL M. SALDANA**  
Commission Secretary

**MCFARLAND PLANNING COMMISSION**

\_\_\_\_\_  
Marco Martinez, Chair

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
**NATHAN HODGES**, City Attorney  
Hodges Law Group

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCFARLAND ADOPTING ZONING CODE AMENDMENTS TO TITLE 17 ZONING AMENDING TITLE 17, CHAPTER 17.16.060 AND CHAPTER 17.136.150 ADDITIONAL DWELLING UNITS AND ACCEPT CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) A NOTICE OF EXEMPTION.**

**WHEREAS**, the City Council desires to amend Title 17 Zoning as follows: Chapter 17.16, Section 17.136.150 to delete 17.136.150(A) and (B) and to add 17.136.150.010-17.136.150.130.

**WHEREAS**, on October 17, 2023, at after a duly noticed public hearing, the Planning Commission considered the Proposed Amendments, including presentations from City staff, oral testimony, and written testimony; and

**WHEREAS**, after the above-mentioned public hearing, the Planning Commission adopted Resolution No.004-2023 which recommended that the City Council adopt this Ordinance; and

**WHEREAS**, on \_\_\_\_\_, 2023, the City Council conducted a duly noticed public hearing regarding this Ordinance, where it received presentations from City staff, oral and written testimony from members of the public, and introduced the ordinance; and

**WHEREAS**, after the above-mentioned City Council public hearing, the City Council now desires to amend Title 17 Zoning by amending Chapters 17.16.060 and Section 17.136.150 to delete the language from subpart (A) and (B) and adding 17.136.150.010 through 17.136.150.130.

**NOW, THEREFORE**, the City Council of the City of McFarland does hereby ordain as follows:

1. The Recitals set forth above are true and correct and incorporated herein.
2. Copies of the environmental document and full text of the deletion and addition to Title 17 Zoning were made available for public inspection during public review period at the City Clerk's office and the City of McFarland Community Development Department, 401 W Kern Avenue, McFarland, CA 93250 and on the City's website.
3. Based upon its own independent judgment and substantial evidence in the record of proceedings related to the Proposed Ordinance amendments, the City Council approves the Notice of Exemption.
4. This Ordinance establishes the opportunity for the efficient review and approval of accessory dwelling units.

**Code Amendments are as follows:**

**1. AMEND TITLE 17 ZONING, CHAPTER 17.16.060 DWELLING UNITS PER LOT**

Chapter 17.16 Single Family Residential Zone, Section 17.16.060 Dwelling units per lot.

Subject to the exceptions stated in Section 17.136 of this Code, not more than one dwelling unit

shall be allowed on each lot.

## **2. AMEND TITLE 17 ZONING, CHAPTER 17.136.150 ADDITIONAL DWELLING UNITS:**

Chapter 17.16 General Provisions, Section 17.136.150 Additional dwelling units.

- ~~A. Notwithstanding any other provisions of this title, where a lot in the R-1 zone has an area of twelve thousand square feet or more and with adequate provisions for ingress and egress, a conditional use permit may be granted by the planning commission for the construction of additional one-family dwellings and allowable accessory buildings; however, the minimum site area shall be six thousand square feet of lot area per each one-family dwelling. Notwithstanding any other provisions of this title, where a lot in the R-2 zone has an area of nine thousand square feet or more and with adequate provisions for ingress and egress, a conditional use permit may be granted for the construction of additional family dwelling units and allowable accessory buildings; however, the minimum site area shall be three thousand square feet of lot area per each family dwelling unit.~~
- ~~B. The procedure for filing of applications, filing fees, investigation, notices, public hearings and findings shall be the same as provided in this title for variances.  
(Ord. 109 § 32.14, 1969)~~

### **17.136.150.010 – Purpose and Applicability.**

- A. Purpose. The purpose of this chapter is to comply with Government Code Section 65852.2 (Accessory Dwelling Units), 65852.22 (Junior Accessory Dwelling Units), and 65852.26 (Sale or Conveyance of Accessory Dwelling Unit Separate from Primary Residence) as amended from time to time by the State, which provides for cities to set standards for the development of accessory dwelling units (ADUs) and Junior ADUs (JADUs) so as to increase the supply of smaller and affordable housing while ensuring that they remain compatible with the existing neighborhood. Accessory dwelling units are considered to be a residential use, consistent with the General Plan objectives and zoning regulations, and enhance housing opportunities, including near transit for residential lots zoned to allow single family, homes or multi-family units.
- B. This chapter is intended to implement the City's Housing Element of the General Plan and is adopted to comply with State law (Government Code Section 65852.2 and 65852.22), by allowing ADUs through ministerial review in all districts zoned to allow single-family, multi-family, or mixed uses, subject to meeting the standards prescribed below.
- C. Permitted Locations. The provisions included in this chapter are applicable to all lots that 1) are zoned to allow single-family, multi-family residential, or mixed uses; and 2) include a proposed or existing primary dwelling.

### **17.136.150.020 – Application Process.**

- D. Permit Required. An Administrative Permit in compliance with Chapter 17.160 is required for ADUs along with a Building Permit.
- E. Review and Approval – Ministerial Review. An Administrative Permit in compliance with Chapter 17.160 for an ADU shall be considered and approved ministerially without

discretionary review or a hearing, notwithstanding California Government Code Sections 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits within 60 days of acceptance of a complete application.

1. Exception: Should the permit application to create an ADU be submitted concurrently with a permit application to create a new single-family dwelling on the lot, in which case the City shall not act on the ADU permit application until the City acts on the permit application for the new single-family dwelling unit; or The applicant requests a delay, in which case the sixty (60)-day time period shall be tolled for the period of the delay. If the City has not acted upon the completed application for the ADU within 60 days, and neither of the above exceptions are met, then the application for the ADU shall be deemed approved.
- F. ADU shall be subject to this section and under subdivision (e) of Government Code 65852.2 shall not be subject to design and development standards except for those that are noted in this Chapter. ADUs that do not meet objective and ministerial development and design standards may still be permitted through an ancillary discretionary process, Conditional Use Permit, if the applicant chooses to pursue this route. In this scenario, the applicant assumes time and monetary costs associated with a discretionary approval process.

**17.136.150.030 – Submittal Requirements.**

- A. The completed application, Administrative Permit, shall be submitted to the Community Development Department on an application form prepared by the Community Development Director and shall include the submittal requirements as defined by Chapter 17.160. Upon approval of the Administrative Permit, the applicant shall submit a building permit application. Fees for an ADU shall be established by the City Council and said fees shall be, but not limited to, Administrative Permit Application, Building Plan Check Fees, Building Permit Fees, and state mandated fees relating to the issuance of building permits.

**17.136.150.040 – Type of Accessory Dwelling Units.**

- A. Types of Accessory Dwelling Units.
1. Attached ADU. An ADU attached to an existing or proposed primary dwelling and located on the same lot as the proposed or existing primary dwelling, which provides complete independent living facilities for one (1) or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. The attached ADU shall have an exterior entrance separate from the main house.
  2. Detached ADU. An ADU structurally independent and detached from an existing or proposed primary dwelling and located on the same lot as the proposed or existing primary dwelling, which provides complete independent living facilities for one (1) or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation.
  3. Internal Conversion ADU. An ADU may be located within areas converted to habitable space, such as:
    - i. An area within an existing single-family dwelling (e.g., attached garage) and on the same lot as the existing dwelling with a separate exterior entrance; or

- ii. An existing accessory structure (e.g., detached garage or pool house) located on the same lot as an existing single-family dwelling with a separate exterior entrance; or
- iii. 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, if each unit complies with state building standards for dwellings.

**17.136.150.050 – Number and Types of ADUs Permitted Per Legal Parcel or Lot.**

- A. Lots with a Single-Family Dwelling. The following number and types of ADUs shall be allowed per lot that is zoned to allow single-family residential uses and includes a proposed or existing single-family dwelling.
  - 1. One (1) attached ADU; or
  - 2. One (1) detached ADU; and
  - 3. One (1) JADU (See Section 17.136.150.120).
- B. Lots with a Multi-Family Dwelling(s). The following number and types of ADUs shall be allowed per lot that is zoned to allow multi-family residential uses and includes a proposed or existing multi-family dwelling.
  - 1. Conversion of non-livable spaces to create ADU(s). At least one (1) ADU within the portions of existing multi-family structures, from the conversion of non-livable area, shall be allowed per lot that is zoned to allow multi-family residential uses and includes an existing multi-family structure, so long as it does not exceed 25 percent of the total number of existing dwelling units. ADUs within multi-family structures must be converted from non-livable areas and if no non-livable areas exist, no ADUs will be permitted.
  - 2. Detached ADU(s). Not more than two (2) ADUs, conversion of existing accessory structures and/or new construction, that are located on a lot that is zoned to allow multi-family residential uses and includes an existing or proposed multi-family dwelling.

**17.136.150.060 – Development Standards.**

- A. Site/Location Requirements.
  - 1. Minimum Lot Size. ADUs that comply with this Chapter shall be permitted on all legally established parcels, regardless of parcel size.
  - 2. Lot Coverage. Not applicable.
  - 3. Space Between Buildings shall be established in the applicable zone district.
- B. Size and Floor Area.
  - 1. Detached ADU. The maximum floor area of a new construction of a detached ADU is 1,200 square feet.
  - 2. Attached ADU. The maximum floor area of an attached ADU shall not exceed 50 percent of the floor area of the existing primary dwelling for an attached ADU but is permitted to be at least 800 square feet.
- C. Height and Number of Stories. All ADUs shall comply with the minimum height restrictions as established in the applicable zone district.
- D. Setbacks. All ADU Setbacks shall ensure accessibility for health and safety emergency personnel and shall provide site visibility at street and alley intersections. The side yard setbacks listed below ensure health and safety access by emergency personnel and site

visibility at street intersections. Where utility easements exist, should the minimum setback encroach into the easement, the setback shall be increased to be equal to or greater than the width of the utility easement(s).

1. Front Yard Setbacks. All ADUs shall meet the minimum front yard setback as established in the applicable zone district.
2. Rear and Side Yard Setbacks shall be the minimum as listed below, except where public utility easement(s) requires a greater setback.
  - i. Interior Side Yard Setbacks: Interior Side Yard shall be a minimum of four (4) feet.
  - ii. Corner Side Yard Setback – Corner yard setback shall be six (6) feet.
  - iii. Interior Rear Yard Setback: Interior Rear Yard Setback shall be a minimum of four (4) feet for interior lots.
  - iv. Corner Rear Yard Setback: Corner Rear Yard Setback for corner lot shall be a minimum of six (6) Feet.
3. When an existing structure is converted to an ADU, and the existing structure either has no setbacks or has setbacks of less than four (4) feet, then the ADU shall maintain the same setbacks as the existing structure or setbacks of four (4) feet from the side and rear yards, whichever is less, if the ADU is constructed in the same location and to the same dimensions as the existing structure.
  - i. Conversion of existing structures to an ADU not meeting the minimum setbacks shall be designed and/or retrofitted to meet the Fire and Building codes.

E. Parking Requirements.

1. One (1) parking space shall be provided per ADU, where applicable. This space may be provided as tandem parking on a driveway where the parking of vehicles do not block sidewalks nor pedestrian access. Parking of vehicles shall not be within four (4) feet of the interior side yard and shall not be within six (6) feet of a corner side yard setbacks. The four (4) foot and six (6) foot non-parking areas are to ensure health and safety access by emergency personnel and site visibility at street intersections.
2. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, replacement parking is not required. Off-street parking may be within the front yard setback area and may be designed as tandem parking or other design that accommodates off-street parking. The City code requires two (2) off-street parking spaces per dwelling unit but does not require garages nor carports for off-street parking. Therefore, two-off-street parking spaces are required and when required one off-street parking for the ADU. As noted, tandem parking shall not block sidewalks, landscape areas or public access.
3. Exceptions. No parking shall be required for ADUs in any of the following instances:
  - i. The ADU is located within one-half mile walking distance of public transit.
  - ii. The ADU is located within an architecturally and historically significant historic district.
  - iii. The ADU is part of the proposed or existing primary residence or an accessory structure.

- iv. When on-street parking permits are required but not offered to the occupant(s) of the ADU.
- v. There is a car share vehicle located within one (1) block of the ADU.
- F. Architectural Review. The construction of new ADUs shall be subject to Section 17.134.030 Single-family residential Standards.
- G. Access and Entry. An ADU shall have a separate entry from the primary residence and shall be from the side or rear yard.
- H. Density Limits. An ADU that conforms to the ordinance shall be deemed to be an accessory use or 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 which is consistent with the existing general plan land use and zoning designations for the lot. The ADU shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

**17.136.150.070 – Other Requirements.**

- A. Availability of Utilities.
  - 1. Utility Connections. ADUs may be subject to utility connections as provided herein.
  - 2. Private Sewage Disposal System. ADUs not serviced by the City’s wastewater system must receive clearance from the Kern County Public Health Services Department. The applicant shall provide clearance to the City Building Division prior to the issuance of a building permit.
- B. Addressing. The ADU shall be required to apply for and pay the adopted addressing fee for the proposed ADU(s), whether the ADU is an attached or detached. The address must be assigned prior to the issuance of the building permit.
- C. Fire Sprinklers. Installation of fire sprinklers may not be required in ADUs (attached, detached, or conversion) where sprinklers were not required by building codes for the existing primary residence. For example, a detached single-family home designed and constructed decades ago would not have been required to have fire sprinklers installed under the applicable building code at the time. However, if the same primary dwelling recently underwent significant alteration and is now required to have fire sprinklers, any ADU created after that alteration must be provided with fire sprinklers. (Government Code Section 65852.2, subds. (a)(1)(D)(xii) and (e)(3).) Please note, for ADUs created on lots with multifamily residential structures, the entire residential structure shall serve as the “primary residence” for the purposes of this analysis. Therefore, if the multifamily structure is served by fire sprinklers, the ADU can be required to install fire sprinklers. For additional guidance on ADUs and fire sprinkler system requirements, please consult the Office of the State Fire Marshal. If fire sprinklers are not required for the primary residence, then installation of fire sprinklers is not required in an ADU. However, if the primary residence undergoes significant remodeling and is required to install fire sprinklers, an ADU created after the remodel would also be required to install fire sprinklers.
- D. Solar Panels. New ADUs are subject to the California Energy Code requirement (excluding manufactured homes) to provide solar systems if the unit(s) is a newly constructed, non-manufactured, detached ADU (though some exceptions apply). Per the California Energy Commission (CEC), the solar systems can be installed on the ADU or on the primary dwelling unit. ADUs that are constructed within existing space, or as an addition to existing homes, including detached additions where an existing detached building is converted from

non-residential to residential space, are not subject to the Energy Code requirement to provide solar systems.

- E. Flood Elevation Certification. All ADUs are required to comply with Chapter 15.12 Floodplain Management when the proposed ADU is located within the FEMA Flood Hazard area which has a one (1) percent annual chance for shallow flooding. If applicable, prior to the issuance of the building permit, compliance with Section 15.12.170(C) of the McFarland Municipal Code and prior to the issuance of the building permit, a Flood Certification shall be provided.
- F. Building Code compliance is required for all ADUs. The Community Development Department will not issue final building permits for an ADU before approval of building permits for the primary dwelling.
- G. Kern County Fire Department Clearance shall be required prior to the issuance of a building permit for an ADU.
- H. Other Code compliance as may be applicable, such as but not limited to encroachment permits, lot mergers, lot line adjustments, etc.

#### **17.136.150.080 – Occupancy, Rental, and Sale Limitations**

- A. Owner Occupancy shall not be required for ADUs.
- B. Rental of ADUs shall be a minimum of 30 days.
- C. Separate Conveyance. An ADU may be rented separate from the primary residence but may not be sold or otherwise conveyed separate from the primary residence, except when sold by a qualified nonprofit corporation to a qualified buyer in accordance with California Government Code Section 65852.26 with affordability restrictions.

#### **17.136.150.090 – Fee Requirements.**

- A. Connection Fees or Capacity Charges. An ADU shall not be considered to be a new residential use for the purposes of calculating connection fees or capacity chargers for utilities, including water and sewer service, unless the ADU was constructed with a new single-family dwelling. Where a new ADU and new residential unit is applied for and constructed, the new ADU and new residential unit shall pay the applicable Sewer Connection Fee in place at the time of submittal.
- B. Impact Fees. Impact fees shall not be imposed on an ADU that is less than 750 sf. in size. For ADUs that are greater than 750 sf. in size, impact fees charged shall be proportionate in relation to the square footage of the primary dwelling unit.
- C. Permit Processing Fee. Application fees shall be as established by resolution of the City Council for the processing of the planning and building permit applications. Other fees such as but not limited to file maintenance and technology fees shall be required. All state mandatory fees associated with building permits shall be required.
- D. Monthly Charges for Sewer and Water. ADUs shall be subject to the monthly utility fees for wastewater. Water service is provided by the City and as such an ADU may be subject to the monthly utility fees for domestic water service.

#### **17.136.150.100 – Conditions for Non-Conforming Uses and Structures.**

- A. Nonconforming Conditions. Notwithstanding Chapter 17.136.050, to the contrary, an owner of an ADU that receives a notice to correct violations or abate nuisance, in relation to the ADU, may request a delay for five years in enforcement of a building standard, as long as the violation is not a health and safety issue as determined by the City's Building

Official, 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.
2. The ADU was built on or after January 1, 2020, in a local jurisdiction that, at the time the ADU was built, had a noncompliant ADU ordinance, but the ordinance is compliant at the time the request is made.

**17.136.150.110 – Definitions Accessory Dwelling Units.** For purposes of this section, the following terms have the following meanings.

- A. “Accessory dwelling unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:
  - a. An efficiency unit.
  - b. A manufactured home, as defined in Section 18007 of the Health and Safety Code.
- B. “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.
- C. “Efficiency unit” has the same meaning as defined in Section 17958.1 of the Health and Safety Code.
- D. “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.
- E. “Local agency” means a city, county, or city and county, whether general law or chartered.
- F. “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.
- G. “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
- H. “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
- I. “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
- J. “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.
- K. “Impact Fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact Fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.
- L. Multiple detached dwellings on a lot in the R-2, R-3, and R-4 Zones: A lot where there are currently multiple detached single-family dwellings is eligible for creation of one ADU per lot by converting space within the proposed or existing space of a single-family dwelling or existing structure and by building a new detached ADU subject to certain development standards. (Government Code Section 65852.2, subs. (e)(1)(A) and (B).)
- M. Multifamily dwelling under ADU Law is as follows: For the purposes of State ADU Law, a structure with two or more attached dwellings on a single lot is considered a multifamily

dwelling structure. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings for the purposes of State ADU Law.

**17.136.150.120 – Junior Accessory Dwelling Units.**

- A. Permitted one (1) junior accessory dwelling units (JADU) in single-family residential zones.
- B. An administrative permit shall be required for the creation of a JADU, and shall do all the following:
  - 1. One (1) JADU per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.
  - 2. Require owner-occupancy in the single-family residence in which the JADU will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
  - 3. Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following.
    - i. 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.
    - ii. A restriction on the size and attributes of the JADU that conforms with this section.
  - 4. A permitted JADU shall be constructed within the walls of proposed or existing single-family residence.
  - 5. The JADU shall provide a separate entrance from the main entrance to the proposed or existing single-family residence.
  - 6. The JADU shall provide an efficiency kitchen, which shall include all of the following:
    - i. A cooking facility with appliances.
    - ii. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
  - 7. A JADU shall not require additional parking as a condition to grant a permit.
- C. JADU shall be required to submit a building permit and pay adopted fees for planning clearance, Administrative Permit and Maintenance Fees, building fees relating to plan checks, building permit, inspection, including the imposition of a fee for that inspection, to determine if the JADU complies with applicable building standards.
- D. An application for a JADU, notwithstanding State of California Government Code, Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. The Planning Division shall act on a completed application to create a JADU within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a JADU is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the JADU until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the JADU shall still be considered ministerially without discretionary review or a

hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

- E. Fees for a JADU shall be established by the City Council and said fees shall be, but not limited to, Administrative Permit Application, Building Plan Check Fees, Building Permit Fees, and state mandated fees relating to the issuance of building permits.
- F. For purposes of any fire or life protection ordinance or regulation, a JADU shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a JADU so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a JADU or not.
- G. For 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.
- H. This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a JADU, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a JADU.

**Section 17.136.150.130 Definitions Junior Accessory Dwelling Unit (JADU).** For purposes of this section, the following terms have the following meanings:

- A. “Junior accessory dwelling unit” means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
- B. “Local agency” means a city, county, or city and county, whether general law or chartered.
- C. Effective January 1, 2020, Section 17980.12 was added to the Health and Safety Code, immediately following Section 17980.11, to read: For purposes of this section, the following terms have the following meanings:
  - a. “Junior accessory dwelling unit” means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing structure.
  - b. “Local agency” means a city, county, or city and county, whether general law or chartered.
- D. Effective January 1, 2020 Section 17980.12 was added to the Health and Safety Code, immediately following Section 17980.11, to read:
  - a. 17980.12. (1) An enforcement agency, until January 1, 2030, that issues to an owner of an accessory dwelling unit described in subparagraph (A) or (B) below, a notice to correct a violation of any provision of any building standard pursuant to this part shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to this subdivision:
    - i. The accessory dwelling unit was built before January 1, 2020.
    - ii. The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a

noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

- iii. The owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances as described in paragraph (1) may, in the form and manner prescribed by the enforcement agency, submit an application to the enforcement agency requesting that enforcement of the violation be delayed for five years on the basis that correcting the violation is not necessary to protect health and safety.
- iv. The enforcement agency shall grant an application described in paragraph (2) if the enforcement determines that correcting the violation is not necessary to protect health and safety. In making this determination, the enforcement agency shall consult with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Section 13146.
- v. The enforcement agency shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to paragraph (3).
- b. For purposes of this section, “accessory dwelling unit” has the same meaning as defined in Section 65852.2.
- c. This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

This Ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the Ordinance, or a summary of the Ordinance, shall be published once in a newspaper of general circulation.

**INTRODUCED, PASSED AND ADOPTED** at a regular meeting of the City Council of the City of McFarland, California on the \_\_\_\_\_ day of \_\_\_\_\_ 2023, by the following vote:

	<b>Aye</b>	<b>Nae</b>	<b>Abstain</b>	<b>Absent</b>
<b>Saul Ayon</b>				
<b>Maria T. Perez</b>				
<b>Anita Gonzalez</b>				
<b>Amador Ayon</b>				
<b>Ricardo Cano</b>				

\_\_\_\_\_  
Saul Ayon, Mayor

I hereby certify that the foregoing Ordinance was duly and regularly adopted by the City Council of the City of McFarland by a regular meeting thereof held on August 24, 2023.

ATTEST:

\_\_\_\_\_  
Francisca Alvarado, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Nathan M. Hodges, City Attorney