

ORDINANCE NO.22-OR0114-1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AMENDING ARTICLE 30, SECTION 3006 OF THE ZONING ORDINANCE TO ESTABLISH REVISED ACCESSORY DWELLING UNIT REGULATIONS CONFORMING TO THE PROVISIONS OF GOVERNMENT CODE SECTIONS 65852.2 AND 65852.22

(ZA21-00005)

WHEREAS, the Planning Division has prepared text amendments to the City's Accessory Dwelling Unit regulations conforming to the provisions of Government Code Section 65852.2 and 65852.22; and

WHEREAS, on December 13, 2021, the Planning Commission conducted a duly-noticed public hearing as prescribed by law and recommended City Council approval of said zoning ordinance text amendments by unanimous vote; and

WHEREAS, said changes require amendment of the implementing document of the City's Local Coastal Program, which must be certified by the California Coastal Commission prior to becoming effective; and

WHEREAS, based upon such evidence, testimony and staff reports, this Council finds that Zone Amendment ZA21-00005 conforms to the General Plan and Local Coastal Program of the City of Oceanside; and

WHEREAS, a Notice of Exemption was prepared by the Resource Officer of the City of Oceanside for this project pursuant to the California Environmental Quality Act of the 1970 and State Guidelines;

NOW, THEREFORE, the City Council of the City of Oceanside does ordain as follows:

SECTION 1. Zone Amendment (ZA21-00005), amending Article 30, Section 3006 of the Zoning Ordinance and establishing the amended text as part of the implementing document of the City's Local Coastal Program, as specified in Exhibit A, is hereby adopted.

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## EXHIBIT A

### 3006 Accessory Dwelling Units

The purpose of this section is to provide regulations for the establishment of accessory dwelling units (ADU) and junior accessory dwelling units (JADU) in areas zoned to allow single-family or multifamily use pursuant to Government Code Section 65852.2 et seq. and the goals and policies of the City's Housing Element. ADUs provide an important source of affordable housing in existing residential neighborhoods where adequate public facilities and services are available.

Consistent with state law, an ADU or JADU which conforms to the requirements of this subsection 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. An ADU or JADU shall not be considered development for the purposes of the imposition of development impact fees.

#### A. Permitted Unit Type and Definition.

1. Accessory Dwelling Unit (ADU): An attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and shall be located on the same parcel as the primary dwelling or multi-family development. An ADU also includes an efficiency unit and manufactured home. An ADU may serve as a rental unit but only for more than 30 days or be occupied by a person or persons including, but not limited to family members, guests, or caretakers.
2. Junior Accessory Dwelling Unit (JADU): A residential dwelling unit, as defined in Government Code Section 65852.22, that is no more than 500 square feet in size and contained entirely within an existing or proposed single-family residence structure. A JADU shall include an efficiency kitchen, and may include separate sanitation facilities or share sanitation facilities with the existing dwelling. A JADU may serve as a rental unit for more than 30 days. Owner-occupancy of either primary dwelling or JADU is required by state law.
3. Efficiency Unit: An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code may be permitted for occupancy by no more than two persons. The efficiency unit shall have a minimum floor area of 150 square-feet and shall have a bathroom facility and a partial kitchen.

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4. **Manufactured Home:** A manufactured home, as defined in Section 18007 of the Health and Safety Code, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the travelling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The unit shall comply with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401).
5. **Prohibited Units:** Mobile homes, as defined in Section 18008 of the Health and Safety Code, recreational vehicles, trailers, or similar units, shall not be allowed as ADUs.

### B. Where Permitted.

1. ADUs are permitted in all zone districts allowing single-family or multifamily use on lots developed with existing or proposed dwellings. ADUs and JADUs shall not be permitted in conjunction with dwelling units constructed in accordance with both Government Code Section 65852.21 and Section 66411.7 (Senate Bill No. 9).
2. An ADU may be established in the following methods:
  - a. Attached to, or located within, an existing or proposed primary dwelling.
  - b. A new detached structure, or located within or attached to an accessory structure, including detached garages or similar structures.
  - c. Conversion of existing attached or detached accessory structures, including garages, storage areas, or similar structures.
  - d. Reconstruction of an existing structure or living area that is proposed to be converted to an ADU, or a portion thereof, in the same location and to the same dimensions and setbacks as the existing structure.
  - e. The existing unit may be considered the ADU, and a new primary dwelling unit built, if all applicable zoning

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requirements are met.

- f. Only one ADU or JADU shall be permitted on a parcel developed with an existing or proposed single-family residence unless constructed as a JADU and ADU combination in accordance with Section 3006.B.4. The maximum number of ADUs on multifamily properties shall be as prescribed in Section 3006.B.5
3. A Junior ADU (JADU) may be established within the space of the primary dwelling, including an attached garage or accessory structure.
4. JADU and ADU Combination: A JADU may be established within the space of the primary dwelling in combination with the construction of one ADU as follows: ~~of one detached, new construction ADU not exceeding 850 square-feet and a height of 16 feet with four-foot side and rear setbacks.~~
- a. An ADU within the walls of the primary dwelling.
- b. An ADU within an existing accessory structure.
- c. An attached or detached, new construction ADU subject to the Statewide Exemption ADU provisions as prescribed in Section 3006.D.1.d.
- ~~5. The existing unit may be considered the ADU, and a new primary dwelling unit built, if all applicable zoning requirements are met.~~
56. ADUs shall be permitted on lots developed with existing multi-family dwellings subject to the following provisions:
- a. The property shall be developed with an existing, legally established multi-family structure(s).
- b. A minimum of one ADU may be constructed, or up to 25 percent of the existing unit count, within non-livable space, including, but not limited to, storage rooms, passageways, attics, basements, or closets.
- c. The construction of two detached ADUs with a maximum size of 850 square feet, or 1,000 square feet with more than one bedroom, shall be permitted in addition to ADUs created within non-livable space, subject to a maximum height of 16 feet, and four-foot side and rear setbacks.

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d. Existing livable space of multi-family dwelling units shall not be converted to ADUs.

e. Detached ADUs may be constructed above existing detached accessory structures, including garages or similar structures, subject to maximum height and setback requirements of the underlying zoning district.

### C. Permit Requirements:

1. The City shall ministerially review and act on a building permit application for an ADU or JADU within 60 days after receiving the application. An ADU or JADU proposed with a permit application for a new primary dwelling shall not be approved until the primary dwelling receives approval. A certificate of occupancy for an ADU or JADU shall not be issued before occupancy is granted for the primary dwelling.
2. ADUs and JADUs shall comply with all applicable Building Code requirements.
3. The City shall not require the correction of nonconforming zoning conditions as a condition for ministerial approval.
4. ADUs and JADUs within the coastal zone shall be subject to applicable requirements of the Local Coastal Program except for that no public hearing shall be required.
5. ADUs shall not be required to provide fire sprinklers if they are not required for the primary dwelling residence.
6. Newly constructed, non-manufactured, detached ADUs are subject to the Energy Code requirement to provide solar panels.
7. ADUs shall have independent exterior access from the primary dwelling. No passageway to the primary dwelling shall be required.
8. The use of dual-cylinder deadbolt locks and/or other types of locks that lock a door from both sides shall be prohibited within all dwelling units.

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### D. Development Standards.

#### 1. ADU Type, Location & Size.

- a. Attached Unit: An ADU attached to an existing primary dwelling shall have a minimum size of 150 square feet and shall not exceed 50 percent of the total existing or proposed living area of the primary dwelling, except as provided by the Statewide Exemption ADU provisions ~~By-Right Provision~~ in Section 3006.D.1.d.
- b. Detached Unit: An ADU structurally independent and detached from the existing or proposed primary dwelling shall have a minimum size of 150 square feet and shall not exceed 1,200 square feet.
- c. Conversion of Existing Structure: An ADU constructed within the footprint of an existing dwelling, ~~or~~ attached or detached structure, or non-livable space shall not be subject to a maximum square-footage of living area. An existing structure may be expanded up to 150 square feet to accommodate ingress and egress, but shall conform to setbacks sufficient for fire and safety.
- d. Statewide Exemption ADU ~~By-Right Provision~~: An attached or detached ADU with a maximum size of 850 square-feet or 1,000 square-foot with more than one bedroom shall be permitted in any circumstance subject to a maximum height of 16 feet, four foot side and rear setbacks, and compliance with all building codes. No minimum lot size or lot coverage requirement shall apply.
- ~~e. ADUs shall have independent exterior access from the primary dwelling. No passageway to the primary dwelling shall be required.~~
- ~~f. ADUs shall not be required to provide fire sprinklers if they are not required for the primary residence.~~

#### 2. JADU Location and Size.

- a. A JADU shall be constructed entirely within an existing or proposed primary dwelling and shall not exceed 500 square-feet.
- b. JADUs shall have an independent exterior entrance from

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the primary dwelling, but may also include shared access between the two units.

### 3. Required Setbacks.

- a. An attached or detached ADU not exceeding 850 square feet or 1,000 square feet with more than one bedroom, and a height no greater than 16 feet shall provide a setback of no more than four feet from the side and rear property lines. ADUs exceeding the maximum square footage or height specified in this provision shall be subject to compliance with setbacks of the underlying zoning district.
- b. Cornices and eaves may project into the required yards by no more than one foot.
- c. All ADUs shall meet the front yard setback.
- d. When an ADU is created within an existing structure, the side and rear setbacks must be sufficient for fire safety as determined by the Fire Department.
- e. No setback shall be required for an existing garage or accessory structure converted, or portion thereof, to an ADU and no setback shall be required for a new structure constructed in the same location and same dimensions as an existing structure.
- f. An ADU constructed above an existing garage or dwelling unit, exceeding 16-feet in height, shall meet the side and rear setbacks of the underlying zoning district.
- g. Roof top decks shall be permitted in accordance with Article 30, Section 3018.
- h. Staircases serving an ADU shall provide a setback of no less than four feet from the side and rear property lines subject to approval by the Fire Department.
- i. Within the coastal zone, an existing garage or accessory structure converted to an ADU unit or an ADU above a garage shall be consistent with all habitat preserve buffers and geological stability setbacks in the certified Local Coastal Program.

### 4. Height and Maximum Lot Coverage.

- a. ADUs exceeding 850 square feet or 1,000 square feet with

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more than one bedroom, and/or a height of 16 feet shall comply with the height and maximum lot coverage of the underlying zoning district.

### 5. Parking.

- a. One additional off-street parking space shall be required per unit; with exceptions per Section 3006.D.5.g.
- b. No parking space shall be required for an ADU or JADU established within an existing or proposed structure.
- c. Parking spaces shall be a minimum dimension of 9 foot by 18 foot except as specified below.
- d. Parking spaces may be located in any configuration on the same lot as the ADU, including, but not limited to, as covered spaces, uncovered spaces, tandem spaces, or by the use of mechanical automobile parking lifts.
- e. Required off-street parking shall be permitted in front, side, and rear setback areas subject to the following:
  - i. Parking may be located on an existing driveway but shall not block sidewalk access or encroach into the public right-of-way.
  - ii. Parking spaces within a side yard must have a minimum clear space width of 10-feet. Vehicles shall not block exterior windows or doors of a dwelling or access to utility boxes or meters.
  - iii. Vehicles must be parked on an acceptable surface of concrete, asphalt, gravel, brick, permeable paver or other stable, dust-free surface.
  - iv. No more than 50% of a front yard shall be dedicated to vehicle parking.
  - v. No parking shall be allowed in front yard landscaping areas.
  - vi. Access to on-site parking spaces shall be provided via an approved driveway location only.
- f. When a garage, carport, or covered parking structure that provides the required spaces for the primary dwelling is demolished or converted in conjunction with the

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- construction of an ADU, no replacement parking shall be required.
- g. Parking Exemption: A parking space for an ADU shall not be required 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 existing or proposed primary dwelling ~~residence~~ or an existing accessory structure.
  - iv. When on-street parking permits are required but not offered to the occupant of the ADU.
  - v. When there is a car share vehicle located within one block of the ADU.
5. Design. ADUs shall be architecturally compatible with the primary dwelling in terms of design, building and roofing materials, colors, and exterior finishes. The ADU may have a flat or pitched roof.
6. Impact Fees & Utilities.
- a. The City shall not impose any impact fees upon the development of an ADU or JADU.
  - b. ADUs and JADUs shall comply with water and sewer requirements as determined by the Water Utilities Department. ADUs shall not be considered a new residential use for the purposes of calculating new utility connection fees or capacity charges for water and sewer service.
  - c. The City shall not require a new or separate utility connection or impose a related connection fee or capacity charge for ADUs or JADUs that are contained within an existing residence or accessory structure.
  - d. For new attached and detached ADUs, the City may require a new or separate utility connection. The fee must be proportionate to the burden of the unit upon the water or sewer system and shall not exceed the reasonable cost

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of providing the service.

- e. Where a private sewage disposal system is being used by the ADU, approval by the local health officer may be required.

### E. Conditions.

1. Except as otherwise provided in Government Code Section 65852.26, an ADU/JADU shall not be sold or otherwise conveyed separate from the primary dwelling residence.
2. An ADU/JADU may serve as a rental unit or be occupied by family members, guests, or in-home health care providers, and others at no cost.
3. Neither the ADU/JADU nor the primary dwelling unit shall be rented for a term of less than 31 days. ADUs on multi-family properties shall be subject to this provision, except the restriction shall not apply to existing multi-family units.
4. ~~Owner-occupancy shall be required for a property developed with a JADU. The owner may reside in either the primary dwelling or the JADU.~~ All JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence.
5. The property owner shall record a covenant, approved as to form by the City Attorney, declaring compliance with each and every condition referenced in this section.



**NOTICE OF EXEMPTION**  
City of Oceanside, California

Post Date: 12-13-21  
Removal: 6-13-21  
(180 days)

1. **APPLICANT:** City of Oceanside
2. **ADDRESS:** 300 N. Coast Highway, Oceanside, CA 92054
3. **PHONE NUMBER:** (760) 435-3563
4. **LEAD AGENCY:** City of Oceanside
5. **PROJECT MGR.:** Robert Dmohowski, Senior Planner
6. **PROJECT TITLE:** Accessory Dwelling Unit Ordinance Revisions 2021
7. **DESCRIPTION:** **A ZONE AMENDMENT (ZA21-00005) AND LOCAL COASTAL PROGRAM AMENDMENT (LCPA21-00005) AMENDING ARTICLE 30, SECTION 3006 OF THE ZONING ORDINANCE AND ESTABLISHING THE AMENDED TEXT AS PART OF THE IMPLEMENTING DOCUMENT OF THE LOCAL COASTAL PROGRAM.**  
The purpose of the zoning text amendment is to update Zoning Ordinance Section 3006 to add clarifying language and technical edits to address ambiguities and fully implement ADU provisions as prescribed by state law. The revisions would also assist with the enforcement of required conditions of approval, such as the owner-occupancy requirement for JADUs..

**ADMINISTRATIVE DETERMINATION:** Planning Division staff has completed a preliminary review of this project in accordance with the California Environmental Quality Act (CEQA) and has determined that further environmental evaluation is not required because:

- [ X ] The project is statutorily exempt, pursuant to Article 18, Section 15282(h) for the adoption of an ordinance regarding second units in a single-family ore multi-family residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code.,

*Robert Dmohowski*

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Robert Dmohowski, Senior Planner

Date: December 6, 2021

cc: [ x ] Project file [ ] Counter file [ ] Library [ ] County Clerk \$50.00 Admin. Fee