

Attachment A

Ordinance No. 2025-20

ORDINANCE NO. 2025-20

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING SECTION 20.48.200 (ACCESSORY DWELLING UNITS) OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE RELATED TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS (PA2025-0093)

WHEREAS, Section 200 of the City Charter, of the City of Newport Beach ("City"), vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the City Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges or procedures granted or prescribed by any law of the State of California;

WHEREAS, the City of Newport Beach adopted Ordinance No. 2017-11, its accessory dwelling unit ordinance, as Sections 20.48.200 (Accessory Dwelling Units) and 21.48.200 (Accessory Dwelling Units) ("ADU Ordinance") of the Newport Beach Municipal Code ("NBMC") on August 8, 2017;

WHEREAS, since its original adoption, the ADU Ordinance has been amended several times to address changes to State Accessory Dwelling Unit ("ADU") law including, Ordinance No. 2018-14, Ordinance No. 2020-9, Ordinance No. 2022-5, and Ordinance No. 2023-2;

WHEREAS, additionally, the City Council adopted Resolution No. 2021-18 adding City Council Policy K-4 (Reducing the Barriers of the Creation of Housing) to the City Council Policy Manual on March 9, 2021, to encourage the development of accessory dwelling units as an important strategy to meet the City's Regional Housing Needs Allocation ("RHNA");

WHEREAS, the California Legislature continues to adopt laws imposing new limits on cities' ability to regulate ADUs and Junior Accessory Dwelling Units ("JADUs") including Senate Bill 477, which renumbered California Government Code Sections 65852.2, 65852.22, 65852.23, and 65852.26 to Government Code Section 66310 *et seq.*, Assembly Bill 2533, Senate Bill 1211, and Assembly Bill 130;

WHEREAS, Zoning Code Amendment No. 2025-093 is necessary for consistency with state law;

WHEREAS, a public hearing was held by the Planning Commission regarding Zoning Code Amendment PA2025-0093 on July 17, 2025, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapters 20.62 and 21.62 of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, at the conclusion of the public hearing, the Planning Commission adopted Resolution No. PC2025-014 by a unanimous vote (4 ayes, 0 nays, 3 absent) recommending approval of Zoning Code Amendment PA2025-0093 and Local Coastal Amendment No. PA2025-0093 to the City Council; and

WHEREAS, a public hearing was held by the City Council on August 26, 2025, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapters 20.62 and 21.62 of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

NOW THEREFORE, the City Council of the City of Newport Beach ordains as follows:

Section 1: The City Council does hereby approve Zoning Code Amendment PA2025-0093 as set forth in "Exhibit A," based upon the Facts in Support of Zoning Code Amendment PA2025-0093 set forth in "Exhibit B," both of which are attached hereto and incorporated herein by reference.

Section 2: An amendment to Title 21 (Local Coastal Program Implementation Plan) is also underway pursuant to Resolution 2025-__ to approve Local Coastal Program Amendment No. PA2025-0093. Zoning Code Amendment PA2025-0093 shall not become effective for projects located in the coastal zone for which Title 21 is applicable until approval of the Local Coastal Program Amendment by the California Coastal Commission and adoption, including any modifications suggested by the California Coastal Commission, by ordinance of the City Council of the City of Newport Beach.

Section 3: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 4: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5: The City Council finds the introduction and adoption of this ordinance is statutorily exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Section 21080.17 of the Public Resources Code and Section 15282(h) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, which states the adoption of an ordinance regarding second units to implement the provisions of Sections 66310 through 66342 of the Government Code are exempt from the requirements of CEQA. In addition, this Local Coastal Program Amendment is exempt from environmental review pursuant to CEQA Guidelines Section 15265(a)(1), as local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program. Similarly, the ministerial approval of accessory dwelling units is not a project for CEQA purposes, and environmental review is not required prior to approving individual applications.

Section 6: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the NBMC shall remain unchanged and shall be in full force and effect.

Section 7: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414. This ordinance shall be effective thirty (30) calendar days after its adoption.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 26th day of August, 2025, and adopted on the 9th day of September, 2025, by the following vote, to-wit:

AYES: _____

NAYS: _____

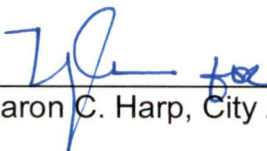
ABSENT: _____

Joe Stapleton, Mayor

ATTEST:

Molly Perry, Interim City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp, City Attorney

Attachment(s): Exhibit "A" – Zoning Code Amendment (PA2025-0093)
 Exhibit "B" – Facts in Support of Zoning Code Amendment (PA2025-0093)

EXHIBIT “A”

ZONING CODE AMENDMENT NO. PA2025-0093

Section 20.48.200 (Accessory Dwelling Units) of Chapter 20.48 (Standards for Specific Land Uses) of Title 20 (Planning and Zoning) of the NBMC is amended as follows:

20.48.200 Accessory Dwelling Units.

A. Purpose. The purpose of this section is to establish the procedures for the creation of accessory dwelling units and junior accessory dwelling units, as defined in Part 7 (Definitions) of this title and in California Government Code Sections 66310 through 66342, in areas designated for residential use, including as part of a planned community development plan or specific plan, and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.

B. Effect of Conforming. An accessory dwelling unit or junior accessory dwelling unit that conforms to the requirements in this section shall not be:

1. Deemed to be inconsistent with the General Plan and zoning district designation for the lot on which the accessory dwelling unit or junior accessory dwelling unit is located;
2. Deemed to exceed the allowable density for the lot on which the accessory dwelling unit or junior accessory dwelling unit is located;
3. Considered in the application of any ordinance, policy, or program to limit residential growth; or
4. Required to correct nonconforming zoning condition(s), building code violation(s), and/or unpermitted structure(s) that do/does not present a threat to public health and safety and is/are not affected by the construction of the accessory dwelling unit or junior accessory dwelling unit. This does not prevent the City from enforcing compliance with applicable building standards in accordance with California Health and Safety Code Section 17980.12.

C. Review Authority. Accessory dwelling units and junior accessory dwelling units shall be approved in any residential or mixed-use zoning district, subject to issuance of a building permit and the following conditions:

1. There is an existing or proposed dwelling unit on the lot;
2. The dwelling conforms to the development standards and requirements for accessory dwelling units and/or junior accessory dwelling units as provided in this section and California Government Code Section 66323; and
3. The building permit shall be considered and approved ministerially, without discretionary review or a hearing, within sixty (60) days from the date that the City determines an application to be complete, unless either:

a. The applicant requests a delay, in which case the sixty (60) day time period is tolled for the period of the requested delay, or

b. In the case of an application for an accessory dwelling unit and/or junior accessory dwelling unit submitted with an application to create a new single-unit dwelling on the lot, the City may delay acting on the accessory dwelling unit and/or junior accessory dwelling application until the City renders a decision on the new single-unit dwelling application.

D. Maximum Number of Accessory Dwelling Units Allowed. Unless precluded by Government Code Section 66323 the following is the maximum number of accessory dwelling units allowed on any residential lot. For purposes of this section, "multi-unit dwelling" means a development containing two or more dwelling units on one lot.

1. Internal to a Single-Unit or Multi-Unit Dwelling Category. Only one accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit or multi-unit dwelling, subject to the following:

a. The accessory dwelling unit is proposed:

i. Within the space of a proposed single-unit or multi-unit dwelling;

ii. Within the existing space of an existing single-unit or multi-unit dwelling; or

iii. Within the existing space of an existing accessory structure, plus an addition beyond the physical dimensions of the existing structure of up to one hundred fifty (150) square feet if the expansion is limited to accommodating ingress and egress.

b. The accessory dwelling unit shall have independent exterior access from the single-unit dwelling.

c. Side and rear setbacks comply with Titles 9 (Fire Code) and 15 (Buildings and Construction).

2. Attached on Lot With Single-Unit or Multi-Unit Dwelling Category. Only one attached, new-construction accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit or multi-unit dwelling.

3. Detached on Lot With Single-Unit or Multi-Unit Dwelling Category. Only one detached new-construction accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit dwelling. Up to two detached new-construction accessory dwelling units may be constructed on a lot that has an existing or proposed multi-unit dwelling. For purposes of this section, a multi-unit development approved and built as a single complex shall be considered one lot, regardless of the number of parcels.

4. Conversion of Multi-Unit Dwelling Category. Multiple accessory dwelling units may be permitted on lots with existing multi-unit dwellings subject to the following:

a. The number of accessory dwelling units shall not exceed twenty-five (25) percent of the existing multi-unit dwellings on the lot. For the purpose of

calculating the number of allowable accessory dwelling units, the following shall apply:

- i. Previously approved accessory dwelling units shall not count towards the number of existing multi-unit dwellings;
 - ii. Fractions shall be rounded down to the next lower number of dwelling units, except that at least one accessory dwelling unit shall be allowed; and
 - iii. For the purposes of this section, multi-unit developments approved and built as a single complex shall be considered one lot, regardless of the number of parcels.
- b. The portion of the existing multi-unit dwelling that is to be converted to an accessory dwelling unit is not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages.

E. Maximum Number of Junior Accessory Dwelling Units Allowed. One junior accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit dwelling, subject to the following:

1. The junior accessory dwelling unit is proposed to be attached to, or within the space of, a proposed or existing single-unit dwelling.
2. The junior accessory dwelling unit shall have independent exterior access from the single-unit dwelling and may provide interior access to the single-unit dwelling.
3. Side and rear setbacks comply with Titles 9 (Fire Code) and 15 (Buildings and Construction).
4. The junior accessory dwelling unit may be constructed in addition to an accessory dwelling unit on the lot with a proposed or existing single-unit dwelling. A junior accessory dwelling unit is not permitted on a lot with a proposed or existing multi-unit dwelling.

F. Development Standards. Except as modified by this subsection or authorized by California Government Code Section 66317 and 66323, an accessory dwelling unit and/or junior accessory dwelling unit shall conform to all objective standards of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of Title 20 (Planning and Zoning), including but not limited to height, setback, site coverage, floor area limit, and residential development standards and design criteria.

1. Minimum Lot Area. There shall be no minimum lot area required to establish an accessory dwelling unit and/or junior accessory dwelling unit.
2. Setback Requirements. Accessory dwelling units and junior accessory dwelling units shall comply with the setback requirements applicable to the zoning district, except as noted below:
 - a. For conversion of existing enclosed floor area, garage, or carport, no additional setback is required, beyond the existing provided setback.

b. For replacement of an existing enclosed structure, garage, or carport, no existing setback is required, beyond the existing setback provided. This provision shall only apply to accessory dwelling units and junior accessory dwelling units that are replacing existing structures within the same footprint and do not exceed the existing structure's size and/or height. For an accessory dwelling unit that will replace a detached garage, the building and demolition permits shall be reviewed and issued concurrently.

c. Attached and detached accessory dwelling units shall provide a minimum setback of four feet from all side property lines and rear property lines not abutting an alley unless the setback requirements of the underlying zoning district are less restrictive.

3. Building Height.

a. Internal. Accessory dwelling units and junior accessory dwelling units internal to an existing or proposed single-unit or multi-unit dwelling shall comply with the height limit as required by underlying zoning district.

b. Attached. Accessory dwelling units and junior accessory dwelling units attached to an existing or proposed single-unit or multi-unit dwelling shall comply with the height limit as required by underlying zoning district.

c. Detached accessory dwelling units shall not exceed a height of sixteen (16) feet except as noted below:

i. An accessory dwelling unit constructed on a lot with an existing or proposed multi-unit, multi-story dwelling shall not exceed a height of eighteen (18) feet.

ii. An accessory dwelling unit constructed above a detached garage shall not exceed two stories and the maximum allowable height of the underlying zoning district, provided the accessory dwelling unit meets the minimum setbacks required by underlying zoning district and the principal dwelling unit complies with parking standards set forth in Section 20.40.040.

iii. An accessory dwelling unit constructed on a lot with an existing or proposed single-unit or multi-unit dwelling that is located within one-half-mile walking distance of a major transit stop or high-quality transit corridor, as those terms are defined in California Public Resources Code Section 21155, shall not exceed a height of eighteen (18) feet. An additional two feet in height shall be permitted to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary unit.

4. Unit Size.

a. The maximum size of a detached or attached accessory dwelling unit is eight hundred fifty (850) square feet for a studio or one-bedroom unit and one thousand (1,000) square feet for a two or more bedroom unit.

b. Application of size limitations set forth in subsection (F)(4)(a) of this section shall not apply to an accessory dwelling unit that is converted as part of a

proposed or existing space of a principal residence or existing accessory structure.

c. Application of development standards, such as floor area limit or site coverage, may further limit the size of the accessory dwelling unit, but in no case shall the front setback, floor area limit, open space, or site coverage requirement reduce the accessory dwelling unit to less than eight hundred (800) square feet where there is no other alternative to comply, and only to the extent necessary to construct the accessory dwelling unit.

d. The maximum size of a junior accessory dwelling unit shall be five hundred (500) square feet.

e. The minimum size of an accessory dwelling unit or junior accessory dwelling unit shall be at least that of an efficiency unit or as required by the California Building Code (CBC).

5. **Walkout Basement Floor Area Limit Exception.** The gross floor area of an accessory dwelling unit or junior accessory dwelling shall be excluded from the allowable floor area limit when located below grade within a basement. Daylighting of the basement shall only be permitted where excavation is necessary to provide exterior access to the main surface level and in compliance with the following:

a. The access passageway, inclusive of any necessary shoring, may encroach into a side setback area;

b. The passageway shall be free of obstructions from the ground level to a height of eight feet; and

c. The access passageway shall measure a minimum of thirty-six (36) inches in width, measure a maximum of sixty (60) feet in length, and shall not be located within a yard fronting a public right-of-way.

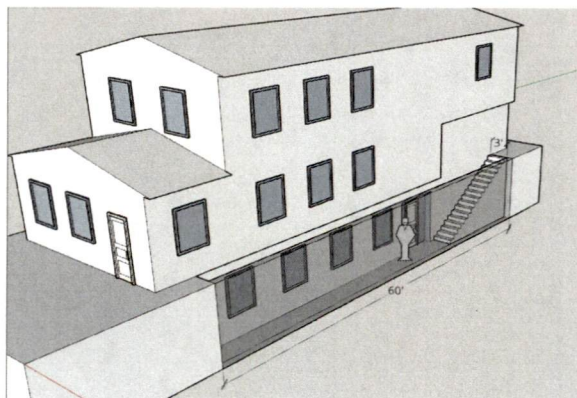


Figure 3-7

Walkout Basement Floor Area Limit Exception

6. **Fire Sprinklers.** An accessory dwelling unit and/or junior accessory dwelling unit shall not require fire sprinklers so long as fire sprinklers are not required for the

principal residence, nor shall the construction of an accessory dwelling unit and/or junior accessory dwelling unit require fire sprinklers to be installed in the existing single-unit or multi-unit dwelling.

7. Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit and/or junior accessory dwelling unit. For the purposes of this section, "passageway" means a pathway that is unobstructed clear to the sky and extends from the street to one entrance of the accessory dwelling unit.

8. Parking. Parking shall comply with requirements of Chapter 20.40 (Off-Street Parking) except as modified below:

a. No additional parking shall be required for junior accessory dwelling units.

b. A maximum of one parking space shall be required for each accessory dwelling unit.

c. When additional parking is required, the parking may be provided as tandem parking and/or located on an existing driveway; however, in no case shall parking be allowed in a rear setback abutting an alley or within the front setback, unless the driveway in the front setback has a minimum depth of twenty (20) feet.

d. No additional parking shall be required for:

i. An accessory dwelling unit internal to a proposed principal residence or converted from existing space of a principal residence or existing accessory structure;

ii. An accessory dwelling unit located within one-half-mile walking distance of public transit. For the purposes of this section "public transit" shall include a bus stop where the public may access buses that charge set fares, run on fixed routes, and are available to the public;

iii. An accessory dwelling unit located within an architecturally and historically significant historic district;

iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or

v. When there is a car-share vehicle located within one block of the accessory dwelling unit. For the purposes of this section, "car-share vehicle" shall mean part of an established program intended to remain in effect at a fixed location for at least ten (10) years and available to the public.

vi. Outside the coastal zone, when an accessory dwelling unit is constructed in conjunction with a new single-unit or multi-unit dwelling on the same lot.

e. No Replacement Parking Necessary. Outside the coastal zone, when a garage, carport, covered or uncovered parking space is demolished in conjunction with the construction of an accessory dwelling unit at the same location or converted to an accessory dwelling unit, those off-street parking spaces are not required to be replaced. Outside the coastal zone, when a garage is demolished

in conjunction with the construction of a junior accessory dwelling unit at the same location or converted to a junior accessory dwelling unit, that off-street parking space is not required to be replaced. Refer to Section 21.48.200(F)(8)(e) for replacement parking in the coastal zone.

9. Historic Resources. Any accessory dwelling unit or junior accessory dwelling unit that is listed on the California Register of Historic Resources shall meet all Secretary of the Interior Standards, as applicable.

G. Utility Connection.

1. Connection Required. All accessory dwelling units and junior accessory dwelling units shall connect to public utilities (or their equivalent), including water, electric, and sewer services.

2. Except as provided in subsection (G)(3) of this section, the City may require the installation of new or separate utility connections between the accessory dwelling unit, junior accessory dwelling unit and the utilities.

3. Conversion. No separate connection between the accessory dwelling unit and the utility shall be required for units created within a single-unit or multi-unit dwelling(s), unless the accessory dwelling unit is being constructed in connection with a new single-unit dwelling.

4. Septic Systems. If the principal dwelling unit is currently connected to an on-site wastewater treatment system and is unable to connect to a sewer system, accessory dwelling units and junior accessory dwelling units may connect to the on-site wastewater treatment system. However, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last ten (10) years.

H. Additional Requirements for All Accessory Dwelling Units and Junior Accessory Dwelling Units.

1. No Separate Conveyance. Except as authorized in California Government Code 66341, an accessory dwelling unit or junior accessory dwelling unit may be rented, but no accessory dwelling unit or junior accessory dwelling unit may be sold or otherwise conveyed separately from the lot and the principal dwelling (in the case of a single-unit dwelling) or from the lot and all of the dwellings (in the case of a multi-unit dwelling).

2. Short-Term Lodging. The accessory dwelling unit and/or junior accessory dwelling unit shall not be rented for periods of thirty (30) days or less.

3. Owner-Occupancy for Junior Accessory Dwelling Units. A natural person with legal or equitable title to the lot must reside in either the principal single-unit dwelling unit or the junior accessory dwelling unit as the person's legal domicile and permanent residence. However, this owner-occupancy requirement shall not apply to any junior accessory dwelling unit owned by a governmental agency, land trust, or housing organization.

I. Deed Restriction and Recordation Required. Prior to the issuance of a building and/or grading permit for a junior accessory dwelling unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the owner occupancy requirements, prohibition on the separate conveyance, the approved size and attributes of the unit, and restrictions on short-term rentals. This deed restriction shall remain in effect so long as the junior accessory dwelling unit exists on the lot.

EXHIBIT “B”

FACTS IN SUPPORT OF CODE AMENDMENT (PA2025-0093)

An amendment to Title 20 (Planning and Zoning) of the NBMC is a legislative act. Neither Chapter 20.66 (Planning and Zoning, Amendments) of Title 20 (Planning and Zoning) of the NBMC, or Article 2 (Adoption of Regulations) of Chapter 4 (Zoning Regulations) of Division 1 (Planning and Zoning) of Title 7 (Planning and Land Use) of the California Government Code set forth any required findings for either approval or denial of such amendments.

Notwithstanding the foregoing, the Zoning Code Amendment is consistent with the City Council's initiation and allows for orderly residential development while protecting property rights, as identified below.

1. ADUs and JADUs provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. In addition, homeowners who construct ADUs and JADUs benefit from added income and increased sense of security.
2. Allowing ADUs and JADUs in conjunction with existing or proposed residential development provides additional rental housing stock, some of which will satisfy the City's 6th Cycle Regional Housing Needs Assessment (RNHA).
3. Adopting an ordinance consistent with Government Code Sections 66310 through 66342 ensures and reinforces the commitment that the City has made to promote and incentivize ADU growth via the established Policy Action 1H: Accessory Dwelling Unit Construction of the City's 6th Cycle Housing Element.
4. Adopting an ordinance to address State ADU Law revisions is consistent with Council Policy K-4 (Reducing the Barriers to the Creation of Housing) which encourages the development of accessory dwelling units as an important strategy to accommodate future growth and as an integral strategy to help meet the City's Regional Housing Needs Allocation (RHNA).
5. ADUs and JADUs offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods inside and outside the coastal zone, while respecting architectural character.
6. Adopting an ordinance consistent with Government Code Sections 66310 through 66342 ensures that the character of the City is preserved to the maximum extent possible and that the City's regulation regarding ADUs and JADUs continues to promote the health, safety, and welfare of the community.
7. The proposed amendments are consistent with and implement California Government Code Sections 66310 through 66342. The proposed changes to the NBMC are solely intended to address updated requirements under State ADU Law and the HCD Letter. No additional changes are proposed as part of this amendment.

8. The HCD Letter requests that NBMC Section 20.38.200 (D) (3) and (4)(a)(iii) be amended to address the definition of a “lot”. HCD cites the 2022 California Building Code (CBC), which defines “lot” as “A portion or parcel of land considered as a unit”. However, Government Code Sections 66310 through 66342 do not include a definition of a “lot” and do not cite the CBC for the definition of a “lot”. The existing language of NBMC Section 20.38.200 (D)(3) and (4)(a)(iii) reads, “For purposes of this section, a multi-unit development approved and built as a single complex shall be considered one lot, regardless of the number of parcels.” This language is consistent with NBMC Section 20.70.020 (Definitions of Specialized Terms and Phrases) which defines a “lot” as, “...the basic unit of land development. A designated area of land established by plat, subdivision, lot line adjustment, or as otherwise permitted by law, to be used, developed, or built upon as a unit. Typically, a lot is indicated upon a final map, parcel map, lot line adjustment map, certificate of compliance, or record of merger filed in the Office of the County Recorder...”. Furthermore, NBMC Section 20.70.020 (Definitions of Specialized Terms and Phrases) defines “Site” as, “...a lot or adjoining lots under single ownership or single control, considered as a [Numerical] unit for the purposes of development or other use.” These codified definitions adequately define “lot” for the purpose of regulating ADUs and JADUs, therefore, no changes are necessary to address this comment from HCD.
9. The HCD Letter asserts that the City cannot impose standards of a local ordinance, regulation, or policy not contained within the City’s ADU ordinance from being the basis of delay or denial of an ADU or JADU, with the exception of the CBC. However, pursuant to Government Code Section 66314 (b)(1), a local jurisdiction is allowed to impose objective standards on ADUs and JADUs, with the exception of ADUs and JADUs that are specifically protected under Section 66323 of the Government Code. Therefore, the proposed amendment includes references to Government Code 66323 to ensure that Government Code 66323 supersedes the development standards of the NBMC where applicable.
10. The HCD Letter requests NBMC Section 20.38.200 (F)(2)(b) related to setbacks be amended to include reference to JADUs in the language to process building permits and demolition permits concurrently for ADUs that are proposed to replace a detached garage. However, Government Code sections 66310 through 66342 do not explicitly allow JADUs to be created from detached structures, including garages. Therefore, adding JADUs into NBMC Section 20.38.200 (F)(3) would create privileges for JADU development that are not found in Government Code Sections 66310 through 66342. Therefore, the existing language is consistent with the provisions of Government Code Section 66333(d). No changes are necessary to address this comment from HCD.
11. The HCD Letter requests that NBMC Section 20.38.200 (F)(3)(b) be amended to clarify that the height limit for ADUs and JADUs attached to a primary dwelling shall not be less than 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower. The existing ADU ordinance language outlines that attached ADUs and JADUs are limited to the base height limit for the primary dwelling. The City’s various residential zoning districts have base height limits that exceed the 25-foot height limit allowed by the State, therefore, the City’s existing ADU Ordinance is more permissive than State ADU Law. Imposing the requested amendment would impose a height limit that is lower than currently permitted by the underlying zoning

districts. Therefore, The City's existing ordinance is more permissive than State ADU Law and no amendments are necessary to address this comment from HCD.

12. The HCD letter requests that NBMC Section 20.48.200 (H)(3) be amended to remove owner occupancy requirements for ADUs. This revision is not necessary given the existing ADU ordinance does not require owner occupancy of ADUs and specifies that owner occupancy is only required for JADUs. JADU owner occupancy is authorized by Government Code Section 66333(b). Therefore, no changes are necessary to address this comment from HCD.
13. The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.