

Attachment D

July 17, 2025 Planning Commission Staff
Report (Without Attachments)



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

July 17, 2025
Agenda Item No. 3

SUBJECT: Accessory Dwelling Unit Ordinance Update (PA2025-0093)
▪ Zoning Code Amendment
▪ Local Coastal Program Amendment

SITE LOCATION: Citywide

APPLICANT: City of Newport Beach

PLANNER: Oscar Orozco, Associate Planner
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PROJECT SUMMARY

Amendments to Title 20 (Zoning Code) and Title 21 (Local Coastal Program Implementation Plan) updating regulations pertaining to Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) to conform with revisions to Government Code Sections 66310 through 66342 that went into effect on March 27, 2024, and January 1, 2025.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the CEQA Guidelines, which states that 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 and pursuant to CEQA Guidelines Section 15265(a)(1), local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program.;
- 3) Adopt Resolution No. PC2025-014 (Attachment No. PC 1) recommending the City Council approve PA2025-0093, including the Zoning Code Amendment and the Local Coastal Program Amendment (LCPA) and authorize staff to submit the Local Coastal Program Amendment (LCPA) to the California Coastal Commission (CCC).

DISCUSSION

Background

On February 14, 2023, the City Council adopted Ordinance No. 2023-2, the City's most recent amendment to the ADU ordinance. The ADU Ordinance Summary Matrix provides an outline of the current ADU regulations (Attachment No. PC 2). Subsequent to its adoption, the ordinance was submitted to the California Department of Housing and Community Development (HCD) on February 18, 2023, pursuant to Government Code Section 66326, which requires local governments to submit their adopted ADU ordinances for review by the HCD within 60 days of adoption.

In 2024, the California Legislature adopted a group of housing bills aimed at addressing the housing crisis. The legislature approved, and the Governor signed, Senate Bill (SB) SB 477 (Chapter 7, Statutes of 2024), Assembly Bill (AB) AB 2533 (Chapter 834, Statutes of 2024), and SB 1211 (Chapter 296, Statutes of 2024) into law that, among other things, amended Government Code Section 66310 through 66342 to impose new limits on the City to regulate ADUs and JADUs. In adopting these new regulations, the State Legislature determined that these changes are a matter of statewide concern, rather than a municipal affair. This determination allows the State to apply these new ADU laws to charter cities. The State Legislature intends to reduce regulatory barriers and costs, streamline the approval, and expand the potential capacity for ADUs and JADUs in response to California's housing shortage.

The City Council adopted a revision to the City's 6th Cycle (2022-2029) Housing Element on September 24, 2024, and submitted it to HCD for recertification. This recertification triggered HCD's review of the City's ADU regulations.

On October 1, 2024, HCD completed its review of the ADU ordinance and issued a letter titled "Review of Newport Beach's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, §§ 66310 – 66342)" (HCD Letter) stating that the City's current ADU ordinance does not comply with State ADU Law governing ADUs. The HCD Letter is included as Exhibit "C" to Attachment No. PC 1. The HCD letter outlined the various components of the City's ADU ordinance that HCD believes are not in compliance with State ADU Law. In its letter, HCD directs the City to update its ADU Ordinance to comply with State ADU Law or provide findings as part of a resolution that justify why the City's existing Ordinance is consistent with State ADU Law. If the City fails to take either course of action, HCD will notify the City and potentially the California Office of the Attorney General that the City is in violation of State ADU Law.

On October 25, 2024, the City of Newport Beach Community Development Department issued a letter to HCD in response to their review of the ADU ordinance. In its letter, the City affirmed its commitment to addressing the required revisions to the City's ADU Ordinance to comply with current State ADU Law (i.e. SB 477, AB 2533, and SB 1211).

Proposed Amendments

In order to address comments received by HCD and bring the City's ADU ordinance into compliance with State ADU Law, the City of Newport Beach needs to adopt ordinances revising Sections 20.48.200 (Accessory Dwelling Units) and 21.48.200 (Accessory Dwelling Units) of the Newport Beach Municipal Code (NBMC). Although the titles of said sections reference ADUs, these sections also govern JADUs.

Summary of Changes to State ADU Laws

SB 477 (Chapter 7, Statutes of 2024) made changes to the numbering of the sections of Government Code for State ADU and JADU Laws. The bill went into effect on March 25, 2024.

AB 2533 (Chapter 834, Statutes of 2024) made various changes to State ADU Law (Gov. Code, § 66332) regarding unpermitted ADUs, which the City currently implements through its existing SAFE ADU Program. The [City's SAFE ADU program](#) is an initiative designed to help homeowners legalize existing unpermitted ADUs constructed before January 1, 2020. The program helps homeowners address potential code enforcement issues, liability concerns, and safety risks associated with unpermitted units. This bill went into effect on January 1, 2025, and the City's SAFE ADU program has already been updated to comply with the provisions.:

SB 1211 (Chapter 296, Statutes of 2024) made various changes to State ADU Law (Gov. Code, §§ 66313, 66314, 66323) with regard to replacement parking and special streamlined units referred to as "66323 Units" (described below) on lots with existing or proposed multifamily dwellings. SB 1211 went into effect on January 1, 2025. This bill:

- Defines "livable space" as a space in a dwelling intended for human habitation, as the term appears in Government Code sections 66313, subdivision (e), and 66323, subdivision (a)(3)(A).
- Specifies that uncovered, off-street parking spaces demolished in conjunction with the construction of an ADU do not need to be replaced.
- Authorizes up to eight detached ADUs on a lot with an existing multifamily dwelling (previously limited to two), provided that the number of ADUs does not exceed the number of existing units on the lot.
- Prohibits a local agency from imposing any objective development standards on 66323 Units that are not authorized by the provisions of Government Code section 66323, subdivision (a).

SB 1211 established “66323 Units” under Government Code Section 66323 and clarifies four categories of ADUs (and JADUs) that must be approved ministerially and are not subject to standards set forth in Government Code Sections 66314 through 66322 or the NBMC (i.e. “66323 Units”). These 66323 Units do not have to comply with the City’s objective development and design standards, such as height, setbacks, and size limits. These ADUs must still comply with building code and health and safety requirements. Below is a breakdown of the four categories of 66323 Units and the minimal standards that cities are allowed to apply to them.

1. Single-Unit Internal ADUs and JADUs

- One ADU per lot is permitted within the converted space of a proposed or existing single-unit dwelling or accessory structure.
- No additional setbacks are required beyond that of the existing or proposed structure and any applicable building and safety minimum requirements.
- ADUs converted from accessory structures are eligible for a 150 square-foot expansion to accommodate ingress and egress.
- One JADU per lot is permitted within the proposed or existing space of a single-unit dwelling or accessory structure.

2. Single-Unit Detached ADUs

- One detached new construction ADU is permitted on lots with an existing or proposed single-unit dwelling.
- 4-foot side and rear yard setbacks are allowed.
- The maximum unit size is 800 square feet.
- Height limitation of 16 or 18 feet depending on conditions specified in Government Code Section 66321, subdivision (b)(4).

3. Multi-unit Converted ADUs

- Conversion ADUs may be created within the portions of existing multi-unit structures that are not used as livable space.
- At least one ADU is within an existing multi-unit dwelling and up to 25% of the existing multi-unit dwelling units.

4. Multi-unit Detached ADUs

- Two detached ADUs are allowed on a lot with a proposed multi-unit dwelling, or up to eight detached ADUs are allowed on a lot with an existing multi-unit dwelling, not to exceed the number of existing units on the lot.
- 4-foot rear and side yard setbacks are allowed.
- Height limits of 16, or 18 feet depending on conditions specified in Government Code Section 66321, subdivision (b)(4).

HCD Letter

Table 1 below summarizes the comments received by HCD as part of their review of the City's ADU ordinance (i.e. HCD Letter) and identifies how the City proposes to address those comments. The comments received by HCD are intended to guide the City in addressing the State ADU law changes that went into effect on March 27, 2024, and January 1, 2025. As requested by HCD, the draft resolution (Attachment No. PC 1) includes findings addressing why certain changes requested by HCD are not necessary to comply with State ADU Law. All other suggested changes have been made in the proposed ordinance (Attachment No. PC 3). Redlines of Sections 20.48.200 and 21.48.200 of the NBMC addressing the HCD Letter are included as Attachments No. PC 3 and PC 4.

Table 1. HCD Letter Summary			
Comment #	HCD Comment	Proposed Revision	Explanation
1	Remove reference to "legally established" from the ordinance.	"Required to correct legally established 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..."	State ADU Law prohibits cities from denying a permit for an ADU/JADU to correct nonconforming violations whether or not the nonconformity was legally established.
2	Add note of the exception for units under Government Code Section 66323.	"...units as provided in this section and California Government Code Section 66323... "	66323 Units are protected and not subject to additional development standards outside of State ADU Law.
3	Remove the restriction on the combination of 66323 Units that can be constructed.	"Maximum Number of Accessory Dwelling Units Allowed. Unless precluded by Government Code Section 66323 the following"	66323 Units are protected and multiple ADUs/JADUs may be built on a single property, therefore, a reference to State ADU Law is included.
4	Remove the restriction on parcels for multi-unit "lots" to align with the Building Code definition.	No change required.	The NBMC already defines "lot" for the purpose of a multi-unit development. The building code definition of "lot" is not codified in State ADU Law and therefore not applicable.

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5	Remove requirements that ADUs conform to underlying zoning standards, and 'other' unspecified provisions not in the ADU ordinance.	Development Standards. Except as modified by this subsection or authorized by California Government Code Section 66317 and 66323 , an accessory dwelling unit..."	State ADU Law allows a local jurisdiction 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 (i.e. 66323 Units).
6	Specify that building and demolition permits are reviewed and issued concurrently for JADUs that replace detached garages.	No change required.	This section relates to the replacement of existing detached garages with ADUs. JADUs are not permitted to replace detached garages, therefore, this comment does not apply.
7	Clarify the height limitations to ensure building heights and stories for attached ADUs are not restricted.	No change required.	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.
8	Add note of the exception for units under Government Code Section 66323 to not limit the size of detached ADU on lots with multifamily dwellings.	"Development Standards. Except as modified by this subsection or authorized by California Government Code Section 66317 and 66323 , an accessory dwelling unit..."	66323 Units are protected and not subject to additional development standards outside of State ADU Law.
9	Cite the California Building Code to regulate the minimum size for ADUs and JADUs.	"...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). "	JADUs may be smaller in some cases than an "efficiency unit" as defined by the CBC. Therefore, a reference to the CBC is included to determine the minimum size required for a JADU.
10	Exclude JADUs from replacement parking requirements.	"No Replacement Parking Necessary. Outside the coastal zone, when a garage, carport, or covered parking structure 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-	Replacement parking for JADU garage conversions is not required per Government Code Section 66334, therefore, a new sentence is introduced to provide clarity. In addition, no changes to Title 21 are proposed given that replacement parking in the coastal zone is required for both ADUs and JADUs (as permitted by State Law).

		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. Accessory dwelling units and/or junior accessory dwelling unit shall not displace required uncovered parking spaces Refer to Section 21.48.200(F)(8)(e) for replacement parking in the coastal zone.”	
11	Amend to allow for the sale or separate conveyance of ADUs established by a non-profit.	“No Separate Conveyance. Except as authorized in California Government Code 66341,- A an accessory dwelling...”	There is a very narrow exception in State ADU Law that requires cities to allow separate conveyance (i.e. separate sale) of ADUs for non-profits.
12	Remove owner occupancy restrictions for ADUs.	No change required.	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.
13	Remove the requirement of a deed restriction on ADUs.	“Prior to the issuance of a building and/or grading permit for an accessory dwelling unit and/or junior accessory dwelling unit, the property owner shall record a deed restriction with..” and “This deed restriction shall remain in effect so long as the accessory dwelling unit and/or junior accessory dwelling unit exists on the lot.”	Deed restrictions will no longer be required for ADUs. State ADU Law only allows deed restrictions to be required for JADUs.

HCD Review

Government Code Section 66326 requires the City to submit the ordinance to the State Department of Housing and Community Development (HCD) within 60 days of adoption. Should the City Council approve the proposed ordinance to amend Title 20, staff will forward the ordinance to HCD for review. If HCD finds the ordinance does not comply with the new ADU laws, HCD will notify the City. Should this occur, the City would have 30 days to either amend the ordinance or adopt additional findings that explain the reason the ordinance complies with the statute. Since the amendment to Title 21 requires CCC approval, the ordinance amending Title 21 will be submitted to HCD after the CCC LCPA process is complete.

General Plan Consistency

The law states that ADUs shall be deemed an accessory use and shall not be considered to exceed the allowable density for the lot upon which it is located and shall be deemed a residential use that is consistent with the existing general plan and zoning district for the lot. Therefore, no amendments to the General Plan are required.

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 2021-2029 Housing Element.

Local Coastal Plan

Similar to the Zoning Code, the Implementation Plan of the Local Coastal Program (LCP) currently regulates ADUs inconsistent with State ADU law. Therefore, subsequent to City Council adoption of this Zoning Code Amendment, staff will submit corresponding amendments (Attachment No. PC 4) to the LCP for review and approval of the CCC. In accordance with CCC Guidance Memorandums, any eligible projects located in the Coastal Zone that qualify for a Coastal Development Permit (CDP) exemption will be processed consistent with the Zoning Code. Projects that do not qualify for an exemption cannot be processed until the LCP Amendment is approved and adopted.

By adopting an ordinance amending the Local Coastal Program, the City will continue to implement Local Coastal Program Policy 2.7-5, which encourages consistency with Government Code Sections 66310 through 66342 for the purposes of increasing the supply of lower-cost housing in the coastal zone that meets the needs of existing and future residents, while respecting the architectural character of the existing neighborhoods and in a manner that is consistent with the Local Coastal Program.

Reducing the Barriers to the Creation of Housing

The City Council adopted a policy (Council Policy K-4) to consider new and flexible land use and zoning regulations and strategies in order to reasonably and practically

accommodate the ambitious State housing mandate while protecting the character and maintaining a quality of life that makes Newport Beach a special place to live, work, and visit.

One of the ways Council Policy K-4 achieves that goal is by encouraging the development of accessory dwelling units and junior accessory dwelling units as an important strategy to accommodate future growth and is an integral strategy to help meet the City's Regional Housing Needs Allocation (RHNA) of 4,849 units. Adopting an ordinance to address State ADU Law revisions is consistent with Council Policy K-4 which encourages the development of accessory dwelling units as an important strategy to accommodate future growth and is an integral strategy to help meet the City's RHNA.

Alternatives

The Planning Commission may recommend revisions to the draft ordinance provided the revisions are consistent with State ADU law and are not more restrictive than the State's regulations pertaining to ADUs and JADUs. Noncompliance with State ADU law would render the City's ADU ordinance null and void, thus requiring the City to utilize the State's more lenient ADU standards until the City modifies its regulations appropriately.

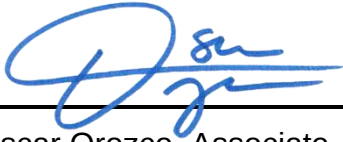
Environmental Review

The project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), which states that 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. Similarly, the ministerial approval of ADUs would not be a project for CEQA purposes, and environmental review would not be required prior to approving individual applications. In addition, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program.

Public Notice

Notice of this hearing was published in the Daily Pilot as an eighth page advertisement at least 20 days before the scheduled meeting, consistent with the provisions of the Municipal Code and State Law. The item also appeared on the agenda for this meeting, which was posted at City Hall and on the City website. Additionally, notice was sent to all persons and agencies on the Notice of the Availability mailing list for LCPAs.

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LAW/oo

ATTACHMENTS

- PC 1 Draft resolution recommending approval of Zoning Code Amendment and Local Coastal Program Amendment (PA2025-0093)
- PC 2 Accessory Dwelling Unit Ordinance Summary Matrix
- PC 3 Title 20 (Planning and Zoning), proposed redlined code changes
- PC 4 Title 21 (Local Coastal Program Implementation Plan), proposed redlined code changes