



CITY OF

NEWPORT BEACH

City Council Staff Report

January 14, 2020
Agenda Item No. 5

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Seimone Jurjis, Community Development Director - 949-644-3232, sjurjis@newportbeachca.gov

PREPARED BY: Jaime Murillo, Principal Planner
jmurillo@newportbeachca.gov

PHONE: 949-644-3204

TITLE: Resolution No. 2020-3: Initiation of Zoning Code and LCP Amendments Related to State Mandated Regulations for ADU and JADU Regulations (PA2019-248)

ABSTRACT:

The City Council will consider initiating amendments to Newport Beach Municipal Code (NBMC) Title 20 (Planning and Zoning) and NBMC Title 21 (Local Coastal Program Implementation Plan). The amendments relate to State mandated changes to the regulations for Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU).

RECOMMENDATION:

- a) Determine this action is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15262 of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3; and
- b) Adopt Resolution No. 2020-3, *A Resolution of the City Council of the City of Newport Beach, California, Initiating Amendments to Title 20 Entitled "Planning and Zoning" and Title 21 Entitled "Local Coastal Program Implementation Plan" of the City of Newport Beach Municipal Code Related to State Mandated Regulations of Accessory Dwelling and Junior Accessory Dwelling Units (PA2019-248).*

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

Zoning Code Section 20.66.020 (Initiation of Amendment) provides that a code amendment may be initiated by the City Council with or without a recommendation from the Planning Commission. City Council Policy K-1 (General Plan and Local Coastal Program) provides that a City-sponsored amendment to the certified Local Coastal Program (LCP) shall be initiated by the City Council.

This agenda item is not a public hearing. Should the City Council choose to initiate these proposed amendments, the specific text changes will be drafted and considered by both the Planning Commission and the City Council at future public hearings. Additionally, amendments to the certified LCP will require certification by the California Coastal Commission to be effective.

Amendments Proposed for Initiation:

The California Legislature recently approved, and the Governor signed, SB 13 (Chapter 653, Statutes of 2019), AB 68 (Chapter 655, Statutes of 2019), and AB 881 (Chapter 659, Statutes of 2019), which are collectively known as the new ADU laws. Since AB 881 was the last chaptered bill signed by the Governor affecting ADU laws, it will supersede SB 13 and AB 68.

The new ADU laws amend Government Code Sections 65852.2 and 65852.22 to impose new limits on the City's regulation of ADUs and JADUs. Failure to comply with amended Government Code renders the City's current ADU and JADU ordinance null and void, as of January 1, 2020. This limits the City's ability to regulate ADUs and JADUs to the application of the few default standards provided in Government Code Sections 65852.2 and 65852.22.

One key component of the new ADU laws is that the City is now required to allow JADUs; whereas they had previously prohibited them. ADUs and JADUs are both independent living units; however, JADUs are limited to no more than 500 square feet. Additionally, JADUs are limited to an efficiency size kitchen, can have an internal access to the primary dwelling unit, and can share sanitary facilities with the primary unit.

In addition to JADUs, the new ADU laws, among other things, expand areas that allow ADUs, eliminate minimum lot size requirements, lower (and in some cases eliminate) parking requirements, establish new ADU sizes, and temporarily eliminates owner-occupancy requirements. The new ADU laws also provide the State new tools to enforce compliance with Government Code Sections 65852.2 and 65852.22. A summary of the needed changes is as follows:

Accessory Dwelling Units Development Standards	
Standard	Newport Beach Municipal Code vs New ADU Law
Location	<u>Existing NBMC</u> : Residentially zoned property improved with a single-family residence. <u>New ADU Law</u> : Any property improved with a single-family, multiple-family, or mixed-use development.

Number of Units Allowed	<p><u>Existing NBMC</u>: On residentially zoned property developed with a single-unit dwelling, one ADU only.</p> <p><u>New ADU Law</u>: On single-unit developed properties, one ADU and one JADU. On multiple-unit and mixed-use developed properties, up to 25% of the existing units.</p>
Minimum Lot Size	<p><u>Existing NBMC</u>: 5,000 square feet.</p> <p><u>New ADU Law</u>: No Minimum lot size.</p>
Maximum Unit Size	<p><u>Existing NBMC</u>: ADU = 750 square feet.</p> <p><u>New ADU Law</u>: ADU = 850 square feet for studios and one-bedroom units and 1,000 square feet for two-bedroom units; JADU = 500 square feet.</p>
Setbacks	<p><u>Existing NBMC</u>: For garage conversions, no additional setback is required, beyond what is currently provided. For ADUs above the garage a five foot side and rear setback is required. For all others, setbacks are per the zoning code requirement for the base zone.</p> <p><u>New ADU Law</u>: For conversion and replacement of existing structures, no additional setback is required, beyond what is currently provided. Front setbacks are per the zoning code requirement for the base zone. Side and rear setbacks are per the zoning code requirement for the base zone or four feet, whichever is less.</p>
Height	<p><u>Existing NBMC</u>: For attached units or units above garages, the height is per the zoning code requirement for the base zone. For detached units, the maximum height is 14 feet.</p> <p><u>New ADU Law</u>: For attached units or units above garages, the height is per the zoning code requirement for the base zone. For detached units, the maximum height is 16 feet.</p>
Parking	<p><u>Existing NBMC</u>: One space per unit, except if property is:</p> <ol style="list-style-type: none"> 1) located within one-half (1/2) mile of a major transit stop; 2) located within one (1) block of a designated car share pick up and drop off location; 3) located within an architecturally and historically significant historic district; 4) proposed to be converted from the existing space entirely within the primary dwelling unit or an existing accessory structure; or 5) located in a permit parking area where on-street parking permits are required, but not offered to the occupant(s) of the accessory dwelling unit.

	<p><u>New ADU Law:</u> For JADU, no parking is required.</p> <p>For ADU, one space per unit, with the same exceptions described above; however, exception 1) has been changed to <i>located within one-half (1/2) mile walking distance of public transit.</i></p>
Garage Conversions	<p><u>Existing NBMC:</u> When garage, carport, or covered parking is replaced/converted to ADU, parking shall be replaced in any configuration on the same lot.</p> <p><u>New ADU Law:</u> If garage, carport, or covered parking is replaced/converted to ADU, no replacement parking is required.</p>
Owner-Occupancy Requirement	<p><u>Existing NBMC:</u> The property owner shall live in either the primary residence or the ADU.</p> <p><u>New ADU Law:</u> For ADU, the property owner shall live in either the primary residence or the ADU. For JADU, the property owner shall live in the primary residence. However, this rule is suspended for ADUs created between 1/1/2020 and 1/1/2025, during which time no owner-occupancy requirements are required.</p>

In order to restore local regulations, as allowed under the new ADU laws, the City of Newport Beach needs to adopt new ADU and JADU ordinances. After a review of Title 20 and Title 21, staff believes code sections listed below will need to be amended to accommodate the request.

- 20.18.020, 20.22.020, 21.18.020, and 21.22.020 – Permitted Use Tables
- 20.48.200 and 21.47.200 – Accessory Dwelling Units
- 20.70.020 and 21.70.020 – Definitions

The NBMC sections identified above are anticipated to be the extent of the proposed amendments; however, as staff examines these sections within the context of their desired code changes and input is provided from residents and others, additional changes to related sections not listed may be necessary.

ENVIRONMENTAL REVIEW:

The initiation of zoning and LCP amendments are statutorily exempt from the California Environmental Quality Act (CEQA), pursuant to California Public Resources Code section 21080.17. Section 21080.17 of the Public Resource Code states the CEQA does not apply to the preparation and adoption of an ADU ordinance.

NOTICING:

The Municipal Code does not require notice for the initiation of amendments. Notice of this item appeared on the agenda for this meeting, which was posted at City Hall and on the City website. Should the City Council initiate the amendment, public notice will be provided for subsequent public hearings before the Planning Commission and the City Council as required by the Municipal Code. Additionally, notice of the LCP amendments will be sent to all persons and agencies on the Notice of the Availability mailing list.

ATTACHMENT:

Attachment A – Resolution No. 2020-3