

**CALIFORNIA COASTAL COMMISSION**

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# W18d

## **ADDENDUM**

December 14, 2021

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM W18d, LCP AMENDMENT NO. LCP-5-NPB-20-0025-1,  
Part C FOR THE COMMISSION MEETING OF DECEMBER 15, 2021**

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### **I. CHANGES TO STAFF REPORT**

This addendum corrects the staff report dated November 30, 2021 to make minor clarifications to the staff report. These clarifications correct the City's ordinance number, correct the local ordinance adoption date, and clearly identify the Commission's suggested modifications in **bold text**. The proposed modifications do not alter staff's recommendation.

- a. **On page 1 of the staff report, the first full paragraph shall be corrected as follows. Language to be added to the staff report is shown in underline text, and language to be deleted is shown in ~~strikethrough~~:**

The City of Newport Beach is requesting that the Commission certify an amendment to the Implementing Plan (IP) portion of the Newport Beach certified Local Coastal Program (LCP). Amendment Request No. ~~LCP-5-NPB-21-0036-1~~ LCP-5-NPB-20-0025-1 Part C is a major amendment that would revise the existing regulations in the IP regarding accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). Part C of this LCP amendment would amend IP Sections 21.26.045 (Planned Community Coastal Zoning District Land Uses) and 21.48.200 (Accessory Dwelling units) to bring the City's ADU ordinance into conformity with the current State ADU laws. In addition, Section 21.18.020.C (Allowed Uses) would be amended to include JADU uses in residential zones along with ADU uses, consistent with State law.

- b. **On page 1 of the staff report, the second full paragraph shall be corrected as follows. Language to be added to the staff report is shown**

**in underline text, and language to be deleted is shown in ~~strikethrough~~:**

The Newport Beach Planning Commission held a public hearing on the ADU Amendment on February 20, 2020, and the Newport Beach City Council held a public hearing on March 10, 2020, to initiate the LCP Amendment. The City Council adopted City Council Resolution No. ~~2020-9~~ 2020-24 on March ~~24-10~~, 2020, authorizing City staff to submit the LCP Amendment to the Coastal Commission (**Exhibit 1**).

- c. On Page 5 of the staff report, the first full paragraph shall be corrected as follows. Language to be added to the staff report is shown in underline text, and language to be deleted is shown in ~~strikethrough~~:**

Section 30503 of the Coastal Act requires local governments to provide the public with the maximum amount of opportunities to participate in the development of an LCP amendment prior to submittal to the Commission for review. The Newport Beach Planning Commission held a public hearing on the Cottage Preservation Amendment on February 20, 2020, and the Newport Beach City Council held a public hearing on March 10, 2020, to initiate the LCP Cottage Preservation Amendment. On March ~~24-10~~, 2020, the City Council adopted City Council Resolution No. ~~2020-9~~ 2020-24 (**Exhibit 1**) authorizing City staff to submit the LCP Amendment to the Coastal Commission.

- d. On Page 9 of the staff report, Section 21.48.200(A) shall be corrected as shown in the double strike-through language:**

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 (Definitions) and in California Government Code Sections 65852.2 and 65852.22, or any successor statute, in ~~single-unit residential zoning districts or~~ areas designated for single-unit 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.

- e. On Page 15 of the staff report, Section 21.48.200 (H) shall be corrected as shown in the double strike-through language:**

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

1. No Separate Conveyance. 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). ~~Sale of Units. The accessory dwelling unit shall not be sold separately from the principal dwelling.~~

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

3. Owner-Occupancy.

a. Accessory dwelling units. A natural person with legal or equitable title to the lot must reside in either the principal dwelling unit or the accessory dwelling unit as the person's legal domicile and permanent residence. However, this owner-occupancy requirement shall not apply to any accessory dwelling unit that is permitted in accordance with this section between January 1, 2020 and January 1, 2025.

b. Junior accessory dwelling units. A natural person with legal or equitable title to the lot must reside in either the principal 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. ~~Number of Units Allowed. Only one accessory dwelling unit may be located on the lot.~~

- f. **On Page 22, add a space between “otherwise” and “exempt” in Section D(1), a space between “shall” and “not” in Section D(2) of Suggested Modification #2 as follows:**

**Suggested Modification #2: Modify Section 21.48.200(D) as follows:**

D. Coastal Development Permits.

1. **Application. The applicant shall obtain a Coastal Development Permit, pursuant to Chapter 21.52 (Coastal Development Review Procedures), unless otherwise exempt or excluded from the coastal development permit process pursuant to Section 21.52.035 (Projects Exempt from Coastal Development Permit Requirements) or Section 21.52.045 (Categorical Exclusions).**
2. Hearing Exemption. All of the provisions of Chapter 21.52 (Coastal Development Review Procedures) regarding the review and approval of coastal development permits in relation to accessory dwelling units are applicable, except that a public hearing as required by Chapter 21.62 (Public Hearings) shall not be required. Public notice shall be provided as required in Section 21.62.020, except the requirements of Section 21.62.020(A) shall be replaced with a statement that no local public hearing will be held and that written comments on the proposed development may be submitted. **Written comments received shall be reviewed by the Review Authority.**
3. Appeal Exemption. Notwithstanding the local appeal provisions of Chapter 21.64 (Appeals and Calls for Review), coastal development permits for accessory dwelling units that are defined as “appealable development” pursuant to Section 21.64.035(A) may be directly appealed to the Coastal Commission in accordance with the provisions of Section 21.64.035 without a discretionary hearing by the Planning Commission or City Council.

- g. **On Pages 22-24 of the staff report, bold the phrases “multi-unit,” “of the existing structure,” and “the Municipal” in Suggested Modification #3 as follows:**

E. Maximum Number of Units Allowed. The following is the maximum number of accessory dwelling units and/or junior accessory dwelling units allowed on any residential lot. **For the purposes of this section, multi-unit dwelling means a structure or development**

containing two or more dwelling units. Unless otherwise specified below, only one (1) of the categories described below in this subsection category may be used per lot.

1. **Internal to a Conversion of Single-Unit or Multi-Unit Dwelling Category.** Only one (1) accessory dwelling unit or one (1) junior 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 or junior accessory dwelling unit is proposed:

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

- 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 150 square feet if the expansion is limited to accommodating ingress and egress.

- b. The junior accessory dwelling unit is proposed:

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

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

- c. The accessory dwelling unit or junior accessory dwelling unit will have independent exterior access from the single-unit dwelling.

- d. Side and rear setbacks comply with Title 9 (Fire Code) and Title 15 (Buildings and Construction) of this the Municipal Code.

2. **Detached/Attached on Lot with Single-Unit or Multi-Unit Dwelling Category.** One (1) detached, new-construction accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit or multi-unit dwelling. A detached, new-construction accessory dwelling unit may also be permitted in addition to any junior accessory dwelling unit that might otherwise be established on the lot under subsection ~~(D)(1)(b)~~ **(E)(1)(b).**

3. **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 (1) accessory dwelling unit shall be allowed; and
  - b. For the purposes of this section, multi-unit developments approved and built as a single complex shall be considered one (1) lot, regardless of the number of parcels. 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.
- 4. **Detached on Multi-Unit Lot Category.** Up to two (2) detached ~~new-construction~~ accessory dwelling units may be **permitted constructed** on a lot that has an existing multi-unit dwelling. For the purposes of this section, multi-unit developments approved and built as a single complex shall be considered one (1) lot, regardless of the number of parcels.
- h. **On Page 25 of the staff report, the phrase “a two (2) or more bedroom unit” in Section F(4)(a) of Suggested Modification #4 shall be bolded as follows:**
  - a. The maximum size of a detached or attached accessory dwelling unit is 850 square feet for a studio or one-bedroom unit and 1,000 square feet **for a two (2) or more bedroom unit.** ~~a two (2) bedroom unit. No more than two (2) bedrooms are allowed.~~
- i. **On Page 26 of the staff report, Section F(4)(c) and Section F(4)(d) of Suggested Modification #4 shall be corrected as follows:**
  - c. Application of the size limitations set forth in subsections ~~21.48.200(E)(4)(a)~~ **21.48.200(F)(4)(a)** and ~~21.48.200(E)(4)(b)~~ **21.48.200(F)(4)(b)** above, shall not apply to accessory dwelling units that are converted as part of a proposed or existing space of a principal residence or existing accessory structure.
  - d. Application of ~~Section 21.48.200(E)(4)(b)~~ **21.48.200(F)(4)(b)** or other development standards, such as floor area limit or site coverage, ~~might may~~ further limit the size of the accessory dwelling unit, but in no case shall the floor area limit, open space, or site coverage requirement reduce the accessory dwelling unit to less than 800 square feet **and the ADU shall not exceed a height of 16 feet measured from the finished grade as determined by the Director.**
- j. **On Page 27 of the staff report, a space shall be added between the words ‘long’ and ‘as’ in Section F(7) of Suggested Modification #4 as follows:**

7. Fire Sprinklers. An **accessory dwelling unit** and/or junior accessory dwelling unit shall not ~~require be required to provide~~ fire sprinklers if they so long as fire sprinklers are not required for the principal residence; **however, fire sprinklers are encouraged.**

k. **On Page 27 of the staff report, Section F(9)(d)(i) of Suggested Modification #4 shall be corrected as follows:**

i. Accessory dwelling units ~~converted internal to as part of~~ a proposed **principal residence** or converted **from existing space** of principal residence or existing accessory structure;

l. **On Page 28 of the staff report, Sections G(2) and G(3) of Suggested Modification #5 shall be corrected as follows:**

2. Except as provided in subsection (G)(3) below, the City may require the installation of a new or separate utility connections between the accessory dwelling unit, junior accessory dwelling unit and the ~~utility~~ 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 being constructed in connection with a new single-unit dwelling **or multi-unit dwellings.**

m. **On Page 29 of the staff report, Suggested Modification #6 shall be corrected as follows:**

H.I. Deed Restriction and Recordation Required.

## **II. Correspondence**

On December 10, 2021, staff received a letter from Jim Mosher in response to the staff report. Mr. Mosher clarifies that the City adopted resolution No. 2020-24, to forward the requested LCP Amendment for ADUs to the CCC on March 10, 2020. However, the staff report incorrectly references Ordinance 2020-9, which was heard by City Council as a separate action on March 24, 2020. Accordingly, the staff report exhibits also show Ordinance No. 2020-9 instead of Resolution 2020-24. Mr. Mosher contends that this document mix-up creates confusion as to whether the City correctly followed the procedure to submit an LCP Amendment request. Mr. Mosher also points out several typos in the suggested modifications, and requests additional information to point out the “clarifying edits” that are referenced in Suggested modification #7.

In response to Mr. Mosher’s first contention regarding the ordinance and resolution documents, staff notes that the City did provide copies of Resolution No. 2020-24 at the time of the original LCP Amendment submission. Ordinance No. 2020-9 was incorrectly referenced in the staff report and in the exhibits. In fact, the City submitted an email on December 7 to point out that the documents were listed incorrectly in the

staff report. As shown earlier in this addendum, Staff is requesting changes to the staff report to correct the certification documents. In addition, staff is requesting to replace Exhibit 1 – which currently displays Ordinance 2020-9 with Resolution No. 2020-4, which was adopted on March 10, 2020. Appendix A of this addendum includes the proposed revised Exhibit 1.

In response to Mr. Mosher's contention regarding typos, staff notes that the typos are corrected in the earlier sections of this addendum.

In response to Mr. Mosher's contention regarding the clarifying edits, staff is including an Appendix B with this addendum, which will show the clarifying edits that are being made to this report. The clarifying edits are spread out throughout the proposed amendment, including within language that are subject to suggested modifications.

**Appendix A- Revised Exhibit 1 (Resolution No. 2020-24)**

The following attachment (Resolution No. 2020-24) is intended to serve as a replacement for the current Exhibit 1, which was posted on November 30, 2021.



## **RESOLUTION NO. 2020-24**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING SUBMITTAL OF LOCAL COASTAL PROGRAM AMENDMENT NO. LC2019-008 TO THE CALIFORNIA COASTAL COMMISSION TO REPEAL AND REPLACE SECTION 21.48.200 (ACCESSORY DWELLING UNITS) OF TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) AND AMEND RELATED PROVISIONS OF THE NEWPORT BEACH MUNICIPAL CODE APPLICABLE TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS PURSUANT TO STATE LAW (PA2019-248)**

**WHEREAS**, Section 30500 of the California Public Resources Code requires each county and city to prepare a local coastal program ("LCP") for that portion of the coastal zone within its jurisdiction;

**WHEREAS**, in 2005, the City of Newport Beach ("City") adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan ("Local Coastal Program") as amended from time to time including most recently on February 12, 2019, via Resolution No. 2019-16;

**WHEREAS**, the California Coastal Commission effectively certified the City's Local Coastal Implementation Plan on January 13, 2017, and the City added Title 21 ("Local Coastal Program Implementation Plan") ("Title 21") to the City of Newport Beach Municipal Code ("NBMC") whereby the City assumed coastal development permit-issuing authority on January 30, 2017;

**WHEREAS**, the California Legislature adopted and Governor Newsom signed Senate Bill 13 and Assembly Bills 68 and 881 in 2019 amending California Government Code Sections 65852.2 and 65852.22, which took effect January 1, 2020, imposing new limitations on local agencies, including charter cities, ability to regulate accessory dwelling units and junior accessory dwelling units;

**WHEREAS**, Government Code Section 65852.2(a)(4) deems existing ordinances governing accessory dwelling units that do not meet the requirements of its provisions null and void as of the legislation's effective date in which case the standards established under state law apply;

**WHEREAS**, Section 21.48.200 (Accessory Dwelling Units) of the Newport Beach Municipal Code (“NBMC”) regulating accessory dwelling units, most recently amended in 2019 pursuant to Ordinance No. 2019-1, is partially inconsistent with Government Code Sections 65852.2 and 65852.22;

**WHEREAS**, the City desires to amend Title 21’s (Local Coastal Program Implementation Plan) provisions related to accessory dwelling units and junior accessory dwelling units in order to retain local control to the maximum extent permitted by Government Code Sections 65852.2 and 65852.22;

**WHEREAS**, Government Code Section 65852.2(a)(1)(D)(xi) provides that off-street parking shall not be required to be replaced when a garage, carport, or other covered parking is converted to an accessory dwelling unit and junior accessory dwelling unit, however, the California Coastal Act of 1976 is neither superseded nor in any way altered or lessened as provided in Government Code Section 65852.2(l) by this recent legislation;

**WHEREAS**, adopting an ordinance consistent with Government Code Sections 65852.2 and 65852.22 ensures that the character of the City is preserved to the maximum extent permitted by law and that the City’s regulation of accessory dwelling units and junior accessory dwelling units continues to promote the health, safety, and welfare of the community;

**WHEREAS**, accessory dwelling units and junior accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods while also benefitting homeowners who construct these units with added income and increased financial security;

**WHEREAS**, allowing accessory dwelling units and junior accessory dwelling units in conjunction with existing or proposed residential development provides additional rental housing stock, some of which will satisfy the City’s 6<sup>th</sup> Cycle Regional Housing Needs Assessment (RNHA) for the period covering 2021-2029;

**WHEREAS**, accessory dwelling units and junior accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character;

**WHEREAS**, the City is a coastal community with numerous coastal resources that attract over ten million annual visitors, including public beaches, Newport Harbor, Balboa Peninsula, Balboa Island, and Newport Bay;

**WHEREAS**, the number of annual visitors, coupled with historic development patterns of the City, has created a significant impact on the City's limited parking supply in the Coastal Zone that would be exacerbated by allowing accessory dwelling units and junior accessory dwelling units to be built without placing certain parking requirements as it shifts residential parking from on-site to on-street;

**WHEREAS**, the elimination of off-street parking in residential properties within the Coastal Zone would create a significant impact to public parking and limit visitor access to coastal resources, therefore, replacement parking for conversion of garages, carports, and other covered parking is necessary in order to preserve the limited parking supply and ensure this code amendment is consistent with the California Coastal Act of 1976;

**WHEREAS**, the City finds that maintaining rear alley setbacks and prohibiting parking in rear alley setbacks is essential to preserve vehicular maneuverability for residents, fire and life safety personnel traveling through the City's narrow alleyways along with prohibiting parking in front setbacks, unless located on a driveway with a minimum twenty (20) feet in depth to ensure that driveways are of sufficient depth to accommodate a vehicle entirely on-site without protruding into the public right-of-way and blocking pedestrian, bicyclist, and vehicular traffic creating a life safety condition;

**WHEREAS**, a public hearing was held by the Planning Commission regarding LCP Amendment No. LC2019-008 on February 20, 2020, 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 Newport Beach Municipal Code ("NBMC"). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

**WHEREAS**, at the hearing, the Planning Commission adopted Resolution No. PC2020-007 by a majority vote (5 ayes, 1 no) recommending to the City Council review LCP Amendment No. CA 2019-008 and approve if the terms of code amendment retained greater local control over accessory dwelling units and junior accessory dwelling units than what is provided by Government Code Sections 65852.2 and 65852.22;

**WHEREAS**, the revisions to Title 21 proposed herein provide greater local control over accessory dwelling units and junior accessory dwelling units than what is provided by Government Code Sections 65852.2 and 65852.22;

**WHEREAS**, a public hearing was held by the City Council on March 10, 2020, 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 the Ralph M. Brown Act and Chapter 21.62 of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing; and

**WHEREAS**, pursuant to Section 13515 of the California Code of Regulations Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 5 ("Public Participation"), drafts of LCP Amendment No. LC2019-008 were made available and a Notice of Availability was distributed at least six (6) weeks prior to the City Council public hearing.

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

**Section 1:** The City Council authorizes staff to submit Local Coast Amendment No. LC2019-008, as set forth below, to the California Coastal Commission for review and approval, repealing and replacing Section 21.48.200 (Accessory Dwelling Units) and amending related provisions of Title 21 (Local Coastal Program Implementation Plan) as provided herein.

**Section 2:** The row entitled "Accessory Dwelling Units" set forth in Table 21.18-1 (Allowed Uses) in Section 21.18.020(C) (Residential Coastal Zoning Districts Land Uses) of Chapter 21.18 (Residential Coastal Zoning Districts (R-A, R-1, R-BI, R-2, and RM)) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC is amended to read as follows:

Land Use See Part 7 of this Implementation Plan for land use definitions. See Chapter 21.12 for unlisted uses.	R-A	R-1 R-1-6,000	R-BI R-2 R-2-6,000	RM RM-6,000	Specific Use Regulations
Residential Uses					
Accessory Dwelling Units and Junior Accessory Dwelling Units	P	P	P	P	Section 21.48.200

**Section 3:** The row entitled "Accessory Dwelling Units and Junior Accessory Dwelling Units" is added to Tables 21.22-1 and 21.22-2 (Allowed Uses) of Section 21.22.020 (Mixed-Use Coastal Zoning Districts Land Uses and Permit Requirements) of Chapter 21.22 (Mixed-Use Coastal Zoning Districts (MU-V, MU-MM, MU-CV/15TH ST., MU-W1, MU-W2)) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC to read as follows:

TABLE 21.22-1 ALLOWED USES	Mixed-Use Zoning Districts			
	A —		Allowed Not Allowed *	
Land Use See Part 7 of this Implementation Plan for land use definitions. See Chapter 21.12 for unlisted uses.	MU-V (6)	MU-MM (4)	MU-CV/15th St. (5)(6)	Specific Use Regulations
Residential Uses				
Accessory Dwelling Units and Junior Accessory Dwelling Units	A	A	A	Section 21.48.200

TABLE 21.22-2 ALLOWED USES	Mixed-Use Coastal Zoning Districts		
	A —		Allowed Not Allowed *
Land Use See Part 7 of this Implementation Plan for land use definitions. See Chapter 21.12 for unlisted uses.	MU-W1 (3)	MU-W2 (5)	Specific Use Regulations
Residential Uses			
Accessory Dwelling Units and Junior Accessory Dwelling Units	A	A	Section 21.48.200

**Section 4:** Section 21.26.045(A) (Planned Community Coastal Zoning District Land Uses) of Chapter 21.26 (Special Purpose Coastal Zoning Districts (OS, PC, PF, PI, PR, and TS)) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC is amended to read as follows:

Allowed Land Uses. Tables 21.26-3 through 21.26-9 indicate the uses allowed in the Planned Community Coastal Zoning Districts. Additionally, accessory dwelling units and junior accessory dwelling units may be allowed pursuant to Section 21.48.200.

**Section 5:** Section 21.48.200 (Accessory Dwelling Units) of Chapter 21.48 (Standards for Specific Land Uses) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC is repealed and replaced with the following:

**21.48.200 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 65852.2 and 65852.22, or any successor statute, 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 Coastal Land Use Plan and coastal zoning district designation for the lot on which the accessory dwelling unit or junior accessory dwelling units 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 a legally established nonconforming zoning condition. 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 a Zoning Clearance 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
3. The zoning clearance shall be considered and approved ministerially, without discretionary review or a hearing, within sixty (60) days from the date that the City receives a completed application, 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.

4. The applicant shall obtain a Coastal Development Permit, pursuant to Chapter 21.52 (Coastal Development Review Procedures), unless otherwise exempt or excluded from the coastal development permit process.

D. Coastal Development Permits.

1. Hearing Exemption. All of the provisions of Chapter 21.52 (Coastal Development Review Procedures) regarding the review and approval of coastal development permits in relation to accessory dwelling units are applicable, except that a public hearing as required by Chapter 21.62 (Public Hearings) shall not be required. Public notice shall be provided as required in Section 21.62.020, except the requirements of Section 21.62.020(A) shall be replaced with a statement that no local public hearing will be held and that written comments on the proposed development may be submitted.

2. Appeal Exemption. Notwithstanding the local appeal provisions of Chapter 21.64 (Appeals and Calls for Review), coastal development permits for accessory dwelling units that are defined as “appealable development” pursuant to Section 21.64.035(A) may be directly appealed to the Coastal Commission in accordance with the provisions of Section 21.64.035 without a discretionary hearing by the Planning Commission or City Council.

E. Maximum Number of Units Allowed. The following is the maximum number of accessory dwelling units and/or junior accessory dwelling units allowed on any residential lot. Unless specified below, only one (1) category may be used per lot.

1. Conversion of Single-Unit Dwelling. Only one (1) accessory dwelling unit or one (1) junior accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit dwelling, subject to the following:

a. The accessory dwelling unit or junior accessory dwelling unit is proposed:

- i. Within the space of a proposed single-unit dwelling; or
- ii. Within the existing space of an existing single-unit dwelling; or
- iii. Within the existing space of an existing accessory structure, plus an addition beyond the physical dimensions of up to 150 square feet if the expansion is limited to accommodating ingress and egress.

b. The accessory dwelling unit or junior accessory dwelling unit will have independent exterior from the single-unit dwelling.

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

2. Detached/Attached on Lot with Single-Unit Dwelling. One (1) detached, new-construction accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit dwelling. A detached, new-construction accessory dwelling unit may also be permitted in addition to any junior accessory dwelling unit that might otherwise be established on the lot under subsection (D)(1).

3. Conversion of Multi-Unit Dwelling. 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 existing multi-unit dwellings;

ii. Fractions shall be rounded down to the next lower number of dwelling units, except that at least one (1) 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 (1) lot, regardless of the number of parcels

b. The portion of the existing multi-unit dwelling that is to be converted is not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages.

4. Detached on Multi-Unit Lot. Up to two (2) detached, new-construction accessory dwelling units may be permitted on a lot that has an existing multi-unit dwelling. For the purposes of this section, multi-unit developments approved and built as a single complex shall be considered one (1) lot, regardless of the number of parcels.

F. Development Standards. Except as modified by this subsection, an accessory dwelling unit and/or junior accessory dwelling unit shall conform to all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of this Code, 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 in order 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 provided setback. 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.
- c. Newly constructed accessory dwelling units may provide a minimum setback of four (4) feet from all side property lines and rear property lines not abutting an alley.

3. Building Height. Detached accessory dwelling units shall not exceed one (1) story and a height of sixteen (16) feet. Notwithstanding the foregoing, an accessory dwelling unit constructed above a detached garage shall not exceed two (2) stories and the maximum allowable height of the underlying zoning district, provided all of the following criteria are met:

- a. The accessory dwelling unit meets the minimum setbacks, as required by underlying zoning district; and
- b. The principal dwelling unit complies with parking standards set forth in Section 21.40.040.

4. Unit Size.

- a. The maximum size of a detached or attached accessory dwelling unit is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a two (2) bedroom unit. No more than two (2) bedrooms are allowed.
- b. An attached accessory dwelling unit that is created on a lot with an existing single-unit dwelling is further limited to fifty (50) percent of the floor area of the existing dwelling.
- c. Application of the size limitations set forth in subsections (F)(4)(a) and (F)(4)(b) above, shall not apply to accessory dwelling units that are converted as part of a proposed or existing space of a principal residence or existing accessory structure.

- d. Application of size limitations set forth in subsection (F)(4)(b) above, or other development standards, such as floor area limit or site coverage, might further limit the size of the accessory dwelling unit, but in no case shall the floor area limit, open space, or site coverage requirement reduce the accessory dwelling unit to less than 800 square feet.
- e. The maximum size of a junior accessory dwelling unit shall be 500 square feet.
- f. The minimum size of an accessory dwelling unit or junior accessory dwelling unit shall be at least that of an efficiency unit.
- 5. Design. An accessory dwelling unit and/or junior accessory dwelling unit shall be similar to the principal dwelling with respect to architectural style, roof pitch, color, and materials.
- 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.
- 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 21.40 (Off-Street Parking) except as modified below:
  - a. No additional parking shall be required for junior accessory dwelling units.
  - b. A maximum of one (1) 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 parking shall be required for:
    - i. Accessory dwelling units converted as part of a proposed or existing space of principal residence or existing accessory structure;

ii. Accessory dwelling units located within one-half mile walking distance of a 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. Accessory dwelling units 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.

e. If an accessory dwelling unit replaces an existing garage, replacement spaces shall be provided. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, any required replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

**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) below, the City may require the installation of a new or separate utility connection between the accessory dwelling unit, junior accessory dwelling unit and the utility.

3. Conversion. No separate connection between the accessory dwelling unit and the utility shall be required for units created within a single-unit dwelling, unless the accessory dwelling unit 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 onsite waste water-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. 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.
  - a. Accessory dwelling units. A natural person with legal or equitable title to the lot must reside in either the principal dwelling unit or the accessory dwelling unit as the person's legal domicile and permanent residence. However, this owner-occupancy requirement shall not apply to any accessory dwelling unit that is permitted in accordance with this section between January 1, 2020 and January 1, 2025.
  - b. Junior accessory dwelling units. A natural person with legal or equitable title to the lot must reside in either the principal 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 an accessory dwelling unit and/or 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 accessory dwelling unit and/or junior accessory dwelling unit exists on the lot.

J. Historic Resources. Accessory dwelling units and/or junior accessory dwelling units proposed on residential or mixed-use properties that are determined to be historic shall be approved ministerially, in conformance with California Government Code Sections 65852.2 and 65852.22. However, 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.

**Section 6:** The following definitions listed in the alphabetical list of definitions contained in Section 21.70.020 (Definitions of Specialized Terms and Phrases) of Chapter 21.70 (Definitions) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC are amended to read as follows:

“Accessory Dwelling Unit (Land Use).” See “Dwelling unit, accessory (land use).”

“Dwelling unit, accessory (land use)” means a dwelling unit accessory to and attached to, detached from, or contained within the principal dwelling unit on a site zoned for residential use. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code, or any successor statute.
2. A manufactured home, as defined in Section 18007 of the California Health and Safety Code, or any successor statute.

**Section 7:** The following definitions shall be added to the alphabetical list of definitions contained in Section 21.70.020 (Definitions of Specialized Terms and Phrases) of Chapter 21.70 (Definitions) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC to read as follows:

“Dwelling unit, junior accessory (land use)” means a dwelling unit accessory to and entirely contained within, an existing or proposed single-unit dwelling, and that:

1. Is no more than 500 square feet in size;
2. Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-unit dwelling; and
3. Includes an efficiency kitchen.

“Junior Accessory Dwelling Unit (Land Use).” See “Dwelling unit, junior accessory (land use).”

**Section 8:** LCP Amendment No. LC2019-008, shall be carried out in full conformance with the California Coastal Act of 1976 as set forth in the California Public Resources Code Section 30000 *et seq.* LCP Amendment No. LC2019-008 shall not become effective until approval by the Coastal Commission and adoption, including any modifications suggested by the Coastal Commission, by resolution(s) and/or ordinance(s) of the City Council.

**Section 9:** The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.



**Section 10:** If any section, subsection, sentence, clause or phrase of this resolution 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 resolution. The City Council hereby declares that it would have passed this resolution, 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 11:** The City Council finds the adoption of this resolution is statutorily exempt under the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080.17 and Section 15282(h) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, which exempts adoption of a resolution regarding second units to implement provisions of Sections 65852.2 and 65852.22 of the Government Code. Additionally, this resolution is categorically exempt pursuant to Sections 15303 (New Construction or Conversion of Small Structures) and 15305 (Minor Alterations in Land Use/Limitations). Similarly, the ministerial approval of accessory dwelling units and junior accessory dwelling units is not a "project" for CEQA purposes, and environmental review is not required prior to approving individual applications.

**Section 12:** This resolution shall not become effective for thirty (30) days and until certified by the Executive Director of the Coastal Commission.

**ADOPTED** this 10th day of March 2020.

  
\_\_\_\_\_  
Will O'Neill  
Mayor

**ATTEST:**

  
\_\_\_\_\_  
Leilani I. Brown  
City Clerk



**APPROVED AS TO FORM:**  
CITY ATTORNEY'S OFFICE

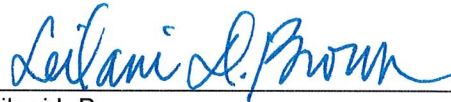
  
\_\_\_\_\_  
Aaron C. Harp  
City Attorney

STATE OF CALIFORNIA                    }  
COUNTY OF ORANGE                   }  
CITY OF NEWPORT BEACH               }       ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2020-24, was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 10<sup>th</sup> day of March, 2020; and the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Will O'Neill, Mayor Pro Tem Brad Avery, Council Member Joy Brenner, Council Member Diane Dixon, Council Member Duffy Duffield, Council Member Jeff Herdman, Council Member Kevin Muldoon  
NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 10<sup>th</sup> day of March, 2020.



Leilani I. Brown  
City Clerk  
Newport Beach, California



## Appendix B- List of Clarifying Edits for Suggested Modification #7

The list of clarifying edits for Suggested Modification #7 are indicated below in **bold font**.

### **21.48.200 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 (~~Definitions~~) and in California Government Code Sections 65852.2 and 65852.22, or any successor statute, in ~~single-unit residential zoning districts or areas~~ designated for ~~single-unit~~ 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 Coastal Land Use Plan and coastal zoning district designation for the lot on which the accessory dwelling unit or junior accessory dwelling units 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 a legally established nonconforming zoning condition. 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 a Zoning Clearance provided by the Director and the following conditions: ~~in conjunction with single-unit dwellings in all residential zoning districts subject to the approval of the Director upon finding that the following conditions have been met:~~

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 established in the subsections below; and



3. The dwelling conforms to the coastal resource protection development regulations of Section 21.28.040 (Bluff (B) Overlay District), Section 21.28.050 (Canyon (C) Overlay District), Section 21.30.100 (Scenic and Visual Quality Protection), or Chapter 21.30B (Habitat Protection):
4. **The** Zoning clearance shall be considered and approved ministerially, without discretionary review or a hearing, within sixty (60) days from the date thatthe City **determines an receives a completed** application to be **complete**, unless either:
- a. The applicant requests a delay, in which case the sixty (60) day timeperiod is tolled for the period of the requested delay,  
or
  - b. In the case of an application for an accessory dwelling unit and/or junioraccessory dwelling unit is 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.
3. ~~Public and utility services including emergency access are adequate toserve both dwellings.~~

#### D. Coastal Development Permits.

1. Application. The applicant shall obtain a Coastal Development Permit, pursuant toChapter 21.52 (Coastal Development Review Procedures), unless otherwiseexempt or excluded from the coastal development permit process pursuant to Section 21.52.035 (Projects Exempt from Coastal Development Permit Requirements) or Section 21.52.045 (Categorical Exclusions). ~~All new accessory dwelling units and junior accessory dwelling units shall require a coastal development permit.~~
2. Hearing Exemption. All of the provisions of Chapter 21.52 (Coastal Development Review Procedures) regarding the review and approval of coastal development permits in relation to accessory dwelling units are applicable, except that a public hearing as required by Chapter 21.62 (Public Hearings) shallnot be required. Public notice shall be provided as required in Section 21.62.020,except the requirements of Section 21.62.020(A) shall be replaced with a statement that no local public hearing will be held and that written comments on the proposed development may be submitted. **Written comments received shall be reviewed by the Review Authority.**
3. Appeal Exemption. Notwithstanding the local appeal provisions of Chapter21.64 (Appeals and Calls for Review), coastal development permits for accessory dwelling units that are defined as “appealable development”

pursuant to Section 21.64.035(A) may be directly appealed to the Coastal Commission in accordance with the provisions of Section 21.64.035 without a discretionary hearing by the Planning Commission or City Council.

E. Maximum Number of Units Allowed. The following is the maximum number of accessory dwelling units and/or junior accessory dwelling units allowed on any residential lot. For the purposes of this section, multi-unit dwelling means a structure or development containing two or more dwelling units. Unless otherwise specified below, only one (1) of the categories described below in this subsection category may be used per lot.

1. Internal to a Conversion of Single-Unit or Multi-Unit Dwelling

**Category.** Only one (1) accessory dwelling unit or one (1) junior 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 or junior accessory dwelling unit is proposed:
  - i. Within the space of a proposed single-unit or multi-unit dwelling;  
or
  - 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 150 square feet if the expansion is limited to accommodating ingress and egress.
- b. The junior accessory dwelling unit is proposed:
  - i. Within the space of a proposed single-unit dwelling; or
  - ii. Within the existing space of an existing single-unit dwelling;
- c. The accessory dwelling unit or junior accessory dwelling unit will have independent exterior **access** from the single-unit dwelling.
- d. Side and rear setbacks comply with Title 9 (Fire Code) and Title 15 (Buildings and Construction) of **this the Municipal Code.**

2. Detached/Attached on Lot with Single-Unit or Multi-Unit Dwelling

**Category.** One (1) detached, new-construction accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit or multi-unit dwelling. A detached, new-construction accessory dwelling unit may also be permitted in addition to any junior accessory dwelling unit that might

otherwise be established on the lot under subsection (D)(1)(b).

3. 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 (1) accessory dwelling unit shall be allowed; and
- b. For the purposes of this section, multi-unit developments approved and built as a single complex shall be considered one (1) lot, regardless of the number of parcels. 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.

4. Detached on Multi-Unit Lot **Category**. Up to two (2) detached ~~new-construction~~ accessory dwelling units may be **permitted constructed** on a lot that has an existing multi-unit dwelling. For the purposes of this section, multi-unit developments approved and built as a single complex shall be considered one (1) lot, regardless of the number of parcels.

F. Development Standards. Except as modified by this subsection, an accessory dwelling unit and/or junior accessory dwelling unit shall conform to all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of this Code, including but not limited to height, setback, site coverage, floor area limit, and residential development standards and design criteria.; ~~unless the unit is contained within a legal, nonconforming structure and does not expand the nonconformity.~~

1. Minimum Lot Area. A minimum lot area of five thousand (5,000) square feet, excluding submerged land area, shall be ~~There shall be no minimum lot area~~ required in order 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: in which they are located, except in cases where the minimum required garage setbacks differ from principal building setbacks, in which case the following applies:

- a. No additional setback shall be required for an existing garage that is converted to an accessory dwelling unit; provided, that the side and rear setbacks comply with required building codes. For conversion of existing enclosed floor area, garage, or carport, no additional setback is required, beyond the existing provided setback.
- b. A setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above the garage. For replacement of an existing enclosed structure, garage, or carport, no existing setback is required, beyond the existing setback provided, unless a greater setback is needed to comply with Section 21.48.200(C)(3). 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.
- c. Newly constructed Attached and detached accessory dwelling units may provide a minimum setback of four (4) feet from all side property lines and rear property lines not abutting an alley.

3. Building Height. Detached accessory dwelling units shall not exceed one (1) story and a height of fourteen (14) sixteen (16) feet. unless the accessory dwelling unit is constructed above a garage, in which case the structure shall comply with the height limits of the underlying zoning district. Notwithstanding the foregoing, an accessory dwelling unit constructed above a detached garage shall not exceed two (2) stories and the maximum allowable height of the underlying zoning district, provided all of the following criteria are met:

- a. The accessory dwelling unit meets the minimum setbacks, as required by underlying zoning district; and
- b. The principal dwelling unit complies with parking standards set forth in Section 21.40.040.

4. Unit Size. The maximum size of an accessory dwelling unit shall not exceed seven hundred fifty (750) square feet of floor area, or fifty (50) percent of the existing floor area (excluding garage) of the principal unit, whichever is less. The minimum size of an accessory dwelling unit shall be at least that of an efficiency unit.

- a. The maximum size of a detached or attached accessory dwelling unit is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a two (2) or more bedroom unit. ~~at two (2) bedroom unit. No more than two (2) bedrooms are allowed.~~
  - b. An attached accessory dwelling unit that is created on a lot with an existing single-unit dwelling is further limited to fifty (50) percent of the floorarea of the existing dwelling.
  - c. Application of the size limitations set forth in subsections 21.48.200(E)(4)(a) and 21.48.200(E)(4)(b) above, shall not apply to accessory dwelling units that are converted as part of a proposed or existingspace of a principal residence or existing accessory structure.
  - d. Application of Section 21.48.200(E)(4)(b) or other development standards, such as floor area limit or site coverage, ~~might may~~ further limit the size of the accessory dwelling unit, but in no case shall the floor area limit, open space, or site coverage requirement reduce the accessory dwelling unit to less than 800 square feet and the ADU shall not exceed a height of 16 feet measured from the finished grade as determined by the Director.
  - e. The maximum size of a junior accessory dwelling unit shall be 500 squarefeet.
  - f. The minimum size of an accessory dwelling unit or junior accessorydwelling unit shall be at least that of an efficiency unit.
5. Design. An accessory dwelling unit and/or junior accessory dwelling unit shall be similar to the principal dwelling with respect to architectural style, roof pitch, color, and materials.
6. Conversion of Space within Existing Structure. ~~Notwithstanding the provisions of subsections (C)(1), (C)(2), (C)(3), (C)(4) and (C)(5) of this section, an accessory dwelling unit shall be permitted if the unit is contained within the existing space of a single-unit dwelling or existing accessory structure, has independent exterior access from the existing dwelling, and the side and rear setbacks comply with required building codes, and if the accessory dwelling unit conforms with the following:~~
- a. ~~For the purposes of this section, the portion of the single-unit dwelling or accessory structure shall have been legally permitted and existing for a minimum of three years prior to the issuance of a permit to convert the space into an accessory dwelling unit;~~

- b. ~~No new or separate utility connection may be required between the accessory dwelling unit and the utility service, such as water, sewer, and power; and~~
- c. ~~The property is located within a residential zoning district that permitssingle-unit dwellings and no more than one dwelling unit exists on the property.~~

7. Fire Sprinklers. An accessory dwelling units and/or junior accessory dwelling unit shall not require be required to provide fire sprinklers if they so longas fire sprinklers are not required for the principal residence; however, fire sprinklers are encouraged.

8. 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 theaccessory dwelling unit.

9. Parking. Parking shall comply with requirements of Chapter 21.40 (Off-Street Parking) except as modified below:

- a. No additional parking shall be required for junior accessory dwelling units.
- b. A maximum of one (1) parking space shall be required for ~~an~~ eachaccessory dwelling unit.
- c. ~~Such~~ When additional parking is required, the parking may be provided astandem parking and/or may be 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 parking shall be required for:
  - i. Accessory dwelling units converted internal to ~~as part~~ of a proposed principal residence or converted from existing space of principal residence or existing accessory structure;
  - ii. Accessory dwelling units located within one-half mile walking distance of a 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; with fixed route bus service that provides transit service at fifteen (15) minute intervals or better during peak commute periods;

- iii. Accessory dwelling units 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 stay in effect at a fixed location for at least ten (10) years and available to the public.
- e. If an accessory dwelling unit replaces an existing garage, replacement spaces shall be provided. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, any required replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

10. Waterfront Development and Flood Hazard Areas.

- a. The minimum top of slab elevation for new interior living areas, including areas converted from non-living areas, shall comply with the flood hazard and sea level rise protection standards of Section 21.30.015(D).
- b. Any development in shoreline hazardous areas shall comply with Section 21.30.015(E)(2).

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) below, the City may require the installation of a new or separate utility connections between the accessory dwelling unit, junior accessory dwelling unit and the **utility 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 being constructed in connection with a new single-unit dwelling or multi-unit

dwellings.

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, the accessory dwelling unit or junior accessory dwelling may connect to the on-site ~~waste water-~~ **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. 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). ~~Sale of Units. The accessory dwelling unit shall not be sold separately from the principal dwelling.~~
2. Short-Term Lodging. The accessory dwelling unit and/or junior accessory dwelling unit shall not be rented for periods of ~~less than~~ thirty (30) days or less.
3. Owner-Occupancy.
  - a. Accessory dwelling units. A natural person with legal or equitable title to the lot must reside in either the principal dwelling unit or the accessory dwelling unit as the person's legal domicile and permanent residence. However, this owner-occupancy requirement shall not apply to any accessory dwelling unit that is permitted in accordance with this section between January 1, 2020 and January 1, 2025.
  - b. Junior accessory dwelling units. A natural person with legal or equitable title to the lot must reside in either the principal 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. Number of Units Allowed. Only one accessory dwelling unit may be located on the lot.
4. Existing Development. ~~A single-unit dwelling shall exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.~~



5. Occupancy. The principal dwelling unit or the accessory dwelling unit shall be continuously occupied by at least one person having an ownership interest in the lot.

I. Deed Restriction and Recordation Required.

1. 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 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 accessory dwelling unit and/or junior accessory dwelling unit exists on the property lot.
2. For properties in flood hazard areas, deed restriction shall also include notice to future owners that the unit is located within an area that may be subject to flooding or future flooding.
3. For properties located in low lying shoreline areas that may be subject to future sea level rise, the property owner shall also record a waiver of future protection in compliance with Section 21.30.015(E)(5);

J. Historic Resources. Accessory dwelling units and/or junior accessory dwelling units proposed on residential or mixed-use properties that are determined to be historic shall be approved ministerially, in conformance with California Government Code Sections 65852.2 and 65852.22. However, 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.

**Section 21.70.020 (Definitions of Specialized Terms and Phrases)**

"Accessory Dwelling Unit (Land Use)." See "Dwelling unit, accessory (land use)."

"Dwelling unit, accessory (land use)" means a dwelling unit accessory to and attached to, detached from, or contained within the principal dwelling unit on a site zoned for a single-family residential use. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code, or any successor statute.
2. A manufactured home, as defined in Section 18007 of the California Health and Safety Code, or any successor statute.

Section 21.70.020 (Definitions of Specialized Terms and Phrases) and shall read as follows:

“Dwelling unit, junior accessory (land use)” means a dwelling unit accessory to and entirely contained within, an existing or proposed single-unit dwelling, and that:

1. Is no more than 500 square feet in size;
2. Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-unit dwelling; and
3. Includes an efficiency kitchen.

“Junior Accessory Dwelling Unit (Land Use)”. See “Dwelling unit, junior accessory (land use)”.