



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: October 27, 2020

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Introduction Of Zoning Ordinance Amendments For Accessory Dwelling Units

RECOMMENDATION: That Council:

- A. Adopt, by reading of title only, an Ordinance of the Council of the City of Santa Barbara Amending the Santa Barbara Municipal Code by Amending Sections 30.185.040 and 30.295.020 to Regulate Accessory Dwelling Units in the Non-Coastal Zone of the City, and Repeal Interim Urgency Ordinance No. 5930; and
- B. Adopt by reading of title only, an Ordinance of the Council of the City of Santa Barbara Amending Title 28 of the Santa Barbara Municipal Code to Add Chapter 28.86 to Regulate Accessory Dwelling Units in the Coastal Zone, and Amending Various Sections within Title 28 to be Consistent with this Intent.

EXECUTIVE SUMMARY:

On January 1, 2020, state law came into effect that facilitated new accessory dwelling units (ADUs) and Junior ADUs (JADUs), necessitating amendments to the City's 2018 ADU Ordinance. An Interim Urgency Ordinance was adopted in December 2019 that is scheduled to expire in December 2020. The proposed Inland Zoning Ordinance (Santa Barbara Municipal Code Title 30) amendments would replace the Interim Urgency Ordinance. Also proposed for the Coastal Zone, are amendments to the Coastal Zoning Ordinance (Santa Barbara Municipal Code Title 28) to adopt Accessory Dwelling Unit regulations similar to those proposed for Title 30.

DISCUSSION:

The amendments are proposed for both the Inland Zoning Ordinance, Santa Barbara Municipal Code (SBMC) Title 30 Section 30.185.040, Accessory Dwelling Units and the Coastal Zoning Ordinance. New SBMC Chapter 28.86 would replace existing SBMC Section 28.94.030 to address ADUs in the Coastal Zone.

For consistency throughout the City, the Coastal Zoning Ordinance amendments mirror the Inland Zoning Ordinance amendments as much as possible, and include additional provisions to protect coastal resources consistent with the policies of the City's 2019 Coastal Land Use Plan (LUP). After adoption by City Council, the Title 28 amendments will be submitted to the California Coastal Commission (CCC) for review and certification. Once certified by the CCC, with the exception of the specific coastal permitting and resource protection provisions, the City would have consistent development standards in the inland and coastal areas for reviewing and approving ADU and JADU projects.

Interim Urgency Ordinance

City Council adopted an Interim Urgency Ordinance (Interim Ordinance) in December 2019 due to the short time allowed to respond to significant changes in state ADU laws that would have rendered the City's ordinance null and void in January 2020. Because an Interim Urgency Ordinance is only effective for 45 days, in January 2020, City Council adopted an extension to the Interim Ordinance until December 17, 2020. The Interim Ordinance:

- Temporarily prohibits ADUs and JADUs in the Foothill and Extreme Foothill High Fire Hazard Areas, and
- Prohibits ADUs on a property containing, or immediately adjacent to, a historic resource if it might result in a substantial adverse change in the significance of that resource.

ADU and JADU permit applications not subject to these Interim Ordinance prohibitions are currently reviewed for compliance with state law and applicable local municipal code standards.

Ordinance Amendments

The proposed Title 30 and Title 28 ADU ordinances are a combination of amendments to comply with the new state laws for ADUs and JADUs (Government Code Sections 65852.2 and 65852.22), amendments based on staff's experience, and sections of the 2018 ordinance that staff recommends retaining due to their effectiveness in permitting ADUs consistent with basic architectural design criteria, protecting historic resources, relaxing open yard standards, and other standards discussed at length in 2018.

One of the more significant amendments driven by the new state legislation includes mandatory density increases and certain exemptions from local development standards for specific types of ADUs, termed "Special" ADUs in the draft ordinance amendments to distinguish them from "Standard" ADUs that the City has been regularly permitting over the past few years. Generally, Special ADUs are allowed everywhere in the City, regardless of local conditions. In contrast, the City exercises discretion in areas where Standard ADUs may be permitted and can impose certain development standards that

do not apply to Special ADUs, such as retention of open yard for the primary unit¹ and floor area maximums for accessory buildings. State law changes also prompted necessary amendments to the City’s maximum size standards for Standard ADUs. These include:

- Attached ADUs were formerly limited in the City to a maximum size of 1,200 square feet but are now limited to 50 percent of the size of the existing primary residential unit;
- The City’s current maximum size for detached ADUs is based on a sliding scale of unit size to lot size, resulting in a maximum size range of 600 square feet to 1,200 square feet. State law now requires the City to allow at least an 850-square-foot detached ADU, which necessitated amending the sliding scale to allow a larger unit on smaller lot sizes (i.e., the ADU size range is now 850 square feet to 1,200 square feet).

As reflected in the ordinance amendments, the table below summarizes the main differences between Standard and Special ADUs.

	Standard ADU	Special ADU
Number Allowed	One ADU or one JADU allowed per single- or multi-unit dwelling	<ul style="list-style-type: none"> • One detached ADU and one JADU allowed per single-unit dwelling • Two detached ADUs allowed per existing multi-unit dwelling or • Conversion of space not used as living space of up to 25 percent of the number of existing units allowed per multi-unit dwelling
Configuration	<ul style="list-style-type: none"> • Conversion • Detached • Attached 	<ul style="list-style-type: none"> • Conversion • Detached
Maximum Size	Conversion: no size maximum Detached: 850 to 1,200 sq. ft. depending on lot size Attached: 50 percent of the existing primary unit	Conversion: no size maximum Detached: 800 sq. ft. Attached: Not applicable
Height Maximum	Existing unit height or 17 feet ² (except above a garage)	16 feet

¹ As adopted in 2018, the minimum area, dimension, and location of open yard can be reduced to construct a Standard ADU.

² An applicant can request discretionary review to permit a taller ADU.

	Standard ADU	Special ADU
Development Standards	Subject to open yard (for the primary unit) and total maximum floor area for accessory buildings	Exempt from lot coverage and similar floor area limitations

Other significant changes in state law that apply to all ADUs and JADUs include the following:

- Reduced permit processing time for a complete application from 120 days to 60 days;
- Expanded allowed conversions of space to JADUs to include any room of a proposed or existing single residential unit, including an attached garage;
- Eliminated requirement that primary unit parking be replaced if the garage is converted to an ADU;
- Reduced required interior setbacks to a maximum of four feet (existing City interior setbacks range from five to 15 feet);
- Prohibited owner-occupancy requirements on applications submitted after January 1, 2020, until December 31, 2025 (except for JADUs, which still require owner-occupancy).

Further amendments to Title 30 and Title 28 are proposed based on staff experience reviewing ADU permit applications and common constraints that, if relieved or removed, would allow for more ADU construction. These include:

- Allowing existing buildings that are nonconforming to current setbacks to be converted to ADUs and allowing conforming additions to those buildings;
- Allowing demolition of nonconforming buildings and rebuilding as an ADU in the same location and dimensions, plus a conforming 150-square-foot addition; and
- Allowing demolition and rebuild of an existing nonconforming garage in the same location and a new ADU above. This provision allows a garage to expand to meet current garage size requirements as long as the expansion conforms to current setbacks. The new ADU above must also conform to current setbacks.

Staff recommends retaining these key portions of the 2018 ordinance:

- Architectural design criteria, which are part of administrative staff approval for all ADUs as a ministerial action without design board review;
- Protection of historic resources, which is also part of administrative staff approval and conducted to ensure all proposed ADUs do not cause a substantial adverse change to the significance of listed historic resources;
- Open yard reductions, which provides flexibility for applicants proposing Standard ADUs; and
- Fire hazard area standards, which provide additional structural and other protections for all ADUs permitted in high fire hazard areas.

Prior to the Planning Commission hearing on the draft ordinance amendments, staff provided the draft amendments for a courtesy review to the California Coastal Commission (CCC) and State Department of Housing and Community Development (HCD). Written and verbal input was received from CCC and HCD staff and incorporated into the attached Title 30 and Title 28 amendments.

Planning Commission and Ordinance Committee's Recommendations

Several policy decisions were discussed extensively in 2018 with adoption of the City's ADU ordinance and in late 2019 with adoption of the Interim Ordinance. The Planning Commission held an initial hearing on the ADU ordinance amendments on August 6, 2020, and continued the matter to September 3, 2020. On September 3, Planning Commissioners took a straw poll vote on several topics that represent policy choices for the City. The same topics were discussed with the Ordinance Committee on September 29, 2020. Following is more information on those topics and the results of further deliberation of the Ordinance Committee.

Owner Occupancy

Requiring owner occupancy of either the ADU or primary unit was a much-discussed topic with the City's 2018 ordinance amendment. At the time, state law allowed local jurisdictions to require owner occupancy as an option, except for projects with a JADU, which are required to be owner occupied by state law. Ultimately, City Council adopted an owner-occupancy requirement of either the primary unit or ADU in the Residential Single Unit (RS) Zones only. The original intent of the owner-occupancy requirement was to protect neighborhood stability, discourage speculation and absentee ownership, and provide a safeguard against nuisance behavior.

The 2020 state law amendments eliminated local jurisdictions' discretion to require owner occupancy for applications submitted after January 1, 2020, and until January 1, 2025. Thus, since January 1, 2020, ADU applications in RS Zones and all other zones where ADUs are allowed, have required a recorded covenant for sale and rental terms, but not for owner occupancy. Prior to the change in state law, approximately 340 ADUs were either constructed/permitted or in the review process with an owner-occupancy requirement.

Two separate policy options regarding owner occupancy were discussed: 1) whether to release owners of the provision requiring owner occupancy in existing recorded covenants; and 2) whether to eliminate the owner-occupancy requirement permanently rather than the five-year period provided in state law.

A number of public comments expressed equity concerns in retaining the owner-occupancy requirement for past permitted ADUs while exempting new ADUs from the requirement. There were also questions about the equity of reverting to an owner-occupancy requirement in 2025 allowed by state law. The Planning Commission and Ordinance Committee recommended releasing prior owner-occupancy covenant

restrictions on the request of the property owner; accordingly, the Title 30 and Title 28 Ordinance amendments were edited to allow removal of the recorded owner-occupancy requirement at the request of the property owner. The Planning Commission and Ordinance Committee did not recommend amending the ordinance to permanently eliminate owner occupancy. Therefore, unless State law is amended prior to 2025, the City would automatically require owner occupancy in the RS zone for applications submitted on or after January 1, 2025.

High Fire Hazard Areas

Regulating ADUs in High Fire Hazard Areas (HFHAs) was one of the main topics of the 2018 ordinance amendments. Staff initially recommended prohibiting ADUs in the Extreme Foothill and Foothill HFHA based on General Plan policies to limit development in hazardous areas. Ultimately, City Council adopted a strategic approach, instead of an outright prohibition, and allowed JADUs in all HFHAs and prohibited ADUs in the Extreme Foothill HFHA.

The main concern with the addition of ADUs/JADUs in fire-prone neighborhoods is the increased number of people and cars needing to evacuate in an emergency situation, often on narrow, winding roads. Factors associated with evacuation, such as human behavior, population density, overloaded transportation routes, visitors, vulnerable populations, as well as the evacuation of pets and large animals, make the task of any evacuation more complex. Any combination of these factors may significantly increase the amount of time it takes to execute an evacuation.

Despite these concerns, state law for ADUs now requires ministerial approval of certain types of ADUs (i.e., Special ADUs) everywhere, regardless of local conditions. In order to balance the provisions of state law with the prior ADU ordinance standards for HFHAs and General Plan policies that call for certain limits on development in fire hazard areas, staff recommended the following for high fire hazard areas:

1. Allow Special ADUs and JADUs in all fire hazard areas (as required by state law).
2. Prohibit Standard ADUs in the Foothill (with approximately 3,694 existing single and multiple residential units) and Extreme Foothill (with approximately 104 existing single residential units) High Fire Hazard Areas³.

In practice, this would allow property owners in all HFHAs to propose a Special ADU, which includes a detached ADU up to 800 square feet in size; conversion of an existing accessory structure with no size or height limitations; a JADU and a detached ADU on a lot with an existing or proposed single-unit dwelling; or multiple ADUs on a lot with existing multi-unit dwellings. Standard ADUs (i.e., detached ADUs over 800 square feet and up to 1,200 square feet in size and attached ADUs) would be prohibited in the Foothill and

³ The City's draft update to the Community Wildfire Protection Plan is proposing to merge these two areas and rename them the Very High Fire Hazard Severity Zone, consistent with state nomenclature. Thus, there is no practical way to distinguish them as two different fire hazard zones moving forward.

Extreme Foothill HFHAs. Furthermore, both Special and Standard new construction ADUs in HFHAs are required to comply with fire hazard area standards that include meeting high-fire construction and defensible space standards and certain parking restrictions. Staff recommends this approach as the only option available per state law to provide some local control in HFHAs where larger units with more bedrooms may result in more people and cars needing to evacuate particularly challenging areas in an emergency. The Planning Commission expressed concern with staff's recommendation to prohibit Standard ADUs in the Foothill and Extreme Foothill HFHAs by noting inconsistencies in policy that allows all other types of development (e.g., additions, new homes, and demolition/rebuilds) in the HFHAs and passed a majority straw poll vote to allow all types of ADUs in HFHAs. The Ordinance Committee agreed with staff's recommendation to only allow Special ADUs and Junior ADUs in the Foothill and Extreme Foothill HFHA.

Posted Sign

In 2018, City Council expressed concern about the ministerial approval process for ADUs and neighborhood compatibility, noting that there was no way to notify neighbors of a pending application. Therefore, the existing ordinance requires that a City-issued sign be posted on site within five calendar days after submittal of the initial building permit for an ADU. The intent of the sign was to notify the public of a pending ADU application and allow an interested party to direct questions or concerns to the project applicant. The sign, however, provides a false impression that there is a public hearing process or readily viewed plans online for ADU projects. The Planning Commission passed a straw poll vote to remove the posted sign requirement. The Ordinance Committee recommended retaining the sign but revising the text to include more accurate information about how an interested party can obtain more information about the proposed project. Should Council wish to continue the sign requirement, staff's goal is to ensure the sign accurately describes the ADU permit process and includes recommendations to discuss construction plans with neighbors.

Mixed-Use Buildings Conversion of Nonresidential Space to ADUs

State law allows multiple ADUs within portions of existing multi-unit dwellings by converting areas not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages. While these conversions are allowed in residential and mixed-use zone districts, state law is silent on conversions of nonresidential components of mixed-use buildings to ADUs. This concept was first suggested by members of the American Institute of Architects and discussed with the Planning Commission and Ordinance Committee. Conversions of commercial space to housing might be appropriate in some areas of the City; however, staff recommended and both the Planning Commission and Ordinance Committee agreed to consider this concept at a future date within a broader context with other multi-unit housing development standards currently underway or with an update to the Housing Element in order to consider the best locations and appropriate standards for such conversions (e.g., maximum unit sizes and retention of some ground floor commercial use).

Effect on Permits in the Process

The Title 30 amendments are effective 30 days after adoption. For applicants who have submitted an ADU application but have not yet been issued a building permit by the effective date of the new ordinance, staff recommends a 60-day time limit from the effective date of the new ordinance for applicants to choose to either continue ADU application review and receive their building permit under state regulations or to request review of the permit application under the new City regulations. Staff will notify permit applicants of the impending deadlines. The process would be the same for applicants in the Coastal Zone; however, the Title 28 amendments are not effective until after California Coastal Commission (CCC) certification, so the 60-day time limit would not start until the effective date of Title 28 amendments.

Next Steps

Following adoption, the Coastal Zoning Ordinance amendments will be submitted as a Local Coastal Program Amendment to the CCC. The CCC staff will review the submittal and determine if it is a minor (*de minimis*) amendment or requires a public hearing. As required by state law, the adopted Title 30 and Title 28 amendments will also be submitted to the Department of Housing and Community Development for review within 60 days after adoption.

PREPARED BY: Rosie Dyste, Project Planner

SUBMITTED BY: Rebecca Bjork, Interim Community Development Director

APPROVED BY: City Administrator's Office