

# Accessory Dwelling Unit Urgency Ordinance

City Council  
March 14, 2023



## Accessory Dwelling Unit (ADU)

Attached or a detached **residential dwelling unit** that is no more than **1,200 square feet** that provides **complete independent living facilities** is located on a lot with a **primary residence**.



## Junior Accessory Dwelling Unit (JADU)

A unit that is **no more than 500 square feet** in size and **contained entirely within a single-family residence**. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

# Background



**Mar. 2020**

Adoption of ADU  
Urgency Ordinance  
with local provisions



**Aug. 2022**

Legislature adopts  
Accessory Dwelling Unit  
bills



**Sept. 2022**

Governor signs legislation



**Jan. 2023**

Bills effective; local  
agencies ADU Ordinances  
void

# State Bills

Assembly Bill 2221 –  
Accessory Dwelling Units

Senate Bill 897 – Accessory  
dwelling units: junior  
accessory dwelling units

# Required Amendments

*Processing,  
Permitting &  
Timeframes*

Requires permitting agency to "approve or deny" an ADU or JADU application within 60 days of the application completeness determination.

If application denied, agency must provide a full set of comments to the applicant with a list of items that are deficient and a description of how the application can be remedied.

If the applicant is also proposing a primary dwelling, the agency is required to wait until that approval or denial has been issued.

# Required Amendments

*Processing,  
Permitting &  
Timeframes*

City may not issue a certificate of occupancy for an ADU before the local agency issues a certificate of occupancy for the primary dwelling.

City cannot require the correction of nonconforming conditions when a permit is proposed to convert a structure (or part of a structure) into an ADU or when ADU is proposed elsewhere on the property, unless conditions pose a threat to public health.

Requires City to review and issue a demolition permit for a detached garage that is to be replaced by an ADU at the same time as it reviews and issues the permit for the ADU.

# Required Amendments

*Processing,  
Permitting &  
Timeframes*

Cannot deny permit to legalize an unpermitted ADU constructed before January 1, 2018, due to building code violation, unless required to protect health and safety.

Prohibits construction of an ADU from triggering a requirement that fire sprinklers be installed in the existing primary dwelling.

Fire sprinklers are not required for an ADU unless required for the primary dwelling.



# Required Amendments

## *Development Standards*

Allows development in the front setback if it would otherwise preclude development of an 800 sq ft ADU.

An ADU that is detached from the proposed or existing single-family dwelling may include a detached garage.

Allows 18-foot ADU within ½ mile of transit, or high-quality transit corridor.

Increases statewide allowable ADU height from 16 feet to 18 feet on parcels with existing multi-family dwelling or multi-story structure.

An additional two feet (up to 18 feet) is permitted to accommodate a roof pitch on an ADU that is aligned with the roof pitch on the primary dwelling.

# Required Amendments

## *Development Standards*

Prohibits local agency from rejecting an application for an ADU because the existing multi-family dwelling exceeds applicable height requirements or has a rear or side setback of less than 4 feet.

Prohibits local agency from imposing any parking standards on an ADU that is included in an application to create a new single-family unit or a new multi-family dwelling on the same lot.

Specifies that enclosed uses within the proposed or existing single-family dwelling, such as attached garages, are considered a part of the proposed or existing single-family dwelling.

# Required Amendments

## *Impact Fees & Utilities*

Impact fees shall not be imposed on an ADU less than 750 square feet in size.

Any impact fees charged on an ADU of 750 square feet or greater shall be charged proportionally in relation to the square footage of the primary dwelling.

Local agency, special district or water corporation shall not require the applicant to install a new or separate utility connection, unless ADU is constructed with a new SFD.

# Required Amendments

## *Impact Fees & Utilities*

For a new proposed residence and new ADU, separate connections may be required, and new connection fees charged, but charges need to be proportional (based on square feet or the number of its drainage fixture unit (DFU) values), as defined in the Uniform Plumbing Code.

An ADU shall not be considered a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the ADU was constructed with a new single-family dwelling.

# Local Amendments

*Previously adopted by Council*

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- Limitations on size and height in hillside and creekside areas
- Requirements for architectural compatibility
  - Historic Preservation Districts
    - Color; siding material *and* pattern; architectural features, or survey
  - Residential Neighborhoods
    - Color; siding; *or* architectural features
- Requirement for necessary right-of-way dedication when needed for circulation



# Urgency Ordinance

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- State statutes became effective and voided the City's local ADU regulations
- Statutes written without consideration of local standards
- Local ADU regulations
  - Hillside and Creekside areas
  - Compatibility in Historic Preservation Districts and neighborhoods
- Urgency ordinance incorporates language to comply with State law, and local provisions
  - Effective immediately following adoption

# Urgency Ordinance

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California Government Code, and Section 8 of City Charter allow an urgency ordinance for immediate preservation of public peace, health or safety

Current and immediate threat to the public peace, health, and safety, because:

- Size, scale, and design of ADUs have the potential to:
  - Be injurious to the rights of neighboring property owners
  - Cause incompatibilities with the City's visual quality, neighborhood character
  - Compromising privacy
  - Affect light and air

Action must be taken immediately because any application for an ADU consistent with State law will be deemed approved

# California Environmental Quality Act

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- ✓ Proposed ordinance amendments are not subject to the provisions of the California Environmental Quality Act (CEQA)
  - ✓ Exempt from CEQA under statutory exemption 15282(h) to allow implementing regulations for accessory dwelling units consistent with Government Code Section 65852.2



# Recommendation

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It is recommended by the Planning and Economic Development Department that the Council, by motion, adopt an urgency ordinance amending City Code Sections 20-42.130 to allow Accessory Dwelling Units and Junior Accessory Dwelling Units in compliance with State law.

# Questions?

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Amy Nicholson, Supervising Planner  
Planning and Economic Development  
100 Santa Rosa Avenue, Room 3  
(707) 543-3258  
[anicholson@srcity.org](mailto:anicholson@srcity.org)