



NOTICE OF AVAILABILITY OF DRAFT LOCAL COASTAL PROGRAM AMENDMENT RELATED TO ACCESSORY DWELLING UNITS

NOTICE IS HEREBY GIVEN that in accordance with applicable provisions of the Coastal Act and California Code of Regulations (CCR) §13515, a draft of the proposed amendment is available for public review and inspection at the Planning Division and at all branches of the Newport Beach Public Library for the following amendment to the Implementation Plan (IP) of certified Local Coastal Program (LCP):

Accessory Dwelling Unit LCP Amendment (LC2019-008) – Amendment to the Local Coastal Program Implementation Plan to update regulations pertaining to Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) to conform with revisions to Government Code Sections 65852.2 and 65852.22 that went into effect on January 1, 2020 (PA2019-248).

The Planning Commission of the City of Newport Beach is scheduled to consider this item and make a recommendation to the City Council at a regular meeting to be held at 6:30 p.m. on Thursday, February 20, 2020, at the City of Newport Beach Council Chambers, 100 Civic Center Drive, Newport Beach, CA 92660. The date and time of the Planning Commission meeting has been noticed in accordance with City of Newport Beach notification requirements.

Furthermore, the City Council of the City of Newport Beach is tentatively scheduled to consider this item at a regular meeting to be held at 7:00 p.m. on Tuesday, March 24, 2020, at the City of Newport Beach Council Chambers, 100 Civic Center Drive, Newport Beach, CA 92660. The date and time of the City Council meeting will be noticed in accordance with City of Newport Beach notification requirements.

For questions regarding this Amendment, please contact David Blumenthal, AICP, Planning Consultant, at 949-644-3200, dblumenthal@newportbeachca.gov.

**Proposed Local Coastal Program Amendment
Related to Accessory Dwelling Units (LC2019-008)**

Section 1: Amending, in part to the Accessory Dwelling Units row in Table 21.18-1 in Section 21.18.020.C (Allowed Uses) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal to read as follows:

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

Section 2: Amending, in part to the Accessory Dwelling Units row in Tables 21.22-1 and 21.22-2 in Section 21.22.020. (Mixed-Use Coastal Zoning Districts Land Uses and Permit Requirements) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal 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.	MU-V (6)	MU-MM (4)	MU-CV/15th St. (5)(6)	Specific Use Regulations
See Chapter 21.12 for unlisted uses.				
Residential Uses				
Accessory Dwelling Units and Junior Accessory 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 Units	A	A	Section 21.48.200

Section 3: Amend Section 21.48.200 (Accessory Dwelling Units) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal to read as follows:

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 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 units or junior accessory dwelling unit that conforms to the requirements in this section shall not be:

1. Deemed to be inconsistent with the General Plan and zoning district designation for the lot on which the accessory dwelling unit or junior accessory dwelling unit is located.
2. Deemed to exceed the allowable density for the lot on which the accessory dwelling units or junior accessory dwelling units is located.
3. Considered in the application of any ordinance, policy, or program to limit residential growth.

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 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: ~~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 Zoning Clearance letter shall be considered and approved ministerially, without discretionary review or a hearing, within 60-days from the date that the City receives a completed application, unless either:

a. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or

b. In the case of an accessory dwelling unit and/or junior accessory dwelling unit is submitted with a permit 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 until the City renders a decision on the new single-family dwelling application.

4. The applicant shall obtain a Coastal Development Permit, pursuant to Chapter 21.52, unless otherwise exempt or excluded from the Coastal Development Permit process

~~3. Public and utility services including emergency access are adequate to serve both dwellings.~~

D. Coastal Development Permits.

1. Hearing Exemption. All of the provisions of Chapter 21.52 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 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, 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. Accessory Dwelling 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. **Converted 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 on it, 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;

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 access from the single-unit dwelling.

c. Has side and rear setbacks sufficient for fire and safety, as required by Title 9 (Fire Code) and/or Title 15 (Buildings and Construction) of this Code.

2. **Detached 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. **Converted 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 that may be allowed 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 that one (1) accessory dwelling unit shall be allowed.

iii. For the purposes of this section, multi-unit developments approved and built as a single complex shall be considered one 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 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 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 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 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 that does not exceed the existing structure's size and/or height.~~

c. Newly constructed detached accessory dwelling units may provide a minimum setback of four (4) feet from all side and rear property lines.

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.

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 unit with two bedrooms. No more than two bedrooms are allowed.

b. An attached accessory dwelling unit that is created on a lot with an existing or proposed single-unit dwelling is further limited to 50 percent of the floor area of the existing or proposed dwelling.

c. Application of Section 20.48.200(E)(4)(b) 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.

d. The maximum size of a junior accessory dwelling unit is 500 square feet.

e. 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. 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 permits single-unit dwellings and no more than one dwelling unit exists on the property.~~

7. Fire Sprinklers. Accessory dwelling units and/or junior accessory dwelling unit shall not be required to provide fire sprinklers if they are not required for the principal residence.

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 the accessory dwelling unit.

9. Parking. Parking shall comply with requirements of Chapter 20.40 (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~~ each accessory dwelling unit.

c. ~~Such~~ When additional parking is required, the parking may be provided as tandem 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 s converted as part of a proposed or existing 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 stay in 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 must be connected to public utilities (or their equivalent), including water, electric, and sewer services

2. Fees. Except as provided in Subsection 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. The connection fee or capacity charge shall be proportionate to the burden of the proposed accessory dwelling unit based on either its square feet or number of drainage fixture unit values.

3. Conversion. No separate connection between the accessory dwelling unit and the utility shall be required for units created within a single-family dwelling, unless the accessory dwelling unit being constructed in connection with a new single-family dwelling

4. Septic Systems. If the primary 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 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

~~primary 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.

3. Owner-Occupancy.

a. Accessory dwelling unit. 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 unit. 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. 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.

J. Fees.

1. Impact Fees.

- a. No impact fee is as required by this Code is required for an accessory dwelling unit and or junior accessory dwelling unit that is less than 750 square feet in size.
- b. Any impact fee that is required for an accessory dwelling unit that is 750 square feet or larger shall be assessed proportionately in relation to the square footage of the primary dwelling unit. (e.g., the floor area of the accessory dwelling unit, divided by the floor area of the primary dwelling, times the typical fee amount charged for a new dwelling.)
- c. For the purposes of this section, "Impact fee" does not include any connection fee, capacity charge for water or sewer service, planning application fee, plan check fee, or building permit fee.

K. 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 magisterially, 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 4: Amend the following definitions listed in the alphabetical list of definitions contained in Section 21.70.020 (Definitions of Specialized Terms and Phrases) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal 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 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 Health and Safety Code, or any successor statute.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code, or any successor statute.

Section 5: Amend Section 21.70.020 (Definitions of Specialized Terms and Phrases) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal to add the following definitions to the alphabetical list of definitions:

“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)”.