



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

February 20, 2020
Agenda Item No. 4

SUBJECT: Accessory Dwelling Unit Ordinance Update (PA2019-248)
▪ Code Amendment No. CA2019-009
▪ Local Coastal Program Amendment No. LC2019-008

SITE LOCATION: Citywide

APPLICANT: City of Newport Beach

PLANNER: David Blumenthal, AICP, Planning Consultant
949-644-3200, dblumenthal@newportbeachca.gov

PROJECT SUMMARY

Amendments to the Zoning Code and Local Coastal Program (LCP) revising the City's 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. Specifically, the proposed amendments would update regulations permitting the development of ADUs and JADUs in conjunction with any residential development in all residential and mixed-use zones.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the CEQA Guidelines, which states that the adoption of an ordinance regarding second units to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code are exempt from the requirements of CEQA;
- 3) Adopt Resolution No. PC2020-006 (Attachment No. PC 1) recommending the City Council approve Zoning Code Amendment No. CA2019-009 modifying regulations pertaining to accessory dwelling units; and
- 4) Adopt Resolution No. PC2020-007 (Attachment No. PC 2) recommending the City Council authorize staff to submit Local Coastal Program Amendment No. LC2019-008 to the California Coastal Commission.

DISCUSSION

Background

In 2019, the California Legislature adopted another group of housing bills aimed at addressing the housing crisis. The legislature approved, and the Governor signed, SB 13 (Chapter 653, Statutes of 2019), AB 68 (Chapter 655, Statutes of 2019), and AB 881 (Chapter 659, Statutes of 2019) into law that, among other things, amended Government Code sections 65852.2 and 65852.22 to impose new limits on the City's ability to regulate ADUs and JADUs. In adopting these new regulations, the State Legislature determined that these changes are a matter of statewide concern, rather than a municipal affair. This determination allows the State to mandate charter cities implement the new ADU laws. Since AB 881 was the last chaptered bill signed by the Governor affecting Government Code Section 65852.2, it will supersede SB 13 and AB 68. However, other portions of SB 13 and AB 68, not affecting Government Code 65852.2, are still in force. The State Legislature intends to reduce regulatory barriers and costs, streamline the approval, and expand the potential capacity for ADUs in response to California's housing shortage. These changes would assist the City in meeting its allotment for the upcoming Regional Housing Needs Allocation (RHNA) cycle.

Failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) as of January 1, 2020, has rendered the City's ordinance regulating ADUs null and void, thereby limiting the City to the application of the few default standards provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADUs, unless and until a compliant ordinance is adopted.

On January 14, 2020, the City Council adopted Resolution 2020-3, initiating the subject Code Amendment and LCP Amendment directing staff to draft regulations that comply with the new State regulations.

Proposal

In order to restore local regulations, as allowed under the new ADU laws, the City of Newport Beach needs to adopt new ADU and JADU ordinances. To accomplish this the code sections listed below will need to be amended.

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

ADU vs JADU

One key component of the new ADU laws is that the City is now required to allow JADUs, whereas, the City had previously prohibited them. While they are similar types of units, there are some key differences. ADUs and JADUs are both independent living units with

an exterior entrance into the unit; however, JADUs are limited to no more than 500 square feet. Additionally, JADUs are limited to an efficiency size kitchen, can have an internal access to the primary dwelling unit, and can share sanitary facilities with the primary unit. Conversely, ADUs can be up to 1,000 square feet, shall be fully self-contained (including sanitation), and may not include internal access to the primary dwelling unit.

Summary of Current Regulations

Under the current regulations of the Newport Beach Municipal Code (NBMC), property owners can build a single ADU on any residentially zoned property that is improved with single-unit residence. For new construction ADUs, the property must be at least 5,000 square feet in lot area, the ADU is limited to a maximum size of 750 square feet, and one additional parking space is required for the ADU. For ADU conversions of existing floor area, there is no minimum lot size, no maximum unit size, and no additional parking requirements; however, if the ADU is a garage conversion, then replacement parking is required for the displaced parking. The City also requires that the property owner live in either the principal dwelling unit or the ADU. The City's regulations do not recognize JADUs and as a result, they are prohibited.

Proposed New Regulations

Under the new regulations, the City must allow ADUs in all residential zones and any mixed-use zone that permits residential dwelling units. The City must also allow JADUs in any property developed with a single-unit residence. Under the proposed amendments, ADUs and JADUs will be allowed under the following four circumstances:

1. Convert existing space in a single-unit residence to provide either an ADU or a JADU. In this case, only one ADU or JADU is allowed.
2. Convert existing space in a single-unit residence to build a JADU and construct a new detached ADU. In this case, both an ADU and JADU are allowed.
3. Convert non-habitable space, such as garages, storage rooms, etc., in a multiple-unit dwelling property into ADUs. The number of ADUs on the property may not exceed 25 percent of the total number of units. A minimum of one ADU will be allowed and JADUs are not permitted.
4. Construct two-detached ADUs on the same property as a multiple-unit dwelling. This limits the total number of ADUs for the entire property to two. JADUs are not permitted.

It is important to note that for the purpose of implementing these new regulations, multiple-unit dwellings that are approved and built as a single complex are considered one property, regardless the number of parcels.

Lot and Unit Size

In addition to allowing ADUs and JADUs in the residential zones, the new State regulations eliminate minimum lot size, thus providing the potential to construct either an ADU or JADU on every residential property in the City.

The State has included several provisions that regulate unit size of ADUs and JADUs. The City is required to allow ADUs and JADUs that qualify as efficiency units under the building code. In these cases, the units can be as small as 220 square feet. Additionally, the City cannot apply floor area limits or site coverage requirements if it prevents a minimum 800 square foot ADU. Under State law, the maximum unit size for an attached ADU is 50 percent of the primary dwelling; while a detached ADU has a maximum size of 1,200 square feet. However, with adopting a local ordinance, the City may apply a smaller maximum size of an ADU. The smallest maximum size of an ADU that City may establish is 850 square feet for studios and one-bedroom and 1,000 square feet for two-bedroom. The size of JADUs cannot exceed 500 square feet.

Parking

The new State ADU laws allow the City to require one parking space for all new ADUs, but prohibit parking requirements for JADUs. However, the City is required to waive the ADU parking requirement in the following circumstances:

- The ADU is located within one-half ($\frac{1}{2}$) mile walking distance to a transit stop;
- The ADU is located within one (1) block of a designated car share pick up and drop off location;
- The ADU is located within an architecturally and historically significant historic district;
- The ADU is proposed to be converted from the existing space entirely within the primary dwelling unit or an existing accessory structure; or
- The ADU is located in a permit parking area where on-street parking permits are required, but not offered to the occupant(s) of the accessory dwelling unit.

While these exceptions are currently provided in the Newport Beach Municipal Code, the State clarified a transit stop is a fixed route bus, train, or subway that is open to the public and charges set fares. The State further clarified that the one-half ($\frac{1}{2}$) mile distance is a walking distance, not based on a radius. An approximation of these areas is attached as Attachment No. PC 3.

If an owner wishes to convert their existing garage to an ADU, the new ADU laws prevent the City from requiring replacement parking for the garage spaces lost to the conversion. This allowance does not apply to JADUs, which must provide replacement parking if they convert a garage. Coastal Commission staff has expressed a concern that converting garages and not providing replacement parking could impact the public parking supply in the Coastal Zone thereby impacting public access. This would potentially make the

garage conversion portions of the ADU law inconsistent with the Coastal Act. The new ADU laws specifically state, “Nothing [in the new laws] shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976...” Accordingly, the proposed amendment to Title 21 requires replacement parking for any garage, carport, or other covered parking that is converted to an ADU. This replacement parking requirement of the proposed ordinance only affects properties within the Coastal Zone.

Owner-Occupant

The City had previously required the property owner live in either the primary unit or the ADU. Under the new State requirements, this rule is temporarily suspended for five years. For ADUs built between January 1, 2020, through January 1, 2025, the City is not permitted to impose an owner-occupant requirement. This does not void previous covenants requiring owner-occupants for the ADUs that were built prior to January 1, 2020, nor will it prevent the City from requiring owner-occupants for units built after January 1, 2025. Notwithstanding this, an owner-occupant is required for residences developed with JADUs.

Comparison of Regulations

In addition to the items discussed above, the new ADU laws provide a greater height and, in some cases, reduced setbacks for detached units. The new ADU laws also provide the State new tools to enforce compliance with Government Code Sections 65852.2 and 65852.22. A summary of the proposed changes is as follows in Table 1:

Table 1 - Accessory Dwelling Units Development Standards	
Standard	Newport Beach Municipal Code vs New State ADU Law
Location	<p><u>Existing NBMC</u>: Residentially zoned property improved with a single-unit residence.</p> <p><u>New State ADU Law</u>: Any property improved with a single-unit, multiple-unit, or mixed-use development.</p>
Number of Units Allowed	<p><u>Existing NBMC</u>: On residentially zoned property developed with a single-unit dwelling, one ADU only.</p> <p><u>New State ADU Law</u>: On single-unit developed properties, one ADU and one JADU. On multiple-unit and mixed-use developed properties, up to 25 percent of the existing units (minimum one allowed).</p>
Minimum Lot Size	<p><u>Existing NBMC</u>: 5,000 square feet.</p>

	<p><u>New State ADU Law</u>: No minimum lot size.</p>
Maximum Unit Size	<p><u>Existing NBMC</u>: ADU = 750 square feet.</p> <p><u>New State ADU Law</u>: ADU = 850 square feet for studios and one- bedroom units and 1,000 square feet for two-bedroom units; JADU = 500 square feet.</p>
Setbacks	<p><u>Existing NBMC</u>: For garage conversions, no additional setback is required, beyond what is currently provided. For ADUs above the garage a five-foot side and rear setback is required. For all others, setbacks are per the zoning code requirement for the base zone.</p> <p><u>New State ADU Law</u>: For conversion and replacement of existing structures, no additional setback is required, beyond what is currently provided. Front setbacks are per the zoning code requirement for the base zone. Side and rear setbacks are per the zoning code requirement for the base zone or four feet, whichever is less.</p>
Height	<p><u>Existing NBMC</u>: For attached units or units above garages, the height is per the zoning code requirement for the base zone. For detached units, the maximum height is 14 feet.</p> <p><u>New State ADU Law</u>: For attached units or units above garages, the height is per the zoning code requirement for the base zone. For detached units, the maximum height is 16 feet.</p>

Parking	<p><u>Existing NBMC:</u> One space per unit, except if property is:</p> <ol style="list-style-type: none"> 1) located within one-half (1/2) mile of a major transit stop; 2) located within one (1) block of a designated car share pick up and drop off location; 3) located within an architecturally and historically significant historic district; 4) proposed to be converted from the existing space entirely within the primary dwelling unit or an existing accessory structure; or 5) located in a permit parking area where on-street parking permits are required, but not offered to the occupant(s) of the accessory dwelling unit. <p><u>New State ADU Law:</u> For JADU, no parking is required.</p> <p>For ADU, one space per unit, with the same exceptions described above; however, exception 1) has been changed to located within one-half (1/2) mile walking distance of public transit.</p>
Garage Conversions	<p><u>Existing NBMC:</u> When garage, carport, or covered parking is replaced/converted to ADU, parking shall be replaced in any configuration on the same lot.</p> <p><u>New State ADU Law:</u> If garage, carport, or covered parking is replaced/converted to ADU, no replacement parking is required.</p> <p>However, due to a potential inconsistency with the Coastal Act related to public access, the proposed code amendment does require replacement parking for properties within the coastal zone.</p>
Owner-Occupancy Requirement	<p><u>Existing NBMC:</u> The property owner shall live in either the primary residence or the ADU.</p> <p><u>New State ADU Law:</u> For ADU, the property owner shall live in either the primary residence or the ADU. For JADU, the property owner shall live in the primary residence. However, this rule is suspended for ADUs created between 1/1/2020 and 1/1/2025, during which time no owner-occupancy requirements are required.</p>

State Department of Housing and Community Development (HCD) Review

Paragraph (h) of Government Code Section 65852.2 requires the City submit the ordinance to the State Department of Housing and Community Development (HCD) within 60 days of adoption. Should the City Council approve the proposed ordinance to amend Title 20, staff will forward the ordinance to HCD for review. If HCD finds the ordinance does not comply with the new ADU laws, HCD will notify the City. Should this occur, the City would have 30 days to either amend the ordinance or adopt additional findings that explain the reason the ordinance complies with the statute. Since the amendment to Title 21 requires Coastal Commission approval, the ordinance amending Title 21 will be submitted to HCD after the Coastal Commission process is complete.

General Plan Consistency

The law states that ADUs shall be deemed an accessory use and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed a residential use that is consistent with the existing general plan and zoning district for the lot. Therefore, no amendments to the General Plan are required.

Local Coastal Plan

Similar to the Zoning Code, the Implementation Plan of the Local Coastal Program (LCP) currently regulates ADUs inconsistent with State law. Therefore, subsequent to City Council adoption of this Zoning Code Amendment, staff will submit corresponding amendments (Attachment No. PC2) to the LCP for review and approval of the California Coastal Commission. In accordance with California Coastal Commission Guidance Memorandums, any eligible projects located in the Coastal Zone that qualify for a Coastal Development Permit (CDP) exemption will be processed consistent with the Zoning Code. Projects that do not qualify for an exemption cannot be processed until the LCP Amendment is approved and adopted.

Relationship to Regional Housing Needs Assessment (RHNA)

ADUs and JADUs will count towards the City's housing production in meeting RHNA housing targets. Given the extraordinary and unprecedented high RHNA allocation (approximately 4,832 units) that is anticipated for the upcoming 2021-2029 Housing Element planning period, staff anticipates using ADUs as a strategy in identifying to HCD that the City has adequate sites and capacity to meet the allocation. Government Code Sections 65852.2(m) and 65583.1 provide HCD full discretion in determining how ADUs and JADUs count towards meeting RHNA. In the past, HCD has relied heavily on past production to illustrate anticipated future production and current State regulations identify past production as one of several factors to determine ADUs to satisfy a portion of RHNA. In most cities and counties including Newport Beach, regulations for ADUs were much more restrictive before recent changes in law were adopted. Therefore, Staff believes that past production should not be utilized as the most important factor in estimating future

ADU development for RHNA. Should the City promote ADU and JADU development, production may increase and the City could rely more heavily on them to meet the City's RHNA. HCD has indicated that they are in the process of preparing a memorandum to provide cities and counties guidance on how ADUs may be utilized in identifying adequate sites in this upcoming Housing Element update.

Abilities for Homeowner's Association (HOA) to Regulate

In addition to the aforementioned State laws that prescribe the regulations the City must implement, the State also enacted AB 670 (Chapter 178, Statutes of 2019). AB 670 deems any CC&R recorded to a property that is zoned for single-unit residential uses and prohibits, or unreasonably restricts, ADUs or JADUs null and unenforceable. This effectively eliminates an HOA's ability to prohibit ADUs and JADUs in the R-A (Residential-Agricultural), R-1 (Single-Unit Residential), and equivalent planned community zoning districts. These State laws do not apply to R-2 or multi-family zones so theoretically an HOA could enforce private CC&Rs; however, the State Legislature could expand the prohibition to all residential zones if a significant impediment to ADU and JADU production resulted.

Capacity to Accommodate ADUs and JADUs Citywide

Since ADUs are now permitted on all residential properties and in some cases multiple ADUs and/or JADUs can be provided, it is undetermined as to the maximum number of ADUs and JADUs that could be constructed. While staff does anticipate an initial influx of units, the submittals can be expected to taper off. It is highly unlikely and speculative that every property in the City will construct an ADU and/or JADU.

ADUs and JADUs will be reviewed much like any room addition or new house. Staff will continue to monitor all new construction to ensure that the City's infrastructure is not impacted.

Alternatives

The Planning Commission may recommend revisions to the draft ordinance provided the revisions are consistent with State law and are not more restrictive than the State's allowance. Noncompliance with State law will render the City's ADU ordinance null and void, thus requiring the City to utilize the State's more lenient ADU standards until the City modifies its regulation appropriately.

Environmental Review

The project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), which states that the adoption of an ordinance regarding second units in a single-family or multifamily zone by a city or county to implement the

provisions of Sections 65852.1 and 65852.2 of the Government Code” are exempt from the requirements of CEQA. Similarly, the ministerial approval of ADUs would not be a project for CEQA purposes, and environmental review would not be required prior to approving individual applications.

Public Notice

Notice of this amendment was published in the Daily Pilot as an eighth page advertisement, consistent with the provisions of the Municipal Code. The item also appeared on the agenda for this meeting, which was posted at City Hall and on the City website. Additionally, notice was sent to all persons and agencies on the Notice of the Availability mailing list.

Prepared by:



David Blumenthal, AICP
Planning Consultant

Submitted by:



Jim Campbell
Deputy Community Development Director

ATTACHMENTS

- PC 1 Draft resolution recommending approval of Zoning Code Amendment No. CA2019-009
- PC 2 Draft resolution recommending approval of submission of Local Coastal Program Amendment No. LC2019-008
- PC 3 Public Transit Stops and ½ mile radius
- PC 4 NBMC Title 20 (Planning and Zoning), proposed redlined code changes
- PC 5 NBMC Title 21 (Local Coastal Program Implementation Plan), proposed redlined code changes

Attachment No. PC 1

Draft resolution recommending approval of
Zoning Code Amendment No. CA2019-009

RESOLUTION NO. PC2020-006

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING CITY COUNCIL ADOPTION OF ZONING CODE AMENDMENT NO. CA2019-009 TO IMPLEMENT NEW STATE LAW REQUIREMENTS RELATING TO ACCESSORY DWELLING UNITS (PA2019-248)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. In 2019, the California Legislature adopted, and the Governor signed, SB 13 (Chapter 653, Statutes of 2019), AB 68 (Chapter 655, Statutes of 2019), and AB 881 (Chapter 659, Statutes of 2019) into law that, among other things, amended Government Code Section 65852.2 and 65852.22 to impose new limits on the City to regulate Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU).
2. Government Code Sections 65852.2 and 65852.22 authorizes cities to act by ordinance to provide for the creation and regulation of ADUs and JADUs.
3. The ADU and JADU regulations took effect January 1, 2020, and since the City's existing ADU ordinance does not comply with the Government Code Sections 65852.2 and 65852.22, the City's ordinance has been deemed null and void effective that date.
4. The City of Newport Beach desires to amend its local regulatory scheme for the construction of ADUs and JADUs to comply with the amended provisions of Government Code sections 65852.2 and 65852.22.
5. ADUs and JADUs provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. In addition, homeowners who construct ADUs and JADUs benefit from added income and increased sense of security.
6. Allowing ADUs and JADUs in conjunction with existing or proposed residential development provides additional rental housing stock, some of which will satisfy the City's 6th Cycle Regional Housing Needs Assessment (RNHA).
7. ADUs and JADUs offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.
8. A public hearing was held on February 20, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

This action is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), which states the adoption of an ordinance regarding second units to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code are exempt from the requirements of CEQA. Similarly, the ministerial approval of accessory dwelling units is not a project for CEQA purposes, and environmental review is not required prior to approving individual applications.

SECTION 3. FINDINGS.

1. Adopting an ordinance consistent with Government Code Sections 65852.2 and 65852.22 ensures that the character of the City of Newport Beach (City) is preserved to the maximum extent possible and that the City's regulation regarding accessory dwelling units and junior accessory dwelling units continues to promote the health, safety, and welfare of the community.
2. As permitted by California Government Code Section 65852.2, the City finds that prohibiting parking in rear alley setbacks is essential to preserve vehicular maneuverability for residents and fire and life safety personnel traveling through the City's narrow alleyways. Also, prohibiting parking in front setbacks, unless located on a driveway a minimum 20 feet in depth, is also essential 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.
3. The City of Newport Beach is a coastal community with numerous coastal resources that attract over seven million annual visitors. This includes public beaches, Newport Harbor, Balboa Peninsula, Balboa Island, and Newport Bay. The number of annual visitors, coupled with historic development patterns of the City, has created a significant impact on the limited parking supply. The loss of off-street parking on residential lots would exacerbate the continual public parking problems in the Coastal Zone, as it shifts residential parking from on-site to on-street. Government Code Section 65852.2(a)(1)(D)(xi) notes that off-street parking shall not be required to be replaced when a garage, carport, or other covered parking is converted to an ADU or JADU. Notwithstanding this, Government Code Section 65852.2(l) notes, "Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976..."

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. In order to preserve the limited parking supply and ensure this amendment is consistent with the Coastal Act, replacement parking for conversion of garages, carports, and other covered parking is needed.

4. An amendment to the Local Coastal Program (LCP) is also underway to comply with State law. The subject Zoning Code Amendment shall not become effective for projects located in the coastal zone until approval of the subject LCP amendment by the California Coastal

Commission and adoption, including any modifications suggested by the California Coastal Commission, by resolution and/or ordinance of the City Council of the City of Newport Beach.

5. The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

The Planning Commission of the City of Newport Beach hereby recommends to the City Council approval of Code Amendment No. CA2019-009 as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.

PASSED, APPROVED, AND ADOPTED THIS 20TH DAY OF FEBRUARY 2020.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Peter Koetting, Chair

BY: _____
Lee Lowrey, Secretary

EXHIBIT “A”

ZONING CODE AMENDMENT NO. CA2019-009

Section 1: Table 2-1 in Newport Beach Municipal Code (NBMC) Section 20.18.020.C (Allowed Uses and Permit Requirements) is amended, in part to the Accessory Dwelling Units” row as follows:

Land Use See Part 7 of this title for land use definitions. See Chapter 20.12 for unlisted uses.	R-A	R-1**	R-BI R-2	RM RMD	Specific Use Regulations
Residential Uses					
Accessory Dwelling Units and Junior Accessory Units	P	P	P	P	Section 20.48.200

Section 2: Table 2-8 in NBMC Section 20.22.020.C (Allowed Uses and Permit Requirements) is amended to add the following use:

Land Use See Part 7 of this title for land use definitions. See Chapter 20.12 for unlisted uses.	MU-V	MU-MM (6)	MU-DW	MU-CV/15th St. (7)	Specific Use Regulations
Residential Uses					
Accessory Dwelling Units and Junior Accessory Units	P	P	P	P	Section 20.48.200

Section 3: NBMC Section 20.48.200 (Accessory Dwelling Units) is amended in its entirety to read as follows:

20.48.200 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 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 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 unit or junior accessory dwelling unit 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:

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 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.

D. 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.

E. 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) 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 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 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.
 - a. The maximum size of a detached or attached accessory dwelling unit is 850 square feet for a studio or one (1) bedroom unit and 1,000 square feet for a unit with two (2) 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. 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.
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 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 each accessory dwelling unit.
 - c. 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 additional parking shall be required for:
 - i. Accessory dwelling units converted as part of a proposed or existing space of a 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 (1) 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. No Replacement Parking Necessary. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an

accessory dwelling unit at the same location or converted to an accessory dwelling unit, those off-street parking spaces are not required to be replaced. Refer to Section 21.48.200(C)(9)(e) for replacement parking in the Coastal Zone.

F. 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.

G. 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).
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.

H. 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.

I. Fees.

1. Impact Fees.

a. No impact fee 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.

2. Utility Fees. Owner shall pay all required utility connection fees, unless a new utility connection is not provided between the accessory dwelling unit or junior accessory dwelling unit permitted and the utility.

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 4: The following definitions listed in the alphabetical list of definitions contained in NBMC Section 20.70.020 (Definitions of Specialized Terms and Phrases) 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 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: The following definitions shall be added to the alphabetical list of definitions contained in NBMC Section 20.70.020 (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)”.

Attachment No. PC 2

Draft resolution recommending approval of
submission of Local Coastal Program
Amendment No. LC2019-008

RESOLUTION NO. PC2020-007

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING CITY COUNCIL AUTHORIZE STAFF TO SUBMIT LOCAL COASTAL PROGRAM AMENDMENT NO. LC2019-008 TO THE CALIFORNIA COASTAL COMMISSION IMPLEMENTING NEW STATE LAW REQUIREMENTS RELATING TO ACCESSORY DWELLING UNITS (PA2019-248)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. In 2019, the California Legislature adopted, and the Governor signed, SB 13 (Chapter 653, Statutes of 2019), AB 68 (Chapter 655, Statutes of 2019), and AB 881 (Chapter 659, Statutes of 2019) into law that, among other things, amended Government Code Section 65852.2 and 65852.22 to impose new limits on the City to regulate Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU).
2. Government Code Sections 65852.2 and 65852.22 authorizes cities to act by ordinance to provide for the creation and regulation of ADUs and JADUs.
3. The ADU and JADU regulations took effect January 1, 2020, and since the City's existing ADU ordinance does not comply with the Government Code Sections 65852.2 and 65852.22, the City's ordinance has been deemed null and void effective that date.
4. The City of Newport Beach desires to amend its local regulatory scheme for the construction of ADUs and JADUs to comply with the amended provisions of Government Code sections 65852.2 and 65852.22.
5. ADUs and JADUs provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. In addition, homeowners who construct ADUs and JADUs benefit from added income and increased sense of security.
6. Allowing ADUs and JADUs in conjunction with existing and proposed residential development provides additional rental housing stock, some of which will satisfy the City's 6th Cycle Regional Housing Needs Assessment (RNHA).
7. ADUs and JADUs offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.
8. Pursuant to Section 13515 of the California Code of Regulations, review of the draft LCP amendment was made available and a Notice of the Availability was distributed a minimum of six weeks prior to the anticipated final action date.

9. A public hearing was held on February 20, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

This action is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), which states the adoption of an ordinance regarding second units to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code are exempt from the requirements of CEQA. Similarly, the ministerial approval of accessory dwelling units is not a project for CEQA purposes, and environmental review is not required prior to approving individual applications.

SECTION 3. FINDINGS.

1. Adopting an ordinance consistent with Government Code Sections 65852.2 and 65852.22 ensures that the character of the City of Newport Beach (City) is preserved to the maximum extent possible and that the City's regulation regarding accessory dwelling units and junior accessory dwelling units continues to promote the health, safety, and welfare of the community.
2. As permitted by California Government Code Section 65852.2, the City finds that prohibiting parking in rear alley setbacks is essential to preserve vehicular maneuverability for residents and fire and life safety personnel traveling through the City's narrow alleyways. Also, prohibiting parking in front setbacks, unless located on a driveway a minimum 20 feet in depth, is also essential 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.
3. The City of Newport Beach is a coastal community with numerous coastal resources that attract over seven million (7,000,000) annual visitors. This includes public beaches, Newport Harbor, Balboa Peninsula, Balboa Island, and Newport Bay. The number of annual visitors, coupled with historic development patterns of the City, has created a significant impact on the limited parking supply. The loss of off-street parking on residential lots would exacerbate the continual public parking problems in the Coastal Zone, as it shifts residential parking from on-site to on-street. Government Code Section 65852.2(a)(1)(D)(xi) notes that off-street parking shall not be required to be replaced when a garage, carport, or other covered parking is converted to an ADU or JADU. Notwithstanding this, Government Code Section 65852.2(l) notes, "Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976..."

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. In order to preserve the limited parking supply and ensure this amendment is consistent with the

Coastal Act, replacement parking for conversion of garages, carports, and other covered parking is needed.

4. The LCP amendments shall not become effective until approval by the California Coastal Commission and adoption, including any modifications suggested by the California Coastal Commission, by resolution and/or ordinance of the City Council of the City of Newport Beach.
5. The LCP, including the proposed amendment, will be carried out fully in conformity with the California Coastal Act.
6. The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

The Planning Commission of the City of Newport Beach hereby recommends the City Council authorize staff to submit Local Coastal Program Amendment No. LC2019-008, as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference, to the California Coastal Commission.

PASSED, APPROVED, AND ADOPTED THIS 20TH DAY OF FEBRUARY 2020.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Peter Koetting, Chair

BY: _____
Lee Lowrey, Secretary

EXHIBIT “A”

LOCAL COASTAL PLAN AMENDMENT NO. LC2019-008

Section 1: Table 21.18-1 in Newport Beach Municipal Code (NBMC) Section 21.18.020.C (Allowed Uses) is amended, in part to the Accessory Dwelling Units” row 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 Units	P	P	P	P	Section 21.48.200

Section 2: Tables 21.22-1 and 21.22-2 in NBMC Section 21.22.020. (Mixed-Use Coastal Zoning Districts Land Uses and Permit Requirements) are amended to add the following uses:

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 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: NBMC Section 21.48.200 (Accessory Dwelling Units) is amended in its entirety 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 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 General 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.
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:

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 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.

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; 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. 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 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 Title 20 (Planning and Zoning) 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 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 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.
 - 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 21.48.200(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. 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.
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 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 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 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).
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.

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. Fees.

1. Impact Fees.

a. No impact fee 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.

2. Utility Fees. Owner shall pay all required utility connection fees, unless a new utility connection is not provided between the accessory dwelling unit or junior accessory dwelling unit permitted and the utility.

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: The following definitions listed in the alphabetical list of definitions contained in NBMC Section 21.70.020 (Definitions of Specialized Terms and Phrases) 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 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: The following definitions shall be added to the alphabetical list of definitions contained in NBMC Section 21.70.020 (Definitions of Specialized Terms and Phrases) and shall read as follows:

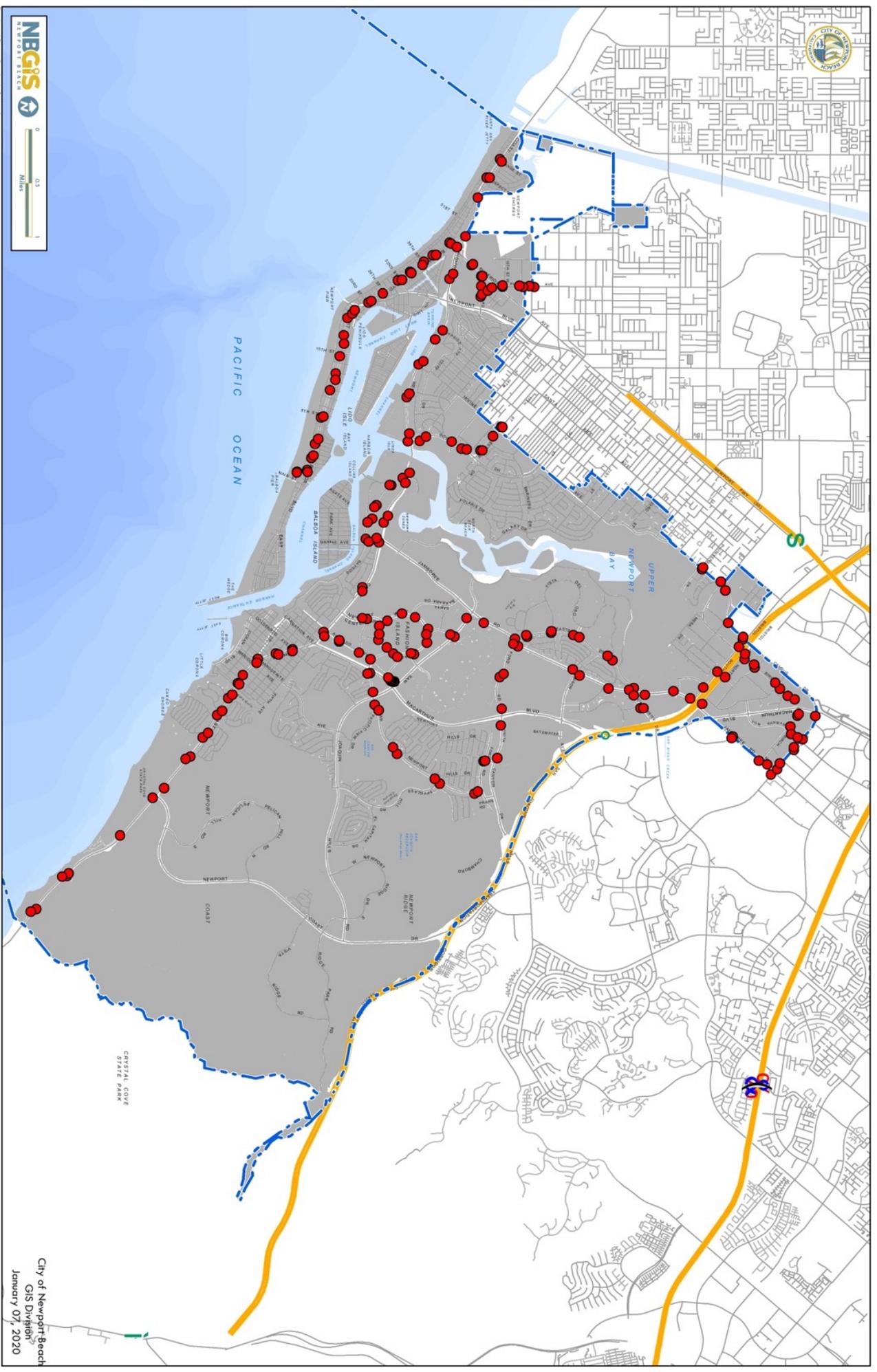
“Dwelling unit, junior accessory (land use)” means a dwelling unit accessory to and entirely contained within, an existing or proposed single-unit dwelling, and that:

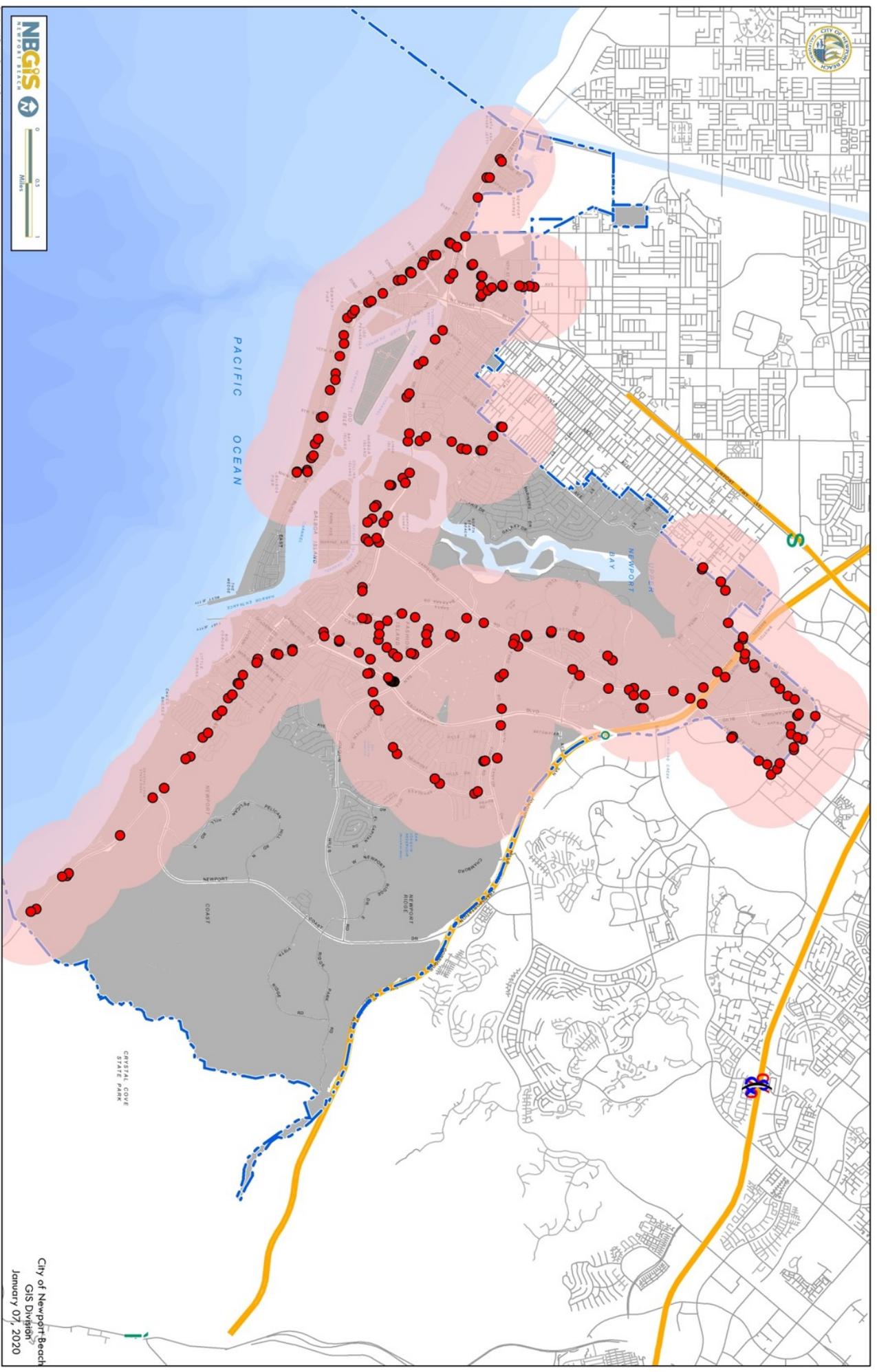
1. Is no more than 500 square feet in size,
2. Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-unit dwelling, and
3. Includes an efficiency kitchen.

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

Attachment No. PC 3

Public Transit Stops and ½ mile radius





Attachment No. PC 4

NBMC Title 20 (Planning and Zoning),
proposed redlined code changes

Title 20 (Planning and Zoning)

Table 2-1 in Newport Beach Municipal Code (NBMC) Section 20.18.020.C (Allowed Uses and Permit Requirements)

Land Use See Part 7 of this title for land use definitions. See Chapter 20.12 for unlisted uses.	R-A	R-1**	R-BI R-2	RM RMD	Specific Use Regulations
Residential Uses					
Accessory Dwelling Units <u>and Junior Accessory Units</u>	P	P	P	P	Section 20.48.200

Table 2-8 in NBMC Section 20.22.020.C (Allowed Uses and Permit Requirements)

Land Use See Part 7 of this title for land use definitions. See Chapter 20.12 for unlisted uses.	MU-V	MU-MM (6)	MU-DW	MU-CV/15th St. (7)	Specific Use Regulations
Residential Uses					
<u>Accessory Dwelling Units and Junior Accessory Units</u>	P	P	P	P	Section 20.48.200

20.48.200 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.

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

D. 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.

E. 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) 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 and 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 additional parking shall be required for:
- i. Accessory dwelling units converted as part of a proposed or existing space of a 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 (1) 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. No Replacement Parking Necessary. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit at the same location or converted to an accessory dwelling unit, those off-street parking spaces are not required to be replaced. Refer to Section 21.48.200.C.9.e for replacement parking in the Coastal Zone. 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.

F. 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.

G. 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.

~~4. Number of Units Allowed. Only one accessory dwelling unit may be located on the lot.~~

~~5. 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.~~

~~6. — 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.~~

H. 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 lot.

I. 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.

2. Utility Fees. Owner shall pay all required utility connection fees, unless a new utility connection is not provided between the accessory dwelling unit or junior accessory dwelling unit permitted and the utility.

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.

NBMC Section 20.70.020 (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 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.

NBMC Section 20.70.020 (Definitions of Specialized Terms and Phrases)

“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)”.

Attachment No. PC 5

NBMC Title 21 (Local Coastal Program Implementation Plan), proposed redlined code changes

Title 21 (Local Coastal Program Implementation Plan)

**Table 21.18-1 in Newport Beach Municipal Code (NBMC) Section 21.18.020.C
(Allowed Uses)**

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 <u>and</u> <u>Junior Accessory Units</u>	P	P	P	P	Section <u>21.48.200</u>

Tables 21.22-1 and 21.22-2 in NBMC Section 21.22.020. (Mixed-Use Coastal Zoning Districts Land Uses and Permit Requirements)

<u>TABLE 21.22-1</u> <u>ALLOWED USES</u>	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				
<u>Accessory Dwelling Units and Junior Accessory Units</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>Section</u> <u>21.48.200</u>

TABLE 21.22-2 ALLOWED USES	Mixed-Use Coastal Zoning Districts		
			A — 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			

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
<u>Accessory Dwelling Units and Junior Accessory Units</u>	<u>A</u>	<u>A</u>	<u>Section 21.48.200</u>

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 ~~is~~ 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 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 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 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).”