

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
301 E. OCEAN BLVD, SUITE 300
LONG BEACH, CA 90802-4325
VOICE (562) 590-5071
FAX (562) 590-5084



January 25, 2022

City of Newport Beach
Planning Department
Jaime Murillo, Principal Planner
100 Civic Center Drive
Newport Beach, CA 92658

RE: City of Newport Beach Local Coastal Program (LCP) Amendment No. LCP-5-NPB-20-0025-1, Part C (Accessory Dwelling Units).

Dear Mr. Murillo,

You are hereby notified that the California Coastal Commission, at its December 15, 2021 virtual meeting, approved the City of Newport Beach Local Coastal Program (LCP) Amendment No. LCP-5-NPB-20-0025-1, Part C with suggested Modifications. Amendment No. LCP-5-NPB-20-0025-1, Part C, which was submitted pursuant to City Council Resolution No. 2020-24, incorporates changes to the Land Use Plan (LUP) and Implementation Plan (IP) portions of the LCP to revise the existing regulations in the IP regarding accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs).

The Commission approved the LCP Amendment with suggested modifications. Thus, the Amendment will become final once: 1) The City of Newport Beach City Council adopts the Commission's suggested modifications, 2) the City of Newport Beach City Council forwards the adopted suggested modifications to the Commission by Resolution, and 3) the Executive Director certifies that the City has complied with the Commission's November 19, 2021 action. The Coastal Act requires that the City's adoption of the suggested modifications be completed within six (6) months of the Commission's action.

Pursuant to the Commission's action on December 15, 2021, certification of the City of Newport Beach LCP Amendment No. LCP-5-NPB-20-0025-1, Part A is subject to the attached Suggested Modifications (Attachment A).

Thank you for your cooperation and we look forward to working with you and your staff in the future. Please email Amrita Spencer or myself if you have any questions regarding the modifications required for effective certification of City of Newport Beach LCP Amendment No. LCP-5-NPB-20-0025-1, Part C.

Sincerely,

Amber Dobson
District Manager

Attachment A: Suggested Modifications to Amendment No. LCP-5-NPB-20-0025-1, Part C

Certification of City of Newport Beach Local Coastal Program (LCP) Amendment No. LCP-5-NPB-20-0025-1, Part C is subject to the following modifications. Text added by the suggested modifications are **bold and double underlined**, and text suggested to be deleted is struck through.

A. Purpose. The purpose of this section is to establish the procedures for the creation of accessory dwelling units and junior accessory dwelling units, as defined in Part 7 (Definitions) of this title (~~Definitions~~) and in California Government Code Sections 65852.2 and 65852.22, or any successor statute, in ~~single-unit residential zoning districts or~~ areas designated for ~~single-unit residential use~~, including as part of a planned community development plan or specific plan, and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.

B. Effect of Conforming. An accessory dwelling unit or junior accessory dwelling unit that conforms to the requirements in this section shall not be:

1. Deemed to be inconsistent with the Coastal Land Use Plan and coastal zoning district designation for the lot on which the accessory dwelling unit or junior accessory dwelling units is located;
2. Deemed to exceed the allowable density for the lot on which the accessory dwelling unit or junior accessory dwelling unit is located;
3. Considered in the application of any ordinance, policy, or program to limit residential growth; or
4. Required to correct a legally established nonconforming zoning condition. This does not prevent the City from enforcing compliance with applicable building standards in accordance with California Health and Safety Code Section 17980.12.

B.C. Review Authority. Accessory dwelling units and junior accessory dwelling units shall be approved in any residential or mixed-use zoning district, subject to a Zoning Clearance provided by the Director and the following conditions: ~~in conjunction with single-unit dwellings in all residential zoning districts subject to the approval of the Director upon finding that the following conditions have been met:~~

1. There is an existing or proposed dwelling unit on the lot;
2. The dwelling conforms to the development standards and requirements for accessory dwelling units and/or junior accessory dwelling units as provided in this section; and established in the subsections below; and

3. **The dwelling conforms to the coastal resource protection development regulations of Section 21.28.040 (Bluff (B) Overlay District), Section 21.28.050 (Canyon (C) Overlay District), Section 21.30.100 (Scenic and Visual Quality Protection), or Chapter 21.30B (Habitat Protection):**

 4. **The Zoning clearance shall be considered and approved ministerially, without discretionary review or a hearing, within sixty (60) days from the date that the City determines an receives a completed application to be complete, unless either:**
 - a. The applicant requests a delay, in which case the sixty (60) day timeperiod is tolled for the period of the requested delay,
or
 - b. In the case of an application for an accessory dwelling unit and/or junior accessory dwelling unit is submitted with an application to create a new single-unit dwelling on the lot, the City may delay acting on the accessory dwelling unit and/or junior accessory dwelling application until the City renders a decision on the new single-unit dwelling application.
- ~~3. Public and utility services including emergency access are adequate to serve both dwellings.~~

D. Coastal Development Permits.

1. **Application. The applicant shall obtain a Coastal Development Permit, pursuant to Chapter 21.52 (Coastal Development Review Procedures), unless otherwise exempt or excluded from the coastal development permit process pursuant to Section 21.52.035 (Projects Exempt from Coastal Development Permit Requirements) or Section 21.52.045 (Categorical Exclusions). All new accessory dwelling units and junior accessory dwelling units shall require a coastal development permit.**

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

3. **Appeal Exemption. Notwithstanding the local appeal provisions of**

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

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

1. Internal to a ~~Conversion of Single-Unit~~ **or Multi-Unit Dwelling Category.** Only one (1) accessory dwelling unit or one (1) junior accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit or multi-unit dwelling, subject to the following:
 - a. The accessory dwelling unit ~~or junior accessory dwelling unit~~ is proposed:
 - i. Within the space of a proposed single-unit **or multi-unit** dwelling; or
 - ii. Within the existing space of an existing single-unit **or multi-unit** dwelling; or
 - iii. Within the existing space of an existing accessory structure, plus an addition beyond the physical dimensions **of the existing structure** of up to 150 square feet if the expansion is limited to accommodating ingress and egress.
 - b. **The junior accessory dwelling unit is proposed:**
 - i. **Within the space of a proposed single-unit dwelling; or**
 - ii. **Within the existing space of an existing single-unit dwelling;**
 - c. The accessory dwelling unit or junior accessory dwelling unit will have independent exterior **access** from the single-unit dwelling.
 - d. Side and rear setbacks comply with Title 9 (Fire Code) and Title 15 (Buildings and Construction) of ~~this~~ **the Municipal Code.**

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

3. Conversion of Multi-Unit Dwelling **Category**. Multiple accessory dwelling units may be permitted on lots with existing multi-unit dwellings subject to the following:
 - a. The number of accessory dwelling units shall not exceed twenty five (25) percent of the existing multi-unit dwellings on the lot. For the purpose of calculating the number of allowable accessory dwelling units, the following shall apply:
 - i. Previously approved accessory dwelling units shall not count towards the **number of** existing multi-unit dwellings;
 - ii. Fractions shall be rounded down to the next lower number of dwelling units, except that at least one (1) accessory dwelling unit shall be allowed; and
 - iii. For the purposes of this section, multi-unit developments approved and built as a single complex shall be considered one (1) lot, regardless of the number of parcels.
 - b. The portion of the existing multi-unit dwelling that is to be converted **to an accessory dwelling unit** is not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages.

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

G.F. Development Standards. Except as modified by this subsection, an accessory dwelling unit and/or junior accessory dwelling unit shall conform to all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of this Code, including but not limited to height, setback, site coverage, floor area

limit, and residential development standards and design criteria; unless the unit is contained within a legal, nonconforming structure and does not expand the nonconformity.

1. Minimum Lot Area. A minimum lot area of five thousand (5,000) squarefeet, excluding submerged land area, shall be There shall be no minimum lot area required in order to establish an accessory dwelling unit and/or junior accessory dwelling unit.
2. Setback Requirements. Accessory dwelling units and junior accessory dwelling units shall comply with the setback requirements applicable to the zoning district, except as noted below: in which they are located, except in cases where the minimum required garage setbacks differ from principal building setbacks, in which case the following applies:
 - a. No additional setback shall be required for an existing garage that is converted to an accessory dwelling unit; provided, that the side and rear setbacks comply with required building codes. For conversion of existing enclosed floor area, garage, or carport, no additional setback is required, beyond the existing provided setback.
 - b. A setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above the garage. For replacement of an existing enclosed structure, garage, or carport, no existing setback is required, beyond the existing setback provided, **unless a greater setback is needed to comply with Section 21.48.200(C)(3).** This provision shall only apply to accessory dwelling units and junior accessory dwelling units that are replacing existing structures within the same footprint and do not exceed the existing structure's size and/or height.
 - c. **Newly constructed Attached and detached** accessory dwelling units may provide a minimum setback of four (4) feet from all side property lines and rear property lines notabutting an alley.
3. Building Height. Detached accessory dwelling units shall not exceed one (1) story and a height of ~~fourteen (14)~~ sixteen (16) feet. unless the accessory dwelling unit is constructed above a garage, in which case the structure shall comply with the height limits of the underlying zoning district. Notwithstanding the foregoing, an accessory dwelling unit constructed above a detached garage shall not exceed two (2) stories and the maximum allowable height of the underlying zoning district, provided all ~~of~~ the following criteria are met:
 - a. The accessory dwelling unit meets the minimum setbacks, as required by underlying zoning district; and
 - b. The principal dwelling unit complies with parking standards

set forth in Section 21.40.040.

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

 - a. The maximum size of a detached or attached accessory dwelling unit is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for **a two (2) or more bedroom unit. at two (2) bedroom unit. No more than two (2) bedrooms are allowed.**
 - b. An attached accessory dwelling unit that is created on a lot with an existing single-unit dwelling is further limited to fifty (50) percent of the floor area of the existing dwelling.
 - c. Application of the size limitations set forth in subsections ~~21.48.200(E)(4)(a)~~ **21.48.200(F)(4)(a)** and ~~21.48.200(E)(4)(b)~~ **21.48.200(F)(4)(b)** above, shall not apply to accessory dwelling units that are converted as part of a proposed or existing space of a principal residence or existing accessory structure.
 - d. Application of Section ~~21.48.200(E)(4)(b)~~ **21.48.200(F)(4)(b)** or other development standards, such as floor area limit or site coverage, **might may** further limit the size of the accessory dwelling unit, but in no case shall the floor area limit, open space, or site coverage requirement reduce the accessory dwelling unit to less than 800 square feet **and the ADU shall not exceed a height of 16 feet measured from the finished grade as determined by the Director.**
 - e. The maximum size of a junior accessory dwelling unit shall be 500 square feet.
 - f. The minimum size of an accessory dwelling unit or junior accessory dwelling unit shall be at least that of an efficiency unit.
5. Design. An accessory dwelling unit and/or junior accessory dwelling unit shall be similar to the principal dwelling with respect to architectural style, roof pitch, color, and materials.
- ~~6. 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.~~

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

7.8. 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.

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

- a. No additional parking shall be required for junior accessory dwelling units.
- b. A maximum of one (1) parking space shall be required for an 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 converted internal to as part of a proposed principal residence or converted from existing space of principal residence or existing accessory structure;

- ii. Accessory dwelling units located within one-half mile walking distance of a public transit. For the purposes of this section “public transit” shall include a bus stop where the public may access buses that charge set fares, run on fixed routes, and are available to the public; with fixed route bus service that provides transit service at fifteen (15) minute intervals or better during peak commute periods;
 - iii. Accessory dwelling units located within an architecturally and historically significant historic district;
 - iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or
 - v. When there is a car-share vehicle located within one block of the accessory dwelling unit. For the purposes of this section, “car-share vehicle” shall mean part of an established program intended to remain stay in effect at a fixed location for at least ten (10) years and available to the public.
- e. If an accessory dwelling unit replaces an existing garage, replacement spaces shall be provided. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, any required replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

9. Waterfront Development and Flood Hazard Areas.

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

G. Utility Connection.

- 1. Connection Required. All accessory dwelling units and junior accessory dwelling units shall connect to public utilities (or their equivalent), including water, electric, and sewer services.**

2. Except as provided in subsection (G)(3) below, the City may require the installation of a new or separate utility connections between the accessory dwelling unit, junior accessory dwelling unit and the utility utilities.
3. Conversion. No separate connection between the accessory dwelling unit and the utility shall be required for units created within a single-unit or multi-unit dwelling(s), unless the accessory dwelling unit being constructed in connection with a new single-unit dwelling or multi-unit dwellings.
4. Septic Systems. If the principal dwelling unit is currently connected to an on-site wastewater treatment system and is unable to connect to a sewer system, the accessory dwelling unit or junior accessory dwelling may connect to the onsite ~~waste water-~~ wastewater treatment system. However, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last ten (10) years.

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

1. No Separate Conveyance. An accessory dwelling unit or junior accessory dwelling unit may be rented, but no accessory dwelling unit or junior accessory dwelling unit may be sold or otherwise conveyed separately from the lot and the principal dwelling (in the case of a single unit dwelling) or from the lot and all of the dwellings (in the case of a multi-unit dwelling). Sale of Units. The accessory dwelling unit shall not be sold separately from the principal dwelling.
2. Short-Term Lodging. The accessory dwelling unit and/or junior accessory dwelling unit shall not be rented for periods of less than thirty (30) days or less.
3. Owner-Occupancy.
 - a. Accessory dwelling units. A natural person with legal or equitable title to the lot must reside in either the principal dwelling unit or the accessory dwelling unit as the person's legal domicile and permanent residence. However, this owner-occupancy requirement shall not apply to any accessory dwelling unit that is permitted in accordance with this section between January 1, 2020 and January 1, 2025.
 - b. Junior accessory dwelling units. A natural person with legal or equitable title to the lot must reside in either the principal dwelling unit or the junior accessory dwelling unit as the person's legal domicile and permanent residence. However, this owner-

occupancy requirement shall not apply to any junior accessory dwelling unit owned by a governmental agency, land trust, or housing organization. Number of Units Allowed. Only one accessory dwelling unit may be located on the lot.

4. Existing Development. A single unit dwelling shall exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.
5. Occupancy. The principal dwelling unit or the accessory dwelling unit shall be continuously occupied by at least one person having an ownership interest in the lot.

E.I. Deed Restriction and Recordation Required.

1. Prior to the issuance of a building and/or grading permit for an accessory dwelling unit and/or junior accessory dwelling unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the owner occupancy requirements, prohibition on the separate conveyance, the approved size and attributes of the unit, and restrictions on short-term rentals. This deed restriction shall remain in effect so long as the accessory dwelling unit and/or junior accessory dwelling unit exists on the ~~property lot~~.
2. **For properties in flood hazard areas, deed restriction shall also include notice to future owners that the unit is located within an area that may be subject to flooding or future flooding.**
3. **For properties located in low lying shoreline areas that may be subject to future sea level rise, the property owner shall also record a waiver of future protection in compliance with Section 21.30.015(E)(5):**

J. Historic Resources. Accessory dwelling units and/or junior accessory dwelling units proposed on residential or mixed-use properties that are determined to be historic shall be approved ministerially, in conformance with California Government Code Sections 65852.2 and 65852.22. However, any accessory dwelling unit or junior accessory dwelling unit that is listed on the California Register of Historic Resources shall meet all Secretary of the Interior Standards, as applicable.

Section 21.70.020 (Definitions of Specialized Terms and Phrases)

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

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

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

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

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

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

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