

ORDINANCE NO. NS-XXX

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF SANTA ANA AMENDING ARTICLE II (USE
DISTRICTS) OF CHAPTER 41 (ZONING) OF THE SANTA
ANA MUNICIPAL CODE RELATING TO ACCESSORY
DWELLING UNITS IN COMPLIANCE WITH CHANGES TO
STATE ADU LAW ENACTED UNDER ASSEMBLY BILL 2221
AND SENATE BILL 897

WHEREAS, in Government Code section 65852.150, the California Legislature found and declared that, among other things, allowing Accessory Dwelling Units (“ADUs”) in zones that permit single-family and multifamily uses provides additional rental housing and is an essential component in addressing California’s housing needs; and

WHEREAS, the legislature has periodically revised State law governing local regulation of the development of ADUs and Junior Accessory Dwelling Units (“JADUs”), to which law charter cities like Santa Ana are subject; and

WHEREAS, in 2022, the California Legislature approved, and the Governor signed into law Assembly Bill 2221 and Senate Bill 897, both of which amended Government Code section 65852.2, the primary provision of State ADU law; and

WHEREAS, AB 2221 and SB 897 both take effect on January 1, 2023, at which time any local ordinance will become null and void if it does not conform to the changes to State ADU law enacted by AB 2221 and SB 897; and

WHEREAS, the City of Santa Ana accordingly desires to amend and update its local regulations governing the development of ADUs and JADUs to render them consistent with State ADU law; and

WHEREAS, there is a current and immediate threat to the public health, safety, or welfare if the City’s local regulations governing the developments of ADUs and JADUs were to become null and void on January 1, 2023, as that would threaten the orderly development of ADUs and JADUs and potentially work an adverse impact on existing neighborhoods, as well as negatively impact property values, personal privacy, and fire safety. These threats to public safety, health, and welfare justify adoption of this ordinance as an urgency ordinance to be effective immediately upon adoption by a two-thirds vote of the City Council; and

WHEREAS, pursuant to Santa Ana City Charter sections 415 and 417, based on the above findings, this Ordinance is declared by the City Council to be necessary as an emergency measure to protect and preserve the health, safety and welfare of the citizens of the City of Santa Ana and will become effective immediately if passed by the affirmative votes of at least two-thirds (2/3) of the members of the City Council. The City Council hereby finds that there is an urgent need to adopt these regulations in order to address the current and immediate threats set forth above.

NOW, THEREFORE, the City Council of the City of Santa Ana does ordain as follows:

Section 1. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. Section 41-194.1 (Definitions) of Article II of Chapter 41 of the Santa Ana Municipal Code is hereby amended to read as follows:

Sec. 41-194.1. - Definitions.

As used in this section, the following words, terms or phrases have the following meanings:

- (1) "Accessory dwelling unit" or "ADU" means an attached or detached residential dwelling unit that provides complete independent living facilities for one (1) or more persons and is located on a lot with a proposed or existing primary residential building. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel that the primary residential building is situated or will be situated. It shall have the same meaning as that term is defined in California Government Code section 65852.2, as amended from time to time.
- (2) "Existing accessory structure" means an accessory structure, as defined in this chapter, which was legally established and existing prior to the submittal of an ADU or JADU application.
- (3) "Existing carport" and "Existing covered parking structure" and "Existing garage" means a building or portion of a building designed or used for parking or storage of motor vehicles that was legally established and existing prior to the submittal of an ADU or JADU application.
- (4) "Junior accessory dwelling unit" or "JADU" means a unit that is no more than five hundred (500) square feet in size, contained entirely within the living area of a single-family residence, provides a cooking facility with appliances, food preparation counter and storage cabinets that are of reasonable size in relation to the unit, and has independent exterior access. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure when an interior connection to the primary unit where the sanitation facilities are located is provided.
- (5) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.
- (6) "Mixed-use" for purposes of ADU development means a development that combines residential land use with one (1) or more additional land uses where uses are physically and functionally integrated (horizontally or vertically).

- (7) "Multi-family building" for purposes of ADU development means a building, other than a hotel or motel, with two (2) or more attached dwelling units used to house two (2) or more families, living independently of each other.
- (8) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
- (9) "Single-family residence" means a residential building containing one (1) or more habitable rooms with only one (1) kitchen, designed for occupancy by one (1) independent household unit with common access to, and common use of all living, kitchen and bathroom areas.
- (10) "Tandem parking" means that two (2) or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

Section 3. Section 41-194.2 (Permitted zones and applicability) of Article II of Chapter 41 of the Santa Ana Municipal Code is hereby amended to read as follows:

Sec. 41-194.2. - Permitted zones and applicability.

- (A) ADUs and JADUs may be permitted in all zoning districts where residential or mixed-use development is permitted.
- (B) The executive director of the planning and building agency, or his/her designee, shall review and approve or deny ministerial permits for ADUs and JADUs upon determining whether the application submitted is complete, the proposed unit conforms to all requirements of this Code, and a non-refundable application review fee in the amount established by the city council, and amended from time to time, has been paid. Applications deemed incomplete or not in full conformance with the requirements of this Code will be rejected.
- (C) LotsSites developed or proposed to be developed with a single-family residence or multiple detached single-family residences shall not be permitted more than one (1) ADU.
- (D) LotsSites developed with a multi-family building may convert existing non-habitable square footage within the building to a minimum of one (1) ADU and a maximum that shall not exceed twenty-five (25) percent of the number of units on the lotsite. LotsSites developed with a multi-family building are also permitted to construct two (2) detached ADUs. Those detached ADUs may be provided through or to conversion of existing detached accessory buildings, garages, carports, or covered parking structures, new construction, or combination thereof. ~~to a maximum of two (2) ADUs.~~
- (E) A maximum of one (1) JADU shall be permitted on a lotsite developed or proposed to be developed with a single-family residence, ~~unless the subject site proposes or~~

contains an attached ADU. In such cases, a JADU shall not be permitted. For purposes of this paragraph, non-habitable spaces attached to or within the primary residence, such as an attached garage, is considered a part of the proposed or existing single-family residence and may be converted into a JADU. Lots with multiple detached single-family residences are not eligible to have a JADU.

- (F) An ADU shall only be sold or otherwise conveyed separately from the primary building on the lotsite if the primary building and the ADU were built or developed by a qualified non-profit corporation in accordance with Government Code Section 65852.26, as amended from time to time, and an affordable housing agreement is entered into by the applicant and the city.

Section 4. Section 41-194.3 (Development standards) of Article II of Chapter 41 of the Santa Ana Municipal Code is hereby amended to read as follows:

Sec. 41-194.3. - Development standards.

The development standards in Table 41-194.3 shall be applicable to all ADUs ~~accessory dwelling units~~ and JADUs ~~junior accessory dwelling units~~. Additional provisions related to ADUs ~~accessory dwelling units~~ and JADUs ~~junior accessory dwelling units~~ are referenced in the "Additional Provisions" column of the table. Such provisions may include references to other applicable code sections or limitations.

City of Santa Ana Municipal Code Table 41-194.3

Specific Regulations	ADU		JADU	Additional Provisions
	Attached	Detached		
Minimum Size	220 sq. ft.	220 sq. ft.	220 sq. ft.	
Maximum Size	1,000 sq. ft.	1,000 sq. ft.	500 sq. ft.	(A)(B)(C)(D)
Maximum Height	Same as primary building	20 16 ft.	Same as primary building	(E)
<u>Minimum Front Yard Setback</u>	<u>Same as primary building</u>	<u>Same as primary building</u>	<u>Same as primary building</u>	(F)
Minimum Side Yard Setback	4 ft.	4 ft.	Same as primary building	(G)
<u>Minimum Street Side Setback (Corner Lots)</u>	<u>4 ft.</u>	<u>4 ft.</u>	<u>Same as primary building</u>	(G)

Minimum Rear Yard Setback	4 ft.	4 ft.	Same as primary building	(GD)
Maximum Lot Coverage/Use Intensity	Same as zoning district	Same as zoning district	Same as zoning district	(HE)
Open Space	1,200 sq. ft.	1,200 sq. ft.	-	(IF)(JG)
Separation from Primary Buildings	-	15 ft.	-	(KH)
Separation from Accessory Buildings	5 ft.	5 ft.	-Same as primary building	(KH)
Minimum Parking	1 space	1 space	-	(LI)(LJ)
Tandem Parking	Permitted	Permitted	Permitted	
Design Guidelines	Apply	Apply	Apply	

- (A) Attached ADUs ~~shall not exceed~~ may be fifty (50) percent of the size of the habitable space of the primary residence dwelling on the lotsite. Attached ADUs may only exceed fifty (50) percent of the size of the habitable space of the primary dwelling to accommodate an ADU up to eight hundred (800) square feet in size. In no case shall the attached ADU not to exceed one thousand (1,000) square feet in size.
- (B) ADUs may not exceed eight hundred (800) square feet in size in cases where both an ADU and JADU are developed or proposed on a lotsite.
- (C) Existing accessory structures may be converted into an ADU and may be expanded by up to one hundred fifty (150) square feet of the existing footprint to accommodate ingress and egress only. Development standards applicable to new ADUs shall not apply to one hundred fifty (150) square foot expansions. If an expansion of an accessory structure beyond one hundred fifty (150) square feet is proposed, the ADU shall be subject to and comply with all development standards applicable to a new ADU.
- (D) The conversion of an existing accessory structure or a portion of the existing primary residence to an ADU is not subject to size requirements.

- (E) Detached ADUs shall not exceed two (2) stories or twenty (20) feet in height, as measured from the lowest adjacent grade of the structure to the highest point of the roof on the structure. The conversion of an existing accessory structure or a portion of the existing primary residence to an ADU is not subject to height requirements.
- (F) An ADU may encroach into the required front yard setback to permit an ADU up to eight hundred (800) square feet in size. The conversion of an existing accessory structure or a portion of the existing primary residence to an ADU is not subject to setback requirements.
- (GD) No minimum setback shall be required for an ADU constructed in the same location and to the same dimensions as an existing structure that encroached into a required setback that was demolished to construct the proposed unit. ~~This provision shall not apply to conversions of existing buildings.~~
- (HE) Lot coverage and use intensity maximum established in zoning district may be exceeded to permit an ADU up to eight hundred (800) square feet in size. ~~This provision shall not apply to conversions of existing buildings.~~ The conversion of an existing accessory structure or a portion of the existing primary residence to an ADU is not subject to lot coverage requirements.
- (IF) Required open space may be reduced to permit an ADU up to eight hundred (800) square feet in size. Open space requirement shall only apply to properties developed or proposed to be developed with a single-family residence. ~~This provision shall not apply to conversions of existing buildings.~~ The conversion of an existing accessory structure or a portion of the existing primary residence to an ADU is not subject to open space requirements.
- (JG) Shall be usable, continuous, non-front yard open-space, excluding driveways and parking areas. Any open space with a minimum dimension of fifteen (15) feet by fifteen (15) feet shall be deemed continuous open space.
- (KH) Separation requirement may be reduced to permit an ADU up to eight hundred (800) square feet in size. Separation shall be measured from the nearest points between the structures. ~~This provision shall not apply to conversions of existing buildings.~~ The conversion of an existing accessory structure or a portion of the existing primary residence to an ADU is not subject to separation requirements.
- (L) No parking for the ADU is required if one (1) or more of the following applies:
1. The ADU is located within one-half ($\frac{1}{2}$) mile walking distance of public transit.
 2. The ADU is located within an architecturally and historically significant historic district.
 3. The ADU is part of the proposed or existing primary residence~~dwelli~~ng or an existing accessory structure.

4. When on-street parking permits are required but not offered to the occupant of the ADU.
5. When there is a car share vehicle located within one (1) block of the ADU.
6. The ADU is constructed as a studio, without bedrooms.
7. When a permit application for an ADU is submitted with a permit application to create a new single-family residence or a new multifamily residence on the same lot, provided that the ADU or the lot satisfies any other criteria listed in items 1. through 6. above.

(M) When an existing garage, carport, or other covered parking structure is demolished in conjunction with the construction of an ~~ADU~~~~accessory dwelling unit~~, or converted to an ~~ADU~~~~accessory dwelling unit~~, replacement of those off-street parking spaces shall not be required. If an existing garage, carport, or other covered parking structure is demolished in conjunction with the construction of an ADU, the demolition permit shall be issued at the same time as the permit for the ADU.

Section 5. Section 41-194.7 (Applicability to other regulations) of Article II of Chapter 41 of the Santa Ana Municipal Code is hereby amended to read as follows:

Sec. 41-194.7. - Applicability to other regulations.

~~ADUs~~~~Accessory dwelling units~~ and ~~JADUs~~~~junior accessory dwelling units~~ must comply with any and all applicable regulations imposed in other articles of the zoning code, other city ordinances and state and federal law. Should a conflict exist between the provisions of this article and the provisions of other articles of Chapter 41 of this Code, the provisions of this article shall prevail.

Section 6. The City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the State CEQA Guidelines, which provides a statutory exemption for the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code, as further set forth in Section 21080.17 of the Public Resources Code.

Section 7. The City Council hereby declares, based on the findings set forth above, the urgency exists and that this Ordinance is necessary and appropriate to preserve the public health, safety, and welfare.

Section 8. This ordinance shall become effective immediately upon its adoption.

Section 9. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Santa Ana hereby declares that

it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 10. The Clerk of the Council shall certify the adoption of this ordinance and shall cause the same to be published as required by law.

ADOPTED this _____ day of _____, 2022.

Vicente Sarmiento
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: John M. Funk
John M. Funk
Chief Assistant City Attorney

AYES: Councilmembers _____

NOES: Councilmembers _____

ABSTAIN: Councilmembers _____

NOT PRESENT: Councilmembers _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, _____, Clerk of the Council, do hereby attest to and certify the attached Ordinance No. NS-_____ to be the original ordinance adopted by the City Council of the City of Santa Ana on _____, and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: _____

Clerk of the Council
City of Santa Ana