

REQUEST FOR Planning Commission Action



PLANNING COMMISSION MEETING DATE:

JANUARY 27, 2020

TITLE:

**PUBLIC HEARING – ZONING ORDINANCE
AMENDMENT NO. 2019-05 TO AMEND
SEVERAL SECTIONS OF CHAPTER 41
(ZONING) OF THE SANTA ANA
MUNICIPAL CODE RELATING TO
ACCESSORY DWELLING UNITS – CITY OF
SANTA ANA, APPLICANT
{STRATEGIC PLAN NO. 5, 3}**

PLANNING COMMISSION SECRETARY

APPROVED

- ☐ As Recommended
- ☐ As Amended
- ☐ Set Public Hearing For _____

DENIED

- ☐ Applicant's Request
- ☐ Staff Recommendation

Prepared by Ricardo Soto

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Executive Director

CONTINUED TO _____

A blue ink signature of the Planning Manager.

Planning Manager

RECOMMENDED ACTION

Recommend that the City Council adopt an ordinance approving Zoning Ordinance Amendment (ZOA) No. 2019-05 to amend several sections of Chapter 41 (Zoning) of the Santa Ana Municipal Code (SAMC) relating to accessory dwelling units.

Executive Summary

On January 1, 2020, new state regulations supplanted the existing Accessory Dwelling Unit Ordinance, which was adopted on April 3, 2018. Amendments to Chapter 41 (Zoning) of the SAMC to establish a local ordinance that is consistent with state housing law for regulating development of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) is necessary.

Project Background

Effective January 1, 2020, multiple housing bills relating to ADUs, also known as second dwelling units or granny flats, and JADUs, a smaller accessory unit that is contained within the floor plan of a single-family residence, became law. The bills include Assembly Bill (AB) 68, AB 587, AB 670, AB 881 and Senate Bill (SB) 13. Collectively, the bills made changes to development standards that can be imposed by local agencies, the number of units that can be constructed on a site, set limits on parking standards and clarified language related to parking exemptions, and created a streamlined review process which limits review times to a maximum of 60 cumulative days. In addition, the new law also includes language stating that local ordinances that are not in complete compliance with the new changes are superseded by state law. Specifically, with respect to ADUs, Subsection (a)(4) of Government Code 65852.2 states, "if a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void..." As such, Santa Ana's local ADU ordinance became null and void January 1 of

Table 1: Proposed Amendments			
Item	Existing	New State Law	Proposed
			<ul style="list-style-type: none"> Permits existing buildings being converted or replaced by ADUs to maintain existing setbacks.
On-site Open Space	Required a minimum of 1,200 square feet of usable, non-front yard open space.	May require the provision of open space on the lot, but shall in no way preclude the development of at least an 800 square foot ADU.	<p><u>Proposed:</u> Section 41-194.3</p> <p>Require a minimum of 1,200 square feet of usable, non-front yard open space.</p> <p><u>Results:</u></p> <ul style="list-style-type: none"> Requires a total of 1,200 square feet of usable, non-front yard open space with a minimum dimension of 15 feet by 15 feet. Permits the reduction of open space provision to permit at least an 800 square foot ADU.
On-site Parking	Required one parking space per ADU, unless ADU was designed as a studio unit or qualified for one of the five parking exemptions in state law. Parking spaces lost to garage/carport conversions required to be replaced on the site.	May require up to one parking space per ADU or per bedroom, whichever is less. Parking spaces lost to garage/carport conversions shall not be required to be replaced. No parking shall be required for JADUs, or ADUs that meet one of the five parking exemptions established by state law.	<p><u>Proposed:</u> Section 41-194.3</p> <p>Require one off-street parking space per ADU.</p> <p><u>Results:</u></p> <ul style="list-style-type: none"> One off-street parking space shall be provided per ADU, unless exempt pursuant to state law. Replacement of spaces lost to garage/carport conversions not required. JADUs are not required to provide any on-site parking per state law.

Number of Units Allowed

As is required by state law, each property developed or proposed to be developed with a single-family residence will be permitted to construct both an ADU and a JADU. This could result, potentially, in a single-family property with up to three units.

Moreover, properties developed with multi-family residences are permitted to convert existing non-habitable space, including carports and garages, into ADUs in the amount up to 25 percent the number of existing units on the site. For example, a multi-family residence with 20 units may convert existing non-habitable space up to a total of five ADUs. In addition to converting existing non-habitable space, two new detached ADUs may also be constructed subject to compliance with applicable development standards. The proposed ordinance will reflect these changes to state law.

this year, leaving staff to implement state ADU standards as set forth in the Government Code since that time.

The attached ordinance has been created in order to preserve the limited remaining authority the City has to regulate ADUs and JADUs as a result of these new state laws. If the City does not adopt a local ordinance, it is required to continue reviewing and processing applications for ADUs and JADUs pursuant to the minimum standards set forth in the Government Code, or it could be subject to litigation.

Planning Commission Study Session and Previous Outreach

On December 9, 2019, staff held a work-study session with the Planning Commission to review state legislation pertaining to ADUs and JADUs that took effect January 1, 2020, and the limitations on local agencies to regulate their construction. In addition, staff provided an overview of the community outreach effort undertaken in 2017 and 2018 that included a project meeting open to the public, presentations at ComLink, a meeting with the ComLink Board, meetings with housing advocacy groups, study sessions with the Planning Commission Zoning and General Plan Subcommittee, as well as the complete Planning Commission, and several presentations to City Council. That effort resulted in the creation of an ADU ordinance that reflected the community's values and delivered additional housing options to residents. Lastly, staff informed the Planning Commission of its intent of maintaining as many of the standards developed as a result of that process in the proposed ADU ordinance and only amending those sections in conflict with new state law. At that time, the Planning Commission did not make any recommendations.

Project Description and Analysis

Multiple changes to state ADU law have prompted staff to revisit Santa Ana's local ADU ordinance. To ensure compliance with the newest state ADU and JADU laws and to establish an ordinance that is responsive to local conditions and community concerns, staff is proposing to amend several sections of Chapter 41 (Zoning) of the SAMC. These amendments are described and analyzed in Table 1: Summary of Amendments, below.

Table 1: Summary of Amendments

Table 1: Proposed Amendments			
<i>Item</i>	<i>Existing</i>	<i>New State Law</i>	<i>Proposed</i>
Zoning Districts Where Permitted	Permitted in all residential zoning districts and in the Professional (P) zoning district where properties are developed with a single-family residence.	Permitted in all residential or mixed-use zoning districts.	Section 41-194.2 Permit ADUs and/or JADUs in all residential and mixed-use zoning districts. <u>Results:</u> <ul style="list-style-type: none"> Permits ADUs and JADUs in all residential and mixed-use zoning districts.

Table 1: Proposed Amendments

Item	Existing	New State Law	Proposed
Number of Units Allowed	One ADU permitted per lot developed with a single-family residence.	Permit one ADU and one JADU per lot developed with a single-family residence. Permit the conversion of existing non-habitable space into ADUs on properties developed with a multi-family residence at a rate up to 25 percent the number of units at the site. Permit the construction of two detached ADUs on properties developed with multi-family residences.	<p><u>Proposed:</u> Section 41-194.2</p> <p>Permit ADUs and/or JADUs on properties that are developed with single-family and multi-family residences at a rate that complies with state law.</p> <p><u>Results:</u></p> <ul style="list-style-type: none"> • Permits the construction of one ADU or one JADU, or both, on properties developed with a single-family residence. • Permits the conversion of existing non-habitable space into ADUs on properties developed with a multi-family residence at a rate up to 25 percent the number of units at the site (e.g., a multi-family residence with 20 units may convert existing non-habitable space into a maximum of five ADUs). • Permits the construction of two detached ADUs on properties developed with a multi-family residence.
Size of Units	ADUs permitted up to 750 square feet in size or 50 percent the size of the primary dwelling unit on the lot, whichever is less. Shall not provide more than one bedroom.	Permit at minimum 850 square foot ADUs that provide one bedroom or less, and permit at minimum 1,000 square foot ADUs that provide more than one bedroom. May permit ADUs up to 1,200 square feet in size.	<p><u>Proposed:</u> Section 41-194.3</p> <p>Permit ADUs up to 1,000 square feet in size, and shall not exceed 50 percent the size of primary dwelling if attached.</p> <p><u>Results:</u></p> <ul style="list-style-type: none"> • Permits ADUs with more than one bedroom. • Maintains maximum size below upper limit set in state law as a response to local conditions and smaller lot sizes.
Setbacks	Detached ADUs required to provide a 10 foot rear yard setback and a five foot side yard setback. Attached ADUs required to provide the same setbacks as the primary dwelling on the lot, which are prescribed by the underlying zoning district.	ADUs shall not be required to provide more than four foot side and rear yard setbacks. Existing buildings being converted or replaced by ADUs may maintain existing setback.	<p><u>Proposed:</u> Section 41-194.3</p> <p>Permit ADUs with a minimum of four foot side and rear yard setbacks. Permit existing buildings being converted or replaced by ADUs to maintain existing setbacks.</p> <p><u>Results:</u></p> <ul style="list-style-type: none"> • Permits ADUs to be constructed four feet from side and rear yard property lines.

Size of Units

Santa Ana's prior ordinance limited ADUs to a minimum of 220 square feet and a maximum of 750 square feet in size; units could not exceed 50 percent the size of the primary residence, and a maximum of one bedroom. The size and bedroom limitations were established as a response to community concerns related to overcrowding, the scale of ADUs in comparison to smaller homes that are found in the city, and exacerbation of on-street parking issues that many neighborhoods are experiencing if multiple bedrooms were permitted. New state law allows local agencies to permit ADUs up to 1,200 square feet in size. However, it also allows cities to establish maximums below that threshold as long as maximums are not set below 1,000 square feet for ADUs that provided two or more bedrooms and 850 square feet for ADUs that provide one bedroom or less.

To establish a uniform maximum that complies with state law and is in keeping with the feedback received when the prior ordinance was established, the proposed ordinance will limit ADUs to a maximum 1,000 square feet for detached units and 1,000 square feet or 50 percent the size of the primary residence for attached units, regardless of number of bedrooms. Staff believes that setting two maximums will create confusion and is unnecessary as there is no incentive for a property owner to provide less bedrooms and limit the potential size of their unit. Thus, setting one maximum will result in a uniform product. The limitation on ADU size will not affect development standards that apply to the primary residence on the site.

On-site Open Space

Currently open space in Santa Ana is provided at a rate below the two acres per 1,000 residents goal established in the Open Space, Parks, and Recreation Element in the City's General Plan. With the city being built out and land prices that make construction of new parks prohibitive, requiring open space on private property is critical to provide residents recreational opportunities, gathering spaces, and outdoor amenities.

The proposed ordinance maintains the 1,200 square feet of non-front yard open space requirement on single-family residential properties that was part of the prior ordinance to ensure residents are provided with outdoor amenities. However, state law, while allowing for these types of development standards to be imposed, states that they cannot prohibit the construction of an ADU of at least 800 square feet in size. For those properties that cannot meet this requirement, they will be permitted to reduce the amount of open space provided on the site in the amount necessary to create at least an 800 square foot ADU.

On-site Parking

The proposed ordinance will require the most amount of parking per ADU that is allowed pursuant state law, which is one parking space per unit, unless the unit meets one of the five exemptions established by the state.

The prior ADU ordinance required that a property that did not conform to the parking requirement for the primary unit, which is two covered and two non-covered spaces for a single-family residence, be brought into conformance prior to or concurrent with the establishment of an ADU. State law now prohibits local agencies from using non-conformities of the primary residence from

precluding the construction of an ADU or from requiring that the non-conformities be brought into conformance before approval of an ADU. As such, the proposed ordinance does not require parking non-conformities of the primary residence to be resolved, but will only require that the parking minimum established for the ADU be provided on the site.

Additionally, the City's prior ordinance required that any parking spaces lost through a garage or carport conversion be replaced in any configuration on the property. The ability to require replacement of those spaces has also been prohibited by the state. Effective January 1, garage or carport parking spaces that are lost to a conversion do not have to be replaced, and local agencies shall not require that they be replaced. The proposed ordinance reflects these changes to state law as they relate to the construction of ADUs and JADUs but does not affect development standards that apply to non-conforming properties found in Chapter 41 of the SAMC.

Appeals Process

The proposed ordinance grants the Executive Director of the Planning and Building Agency, or his/her designee, ADU and JADU application review authority. Should an applicant wish to appeal the Executive Director's determination or requests to vary from the development standards in the ordinance, an application for a minor exception will be required and heard by the Zoning Administrator pursuant to Article V of Chapter 41. The decision of the Zoning Administrator shall be final unless appealed to the planning commission pursuant to Section 41-645 of the SAMC.

Limitations and State Oversight

State ADU law prohibits the adoption of a local ordinance that imposes a minimum lot size, has bedroom number maximums, requires owner-occupancy (owner-occupancy requirement permitted for JADUs), or that requires replacement of garage or carport parking spaces that are lost to conversions. State law also prohibits the adoption of development standards that would otherwise preclude the development of an 800 square foot ADU, including separation requirements, lot coverage maximums, and open space minimums. In addition, a local ordinance must permit ADUs on multi-family residential properties, non-conforming sites, and must include provisions for the establishment of JADUs on properties developed with single-family residences. State law also prohibits local agencies from imposing any impact fees for ADUs that are less than 750 square feet in size. Larger units shall be charged proportionately in relation to the square footage of the primary dwelling unit. Lastly, state law sets strict time limits for review of ADU and JADU applications (maximum of 60 days from date of application submittal). If the local agency fails to act within the allotted time, the application shall be deemed approved.

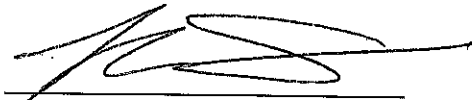
To ensure compliance with state law, the California Department of Housing and Community Development (HCD) has been granted oversight authority over local ADU ordinances. HCD is now responsible for reviewing local ordinances within 60 days of adoption to ensure compliance with state law. Additionally, HCD may refer local agencies to the Attorney General for further action if a local agency's ordinance conflicts with state law and said agency fails to amend its ordinance in response to the department's findings or does not adopt a resolution addressing HCD's comments and explaining the reason the ordinance complies with state ADU law.

Table 2: CEQA, Strategic Plan Alignment and Public Notification & Community Outreach

CEQA	
CEQA Type	Exempt per Section 15282(h)
Reason(s) Exempt or Analysis	In accordance with the California Environmental Quality Act (CEQA), the recommended action is exempt from CEQA per Section 15282(h). This exemption applies to the adoption of an ordinance regarding accessory dwelling units by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Records Code, therefore, the activity is not subject to CEQA.
Strategic Plan Alignment	
Goal(s) and Policy(s)	Approval of this item supports the City's efforts to meet Goal No. 5 - Community Health, Livability, Engagement & Sustainability, Objective No. 3 (facilitate diverse housing opportunities and support efforts to preserve and improve the livability of Santa Ana neighborhoods).
Public Notification & Community Outreach	
Required Measures	The proposed amendments are citywide, and the project site is not located within the boundaries of one single neighborhood association. However, a notice was published in the Orange County Register. At the time of this printing, no correspondence, by phone, written, or electronic, has been received from any members of the public.

Conclusion

Based on the analysis provided within this report, staff recommends that the Planning Commission recommend that the City Council approve Zoning Ordinance Amendment No. 2019-05.



Ricardo Soto, AICP
 Associate Planner

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Exhibits: 1. Draft Accessory Dwelling Unit Ordinance

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EXHIBIT 1

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ORDINANCE NO. NS-XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SANTA ANA APPROVING AN AMENDMENT TO
PROVISIONS OF CHAPTER 41 OF THE SANTA ANA
MUNICIPAL CODE RELATING TO ACCESSORY
DWELLING UNITS

THE CITY COUNCIL OF THE CITY OF SANTA ANA DOES ORDAIN AS
FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds, determines
and declares as follows:

A. The Santa Ana Municipal Code (SAMC) requires updates periodically in
order to gain compliance with new state or federal legislation.

B. The City's current accessory dwelling unit ordinance, NS-2940, was
adopted on April 3, 2018.

C. NS-2940 established in 2018, has been superseded by changes made to
state accessory dwelling unit laws (Assembly Bill 68, Assembly Bill 587, Assembly Bill
670, Assembly Bill 881, and Senate Bill 13) that took effect January 1, 2020, and is no
longer enforceable. These statutes impose new limitations on local authority to regulate
accessory dwelling units (ADU) and junior accessory dwelling units (JADU).

D. The proposed changes to the ADU and JADU development standards are
proposed to comply with the new state legislation to allow greater flexibility in allowing
these units.

E. The proposed amendments would change the ADU ordinance to be in full
compliance with state law by repealing the City's 2018 ADU ordinance, incorporating
new state provisions, and introducing new tailored ADU and JADU regulations that
recognize and protect the diversity of Santa Ana neighborhoods.

F. The City desires to amend its local regulatory program for the construction
of ADUs and JADUs that fully complies with sections 65852.2 and 65852.22 of the
Government Code, and finds that the proposed ordinance promotes the public health,
safety and welfare of the community.

G. The Planning Commission held a duly noticed public hearing on January 27, 2020 regarding this ordinance and recommended that the City Council adopt the amended ordinance.

H. The City Council has held a duly noticed public hearing on this ordinance on March 3, 2020, and has considered all testimony presented thereto.

Section 2. Pursuant to the California Environmental Quality Act (“CEQA”) and the State CEQA Guidelines, the adoption of this ordinance is exempt from CEQA review pursuant to 14 California Code of Regulations section 15282(h), and a Notice of Exemption will be filed upon adoption of this ordinance.

Section 3: Section 41-11.1 of the Santa Ana Municipal Code is hereby amended to read as follows:

An accessory dwelling unit is an attached or a detached residential dwelling unit which 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 as the single-family that the primary residential building dwelling is situated or will be situated on. It shall have the same meaning as that term is defined in California Government Code section 65852.2, as amended from time to time.

Section 4: Sections 41-194 through Section 41-194.14 of the Santa Ana Municipal Code are hereby deleted and replaced with the new Sections 41-194 through Section 41-194.6 to read as follows:

Sec. 41-194. - Accessory Dwelling Units - Purpose.

The purpose of this section is to establish regulations for the development of accessory dwelling units and junior accessory dwelling units as defined in this section and in California Government Code sections 65852.2 and 65852.22, or any successor statute.

Sec. 41-194.1. - Definitions.

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

- (1) “Accessory dwelling unit” and “ADU” means an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is 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 May 4, 2018.
- (3) "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 May 4, 2018.
- (4) "Junior accessory dwelling unit" and "JADU" means a unit that is no more than 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.
- (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" means a development that combines residential and commercial uses.
- (7) "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.
- (8) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

Sec. 41-194.2. – Permitted Zones and Applicability.

Table 41-194.2 shall be used to determine the Zoning Districts in which accessory dwelling units and junior accessory dwelling units are permitted — "P". If a Zoning District is not listed in Table 41-194.2 in this section, then the use is expressly not permitted. Additional provisions related to accessory dwelling units and 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.

<u>City of Santa Ana Municipal Code Table 41-194.2</u>							<u>P = Permitted by Right</u>		
	<u>R1</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>RE</u>	<u>A1</u>	<u>SP</u>	<u>SD</u>	<u>Additional Provisions</u>
<u>Accessory Dwelling Unit/Junior Accessory</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>(A)(B)(C)(D)(E)</u>

Dwelling Unit									
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- (A) ADUs and JADUs may be permitted in specific plan (SP) areas and specific development (SD) 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) Sites developed or proposed to be developed with a single-family residence shall not be permitted more than one (1) ADU. Sites developed with a multi-family residence may convert existing non-habitable building square footage 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 site. Sites developed with a multi-family residence are permitted two (2) new construction, detached ADUs.
- (D) A maximum of one (1) JADU shall be permitted on a site 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. The primary dwelling unit or the JADU shall be continuously occupied by at least one person having an ownership interest in the lot.
- (E) An ADU shall only be sold or otherwise conveyed separately from the primary dwelling on the site if the ADU was 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.

Sec. 41-194.3. – Development Standards

The development standards in Table 41-194.3 shall be applicable to all accessory dwelling units and junior accessory dwelling units. Additional provisions related to accessory dwelling units and 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				
<u>Specific Regulations</u>	<u>ADU</u>		<u>JADU</u>	<u>Additional Provisions</u>
	<u>Attached</u>	<u>Detached</u>		
<u>Minimum Size</u>	<u>220 sq. ft.</u>	<u>220 sq. ft.</u>	<u>220 sq. ft.</u>	
<u>Maximum Size</u>	<u>1,000 sq. ft.</u>	<u>1,000 sq. ft.</u>	<u>500 sq. ft.</u>	<u>(A)(B)(C)</u>
<u>Maximum Height</u>	<u>Same as primary building</u>	<u>16 ft.</u>	<u>Same as primary building</u>	
<u>Minimum Side Yard Setback</u>	<u>4 ft.</u>	<u>4 ft.</u>	<u>Same as primary building</u>	<u>(D)</u>
<u>Minimum Rear Yard Setback</u>	<u>4 ft.</u>	<u>4 ft.</u>	<u>Same as primary building</u>	<u>(D)</u>
<u>Maximum Lot Coverage/Use Intensity</u>	<u>Same as zoning district</u>	<u>Same as zoning district</u>	<u>Same as zoning district</u>	<u>(E)</u>
<u>Open Space</u>	<u>1,200 sq. ft.</u>	<u>1,200 sq. ft.</u>	<u>=</u>	<u>(F)(G)</u>
<u>Separation from Primary Buildings</u>	<u>=</u>	<u>15 ft.</u>	<u>=</u>	<u>(H)</u>
<u>Separation from Accessory Buildings</u>	<u>5 ft.</u>	<u>5 ft.</u>	<u>=</u>	<u>(H)</u>
<u>Minimum Parking</u>	<u>1 space</u>	<u>1 space</u>	<u>=</u>	<u>(I)(J)</u>
<u>Tandem Parking</u>	<u>Permitted</u>	<u>Permitted</u>	<u>Permitted</u>	
<u>Design Guidelines</u>	<u>Apply</u>	<u>Apply</u>	<u>Apply</u>	
<u>Passageway</u>	<u>=</u>	<u>=</u>	<u>=</u>	

(A) Attached ADUs may be fifty (50) percent of the size of the habitable space of the primary dwelling on the site, not to exceed 1,000 square feet in size.

(B) ADUs may not exceed 800 square feet in size in cases where both an ADU and JADU are developed or proposed on a site.

(C) Existing accessory structures may be converted into an ADU and may be expanded by up to 150 square feet of the existing footprint to accommodate ingress and egress only.

- (D) 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.
- (E) 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.
- (F) Required open space may be reduced to permit an ADU up to eight hundred (800) square feet in size.
- (G) 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.
- (H) 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.
- (I) No parking for the ADU is required if one or more of the following applies:
1. The ADU is located within one-half (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 existing primary dwelling 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.
- (J) When an existing garage is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, replacement of those off-street parking spaces shall not be required.

Sec. 41-194.4. – Historic Properties.

ADUs and JADUs shall conform to the United States Secretary of Interior's Official Standards for the Treatment of Historic Properties. If the proposed ADU or JADU is

placed or constructed so as to result in a modification to or impact upon the existing historic resource on the parcel, a certificate of appropriateness shall be issued by the Historic Resources Commission upon the finding that the proposed unit conforms to the United States Secretary of Interior's Official Standards for the Treatment of Historic Properties and does not substantially change the character and integrity of the historic property.

Sec. 41-194.5 Restrictive Covenant.

Prior to issuance of a building permit for a JADU, a covenant consenting that either the primary dwelling unit or the JADU be owner-occupied shall be recorded against the title of the property in the County Recorder's office and a copy filed with the Planning Division. Said covenant shall run with the land, and shall bind all future owners, heirs, successors, or assigns. The form of the deed restriction shall be provided by the City and shall provide that:

1. The JADU shall not be sold separately from the primary dwelling.
2. The unit is restricted to the approved size and attributes of this chapter.
3. The covenant restrictions run with the land and may be enforced against future purchasers.
4. The covenant restrictions may be removed if the owner eliminates the JADU.
5. The covenant restriction shall be enforced by the Director of Planning and Building or his or her designee for the benefit of the City of Santa Ana. Failure of the property owner to comply with the covenant restrictions may result in legal action against the property owner and the City shall be authorized to obtain any remedy available to it at law or equity, including but not limited to obtaining an injunction enjoining use of the JADU in violation of the recorded restrictions or abatement of the illegal unit.

Sec. 41-194.6. – Appeals of Executive Director decision.

Any person wanting to appeal the determination of the Executive Director of the Planning and Building Agency, or his/her designee, to disapprove plans and drawings submitted pursuant to section 41-194, et seq., or to the standards of section 41-194, et seq., may file an application for a minor exception pursuant to Article V of this chapter.

Sec. 41-194.7 – Applicability to other regulations.

Accessory dwelling units and 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.

~~Sec. 41-194.~~ **~~Purpose.~~** ~~The purpose of this section is to provide reasonable regulations for the development of accessory dwelling units on residentially-zoned properties on lots developed or proposed to be developed with single-family residential dwellings. Such regulations are intended to mitigate potential impacts to neighborhoods and comply with the goals and policies of the City's General Plan and comply with requirements codified in the state Planning and Zoning Law related to accessory dwelling units in residential areas, including California Government Code section 65852.2.~~

~~Sec. 41-194.1~~ **~~Definitions.~~** ~~As used in this section, the following words, terms or phrases have the following meanings:~~

- ~~(1) "Attached accessory dwelling unit" means a residential dwelling unit that is attached to or located within the living area of an existing primary dwelling unit and that provides independent living, sleeping, eating, a single kitchen for cooking, and sanitation facilities for one or more persons. An attached accessory dwelling unit also includes an efficiency unit, as defined in California Health and Safety Code section 17958.1.~~
- ~~(2) "Detached accessory dwelling unit" means a residential dwelling unit that is detached from the primary dwelling unit and that provides independent living, sleeping, eating, a single kitchen for cooking, and sanitation facilities for one or more persons. A detached accessory dwelling unit also includes an efficiency unit, as defined in California Health and Safety Code section 17958.1, and a manufactured home, as defined in section 18007.~~
- ~~(3) "Existing accessory structure" means an accessory structure, as defined in this chapter, which was legally established and existing prior to adoption of this ordinance.~~
- ~~(4) "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 adoption of this ordinance.~~
- ~~(5) "Living area" is defined as the interior habitable area of a dwelling unit, but not including a garage or any accessory structure.~~
- ~~(6) "Primary dwelling" means an existing single-family residential structure on a single parcel with provisions for living, sleeping, eating, a single kitchen for cooking, and sanitation facilities occupied and intended for one household.~~

~~Sec. 41-194.2~~ — ~~Applicability.~~

- ~~(1) — The development and design standards in this section shall be applicable to all accessory dwelling units.~~
- ~~(2) — The Director of the Planning and Building Agency, or his/her designee, shall review and approve, or deny ministerial permits for accessory dwelling units conforming to the time limits specified by Government Code Section 65852.2 or successor provision.~~

~~Sec. 41-194.3~~ — ~~Permitted Zones.~~

- ~~(1) — Accessory dwelling units are permitted in all zoning districts or on a parcel within any Specific Plan in which residential uses are permitted; or,~~
- ~~(2) — In the Professional (P) zoning district where there is only one legally established single-family residence, the exclusive use of the property is residential, and the continuance of the residential use is not barred by Section 41-683. In such cases, the site shall comply with the development standards in the R1 zoning district.~~

~~Sec. 41-194.4~~ — ~~Use Restrictions.~~

- ~~(1) — An accessory dwelling unit may be developed on a parcel that either:
 - ~~1. — Contains only one legally established single-family residence; or~~
 - ~~2. — Will have only one new detached single-family residence permitted concurrently with the accessory dwelling unit.~~~~
- ~~(2) — Only one accessory dwelling unit may be located on the lot.~~
- ~~(3) — The accessory dwelling unit shall not be sold separately from the primary dwelling.~~
- ~~(4) — The accessory dwelling unit shall not be rented for periods of less than thirty (30) days.~~
- ~~(5) — The primary dwelling unit or the accessory dwelling unit shall be continuously occupied by at least one person having an ownership interest in the lot.~~

~~Sec. 41- 194.5~~ — ~~General Development Standards.~~ ~~Accessory dwelling units shall comply with the following development standards, unless the accessory dwelling unit is described in subsection 41-194.8:~~

- (1) ~~**Minimum Lot Area.** A minimum lot area of six thousand (6,000) square feet shall be required in order to establish an accessory dwelling unit.~~
- (2) ~~**Maximum Size.** The maximum size of an accessory dwelling unit living area shall not exceed seven hundred fifty (750) square feet or fifty (50%) percent of the size of the living area of the primary dwelling unit on the parcel, whichever is less, and contain no more than one (1) bedroom.~~
- (3) ~~**Minimum Size.** The accessory dwelling unit shall contain no less than the 220 square feet in living area the City requires for an efficiency dwelling unit which is defined in Section 17958.1 of the Health & Safety Code.~~
- (4) ~~**Lot Coverage.** The lot coverage for the parcel, as that term is defined in this chapter, shall not exceed the percentage specified in the underlying zoning district.~~
- (5) ~~**Design.** The design of the accessory dwelling unit shall preserve the privacy of adjacent uses and be architecturally compatible to the design of the primary dwelling by use of similar materials and textures, window types, roofing materials and roof pitch, and shall comply with the adopted Citywide Design Guidelines.~~
- (6) ~~**Historic Properties.** If an accessory dwelling unit is to be constructed on a parcel identified on the federal, state or local list of historic resources, the accessory dwelling unit shall conform to the United States Secretary of Interior's official Standards for the Treatment of Historic Properties. If the proposed accessory dwelling unit is placed or constructed so as to result in a modification of the existing historic resource on the parcel, a certificate of appropriateness shall be issued by the Historic Resources Commission upon the finding that the proposed accessory dwelling unit conforms to the United States Secretary of Interior's official Standards for the Treatment of Historic Properties and does not substantially change the character and integrity of the historic property.~~
- (7) ~~**Open Space.** A minimum of one thousand two hundred (1,200) square feet of usable, continuous, non-front yard open space, excluding driveways and parking areas, shall be provided. Any open space with a minimum dimension of fifteen (15) feet by fifteen (15) feet shall be deemed continuous open space.~~
- (8) ~~**Passageway.** No passageway shall be required in conjunction with the construction of an accessory dwelling unit. For the purpose of this section, "passageway" shall mean a pathway that is unobstructed~~

~~clear to the sky and extends from a street to one entrance of the accessory dwelling unit.~~

Sec. 41-194.6 — Development Standards — Detached Accessory Dwelling Units. ~~Detached accessory dwelling units shall comply with all provisions in Sec. 41-194.5, in addition to the following:~~

- ~~(1) — **Setbacks.** The accessory dwelling unit shall comply with the front and side yard setback standards prescribed in the zoning district, and shall have a rear yard setback of not less than ten (10) feet.~~
- ~~(2) — **Maximum Height.** A detached accessory dwelling unit shall not exceed fifteen (15) feet in height, as measured from the lowest adjacent grade of the structure to the top of the structure.~~
- ~~(3) — **Separation.** There shall be a minimum of fifteen (15) feet separation between the primary dwelling unit and a detached accessory dwelling unit and a minimum of five (5) feet between a detached accessory dwelling unit and an accessory building. Separation shall be measured from the exterior wall of the primary dwelling unit or attached structure to the nearest wall of the accessory dwelling unit or attached structure.~~
- ~~(4) — **Site Planning.** A detached accessory dwelling unit shall be located behind the rear building line of the primary dwelling, and be clearly subordinate by location and size.~~

Sec. 41-194.7 — Development Standards — Attached Accessory Dwelling Units. ~~Attached accessory dwelling units shall comply with all provision in Sec. 41-194.5, in addition to the following:~~

- ~~(1) — **Setbacks.** The accessory dwelling unit shall comply with the setback standards for primary dwellings prescribed in the zoning district.~~
- ~~(2) — **Maximum Height.** The height of an attached accessory dwelling unit shall not exceed the height limit applied to a primary dwelling unit in the underlying zoning district.~~
- ~~(3) — **Exterior Stairs.** An attached accessory dwelling unit shall have no exterior stairs.~~
- ~~(4) — **Entrances.** No attached accessory dwelling unit shall have an outside door on the primary elevation of the primary dwelling unit or an outside door that is visible from the street.~~

Sec. 41-194.8 — Development Standards — Conversion of an Existing Structure. ~~An existing primary dwelling unit, existing accessory structure, or existing garage, or portion thereof, converted to an accessory dwelling unit is not subject to the~~

development standards of subsections 41-194.5 through 41-194.7 provided that the unit complies with all of the following requirements:

- (1) ~~**Conversion of an existing structure.** Is contained within a single-family dwelling, accessory structure or garage that was legally established prior to the adoption of this ordinance;~~
- (2) ~~**Maximum Size.** Is a maximum of seven hundred fifty (750) square feet of living area in size or fifty (50%) percent of the size of the living area of the primary dwelling unit on the parcel, whichever is less;~~
- (3) ~~**Minimum Size.** Is no less than the minimum 220 square feet in living area the City requires for an efficiency dwelling unit which is defined in Section 17958.1 of the Health & Safety Code;~~
- (4) ~~**Setbacks:** The side and rear setbacks of the accessory dwelling unit comply with building code provisions related to life and fire safety.~~
- (5) ~~**Independent Access.** Has independent exterior access from the existing residence, which shall not be located on the primary elevation of the primary dwelling;~~
- (6) ~~**Independent Living Facilities.** Has independent living, sleeping, eating, a single kitchen for cooking, and sanitation facilities for one or more persons; and,~~
- (7) ~~**Passageway.** No passageway shall be required in conjunction with the construction of an accessory dwelling unit. For the purpose of this section, "passageway" shall mean a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.~~

Sec. 41-194.9 ~~**Parking.** All accessory dwelling units must meet the following parking standards in addition to the required off-street parking for the primary dwelling on the site.~~

- (1) ~~One (1) parking space shall be provided for all accessory dwelling units regardless of number of bedrooms, unless the accessory dwelling unit is constructed as a studio without bedrooms, in which case no parking is required.~~
- (2) ~~When an existing garage is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, replacement garage spaces for the primary dwelling unit shall not be required.~~

Sec. 41-194.10 ~~**Parking Exceptions.** No off-street parking shall be required for an accessory dwelling unit in any of the following circumstances:~~

- ~~(1) The accessory dwelling unit is located within one-half mile of public transit. For the purposes of this section "public transit" shall mean a bus stop with fixed route express bus service that provides transit service at 15-minute intervals or better during peak commute periods.~~
- ~~(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.~~
- ~~(3) The accessory dwelling unit is part of the existing primary dwelling or an existing accessory structure.~~
- ~~(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.~~
- ~~(5) 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 10 years and available to the public.~~

~~Sec. 41-194.11 Non-conforming Properties.~~

- ~~(1) Legal nonconformities of the existing primary dwelling, except for legal nonconformities related to the parking standards of this chapter, shall be allowed to remain provided nonconformities are not expanded or any new nonconformities are created.~~
- ~~(2) A lot shall comply with the current parking standards of this chapter prior to or concurrent with the establishment of an accessory dwelling unit.~~

~~Sec. 41-194.12 Restrictive Covenant.~~ ~~Prior to issuance of a building permit for an accessory dwelling unit, a covenant consenting that either the primary dwelling unit or the accessory dwelling unit shall be owner-occupied shall be recorded against the title of the property in the County Recorder's office and a copy filed with the Planning Division. Said covenant shall run with the land, and shall bind all future owners, heirs, successors, or assigns. The form of the deed restriction shall be provided by the City and shall provide that:~~

- ~~(1) The accessory dwelling unit shall not be sold separately from the primary dwelling.~~
- ~~(2) The unit is restricted to the approval size and attributes of this chapter.~~
- ~~(3) The covenant restrictions run with the land and may be enforced against future purchasers.~~
- ~~(4) The covenant restrictions may be removed if the owner eliminates the accessory dwelling unit.~~

- (5) ~~The covenant restriction shall be enforced by the Director of Planning and Building or his or her designee for the benefit of the City of Santa Ana. Failure of the property owner to comply with the covenant restrictions may result in legal action against the property owner and the City shall be authorized to obtain any remedy available to it at law or equity, including but not limited to obtaining injunction enjoining use of the accessory dwelling unit in violation of the recorded restrictions or abatement of the illegal unit.~~

~~**Sec. 41-194.13 Appeals of planning manager or zoning administrator decision.** Any person aggrieved by a determination of the planning manager to disapprove plans and drawings submitted pursuant to section 41-194, et seq., may file an application for a minor exception which shall be heard by the zoning administrator pursuant to Article V of this chapter. Such application may include a request to vary from the standards of section 41-194, et seq. The decision of the zoning administrator on such application may be appealed to the planning commission pursuant to said Article V.~~

~~**Sec. 41-194.14 Applicability to other regulations.** The provisions of this article are not intended to provide exclusive regulation of accessory dwelling units. Such uses 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 5. Section 41-239 of the Santa Ana Municipal Code is hereby amended to read as follows:

Sec. 41-239. - Development standards in the R1 district.

Lots in the R1 district shall comply with the following standards:

- (a) Front and street oriented side yards shall be landscaped with the exception of approved driveways and sidewalks.
- (b) Side yards shall be completely landscaped, except a walkway or driveway may encroach into required side yard.
- (c) Driveways shall lead to a garage and not exceed the width of such garage or fifty (50) percent of the lot width at the street, whichever is less. There shall be no parking of vehicles in the front yard except in such driveways. This subsection shall not apply to driveways that are widened in accordance with Section 41-194 of this code.
- (d) Garages facing the street shall occupy no more than fifty (50) percent of the lot width.

- (e) Porte-cocheres shall be architecturally integrated with the structure and may encroach up to the side property line located on a driveway that leads to the garage. A two-car garage must be provided prior to approval of a porte-cochere.
 - (1) A porte-cochere shall not exceed twenty-five (25) feet in length.
 - (2) Porte-cocheres shall comply with the setbacks established for the building it is attached to, except that the side yard setback may be reduced to three (3) feet. On corner lots the side yard setback on the street side shall be no less than ten (10) feet.
- (f) Accessory buildings shall not exceed thirty-five (35) percent of the required rear yard area. This subsection shall not apply to accessory dwelling units.
- (g) An accessory building shall be not less than five (5) feet from a main building.
- (h) Maximum square footage of accessory building shall not exceed fifty (50) percent of the main structure square footage. Required detached garages may exceed fifty (50) percent of the main structure square footage, but shall not exceed four hundred forty (440) square feet for a two-car garage, six hundred forty (640) square feet for a required three-car garage and eight hundred forty (840) square feet for a required four-car garage.

Section 6. Section 41-681.3 of the Santa Ana Municipal Code is hereby amended to read as follows:

Sec. 41-681.3. - Rehabilitation of multiple-family dwellings.

Rehabilitation of a nonconforming building which is a multiple-family dwelling, including structural alteration and/or enlargement, is permitted subject to the following limitations:

- (1) There shall be no enlargement which would intrude into any required yard.
- (2) There shall be no enlargement which would result in a new nonconformity with the requirements of this chapter.
- (3) There shall be no increase in the number or size of bedrooms unless the site on which the building is located will be in conformance with the off-street parking requirements of this chapter.

(4) For the purpose of this section, the limitations listed in subsections (1), (2), and (3) shall not apply to accessory dwelling units as defined and regulated in Section 41-194 of this Chapter. Existing non-conformities on a property, otherwise eligible, shall not disqualify it from building an accessory dwelling unit(s).

Section 7. 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.

ADOPTED this _____ day of _____, 2020.

Miguel A. Pulido
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho
City Attorney

By: _____
Lisa Storck
Assistant City Attorney

AYES: Councilmembers _____

NOES: Councilmembers _____

ABSTAIN: Councilmembers _____

NOT PRESENT: Councilmembers _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, DAISY GOMEZ, Clerk of the Council, do hereby attest to and certify that the attached Ordinance No. NS-XXXX to be the original ordinance adopted by the City Council of the City of Santa Ana on _____, 2020, 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

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