



City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Staff Report
December 6, 2022

TOPIC: Urgency Ordinance to Amend Article II (Use Districts) of Chapter 41 (Zoning) of the Santa Ana Municipal Code in Compliance with Changes to State Law Pertaining to Accessory Dwelling Units.

AGENDA TITLE:

Zoning Ordinance Amendment No. 2022-06 – 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 (ADUs) in Compliance with Changes to State ADU Law Enacted Under Assembly Bill 2221 and Senate Bill 897 That Will Take Effect on January 1, 2023

RECOMMENDED ACTION

Approve Zoning Ordinance Amendment No 2022-06 and adopt the Urgency Ordinance by two-thirds (2/3) vote to amend Article II (Use Districts) of Chapter 41(Zoning) of the Santa Ana Municipal Code related to accessory dwelling units.

EXECUTIVE SUMMARY

On September 28, 2022, Governor Newsom signed new housing laws including Assembly Bill (AB) 2221 and Senate Bill (SB) 897, amending state accessory dwelling unit (ADU) law. Both bills will become effective January 1, 2023, at which time the entirety of any local ordinance that does not conform to enacted changes will become null and void. The proposed urgency ordinance will amend several sections of the zoning code to make Santa Ana's local ordinance consistent with changes to state ADU law. If the ordinance amendments are not adopted by two-thirds (2/3) vote and effective prior to January 1, 2023, the entirety of Santa Ana's ADU ordinance will be null and void and applications for ADUs and Junior Accessory Dwelling Units (JADUs) will be subject to only the minimum development standards included in Government Code section 65852.2 et seq. Specifically, staff proposes amendments to SAMC Sections 41-194.1 (Definitions), 41-194.2 (Permitted zones and applicability), 41-194.3 (Development standards), and 41-194.7 (Applicability to other regulations).

DISCUSSION

ADUs are seen as a critical component in addressing the statewide housing shortage. As such, the California Legislature has enacted bills making changes to state ADU law in nearly every legislative session since 2016. Collectively, the bills have made changes to development and design standards that can be imposed by local agencies, made changes to the number of units that can be constructed on a property, set limits on parking standards and included parking exemptions, required streamlined review processes, and

prescribed that local ordinances that are not in complete compliance with state ADU law are null, void, and superseded by state law.

AB 2221 and SB 897 are the latest bills enacted by the legislature and signed by the Governor that will make changes to state ADU law. Together, the bills will allow taller units, encroachment into the front yard setback to accommodate an ADU of at least 800 square feet in size, clarify that non-habitable space attached to a single-family residence, such as an attached garage, can be converted into a JADU, require an interior entry between a primary residences and a JADU when sanitation facilities are shared, and include a series of amendments to application review procedures. Both bills will take effect on January 1, 2023, and will make Santa Ana’s local ordinance null and void if conflicts are not amended and in effect before then.

To ensure Santa Ana’s local ordinance remains consistent with state law and thereby enforceable, several sections of Article II (Use Districts) of Chapter 41 (Zoning) relating to ADUs and JADUs are impacted and must be amended. Table 1 below and on the following pages provides a summary of the major changes necessary to make Santa Ana’s local ADU ordinance consistent with state law. If adopted by the necessary two-thirds (2/3) vote, the proposed changes would become effective immediately citywide.

Table 1: ZOA No. 2022-06 Current and Proposed Text Regulations

Item	Existing Zoning Code Regulations	State Law	Proposed Zoning Code Regulations
Interior Entry	Sec. 41-194.1(4) allows JADUs to share sanitation facilities with primary dwelling.	If a permitted JADU does not include a separate bathroom, an interior entry to the primary dwelling shall be provided.	Update Sec. 41-194.1(4) to explicitly require an interior connection between a JADU and the primary unit when sanitation facilities will be shared.
Multiple Single-family Residences on a Single Lot	Sec. 41-194.2(C) permits ADUs on lots developed or proposed to be developed with a single-family residence. However, the existing ordinance does not clearly express how many ADUs are permitted on lots with multiple detached single-family residences.	Permits one ADU on lots developed or proposed to be developed with multiple detached single-family residences.	Update Sec. 41-194.2(C) to expressly state that only one ADU is permitted on lots developed or proposed to be developed with a single-family residence or multiple detached single-family residences.
Multi-family Buildings	Sec. 41-194.2(D) permits conversion of non-habitable square footage within a multi-family building at a rate up to 25 percent the number of units on the lot. Additionally, the section	Permits conversion of non-habitable square footage within a multi-family building at rate up to 25 percent the number of units on the lot. Additionally, permits two detached ADUs.	Make clarifying edits to Sec. 41-194.2(D) to explicitly state that the two permitted detached ADUs can be provided through new construction or conversion of existing detached accessory buildings, or combination thereof.

	permits two detached units, or conversion of existing accessory buildings to a total of two ADUs.		
Non-habitable Space	Sec. 41-194.2(E) permits the development of a JADU on lots developed with a single-family residence. Sec. 41-194.1(4) defines a JADU as being contained entirely within the living area of a single-family residence.	<ol style="list-style-type: none"> 1. Specifies that non-habitable space within the primary dwelling structure, such as an attached garage, are considered part of the proposed or existing single-family residence for purposes of JADU construction. 2. JADUs are limited to one per residential lot with a single-family residence. Lots with multiple detached single-family residences are not eligible to have JADUs. 	<ol style="list-style-type: none"> 1. Amend Sec. 41-194.2(E) to expressly state that attached non-habitable space, such as an attached garage, can be converted into a JADU. 2. Amend Sec. 41-194.2(E) to prohibit JADUs on lots developed with multiple detached single-family residences.
Maximum Size – Attached	Local ADU ordinance limits size of attached ADUs to 50 percent of the size of the primary residence, not to exceed 1,000 square feet in size.	Allows local ordinances to utilize a percentage to establish maximum unit size for attached ADUs. However, percentage threshold may be exceeded to permit at least an 800 square foot unit.	Amend Sec. 41-194.3 (A) to expressly permit exceeding the 50 percent size limit for attached ADUs to allow a unit of at least 800 square feet in size, but in no case shall the attached unit exceed 1,000 square feet in size.
150 Sq. Ft. Expansions	Existing ADU ordinance permits expansions of existing accessory buildings being converted into an ADU by up to 150 square feet. However, it does not clarify if new square footage must comply with development standards applicable to new ADUs, or what standards apply in cases where an expansion greater than 150 square feet is proposed.	<ol style="list-style-type: none"> 1. Prohibits application of local development standards when an existing structure is expanded up to 150 square feet in size. 2. Allows local agencies to apply development standards applicable to new ADUs when an existing accessory building is proposed to be expanded beyond 150 square feet in size. 	<ol style="list-style-type: none"> 1. Amend Sec. 41-194.3(C) to state that development standards applicable to new ADUs will not apply when existing accessory structures are expanded by up to 150 square feet in size. 2. Amend Sec. 41-194.3(C) to state that development standards for new ADUs will apply when an existing accessory building is proposed to be expanded beyond 150 square feet in size.
Maximum Height	Existing ADU ordinance applies maximum height	1. ADUs within half-mile of transit shall	1. Add Sec. 41-194.3(E) to permit detached ADUs up

	for primary residence to attached ADUs—27 feet in height in R1 and R2 zoning districts. However, limits detached ADUs to 16 feet in height.	be permitted up to 18 feet in height, and up to 20 feet if necessary to match roof pitch of primary residence. 2. Attached ADUs shall be permitted up to 25 feet in height or as high as primary residence, whichever is lower.	to two stories or 20 feet in height. 2. The existing ADU ordinance permits attached ADUs up to the same maximum height as the primary residence. No change is needed.
Front Yard Setback	Existing ADU ordinance is silent on front yard setback requirement, as it defers to the underlying zoning district front yard setback requirement	Local ordinance may impose front yard setback requirement, but ADUs may encroach into that setback if an ADU of at least 800 square feet cannot be accommodated elsewhere on the lot.	Add Sec. 41-194.3(F) to allow encroachment into the required front yard setback in the amount necessary to permit an ADU up to 800 square feet in size.
Parking Exemptions	Existing ADU ordinance provides six parking exemptions for ADUs. Exemptions include: 1) The ADU is located within one-half (½) 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 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; 6) The ADU is constructed as a studio, without bedrooms.	Enumerates an additional parking exemption. States that previous six parking exemptions also apply to ADUs being proposed as part of a new single-family or a new multifamily residence on the same lot.	Amend Sec. 41-194.3(L) to include new parking exemption.

JADU – Interior Entry

In instances where a JADU shares a sanitation facility with the primary residence, new state law requires the JADU to have an interior entry to the primary residence's main living area, independent of the exterior entrance of the JADU and primary residence. While not expressly stated in the SAMC, the City has been requiring an interior entry or connection between the primary residence and JADU when a sanitation facility is shared as part of the plan review process. Section 41-194.1(4) will be amended to explicitly require an interior connection between a JADU and the primary unit when sanitation facilities will be shared. The proposed amendment will make the local ordinance consistent with changes to state law, but will not result in substantive changes in the review process or the types of products that have been or will be permitted in the City.

Multiple Single-family Residences

For the purposes of ADU law, building types on properties are categorized as either single-family or multi-family. Single-family is defined as a building containing one or more habitable rooms with only one kitchen, designed for occupancy by one independent household unit. Multi-family is defined as a building, other than a hotel or motel, with two or more attached dwelling units used to house two or more families, living independently of each other. Consistent with the definitions of single-family and multi-family, and with state ADU law, it is necessary to expressly clarify and state in Section 41-194.2(C) that only one ADU is permitted on lots developed with multiple detached single-family residences.

Multi-family Buildings

The ordinance would amend Section 41-194.2(D) to clarify that two detached ADUs are permitted on sites developed with a multi-family building and that they can be new construction, conversion of existing detached accessory buildings, or any combination thereof. While including two methods by which to permit ADUs on sites developed with a multi-family building was optional, such as through conversion of existing non-habitable space within the building or through construction of two detached units, changes to state law require local agencies to now permit both, meaning allowances for ADU construction on properties with multi-family buildings will be in line with state law.

JADU – Non-habitable Space

The amendments include updates to Section 41-194.2(E) to specify that non-habitable spaces attached to within the primary residence, including attached garages, are considered part of the proposed or existing single-family residence, consistent with practice and new state law. Additionally, the ordinance includes text clarifying that lots developed with multiple detached single-family dwellings are not eligible to have a JADU, consistent with state law.

Maximum Size – Attached ADU

Santa Ana's existing local ordinance limits attached ADUs to 50 percent the size of the primary residence, not to exceed 1,000 square feet in size. The local ordinance can continue to utilize a percentage of the primary dwelling as a maximum unit size for

attached ADUs, but only if it does not restrict the ability to construct an ADU of at least 800 square feet in size. Consistent with state law, it is necessary to amend Section 41-194.3 (A) to expressly permit exceeding the 50 percent size limit for attached ADUs to allow a unit of at least 800 square feet in size.

Maximum Height

New state law will require that local agencies permit taller ADUs under certain circumstances. For example, detached ADUs located within one half-mile of a major transit stop or high quality transit corridor may be up to 18 feet in height and up to 20 feet if necessary to match the roof pitch of the ADU to that of the main house. Since Santa Ana is a transit-rich community, nearly the entire city is located within half-mile of transit. Additionally, Santa Ana's Citywide Design Guidelines, which apply to ADUs, require that the roof pitch match that of the primary residence. Taken together, nearly all detached ADUs would qualify to be built up to a maximum of 20 feet in height. Consistent with state law, revising the standard to two stories or 20 feet maximum in height will simplify application of the standard and streamline review of such proposals. No change is needed to attached ADU height limit as it complies with new state law.

Front Yard Setback

New state law continues to allow local agencies to impose a front yard setback; however, it must yield to the extent necessary to enable the construction of an ADU that is at least 800 square feet in size. The previous state law included similar "must yield" provisions for other development standards such as lot coverage, separation criteria, and open-space requirements. To maintain consistency with state law, the ordinance would allow encroachment into the required front yard setback in the amount necessary to permit an ADU up to 800 square feet in size.

Parking Exemption

Santa Ana's existing ordinance provides six parking exemptions that are all required by state law. Those parking exemptions are: 1) The ADU is located within one-half (½) 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 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; and 6) The ADU is constructed as a studio, without bedrooms. New state law will add one additional parking exemption to explicitly state that the existing parking exemptions also apply in situations 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. The ordinance would include the new exemption in accordance with state law.

ENVIRONMENTAL IMPACT

Pursuant to the California Environmental Quality Act ("CEQA") and the CEQA Guidelines, the adoption of this Ordinance is exempt from CEQA review pursuant to Section 15282(h) 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 set forth in Section 21080.17 of the Public Resources Code. As a result, Environmental Review No. 2022-108 will be filed upon adoption of this ordinance.

FISCAL IMPACT

There is no direct fiscal impact associated with this action.

EXHIBIT(S)

1. Ordinance for ZOA No. 2022-06
2. Copy of Public Notice

Submitted By: Minh Thai, Executive Director of Planning and Building Agency

Approved By: Kristine Ridge, City Manager