



Planning Commission Agenda Report

Meeting Date: January 9, 2025

Department: Community Development

INITIATED BY: City Attorney

SUBMITTED BY: Amy Stonich, AICP, Assistant Director of Community Development

REVIEWED BY: Gayle Ackerman, AICP, Director of Community Development

SUBJECT: CONSIDERATION OF AN ORDINANCE AMENDING SECTION 9.146.050 OF CHAPTER 9.146 OF TITLE 9 OF THE LAKE FOREST MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

EXECUTIVE SUMMARY:

The proposed ordinance will amend Section 9.146.050 of the Lake Forest Municipal Code to comply with recent changes to state law that impose new limits on local authority to regulate Accessory Dwelling Units (“ADUs”) and Junior Accessory Dwelling Units (“JADUs”).

RECOMMENDED ACTION(S):

1. Recommend that the City Council find that adoption of the proposed ordinance is statutorily exempt from review under the California Environmental Quality Act (“CEQA”) under Public Resources Code section 21080.17.
2. Adopt a resolution entitled: “A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LAKE FOREST RECOMMENDING THAT THE CITY COUNCIL ADOPT ZONING CODE AMENDMENT 12-24-5760, AN ORDINANCE AMENDING SECTION 9.146.050 OF CHAPTER 9.146 OF TITLE 9 OF THE LAKE FOREST MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS TO COMPLY WITH RECENT CHANGES IN STATE LAW AND FINDING THE ACTION TO BE STATUTORILY EXEMPT FROM CEQA UNDER PUBLIC RESOURCES CODE § 21080.17.”

BACKGROUND:

In recent years, the California Legislature has approved, and the Governor has signed into law, a number of bills that impose new limits on local authority to regulate ADUs and JADUs. Specifically, two new bills, AB 2533 and SB 1211, which take effect on January 1, 2025, further amend state ADU law as summarized below.

PROJECT DESCRIPTION:

Over the past several years, cities have adopted local ADU ordinances that comply with state law but also include additional regulations tailored to local needs. In Lake Forest, these regulations cover aspects like requiring separate utility connection, permits for specific types of ADUs, and height and setback requirements. Without these local regulations, the approval of ADUs and JADUs would be based solely on default statutory standards.

In accordance with state law, AB 2533 and SB 1211 take effect January 1, 2025. If the City's ADU ordinance does not comply with the requirements of both bills by that date, the City's entire existing ADU ordinance becomes null and void as a matter of law, and the City will have to allow ADUs subject only to state ADU law. On January 7, 2025, the City Council adopted an urgency ordinance to amend the City's local regulatory scheme for ADUs and JADUs to reflect changes in state law.

The urgency ordinance was recommended because any local ordinance not conforming to AB 2533 and SB 1211 would be rendered null and void on January 1, 2025. At that point, any ADU applications filed with the City would be subject only to state ADU requirements. To maintain local control, the City Council implemented an urgency ordinance with the necessary ADU updates while the non-urgency ordinance progressed from the Planning Commission to the City Council.

To ensure local control, staff recommended, and the City Council adopted, an urgency ordinance with the necessary ADU updates while this non-urgency ordinance progressed from the Planning Commission to the City Council. This non-urgency ordinance makes the same changes to the City's ADU ordinance. A redline of the ordinance amendments is provided as Exhibit "A-1" (Attachment 1 Exhibit A-1).

AB 2533 – Unpermitted ADUs and JADUs

Existing state law generally prohibits cities from denying permits to legalize unpermitted ADUs constructed before January 1, 2018, based on non-compliance with building, state, or local ADU standards. An exception allows denial if a written

finding states that correcting the violation is necessary to protect public or occupant health and safety.

AB 2533 introduces the following changes:

1. Expands the prohibition to include JADUs.
2. Moves the construction cutoff date from January 1, 2018, to January 1, 2020.
3. Replaces the exception with a requirement that local agencies find that correcting the violation is necessary to comply with Health and Safety Code section 17920.3 (Substandard Buildings).

AB 2533 aims to assist property owners with unpermitted ADUs or garage conversions built before January 1, 2020. The new law mandates that local building departments permit these units as long as they meet health and safety codes.

SB 1211 – Replacement Parking Requirements and Multifamily ADUs

Replacement Parking - Existing state law prohibits the City from requiring off-street parking spaces to be replaced when a garage, carport or covered parking structure is demolished in conjunction with the construction of, or conversion to, an ADU.

SB 1211 amends this prohibition to now also prohibit a city from requiring replacement parking when an uncovered parking space is demolished for, or replaced with, an ADU.

Multifamily ADUs - SB 1211 further defines livable space in connection with converted ADUs inside a multifamily dwelling structure. Existing state law requires the City to ministerially approve qualifying building-permit applications for ADUs within “portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages” The term “livable space” is not defined by existing state ADU law. SB 1211 changes this by adding a new definition: “‘Livable space’ means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.”

SB 1211 also increases the number of detached ADUs that lots with an existing multifamily dwelling can have. Existing state law allows a lot with an existing or proposed multifamily dwelling to have up to two detached ADUs. Under SB 1211, a lot with an existing multifamily dwelling can have up to eight detached ADUs, or as many detached ADUs as there are primary dwelling units on the lot, whichever is less. SB 1211 does not alter the number of ADUs that a lot with a proposed multifamily dwelling can have — the limit remains at two.

Proposed Ordinance Revisions

Proposed revisions include the following:

Purpose and Effect: Revises reference of California Government Code “Sections 65852.2 and 65852.22” and adds “Chapter 13 of Division 1 of Title 7”.

Definitions: Adds a definition for "Livable space" as a space intended for human habitation.

Approvals: Revises Government Code Sections from 65852.22 to Sections 66333 through 66339

General Requirements:

- Adds clarification that JADUs can be created on lots zoned for single-family use with a single-family residence built, or proposed to be built, on the lot.
- Revises Owner Occupancy to allow JADUs (permitted after January 1, 2025) subject to owner-occupancy requirements, with exceptions for properties owned by governmental agencies, land trusts, or housing organizations.
- Removes reference to ADUs for the Deed Restriction. Requires a deed restriction to be recorded and ensures JADUs cannot be sold separately from the primary dwelling.

Specific ADU Requirements for Parking: Adds “uncovered parking space” to the “no replacement” requirement for off-street parking spaces if demolished or converted to an ADU.

Nonconforming Conditions and Unpermitted Structures:

- Updates the “constructed before” date for enforcement of unpermitted ADUs and JADUs from 2018 to 2020. The City may not deny a permit to legalize existing but unpermitted ADUs or JADUs constructed before January 1, 2020, unless necessary to protect health and safety.

These amendments aim to streamline the approval process for ADUs and JADUs, clarify zoning and occupancy requirements, and ensure compliance with state laws.

Next Steps

Following a Planning Commission recommendation, the City Council would consider the ordinance on February 4, 2025, for first reading and on February 18,

2025, for second reading. The ordinance would be in effect 30 days following second reading.

ANALYSIS:

Compliance with General Plan:

***Goal 1:** Adequate housing to meet the existing and future needs of Lake Forest residents.*

***Policy 1.1:** Allow for the development of a variety of housing opportunities (ownership and rental) in Lake Forest including low-density single-family homes, moderate-density townhomes, higher-density apartments and multi-family projects, mixed-use development, accessory dwelling units, and mobile homes to fulfill regional housing needs.*

The proposed ordinance aligns with Goal 1 and Policy 1.1 of the General Plan by facilitating the development of a diverse range of housing types. This includes provisions for ADUs and JADUs, which are essential in meeting the regional housing needs. By updating the ADU ordinance, the City ensures that it remains compliant with state laws while maintaining local control over housing development.

ENVIRONMENTAL REVIEW:

Under California Public Resources Code section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county implementing the provisions of Article 2 of Chapter 13 of Division 1 of Title 7 of the California Government Code, which is California's ADU law and which also regulates JADUs, as defined by section 66313. Therefore, the adoption of the proposed urgency ordinance is statutorily exempt from CEQA in that it implements state ADU law

PUBLIC NOTICING:

In accordance with the requirements of Section 9.184.040(C)(2) of the Municipal Code of the City of Lake Forest, this project has been noticed in a newspaper of general circulation on December 26, 2024. In addition, on December 26, 2024, public notices were posted at City Hall.

ATTACHMENTS:

1. Planning Commission Resolution
2. Draft ADU Ordinance
3. Exhibit A.1 - Redline Code Amendments