

ATTACHMENT 1

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA AMENDING SECTION 9.146.050 OF THE LAKE FOREST MUNICIPAL CODE GOVERNING ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND FINDING THE ACTION TO BE EXEMPT FROM CEQA

WHEREAS, the City of Lake Forest, California (“City”) is a municipal corporation, duly organized under the California Constitution and laws of the State of California; and

WHEREAS, the Planning and Zoning Law authorizes local agencies to act by ordinance to provide for the creation and regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”); and

WHEREAS, in 2019, the California Legislature approved, and the Governor signed into law a number of bills (“2019 ADU Laws”) that, among other things, amended Government Code sections 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, on July 21, 2020, the City Council adopted Ordinance No. 336, which updated the City’s ADU and JADU regulations (contained in Lake Forest Municipal Code section 9.146.050) to comply with the 2019 ADU Laws; and

WHEREAS, in September 2020, the California Legislature approved, and the Governor signed into law, Assembly Bill 3182 (“AB 3182”); and

WHEREAS, AB 3182, among other things, amended Government Code section 65852.2 to expand the scenarios under which the City must allow certain ADUs and JADUs with only a building permit; and

WHEREAS, on January 19, 2021, the City Council adopted Ordinance No. 343, which updated the City’s ADU and JADU regulations to comply with AB 3182; and

WHEREAS, in September 2021, the California Legislature approved, and the Governor signed into law, Assembly Bill 345 (“AB 345”); and

WHEREAS, AB 345 requires cities to allow the separate sale or conveyance of certain ADUs that satisfy the conditions set forth in Government Code section 65852.26. Such conditions include, among other things, that the ADU or the primary dwelling was constructed by a qualified nonprofit and the ADU is sold to a qualified low-income buyer; and

WHEREAS, the California Department of Housing and Community Development (“HCD”) recently issued guidance with respect to local implementation of the 2019 ADU Laws, AB 3182, and AB 345; and

WHEREAS, this Ordinance updates the City's ADU and JADU regulations to comply AB 345, align with HCD's guidance, and further increase clarity for the benefit of staff and the general public; and

WHEREAS, on May 26, 2022, the City gave public notice of a Planning Commission public hearing to be held to consider this Ordinance by advertisement in a newspaper of general circulation; and

WHEREAS, on June 9, 2022, the Planning Commission held a duly-noticed public hearing to consider the staff report, recommendations by staff, and public testimony concerning this Ordinance. Following the public hearing, the Planning Commission voted to forward the Ordinance to the City Council with a recommendation in favor of its adoption; and

WHEREAS, on August 4, 2022 the City gave public notice of a City Council public hearing to be held to consider this Ordinance by advertisement in a newspaper of general circulation; and

WHEREAS, on August 16, 2022, the City Council held a duly-noticed public hearing to consider the Ordinance, including: (1) the public testimony and agenda reports prepared in connection with the Ordinance, (2) the policy considerations discussed therein, and (3) the consideration and recommendation by the City's Planning Commission; and

WHEREAS, all legal prerequisites to the adoption of the Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE FOREST DOES HEREBY ORDAIN AS FOLLOWS:

The foregoing Recitals are true and correct and are incorporated herein by this reference.

CEQA. Under California Public Resources Code section 21080.17, the California Environmental Quality Act ("CEQA") does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is California's ADU law and which also regulates JADUs, as defined by section 65852.22. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State's ADU law.

General Plan. This Ordinance is, as a matter of law, consistent with the City's General Plan pursuant to Government Code Section 65852.2(a)(1)(C).

Code Amendments. Section 9.146.050 of the Lake Forest Municipal Code is hereby amended to read as set forth in Exhibit "A," attached hereto and incorporated herein.

Effective Date. This Ordinance takes effect 30 days following its adoption.

Submittal to HCD. The City Clerk shall submit a copy of this Ordinance to the Department of Housing and Community Development within 60 days after adoption.

Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 100 Civic Center Drive, Lake Forest, CA 92630. The custodian of these records is the City Clerk.

Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council hereby declares that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Certification. The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the City of Lake Forest, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with California Government Code section 36933.

PASSED, APPROVED, AND ADOPTED by the City Council of Lake Forest, California, on the _____ day of _____ 2022.

ROBERT PEQUEÑO, MAYOR

ATTEST:

LISA BERGLUND, MPA
CITY CLERK

APPROVED AS TO FORM:

MATTHEW E. RICHARDSON
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF LAKE FOREST)

I, Lisa Berglund, City Clerk of the City of Lake Forest, do hereby certify that the foregoing Ordinance No. _____ was duly introduced and placed upon its first reading at a regular meeting of the City Council on the ____ day of _____, 2022, and thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____ 2022, by the following vote, to wit:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

LISA BERGLUND, MPA
CITY CLERK

EXHIBIT "A" TO ORDINANCE NO. _____

Amended Lake Forest Municipal Code Section 9.146.050

- A. Purpose. The purpose of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with California Government Code Sections 65852.2 and 65852.22.
- B. Effect of Conforming. An ADU or JADU that conforms to the standards in this section will not be:
1. Deemed to be inconsistent with the City's general plan and zoning designation for the lot on which the ADU or JADU is located.
 2. Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
 3. Considered in the application of any local ordinance, policy, or program to limit residential growth.
 4. Required to correct a nonconforming zoning condition, as defined in subsection (C)(9) below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.12.
- C. Definitions. As used in this section, terms are defined as follows:
1. "Accessory dwelling unit" or "ADU" means an attached or a 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. An accessory dwelling unit also includes the following:
 - a. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and
 - b. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.
 2. "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
 3. "Complete independent living facilities" means 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.

4. “Director” means the Director of Community Development.
5. “Efficiency kitchen” means a kitchen that includes all of the following:
 - a. A cooking facility with appliances.
 - b. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.
6. “Junior accessory dwelling unit” or “JADU” means a residential unit that:
 - a. Is no more than 500 square feet in size,
 - b. Is contained entirely within an existing or proposed single-family structure,
 - c. Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and
 - d. Includes an efficiency kitchen, as defined in subsection (C.5) of this section.
7. “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.
8. “Multifamily dwelling” means any structure with two or more attached dwellings on a single lot (e.g., apartments, attached townhomes, row houses).
9. “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.
10. “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
11. “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
12. “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.

13. “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.

D. Approvals. The following approvals apply to ADUs and JADUs under this section:

1. Building-Permit Only. If an ADU or JADU complies with each of the general requirements in subsection (E) below (“General ADU and JADU Requirements”), it is allowed with only a building permit in the following scenarios:
 - a. Converted on Single-Family Lot. One ADU (as described in this subsection (D)(1)(a)) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
 - i. Is either: within the space of a proposed single-family dwelling; or within the existing space of an existing single-family dwelling; or within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress.
 - ii. Has exterior access that is independent of that for the single-family dwelling.
 - iii. Has side- and rear-yard setbacks sufficient for safety, as dictated by applicable building and fire codes.
 - iv. The JADU complies with all the requirements of Government Code Section 65852.22.
 - b. Limited Detached on Single-Family Lot: One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (D)(1)(a) of this section), if the detached ADU complies with the following limitations:
 - i. The side- and rear-yard setbacks are at least four 4 feet.
 - ii. The total floor area is 800 square feet or smaller.
 - iii. The overall height above grade is 16 feet or less.

- c. **Converted on Multifamily Lot:** One or more 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, if each converted ADU complies with state building standards for dwellings. Under this subsection (D)(1)(c), at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.
- d. **Limited Detached on Multifamily Lot:** No more than two detached ADUs on a lot that has an existing multifamily dwelling, if each detached ADU satisfies the following limitations:
 - i. The side- and rear-yard setbacks are at least four feet.
 - ii. The peak height above grade is 16 feet or less.

2. **ADU Permit—Required and Fee.**

- a. Except as allowed under subsection (D)(1) of this section (“Building-Permit Only”), no ADU may be created without a building permit and an ADU permit in compliance with the standards set forth in subsections (E) (“General ADU and JADU Requirements”) and (F) (“Specific ADU Requirements”) below.
- b. The City may charge a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the City’s ADU ordinance. The ADU-permit processing fee is determined by the Director and approved by the City Council by resolution.

3. **Process and Timing.**

- a. An ADU permit is considered and approved ministerially, without discretionary review or a hearing.
- b. The City must act on an application to create an ADU or JADU within 60 days from the date that the City receives a completed application. If the City does not act upon the completed application within 60 days, the application is deemed approved unless either:

- i. The applicant requests a delay in writing, in which case the 60 day time period is tolled for the period of the requested delay; or
 - ii. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the permit application for the ADU or JADU until the City acts on the permit application to create the new single-family dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.
- E. General ADU and JADU Requirements. The following requirements apply to all ADUs and JADUs that are approved under subsections (D)(1) ("Building-Permit Only") or (D)(2) of this section:
 - 1. Zoning.
 - a. An ADU or JADU subject only to a building permit under subsection (D)(1) above may be created on a lot in a residential or mixed-use zone.
 - b. An ADU or JADU subject to an ADU permit under subsection (D)(2) above may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.
 - 2. Fire Sprinklers. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
 - 3. Rental Term. No ADU or JADU may be rented for a term that is shorter than 30 days.
 - 4. No Separate Conveyance. An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section 65852.26, no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot).
 - 5. Septic System. If the ADU or JADU will connect to an onsite wastewater treatment system, the owner must include with the application (as required by subsections (D)(1)("Building-Permit Only") or (D)(2) above) a percolation test completed within the previous five years or, if the percolation test has been recertified, within the last 10 years.

6. Owner Occupancy.
 - a. All ADUs permitted before January 1, 2020 are subject to the owner-occupancy requirement that was in place when the ADU was created.
 - b. An ADU that is permitted after January 1, 2020 but before January 1, 2025, is not subject to any owner-occupancy requirement.
 - c. All ADUs that are permitted on or after January 1, 2025 are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.
 - d. All JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.
7. Deed Restriction. Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Director. The deed restriction must run with the land and bind all current and future owners. The form of the deed restriction will be provided by the City and must provide that:
 - a. Except as otherwise provided in Government Code Section 65852.26, the ADU or JADU may not be sold separately from the primary dwelling.
 - b. The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
 - c. The deed restriction runs with the land and may be enforced against all current and future property owners.
 - d. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities with a demolition permit. To remove the deed restriction, an owner may make a written request of the

Director, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.

- e. The deed restriction is enforceable by the Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.

- 8. Building & Safety. All ADUs and JADUs must comply with all local building code requirements.

F. Specific ADU Requirements. The following requirements apply only to ADUs that require an ADU permit under subsection (D)(2) of this section.

1. Maximum Size.

- a. The maximum size of a detached or attached ADU subject to this subsection (F) is 850 square feet for a studio or one bedroom unit and 1,000 square feet for a unit with two or more bedrooms.
- b. An attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling. Notwithstanding the foregoing, no application of the percent-based size limitation may require the ADU to be less than 800 square feet.

2. Setbacks.

- a. An ADU subject to this subsection (F) must conform to a 25 foot front-yard setback.

- b. An ADU that is subject to this subsection (F) must conform to four foot side and rear-yard setbacks.
 - c. No setback is required for an ADU that is subject to this subsection (F) if the ADU is constructed in the same location and to the same dimensions as an existing structure.
- 3. Height.
 - a. A single-story attached or detached ADU may not exceed 16 feet in height above grade, measured to the peak of the structure.
 - b. A second story or two-story attached ADU may not exceed 35 feet in height.
 - c. A detached ADU may not exceed one story.
- 4. Passageway. No passageway, as defined by subsection (C)(10) ("Passageway") of this section, is required for an ADU.
- 5. Parking.
 - a. Generally. One off-street parking space is required for each ADU. The parking space may be provided in setback areas or as tandem parking, as defined by subsection (C)(13) of this section.
 - b. Exceptions. No parking under subsection (F)(5)(a) ("Parking") is required in the following situations:
 - i. The ADU is located within one-half mile walking distance of public transit, as defined in subsection (C)(12) of this section.
 - ii. The ADU is located within an architecturally and historically significant historic district.
 - iii. The ADU is part of the proposed or existing primary residence or an accessory structure (under subsection (D)(1)(a)("Converted on a Single-Family Lot")).
 - iv. When on-street parking permits are required but not offered to the occupant of the ADU.

- v. When there is an established car share vehicle stop located within one block of the ADU.
 - c. No Replacement. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.
 - d. The ADU and primary dwelling must use the same driveway to access the street.
 - e. Each unclosed parking space shall be at least nine feet wide and 18 feet long.
 - f. Each parking space that is provided in an enclosed garage shall be at least 10 feet wide and 20 feet long and have at least 7 ½ feet vertical clearance.
6. Architectural Requirements.
- a. The ADU must have an independent exterior entrance, apart from that of the primary dwelling.
 - b. The interior horizontal dimensions of an ADU must be at least 10 feet wide in every direction.
7. Notice of Construction.
- a. At least 10 business days before starting any construction of a second unit, the property owner shall give written notice to all the owners of record of each of the adjacent residential parcels, which notice shall include the following information:
 - i. Notice that construction has been authorized;
 - ii. The anticipated start and end dates for construction;
 - iii. The hours of construction;
 - iv. Contact information for the project manager (for construction-related complaints); and
 - v. Contact information for the City Building Division.
 - b. This notice requirement does not confer a right on the noticed persons or on anyone else to comment on the project before

permits are issued. Approval is ministerial. Under State law, the City has no discretion in approving or denying a particular ADU project under this section. This notice requirement is purely to promote neighborhood awareness and expectation.

G. Fees. The following requirements apply to all ADUs that are approved under subsections (D)(1) or (D)(2) above.

1. Impact Fees.

- a. No impact fee shall be required for an ADU that is less than 750 square feet in size. For purposes of this subsection (G)(1), “impact fee” means a “fee” under the Mitigation Fee Act (Gov. Code, § 66000(b)) and a fee under the Quimby Act (Gov. Code, § 66477). “Impact fee” does not include any connection fee or capacity charge for water or sewer service.
- b. Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit. (E.g., the floor area of the ADU, divided by the floor area of the primary dwelling, times the typical fee amount charged for a new dwelling.)

2. Utility Connection and Fees.

- a. If an ADU is constructed with a new single-family home, a separate utility connection directly between the ADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.
- b. Except as described in subsection (G)(2)(a), converted ADUs on a single-family lot that are created under subsection (D)(1)(a) above are not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required.
- c. Except as described in subsection (G)(2)(a), all ADUs not covered by subsection (G)(2)(b) require a new, separate utility connection directly between the ADU and the utility.
 - i. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU, based on either the floor area or the number of drainage-fixture units (DFU) values, as defined by the

California Plumbing Code, upon the water or sewer system.

- ii. The portion of the fee or charge that is charged by the City may not exceed the reasonable cost of providing this service.

- H. Nonconforming ADUs and Discretionary Approval. Any proposed ADU or JADU that does not conform to the objective standards set forth in subsections (A) through (G)(2) of this section may be allowed by the City with a use permit, in accordance with Chapter 9.184 of this Code.

DRAFT