



CITY COUNCIL AGENDA REPORT

MEETING DATE: 8/16/2022

DEPARTMENT: Community Development

SUBJECT:

AN ORDINANCE AMENDING SECTION 9.146.050 - *ACCESSORY DWELLING UNITS*, OF THE LAKE FOREST MUNICIPAL CODE FOR CONSISTENCY WITH CALIFORNIA ASSEMBLY BILL 345 AND RECENTLY ISSUED GUIDANCE FROM CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD)

RECOMMENDED ACTION(S):

Introduce for first reading an Ordinance Entitled: 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.

EXECUTIVE SUMMARY:

This Zoning Code Amendment (ZC) 04-22-5521 updates section 9.146.050 – *Accessory Dwelling Units* of the Lake Forest Municipal Code ("LFMC") to comply with California Assembly Bill ("AB") 345, which was signed into law in September 2021. The draft ordinance (Attachment 1) also amends LFMC section 9.146.050 to provide consistency with recently issued guidance from the California Department of Housing and Community Development ("HCD") with respect to local implementation of State accessory dwelling unit ("ADU") laws (Government Code sections 65852.2 and 65852.22). A red-lined version of the proposed ordinance is provided as Attachment 2. Additional minor amendments improve the legibility of the LFMC. The Planning Commission considered the item at a public hearing on July 7, 2022 and recommended adoption of the ordinance (Attachment 3).

BACKGROUND:

"Accessory dwelling unit" or "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.

"Junior accessory dwelling unit" ("JADU") means a residential unit that is no more

than 500 sq. ft. in size, is contained entirely within an existing or proposed single-family structure, includes its own separate sanitation facilities or shares sanitation facilities with an existing or proposed single-family structure, and includes an efficiency kitchen. ADUs and JADUs are regulated by section 9.146.050 of the LPMC and Government Code sections 65852.2 and 65852.22.

In 2019, Governor Newsom signed into law a number of bills (“2019 ADU Laws”) that, among other things, imposed new limits on local authority to regulate ADUs and JADUs. The City Council approved corresponding amendments to the LPMC (Ordinance 336) in July 2020. State ADU laws were amended again in September 2020, which was followed by further amendments to the LPMC as necessary for consistency (Ordinance 343 – January 2021). More recently (September 2021), AB 345, which further amended State ADU laws, was signed into law.

In April 2022, the City received a letter from HCD corresponding to HCD's review of the City's recently adopted General Plan Housing Element. The letter stated HCD's determination that certain provisions of the LPMC are inconsistent with Government Code section 65852.2. Specifically, HCD identified the following standards in the City's ADU ordinance (LPMC section 9.146.050) as non-compliant:

- Specific minimum kitchen food storage cabinets and counter space requirements;
- The omission of a narrow exemption applicable to the prohibition of sale of an ADU separate from its respective primary dwelling for non-profit housing organizations;
- A two-bedroom limit for ADU's larger than 850 sq. ft.;
- A requirement that the entrance to an ADU be screened from view from the street;
- A requirement that JADUs have a new separate utility connection.

HCD requested that the City amend the LPMC accordingly (Attachment 4).

DISCUSSION:

The attached draft ordinance (Attachment 1) updates the City's ADU and JADU regulations to comply with State law, align with HCD's guidance, and improve clarity for the benefit of staff and the general public. Proposed amendments are highlighted in ~~strike-through~~/underline format in Attachment 2. Substantive changes are summarized below:

- The definition of "efficiency kitchen" is amended to delete a minimum size for required food preparation counters, and to require storage cabinets that are "of reasonable size in relation to the size of the JADU," instead of cabinets that total at least 30 cubic feet, per HCD's direction.
- For detached ADUs on a lot with an existing multi-family dwelling: eliminates the 800 sq. ft. maximum floor area and adds a 16 ft. height limit.
- Adds an exception to the prohibition of separate conveyance of ADUs or JADUs with the involvement of a qualified non-profit housing organization, per HCD's direction.
- Adds a requirement that all ADUs and JADUs comply with all local building code requirements.
- Eliminates the two-bedroom maximum for ADUs larger than 850 sq. ft., per HCD's direction.
- Eliminates the requirement that the entrance to ADUs be located on the side or rear building façade, not facing the same public right-of-way as the primary dwelling, per HCD's direction.
- Eliminates the requirement that JADUs provide a separate utility connection, per HCD's direction.

The proposed amendments render LFMC section 9.146.050 consistent with recently enacted State law and address the specific amendments requested by HCD in its April 13, 2022, letter (Attachment 4). The action also furthers Housing Element Program 8, which provides for the City to amend its ADU and JADU regulations as necessary to comply current State law and to work with HCD to ensure compliance.

PLANNING COMMISSION RECOMMENDATION

In accordance with LFMC section 9.02.030, the Planning Commission considered the staff report and draft ordinance at a noticed public hearing on July 7, 2022. After an opportunity for public comment and discussion, the Commission adopted a resolution recommending approval of the ordinance (Attachment 3). At the meeting, separate from the public hearing on the item, a Lake Forest resident expressed opposition to the requirement in the LFMC for separate/direct utility connections for ADUs, as well as the requirement that ADUs and JADUs have a separate street address. No public comment was provided as part of the hearing item on the draft ordinance.

PUBLIC NOTICING AND COMMENTS:

In accordance with the requirements of the LFMC, the hearing for this item was noticed in a newspaper of general circulation on August 4, 2022. On August 4, 2022, public notices were posted at City Hall. In addition to the public comments

at the Planning Commission meeting, the same resident submitted a letter to the City Council restating concerns regarding the current requirement that ADUs have separate (from the primary dwelling) utilities and street addresses. As of the writing of this report, no other public comments on this item have been received.

FISCAL IMPACT:

There is no fiscal impact associated with the recommended action.

ATTACHMENTS:

1. Draft Ordinance Amending LFMC Section 9.146.050
2. Draft Amendments to LFMC Section 9.146.050 in "Redline" Formatting
3. Planning Commission Resolution
4. Letter from CA Department of Housing and Community Development dated April 13, 2022.

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Approved By: Debra Rose, City Manager