

ORDINANCE NO. 2023-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AZUSA, CALIFORNIA APPROVING CODE AMENDMENT NO. 251 AMENDING CHAPTER 88.42.190 OF THE CITY OF AZUSA MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS, REPEALING SECTION 88.51.034 RELATING TO DISCRETIONARY PERMITS FOR ACCESSORY DWELLING UNITS, AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM CEQA

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

WHEREAS, the Planning and Zoning Law authorizes cities 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 (“New ADU Laws”) that, among other things, amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, the City desires to amend its local regulatory scheme for the construction of ADUs and JADUs to comply with the amended provisions of Government Code sections 65852.2 and 65852.22; and

WHEREAS, on February 7, 2023, the City Council of the City of Azusa adopted Urgency Ordinance No. 2019-04 which amended Section 88.42.190 of the Azusa Municipal Code, relating to ADUs and JADUs, and repealed Section 88.51.034, relating to Discretionary Permits for ADUs consistent with Government Code sections 65852.2 and 6582.22; and

WHEREAS, the City seeks to further amend Section 88.42.190 of the Azusa Municipal Code to clarify the standards and procedures set forth in Urgency Ordinance No. 2023-01.

WHEREAS, on February 8, 2023, the Planning Commission of the City of Azusa recommended that the City Council approve a Draft Ordinance for Code Amendment No. 251.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AZUSA, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. 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.

In addition to being statutorily exempt from CEQA, the proposed ordinance is also categorically exempt from CEQA under the Class 3 exemption set forth in State CEQA Guidelines section 15303. The Class 3 exemption categorically exempts from CEQA, among other things, the construction and location of new, small structures and the conversion of existing small structures from one use to another. Section 15303 specifically lists the construction of appurtenant accessory structures and garages as examples of activity that expressly falls within this exemption. Here, the ordinance is categorically exempt under the Class 3 exemption because the ordinance regulates the conversion of existing structures into, and the new construction of, ADUs and JADUs, which are, by definition, structures that are accessory to a primary dwelling on the lot. Moreover, the City Council finds that none of the “exceptions” to the use of the Class 3 exemption, set forth in State CEQA Guidelines section 15300.2, apply here. Specifically, the City Council finds that the ordinance will:

1. Not result in the construction of ADUs or JADUs within a particularly sensitive environment because these accessory structures will necessarily be built on a lot already developed with a primary dwelling;
2. Not result in a potentially significant cumulative impact;
3. Not result in a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances;
4. Not result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. No residential properties are located adjacent to a state scenic highway;
5. Not be located on a hazardous waste site included on any list compiled pursuant to § 65962.5 of the Government Code. No property zoned residential is located on a hazardous waste site; or
6. Not result in a substantial adverse change in the significance of a historical resource. Historical resources are subject to separate permitting process with the Planning Division.

The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

SECTION 3. Section 88.42.190 of the Azusa Municipal Code is hereby amended and restated to read in its entirety, and Section 88.51.034 of the Azusa Municipal Code is hereby repealed in its entirety as provided in Exhibit A, attached hereto and incorporated herein by reference.

SECTION 4.: That in accordance with Section 88.51.060 of the Azusa Municipal Code, the City Council approves said Code Amendment No. 251 based on the following findings:

1. **That the proposed amendment is consistent with the goals, policies, and objectives of the general plan, any applicable specific plan, development agreement, owner participation agreement or disposition and development agreement; and**

The proposed amendment is not a part of any applicable specific plan, development agreement, owner participation agreement or disposition and development agreement. It is, however, consistent with the goals, policies, and objectives of the General Plan below:

Chapter 3, Land Use Goal 12:

Ensure that the City's General Plan and Development Code are updated and maintained to increase effectiveness.

The proposed Code Amendment will ensure that the City's ADU Ordinance up-to-date with current guidelines which will increase effectiveness by creating a more streamlined process for ADUs and JADUs.

Land Use Policy 12.1:

Review the General Plan and the related Development Code, annually, to ensure internal consistency with federal, state, and local regulations and policies.

The proposed Code Amendment will ensure that the ADU Ordinance is consistent with the most recent state mandates.

Housing Element - Program H3-4: Accessory Dwelling Units:

As revisions to State law occur, update the City's ADU Ordinance to comply.

In updating the City's ADU and JADU Ordinance this provides consistency with state law and will address its share of regional housing needs by providing a process to allow the development of more ADUs and JADUs. Repealing the Discretionary Permit section removes unnecessary steps and subjects all applications to the same standards, thereby streamlining process.

2. **That a proposed zone change will not adversely affect surrounding properties.**

A zone change is not proposed as a component of this Development Code amendment. Therefore, the proposed Development Code amendment would not adversely affect surrounding properties.

SECTION 5. 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 213 E. Foothill Blvd., Azusa, CA 917025. The custodian of these records is the City Clerk.

SECTION 6. 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 of the City of Azusa hereby declares that it 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.

SECTION 7. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

SECTION 8. Publication. The City Clerk shall certify to the adoption of this Ordinance. Not later than fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Azusa.

PASSED, APPROVED AND ADOPTED this 20th day of March, 2023.

/s/ Robert Gonzales, Mayor

ATTEST:

/s/ Jeffrey Lawrence Cornejo, Jr., City Clerk

COUNTY OF LOS ANGELES) ss.
CITY OF AZUSA)

I, Jeffrey Lawrence Cornejo, Jr., City Clerk of the City of Azusa hereby certify that the foregoing Ordinance No. 2023-02, was duly introduced and placed upon its first reading at a regular meeting of the City Council of the City of Azusa held on the 6th day of March 2023, and that thereafter, said ordinance was duly adopted and passed at a regular meeting on the 20th day of March, 2023, by the following vote of the Council:

AYES: COUNCILMEMBERS: GONZALES, MENDEZ, ALVAREZ, AVILA, BECKWITH
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: NONE

/s/ Jeffrey Lawrence Cornejo, Jr., City Clerk

APPROVED AS TO FORM:

/s/ Best, Best & Krieger, LLP, City Attorney

Published in the San Gabriel Valley Tribune: March 24, 2023

8.42.190. Accessory Dwelling Units.

- 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.7 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. "Efficiency kitchen" means a kitchen that includes each of the following:
 - a. A cooking facility with appliances.
 - b. A food preparation counter ~~or counters that total at least 15 square feet in area.~~
 - e. ~~Food storage cabinets that total at least 30 square feet of shelf space.~~
 5. "Junior accessory dwelling unit" or "JADU" means a residential unit that satisfies all of the following:
 - a. It is no more than 500 square feet in size.
 - b. It is contained entirely within an existing or proposed single-family structure. An enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure.
 - c. It includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and
 - d. If the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family structure in addition to an exterior entrance that is separate from the main entrance to the primary dwelling.
 - e. ~~It~~ It includes an efficiency kitchen, as defined in subsection C.4 above.
 6. "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.

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7. "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.
 8. "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
 9. "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
 10. "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.
 11. "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, it is allowed with only a building permit in the following scenarios:
 - a. **Converted on a Lot with Proposed or Existing Single-Family Dwelling:** Only one ADU or 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; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) 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 setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
 - iv. The JADU complies with the requirements of Government Code Section 65852.22.
 - b. **Limited Detached on a Lot with Proposed or Existing Single-Family Dwelling:** 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 above), if the detached ADU satisfies the following limitations:
 - i. The side- and rear-yard setbacks are at least four feet.
 - ii. The total floor area is 800 square feet or smaller.
 - iii. The peak height above grade ~~is 16 feet or less~~ does not exceed the applicable height limit in subsection (e)(2) below.
 - c. **Converted on a Lot with Existing Multi-Family Dwelling:** Multiple 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. At least one converted ADU is allowed within an existing multifamily dwelling structure, up to a quantity equal to 25 percent of the existing multifamily dwelling units, under this paragraph.
 - d. **Limited Detached on a Lot with Existing Multi-Family Dwelling:** No more than two detached ADUs on a lot that has an existing or proposed multifamily dwelling if each detached ADU satisfies the following limitations:
 - i. The side- and rear-yard setbacks are at least ~~four feet.~~ four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the city will not require any modification to the multifamily dwelling as a condition of approving the ADU.
 - ii. The peak height above grade ~~is 16 feet or less~~ does not exceed the applicable height limit provided in subsection (e)(2) below.

2. **ADU Over-the-Counter Permit.**

- a. Except as allowed under subsection D.1 above, no ADU may be created without a building permit and an ADU Over-the-Counter (OTC) permit in compliance with the standards set forth in subsections E and F below.
- b. The City may charge a fee to reimburse it for costs incurred in processing ADU OTC permits, including the costs of adopting or amending the City's ADU ordinance. The ADU OTC-permit processing fee is 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~~ approve or deny 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~~ City has not approved or denied the completed application within 60 days, the application is deemed approved, unless either:
 - i. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or
 - ii. In the case of a JADU and the application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the City may delay acting on the permit application for the JADU until the City acts on the permit application to create the new single-family dwelling or multifamily, but the application to create the JADU will still be considered ministerially without discretionary review or a hearing.
- ~~c.~~ If the city denies an application to create an ADU or JADU, the city must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection (d)(3)(B) above.
- ~~d.~~ A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

E. **GENERAL ADU AND JADU REQUIREMENTS.** The following requirements apply to all ADUs and JADUs that are approved under subsections D.1 or D.2 above:

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 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. **Height.**

- a. Except as otherwise provided by subsections (e)(2)(B) and (e)(2)(C) below, a detached ADU created on a lot with an existing or proposed single family or multifamily dwelling unit may not exceed 16 feet in height.
- b. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop or a high quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

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- c. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.
 - d. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (e)(2)(D) may not exceed two stories.
 - e. For purposes of this subsection (e)(2), height is measured above existing legal grade to the peak of the structure.

3. Fire Sprinklers.

- a. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
 - b. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
4. **Rental Term.** An ADU or JADU may be rented but no ADU or JADU may be rented for a term that is shorter than 30 days. The property owner must obtain a business license and rental registration from the Community Improvement Division and renew them annually.
5. **No Separate Conveyance.** An ADU or JADU may be rented, but 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).
6. **Septic System.** If the ADU or JADU will connect to an onsite water-treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.
7. **Owner Occupancy.**
- a. An ADU that is permitted after that date January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement.
 - b. ~~(C) All~~ Unless applicable law requires otherwise, 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.
 - c. 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.

8. **Deed Restriction.** Prior to issuance of certificate of occupancy 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 of Economic and Community Development. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:
- a. 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 future property owners.

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- 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. To remove the deed restriction, an owner may make a written request of the Director of Economic and Community Development, 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.
9. **(8) Income Reporting.** In order to facilitate the city's obligation to identify adequate sites for housing in accordance with Government Code sections 65583.1 and 65852.2, the following requirements must be satisfied:
- a. With the building-permit application, the applicant must provide the city with an estimate of the projected annualized rent that will be charged for the ADU or JADU.
 - b. Within 90 days after each yearly anniversary of the issuance of the building permit, the owner must report the actual rent charged for the ADU or JADU during the prior year. If the city does not receive the report within the 90-day period, the owner is in violation of this Code, and the city may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner fails to submit the report within the 30-day period, the city may enforce this provision in accordance with applicable law.
10. **Building & Safety**
- a. Must comply with building code. Subject to subsection (e)(10)(B) below, all ADUs and JADUs must comply with all local building code requirements.
 - b. No change of occupancy. Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection (e)(10)(B) prevents the city from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

F. **SPECIFIC ADU REQUIREMENTS.** The following requirements apply only to ADUs that require an ADU permit under subsection D.2 above.

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 bedrooms. No more than two bedrooms are allowed.
- 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.
- c. Application of other development standards in this subsection F, such as FAR or lot coverage, might further limit the size of the ADU, but no application of a percentage-based maximum floor

area (i.e., under subsection F.1.b above), or of an FAR, [front setback](#), lot coverage, or open-space requirement may require the ADU to be less than 800 square feet.

2. **Lot Coverage.** No ADU subject to this subsection F may cause the total lot coverage of the lot to exceed 50 percent, subject to subsection F.1.c above.
3. **Setbacks.**
 - a. Each ADU that is subject to this subsection F is subject to a 40-foot front setback, (subject to subsection [F\(1\)\(c\) above](#).
 - b. Each ADU that is subject to this subsection F is subject to four-foot side and rear 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.
- ~~4. **Height.** No ADU subject to this subsection F may exceed 16 feet in height above grade, measured to the peak of the structure.~~
- ~~4. [Stories.](#) No ADU subject to this subsection F may exceed one story.~~
5. **Passageway.** No passageway, as defined by subsection C.8 above, is required for an ADU.
6. **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.11 above.
 - b. **Exceptions.** No parking under subsection F.6.a 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.10 above.
 - 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 above.
 - 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.
 - vi. [When the permit application to create an ADU is submitted with an application to create a new single-family or new multi-family dwelling on the same lot, provided the ADU or the lot satisfies and other criteria listed in subsections F\(6\)\(b\)\(i\) through \(v\) above.](#)
 - 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.
7. **Objective Site Design and Architectural Requirements.**
 - a. **Same in Appearance -** To ensure that site design and architectural character of the ADU are compatible with those of the primary dwelling through the use of purely objective standards, the materials and colors of the exterior walls, roof, and windows and doors must match the appearance and architectural design of those of the primary dwelling, and the roof slope must match that of the dominant roof slope of the primary dwelling. The dominant roof slope is the slope shared by the largest portion of the roof.
 - b. **Separate Entrance -** The ADU must have an independent exterior entrance, apart from that of the primary dwelling. The ADU entrance must be located on the side or rear building façade, not facing a public-right-of-way.
 - c. **Minimum Dimensions -** The interior horizontal dimensions of an ADU must be at least ten feet wide in every direction, with a minimum interior wall height of seven feet.

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- d. Privacy - An ADU within 15 feet of a residential unit on the same parcel or on an adjacent parcel may not have windows that directly face windows in other unit at a 90-degree angle.
 - e. Fire and Public Safety - The ADU or JADU address and location must be identified by either an address plaque or by other signage that is clearly legible from the public right of way. The plaque or other signage must be clearly indicated on a site plan submitted with the building-permit application. The site plan must also show how the ADU or JADU will be accessed by fire and safety personnel. Alternatively, instead of an address plaque or signage, the applicant may elect to provide a paved walkway visible from the public right of way that leads to the ADU or JADU.
 - f. Main Entrance Architectural Enhancements - Architectural enhancements are required for main entrances of attached and detached ADUs. "Architectural enhancements" means the inclusion of at least two of the following elements: architectural lighting, a covered patio or porch, an overhang, architectural projections, and enhanced building materials such as stone veneer, brick veneer, wood siding, PVC siding, decorative trim work, and window shutters.
8. **Landscape Requirements.**
- a. Evergreen landscape screening must be planted and maintained between the ADU and adjacent parcels as follows:
 - i. At least one 15-gallon size tree shall be provided at a ratio of one tree for every proposed dwelling unit.
 - ii. Plant specimens must be at least six feet tall when installed. As an alternative, a solid fence of at least six feet in height may be installed.
 - b. All landscaping must be drought-tolerant.
9. **Historical Protections.** The architectural treatment of an ADU to be constructed on a lot that has an identified historical resource listed on the federal, state, or local register of historic places must comply with all applicable ministerial requirements imposed by the Secretary of Interior.

G. **FEES.**

1. **Impact Fees.**
- a. No impact fee is required for an ADU or JADU that is less than 750 square feet in size.
 - 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 unit, times the typical fee amount charged for a new dwelling.) "Impact fee" here does not include any connection fee or capacity charge for water or sewer service.
2. **Utility Connection and Connection Fees.**
- a. If an ADU or JADU is constructed with a new single-family home, a separate utility connection directly between the ADU or JADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.
 - b. Except as set forth in subsection G.2.a above, a converted ADU or JADU on a lot with a single-family home, created under subsection D.1.a above, is not required to have a new or separate utility connection directly between the ADU or JADU and the utility. Nor is a connection fee or capacity charge required.
 - c. Except as set forth in subsections G.2.a and G.2.b above, an ADU or JADU requires a new, separate utility connection directly between the ADU or JADU and the public utility. For water service, this includes separate water service and meter directly from the public water system in compliance with Azusa Light and Water specifications and requirements. The property owner must size the separate service and meter to meet the water needs of the proposed ADU or JADU. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU or JADU, based on either the relative floor areas or drainage fixture unit

(DFU) values, as defined by the Uniform Plumbing Code, of the ADU or JADU and the primary dwelling.

H. Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures.

1. **Generally.** The city will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.
2. **Unpermitted ADUs constructed before 2018.**
 - a. **Permit to Legalize.** As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if denial is based on either of the following grounds:
 - (i) The ADU violates applicable building standards, or
 - (ii) The ADU does not comply with the state ADU law (Government Code section 65852.2) or this ADU ordinance (section 88.42.190).
 - b. **Exceptions:**
 - (iii) Notwithstanding subsection (h)(2)(A) above, the city may deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if the city makes a finding that correcting a violation is necessary to protect the health and safety of the public or of occupants of the structure.
 - (iv) Subsection (h)(2)(A) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.

~~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 discretionary permit, in accordance with Section 88.51.034 of this title.~~

(Ord. No. 2017-14 , § 9, 12-18-17; Ord. No. 2020-05 , § 3, 8-17-20)

Editor's note(s)—Ord. No. 2017-14 , § 8, adopted Dec. 18, 2017, repealed the former § 88.42.190, and enacted a new § 88.42.190 as set out herein. The former § 88.42.190 pertained to second units and carriage houses and derived from Ord. No. 11-O16, § 7, adopted Oct. 24, 2011.

~~88.51.034. Discretionary Permit for Accessory Dwelling Unit That Does Not Qualify for Ministerial Approval.~~

- A. **~~PURPOSE.~~** The purpose of this section is to allow and regulate accessory dwelling units (ADUs) that do not qualify for ministerial approval under the objective standards that are set forth in Section 88.42.190 (Accessory Dwelling Units).
- B. **~~REVIEW AUTHORITY.~~** A discretionary permit under this section shall be approved or denied by the director.
- C. **~~APPLICATION FILING AND PROCESSING.~~** An application for a discretionary permit under this section shall be prepared, filed, and processed in compliance with Chapter 88.50 (Planning Permit Filing and Processing). It is the responsibility of the applicant to provide evidence in support of the findings required by subsection E below.

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1. ~~Each application shall be reviewed by the director to ensure that the proposal complies with all applicable requirements of this Development Code. No public hearing is required for the director to approve or deny an application.~~
 2. ~~Applications for a discretionary permit under this section must be submitted to the Planning Division on a form and with information and materials as required by the director. The applications shall include, at a minimum:~~
 - a. ~~Site Plan (drawn to scale). Dimension the perimeter of the parcel on which the accessory dwelling unit will be located. Indicate the location and dimensioned setbacks, and dimensions of all existing and proposed structures on the site. Provide dimensions of all easements, rights of way, building envelopes, parking, and paved areas.~~
 - b. ~~Floor Plan. Complete floor plans of both existing and proposed conditions. Each room shall be dimensioned and resulting floor area calculation included. The use of each room shall be labeled. The size and location of all doors, closets, walls, and cooking facilities shall be clearly depicted.~~
 - c. ~~Elevations. North, south, east, and west elevations that show all exterior structure dimensions, all architectural projections, and all openings for both the existing residence and the proposed dwelling unit.~~
 3. ~~The Director may collect a fee for processing the application, provided such fee is approved by resolution or ordinance of the City Council and does not exceed the cost of processing the application.~~
 4. ~~For applications for a two-story ADU in neighborhoods where the majority of the existing dwellings are single-story, the director may approve or deny a discretionary ADU Permit application only after notifying property owners within 300 feet of the subject property.~~
 - a. **Content of Public Notice.** ~~The notice shall be an informational notice stating that the director will decide whether to approve or deny the application on the date specified in the notice, and that a resident residing within the 300-foot radius of the subject property may contact the director if they have any questions or concerns regarding the project.~~
- D. **STANDARDS.** ~~An ADU that is approved under this section must meet all of the requirements set forth in Section 88.42.190 (Accessory Dwelling Units) except as indicated below:~~
1. **Maximum Size.** ~~The maximum size of a detached ADU is 1,000 square feet for a studio or one bedroom unit and 1,200 square feet for a unit with two bedrooms. The maximum size of an attached ADU shall not be more than 50 percent of the primary dwelling not to exceed 1,000 square feet for a studio or one bedroom unit and 1,200 square feet for a unit with two bedrooms. No more than two bedrooms are allowed.~~
 2. **Setbacks.** ~~An ADU approved under this section must meet the following setbacks:~~
 - a. ~~Front Setback—Standards of the applicable zoning district.~~
 - b. ~~Side Setback—Five feet from the side lot line.~~
 - c. ~~Side Street Setback—Ten feet from the side lot line of the street.~~
 - d. ~~Rear Setback—Ten feet from the rear lot line.~~
 - e. ~~A minimum setback of five feet shall be required from the side and rear lot lines for an ADU that is constructed above a legally established existing garage or other detached accessory structure.~~
 3. **Height.** ~~An ADU approved under this section may not exceed two and one-half stories or 35 feet, whichever is less.~~
 4. **Passageway.** ~~A passageway, as defined in Section 88.42.190, is required.~~
- E. **FINDINGS AND DECISION.**
1. ~~If an application for a discretionary permit under this section is filed with an application for another discretionary approval for the project (e.g., Design Review, minor use permit, minor variance, zoning~~

clearance), the director shall approve or deny the application under this section concurrently with the review authority's decision regarding the other discretionary approval or approvals.

2. To approve a discretionary permit under this section, the director must find that the project, as proposed or as modified by conditions of approval:

- a. Is consistent with the requirements set forth in Section 88.42.190.E-F and 88.51.034.D above;
- b. Provides attractive and desirable site layout and design, including, but not limited to, building arrangement, exterior appearance and setbacks, drainage, fences and walls, grading, landscaping, lighting, signs, etc.;
- c. Provides efficient and safe public access, circulation, and parking;
- d. Provides appropriate open space and landscaping, including the use of water efficient landscaping;
- e. Is consistent with the general plan and with any applicable specific plan, development agreement, and previously approved planning permit; and
- f. Complies with all applicable requirements of this Development Code, and all other applicable city design standards, guidelines, and policies.

F. **CONDITIONS OF APPROVAL.** The director may impose any reasonable condition of approval to ensure that the project will comply with the findings required by subsection E above.

G. **POST APPROVAL PROCEDURES.** The procedures and requirements in Chapter 88.52 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Chapter 88.56 (Appeals), apply to an application and decision under this section.

(Ord. No. 2020-06, § 3, 8-17-20)