

ORDINANCE NO. 2021-211

AN ORDINANCE OF THE CITY OF LAGUNA NIGUEL, CALIFORNIA, ADOPTING ZONING CODE AMENDMENT ZCA 21-02 AMENDING THE LAGUNA NIGUEL MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS CONSISTENT WITH STATE LAW, AND MAKING A DETERMINATION OF EXEMPTION UNDER CEQA

The City Council of the City of Laguna Niguel does hereby ordain as follows:

SECTION 1. FINDINGS.

The City Council makes the following findings in connection with the adoption of this Ordinance.

1. On March 2, 2021, the City Council adopted the most recent update to the Laguna Niguel 2050, Strategic Plan. The update identified goals for Economic and Community Development, including a comprehensive code update to improve and clarify various requirements of the Laguna Niguel Zoning Code (LNZC) and pertinent sections of the Laguna Niguel Municipal Code (LNMC). The intent of the code update is to ensure City requirements are accurate, relevant, and compliant with State law.
2. Zoning Code Amendment (ZCA) 21-02 will rescind provisions relating to second dwelling units in the Zoning Ordinance and replace them with development standards for Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) consistent with State law.
3. On June 22, 2021, the Planning Commission held a duly noticed public hearing on ZCA 21-02 to amend the Zoning Ordinance and considered all evidence presented by City staff and other interested parties and made a recommendation to the City Council as fully set forth in Planning Commission Resolution No. 21-04.
4. In accordance with Government Code Section 65091(a)(4) for projects affecting over 1,000 property owners, a one-eighth (1/8th) page notice of the public hearing describing the project, date, time, and location of the hearing was advertised in the *Orange County Register - Coastal Current News* at least 10 days prior to the hearing date. A notice was also posted at City Hall and was made available on the City's website.
5. On July 20, 2021, the City Council held a duly noticed public hearing on ZCA 21-02 to amend the Zoning Ordinance with respect to ADUs and JADUs and considered all evidence presented by City staff and other interested parties, and introduced Ordinance 2021-211..
6. On August 3, 2021, the City Council held a duly noticed public hearing for the second reading of Ordinance No. 2021-210, for ZCA 21-02, to amend the Zoning Ordinance

with respect to ADUs and JADUs and considered all evidence presented by City staff and other interested parties.

7. State law requires that the City deem ADU's to be "a residential use that is consistent with the existing general plan and zoning designation" (Government Code Section 65852.2(a)(1)(C)).
8. State law makes an ADU a permitted use on any lot that is "zoned to allow single-family or multifamily use and includes a proposed or existing single-family dwelling" (Government Code Section 65852.2(a)(1)(D)(ii)).

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Based on the whole record before it, the City Council finds that ZCA 21-02 is statutorily exempt from the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines under Public Resources Code section 21080.17 and CEQA Guidelines Section 18252(h), which provide that the adoption of an ordinance regarding ADUs by a city to implement Government Code section 65852.2 is statutorily exempt from CEQA. This ordinance implements Government Code section 65852.2 and therefore is statutorily exempt.

SECTION 3. Section 9-1-35.7 (Second Residential Units) of Subarticle 3 (Residential Districts) of Article 2 (Comprehensive Zoning Code) of Division 1 (Planning) of Title 9 (Planning and Zoning) of the Laguna Niguel Municipal Code is repealed in its entirety and replaced as follows:

"Section 9-1-35.7. Reserved."

SECTION 4. Section 9-1-35.26 (Accessory Dwelling Unit (ADU)) is added to Subarticle 3 (Residential Districts) of Article 2 (Comprehensive Zoning Code) of Division 1 (Planning) of Title 9 (Planning and Zoning) of the Laguna Niguel Municipal Code to read as follows:

Sec. 9-1-35.26. Accessory Dwelling Unit (ADU).

- (a) *Purpose.* This section provides standards and criteria for the establishment of ADUs within residential districts consistent with California Government Code Section 65852.2 and shall be so construed.
- (b) *Permits Required.* ADUs consistent with this section shall be reviewed ministerially and require a building permit.
- (c) *Limitations.* Improvements (including, but not limited to garages, retaining walls, etc.) that are not necessary for the physical construction of an ADU may be subject to a discretionary permit and/or public hearing, if required by Title 9 of the Municipal Code.

(d) *Development Standards.* The development standards set forth below shall apply to all ADUs. In addition, for any development standard not explicitly identified below, the requirements of the underlying zoning district shall apply, unless superseded by State Law.

(1) *Zoning.* ADUs shall be allowed in all single-family and multi-family zoning districts; this does not include mixed-use zoning districts, except for those ADUs that must be approved in accordance with Government Code Section 65852.2(e). Nothing in this section shall allow for the conversion of commercial or non-residential space in a mixed-use building.

(2) *Sale and Rental of Units.* An ADU shall not be sold separately from the primary dwelling unit and shall not be rented for a period of less than thirty (30) consecutive days.

(3) *Number of Units Allowed.*

a. *Single Family Residential Zoning Districts.* In single family residential zoning districts, an applicant shall be allowed to construct one (1) detached or attached ADU per lot. In addition to the one (1) attached or detached ADU allowed in this Section, an applicant may also construct one (1) Junior Accessory Dwelling Unit (JADU) so long as it complies with Section 9-1-35.27.

b. *Multi-Family Zoning Districts.*

1. *Converted Multi-Family.* One or more ADUs within portions of existing multi-family 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 California Building Code Standards for dwellings. At least one converted ADU is allowed within an existing multi-family dwelling structure, up to a quantity equal to 25 percent of the existing multi-family dwelling units within the existing structure.

2. *Limited Detached ADUs on a Multi-Family Lot.* No more than two (2) detached ADUs are permitted on a lot that has an existing multi-family dwelling.

3. An applicant for a building permit may seek ADUs under subparagraphs (1) or (2) but not under both (1) and (2).

(4) *Setbacks.*

- a. Attached or detached ADUs shall comply with the front yard setback requirement for the underlying zone.
- b. Attached or detached ADUs shall have a minimum four (4) foot side and rear yard setback. Exception: No setback shall be required for the conversion of an existing permitted living area, accessory structure, or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit.
- c. Setbacks from slopes. Lots that have slopes that are 2:1 or steeper and over ten feet in height, shall setback structures in compliance with Section 9-1-33.6, Setbacks from Slopes.

(5) *Height.* All ADUs shall be allowed to be a maximum of sixteen (16) feet in height.

(6) *Unit Size.* The maximum size of an attached or detached ADU shall be limited to 850 square feet for 0-1 bedroom units, and 1,000 square feet for units with two or more bedrooms. Notwithstanding the foregoing, in no event shall the square footage of an attached ADU exceed fifty percent (50%) of the habitable area of the existing primary residence or 800 square feet, whichever is less restrictive.

(7) *Lot Coverage and Floor Area Ratio (FAR).* All ADUs shall be subject to the applicable lot coverage and FAR requirements of the underlying zoning district, unless the application of such requirements would prevent the development of an ADU that is a minimum of 800 square feet in size, no taller than 16 feet in height, and meets the four-foot side and rear yard setbacks.

(8) *Parking.*

- a. A maximum of one (1) parking space shall be required for each accessory dwelling unit. Exceptions, no additional parking shall be required for the following:

1. ADUs converted as part of a proposed or existing space of a principal residence or within an existing accessory structure.

2. ADUs located within one-half mile walking distance of public transit.
 3. When a garage, carport or covered parking structure is demolished in conjunction with the construction of an ADU at the same location, or converted to an ADU, those off-street parking spaces are not required to be replaced.
 - b. When a parking space is required for an ADU, the parking may be provided as tandem parking and/or located on an existing driveway that is at a minimum 20 feet in length.
- (9) *Access.* All ADUs are required to have separate exterior access from the primary residence.
- (10) *Fire Sprinklers.* Fire sprinklers shall not be required for any attached or detached ADU, unless required for the primary residence.
- (11) *Building Separation.* An attached or detached ADU shall be subject to the building separation requirements of the Fire Safety and California Building Code requirements.
- (12) *Conversions on Single-Family Lots.*
- a. *Legally Existing Structures.* Legally existing detached accessory structures which do not meet the minimum setbacks requirements of Subsection (6), may be converted to an ADU, subject to the approval of a building permit and compliance with Fire Safety/Building Code (California Government Code 65852.2(e)(1)(A)). Pursuant to state law, an applicant may expand the accessory structure by 150 feet beyond the physical dimensions of the existing accessory structure for the sole purpose of accommodating ingress and egress.
 - b. *Existing Space in a Single-Family Dwelling.* Legally constructed space within an existing single-family home that does not meet the minimum setbacks requirements of Subsection (6), may be converted to an ADU, subject to the approval of a building permit and compliance with this section, the Fire Safety/Building Code, and California Government Code 65852.2(e)(1)(A).

(13) *Other Provisions.*

- a. All ADUs shall contain the necessary interior amenities, including an efficiency kitchen which shall include the following, subject to California Building Code requirements:
 - i. A cooking facility with appliances.
 - ii. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the accessory dwelling unit.
- b. All ADUs must meet the requirements of the California Building/Residential Code, as adopted and amended by Title 8 of the City of Laguna Niguel Municipal Code.

(14) *Deed Restriction.* Prior to the issuance of a Certificate of Occupancy for the ADU, the property owner shall record a deed restriction prepared by the City on the subject lot placing the following restrictions on the property, the property owner, and all successors in interest:

- a. The ADU shall not be sold, transferred, or assigned separately from the Primary Dwelling, but may be rented.
- b. The ADU shall not be used for short term rentals for less than 30 consecutive days.
- c. If there is a JADU on the property, either the JADU or Primary Dwelling shall be occupied by the owner of record.
- d. The property owner and all successors in interest shall maintain the ADU and the property in accordance with all applicable ADU requirements and standards.

(15) *Services, impact fees and utility connections.*

- a. ADUs shall not be allowed where roadways, public utilities or services are inadequate in accordance with the general plan and zoning designation for the lot.
- b. ADUs shall have adequate water and sewer services. These services may be provided from the water and sewer points of connection for the Primary Dwelling and not be a separate set of services. For an ADU that is not a conversion of an existing space, a separate utility connection directly between the accessory dwelling unit and the utility

may be required. Consistent with Government Code Section 65852.2(f), the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit.

- c. The owner of an ADU shall be subject to the payment of all sewer, water, and other applicable fees, including impact fees set forth in Government Code Section 66000 et seq., except as follows:
 - i. ADUs that are less than 750 square feet shall not be subject to impact fees.
 - ii. ADUs that are 750 square feet or more shall be charged impact fees that are proportional in relation to the square footage of the Primary Dwelling unit.
 - d. The City shall not issue a building permit for an ADU until the applicant provides a will serve letter from the local water and sewer provider.
- (16) *Fire safety requirements.* The construction of all new ADUs shall meet minimum standards for fire safety as defined in the California Building and Fire Codes.
- (17) *Ownership.* No ADU shall be created for sale or financing pursuant to any condominium plan, community apartment plan, housing cooperative or subdivision map.
- (18) *Occupancy.* For any ADU permitted before January 1, 2025, ADUs may be rented or owner occupied and there shall not be a requirement that any unit on the lot be owner-occupied. For an ADU permitted after January 1, 2025, however, either the primary dwelling or the ADU shall be owner occupied, unless State law is amended to prohibit such a requirement.
- (19) *Planned Residential Development.* In the event that a planned residential development includes standards that would preclude the construction of a ministerial ADU that would otherwise be permitted under this section, the requirements of this section shall apply, and shall supersede the planned development standards as applied to ministerial ADUs within the applicable planned development district.
- (20) *Nonconforming ADUs and Discretionary Approval.* Any proposed ADU that does not conform to the objective standards set forth in subsections (1) through (19) of this section may be allowed by the City pursuant to Alternative Development Standards subject to approval of a Site Development Permit in compliance with the provisions of Section 9-1-114."

SECTION 5. Section 9-1-35.27 (Junior Accessory Dwelling Unit (JADU)) is added to Subarticle 3 (Residential Districts) of Article 2 (Comprehensive Zoning Code) of Division 1 (Planning) of Title 9 (Planning and Zoning) of the Laguna Niguel Municipal Code to read as follows:

~~9~~-1-35.27. Junior Accessory Dwelling Unit (JADU).

- (a) *Purpose.* This section provides standards and criteria for the establishment of JADUs within residential districts consistent with California Government Code Section 65852.2 and 65852.22 and shall be so construed.
- (b) *Permits Required.* JADUs consistent with this section shall be reviewed ministerially and require a building permit.
- (c) *Development Standards.* The development standards set forth in subsection (c) shall apply to all JADUs.
 - (1) *Zoning.* JADUs shall be permitted in Single-Family Residential Zoning Districts.
 - (2) *Sale, Rental and Occupation of Units.* The JADU shall not be sold separately from the primary dwelling unit and shall not be rented for a period of less than thirty (30) consecutive days. In addition, either the JADU or the primary dwelling in which the JADU is located shall be occupied by the property owner at all times, unless the property is owned by a government agency, land trust or housing organization.
 - (3) *Deed Restriction.* A Deed Restriction prepared by the City shall be recorded on the subject property prior to issuance of building permits stating that the JADU is subject to the requirements of this Section, shall not sold separately from the primary dwelling unit, shall not be rented for less than 30 consecutive days, and that either the JADU or the primary dwelling in which the JADU is located shall be occupied by the property owner at all times.
 - (4) *Number of Units Allowed.* One (1) JADU shall be allowed to be constructed within the habitable walls of an existing or proposed primary residence. In addition to the one (1) JADU allowed in this Section, an applicant may also construct one (1) attached or detached ADU so long as it complies with the requirements of Section 9-1-35.26.
 - (5) *Unit Size and Construction.*
 - a. A JADU shall not exceed 500 square feet.

- b. A JADU must be contained within the habitable walls of an existing or proposed single-family dwelling. A JADU may be located on the second floor of an existing or proposed single-family dwelling.
 - c. All JADUs shall contain the necessary interior amenities, including an efficiency kitchen, which shall include the following, subject to California Building Code requirements:
 - i. A cooking facility with appliances.
 - ii. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
- (6) *Sanitation facilities.* JADUs may share sanitation facilities with the primary residence.
- (7) *Access.* Exterior access shall be provided for all JADUs separate from the main entrance to the primary residence. For JADUs that share sanitation facilities with the primary residence, the JADU shall have interior access as well.
- (8) *Parking.* No additional parking is required for a JADU.
- (9) *Architectural Compatibility.* Any new construction which provides exterior access shall match the style, color, and materials of the primary residential unit.
- (10) *Fire sprinklers.* Fire sprinklers shall be required for a JADU, if they are required for the primary residence.
- (11) All JADUs must meet the requirements of the California Building Code, as adopted and amended by Title 8 of the City of Laguna Niguel Municipal Code.
- (12) *Services, impact fees and utility connections.* JADUs are not subject to service fees, impact fees, or utility connection fees.
- (13) *Fire safety requirements.* The construction of all new JADUs shall meet minimum standards for fire safety as defined in the California Building and Fire Code.
- (14) *Planned Residential Development.* In the event that a planned residential development includes standards that would preclude the construction of a

JADU that would otherwise be permitted under this Section, the requirements of this section shall apply, and shall supersede the planned development standards as applied to JADUs within the applicable planned development district.

- (15) Nonconforming JADUs and Discretionary Approval. Any proposed JADU that does not conform to the objective standards set forth in subsections (1) through (14) of this section may be allowed by the City pursuant to Alternative Development Standards subject to approval of a Site Development Permit in compliance with the provisions of Section 9-1-114."

SECTION 6. Subsection (b) (Applicability) of Section 9-1-35.3 (Accessory Structures) of Subarticle 3 (Residential Districts) of Article 2 (Comprehensive Zoning Code) of Division 1 (Planning) of Title 9 (Planning and Zoning) of the Laguna Niguel Municipal Code is amended to read as follows:

"(b) *Applicability.* Accessory structures over six feet in height and patios and decks over 18 inches in height above finish grade are subject to the provisions of this section, except that free-standing fences and walls shall be regulated by section 9-1-35.2. Exception: This section does not apply to Accessory Dwelling Units or Junior Accessory Dwelling Units which are regulated by section 9-1-35.26 and 9-1-35.27, respectively."

SECTION 7. Section 9-1-142 (Definition of terms) of Subarticle 14 (Definitions) of Article 2 (Comprehensive Zoning Code) of Division 1 (Planning) of Title 9 (Planning and Zoning) of the Laguna Niguel Municipal Code is amended to repeal the definitions of "Dwelling unit, second" and "Second residential unit, second dwelling unit, or "second unit"

SECTION 8. Section 9-1-142 (Definition of terms) of Subarticle 14 (Definitions) of Article 2 (Comprehensive Zoning Code) of Division 1 (Planning) of Title 9 (Planning and Zoning) of the Laguna Niguel Municipal Code is amended to add definitions of "Dwelling unit, second," "Accessory Dwelling Unit," "Attached ADU," "Detached ADU," "Efficiency Unit," "Efficiency kitchen," "Junior Accessory Dwelling Unit (JADU)," "Proposed dwelling," "Public transit," and "Tandem parking" in alphabetical order to read as follows:

"*Dwelling unit, second.* See accessory dwelling unit."

"*Accessory dwelling unit (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. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation, subject to California Building Code requirements, and shall be located on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes an efficiency unit and a manufactured home, as defined in Section 18007 of the Health and Safety Code."

~~"Attached~~ *ADU*. An ADU that shares at least one common wall with the primary dwelling."

~~"Detached~~ *ADU*. An ADU that is constructed as a separate structure from an existing or proposed single-family dwelling or multi-family dwelling. An accessory dwelling unit attached to the primary structure via a roof, breezeway or covered walkway shall be considered a detached ADU."

~~"Efficiency unit~~ means a dwelling for occupancy by no more than two persons which has a minimum floor area of 220 square feet, and which may also have partial kitchen or bathroom facilities. *Efficiency unit* has the same meaning as defined in Section 17958.1 of the Health and Safety Code."

Efficiency kitchen shall include a cooking facility with appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the dwelling unit."

Junior Accessory Dwelling Unit (JADU) means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing structure."

~~"Proposed dwelling~~ means a dwelling that is the subject of a permit application and that meets the requirements for permitting."

~~"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."

~~"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."

SECTION 9. SAVINGS CLAUSE

Neither the adoption of this Ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

SECTION 10. SEVERABILITY

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this

Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 11. EFFECTIVE DATE

This Ordinance shall take effect and be in full force and operation thirty (30) days after its final passage and adoption.

SECTION 12. CITY CLERK'S CERTIFICATION

The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen (15) days after passage and adoption as required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and post a certified copy of the text of this Ordinance in the Office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and, within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

SECTION 13. SUBMITTAL TO HCD

The City Council hereby directs the Community Development Director to submit a copy of the Ordinance to the California Department of Housing and Community Development (HCD) within 60 days of its adoption in accordance with Government Code Section 65852.2.

PASSED, APPROVED AND ADOPTED this 3rd day of August, 2021.

Fred Minagar, Mayor

ATTEST:

Eileen C. Gomez, City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF ORANGE)SS
LAGUNA NIGUEL)

I, Eileen C. Gomez, City Clerk of the City of Laguna Niguel, California, do hereby certify that the foregoing is Ordinance No. 2021-211 which was adopted at a regular meeting of the City Council of the City of Laguna Niguel, California, held on August 3, 2021 by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

Eileen C. Gomez, City Clerk

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