

ORDINANCE NO. NS-2986

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA APPROVING AN AMENDMENT TO PROVISIONS OF CHAPTER 41 OF THE SANTA ANA MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS

THE CITY COUNCIL OF THE CITY OF SANTA ANA DOES ORDAIN AS FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds, determines and declares as follows:

- A. The Santa Ana Municipal Code (SAMC) requires updates periodically in order to gain compliance with new state or federal legislation.
- B. The City's current accessory dwelling unit ordinance, NS-2940, was adopted on April 3, 2018.
- C. NS-2940 established in 2018, has been superseded by changes made to state accessory dwelling unit laws (Assembly Bill 68, Assembly Bill 587, Assembly Bill 670, Assembly Bill 671, Assembly Bill 881, and Senate Bill 13) that took effect January 1, 2020, and is no longer enforceable. These statutes impose new limitations on local authority to regulate accessory dwelling units (ADU) and junior accessory dwelling units (JADU).
- D. The proposed changes to the ADU and JADU development standards are proposed to comply with the new state legislation to allow greater flexibility in allowing these units.
- E. The proposed amendments would change the ADU ordinance to be in full compliance with state law by repealing the City's 2018 ADU ordinance, incorporating new state provisions, and introducing new tailored ADU and JADU regulations that recognize and protect the diversity of Santa Ana neighborhoods.
- F. The City desires to amend its local regulatory program for the construction of ADUs and JADUs that fully complies with sections 65852.2 and 65852.22 of the Government Code, and finds that the proposed ordinance promotes the public health, safety and welfare of the community.

- G. The Planning Commission held a duly noticed public hearing on February 10, 2020, regarding this ordinance and recommended that the City Council adopt the amended ordinance.
- H. The City Council has held a duly noticed public hearing on this ordinance on March 17, 2020, and has considered all testimony presented thereto.

Section 2. Pursuant to the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines, the adoption of this ordinance is exempt from CEQA review pursuant to California Code of Regulations Title 14, Chapter 3, section 15282(h) as CEQA is not applicable to the adoption of an ordinance by a city to implement the provisions of Section 65852.1 or Section 65852.2 of the Government Code, and a Notice of Exemption will be filed upon adoption of this ordinance.

Section 3: Section 41-11.1 of the Santa Ana Municipal Code is hereby deleted.

Section 4: Sections 41-194 through Section 41-194.14 of the Santa Ana Municipal Code are hereby deleted and replaced with the new Sections 41-194 through Section 41-194.7 to read as follows:

Sec. 41-194. - Accessory Dwelling Units - Purpose.

The purpose of this section is to establish regulations for the development of accessory dwelling units and junior accessory dwelling units as defined in this section and in California Government Code sections 65852.2 and 65852.22, or any successor statute.

Sec. 41-194.1. - Definitions.

As used in this section, the following words, terms or phrases have the following meanings:

- (1) "Accessory dwelling unit" or "ADU" means an attached or detached residential dwelling unit that provides complete independent living facilities for one (1) or more persons and is located on a lot with a proposed or existing primary residential building. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel that the primary residential building is situated or will be situated. It shall have the same meaning as that term is defined in California Government Code section 65852.2, as amended from time to time.
- (2) "Existing accessory structure" means an accessory structure, as defined in this chapter, which was legally established and existing prior to the submittal of an ADU or JADU application.
- (3) "Existing carport" and "Existing covered parking structure" and "Existing garage" means a building or portion of a building designed or used for parking or

storage of motor vehicles that was legally established and existing prior to the submittal of an ADU or JADU application.

- (4) "Junior accessory dwelling unit" or "JADU" means a unit that is no more than 500 square feet in size, contained entirely within the living area of a single-family residence, provides a cooking facility with appliances, food preparation counter and storage cabinets that are of reasonable size in relation to the unit, and has independent exterior access. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
- (5) "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.
- (6) "Mixed-Use" for purposes of ADU development means a development that combines residential land use with one or more additional land uses where uses are physically and functionally integrated (horizontally or vertically).
- (7) "Multi-family building" for purposes of ADU development means a building, other than a hotel or motel, with two (2) or more attached dwelling units used to house two (2) or more families, living independently of each other.
- (8) "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.
- (9) "Single-family residence" means a residential building containing one (1) or more habitable rooms with only one (1) kitchen, designed for occupancy by one (1) independent household unit with common access to, and common use of all living, kitchen and bathroom areas.
- (10) "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.

Sec. 41-194.2. – Permitted Zones and Applicability.

- (A) ADUs and JADUs may be permitted in all zoning districts where residential or mixed-use development is permitted.
- (B) The Executive Director of the Planning and Building Agency, or his/her designee, shall review and approve or deny ministerial permits for ADUs and JADUs upon determining whether the application submitted is complete, the proposed unit conforms to all requirements of this code, and a non-refundable application review fee in the amount established by the City Council, and

amended from time to time, has been paid. Applications deemed incomplete or not in full conformance with the requirements of this code will be rejected.

- (C) Sites developed or proposed to be developed with a single-family residence shall not be permitted more than one (1) ADU.
- (D) Sites developed with a multi-family building may convert existing non-habitable square footage within the building to a minimum of one (1) ADU and a maximum that shall not exceed twenty-five (25) percent of the number of units on the site. Sites developed with a multi-family building are also permitted to construct two (2) ADUs or to convert existing detached accessory buildings, garages, carports, or covered parking structures to a maximum of two (2) ADUs.
- (E) A maximum of one (1) JADU shall be permitted on a site developed or proposed to be developed with a single-family residence, unless the subject site proposes or contains an attached ADU. In such cases, a JADU shall not be permitted.
- (F) An ADU shall only be sold or otherwise conveyed separately from the primary building on the site if the primary building and the ADU were built or developed by a qualified non-profit corporation in accordance with Government Code Section 65852.26, as amended from time to time, and an affordable housing agreement is entered into by the applicant and the city.

Sec. 41-194.3. – Development Standards

The development standards in Table 41-194.3 shall be applicable to all accessory dwelling units and junior accessory dwelling units. Additional provisions related to accessory dwelling units and junior accessory dwelling units are referenced in the "Additional Provisions" column of the table. Such provisions may include references to other applicable code sections or limitations.

City of Santa Ana Municipal Code Table 41-194.3				
Specific Regulations	ADU		JADU	Additional Provisions
	Attached	Detached		
Minimum Size	220 sq. ft.	220 sq. ft.	220 sq. ft.	
Maximum Size	1,000 sq. ft.	1,000 sq. ft.	500 sq. ft.	(A)(B)(C)
Maximum Height	Same as primary building	16 ft.	Same as primary building	
Minimum Side Yard Setback	4 ft.	4 ft.	Same as primary building	(D)

Minimum Rear Yard Setback	4 ft.	4 ft.	Same as primary building	(D)
Maximum Lot Coverage/Use Intensity	Same as zoning district	Same as zoning district	Same as zoning district	(E)
Open Space	1,200 sq. ft.	1,200 sq. ft.	-	(F)(G)
Separation from Primary Buildings	-	15 ft.	-	(H)
Separation from Accessory Buildings	5 ft.	5 ft.	-	(H)
Minimum Parking	1 space	1 space	-	(I)(J)
Tandem Parking	Permitted	Permitted	Permitted	
Design Guidelines	Apply	Apply	Apply	

- (A) Attached ADUs may be fifty (50) percent of the size of the habitable space of the primary dwelling on the site, not to exceed 1,000 square feet in size.
- (B) ADUs may not exceed 800 square feet in size in cases where both an ADU and JADU are developed or proposed on a site.
- (C) Existing accessory structures may be converted into an ADU and may be expanded by up to 150 square feet of the existing footprint to accommodate ingress and egress only.
- (D) No minimum setback shall be required for an ADU constructed in the same location and to the same dimensions as an existing structure that encroached into a required setback that was demolished to construct the proposed unit. This provision shall not apply to conversions of existing buildings.
- (E) Lot coverage and use intensity maximum established in zoning district may be exceeded to permit an ADU up to eight hundred (800) square feet in size. This provision shall not apply to conversions of existing buildings.
- (F) Required open space may be reduced to permit an ADU up to eight hundred (800) square feet in size. Open space requirement shall only apply to properties developed or proposed to be developed with a single-family residence. This provision shall not apply to conversions of existing buildings.

- (G) Shall be usable, continuous, non-front yard open-space, excluding driveways and parking areas. Any open space with a minimum dimension of fifteen (15) feet by fifteen (15) feet shall be deemed continuous open space.
- (H) Separation requirement may be reduced to permit an ADU up to eight hundred (800) square feet in size. Separation shall be measured from the nearest points between the structures. This provision shall not apply to conversions of existing buildings.
- (I) No parking for the ADU is required if one or more of the following applies:
 - 1. The ADU is located within one-half (1/2) mile walking distance of public transit.
 - 2. The ADU is located within an architecturally and historically significant historic district.
 - 3. The ADU is part of the proposed or existing primary dwelling or an existing accessory structure.
 - 4. When on-street parking permits are required but not offered to the occupant of the ADU.
 - 5. When there is a car share vehicle located within one (1) block of the ADU.
 - 6. The ADU is constructed as a studio, without bedrooms.
- (J) When an existing garage, carport, or other covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, replacement of those off-street parking spaces shall not be required.

Sec. 41-194.4. – Historic Properties.

ADUs and JADUs shall conform to the United States Secretary of Interior's Official Standards for the Treatment of Historic Properties.

Sec. 41-194.5 - Restrictive Covenant.

Prior to issuance of a building permit for a JADU, a covenant consenting that either the primary dwelling unit or the JADU be owner-occupied shall be recorded against the title of the property in the County Recorder's office and a copy filed with the Planning Division. Said covenant shall run with the land, and shall bind all future owners, heirs, successors, or assigns. The form of the deed restriction shall be provided by the City and shall provide that:

- 1. The JADU shall not be sold separately from the primary dwelling.

2. The unit is restricted to the approved size and attributes of this chapter.
3. The covenant restrictions run with the land and may be enforced against future purchasers.
4. The covenant restrictions may be removed if the owner eliminates the JADU.
5. The covenant restriction shall be enforced by the Executive Director of Planning and Building or his or her designee for the benefit of the City of Santa Ana. Failure of the property owner to comply with the covenant restrictions may result in legal action against the property owner and the City shall be authorized to obtain any remedy available to it at law or equity, including but not limited to obtaining an injunction enjoining use of the JADU in violation of the recorded restrictions or abatement of the illegal unit.

Sec. 41-194.6. – Appeals of Executive Director decision.

Any person wanting to appeal the determination of the Executive Director of the Planning and Building Agency, or his/her designee, to disapprove plans and drawings submitted pursuant to section 41-194, et seq., or to the standards of section 41-194, et seq., may file an application for a minor exception pursuant to Article V of this chapter.

Sec. 41-194.7 – Applicability to other regulations.

Accessory dwelling units and junior accessory dwelling units must comply with any and all applicable regulations imposed in other articles of the zoning code, other city ordinances and state and federal law. Should a conflict exist between the provisions of this article and the provisions of other articles of Chapter 41 of this Code, the provisions of this article shall prevail.

Section 5. Section 41-239 of the Santa Ana Municipal Code is hereby amended to read as follows:

Sec. 41-239. - Development standards in the R1 district.

Lots in the R1 district shall comply with the following standards:

- (a) Front and street oriented side yards shall be landscaped with the exception of approved driveways and sidewalks.
- (b) Side yards shall be completely landscaped, except a walkway or driveway may encroach into required side yard.

- (c) Driveways shall lead to a garage and not exceed the width of such garage or fifty (50) percent of the lot width at the street, whichever is less. There shall be no parking of vehicles in the front yard except in such driveways.
- (d) Garages facing the street shall occupy no more than fifty (50) percent of the lot width.
- (e) Porte-cocheres shall be architecturally integrated with the structure and may encroach up to the side property line located on a driveway that leads to the garage. A two-car garage must be provided prior to approval of a porte-cochere.
 - (1) A porte-cochere shall not exceed twenty-five (25) feet in length.
 - (2) Porte-cocheres shall comply with the setbacks established for the building it is attached to, except that the side yard setback may be reduced to three (3) feet. On corner lots the side yard setback on the street side shall be no less than ten (10) feet.
- (f) Accessory buildings shall not exceed thirty-five (35) percent of the required rear yard area. This subsection shall not apply to accessory dwelling units.
- (g) An accessory building shall be not less than five (5) feet from a main building.
- (h) Maximum square footage of accessory building shall not exceed fifty (50) percent of the main structure square footage. Required detached garages may exceed fifty (50) percent of the main structure square footage, but shall not exceed four hundred forty (440) square feet for a two-car garage, six hundred forty (640) square feet for a required three-car garage and eight hundred forty (840) square feet for a required four-car garage.

Section 6. Section 41-681.3 of the Santa Ana Municipal Code is hereby amended to read as follows:

Sec. 41-681.3. - Rehabilitation of multiple-family dwellings.

Rehabilitation of a nonconforming building which is a multiple-family dwelling, including structural alteration and/or enlargement, is permitted subject to the following limitations:

- (1) There shall be no enlargement which would intrude into any required yard.
- (2) There shall be no enlargement which would result in a new nonconformity with the requirements of this chapter.
- (3) There shall be no increase in the number or size of bedrooms unless the site on which the building is located will be in conformance with the off-street parking requirements of this chapter.


- (4) For the purpose of this section, the limitations listed in subsections (1), (2), and (3) shall not apply to accessory dwelling units as defined and regulated in Section 41-194 of this Chapter.

Section 7. If any section, subsection, 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 of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

ADOPTED this 7th day of April, 2020.


Miguel A. Pulido
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho
City Attorney

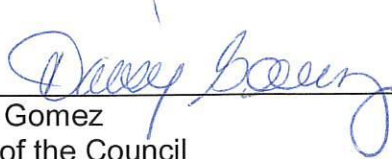
By: 
Lisa Storck
Assistant City Attorney

AYES	Councilmembers:	<u>Bacerra, Penaloza, Pulido, Solorio, Villegas (5)</u>
NOES:	Councilmembers:	<u>None (0)</u>
ABSTAIN:	Councilmembers:	<u>None (0)</u>
NOT PRESENT:	Councilmembers:	<u>Iglesias, Sarmiento (2)</u>

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, DAISY GOMEZ, Clerk of the Council, do hereby attest to and certify that the attached Ordinance No. NS-2986 to be the original ordinance adopted by the City Council of the City of Santa Ana on April 7, 2020, and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: 4-15-2020



Daisy Gomez
Clerk of the Council
City of Santa Ana