

ORDINANCE NO. NS-2940

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 SECOND 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 second dwelling unit ordinance, established in 2003, was
superseded by changes made to state second dwelling unit laws (Assembly Bill
2299 and Senate Bill 1069 that took effect January 1, 2017, and Assembly Bill 494
and Senate Bill 229 that took effect January 1, 2018), and is no longer
enforceable. These statutes impose new limitations on local authority to regulate
second units, which are now referred to as "accessory dwelling units" or an
"ADU".

C. The proposed changes to the accessory dwelling unit development standards
are proposed to comply with the new state legislation to allow greater flexibility in
allowing these units.

D. The proposed amendments would change the second dwelling unit ordinance
to be in compliance with state law by repealing the City's 2003 second dwelling
unit ordinance, incorporating new state provisions, and introducing new tailored
ADU regulations that recognize the diversity of Santa Ana neighborhoods.

E. The City desires to amend its local regulatory scheme for the construction of
accessory dwelling units that fully complies with section 65852.2 of the
Government Code, and finds that the proposed ordinance promotes the public
health, safety and welfare of the community.

F. The City Council has held a duly noticed public hearing on this ordinance 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 14 California Code of Regulations section 15061(b)(3), 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 added to read as follows:

Sec. 41-11.1. - Accessory dwelling unit.

An accessory dwelling unit is an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons and includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. It shall have the same meaning as that term is defined in California Government Code section 65852.2 as it may be amended from time to time.

Section 4: Section 41-150.5 of the Santa Ana Municipal Code is hereby deleted in its entirety.

Section 5: Sections 41-194 through Section 41-194.3 of the Santa Ana Municipal Code are hereby deleted and replaced with the new Sections 41-194 through Section 41-194.14 to read as follows:

Sec. 41- 194. - Purpose.

The purpose of this section is to provide reasonable regulations for the development of accessory dwelling units on residentially zoned properties on lots developed or proposed to be developed with single-family residential dwellings. Such regulations are intended to mitigate potential impacts to neighborhoods and comply with the goals and policies of the City's General Plan and comply with requirements codified in the state Planning and Zoning Law related to accessory dwelling units in residential areas, including California Government Code section 65852.2.

Sec. 41-194.1 - Definitions. As used in this section, the following words, terms or phrases have the following meanings:

- (1) "Attached accessory dwelling unit" means a residential dwelling unit that is attached to or located within the living area of an existing primary dwelling unit and that provides independent living, sleeping, eating, a single kitchen for cooking, and sanitation facilities for one or more persons. An attached accessory dwelling unit also includes an efficiency unit, as defined in California Health and Safety Code section 17958.1.
- (2) "Detached accessory dwelling unit" means a residential dwelling unit that is detached from the primary dwelling unit and that provides independent living, sleeping, eating, a single kitchen for cooking, and sanitation facilities for one or more persons. A detached accessory dwelling unit also includes an efficiency unit, as defined in California Health and Safety Code section 17958.1, and a manufactured home, as defined in section 18007.

- (3) "Existing accessory structure" means an accessory structure, as defined in this chapter, which was legally established and existing prior to adoption of this ordinance.
- (4) "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 adoption of this ordinance.
- (5) "Living area" is defined as the interior habitable area of a dwelling unit, but not including a garage or any accessory structure.
- (6) "Primary dwelling" means an existing single-family residential structure on a single parcel with provisions for living, sleeping, eating, a single kitchen for cooking, and sanitation facilities occupied and intended for one household.

Sec. 41-194.2 - Applicability.

- (1) The development and design standards in this section shall be applicable to all accessory dwelling units.
- (2) The Director of the Planning and Building Agency, or his/her designee, shall review and approve, or deny ministerial permits for accessory dwelling units conforming to the time limits specified by Government Code Section 65852.2 or successor provision.

Sec. 41-194.3 - Permitted Zones.

- (1) Accessory dwelling units are permitted in all zoning districts or on a parcel within any Specific Plan in which residential uses are permitted; or,
- (2) In the Professional (P) zoning district where there is only one legally established single-family residence, the exclusive use of the property is residential, and the continuance of the residential use is not barred by Section 41-683. In such cases, the site shall comply with the development standards in the R1 zoning district.

Sec. 41-194.4 - Use Restrictions.

- (1) An accessory dwelling unit may be developed on a parcel that either:
 - (a) Contains only one legally established single-family residence; or
 - (b) Will have only one new detached single-family residence permitted concurrently with the accessory dwelling unit.
- (2) Only one accessory dwelling unit may be located on the lot.

- (3) The accessory dwelling unit shall not be sold separately from the primary dwelling.
- (4) The accessory dwelling unit shall not be rented for periods of less than thirty (30) days.
- (5) The primary dwelling unit or the accessory dwelling unit shall be continuously occupied by at least one person having an ownership interest in the lot.

Sec. 41- 194.5 - General Development Standards. Accessory dwelling units shall comply with the following development standards, unless the accessory dwelling unit is described in subsection 41-194.8:

- (1) **Minimum Lot Area.** A minimum lot area of six thousand (6,000) square feet shall be required in order to establish an accessory dwelling unit.
- (2) **Maximum Size.** The maximum size of an accessory dwelling unit living area shall not exceed seven hundred fifty (750) square feet or fifty (50%) percent of the size of the living area of the primary dwelling unit on the parcel, whichever is less, and contain no more than one (1) bedroom.
- (3) **Minimum Size.** The accessory dwelling unit shall contain no less than the 220 square feet in living area the City requires for an efficiency dwelling unit which is defined in Section 17958.1 of the Health & Safety Code.
- (4) **Lot Coverage.** The lot coverage for the parcel, as that term is defined in this chapter, shall not exceed the percentage specified in the underlying zoning district.
- (5) **Design.** The design of the accessory dwelling unit shall preserve the privacy of adjacent uses and be architecturally compatible to the design of the primary dwelling by use of similar materials and textures, window types, roofing materials and roof pitch, and shall comply with the adopted Citywide Design Guidelines.
- (6) **Historic Properties.** If an accessory dwelling unit is to be constructed on a parcel identified on the federal, state or local list of historic resources, the accessory dwelling unit shall conform to the United States Secretary of Interior's official Standards for the Treatment of Historic Properties. If the proposed accessory dwelling unit is placed or constructed so as to result in a modification of the existing historic resource on the parcel, a certificate of appropriateness shall be issued by the Historic Resources Commission upon the finding that the proposed accessory dwelling unit conforms to the United States Secretary of Interior's official Standards for the Treatment of Historic Properties and does not substantially change the character and integrity of the historic property.

- (7) **Open Space.** A minimum of one thousand two hundred (1,200) square feet of usable, continuous, non-front yard open-space, excluding driveways and parking areas, shall be provided. Any open space with a minimum dimension of fifteen (15) feet by fifteen (15) feet shall be deemed continuous open space.
- (8) **Passageway.** No passageway shall be required in conjunction with the construction of an accessory dwelling unit. For the purpose of this section, "passageway" shall mean a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

Sec. 41-194.6 - Development Standards – Detached Accessory Dwelling Units.

Detached accessory dwelling units shall comply with all provisions in Sec. 41-194.5, in addition to the following:

- (1) **Setbacks.** The accessory dwelling unit shall comply with the front and side yard setback standards prescribed in the zoning district, and shall have a rear yard setback of not less than ten (10) feet.
- (2) **Maximum Height.** A detached accessory dwelling unit shall not exceed fifteen (15) feet in height, as measured from the lowest adjacent grade of the structure to the top of the structure.
- (3) **Separation.** There shall be a minimum of fifteen (15) feet separation between the primary dwelling unit and a detached accessory dwelling unit and a minimum of five (5) feet between a detached accessory dwelling unit and an accessory building. Separation shall be measured from the exterior wall of the primary dwelling unit or attached structure to the nearest wall of the accessory dwelling unit or attached structure.
- (4) **Site Planning.** A detached accessory dwelling unit shall be located behind the rear building line of the primary dwelling, and be clearly subordinate by location and size.

Sec. 41-194.7 - Development Standards – Attached Accessory Dwelling Units.

Attached accessory dwelling units shall comply with all provision in Sec. 41-194.5, in addition to the following:

- (1) **Setbacks.** The accessory dwelling unit shall comply with the setback standards for primary dwellings prescribed in the zoning district.
- (2) **Maximum Height.** The height of an attached accessory dwelling unit shall not exceed the height limit applied to a primary dwelling unit in the underlying zoning district.
- (3) **Exterior Stairs.** An attached accessory dwelling unit shall have no exterior stairs.

- (4) **Entrances.** No attached accessory dwelling unit shall have an outside door on the primary elevation of the primary dwelling unit or an outside door that is visible from the street.

Sec. 41-194.8 - Development Standards – Conversion of an Existing Structure. An existing primary dwelling unit, existing accessory structure, or existing garage, or portion thereof, converted to an accessory dwelling unit is not subject to the development standards of subsections 41-194.5 through 41-194.7 provided that the unit complies with all of the following requirements:

- (1) **Conversion of an existing structure.** Is contained within a single-family dwelling, accessory structure or garage that was legally established prior to the adoption of this ordinance;
- (2) **Maximum Size.** Is a maximum of seven hundred fifty (750) square feet of living area in size or fifty (50%) percent of the size of the living area of the primary dwelling unit on the parcel, whichever is less;
- (3) **Minimum Size.** Is no less than the minimum 220 square feet in living area the City requires for an efficiency dwelling unit which is defined in Section 17958.1 of the Health & Safety Code;
- (4) **Setbacks:** The side and rear setbacks of the accessory dwelling unit comply with building code provisions related to life and fire safety.
- (5) **Independent Access.** Has independent exterior access from the existing residence, which shall not be located on the primary elevation of the primary dwelling;
- (6) **Independent Living Facilities.** Has independent living, sleeping, eating, a single kitchen for cooking, and sanitation facilities for one or more persons; and,
- (7) **Passageway.** No passageway shall be required in conjunction with the construction of an accessory dwelling unit. For the purpose of this section, "passageway" shall mean a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

Sec. 41-194.9 - Parking. All accessory dwelling units must meet the following parking standards in addition to the required off-street parking for the primary dwelling on the site.

- (1) One (1) parking space shall be provided for all accessory dwelling units regardless of number of bedrooms, unless the accessory dwelling unit is constructed as a studio without bedrooms, in which case no parking is required.
- (2) When an existing garage is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit,

replacement garage spaces for the primary dwelling unit shall not be required.

Sec. 41-194.10 - Parking Exceptions. No off-street parking shall be required for an accessory dwelling unit in any of the following circumstances:

- (1) The accessory dwelling unit is located within one-half mile of public transit. For the purposes of this section "public transit" shall mean a bus stop with fixed route express bus service that provides transit service at 15-minute intervals or better during peak commute periods.
- (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
- (3) The accessory dwelling unit is part of the existing primary dwelling or an existing accessory structure.
- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit. For the purposes of this section, "car-share vehicle" shall mean part of an established program intended to stay in a fixed location for at least 10 years and available to the public.

Sec. 41-194.11 - Non-conforming Properties.

- (1) Legal nonconformities of the existing primary dwelling, except for legal nonconformities related to the parking standards of this chapter, shall be allowed to remain provided nonconformities are not expanded or any new nonconformities are created.
- (2) A lot shall comply with the current parking standards of this chapter prior to or concurrent with the establishment of an accessory dwelling unit.

Sec. 41-194.12 - Restrictive Covenant. Prior to issuance of a building permit for an accessory dwelling unit, a covenant consenting that either the primary dwelling unit or the accessory dwelling unit shall 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 accessory dwelling unit shall not be sold separately from the primary dwelling.

- (2) The unit is restricted to the approval 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 accessory dwelling unit.
- (5) The covenant restriction shall be enforced by the 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 injunction enjoining use of the accessory dwelling unit in violation of the recorded restrictions or abatement of the illegal unit.

Sec. 41-194.13 - Appeals of planning manager or zoning administrator decision. Any person aggrieved by a determination of the planning manager to disapprove plans and drawings submitted pursuant to section 41-194, et seq., may file an application for a minor exception which shall be heard by the zoning administrator pursuant to Article V of this chapter. Such application may include a request to vary from the standards of section 41-194, et seq. The decision of the zoning administrator on such application may be appealed to the planning commission pursuant to said Article V.

Sec. 41-194.14 - Applicability to other regulations. The provisions of this article are not intended to provide exclusive regulation of accessory dwelling units. Such uses 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 6. Section 41-236 of the Santa Ana Municipal Code is hereby amended to read as follows:

Sec. 41-236. - Rear yards in the R1 district.

There shall be a rear yard setback of not less than twenty (20) feet. This section shall not apply to permitted accessory dwelling units.

Section 7. Section 41-626(f) of the Santa Ana Municipal Code is hereby amended to read as follows:

Sec. 41-626 (f). - Underground utility installations.

The requirements of this section shall not apply to construction of new accessory dwelling units provided, however, that all utility cables or wires between the

primary residence and a detached accessory dwelling unit shall be placed underground.

Section 8. Section 41-681.4(g) of the Santa Ana Municipal Code is hereby added to read as follows:


Sec. 41-681.4. - Rehabilitation of single-family and two-family dwellings.

- (a) Rehabilitation of a nonconforming building whose primary use is a single-family dwelling or a two-family dwelling is permitted:
 - (1) In a residential district or a specific development where residential is permitted, or
 - (2) In a P district where the continuance of the use is not barred by section 41-683 and the building complies with the minimum yard requirements applicable to buildings located in the R2 district.
- (b) Structural alterations and additions may be made where the total floor area of all such expansions occurring in a five-year period does not exceed forty (40) percent of the floor space of the building as it existed at the beginning of said time, provided:
 - (1) The number of bedrooms is not increased;
 - (2) The number of dwelling units is not increased; and
 - (3) No new nonconformities with the requirements of this chapter are created.
- (c) Structural alterations and additions which exceed forty (40) percent of the total floor area as it existed at the beginning of a five-year period; include the creation of new bedrooms; or remodeling which involves the demolition of more than fifty (50) percent of the building shall be permitted; provided:
 - (1) The number of dwelling units is not increased;
 - (2) The parking is brought into conformance with code provisions;
 - (3) No new nonconformities with the requirements of this chapter are created; and
 - (4) A minimum of one thousand two hundred (1,200) square feet of usable, continuous, non-front yard open-space, excluding driveways and parking areas is provided. Any open space with a minimum dimension of fifteen (15) feet by fifteen (15) feet shall be deemed continuous open space.
- (d) Where rehabilitation of a building involves more than fifty (50) percent of a building wall which encroaches into a front or side yard setback is demolished or is structurally altered, the remainder of the building wall shall be demolished. Any subsequent building wall shall conform to all provisions of this chapter.
- (e) For the purpose of this section, an existing two-car garage with a minimum dimension of eighteen (18) feet by eighteen (18) feet exterior dimension shall be considered conforming.
- (f) For the purpose of this section, remodel shall mean to reconstruct, or to make over in structure or style, but shall exclude re-roof, window replacement, exterior finish replacement and repair or similar modifications.


- (g) For the purpose of this section, the limitations on adding a dwelling unit listed in subsections (a), (b), and (c) shall not apply to accessory dwelling units as defined and regulated in Section 41-194 of this Chapter. Existing non-conformities on a property otherwise eligible to build an accessory dwelling unit shall not disqualify it from building an accessory dwelling unit.

Section 9. 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 3rd day of April, 2018.


Miguel A. Pulido
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho
City Attorney

By: 
Lisa Storck
Assistant City Attorney

AYES:	Councilmembers	<u>Benavides, Martinez, Pulido, Sarmiento,</u> <u>Solorio, Tinajero, Villegas (7)</u>
NOES:	Councilmembers	<u>None (0)</u>
ABSTAIN:	Councilmembers	<u>None (0)</u>
NOT PRESENT:	Councilmembers	<u>None (0)</u>

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, MARIA D. HUIZAR, Clerk of the Council, do hereby attest to and certify that the attached Ordinance No. NS-2940 to be the original ordinance adopted by the City Council of the City of Santa Ana on April 3, 2018, and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: 4/11/2018

Maria D. Huizar
Maria D. Huizar
Clerk of the Council
City of Santa Ana