

ACCESSORY DWELLING UNIT ORDINANCE UPDATE

**RESOLUTION NO. PC 14-24**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ORANGE RECOMMENDING THAT THE CITY COUNCIL ADOPT ORDINANCE NO. XX-24 UPDATING ACCESSORY DWELLING UNIT PROVISIONS OF THE ORANGE MUNICIPAL CODE IN RESPONSE TO CHANGES IN STATE LAW AND GUIDANCE FROM THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

**APPLICANT: CITY OF ORANGE**

**WHEREAS**, in 2019, the State Legislature enacted new laws related to Accessory Dwelling Units (“ADUs”) and Junior Accessory Dwelling Units (“JADUs”), formerly known as “second units” or “granny flats, including Assembly Bills (“AB”) 68, 881, 587, 670 and Senate Bill (“SB”) 13; and

**WHEREAS**, in enacting new laws, the Legislature aimed to address barriers to the development of ADUs and JADUs that may occur under existing local ordinances and establish certain minimum standards for approving such dwelling units, and

**WHEREAS**, on or about April 13, 2021, the City adopted Ordinance No. 03-21 codifying rules and regulations pertaining to ADUs and JADUs in accordance with State law mandates at that time and in efforts to address California’s continuing housing crisis; and

**WHEREAS**, since 2020, the Legislature has made numerous changes to ADU law, as contained in, but not limited to, AB 671, 976, AB 897, 1332, 1033, which have made both substantive and non-substantive changes to the ADU and JADU laws; and

**WHEREAS**, the State Legislature also recently re-codified ADU laws from Government Code Sections 65852.2, *et. seq.* to Government Code Section 66310, *et. seq.*; and

**WHEREAS**, the City now desires to revise the Orange Municipal Code’s Chapter 17.29 to be consistent with the most recent changes to State law regarding ADUs and JADUs, and Housing and Community Development Department (“HCD”) guidance, and to make further clarifications consistent with State law in order to ensure the City’s continued compliance with the letter and spirit of ADU laws; and

**WHEREAS**, at the regularly scheduled Planning Commission meeting on April 15, 2024, the Planning Commission moved to continue the item to the next regularly scheduled Planning Commission meeting on May 6, 2024; and

**WHEREAS**, the Planning Commission, having considered the proposed revisions to the OMC at a public hearing held on May 6, 2024, including review of the staff report, and having

received public testimony on the item, has determined the proposed ordinance complies with state law and recommends approval thereof.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission recommends that the City Council approve the subject ordinance, attached hereto as Attachment A, based on the following:

### **SECTION 1- FINDINGS**

The proposed Ordinance No. XX-24 amends existing provisions of the OMC to achieve compliance with state law.

1. The proposed Ordinance No. XX-24 supports the objectives and policies outlined in the General Plan Housing Element. Specifically, the Ordinance will assist in providing housing to meet the needs of low-and moderate income households, remove governmental constraints, promote housing opportunities for all persons, maximize future residential development potential, provide senior housing opportunities, facilitate infill construction and, provide workforce housing. The ordinance also incorporates provisions intended to preserve and protect the quality of life in established neighborhoods.

### **SECTION 2-ENVIRONMENTAL REVIEW**

The proposed ordinance is statutorily exempt under the California Environmental Quality Act (“CEQA”) pursuant to Public Resources Code Section 21080.17 and Title 14, California Code of Regulations Section 15282(h) which exempts adoption of an ordinance regarding second units to implement provisions of Sections 66310 of the Government Code.

**ADOPTED** this 6<sup>th</sup> day of May 2024.

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David Vazquez  
Planning Commission Chair

I hereby certify that the foregoing Resolution was adopted by the Planning Commission of the City of Orange at a regular meeting thereof held on the 6<sup>th</sup> day of May 2024, by the following vote:

AYES:

NOES:

ABSENT:

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Anna Pehoushek, FAICP  
Assistant Community Development Director

**EXHIBIT A**  
**RESOLUTION NO. PC 14-24**

**ZONE CHANGE NO. 1315-24**  
**ADU ORDINANCE UPDATE**

**ORDINANCE NO. XX-24**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING TITLE 17 OF THE ORANGE MUNICIPAL CODE UPDATING ACCESSORY DWELLING UNIT PROVISIONS OF THE ORANGE MUNICIPAL CODE IN RESPONSE TO CHANGES IN STATE LAW AND GUIDANCE FROM THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

**WHEREAS**, in 2019, the State Legislature enacted new laws related to Accessory Dwelling Units (“ADUs”) and Junior Accessory Dwelling Units (“JADUs”), formerly known as “second units” or “granny flats, including Assembly Bills (“AB”) 68, 881, 587, 670 and Senate Bill (“SB”) 13; and

**WHEREAS**, in enacting new laws, the Legislature aimed to address barriers to the development of ADUs and JADUs that may occur under existing local ordinances and establish certain minimum standards for approving such dwelling units, and

**WHEREAS**, on or about April 13, 2021, the City adopted Ordinance No. 03-21 codifying rules and regulations pertaining to ADUs and JADUs in accordance with State law mandates at that time and in efforts to address California’s continuing housing crisis; and

**WHEREAS**, since 2020, the Legislature has made numerous changes to ADU law, as contained in, but not limited to, AB 671, 976, AB 897, 1332, 1033, which have made both substantive and non-substantive changes to the ADU and JADU laws; and

**WHEREAS**, the State Legislature also recently re-codified ADU laws from Government Code Sections 65852.2, *et. seq.* to Government Code Section 66310, *et. seq.*; and

**WHEREAS**, the City now desires to revise the Orange Municipal Code’s Chapter 17.29 to be consistent with the most recent changes to State law regarding ADUs and JADUs and Housing and Community Development Department (“HCD”) guidance and to make further clarifications consistent with State law in order to ensure the City’s continued compliance with the letter and spirit of ADU laws.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION I:**

Section 17.29.030(H) is hereby added to read:

H. A deed restriction shall only be required for JADUs, in accordance with Section 17.29.200, and shall not be required for ADUs.

**SECTION II:**

Subsection A of Section 17.29.040 (Location and Number of ADUs and JADUs Permitted) shall be amended to read as follows:

A. Allowable Location and Number of JADUs.

1. JADUs are allowed only within the livable area of an existing or proposed single-family dwelling, or existing attached garage of a single-family dwelling.
2. One JADU is permitted per lot, if all of the following apply:
  - a. No expansion of the single-family dwelling or garage footprint shall occur to facilitate JADU construction.
  - b. The JADU shall comply with the requirements of Government Code Section 66333, Health and Safety Code Section 17958.1, and the California Building Code including:
    - i. Prior to occupancy, the JADU shall have a recorded deed restriction, satisfactory to the City and be filed with the City, that prohibits the sale of the JADU separate from the sale of the single-family residence except as provided by Government Code Section 66333 and shall include a statement that the deed restriction may be enforced against future purchasers and shall run with the land.
    - ii. The JADU shall be restricted to the size and attributes shown on plans approved with the building permit.
    - iii. JADU occupancy shall be limited to no more than two persons consistent with California Health and Safety Code Section 17958.1.
    - iv. The JADU shall be constructed entirely within the walls of the proposed or existing single family residence and may be located within an attached garage but may not be in any other accessory structure.
    - v. The JADU shall include exterior access separate from the main entrance to the proposed or existing single-family residence.
3. The JADU shall, at a minimum, include all the following:
  - a. An efficiency kitchen with a cooking facility and appliances.

- b. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.
- c. A separate closet.
- d. Light and ventilation conforming to the California Building Code.
- e. Either a separate bathroom containing a water closet, lavatory, and bathtub or shower or direct access to such facilities in the existing single-family residence.

### **SECTION III:**

Section 17.29.055 is hereby added to read:

#### 17.29.055 ADUs and Historic Preservation

- A. The City may apply design standards on ADUs to prevent adverse impacts on any real property that is listed in the California Register of Historical Resources.
- B. ADUs in a historic district, and individually listed historic properties outside of a historic overlay district, are subject only to the applicable design standards for that property or district to the extent permitted by State law and any other appropriate objective design standards contained in this Code.
- C. Garage doors on contributing structures in the historic districts and on individually listed historic resources shall be preserved in place but finished so that they are inoperable. Non-contributing garages and accessory structures with non-historic doors, including garage doors, may be replaced with a compatible door style or infilled in the original opening, provided that a historical assessment acceptable to the Community Development Director confirms that the garage or accessory structure is not eligible for listing as a contributing structure.

### **SECTION IV:**

Subsection B of Section 17.29.080 (ADU Setbacks) shall be amended to read as follows:

- B. ADUs of 800 Square Feet or Less.
  - 1. Setbacks of no more than four feet from the side and rear lot lines shall be required for an ADU that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.
  - 2. Front setbacks shall be pursuant to the setback for the zoning district, except that setback requirements will not be applied to prohibit ADU construction where there is no

other feasible alternative to allow for construction of an 800 square foot ADU that meets height limits and complies with the four-foot side and rear yard setback requirements.

3. An Administrative Adjustment may not be granted to lessen required setbacks.

## **SECTION V:**

Section 17.29.090 (ADU and JADU Design Standards) shall be amended to read as follows:

### **17.29.090 ADU and JADU Design Standards**

A. The City may impose standards, including, but not limited to, design and development standards, on ADUs, to the extent permitted by State law.

B. No provisions applied to ADUs, including, but not limited to, design and development standards, shall be so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of a homeowner to create accessory dwelling units in zones in which they are authorized.

C. An ADU or JADU that complies with the requirements of State law shall be subject only to objective design and development standards contained in or referenced by this Code, including, but not limited to, the following:

1. Design elements and detailing shall be continued completely around the structure. Such design elements shall include window treatments, trim detailing, exterior wall materials, and color palette. Firewalls are not exempt from the required design elements.

2. At least two (2) building materials shall be used on any building frontage (excluding roof and foundation) in addition to glazing and railings. Any one material shall comprise at least 20% of the building frontage.

3. At least two (2) exterior colors shall be used. Elements that count toward this requirement include cladding material, trim/accent colors, and visually significant colors for doors, and similar elements. Primary colors shall be used as accent colors only.

4. Trash receptacles locations shall be identified on project plans and shall demonstrate screening from public view via equivalent-height landscaping or a solid wall or fence.

5. Linear streetscape appearance in the building facade shall be avoided by providing variations in horizontal plane in a minimum of 50% of the building front and street side elevations. Variations shall include indentations, recesses, or projections of two (2) feet or greater. Vertical architectural elements (pilasters, columns, piers, other

structural elements) shall vertically project a minimum of eight (8) feet in height and project a minimum of eight (8) inches from the building face.

6. Units shall include a minimum three (3) element(s) from the following list to add visual variety and interest to building facades and enhance the connection between public and private realms: eaves, cornices, trellises, overhangs, exposed structural elements such as rafters, recessed windows, columns, bay windows. Other elements may be approved if they provide equivalent visual variety and interest.

7. Trim surrounds shall be provided at all exterior window and door openings. Trim shall be substantial, visible, and at least two (2) inches in depth.

8. Classical window proportions shall be provided such as 2:1, 3:2, or 4:3.

9. No building facade may extend in a continuous plane for more than 20 feet without a window, door, variation in horizontal plane, or vertical architectural element.

10. For all new construction ADUs, roof forms and pitch shall match the principal residence, except that, if the roof pitch cannot match the principal residence, the pitch shall be constructed and maintained consistent with the architectural style of the primary residence.

## **SECTION VI:**

A new Section 17.29.095 (Height Limits) is hereby added to read as follows:

### **17.29.095 Height Limits**

A. 16 feet for detached ADUs.

B. 18 feet for detached ADUs on a lot within one-half mile of a major transit stop or transit corridor as defined by State law. An allowance of two additional feet may be allowed to accommodate a roof pitch that is aligned with the principal residence.

C. 18 feet for detached ADUs on a lot with an existing or proposed multi-family, multi-story residence.

D. 25 feet or the height limit for the underlying zone classification, whichever is lower, for ADUs that will be attached to the principal residence. The ADU shall not exceed two stories in height.

## **SECTION VII:**

Section 17.29.110 (Number of Bedrooms) is hereby deleted.

**SECTION VIII:**

Subsection E to Section 17.29.130 is hereby added as follows:

- C. The foregoing parking standards are not intended to prohibit ADUs on the same lots that new single- and/or multi-family dwelling units are being proposed, provided that the ADU meets all other specified requirements.

**SECTION IX:**

Section 17.29.150 is hereby deleted.

**SECTION X:**

**17.29.200 Deed Restriction Required for JADU.**

Recordation of a deed restriction, approved as to form by the City Attorney, shall be required for a JADU and shall:

- A. Run with the land.
- B. Be filed with the City after recording.
- C. Prohibit the sale of the ~~ADU~~ or JADU separate from the sale of the primary dwelling.
- D. Include a statement that the deed restriction may be enforced against future purchasers.
- E. Deed restrictions for JADUs shall restrict the size and attributes as stated in the permit.

**SECTION VIX:**

To the extent required to implement the provisions of this Ordinance, City staff is directed to modify any Administrative Policies in conflict herewith and return to the City Council for any City Council approvals deemed necessary.

**SECTION XIII:**

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase

thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

**SECTION XIV:**

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause a summary of the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2024.

Daniel R. Slater, Mayor, City of Orange

**ATTEST:**

Pamela Coleman, City Clerk, City of Orange

**APPROVED AS TO FORM:**

Mike Vigliotta, City Attorney

STATE OF CALIFORNIA    )  
COUNTY OF ORANGE    )  
CITY OF ORANGE        )

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2024, and thereafter at the regular meeting of said City Council duly held on the \_\_\_\_ day of \_\_\_\_\_, 2024 was duly passed and adopted by the following vote, to wit:

AYES:            COUNCILMEMBERS:  
NOES:            COUNCILMEMBERS:  
ABSENT:         COUNCILMEMBERS:  
ABSTAIN:        COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange