

ORDINANCE NO. 2019-2865

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA MESA
ADOPTING AMENDMENTS TO TITLE 24 (ZONING) OF THE LA MESA
MUNICIPAL CODE FOR THE DEVELOPMENT OF ACCESSORY DWELLING
UNITS (ADUs) IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE
SECTION 65852.2

WHEREAS, housing in California is becoming increasingly unaffordable, and the availability of housing is a substantial concern for individuals of all demographics, ages, and income groups in communities throughout the City of La Mesa (City);

WHEREAS, the state is falling far short of meeting current and future housing demand and the housing affordability crisis threatens the public health, safety, and/or welfare of our citizenry;

WHEREAS, accessory dwelling units are additional living quarters that are independent of the primary dwelling unit that may be either attached or detached and provide complete independent living facilities, including facilities for living, sleeping, eating, cooking, and sanitation;

WHEREAS, alternative housing models such as accessory dwelling units contribute to addressing housing supply and affordability;

WHEREAS, Section 65852.150(a) of the California Government Code provides that accessory dwelling units are a valuable form of housing; that they may provide housing for family members, students, the elderly, in-home healthcare providers, the disabled, and others at below market prices within existing neighborhoods; that they may add income and an increased sense of security to homeowners; that they will provide additional rental housing stock; that they offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character; and that they are an essential component of California's housing supply;

WHEREAS, Section 65852.150(b) of the California Government Code provides that the Legislature's intent with the adoption of SB 1069 was that local agencies adopt an ordinance relating to matters including unit size, parking, fees, and other requirements, that are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance;

WHEREAS, the State of California recently enacted legislation regarding the development of accessory dwelling units (ADUs), including Senate Bill 1069 and Assembly Bill 2299, effective January 1, 2017, and Senate Bill 229 and Assembly Bill 494, effective January 1, 2018, all amending California Government Code Section 65852.2, intended to eliminate barriers to accessory dwelling unit construction that the Legislature has determined is a common-sense, cost effective approach to accommodate future growth and to encourage infill development in developed neighborhoods;

WHEREAS, the City Council seeks to implement the State legislation through adoption of local regulations for the development of accessory dwelling units, as provided by California Government Code Section 65852.2(a), to provide increased affordable housing options and to

further the public health, safety, and welfare;

WHEREAS, pursuant to Section 65852.2 et seq. of the California Government Code, accessory dwelling units developed in areas zoned for single-family or multifamily use are a residential use consistent with the existing General Plan and zoning designation for the lot, and accessory dwelling units do not exceed the allowable density for the lot on which the accessory unit is located;

WHEREAS, the City desires to clearly communicate to the residents and citizens and business community how the City intends to implement Section 65852.2 of the California Government Code;

WHEREAS, the Planning Commission conducted a public hearing on December 19, 2018, regarding the herein proposed amendments to Title 24 (Zoning) of the La Mesa Municipal Code, considered public testimony, and made a recommendation to the City Council to adopt the proposed amendments;

WHEREAS, the City Council conducted a public hearing on February 26, 2019, regarding the herein proposed amendments to Title 24 (Zoning) of the La Mesa Municipal Code, considered all evidence, including testimony and the evaluation and recommendation by staff, presented at said hearing;

WHEREAS, notices of all said public hearings were made at the time and in the manner required by law;

WHEREAS, this Ordinance is enacted pursuant to the powers vested in the City pursuant to Article XI, Sections 5 and 7, of the California Constitution; and

WHEREAS, the California Environmental Quality Act (CEQA) does not apply to the City's adoption of an ordinance to implement Government Code Section 65852.2 regarding accessory dwelling units pursuant to Public Resources Code Section 21080.17.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of La Mesa, California as follows:

SECTION 1: The City Council finds and determines the following:

1. That the foregoing recitals are true and correct and an integral part of the City Council's decision, and hereby adopts such recitals as findings.
2. That the regulations proposed herein are consistent with California Government Code Section 65852.2.
3. That this action is exempt from CEQA pursuant to Public Resources Code Section 21080.17.

SECTION 2: Title 24 (Zoning) of the La Mesa Municipal Code (LMMC) is hereby amended as follows, additions are shown as underline and deletions are shown as ~~strikethrough~~:

- A. Amend the definition of "accessory dwelling unit" in LMMC Section 24.01.100 (Definitions):

"Accessory dwelling unit" means either a detached or attached dwelling unit which provides complete, independent living facilities for one or two more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel or parcel as the primary unit is situated. An accessory dwelling unit can be an efficiency unit, as defined in Section 17958.1 of Health and Safety Code, or a manufactured home, as defined in Section 18007 of the Health and Safety Code.

B. Amend accessory dwelling unit parking requirement in LMMC Section 24.04.050A(8):

(8) Accessory dwelling unit ~~1 additional off-street space (as described in Section 24.05.020D7e(1)(e))~~ See Municipal Code Section 24.05.020D8k

C. Delete existing LMMC Section 24.05.020D8:

~~8. In the R-1 zones, accessory dwelling unit subject to the following provisions and limitations:~~

~~(1) Provisions~~

~~(a) No age restriction will apply to the tenants of accessory dwelling units.~~

~~(b) The property owner must occupy either the primary or accessory unit.~~

~~(c) Occupancy of the accessory unit is restricted to no more than two persons.~~

~~(d) Accessory unit must comply with all adopted municipal codes and zoning requirements of the underlying zone.~~

~~(e) One additional off-street parking space must be provided. The required space shall not encroach into the area between the front property line and the required setback line, and not in tandem with any other required parking space. If the existing parking is nonconforming, the current parking requirements for both units shall be met when the accessory unit is added.~~

~~(f) Approval by the local health officer when a private sewage disposal system is used.~~

~~(g) The accessory dwelling unit must be attached to the existing dwelling unit. EXCEPTION: A detached unit for which a building permit was complete prior to July 1, 1983 is permitted only if the structure complies with the following:~~

~~(i) Is architecturally similar to the existing primary dwelling unit.~~

~~(ii) Conforms to all the regulations and standards of the underlying zone. No future addition may be added to the detached structure which would cause the entire structure to exceed five hundred sixty square feet.~~

~~(h) When an accessory dwelling unit is attached or made a part of the existing single family residence, the floor area is limited to five hundred sixty square feet.~~

~~EXCEPTION: Excess area is needed to provide for design features for the handicapped (640 s.f. maximum may be allowed) or if the area in excess of five hundred sixty square feet was constructed prior to July 1, 1983 and all other requirements of this chapter can be met.~~

~~(i) Dwellings modified in conjunction with an accessory unit shall be designed so that the appearance of the building remains that of a single-family residence. The design must be architecturally similar to the existing unit (i.e. same roof line, siding and roof materials).~~

~~(j) Reserved.~~

~~(k) The accessory unit applicant and all subsequent property owners thereafter shall annually certify by affidavit (oath statement) that they are abiding by the provisions set forth in this section, and submit evidence that CC&Rs have been recorded with the county recorder.~~

~~(l) Only one accessory dwelling unit shall be permitted per lot. The lot must be in a single family residential zone (R1E, R1R, R1S, R1, R1A) and have only one single family residence currently.~~

~~NOTE: For the purposes of this section, "attached" shall be defined as: Completely within an existing principal building or added to an existing principal building, provided that both dwelling units shall be attached by a common wall, floor or ceiling, and not simply by an attached breezeway or porch; and shall be contained within one building.~~

D. Add new LMMC Section 24.05.020D8:

8. Accessory Dwelling Units, Attached and Detached

- a. One attached or one detached accessory dwelling unit may be permitted in conjunction with an existing or proposed single-family or two-family (duplex) residence on lots zoned for single-family or multifamily use.
- b. An accessory dwelling unit may be permitted on a lot where a junior accessory dwelling unit exists.
- c. An accessory dwelling unit shall not be sold or otherwise conveyed separately from the primary residence, but may be rented.
- d. Except as provided herein, attached and detached accessory units shall comply with the development standards of the underlying zone and/or overlay zone, and all other ordinances, regulations, and policies, applicable to the development of residential dwelling units.
- e. Except as provided herein, attached and detached accessory dwelling units shall comply with all local building and fire code requirements, as appropriate.
- f. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

- g. Projects solely proposing the development of an accessory dwelling unit shall be exempt from public right-of-way dedication and improvement requirements.
- h. The floor area of an attached or detached accessory unit shall not exceed 1,200 square feet.
- i. Setbacks for accessory units:
 - (i). Except as provided herein, attached and detached accessory dwelling units shall comply with the setbacks required for the primary dwelling unit as established by the underlying zoning designation or overlay zone, as applicable.
 - (ii). Notwithstanding the setbacks established by the underlying zoning designation or overlay zone, except the Hillside Overlay Zone, attached or detached accessory dwelling units shall have a setback of not less than five feet from side and rear property lines, or from the interior edge of adjacent access easements, whichever is more restrictive.
 - (iii). The setbacks established by the underlying zone and the overlay zone shall apply to attached and detached accessory dwelling units within the Hillside Overlay Zone.
 - (iv). Notwithstanding any other setback requirement, no setback shall be required for the conversion of existing space wholly within an existing primary residence or an existing garage or accessory structure to an accessory dwelling unit.
 - (v). Notwithstanding any other setback requirement, an accessory dwelling unit constructed above a garage shall have a setback of not less than five feet from side and rear property lines.
 - (vi). Building appendages for accessory dwelling units shall comply with Municipal Code Section 24.05.030G.
 - (vii). Any accessory dwelling unit that is permitted or constructed in reliance on the setbacks established specifically for accessory dwelling units in this Subsection 24.05.020D8i shall be:
 - (1) Maintained as an accessory dwelling unit and shall not be converted to or used for any other purpose without express authorization of the City.
 - (2) Limited to a height of one-story and 15 feet for any portion of an attached or detached accessory dwelling unit relying on the setbacks established by Municipal Code Section 24.05.020D8i(ii), except that accessory dwelling units constructed above a garage shall be subject to the height limit applicable to the primary dwelling.
- j. An additional five percent (5%) of lot coverage above that established for the underlying zoning designation shall be allowed for accessory dwelling units only for

lots of 10,000 square feet or less and where there is an existing single-family residence.

k. Parking

- (i). New or additional parking spaces shall not be required for the creation of accessory dwelling units.
- (ii). Where provided, parking spaces for accessory dwelling units shall comply with Chapter 24.04 (Parking) of the Municipal Code, including but not limited to the design requirements of the Parking Standards adopted by City Council Resolution No. 17128, or as those standards may be amended or modified by City Council action.
- (iii). When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, any required parking spaces removed shall be replaced on the same lot as the accessory dwelling unit.
 - (1) The replacement parking spaces may be located in any configuration on the lot, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.
 - (2) Uncovered replacement parking spaces may be located within setback areas.
 - (3) Structures for covered parking spaces shall be required to comply with applicable setbacks.

l. Utilities

- (i). Accessory dwelling units shall not be considered new residential uses for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service
- (ii). For an accessory dwelling unit that is contained wholly within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence and the side and rear setbacks are sufficient for fire safety, no new or separate utility connection directly between the accessory dwelling unit and the utility shall be required and no related connection fee or capacity charge shall be imposed.
- (iii). For an accessory dwelling unit that does not meet the criteria of Municipal Code Section 24.020D8j(ii) and where the physical characteristics of the lot on which the accessory dwelling unit is proposed preclude connection to the existing utility connection of the primary dwelling, a new or separate connection directly to the utility shall be required and related connection fees and capacity charges shall be imposed.

- (iv). Connection fees and capacity charges shall be imposed for accessory dwelling unit projects that voluntarily propose a new or separate connection directly between the accessory dwelling unit and the utility.
 - (v). When connection fees and/or capacity charges are imposed, the fee and/or charge shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. The fee and/or charge shall not exceed the reasonable cost of providing this service.
 - (vi). Prior to approval of an accessory dwelling unit on properties with a private sewage system, approval by the County of San Diego Department of Environmental Health, or any successor agency, shall be required.
- m. Historical sites and districts
- (i). An accessory dwelling unit may be allowed on designated historical sites and within historical districts provided that the location and design of the accessory dwelling unit meets corresponding historical preservation requirements in place at the time the accessory second dwelling unit is built and complies with the requirement of this section.
 - (ii). Detached accessory dwelling units shall be located behind the primary residence and/or historic structure.
 - (iii). The construction of the accessory dwelling unit shall not result in the removal of any other historically significant accessory structure, such as garages, outbuildings, stables or other similar structures.
 - (iv). The accessory dwelling unit shall be designed in substantially the same architectural style and finished materials composition as the primary residence or historic structure.
 - (v). Construction of an accessory dwelling unit shall not result in demolition, alteration or movement of the primary residence/historic house and any other on-site features that convey the historic significance of the house and site.
 - (vi). If the historic house/site is under a Mills Act contract with the City, the contract shall be amended, as needed, to authorize the introduction of the accessory dwelling unit on the site.
- n. Applications for accessory dwelling units conforming to the requirements of this section shall be considered ministerially without discretionary review or a hearing, and the City shall approve or deny such applications within 120 calendar days after receiving the application.
- o. The requirements of Municipal Code Chapter 24.09, Scenic Preservation Overlay Zone, shall apply to the development of accessory dwelling units, except that Planning Commission review shall not be required for a project that solely proposes an accessory dwelling unit.

- p. Projects proposing the development of an accessory dwelling unit shall not be subject to the requirements of Municipal Code Chapter 24.11, Urban Design Overlay Zone, or the requirements of the Urban Design Program.
- q. The requirements of Municipal Code Chapter 24.13, Hillside Overlay Zone, shall apply to the development of accessory dwelling units, except that Planning Commission review shall not be required for a project that solely proposes an accessory dwelling unit.
- r. Within the Bowling Green Overlay Zone, any tree that was required to be planted pursuant to Municipal Code Section 24.17.030D that is disturbed by a project to construct an accessory dwelling unit shall be preserved in place, or replaced in kind on the subject property if disturbed by the project.
- s. Accessory dwelling units shall not be considered in the application of any ordinance, policy, or program to limit residential growth.
- t. For the purposes of this section, the following definitions apply.
 - (i). "Accessory dwelling unit" shall be as defined in Municipal Code Section 24.01.100.
 - (ii). "Living area" shall mean the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.
 - (iii). "Public transit" shall mean any active trolley station or bus stop.

E. Amend LMMC Section 24.05.030B, Note 3b:

- b. The maximum height of a detached accessory structure shall be one story not to exceed 15 feet, except by special permit. This limitation shall not apply to the construction or permitting of accessory dwelling units, which shall comply to the standards set forth in Municipal Code Section 24.05.020D8.

SECTION 3: This ordinance shall be effective 30 days after its adoption and the City Clerk shall certify to the adoption of this Ordinance and cause the same to be published at least once in the East County Californian within 15 days of its adoption.


INTRODUCED AND FIRST READ at a Regular meeting of the City Council of the City of La Mesa, California, held on the 26th day of February, 2019, and thereafter PASSED AND ADOPTED at a Regular meeting of said City Council held the 12th day of March, 2019, by the following vote, to wit:

AYES: Councilmembers Alessio, Baber, and Parent

NOES: Councilmember Weber and Mayor Arapostathis

ABSENT: None

APPROVED:


Mark Arapostathis, Mayor

ATTEST:


MEGAN WIEGELMAN, CMC, City Clerk

CERTIFICATE OF CITY CLERK

I, MEGAN WIEGELMAN, City Clerk of the City of La Mesa, California, do hereby certify the foregoing to be a true and correct copy of Ordinance No. 2019-2865, duly passed and adopted by the City Council of said City on the date and by the vote therein recited and that the same has been duly published according to law.



MEGAN WIEGELMAN, CMC, City Clerk

(SEAL OF CITY)

