

## CITY OF BELLFLOWER

### ORDINANCE NO. 1401

**AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE BELLFLOWER MUNICIPAL CODE TO (1) UPDATE THE CITY'S ACCESSORY DWELLING UNIT REGULATIONS TO BE IN CONFORMANCE WITH APPLICABLE STATE LAW, AND (2) ADD REGULATIONS REGARDING JUNIOR ACCESSORY DWELLING UNITS PURSUANT TO GOVERNMENT CODE §§ 65852.2 AND 65852.22**

**THE COUNCIL DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The City Council finds and declares as follows:

- A. On September 25, 2017, the City Council adopted Ordinance No. 1345 amending the Bellflower Municipal Code ("BMC") to regulate Accessory Dwelling Units ("ADUs") in conformance with Government Code § 65852.2;
- B. On October 9, 2019, the Governor signed Assembly Bills 68 and 881, and Senate Bill 13. These Bills, among other things, amended Government Code §§ 65852.2 and 65852.22. The amended laws took effect on January 1, 2020. They also state that if the City chooses to provide for the creation of Junior Accessory Dwelling Units ("JADUs"), the ordinance must include certain requirements (per Government Code § 65852.22);
- C. The City is proposing Zoning Ordinance Text Amendment Case No. ZOTA 20-02 to update the City's regulations regarding ADUs to make them comply with California law and to create JADUs;
- D. The City reviewed this Ordinance pursuant to the California Environmental Quality Act (Pub. Res. Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Reg. §§ 15000-15387). The proposed action is exempt from additional CEQA review pursuant to § 15282(h);
- E. Notices of Public Hearings before the Planning Commission and City Council were duly given and published in the time, form and manner as required by law;
- F. On August 3, 2020, the Planning Commission held a public hearing to receive public testimony and other evidence regarding the proposed amendment, including information provided to the Planning Commission by City staff and public testimony;
- G. On August 3, 2020, the Planning Commission adopted Resolution No. PC 20-04 recommending the City Council approve ZOTA 20-02;
- H. On September 14, 2020, the City Council held a public hearing to receive public testimony and other evidence regarding the proposed amendment, including information provided by City staff and public testimony; and
- I. This Ordinance and its findings are made based on the entire administrative record including testimony and evidence presented to the City Council at its September 14, 2020, hearing and the staff report submitted by the Planning Department.

**SECTION 2.** *Zoning Ordinance Text Amendment Findings.* Pursuant to BMC § 17.104.010, the City Council makes the following findings:

- A. This proposed Ordinance will not adversely affect any property in the City as to value or precedent and will not be detrimental to any area of the City. The Ordinance would simply update the BMC by, among other things, providing greater flexibility for the development of ADUs and JADUs, and bringing the BMC into compliance with applicable law.
- B. This Ordinance promotes public health, safety and general welfare by ensuring that ADUs and JADUs are developed in accordance with state law.
- C. As indicated by Section 3, below, this Ordinance will not adversely affect the City's General Plan or zoning regulations set forth in the BMC.

**SECTION 3.** *General Plan Findings.* Pursuant to Government Code § 65860, the changes implemented by ZOTA 20-02 are consistent with the General Plan. Among other things, ZOTA 20-02 will help implement General Plan Housing Element Goal 2, which is to "provide a variety of housing types to accommodate special needs groups and all economic segments of the City." The BMC amendments are intended to eliminate or rectify those regulations that may be inconsistent with Government Code §§ 65852.2 and 65852.22. Ensuring that the City's regulations for ADUs and JADUs are consistent with state law will not frustrate any goal or policy set forth in the General Plan.

**SECTION 4.** A new Chapter 17.17 entitled "Accessory Dwelling Units" is added to the Bellflower Municipal Code ("BMC") to read as follows:

#### **"Chapter 17.17**

#### **ACCESSORY DWELLING UNITS**

17.17.010. **Purpose.** This Chapter is adopted to comply with Government Code §§ 65852.2 and 65852.22 which impose a state mandate that the City implement regulations governing accessory dwelling units ("ADU") and junior accessory dwelling units ("JADU") in accordance with California law. This Chapter will be automatically repealed on December 31, 2029. At that time, all previous regulations governing ADUs will be effective for all purposes.

17.17.020. **Applicability.** An ADU or JADU complying with this chapter meets the lot density requirements of this code and constitute a residential use consistent with applicable land use designations. Any ordinance, policy, or program limiting residential growth is inapplicable to ADUs and JADUs complying with this chapter.

17.17.030. **Definitions.** Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this section. Undefined words and phrases and have the same meaning as set forth in this code or Government Code §§ 65852.2 and 65852.22.

"Carshare vehicle" means is a motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization providing hourly or daily service, and where users, who are members that have been preapproved to drive, can rent vehicles for short periods of time.

“Efficiency unit” means a dwelling unit that complies with all of the following:

- A. A living area of not less than 150 square feet for at most two persons, or a living room of at least 220 square feet (with an additional 100 square feet for each occupant in excess of two);
- B. Additional space for a separate bathroom containing a water closet, lavatory, and bathtub or shower;
- C. A separate closet;
- D. A kitchen sink, cooking appliance and refrigeration facilities, each having a clear work area of at least 30 inches in front; and
- E. Light and ventilation complying with this code.

“Hearing Officer” means the City Manager, or designee who will hear all timely requests for delayed enforcement from a notice of violation.

“Multifamily dwelling” includes an apartment building, townhouse complex, condominium complex, duplex or housing development, but not hotels, motels, boarding houses or public or quasi-public institutions.

“Primary dwelling” means a residential structure on a single parcel with provisions for living, sleeping, eating, a single kitchen for cooking, and sanitation facilities. Where more than one residential structure exists on a lot, the “primary dwelling” will either be the residential structure that was first issued a valid certificate of occupancy, or, when applicable, the largest residential structure on the lot.

“Tandem parking” means two or more automobiles parked in a line, one behind the other.

**17.17.040. Development Standards for ADUs.**

- A. The ADU must comply with all additional development standards listed in this Code which are applicable to the zone in which the subject lot is located (*i.e.*, SF, A-E, R-1). Should there be a conflict between the zone development standards and the standards set forth in this section, then the more restrictive applies unless otherwise provided by California law.
- B. Parking.
  - 1. One parking space is required per ADU and may be located as tandem parking on a driveway or required setback areas.
  - 2. No replacement of off-street parking will be required when a garage or carport is demolished to create, or is converted into, an ADU.
  - 3. No parking standards will be imposed upon an ADU that is:
    - a. Within a half mile walking distance of public transit;

- b. Located within an architecturally and historically significant district;
  - c. Part of a proposed or existing primary dwelling or an accessory structure;
  - d. Located in an area where parking permits are required but not offered to the occupant of the ADU; or
  - e. Located within one block of a carshare vehicle.
- C. No additional curb cuts may be installed for the ADU.
- D. An ADU must share the driveway with the existing primary unit on the site, provided, however, that a second driveway to serve the accessory dwelling may be allowed from an alley, if there is an alley that serves the subject site.
- E. An ADU cannot exceed one story and may not be greater than 18 feet in height, unless additional height is necessary to match the roof pitch of the primary structure.
- F. Setbacks.
  - 1. When an ADU is constructed within the following parameters it is exempt from minimum setback requirements within this code: (a) within the existing living area of a primary dwelling; (b) within an existing accessory structure; or (c) within the same location and same dimensions as an existing structure. The existing structure may be converted into an ADU or may be demolished and rebuilt as an ADU.
  - 2. If an ADU is not exempt from minimum setback requirements, a setback of at least four feet is required from the side and rear parcel lines. Where a parcel line is located in the center of a public right-of-way, setbacks will be calculated from the edge of the right-of-way.
- G. ADUs must be compatible in exterior appearance with the primary dwelling and harmonious with neighboring properties within the vicinity of the lot or parcel on which it is proposed to be constructed.
- H. The maximum allowable size for an ADU is:
  - 1. For an ADU attached and/or within the primary single-family dwelling, a maximum of 50 percent of the total floor area of the primary single-family dwelling or 1,200 square feet, whichever is less.
  - 2. Detached ADUs cannot exceed 1,200 square feet.

3. An ADU cannot be smaller than the dimensions required to accommodate an Efficiency Unit.
- I. Number of Units Per Lot.
    1. A total of one ADU is permitted per lot with an existing or proposed primary single-family dwelling, subject to the requirements of this chapter.
    2. One ADU or 25 percent of the existing multifamily dwelling units, whichever is greater, within an existing multifamily dwelling. Not more than two detached ADUs per lot with an existing multifamily dwelling if the ADUs are new construction, detached, no more than 16 feet in height, and set back from the rear and side yards by four feet.
  - J. Location. ADUs are permitted as follows:
    1. Except as otherwise provided, by right in any zone where residential uses are permitted. ADUs are not, however, permitted in any area of the City identified by ordinance as being significantly impacted by insufficient capacity for sewers, traffic circulation, parking, public utilities or similar infrastructure needs.
    2. Contained within the existing or proposed space of a primary single-family dwelling or attached to a primary single-family dwelling.
    3. Within the space of an existing accessory structure.
    4. Detached from the primary single-family dwelling, subject to the requirements and development standards in this code and California law.
    5. ADUs must be located behind the rear building line of the primary dwelling, unless the ADU is within the existing space of a single-family residence or accessory structure.
    6. If the ADU is new construction, a minimum of 11 feet must be provided between any wall of a detached ADU and any wall of the primary dwelling and a minimum building separation of six feet must be maintained (eave to eave) between the primary dwelling and a detached ADU.

17.17.050. **Certificate of Occupancy.** ADUs may only be constructed in conjunction with either an existing or proposed single-family dwelling or an existing multifamily dwelling. A certificate of occupancy will not be issued for an ADU before a certificate of occupancy is issued for the primary dwelling(s). Before a certificate of occupancy for an ADU is issued, the property owner must record with the County Recorder a covenant running with the land stating that the ADU may not be used in violation of this section, and any rental of the ADU must be for a term of 30 days or longer. The covenant must be approved as to form by the City Attorney.

17.17.060. **Owner Occupancy.** Owner occupancy is required for any ADU constructed subject to a building permit issued after January 1, 2025. Subject to this subsection, property owners must either occupy the primary dwelling or the ADU as their permanent home and principal residence. A violation of this subsection will result in revocation of the ADU permit.

17.17.070. **Uniform Codes.** All ADUs and JADUs must comply with all applicable building and fire codes, state habitability requirements, and health and safety codes, unless where explicitly exempted by Government Code §§ 65852.2 or 65852.22.

17.17.080. **Standards for JADUs.**

A. Number of Units Per Lot.

1. A total of one JADU is permitted per lot in residential zones improved with only one existing or proposed primary single-family dwelling, subject to the requirements of this section.
2. A JADU is not allowed on any lot with an existing or proposed multifamily dwelling.

B. Additional requirements.

1. JADUs must include a separate entrance from the main entrance of the primary single-family dwelling.
2. JADUs must include an efficiency kitchen with a cooking facility, appliances, a food preparation counter and storage cabinets that are reasonably sized with relation to the JADU.
3. The JADU must include separate sanitation facilities or must share sanitation facilities with the primary single-family dwelling.
4. Owner occupancy is required for all JADUs unless the property owner is another government agency, land trust or housing organization. For the purposes of this requirement, the owner must occupy either the JADU or the primary single-family dwelling as their permanent home and principal residence.
5. No additional parking is required for a JADU.
6. The maximum size for any JADU is 500 square feet.

17.17.090. **Permit Application.** An application for an ADU or JADU use must comply with the following:

- A. Unless the application otherwise requires a conditional use permit, variance or other discretionary approval, the Director will review the application. Applications must be accompanied by an application-review fee as established by City Council resolution.

- B. After receiving a complete application, the Director must approve, approve with conditions, or deny the application within 60 days. The Director's review of the application may be extended upon written request from the applicant. For all such requests, the Director will have 60 days from the tolling date to act on the application. Any denial of an application will require that a new application be filed.
- C. For ADU or JADU applications submitted with an application to construct a new primary dwelling, the Director has 60 days from the date the City acts on primary dwelling unit application to act on the permit application for an ADU or JADU.
- D. Approval of an ADU or JADU cannot be conditioned on a requirement that the applicant correct a legal nonconforming condition on the property.
- E. Fire sprinklers for ADUs are required only when they are required for the primary dwelling on the lot.
- F. Before obtaining a JADU permit, the property owner must file with the county recorder a covenant and agreement, approved by the City Attorney as to form, containing a reference to the deed under which the property was acquired by the owner and stating that:
  - 1. The JADU cannot be sold separately from the primary dwelling;
  - 2. The JADU is restricted to the maximum size allowed per the development standards in this chapter;
  - 3. The JADU is legal so long as either the primary dwelling or the JADU is occupied by the owner of record of the property;
  - 4. The restrictions are binding upon any successor in ownership of the property and lack of compliance may result in legal action against the property owner; and
  - 5. The JADU cannot be rented for any period less than 30 days.

17.17.100. **Building Permit Approval.** Subject to the requirements of this chapter, the Building Official may issue a building permit to create any of the following within any lot permitted to be developed with a residential dwelling unit:

- A. One ADU per lot with a proposed or existing primary single-family dwelling, if the ADU:
  - 1. Will be located within the primary single-family dwelling. For the purposes of this subsection, "located within" includes an expansion of not more than 150 square feet beyond the physical dimensions of the existing primary single-family dwelling to accommodate egress and ingress;

2. Has exterior access; and
  3. Will be sufficiently set back from the side and rear for fire safety.
- B. One JADU per lot with a proposed or existing primary single-family dwelling, if the JADU:
1. Will be located within the primary single-family dwelling. For the purposes of this subsection, "located within" includes an expansion of not more than 150 square feet beyond the physical dimensions of the existing primary single-family dwelling to accommodate egress and ingress;
  2. Has exterior access;
  3. Will be sufficiently set back from the side and rear for fire safety; and
  4. Complies with the provisions outlined in this section for JADUs.
- C. One new detached ADU on a lot with an existing primary single-family dwelling, where the ADU is set back at least four feet.
- D. Multiple ADUs on a lot with an existing multifamily dwelling, where the ADUs are proposed within areas not currently used as living space (including, without limitation, boiler rooms, storage rooms, passageways, attics, basements and garages) provided that each unit complies with state building standards for habitability.
- E. For ADUs and JADUs that do not meet the criteria set forth in subsections (A) and (B) above, the City may require a new or separate utility connection directly between the unit and the utility. This connection may be subject to a connection fee or capacity charge, in an amount proportionate to the burden of the proposed unit on the water or sewer system, based upon either its square footage or number of drainage fixture unit values (as defined in the Uniform Plumbing Code). In no event may this fee or charge exceed the reasonable cost of providing the service.

17.17.110. **Income Reporting.** In order to facilitate the City's obligation to identify adequate sites for housing in accordance with Government Code §§ 65583.1 and 65852.2, the following requirements must be satisfied:

- A. With the building permit application, the applicant must provide the City with an estimate of the projected annualized rent that will be charged for the ADU or JADU.
- B. Within 90 days after each yearly anniversary of issuance of the building permit, the owner must report the actual rent charged for the ADU or JADU during the prior year. If the City does not receive the report within the 90-day period, the City may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner fails to submit the report within the 30-day period, the City may enforce this provision in accordance with applicable law.

17.17.120. **Application for Address Number.** Any ADU or JADU which includes a separate entrance from the main entrance of the primary dwelling, or which will be improved with a new or separate utility connection directly between the unit and the utility, must submit an application for an address number. Address numbers will be allocated by the Director pursuant to the procedures outlined in Resolution No. 19-90. Address numbers must be placed over the entrance to the ADU or JADU or on some other place where the number can be visible from the street. When required by the Fire Chief, address identification must be provided in additional approved locations to facilitate emergency response. Additionally, address numbers must also be permanently added to the side of the curb or on a public sidewalk located immediately in front of the main building on a site, pursuant to the California Residential Code and to the satisfaction of the Building Official.

17.17.130. **Fees.**

- A. For all ADUs larger than 750 square feet, the applicant must pay development impact fees proportional to the square footage of the primary dwelling. These fees will be established by resolution of the City Council.
- B. A reasonable inspection fee may be charged for the inspection of a JADU by the city. The inspection fee will be assessed to the property owner. The fee for inspection will be established by resolution of the City Council.
- C. A reasonable construction fee may be charged for any construction permits required. The construction fee will be assessed to the property owner. These fees will be established by resolution of the City Council.
- D. An ADU will not be considered a new residential use for purposes of calculating connection fees or capacity charges for utilities, unless the ADU is constructed simultaneously with a new primary single-family dwelling.

17.17.140. **Prohibited Conduct.**

- A. Unless permitted as an ADU or JADU pursuant to this section, it is unlawful for any accessory building(s) (either attached or detached), room(s), space(s), structure(s) or building(s) to be rented or used as a separate dwelling unit.
- B. No ADUs or JADUs may be rented in violation of this code.
- C. It is unlawful for an ADU or JADU to exist without an address issued in accordance with this code or other City Council resolution.

17.17.150. **Enforcement.** Before any enforcement action may occur to correct a violation of this chapter, the Director must take the following action:

- A. Serve written notice on the responsible person that includes a statement that the owner of the unit has a right to request delay in enforcement pursuant to Health and Safety Code § 17980.12.

- B. If a responsible person makes such a request, it must be in writing, filed with the City Clerk within 10 days after service of the notice of violation, and include the following information:
1. Name, address and telephone number of each responsible party who is making the request for delayed enforcement;
  2. The address and description of the real property upon which the ADU is located;
  3. Grounds for the request in sufficient detail to enable the Hearing Officer to understand the basis why correcting the violation is not necessary to protect health and safety;
  4. The length of the delay requested (not more than five years);
  5. The date the ADU was built; and
  6. The signature of at least one responsible party.
- C. The Hearing Officer must grant the request for delayed enforcement if:
1. He or she determines that, after consulting with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Health and Safety Code §13146, correcting the violation is not necessary to protect health and safety; and
  2. The ADU was built before the effective date of this section.”

**SECTION 5.** A new subsection “O” is added to BMC § 17.16.170 to read as follows:

“O. This Section is superseded by Chapter 17.17 until December 31, 2024. On January 1, 2025, this Section will be effective.”

**SECTION 6.** *Conflicts.* In the event of a conflict between the provisions of this Ordinance and the provisions the BMC, any other ordinance, or any resolution, the provisions of this Ordinance and the Program govern. The Director is authorized to resolve any ambiguities in the manner set forth in the BMC. Any such determination must be forwarded to the City Council as an informational item when practicable.

**SECTION 7.** *Environmental Review.* This Ordinance was reviewed for compliance with the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., “CEQA”) and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.; “CEQA Guidelines”). The Ordinance is exempt from additional environmental review pursuant to CEQA Guidelines § 15282(h) because it is an Ordinance implementing the provisions of Government Code §§ 65852.1 and 65852.2 (as set forth in Public Resources Code § 21080.17) regarding accessory dwelling units in a single-family or multifamily residential zone.

**SECTION 8.** *Electronic Signatures.* This Ordinance may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

**SECTION 9.** *Construction.* This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

**SECTION 10.** *Severability.* If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 11.** *Recordation.* The City Clerk, or her duly appointed deputy, is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Bellflower's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within 15 days after the passage and adoption of this Ordinance, and cause it to be published or posted in accordance with California law.

**SECTION 12.** *Effective Date.* This Ordinance will become effective 30 days after second reading and adoption. Only those projects which have submitted a building permit application and building plan before the effective date of the proposed ordinance, and where a building permit is obtained within 60 days from the effective date of the proposed ordinance, will be exempt from the provisions of this ordinance.

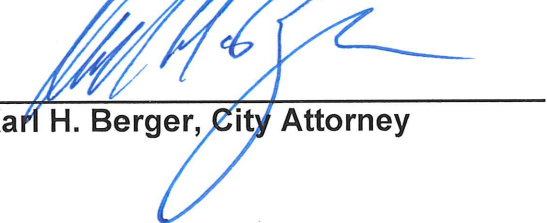
**ORDINANCE NO. 1401 HAD ITS FIRST READING ON SEPTEMBER 14, 2020, ITS SECOND READING ON SEPTEMBER 28, 2020, AND WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BELLFLOWER AT ITS REGULAR MEETING OF SEPTEMBER 28, 2020.**

  
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Juan Garza, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Mayra Ochiqui, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Karl H. Berger, City Attorney

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    ) SS  
CITY OF BELLFLOWER            )

I, **Mayra Ochiqui**, City Clerk of the City of Bellflower, California, do hereby certify under penalty of perjury that the foregoing Ordinance No. 1401 had its first reading on September 14, 2020, its second reading on September 28, 2020, and was duly passed, approved, and adopted by the City Council of the City of Bellflower at its Regular Meeting of September 28, 2020, by the following vote to wit:

**AYES:** Council Members – Koops, Dunton, Hamada, Santa Ines, and Mayor Garza

Ordinance No. 1401 was posted at City Hall, the Bellflower Sheriff's Substation, John S. Simms Park, Ruth Caruthers Park, and T. Mayne Thompson Park; and the title, effective date, and vote will be published on Thursday, October 8, 2020, in the Public Notices Section of the *Herald American*, pursuant to Government Code Section 36933.

**Dated: September 29, 2020**

  
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**Mayra Ochiqui, City Clerk**  
**City of Bellflower, California**

**(SEAL)**