

**ORDINANCE NO. CS-384**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, ADOPTING AMENDMENTS TO TITLE 21 OF THE CARLSBAD MUNICIPAL CODE (ZONE CODE), VILLAGE AND BARRIO MASTER PLAN AND LOCAL COASTAL PROGRAM TO ENSURE CONSISTENCY WITH STATE LAW RELATED TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS.

CASE NAME: ACCESSORY DWELLING UNIT AMENDMENTS 2020

CASE NO: ZCA 2020-0002/AMEND 2020-0005/LCPA 2020-0006

WHEREAS, Sections 65852.2 and 65852.22 of the California Government Code requires cities and counties to permit construction of accessory dwelling units and junior accessory dwelling units, and allows cities and counties to adopt ordinances that govern the permitting of accessory dwelling units and junior accessory dwelling units consistent with state law; and

WHEREAS, California Governor Gavin Newsom signed Senate Bill 13 and Assembly Bills 68, 587, 670, 671 and 881 into law, which amended state law to further encourage and incentivize the construction of accessory dwelling units and junior accessory dwelling units; and

WHEREAS, the above legislative bills took effect January 1, 2020, and existing provisions of the City of Carlsbad Municipal Code are inconsistent with the new law provisions; and

WHEREAS, the City Planner has prepared amendments to the Zone Code (ZCA 2020-0002)/ Village and Barrio Master Plan (AMEND 2020-0005) and the Local Coastal Program (LCPA 2020-0006) pursuant to Chapter 21.52 of the Carlsbad Municipal Code, Section 30514 of the Public Resources Code, and Section 13551 of California Code of Regulations Title 14, Division 5.5; and

WHEREAS, the Carlsbad Zone Code and Village and Barrio Master Plan are the implementing ordinances of the Carlsbad Local Coastal Program, and therefore, amendments to the Zone Code and Village and Barrio Master Plan also constitute amendments to the Local Coastal Program; and

WHEREAS, pursuant to California Coastal Commission Regulations, a six-week public review period for the Local Coastal Program Amendment began May 15, 2020 and ending on June 26, 2020; and

WHEREAS, on May 20, 2020 the Airport Land Use Commission reviewed and found that the proposed Zone Code Amendment and Village and Barrio Master Plan Amendment are consistent with the adopted McClellan-Palomar Airport Land Use Compatibility Plan; and

WHEREAS, on June 17, 2020, the Planning Commission held a duly noticed public hearing as prescribed by law to consider ZCA 2020-0002/AMEND 2020-0005/LCPA 2019-0004; and

WHEREAS, the Planning Commission adopted Planning Commission Resolution No. 7374 recommending to the City Council that ZCA 2020-0002/AMEND 2020-0005/LCPA 2019-0004 be approved; and

WHEREAS, the City Council of the City of Carlsbad held a duly noticed public hearing as prescribed by law to consider ZCA 2020-0002/AMEND 2020-0005/LCPA 2019-0004; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors, including written public comments, if any, related to ZCA 2020-0002/AMEND 2020-0005/LCPA 2019-0004; and

NOW, THEREFORE, the City Council of the City of Carlsbad, California, does ordain that:

1. The above recitations are true and correct.
2. The findings of the Planning Commission in Planning Commission Resolution No. 7374 shall also constitute the findings of the City Council
3. In Section 2.3.3, Table 2-1 Permitted Uses of the Village and Barrio Master Plan, the use listing for Accessory Dwelling Unit is amended to read as follows:

| <b>RESIDENTIAL</b>   | <b>VC</b> | <b>VG</b> | <b>HOSP</b> | <b>FC</b> | <b>PT</b> | <b>BP</b> | <b>BC</b> |
|--|-----------|-----------|-------------|-----------|-----------|-----------|-----------|
| Accessory Dwelling Unit (accessory to one-family, two-family, multifamily, and mixed-use dwellings; subject to CMC Section 21.10.030; defined: CMC Sections 21.04.121) | A         | A         | A           | A         | A         | A         | A         |

4. In Section 2.3.3, Table 2-1 Permitted Uses of the Village and Barrio Master Plan, a new use listing Junior Accessory Dwelling Unit is added as follows:

| <b>RESIDENTIAL</b>   | <b>VC</b> | <b>VG</b> | <b>HOSP</b> | <b>FC</b> | <b>PT</b> | <b>BP</b> | <b>BC</b> |
|--|-----------|-----------|-------------|-----------|-----------|-----------|-----------|
| Junior Accessory Dwelling Unit (accessory to a one-family dwelling; subject to CMC Section 21.10.030; defined: CMC Sections 21.04.122) |           | A         |             |           | A         | A         | A         |

5. In Section 2.6, Table 2-3 of the Village and Barrio Master Plan, the parking requirements for Accessory Dwelling Unit are amended to read as follows:

| RESIDENTIAL  |   |
|--|---|
| GENERAL USE  | PARKING REQUIREMENT   |
| Accessory Dwelling Unit (no additional parking is required for a Junior Accessory Dwelling Unit) | <ul style="list-style-type: none"> <li>• One space, in addition to the parking requirement for the primary dwelling.</li> <li>• Tandem parking is permitted. Parking may be located in the side and rear yard setbacks.</li> <li>• Parking exceptions exist for accessory dwelling units. Refer to CMC Section 21.10.030 E</li> </ul> |

6. In Section 2.6, Table 2-3 of the Village and Barrio Master Plan, a new parking requirement for Junior Accessory Dwelling Unit is added as follows:

| RESIDENTIAL                    |                        |
|--------------------------------|------------------------|
| GENERAL USE                    | PARKING REQUIREMENT    |
| Junior Accessory Dwelling Unit | No parking requirement |

7. Carlsbad Municipal Code Section 21.04.020 is amended to read as follows:

21.04.020 Accessory.

“Accessory” means a building, part of a building or structure, or use that is subordinate to and the use of which is incidental to that of the main building, structure or use on the same lot. If an accessory building is attached to the main building by a common wall, with a width dimension of at least three feet and a height dimension of at least one story, such building area is considered a part of the main building and not an accessory building or structure, except for “accessory dwelling units” or “junior accessory dwelling units” as defined in Sections 21.04.121 and 21.04.122. Accessory dwelling units and junior accessory dwelling units that comply with the requirements of Section 21.10.030 and California Government Code Sections 65852.2 and 65852.22, respectively, are considered accessory.

8. Carlsbad Municipal Code Section 21.04.121 is amended to read as follows:

21.04.121 Dwelling unit, accessory (ADU).

Refer to California Government Code Section 65852.2.

9. Section 21.04.122 is added to the Carlsbad Municipal Code as follows:

21.04.122 Dwelling unit, junior accessory (JADU).

Refer to California Government Code Section 65852.22.

10. A new use listing for “Junior accessory dwelling unit” is added to the permitted uses tables in the following eight sections of the Carlsbad Municipal Code as shown below:

- 21.08.020 Permitted uses, Table A.
- 21.09.020 Permitted uses, Table A.
- 21.10.020 Permitted uses, Table A.
- 21.12.020 Permitted uses, Table A.
- 21.16.020 Permitted uses, Table A.
- 21.18.020 Permitted uses, Table B.
- 21.22.020 Permitted uses, Table A.
- 21.24.020 Permitted uses, Table A.

| Use   | P | CUP | Acc |
|---|---|-----|-----|
| Junior accessory dwelling unit (accessory to a one-family dwelling; subject to Section 21.10.030; defined: Section 21.04.122) |   |     | X   |

11. The following four sections are amended as shown below:

- 21.08.060 Placement of buildings
- 21.10.080 Placement of buildings
- 21.12.060 Placement of buildings
- 21.16.060 Placement of buildings

A. Placement of buildings on any lot shall conform to the following, except as otherwise stated for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:

- 1. Interior Lots.
  - a. No building shall occupy any portion of a required yard;
  - b. Any building, any portion of which is used for human habitation, shall observe a distance from any side lot line the equivalent of the required

- side yard on such lot and from the rear property line the equivalent of twice the required side yard on such lot;
- c. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;
  - d. All accessory structures shall comply with the following development standards:
    - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
    - ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,
    - iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
    - iv. Buildings shall not exceed one story,
    - v. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
  - e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
  - f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
    - i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,
    - ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,
    - iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,
    - iv. The additional development standards listed above (subsections (A)(1)(g)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and
  - g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

2. Corner Lots and Reversed Corner Lots.

- a. No building shall occupy any portion of a required yard;
- b. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;
- c. Any building, any portion of which is used for human habitation, shall observe a distance from the rear property line the equivalent of twice the required interior side yard on such lot;
- d. All accessory structures shall comply with the following development standards:
  - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
  - ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,
  - iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
  - iv. Buildings shall not exceed one story,
  - v. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
- e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
- f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
  - i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,
  - ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,
  - iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,
  - iv. The additional development standards listed above (subsections (A)(2)(g)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and

- g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

- 12. In Section 21.09.020 Table A, the use listing for “Accessory dwelling units” is amended to read as follows:

| Use  | P | CUP | Acc |
|--|---|-----|-----|
| Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121) |   |     | X   |

- 13. Section 21.09.100 of the Carlsbad Municipal Code is amended to read as follows:

21.09.100 Placement of buildings

Placement of buildings on any lot shall conform to the following, except as otherwise stated for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:

- (1) Except as permitted by Sections 21.09.080 and 21.09.090, no building shall occupy any portion of a required yard.
- (2) Any building, any portion of which is used for human habitation, shall observe a distance from any rear property line the equivalent of twice the required interior side yard.
- (3) The distance between buildings used for human habitation and detached accessory buildings shall not be less than ten feet.
- (4) The keeping of all domestic animals provided for in this chapter shall conform to all other provisions of law governing the same, and no pen, coop, stable or barn shall be erected within forty feet of any building used for human habitation or within twenty-five feet of any property line.
- (5) A building permit for a dwelling unit to be located further than five hundred feet from a fire hydrant shall not be issued without the approval of the fire chief. The fire chief may require the installation of additional safety equipment, including fire hydrants or stand pipes, as a condition of such approval.

- 14. Section 21.10.030 of the Carlsbad Municipal Code is repealed and replaced to read as follows:

21.10.030 Accessory dwelling units and junior accessory dwelling units.

- A. Purpose. This section provides standards for the establishment of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). Pursuant to California Government Code Sections 65852.2 and 65852.22, local governments have the authority to adopt regulations designed to promote ADUs and JADUs.
- B. Standards of Review. Review of ADUs and JADUs shall be consistent with the following:
1. ADU or JADU applications shall be considered a ministerial action without discretionary review or a public hearing if all requirements of this section (21.10.030) are met, notwithstanding any other requirements of state law or this development code.
  2. ADUs or JADUs developed within the coastal zone are subject to the permit requirements of Chapter 21.201 and require a building permit. Development of ADUs or JADUs outside of the coastal zone requires a building permit.
  3. The city shall act on an application to create an ADU or a JADU within the time period specified under California Government Code Sections 65852.2 and 65852.22.
  4. If the permit application to create an ADU or a JADU is submitted with a permit application to create a new one-family dwelling on the lot, the city may delay acting on the permit application for the ADU or the JADU until the city acts on the permit application to create the new one-family dwelling, but the application to create the ADU or JADU shall be considered without discretionary review or public hearing. If the applicant requests a delay, the time period specified under California Government Code Sections 65852.2 and 65852.22 shall be tolled for the period of the delay.
- C. Residential Use and Density. ADUs and JADUs, which comply with the requirements of this section (21.10.030) and California Government Code Sections 65852.2 and 65852.22:
1. Shall be considered accessory residential uses or accessory residential buildings that are consistent with the general plan or zoning designations for the lot; and
  2. Shall not be considered to exceed the allowable density for the lot upon which it is located; and
  3. Shall not be considered a dwelling unit when implementing the dwelling unit limitations established by Proposition E enacted by Carlsbad voters on November 4, 1986 and shall not be considered a dwelling unit under the definition of "short-term vacation rental" in Chapter 5.60, Short-Term Vacation Rentals.
- D. Number and Location.

1. ADUs shall be permitted in zones that allow one-family dwellings, two-family dwellings, multiple-family dwellings, and mixed-use (residential uses in combination with non-residential uses), provided there is an existing or proposed dwelling on the lot where the ADU is proposed, as specified in California Government Code Sections 65852.2 and 65852.22 . Refer to a specific zone's Permitted Uses table within this Title.
  2. For zones that allow one-family dwellings, one JADU shall be permitted with an associated existing or proposed one-family dwelling. Refer to a specific zone's Permitted Uses table within this Title.
  3. The number and location of ADUs or JADUs on a lot shall be subject to California Government Code Sections 65852.2 and 65852.22.
- E. Other Requirements and Standards. ADUs and JADUs shall comply with all the following requirements and standards:
1. ADUs and JADUs shall comply with the development requirements and standards of California Government Code Sections 65852.2 and 65852.22.
  2. When not in conflict with California Government Code Sections 65852.2 and 65852.22, ADUs and JADUs shall also comply with applicable development requirements and standards of this code.
  3. The maximum size of an ADU or JADU shall be limited as follows, consistent with California Government Code Sections 65852.2 and 65852.22:
    - a. Attached ADUs – 50% of the total floor area of the main dwelling or 1,200 square feet, whichever is less, but not less than 800 square feet;
    - b. Detached ADUs – 1,200 square feet
    - c. JADUs – 500 square feet
  4. A detached ADU shall be limited to one story and 16 feet maximum height, except that an ADU constructed above or below a detached garage shall be permitted and shall conform to the height limits applicable to the zone. Structures that contain an ADU located above or below a detached garage shall be limited to a maximum of two stories including the garage.
  5. Roof decks shall not be permitted on detached ADUs.
  6. The construction of an ADU or JADU that is all new construction, or is a conversion of a portion or all of an existing structure, or expands the square footage of an existing structure shall be consistent with all habitat preserve buffers and geologic stability setbacks in the certified local coastal program, habitat management plan, general plan or geotechnical report as applicable.

7. On lots with one-family dwelling(s), the exterior roofing, trim, walls, windows and the color palette of the ADU or JADU shall incorporate the same features as the primary dwelling unit.
  8. On lots with two-family or multiple-family dwellings, the exterior roofing, trim, walls, windows and the color palette of the ADU addition shall incorporate the same features as the existing building that the ADU would be provided within. For detached ADUs, it shall be reflective of the nearest building as measured from the wall of the existing building to the nearest wall of the proposed unit.
  9. An ADU shall provide off-street parking in compliance with Chapter 21.44 (Parking), unless it qualifies for an exemption as specified in California Government Code Section 65852.2. No off-street parking is required for a JADU if it meets the requirements specified in California Government Code Section 65852.22.
  10. ADUs intended to satisfy an inclusionary requirement shall comply with the requirements of Chapter 21.85, including, but not limited to, the applicable rental rates and income limit standards.
  11. A Notice of Restriction shall be recorded on the property declaring that:
    - a. The ADU(s) and/or JADU shall not be used for short-term rentals less than 30 days. This requirement does not apply to any unit that was issued a building permit prior to January 1, 2020.
    - b. The obligations and restrictions imposed on the approval of the ADU(s) per California Government Code Section 65852.2 and/or JADU per California Government Code Section 65852.22 are binding on all present and future property owners.
    - c. For a JADU, the property owner must reside in either the primary residence or the JADU. Sale of the JADU separate from the single-family residence is prohibited; said prohibition is binding on all present owners and future purchasers.
  12. For ADUs permitted prior to January 1, 2020, the city may continue to enforce a requirement for owner-occupancy of the ADU or primary residence.
  13. An ADU may be sold separately from the primary dwelling only in limited situations pursuant to California Government Code Section 65852.26.
- G. Conflicting Standards. If there is a conflict between the requirements of this section and the requirements of the California Government Code provisions relating to ADUs and JADUs, including but not limited to Sections 65852.2 or 65852.22, the California Government Code provisions shall apply.

15. The use listing for “Accessory dwelling unit” in the permitted use tables of the following five sections of the Carlsbad Municipal Code is amended as shown below:

- 21.12.020 Permitted uses, Table A.
- 21.16.020 Permitted uses, Table A.
- 21.18.020 Permitted uses, Table B.
- 21.22.020 Permitted uses, Table A.
- 21.24.020 Permitted uses, Table A.

| Use  | P | CUP | Acc |
|--|---|-----|-----|
| Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121) |   |     | X   |

16. Subsections A.7 through A.15 of Section 21.18.030 of the Carlsbad Municipal Code are amended to read as follows:

7. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:
- a. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;
  - b. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;
  - c. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;
  - d. Buildings shall not exceed one story; and
  - e. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.
8. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit of a lot including setbacks.
9. Detached accessory structures, which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot’s required setback areas:
- a. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;

- b. The following setbacks shall apply: A front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;
  - c. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and
  - d. The additional development standards listed above (subsections A.10.a. through c. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.
10. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.
  11. Other than as provided in subsection 9 above, no building shall be located in any of the required yards.
  12. Height Limits. In the R-P zone the maximum building height shall be thirty-five feet.
  13. Lot Coverage. In the R-P zone all buildings shall not cover more than sixty percent of the total lot area.
  14. Parking Off-Street. Parking shall not be provided in the required front or side yards.
  17. The use listing for "Accessory dwelling unit" in Section 21.20.010 Table A of the Carlsbad Municipal Code is amended to read as follows:

| Use  | P | CUP | Acc |
|--|---|-----|-----|
| Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121) |   |     | X   |

18. Section 21.20.080 of the Carlsbad Municipal Code is amended to read as follows:

21.20.080 Accessory structures.

- (1) All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:
  - (A) The lot coverage shall include accessory structures in the lot coverage calculations for the lot.
  - (B) The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet.

- (C) When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department.
  - (D) Buildings shall not exceed one story.
  - (E) Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.
- (2) Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks.
- (3) Detached accessory structures, which are not dwelling units and contain no habitable space, including but not limited to garages, workshops, tool sheds, decks over thirty inches above grade, and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
- (A) The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet.
  - (B) The following setbacks shall apply: A front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet.
  - (C) The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures.
  - (D) The additional development standards listed above (subsections (3)(A) through (C) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.
- (4) The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

19. Section 21.22.070 of the Carlsbad Municipal Code is amended to read as follows:

21.22.070 Accessory structures.

- A. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:
  - 1. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;
  - 2. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;

3. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;
  4. Buildings shall not exceed one story;
  5. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided; and
- B. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks.
- C. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
1. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;
  2. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;
  3. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and
  4. The additional development standards listed above (subsections C.1. through 3. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.
- D. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.
20. Section 21.24.090 of the Carlsbad Municipal Code is amended to read as follows:

21.24.090 Accessory structures.

- A. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:
1. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;
  2. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;
  3. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;

4. Buildings shall not exceed one story; and
  5. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.
- B. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks
  - C. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
    1. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;
    2. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;
    3. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and
    4. The additional development standards listed above (subsections D.1. through 3. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.
  - D. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.
21. A new use listing for "Accessory dwelling unit" is added to Table A in the following three sections of the Carlsbad Municipal Code as shown below:

21.26.010 Permitted uses.

21.28.010 Permitted uses.

21.31.030 Permitted uses.

| Use   | P | CUP | Acc |
|---|---|-----|-----|
| Accessory dwelling unit (subject to Section 21.10.030; defined: Sections 21.04.121) |   |     | X   |

22. Section 21.38.025 of the Carlsbad Municipal Code is amended to read follows:

21.38.025 Accessory dwelling units.

Accessory dwelling units or junior accessory dwelling units are permitted according to the provisions of Section 21.10.030.

23. In Table A of Section 21.44.020 the Carlsbad Municipal Code, the requirements for accessory dwelling units are amended to read follows:

|                          |  |
|--------------------------|--|
| Accessory dwelling units | 1 space (covered or uncovered), in addition to the parking required for the primary use; unless otherwise specified in Section 21.10.030 of this code. |
|                          | The additional parking space may be provided through tandem parking on a driveway and may be within the front or side yard setback.                    |

24. In Table C of Section 21.44.060 the Carlsbad Municipal Code, the requirements for accessory dwelling units are amended to read follows:

|                          |  |
|--------------------------|--|
| Accessory dwelling units | Same as parking required for primary residential use, with the following exceptions:   |
|                          | <ul style="list-style-type: none"> <li>• May be located in the front or side yard setback; and</li> <li>• May be located as a tandem space on a driveway.</li> <li>• Other parking requirements and exemptions may be applicable pursuant to Section 21.10.030.</li> </ul> |

25. Section 21.45.090 of the Carlsbad Municipal Code is amended to read follows:

21.45.090 Residential additions and accessory uses.

- A. General.
1. Additions and accessory uses shall be subject to all applicable development standards of this chapter, unless otherwise specified in this section and except as otherwise permitted for accessory dwelling units or junior accessory dwelling units pursuant to Section 21.10.030.
  2. Additions to buildings that are legally nonconforming shall comply with the requirements of Chapter 21.48 of this code.
- B. One-Family Dwellings and Twin-Homes on Small Lots.
1. Table F lists the provisions for residential additions and accessory uses to one-family dwellings and twin-homes on small lots.
  2. The additions and accessory uses listed in Table F shall be subject to the approval/issuance of a building permit.

**Table F**

**Residential Additions and Accessory Uses to One-Family Dwellings and Twin-Homes on Small Lots**

| Addition/Accessory Use   | Minimum Front Yard Setback                         | Minimum Side and Rear Yard Setbacks            |
|--|--|--|
| Attached/detached patio covers <sup>(2)</sup>  | 10 feet to posts<br>(2-foot overhang permitted)    | 5 feet to posts<br>(2-foot overhang permitted) |
| Pool, spa  | 20 feet  | 5 feet - pool<br>2 feet - spa                  |
| Non-habitable detached accessory buildings/structures<br>(e.g., garages, workshops, decks over 30 inches in height) <sup>(1),(2),(3)</sup> | 20 feet  | 5 feet   |
| Accessory dwelling units or junior accessory dwelling units <sup>(2), (3)</sup>  | 20 feet  | See 21.10.030                                  |
| Habitable detached accessory buildings<br>(i.e. guest houses; not including accessory dwelling units) <sup>(1), (2), (3),</sup>            | Same setbacks as required for the primary dwelling |  |
| Additions to dwelling (attached)   | Same setbacks as required for the dwelling         |  |

**Notes:**

- (1) Maximum building height is 1 story and 14 feet with a 3:12 roof pitch or 10 feet with less than a 3:12 roof pitch.
- (2) Minimum 10-foot separation required between a habitable building and any other detached accessory building/structure.
- (3) Must be architecturally compatible with the existing structure.

C. Condominium projects. Additions and accessory uses to condominium projects shall be subject to Section 21.45.100 (Amendments to permits). (Ord. CS 324 §§ 2, 23, 2017; Ord. CS-050 § IV, 2009; Ord. NS-834 § II, 2007)

26. Section 21.48.020 of the Carlsbad Municipal Code is amended to read as follows:

21.48.020 Applicability.

- A. The provisions of this chapter apply to:
  - 1. Legally created lots which do not conform to the current requirements and development standards of the zone in which they are located.

2. Legally constructed structures and site development features that do not comply with the current requirements and development standards of the zone in which they are located.
  3. Legally established uses which do not conform to the current permitted use regulations of the zone in which they are located.
- B. The provisions of this chapter do not apply:
1. To nonconforming signs, which are addressed in Section 21.41.130.
  2. When an accessory dwelling unit or junior accessory dwelling unit is proposed with an existing nonconforming residential structure. Pursuant to California Government Code Section 65852.2, the city shall not require, as a condition for approval of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.
27. Subsections A and B.1 of Section 21.201.060 of the Carlsbad Municipal Code are amended to read follows:
- A. For the purposes of subsection B.1 of this section, an existing single-family residential building shall include:
1. All appurtenances and other accessory structures, including decks, directly attached to the residence;
  2. Accessory structures or improvements on the property normally associated with residences, such as garages, swimming pools, fences and storage sheds, and junior accessory dwelling units and accessory dwelling units that are attached to or converted from the existing space of a primary residence or attached accessory structure, but not including guest houses or self-contained residential units that are detached from an existing single-family residential building;
  3. Landscaping on the lot.
- B. Exemptions. The following projects are exempt from the requirements of a minor coastal development permit and coastal development permit:
1. Improvements to an existing single-family residential building, except:
    - a. On a beach, wetland or seaward of the mean high tide line;
    - b. Where the residence or proposed improvement would encroach in an environmentally sensitive habitat area or within fifty feet of the edge of a coastal bluff;
    - c. Improvements that would result in an increase of ten percent or more of internal floor area of an existing structure or an additional improvement of ten percent or less where an improvement to the structure had previously been undertaken pursuant to California Public Resources Code Section 30610(a), or an increase in height by more than ten percent of an existing structure and/or any significant nonattached

structure such as garages, fences, shoreline protective works or docks, and such improvements are on property located:

- i. Between the sea and the first public road paralleling the sea,
  - ii. Within three hundred feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or
  - iii. In significant scenic resources areas as designated by the Commission;
- d. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, or within fifty feet of the edge of a coastal bluff except as provided in subsections B.8, B.9, B.10 and B.11 of this section;
  - e. Expansion or construction of water wells or septic systems;
  - f. Improvements to establish an accessory dwelling unit that is attached to the primary residence, or converted from the existing space of a primary residence or attached accessory structure or a junior accessory dwelling unit within a one-family dwelling where such primary residence or attached accessory structure is nonconforming with respect to habitat preserve buffers or geologic stability setbacks in the certified local coastal program.

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES OUSTIDE THE COASTAL ZONE: This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES INSIDE THE COASTAL ZONE: This ordinance shall be effective thirty days after its adoption or upon Coastal Commission approval of LCPA 2020-0006, whichever occurs later; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

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INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the 1st day of September, 2020, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the 15th day of September, 2020, by the following vote, to wit:

AYES: Hall, Blackburn, Bhat-Patel, Schumacher.

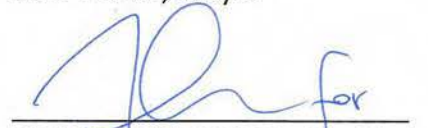
NAYS: None.

ABSENT: None.

APPROVED AS TO FORM AND LEGALITY:

  
CELIA A. BREWER, City Attorney

  
MATT HALL, Mayor

  
BARBARA ENGLESON, City Clerk  
(SEAL)

