

ORDINANCE NO. 2205

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA, REPEALING SECTION 17.20.130 (ACCESSORY DWELLING UNIT) OF CHAPTER 17.20 (DEVELOPMENT STANDARDS FOR ALL RESIDENTIAL ZONES) OF TITLE 17 (ZONING) AND ADDING A NEW CHAPTER 17.21 (ACCESSORY DWELLING UNIT) TO TITLE 17 (ZONING) OF THE HAWTHORNE MUNICIPAL CODE

WHEREAS, accessory dwelling units (“ADUs”) have served as an affordable housing option for Californians for years and were known by other terminology, such as “granny flats” or “second units”;

WHEREAS, the City of Hawthorne adopted Ordinance No. 1894 on June 27, 2008 adding Section 17.20.130 (Accessory dwelling unit) to Title 17 (Zoning) of the Hawthorne Municipal Code, to address these “second units”;

WHEREAS, on June 25, 2019, by Ordinance No. 2183, the City amended Section 17.20.130 to comply with new Senate Bill 1069 and Assembly Bill 2299; although reducing local discretion and requiring cities to allow one ADU by right, these new laws allowed some development standards for new square footage;

WHEREAS, in 2019, as a response to California’s increasingly serious housing crisis and with hopes of accelerating ADU development, the Legislature passed Assembly Bill 881, Senate Bill 13 and Assembly Bill 68, making changes to ADU law contained in Government Code Section 68552.1 and 68552.2, effective January 1, 2020;

WHEREAS, these laws greatly limited local regulation of ADUs, and included prohibitions on minimum lot size, parking, and correction of physical non-conforming zoning conditions and also required cities to review ADUs ministerially, as well as other requirements the State of California hopes will further the development of ADUs;

WHEREAS, as a result of the passage of AB 881, SB 13 and AB 68, Section 17.20.130 has become null and void, with State standards as contained in the new laws now applying to construction of ADUs;

WHEREAS, the City the City has received numerous inquiries regarding our regulation of ADUs and JADUs and have been processing applications in accordance with the new State law;

WHEREAS, staff prepared a proposed Ordinance modifying Title 17 (Zoning) to codify the requirements of the law;

WHEREAS, on July 1 and July 15, 2020, the Planning Commission reviewed the proposed Ordinance, held a public hearing, and adopted a Resolution recommending that the City Council approve the proposed Ordinance;

WHEREAS, the City Council of the City of Hawthorne wishes to adopt proposed Ordinance No. 2205 to establish regulations consistent with new State laws regarding ADUs and JADUs.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HAWTHORNE DOES ORDAIN AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The Table labeled “R-1 Low Density Residential Classification Table of General Use and Bulk Requirements” contained in subsection (B) of Section 17.14.020 (Permitted and conditionally permitted uses and bulk requirements) of Chapter 17.14 (R-1 Low Density Residential Classification) of Title 17 (Zoning) is hereby changed to provide, at “Accessory dwelling unit, detached, attached and interior” the following:

Accessory dwelling unit, detached, attached and interior	See Chapter 17.21 (Accessory Dwelling Units)
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SECTION 4. Section 17.29.020 (Permitted uses) of Chapter 17.29 (CM—Mixed Commercial Classification) of Title 17 (Zoning) is hereby amended to add “Accessory dwelling units and junior accessory dwelling units,” in alphabetical order.

SECTION 5. Subsection (B) of Section 17.20.060 (Placement of buildings and structures) of Chapter 17.20 (Development Standards for all Residential Zones) of Title 17 (Zoning) is hereby amended to read as follows:

“B. An accessory dwelling unit or junior accessory dwelling unit pursuant to Chapter 17.21.”

SECTION 6. Section 17.20.130 (Accessory dwelling unit) of Chapter 17.20 (Development Standards for All Residential Zones) of Title 17 (Zoning) of the Hawthorne

Municipal Code is hereby deleted in its entirety and Chapter 17.20 is hereby renumbered accordingly.

SECTION 7. Section 17.20.160 (Accessory buildings, structures and uses) of Chapter 17.20 (Development Standards for all Residential Zones) of Title 17 (Zoning) is hereby amended to delete the following “*This Section shall not pertain to accessory dwelling units, which are addressed in Section 17.20.130.”

SECTION 8. Chapter 17.21 (Accessory dwelling unit) of Title 17 (Zoning) of the Hawthorne Municipal Code is hereby added to read as follows:

Chapter 17.21 ACCESSORY DWELLING UNITS.

17.21.010 Purpose

The purpose of this section is to establish regulations for the development of accessory dwelling units and junior accessory dwelling units as defined in this section and in California Government Code sections 65852.2 and 65852.22, or any successor statute.

17.21.020 Definitions

“Accessory dwelling unit” or “ADU” means an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and located on the same lot as a proposed or existing primary residence, which may be a single or multi-family dwelling, and has a separate, exterior entrance than that of the primary residence. It includes permanent provisions for living, sleeping, eating, cooking, and sanitation. It shall have the same meaning as that term is defined in California Government Code section 65852.2, as amended from time to time.

“Existing accessory structure” means an accessory structure, as defined in this chapter, which was legally established and existing prior to the submittal of an ADU or JADU application.

“Junior accessory dwelling unit” or “JADU” means a unit that is no more than 500 square feet in size and contained within the living area of a single-family residence, and has independent exterior access. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure, but shall include an efficiency kitchen that provides for a cooking facility with appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

“Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

“Mixed-use” for purposes of ADU development, means a development that combines residential land use with one or more additional land uses where uses are physically and functionally integrated (horizontally or vertically), and developed pursuant to City of Hawthorne Municipal Code Section 17.87

“Multi-family dwelling” pursuant to for purposes of ADU development means a building, other than a hotel or motel, with two or more attached dwelling units used to house two or more families, living independently of each other.

“Public transit” means a location, including, but not limited to, a bus stop or a train station, where the public may access buses, trains, subways and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

“Single-family residence” means a residential building containing one or more habitable rooms with only one kitchen, designed for occupancy by one independent household unit with common access to, and common use of all living, kitchen, and bathroom areas

“Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another

17.21.030 Permit Requirement

A. Accessory dwelling unit permit. An accessory dwelling unit permit is required for construction of an accessory dwelling unit or junior accessory dwelling unit or the modification of exterior features, size, or height of an existing accessory dwelling unit or junior accessory dwelling unit.

B. Building permit. A building permit shall be required for construction or modification of an accessory dwelling unit or junior accessory dwelling unit as set forth in the California Residential Code and other building standards adopted by the City.

17.21.040 Permit application and review procedures.

A. The Director of Planning and Community Development, or his/her designee, shall review and approve or deny ministerial permits for ADUs and JADUs upon determining whether the application submitted is complete, the proposed unit conforms to all requirements of this code, and a non-refundable application review fee in the amount established by the City Council, amended from time to time, has been paid. Applications deemed incomplete or not in full conformance with the requirements of this code will be rejected. The Director will review the application without notice or public hearing. The time period for review may be tolled at the request of the applicant.

B. Decision. The Director shall render a decision in writing and shall state the reasons for approval or denial. The decision of the Director shall be final.

17.21.050 Zoning and applicability.

1. An ADU or JADU is permitted in any residential or mixed-use zone that allows residential units.
2. Sites developed or proposed to be developed with a single-family residence shall not be permitted more than one ADU
3. Sites developed with a multi-family building may convert existing non-habitable square footage within the building to a minimum one ADU and a maximum that shall not exceed twenty-five percent of the number of units on the site. Sites developed with a multi-family building are also permitted to construct two ADUs or to convert detached accessory buildings, garages, carports, or covered parking structures to a maximum of two ADUs
4. A maximum of one JADU shall be permitted on a site developed or proposed to be developed with a single-family residence, unless the subject site proposes or contains an attached ADU. In such cases, a JADU shall not be permitted.

17.21.060 ADU and JADU development standards.

The development standards in Table 17.21.050 shall be applicable to all accessory dwelling units and junior accessory dwelling units. Additional provisions related to accessory dwelling units are referenced in the “Additional Provisions” column of the table. Such provisions may include references to other applicable code sections or limitations.

Table 17.21.050 ADU and JADU Development Standards				
Specific Regulations	ADU		JADU	Additional Provisions
	Attached	Detached		
Minimum Size	220 sf	220 sf	220 sf	
Maximum Size	1,000 sf	1,000 sf	500 sf	(1) (2) (3) (4)
Maximum Height	16 ft and one story	16 ft and one story	Same as primary building	
Minimum Side Yard Setback	4 ft	4 ft	Same as primary building	(5)
Minimum Rear Yard Setback	4 ft	4 ft	Same as primary building	(5)
Maximum Lot Coverage/Use Intensity	Same as zoning district	Same as zoning district	Same as zoning district	(6)
Open Space	500 sf	500 sf	-	(7)
Separation from Accessory Buildings	6 ft	6 ft	-	(8)
Separation from Primary Buildings	-	6 ft	-	(8)

Minimum parking	1 space	1 space	-	(9) (10) (11)
Tandem Parking	Permitted	Permitted	Permitted	

- (1) An attached accessory dwelling unit may be 50% of the habitable space of the primary dwelling unit on the site, not to exceed 1,000 square feet in size or two bedrooms, except where a restriction to 50% of existing living area would result in a maximum size of less than 800 square feet, an attached accessory dwelling unit of no more than 800 square feet shall be permitted
- (2) ADUs may not exceed 800 square feet in size in cases where both an ADU and JADU are developed or proposed on a site.
- (3) Existing accessory structures may be converted into an ADU and may be expanded by up to 150 square feet of the existing footprint to accommodate ingress and egress only.
- (4) A junior accessory dwelling unit shall be constructed within the existing space of the proposed or existing single-family dwelling or accessory structure, however, an expansion of not more than one hundred fifty (150) square feet beyond the same physical dimensions of the existing space of a single-family dwelling shall be permitted for purposes of accommodating ingress and egress.
- (5) No setback is required to construct an accessory dwelling unit within an existing structure that is converted to an accessory dwelling unit or a new structure constructed in the same location and the same dimension as an existing structure.
- (6) Lot coverage and use intensity maximum established in zoning district may be exceeded to permit an ADU up to 800 square feet in size. This provision shall not apply to conversions of existing buildings.
- (7) Required open space may be reduced to permit an ADU up to eight hundred square feet in size. Open space requirement shall only apply to properties developed or proposed to be developed with a single-family residence. This provision shall not apply to conversions of existing buildings.
- (8) Separation requirement may be reduced to permit an ADU up to eight hundred square feet in size. Separation shall be measured from the nearest points between the structures. This provision shall not apply to conversions of existing buildings.
- (9) No parking for the ADU is required if one or more of the following applies:
 - a. The ADU is located within ½ mile walking distance of public transit.
 - b. The ADU is located within an architecturally and historically significant historic district.

- c. The ADU as part of the proposed or existing primary residence or an accessory structure.
 - d. When on-street parking permits are required but not offered to the occupant of the ADU
 - e. When there is a car share vehicle located within one block of the ADU
- (10) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the City shall not require the replacement of offstreet parking spaces.
- (11) The driveway leading up to the garage may serve as replacement parking, provided vehicles can safely navigate for purposes of ingress and egress, or as otherwise required by applicable provisions of this Chapter.

17.21.070 Additional ADU and JADU requirements

1. Subdivision. No subdivision of land is authorized that would result in an accessory dwelling unit being located on a separate parcel, unless each parcel meets all of the zoning requirements for the zoning district in which it is located.
2. Architectural compatibility. Accessory dwelling units shall be located to the rear of the primary residence, and not viewable from the public right-of-way. When visible from the public right-of-way (including from a public alley, the architectural design of an attached or detached ADU shall be visually compatible with the primary dwelling unit and with the neighborhood character.
3. Fire sprinklers. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence
4. Landscaping. An accessory dwelling unit eight hundred (800) square feet in floor area or less, shall have no minimum landscape area. Minimum landscape area for an accessory dwelling unit greater than eight hundred (800) square feet in floor area shall be that of the underlying zoning district.
5. Certificate of Occupancy. The building official shall not issue a certificate of occupancy for an accessory dwelling unit before issuance of a certificate of occupancy for the primary dwelling.
6. Nonconforming Zoning Conditions. The City shall not require as a condition for approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit the correction of nonconforming zoning conditions.
7. Utility Connections. For accessory dwelling units described in Government Code Section 65852.2 (1)(A), the accessory dwelling unit or junior accessory dwelling unit shall not be required

to install a new or separate utility connection directly between the accessory dwelling unit or junior accessory dwelling unit and the utility, and the accessory dwelling unit or junior accessory dwelling unit shall not be subject to a related connection fee or capacity charge, unless the accessory dwelling unit is constructed

8. Rental Term. ADUs and JADUs may be rented but shall not be used for rentals for term less than thirty (30) consecutive days.

9. No Separate Conveyance. An ADU or JADU may be rented, but no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multi-family lot).

10. Owner occupancy. Owner-occupancy shall not be required if the owner is a government agency, land trust, or housing organization.

11. Historic properties. ADUs and JADUs shall conform to the United States Secretary of Interior's Official Standards for the Treatment of Historic Properties.

17.21.080 Deed Restriction

Prior to the issuance of a building permit for a JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Director of Planning and Community Development. The deed restriction shall run with the land and bind all future owners. The form of the deed restriction will be provided by the city and must provide that:

1. The JADU shall not be sold separately from the primary dwelling
2. The unit is restricted to the approved size and attributes of this chapter.
3. The covenant restrictions run with the land and may be enforced against future purchasers
4. The covenant restrictions may be removed if the owner eliminates the JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director of Planning and Community Development, providing evidence that the JADU has in fact been eliminated. Any building permits required in the removal must be approved prior to the Director's determination. The Director may then determine whether the evidence supports the claim that the JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of this Code. If the JADU is not entirely physically removed but is only eliminated by virtue of having a necessary component of a JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.
5. The deed restriction is enforceable by the Director of Planning and Community Development or his or her designee for the benefit of the city. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner,

and the city is authorized to obtain any remedy available to it at low or equity, including, but not limited to, obtaining an injunction enjoining the use of the JADU in violation of the recorded restrictions or abatement of the illegal unit.

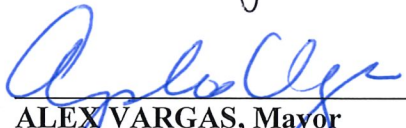
SECTION 9. CEQA. The City Council finds and determined that adoption of the proposed amendment is not a project subject to the California Environmental Quality Act (CEQA) in accordance with Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378, and is exempt from CEQA pursuant to State CEQA Guidelines Section 15061 (b)(3) (general rule) and 15301 “Existing Facilities” (Class 1). Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. These proposed changes are in conformity with existing State law regarding accessory dwelling units.

SECTION 10. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, 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 and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 11. AUTHORIZATION TO PUBLISH SUMMARY OF ORDINANCE. Pursuant to Government Code Section 36933(c)(1), the City Attorney is authorized to prepare a summary of this ordinance. The City Clerk is also authorized to publish a summary of the text of this ordinance in the Herald Tribune at least five days prior to the adoption of this ordinance. Within 15 days after adoption of the ordinance, the City Clerk is directed to publish a summary of this ordinance in the Herald Tribune.


SECTION 12. EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after passage thereof.

PASSED, APPROVED AND ADOPTED this 11th day of August 2020.




ALEX VARGAS, Mayor
City of Hawthorne, California

ATTEST:



PAUL JIMENEZ, City Clerk
City of Hawthorne, California

APPROVED AS TO FORM



RUSSELL I. MIYAHIRA,
City Attorney
City of Hawthorne, California

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) §
CITY OF HAWTHORNE)

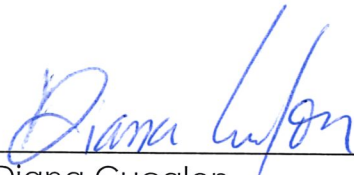
I, **Diana Cucalon**, the duly appointed Acting Deputy City Clerk of the City of Hawthorne, California, **DO HEREBY CERTIFY** that the foregoing Ordinance, being Ordinance No. 2205 was duly adopted by the City Council of the City of Hawthorne, at the regular meeting of the City Council held **August 11, 2020** and that it was adopted by the following vote, to wit:

AYES: Councilmembers Awad, Monteiro, Talleda, Valentine, Mayor Vargas.

NOES: None.

ABSTAIN: None.

ABSENT: None.



Diana Cucalon
Acting Deputy City Clerk
City of Hawthorne, California