

ORDINANCE NO. 4281

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, APPROVING CODE AMENDMENT (CODE 13241-2020) AMENDING SECTIONS .5809-26 ACCESSORY DWELLING UNITS, .5809-13 HISTORIC PRESERVATION, .580 CONDITIONAL USE PERMITS, AND .560 VARIANCES OF THE CITY OF POMONA ZONING ORDINANCE PERTAINING TO ACCESSORY DWELLING UNIT AND JUNIOR ACCESSORY DWELLING UNIT REGULATIONS

WHEREAS, in 2019, the California Legislature approved, and the Governor signed into law a number of bills (“New ADU Laws”) that, among other things, amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs); and

WHEREAS, the New ADU Laws take effect January 1, 2020, and if the City’s ADU ordinance does not comply with the New ADU Laws, the City’s ordinance becomes null and void on that date as a matter of law; and

WHEREAS, the City desires to amend its local regulatory scheme for the construction of ADUs and JADUs to comply with the amended provisions of Government Code sections 65852.2 and 65852.22; and

WHEREAS, failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) as of January 1, 2020 renders the City’s ordinance regulating ADUs and JADUs null and void, thereby limiting the City to the application of the few default standards provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADUs; and

WHEREAS, the approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, landscape, architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety.

WHEREAS, the City desires to preserve the city of Pomona's cultural, historical, and architectural heritage and resources as living parts of community life that benefit and enrich the lives of its present and future residents;

WHEREAS, the City of Pomona has duly initiated Code Amendment (CODE 13241-2020);

WHEREAS, the Planning Commission of the City of Pomona, after giving notices thereof as required by law, held a public hearing on January 22, 2020 concerning Code Amendment (CODE 13241-2020) and carefully considered all pertinent testimony and the staff report offered in the case as present;

WHEREAS, on January 22, 2020, the Planning Commission of the City of Pomona recommend to the City Council the approval of Code Amendment (Code 13241-2020) with a 6-0-0-1 vote;

WHEREAS, the City Council of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on March 2, 2020, concerning the requested Code Amendment (CODE 13241-2020); and

WHEREAS, the City Council of the City of Pomona, at its regularly scheduled public meeting on March 2, 2020 approved the introduction and first reading of an Ordinance for Code Amendment (CODE 13241-2020);

WHEREAS, the City Council has carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearing.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pomona as follows:

SECTION 1. The City Council hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Ordinance.

SECTION 2. Under California Public Resources Code section 21080.17, the California Environmental Quality Act (“CEQA”) does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is California’s ADU law and which also regulates JADUs, as defined by section 65852.22. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State’s ADU law.

In addition to being statutorily exempt from CEQA, the proposed ordinance is also categorically exempt from CEQA under the Class 3 exemption set forth in State CEQA Guidelines section 15303. The Class 3 exemption categorically exempts from CEQA, among other things, the construction and location of new, small structures and the conversion of existing small structures from one use to another. Section 15303 specifically lists the construction of appurtenant accessory structures and garages as examples of activity that expressly falls within this exemption.

Here, the ordinance is categorically exempt under the Class 3 exemption because the ordinance regulates the conversion of existing structures into, and the new construction of, ADUs and JADUs, which are, by definition, structures that are accessory to a primary dwelling on the lot. Moreover, the City Council finds that none of the “exceptions” to the use of the Class 3 exemption, set forth in State CEQA Guidelines section 15300.2, apply here. Specifically, the City Council finds that the ordinance will:

1. Location. Not result in the construction of ADUs or JADUs within a particularly sensitive environment because these accessory structures will necessarily be built on a lot already developed with a primary dwelling.
2. Cumulative Impact. Not result in a potentially significant cumulative impact. Properties would generally be limited to one ADU and one JADU per lot. Based on historical ADU development, it is not foreseeable that the proposed ordinance would result in a succession of projects of the same type and in the same place. The ordinance will restrict ADUs to areas zoned and designated for such development, and places further restrictions on the allowable size and scale to ensure that any ADU is consistent with surrounding development.
3. Significant Effect. Not result in a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. As indicated in the City’s General Plan, the City is nearly built out, with only 4% still designated as vacant and largely urbanized. The ordinance will restrict ADUs and JADUs to areas zoned to permit single-unit and multi-unit residential development that are not located within sensitive resource areas. Because of this ADUs and JADUs will be constructed in areas that are generally fully developed and intended for residential development which is not unusual. The City’s standards are intended to offer significant protections against out-of-scale new development. As such, the effect of the proposed provisions would be to provide further environmental protections and would not have a significant effect on the environment.
4. Scenic Highway. Not result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway because there are no designated state scenic highways located within the City of Pomona according to the City’s General Plan.
5. Hazardous Waste Site. Not be located on a hazardous waste site included on any list compiled pursuant to § 65962.5 of the Government Code as the ordinance requires that the site already contain a single-family residence or would allow a new single-family residence

to be constructed simultaneously and this condition would have been verified upon construction of the home.

6. Historic Resources. Not result in a substantial adverse change in the significance of a historical resource as any ADU will need to either comply with standards that protect historic properties or be further subject to historic review and approval by the City of Pomona Historic Preservation Committee.

SECTION 3. Based on consideration of the whole record before it, including but not limited to, the staff report, public testimony received at the public hearing on this matter, and evidence made part of the public record, the City Council hereby finds that the proposed Code Amendment is in the public interest and in the interest of the furtherance of the public health, safety, and welfare and is, as a matter of law, consistent with the Pomona General Plan pursuant to Government Code Section 65852.2(a)(1)(C).

SECTION 4. The City Council of the City of Pomona hereby approves Code Amendment (CODE 13241-2020) amending Section .5809-26 of the City of Pomona Zoning Ordinance by deleting and replacing the entire section with the new underlined language as follows:

Section .5809-26 – ACCESSORY DWELLING UNITS.

- A. Purpose and Intent. The purpose of this section is to regulate the establishment of Accessory Dwelling Units in accordance with Government Code Section 65852.2 and 65852.22; to provide affordable housing to meet the needs of the citizens of Pomona; to ensure that the development of ADUs is compatible with existing development; to preserve the city of Pomona's cultural, historical, and architectural heritage; and to implement and promote the goals and policies of the Pomona General Plan.
- B. Effect of Conforming. An ADU or JADU that conforms to the standards in this section will not be:
 1. Deemed to be inconsistent with the city's general plan and zoning designation for the lot on which the ADU or JADU is located.
 2. Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
 3. Considered in the application of any local ordinance, policy, or program to limit residential growth.

4. Required to correct a nonconforming zoning condition, as defined in subsection (C)(11) below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.
- C. Definitions. For the purpose of this section, the following terms shall have the following meanings:
 1. Accessory Dwelling Unit. An Accessory Dwelling Unit or ADU means an attached or a detached residential dwelling unit that provides complete independent living facilities (permanent provisions for living, sleeping, eating, cooking, and sanitation) for one or more persons and is located on a lot with a proposed or existing primary residence. An ADU also includes the following:
 - a. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and
 - b. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.
 2. Accessory Dwelling Unit, Attached. An Attached ADU means an ADU that is newly constructed and attached to the Primary Dwelling Unit. An Attached ADU may be located, in part, within the existing floor area of the Primary Dwelling Unit.
 3. Accessory Dwelling Unit, Detached. A Detached ADU means an ADU that is newly constructed and not attached to the Primary Dwelling Unit or multi-unit dwelling. A Detached ADU may be attached to an Accessory Structure (e.g. garage).
 4. Accessory Dwelling Unit, Interior. An Interior ADU means an ADU that is located entirely within the existing space of a Primary Dwelling Unit, multi-unit dwelling, or Accessory Structure.
 5. Accessory Structure. Accessory Structure means a structure that is accessory to and incidental to that of the Primary Dwelling Unit and that is located on the same lot.
 6. Bedroom. An unsubdivided portion of the interior of a dwelling unit, at least seventy square feet in area. A bedroom shall be provided with a separate closet.

7. Cooking Facility. A Cooking Facility means an area containing a refrigeration appliance, a kitchen sink and cooking appliance, each having a clear working space of not less than 30 inches. “Cooking appliance” includes any appliance capable of cooking food, including a range, stove, oven, microwave, or hot plate, but not including a toaster or electric kettle.
8. Historic Properties. Historic Properties mean those structures and properties listed on the National Register of Historic Places, California Register of Historic Places, Pomona Register of Historic Properties, or any property in a designated historic district.
9. Junior Accessory Dwelling Unit. Junior Accessory Dwelling Unit or JADU, as defined in Section 65852.2 of the Government Code, means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
10. Living Area. 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 as defined in Section 65852.2 of the Government Code.
11. Nonconforming Zoning Condition. Nonconforming Zoning Condition means a physical improvement on a property that does not conform with current zoning standards.
12. Owner. Owner means the property owner on the latest equalized property tax assessment roll. If the Owner is not a natural person or group of natural persons (e.g. the Owner is a trust or corporation), then the Owner(s) shall designate a natural person for the purpose of satisfying the owner occupancy requirements set forth in Subsection (F)(6). The Owner(s) designated natural person(s) shall reside on site, shall have authority to bind the owner in all matters related to the site, and shall not pay rent or other compensation, nor provide services to the owner.
13. Owner-occupancy. Owner- occupancy means that an Owner currently resides on the property in either the Primary Dwelling Unit, ADU or JADU.
14. Passageway. Passageway means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU as defined in Section 65852.2 of the Government Code.

15. Primary Dwelling Unit. Primary Dwelling Unit means any legally established, single-unit dwelling, existing or proposed, located on the same lot as an ADU or JADU.
16. Proposed Dwelling. Proposed Dwelling means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
17. Public Transportation. Public Transportation means a location, including, but not limited to, a bus stop or 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.
18. Tandem Parking. 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 as defined in Section 65852.2 of the Government Code.

D. Ministerial Approvals. The following approvals apply to ADUs and JADUs under this section.

1. Building-permit only. If an ADU or JADU complies with each of the general requirements in subsection (F) “General ADU and JADU Requirements” below, it is allowed with only a building permit in the following scenarios:
 - a. Interior ADU on Single-unit Lot. Only one Interior ADU or JADU on a lot with a proposed or existing single-unit dwelling on it, where the ADU or JADU:
 - i. Is either within the space of a proposed Primary Dwelling Unit; within the existing space of a Primary Dwelling Unit; or within the existing space of an Accessory Structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress.
 - ii. Has exterior access that is independent of that for the Primary Dwelling Unit.
 - iii. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
 - b. Limited Detached ADU on Single-unit Lot. One detached, new-construction ADU on a lot with a proposed or existing Primary

Dwelling Unit (in addition to any JADU that might otherwise be established on the lot under subsection (D)(1)(a) "Interior ADU on Single-unit Lot" above), if the Detached ADU satisfies the following limitations:

- i. The side- and rear-yard setbacks are at least four (4) feet.
- ii. The total floor area is eight-hundred (800) square feet or smaller.
- iii. The peak height above grade is sixteen (16) feet or less.
- c. Interior ADU on Multi-unit Lot. Multiple ADUs within portions of existing multi-unit dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each Interior ADU complies with state building standards for dwellings. At least one Interior ADU is allowed within an existing multi-unit dwelling, and up to twenty-five (25) percent of the existing multi-unit dwelling units may each have an Interior ADU under this paragraph.
- d. Limited Detached ADU on Multi-unit Lot. No more than two Detached ADUs on a lot that has an existing multi-unit dwelling if each Detached ADU satisfies the following limitations:
 - i. The side- and rear-yard setbacks are at least four (4) feet.
 - ii. The peak height above grade is sixteen (16) feet or less.
- e. Historic Properties. Any of the four types of ADUs listed in subsection (D)(1)(a-d) above shall be permitted on Historic Properties in accordance with subsection (D) "Ministerial Approvals". However, to the extent that any modifications to the exterior of the existing structure is required as part of an Interior ADU or for any Limited Detached ADU, they shall be consistent with the historically significant architecture of the existing structure. The following elements of the ADU must be the same in appearance as those of the existing structure:
 - i. Architectural style (e.g. Craftsman, Victorian, Modern, etc.),

- ii. Architectural detailing (e.g. exposed rafters, knee braces, decorative tile, etc.).
 - iii. Construction materials, finishes, and colors,
 - iv. Door trim and style, and
 - v. Window trim and style (i.e., grid pattern, frame thickness, opening direction, etc.).
 - vi. For the purposes of applying ministerial standards in accordance with Government Code Section 65852.2, no Attached ADU, Detached ADU, or external modifications to existing structures except for those in subsection (D)(1)(a - d) above are permitted on Historic Properties.
- 2. Ministerial ADU Permit. Except as allowed under subsection (D)(1) “Building Permit Only” above, no ADU or JADU may be created without a building permit and a Ministerial ADU Permit in compliance with the standards set forth in subsections (F) “General ADU and JADU Requirements”, (G) “Specific ADU Requirements”, and (H) “Specific JADU Requirements” below.
- 3. Process and Timing.
 - a. An ADU permit is considered and approved ministerially, without discretionary review or a hearing.
 - b. The City must act on an application to create an ADU or JADU within 60 days from the date that the City receives a completed application, unless either:
 - i. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or
 - ii. In the case of a JADU and the application to create a JADU is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the

permit application for the JADU until the City acts on the permit application to create the new single-family dwelling, but the application to create the JADU will still be considered ministerially without discretionary review or a hearing.

E. Discretionary Review.

1. Minor Deviation Variance. The Development Services Director or designee may consider a request to deviate from the following standards for ADUs subject to the requirements of Section .560-J Minor Deviation Variances: Coverage, Minimum distance between buildings, and Yards.
2. Conditional Use Permit. An ADU that deviates from the following standards in subsection (G) "Specific ADU Requirements" may be approved through a Conditional Use Permit under section .580: number of rooms, unit size, location restriction, roof eaves, and architecture.
3. If a Conditional Use Permit is required under (E)(2) above, then any additional deviation that requires a Minor Deviation Variance under (E)(1) above may be approved through the Conditional Use Permit.
4. Major Certificate of Appropriateness. A Major Certificate of Appropriateness shall be required for any ADU or JADU located on a Historic Property that does not comply with subsection (D)(1)(a - d) above. Any ADU or JADU requiring a Major Certificate of Appropriateness shall comply with subsection (F) - (J).

F. General ADU and JADU Requirements. The following requirements apply to all ADUs and JADUs that are approved under subsections (D)(1) or (D)(2) above:

1. Zoning.
 - a. An ADU or JADU subject only to a building permit under subsection (D)(1) above may be created on a lot in a residential or mixed-use zone.
 - b. An ADU or JADU subject to an ADU permit under subsection (D)(2) above may be created on a lot that is zoned to allow single-unit dwelling residential use or multi-unit dwelling residential use.

2. Fire Sprinklers. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
3. Rental Term. No ADU or JADU may be rented for a term that is shorter than 30 days.
4. 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-unit lot) or from the lot and all of the dwellings (in the case of a multi-unit lot).
5. Septic System. If the ADU or JADU will connect to an onsite water-treatment system, the Owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.
6. Owner-occupancy.
 - a. All ADUs created before January 1, 2020 are subject to the Owner-occupancy requirement that was in place when the ADU was created.
 - b. An ADU that is created after that date but before January 1, 2025, is not subject to any Owner-occupancy requirement.
 - c. All ADUs that are created on or after January 1, 2025 are subject to an Owner-occupancy requirement.
 - d. All JADUs are subject to an Owner-occupancy requirement. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.
7. Deed restrictions. Prior to the issuance of a certificate of occupancy for an ADU or 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. The deed restriction must run with the land and bind all future owners. A deed restriction or similar instrument that runs with the land, shall be recorded against the property and shall include the following:

- a. A declaration prohibiting the sale of the ADU or JADU separate from the sale of the Primary Dwelling Unit.
- b. A declaration that the ADU or JADU shall not be rented for a period of fewer than thirty (30) days.
- c. A declaration restricting the size and attributes of the ADU or JADU to that which conforms to this section.
- d. A declaration that all of the above deed restrictions may be enforced against future property owners.
- e. The deed restrictions may be removed if the owner eliminates the ADU (as evidenced by removal of the kitchen facilities).
- f. The deed restrictions shall be enforced by the Development Services Director or designee for the benefit of the City of Pomona. Failure of the Owner to comply with the deed restrictions may result in legal action against the Owner and the City shall be authorized obtain any remedy available to it at law or equity, including but not limited to obtaining an injunction enjoining use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.

G. Specific ADU Requirements. The following requirements apply only to ADUs that require an ADU permit under subsection (D)(2) "Ministerial ADU Permit" above.

- 1. Primary Dwelling Unit requirement.
 - a. There shall be a Primary Dwelling Unit located on the same lot as an ADU.
 - b. Where a Primary Dwelling Unit does not exist on a lot but is proposed, an ADU may be constructed concurrently with the construction of the Primary Dwelling Unit.
- 2. Number of units allowed. No more than one ADU may be allowed on the same lot as a Primary Dwelling Unit.
- 3. Number of Rooms.
 - a. For ADUs less than 850 square feet in area.

- i. The total number of Rooms, as defined in Section .062, permitted in an ADU may not exceed four (4).
- b. For ADUs 850 square feet in area or greater.
 - i. The total number of Rooms, as defined in Section .062, permitted in an ADU may not exceed six (6).

4. Unit size.
 - a. For lots less than 7,200 square feet in area.
 - i. The total floor area of an Attached ADU may not exceed fifty (50%) percent of the total Living Area of the Primary Dwelling Unit, however, in no case shall an Attached ADU exceed eight hundred fifty (850) square feet for a studio or one bedroom unit or one thousand (1,000) square feet for a unit with two or more bedrooms.
 - ii. The total floor area of a Detached ADU with no more than one bedroom may not exceed eight hundred fifty (850) square feet.
 - iii. The total floor area of a Detached ADU with two or more bedrooms may not exceed one thousand (1,000) square feet.
 - iv. In no case shall the total floor area of an ADU be smaller than two hundred (220) square feet in accordance with California Building Code section 1208.4.
 - b. For lots 7,200 square feet in area or greater.
 - i. The total floor area of an Attached ADU may not exceed fifty (50%) percent of the total Living Area of the Primary Dwelling Unit, however, in no case shall an Attached ADU exceed one thousand two hundred (1,200) square feet for a unit with two or more bedrooms.
 - ii. The total floor area of an Attached ADU or Detached ADU may not exceed one thousand two hundred (1,200) square feet in total floor area.

- iii. In no case shall the total floor area of an ADU be smaller than two hundred (220) square feet in accordance with California Building Code section 1208.4.
- c. Application of other development standards in this subsection (F) "General ADU and JADU Requirements", such as lot coverage, might further limit the size of the ADU, but no application of lot coverage or open-space requirements may require the ADU to be less than eight hundred (800) square feet.
- 5. Coverage. The maximum coverage of the lot by all structures shall be thirty-five (35) percent. Any patio with roof, open slats or other covering shall constitute lot coverage but not square footage.
- 6. Building height. No ADU shall have a height greater than two (2) stories or thirty-five (35) feet. However, in no case shall an ADU be taller than the Primary Dwelling Unit or sixteen (16) feet, whichever is greater.
- 7. Minimum distance between buildings.
 - a. The distance between an ADU and the Primary Dwelling Unit shall be at least ten (10) feet.
 - b. The distance between an ADU and an Accessory Structure shall be at least six (6) feet.
- 8. Location restriction. Detached ADUs shall not be located between the proposed or existing Primary Dwelling Unit and the street adjoining the front yard, except where the Primary Dwelling Unit is on a through lot.
- 9. Yards.
 - a. Front Yard. ADUs shall have a minimum front yard of twenty-five (25) feet.
 - b. Side Yard. ADUs shall have a minimum side yard of four (4) feet.
 - c. Rear Yard. ADUs shall have a minimum rear yard of four (4) feet.
 - d. No yard shall be required for:
 - i. An existing living area.

- ii. An existing accessory structure.
- iii. A structure constructed in the same location and to the same dimensions as an existing structure that is converted to an ADU or to a portion of an ADU.

10. Roof eaves. Roof eaves of an ADU may project into the required side yard for a distance not to exceed one (1) foot, and the eaves shall not be closer than two (2) feet from the side property line.

11. Landscaping. A minimum of twenty (20%) percent of the entire parcel shall be landscaped with plant materials, including some combination of trees, shrubs, groundcover, and turf. In addition, ADUs shall comply with all applicable landscaping requirements of Section .503-J.

12. Parking.

- a. No parking is required for any ADU.
- b. If provided, parking spaces shall be located on an approved surface only.
- c. If provided, open parking spaces shall have a minimum dimension of nine and one-half (9^{1/2}) feet by eighteen (18) feet.
- d. If provided, covered parking spaces (carports and garages) shall have a minimum dimension of ten (10) feet by twenty (20) feet.
- e. If provided, parking may be provided in yard areas or as Tandem Parking as defined in subsection (C) "Definitions".

13. Architecture. To ensure that the architectural style of the ADU is consistent with the architecture of the primary dwelling unit the following elements of the ADU must be the same in appearance as those of the primary dwelling:

- a. Architectural style (e.g. Craftsman, Victorian, Modern, etc.),
- b. Architectural detailing (e.g. exposed rafters, knee braces, decorative tile, etc.),
- c. Construction materials, finishes and colors,
- d. Door trim and style,

- e. Window trim and style (i.e., grid pattern, frame thickness, opening direction, etc.), and
- f. Roof pitch, roof type and roof material. However, the roof pitch must be a minimum of a three (3) inch rise for every horizontal twelve (12) inch run.

14. Manufactured or prefabricated structures. Nothing in this section prohibits the installation of manufactured or prefabricated structures that comply with Subsection (G)(13) "Architecture" above.

15. Exterior access. All ADUs must provide independent access to the exterior of the unit.

16. Passageways. No Passageway is required in conjunction with the construction of an ADU.

17. Utility connections. ADUs are not required to install a new or separate utility connection directly between the ADU and the utility.

18. Building codes. Local building code requirements apply to ADUs.

19. Certificate of Occupancy.

- a. In no case shall an ADU be issued a certificate of occupancy prior to the issuance of a certificate of occupancy for the Primary Dwelling Unit.
- b. A certificate of occupancy may be issued concurrently for both the Primary Dwelling Unit and the ADU.

H. Specific JADU Requirements. The following requirements apply to all JADUs:

1. Primary Dwelling Unit requirement. There shall be a Primary Dwelling Unit, existing or proposed, located on the same lot as the JADU.
2. Number of units allowed. No more than one JADU may be allowed on the same lot as a Primary Dwelling Unit, existing or proposed. A JADU may not be allowed if there is an existing JADU on the same lot.
3. Unit size. A JADU shall have a total area not to exceed five hundred (500) square feet in total area.

4. Location. A JADU shall be constructed within the existing walls of the Primary Dwelling Unit.
5. Parking. No parking shall be required for a JADU.
6. Access. A JADU shall have a separate entrance from the main entrance to the single family dwelling.
7. Efficiency kitchen. A JADU shall be required to provide an efficiency kitchen which shall include the following:
 - a. A food preparation counter or counters that total at least 15 square feet in area.
 - b. Storage cabinets that total at least 30 square feet of shelf space.
8. Building and fire codes. For the purpose of any fire or life protection ordinance or regulation, a JADU shall not be considered a separate or new dwelling unit.

I. Fees.

1. Impact Fees.
 - a. No impact fee is required for an ADU that is less than 750 square feet in area.
 - b. Any impact fee that is required for an ADU that is 750 square feet or larger in area must be charged proportionately in relation to the square footage of the primary dwelling unit. (E.g., the floor area of the primary dwelling, divided by the floor area of the ADU, times the typical fee amount charged for a new dwelling.) “Impact fee” here does not include any connection fee or capacity charge for water or sewer service.
2. Utility Connections and Fees.
 - a. Interior ADUs and JADUs on a single-unit lot, created under subsection (D)(1)(a) above, are not required to have a new or separate utility connection directly between the ADU or JADU and

the utility. Nor is a connection fee or capacity charge required unless the ADU or JADU is constructed with a new single-unit dwelling.

J. Revocation of Permit.

1. Revocation by Director. The Development Services Director or designee shall have the authority to revoke a permit for an ADU if one or more of the requirements of this section are no longer met.
2. Request for Hearing. Within twenty (20) days of the deposit of the notice of the decision to revoke the ADU permit in the United States mail, the Owner may request a hearing before the Planning Commission. If the City receives a timely request for a hearing in accordance with this section, the decision to revoke shall be stayed until the hearing is concluded and the Planning Commission has made its determination. If the City does not receive a request for a hearing within twenty (20) days, the revocation of the permit for an ADU shall be final.
3. Appeal of Planning Commission Decision. The appeal shall be considered by the Planning Commission as a consent item. The decision of the Planning Commission shall be final unless a notice of appeal is filed pursuant to Section .580(F)(1).
4. If a permit for an ADU is revoked, the Owner shall, within sixty (60) days, remove the kitchen facilities from the ADU.

SECTION 5. The City Council of the City of Pomona hereby approves Code Amendment (CODE 13241-2020) amending the City of Pomona Zoning Ordinance Section .5809-13(F)(3)(b) per the new underlined language and deleted ~~stricken~~ language as follows:

Section .5809-13 – Historic preservation

- b. Major projects shall include changes which significantly alter the following: height, proportions, the relationship of the building mass and space, roof shape, scale or distinctive facades of the structure. Examples of major projects shall include, but not be limited to room additions, adding dormers, expanding a garage, adding a porch, removing distinctive shutters or part or all of a structure. This category also includes demolition and/or replacement of primary use buildings or structures, and construction/installation of new buildings, structures, Attached ADUs, Detached ADUs, Interior ADUs, and JADUs that do not comply with the ministerial standards of Section 5809-26(D)(1), Attached and Detached Accessory

~~Dwelling Units as well as Interior Accessory Dwelling Units that do not comply with the ministerial standards of Section 5809-26 but are in compliance with subsection L new public sidewalks, new public streetscape improvements, new street lamps, new public buildings and structures, and development of new public spaces within an historic district. Additional examples shall be established at a later time by the commission. Applications for major projects shall include the following submittal:~~

SECTION 6. The City Council of the City of Pomona hereby approves Code Amendment (CODE 13241-2020) amending the City of Pomona Zoning Ordinance by deleting Section .5809-13(L) in its entirety per the ~~stricken~~ language as follows:

- ~~L. Accessory Dwelling Units on Historic Properties. The purpose of this subsection is to regulate the establishment of Accessory Dwelling Units that do not comply with the ministerial standards in Government Code Section 65852.2 as implemented by Section .5809-26; as well as to provide affordable housing to meet the needs of the citizens of Pomona; to ensure that the development of Accessory Dwelling Units is compatible with existing development; to preserve the city of Pomona's cultural, historical, and architectural heritage; and to implement and promote the goals and policies of the Pomona General Plan.~~

 - ~~1. Definitions. For the purpose of this section, the definitions set forth in Section .5809-26(B) apply.~~
 - ~~2. Applicability.~~

 - ~~a. New Accessory Dwelling Units. Compliance with the requirements of this section applies to any construction, establishment, alteration, enlargement, or modification of an Accessory Dwelling that does not comply with the ministerial standards set forth in Section .5809-26.~~
 - ~~b. Legal Nonconforming Accessory Dwelling Units. All Accessory Dwelling Units that were legal at the time of their creation but that do not conform to the ministerial standards set forth in Section .5809-26 and that have not been approved through the process set forth in this Section .5809-13(L) are deemed nonconforming and shall be subject to the provisions of Section .550. Nonconforming buildings and uses.~~

- e. Existing Illegal Accessory Dwelling Units. The provisions of this section shall in no way validate any existing illegal Accessory Dwelling Unit. An application may be made pursuant to this section to convert an illegal Accessory Dwelling Unit to a legal conforming Accessory Dwelling Unit, and shall be subject to the same standards and requirements as for a newly proposed Accessory Dwelling Unit.
- 3. Zoning. An Accessory Dwelling Unit is permitted with a Major Certificate of Appropriateness under this Section .5809-13 in any zoning district, overlay district, or specific plan that allows single unit residential use, including but not limited to the following districts:
 - a. "R-1-6,000" Single Family Residential District;
 - b. "R-1-7,200" Single Family Residential District;
 - c. "R-1-7,500" Single Family Residential District;
 - d. "R-1-10,000" Single Family Residential District;
 - e. "R-1-20,000" Single Family Residential District;
 - f. "R-1-E" Single Family, Residential Overlay;
 - g. "PD" Planned Development Overlay District
 - h. "R-2" Low Density Multiple family Zone;
 - i. "R-3" Medium Density Multiple family Zone;
 - j. "R-4" High Density Multiple family Residential Zone;
 - k. "R-MHD" Residential Manufactured Housing Development Zone
 - l. "PRD" Planned Residential Development District;
 - m. "A-P" Administrative and Professional Office District.
 - n. "S" Supplemental Use Overlay District
 - o. Small Lot Residential Zone

4. Standards. The following standards limit the scope of a Major Certificate of Appropriateness for an Accessory Dwelling Unit that does not comply with the ministerial standards set forth in Section .5809-26:

a. Primary Dwelling Unit requirement.

i. There shall be a Primary Dwelling Unit located on the same lot as an Accessory Dwelling Unit.

ii. Where a Primary Dwelling Unit does not exist on a lot but is proposed, an Accessory Dwelling Unit may be constructed concurrently with the construction of the Primary Dwelling Unit.

iii. An Accessory Dwelling Unit is not permitted on residential lots already containing two or more dwelling units.

b. Number of units allowed. Only one Accessory Dwelling Unit may be allowed on the same lot as a Primary Dwelling Unit.

c. Number of Rooms.

i. For Accessory Dwelling Units less than 800 square feet in area.

1. The total number of Rooms, as defined in Section .062, permitted in an Accessory Dwelling Unit may not exceed four (4).

ii. For Accessory Dwelling Units 800 square feet in area or greater.

1. The total number of Rooms, as defined in Section .062, permitted in an Accessory Dwelling Unit may not exceed six (6).

d. Unit size.

i. For lots less than 7,200 square feet in area.

1. The total floor area of an Attached Accessory Dwelling Unit may not exceed fifty (50%) percent of

the total Living Area of the Primary Dwelling Unit or eight hundred (800) square feet, whichever is less.

2. The total floor area of a Detached Accessory Dwelling Unit may not exceed eight hundred (800) square feet.

3. In no case shall the total floor area of an Accessory Dwelling Unit be smaller than 220 square feet in accordance with California Building Code section 1208.4.

ii. For lots 7,200 square feet in area or greater.

1. The total floor area of an Attached Accessory Dwelling Unit may not exceed fifty (50%) percent of the total Living Area of the Primary Dwelling Unit. In no case may an Attached Accessory Dwelling Unit exceed one thousand two hundred (1,200) square feet in total floor area.

2. The total floor area of a Detached Accessory Dwelling Unit may not exceed one thousand two hundred (1,200) square feet in total floor area.

3. In no case shall the total floor area of an Accessory Dwelling Unit be smaller than 220 square feet in accordance with California Building Code section 1208.4.

e. Coverage. The maximum coverage of the lot by all structures shall be thirty-five (35) percent. Any patio with roof, open slats or other covering shall constitute lot coverage but not square footage.

f. Building height. No Accessory Dwelling Unit shall have a height greater than two (2) stories or thirty-five (35) feet. However, in no case shall an Accessory Dwelling Unit be taller than the Primary Dwelling Unit.

g. Minimum distance between buildings.

i. The distance between an Accessory Dwelling Unit and the Primary Dwelling Unit shall be at least ten (10) feet.

- ii. The distance between an Accessory Dwelling Unit and an Accessory Structure shall be at least six (6) feet.
- h. Location restriction. Detached Accessory Dwelling Units shall not be located between the proposed or existing Primary Dwelling Unit and the street adjoining the front yard, except where the Primary Dwelling Unit is on a through lot.
- i. Yards.
 - i. Front Yard. Accessory Dwelling Units shall have a minimum front yard of twenty-five (25) feet.
 - ii. Side Yard. Accessory Dwelling Units shall have a minimum side yard of five (5) feet.
 - iii. Side Yard for Corner and Reversed Corner Lots. When an Accessory Dwelling Unit is located on a corner lot or a reversed corner lot, a minimum side yard of ten (10) feet shall be provided when the side yard abuts a street.
 - iv. Rear Yard. Detached Accessory Dwelling Units shall have a minimum rear yard of five (5) feet. Attached Accessory Dwelling Units shall have a minimum rear yard of twenty-five (25) feet.
 - v. Non-conforming structures. A legally established Primary Dwelling Unit or Accessory Structure that is non-conforming as to yards, may be converted to, converted, in whole or in part, to an Accessory Dwelling Unit and maintain its legal nonconforming status.
- j. Roof eaves. Roof eaves of an Accessory Dwelling Unit may project into the required side yard for a distance not to exceed one (1) foot, and the eaves shall not be closer than two (2) feet from the side property line.
- k. Landscaping. A minimum of twenty (20%) percent of the entire parcel shall be landscaped with plant materials, including some combination of trees, shrubs, groundcover, and turf. In addition,

Accessory Dwelling Units shall comply with all applicable landscaping requirements of Section .503 J.

1. Parking

- i. ~~No parking is required for any Accessory Dwelling Unit. However, in the case where a garage, carport, or covered parking structure is demolished in conjunction with the construction of an Accessory Dwelling Unit or converted, in whole or in part, to an Accessory Dwelling Unit those parking spaces must be replaced at a 1:1 ratio.~~
- ii. ~~The Owner may locate the replacement spaces located in any configuration on the same lot as the Accessory Dwelling Unit, including but not limited to, as covered spaces (e.g. carport), open spaces, Tandem Parking, or by the use of a mechanical automobile parking lift.~~
- iii. ~~Parking spaces shall be located on an approved surface only.~~
- iv. ~~Open parking spaces shall have a minimum dimension of nine and one half (9^{1/2}) feet by eighteen (18) feet.~~
- v. ~~Covered parking spaces (carports and garages) shall have a minimum dimension of ten (10) feet by twenty (20) feet.~~
- m. ~~Exterior access. All Accessory Dwelling Units must provide independent access to the exterior of the unit.~~
- n. ~~Passageways. No Passageway is required in conjunction with the construction of an Accessory Dwelling Unit.~~
- o. ~~Utility connections. Accessory Dwelling Units are not required to install a new or separate utility connection directly between the Accessory Dwelling Unit and the utility.~~
- p. ~~Building codes. Local building code requirements apply to Accessory Dwelling Units.~~
- q. ~~Certificate of Occupancy.~~

- i. In no case shall an Accessory Dwelling Unit be issued a certificate of occupancy prior to the issuance of a certificate of occupancy for the Primary Dwelling Unit.
- ii. A certificate of occupancy may be issued concurrently for both the Primary Dwelling Unit and the Accessory Dwelling Unit.
- r. Private sewage disposal. Prior approval by the local health officer is required for a private sewage disposal system if one is to be used for the Accessory Dwelling Unit.
- s. Rent and Sale.
 - i. An Accessory Dwelling Unit may be rented separately from the Primary Dwelling Unit.
 - ii. An Accessory Dwelling Unit may not be sold or otherwise conveyed separately from the Primary Dwelling Unit.
- t. Rental period. An Accessory Dwelling Unit may not be rented for a period of fewer than thirty (30) days.
- u. Owner occupancy. Either the Primary Dwelling Unit or the Accessory Dwelling Unit must be Owner occupied at all times. If the property ceases to be Owner occupied, the Accessory Dwelling Unit may not be used as a dwelling.
 - i. Exception. The Development Services Director or designee may grant an exception for a period not to exceed twenty-four (24) months at the Owner's request. Only one such exemption shall be granted within a five (5) year time period.
 - ii. If the Owner(s) of the subject property does not return to reside at the property, or if the subject property's ownership does not change prior to the end of the exception term, the Accessory Dwelling Unit permit shall be revoked in accordance with Subsection (G).
- v. Deed restrictions. Prior to the issuance of a certificate of occupancy for an Accessory Dwelling Unit, a deed restriction or similar instrument that runs with the land, shall be recorded against the property and shall include the following:

- i. An acknowledgment that the Accessory Dwelling Unit requires the current Owner to reside in either the Primary Dwelling Unit or in the Accessory Dwelling Unit at all times.
- ii. A declaration prohibiting the sale of the Accessory Dwelling Unit separate from the sale of the Primary Dwelling Unit.
- iii. A declaration that the Accessory Dwelling Unit shall not be rented for a period of fewer than thirty (30) days.
- iv. A declaration restricting the size and attributes of the Accessory Dwelling Unit to that which conforms to this section.
- v. A declaration that all of the above deed restrictions may be enforced against future purchasers.
- vi. The deed restrictions may be removed if the owner eliminates the Accessory Dwelling Unit (as evidenced by removal of the kitchen facilities).
- vii. The deed restrictions shall be enforced by the Development Services Director or designee for the benefit of the City of Pomona. Failure of the Owner to comply with the deed restrictions may result in legal action against the Owner and the City shall be authorized obtain any remedy available to it at law or equity, including but not limited to obtaining an injunction enjoining use of the Accessory Dwelling Unit in violation of the recorded restrictions or abatement of the illegal unit.

w. Interior Accessory Dwelling Units.

- i. Only one (1) Accessory Dwelling Unit will exist on the lot.
- ii. Independent access to the exterior of the Accessory Dwelling Unit is provided.
- iii. The minimum side and rear yard requirements are sufficient for fire safety.

iv. If the Interior Accessory Dwelling Unit meets the above criteria:

1. The installation of fire sprinklers shall not be required if they are not required for the Primary Dwelling Unit.
2. The installation of a new or separate utility connection directly between the Accessory Dwelling Unit and the utility or the imposition of a related connection fee or capacity charge shall not be required.
3. A deed restriction or similar instrument shall be recorded against the property in accordance with Subsection (4)(v).

5. Effect of Conforming Accessory Dwelling Unit. A legally established Accessory Dwelling Unit that conforms to this section shall:

- a. Not be considered in the application of any ordinance, policy, or program to limit residential growth; and
- b. Not be considered a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.
- c. Not exceed the allowable density for the lot upon which it is located and is deemed to be an accessory residential use that is consistent with the existing general plan land use and zoning district designations for the lot.

SECTION 7. The City Council of the City of Pomona hereby approves Code Amendment (CODE 13241-2020) amending Section .560(J)(1)(m)(3) and (4) of the City of Pomona Zoning Ordinance per the new underlined language and deleted ~~stricken~~ language as follows:

Section .560 – Variances

- m. For Minor Deviation Variances related to ADUs:

3) Side yard. A decrease of not more than one (1) foot ~~two (2) feet~~ in the minimum side yard requirement.

4) Rear yard. A decrease of not more than one (1) foot ~~two (2) feet~~ in the minimum rear yard requirement.

SECTION 8. The City Council of the City of Pomona hereby approves Code Amendment (CODE 13241-2020) amending Section .580 – Conditional Use Permits of the City of Pomona Zoning Ordinance per the new underlined language and deleted ~~stricken~~ language as follows:

J. The following uses shall be permitted in the zones indicated, provided that a conditional use permit shall first be obtained pursuant to the provisions of this chapter:

Subject to conditional use permit:

	USE	ZONES IN WHICH ALLOWED
*	Accessory Dwelling Units that are described by Section 5809-26 <u>(E)(2)</u> (D)(3)(b)	Any zoning district, overlay district, or specific plan that allows Accessory Dwelling Units, as set forth in Section 5809-26 <u>(F)(1)(E)</u> .

SECTION 9. The City Clerk shall attest and certify to the passage and adoption of this Ordinance, and shall cause same to be posted as required by law and this Ordinance shall take effect thirty (30) days after its final adoption.

SECTION 10. The City Clerk shall submit a copy of this ordinance to the Department of Housing and Community Development within 60 days after adoption.

SECTION 11. If any section, subsection, sentence clause or phrase or word of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Pomona hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence clause or phrase or word not declared invalid or unconstitutional without regard to any such decision or preemptive legislation.

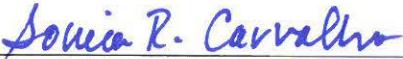
PASSED, APPROVED AND ADOPTED this 16th day of March, 2020.

CITY OF POMONA:



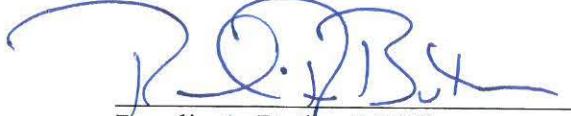
Tim Sandoval
Mayor

APPROVED AS TO FORM:



Sonia R. Carvalho
Sonia Carvalho
City Attorney

ATTEST:

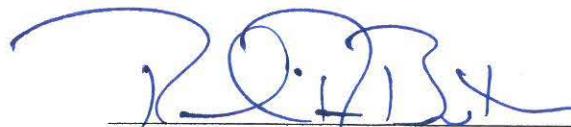


Rosalia A. Butler, MMC
City Clerk

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

I, ROSALIA A. BUTLER, MMC, CITY CLERK of the City of Pomona do hereby certify that the foregoing Ordinance was introduced for first reading at a regular meeting of the City Council of the City of Pomona held on March 2, 2020 and was adopted at second reading at a regular meeting of the City Council of the City of Pomona held on March 16, 2020, by the following vote:

AYES: Garcia, Gonzalez, Lustro, Ontiveros-Cole, Preciado, Sandoval
NOES: None
ABSENT: Torres
ABSTAIN: None



Rosalia A. Butler, MMC
City Clerk