

ORDINANCE NO. O-2020-007

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PISMO BEACH, CALIFORNIA AMENDING SECTION 17.38.155 OF TITLE 17 (1998 NON-COASTAL ZONING CODE) OF THE PISMO BEACH MUNICIPAL CODE TO IMPLEMENT STATE LAW REQUIREMENTS RELATING TO ACCESSORY DWELLING UNITS

WHEREAS, recent state legislation addressing accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs), including Senate Bill (SB) 13, Assembly Bill (AB) 68, and AB 881 were signed by Governor Newsom requiring all cities and counties in California to permit the establishment of ADUs and JADUs; and

WHEREAS, the state legislation permits local jurisdictions to adopt ordinances concerning the establishment of and building permits for ADUs and JADUs as provided in the legislation; and

WHEREAS, the City's current regulations regarding ADUs are inconsistent with the state legislation and are therefore considered null and void; and

WHEREAS, amendments to bring the City's current regulations regarding ADUs and JADUs into conformance with the recent state legislation are necessary; and

WHEREAS, the Planning Commission held a duly noticed public hearing on September 22, 2020, at which time it heard public input, considered the draft amendments to the City's regulations and recommended the City Council approve the amendments.

NOW, THEREFORE, the City Council of the City of Pismo Beach does ordain as follows:

SECTION 1.

Section 17.38.155 of the Pismo Beach Municipal Code is revised to read in its entirety as follows:

Section 17.38.155 ACCESSORY DWELLING UNITS

A. Purpose and intent.

This chapter is intended to:

1. Provide for and regulate accessory dwelling units and junior accessory dwelling units on lots developed or proposed to be developed with single-family dwellings;
2. Contribute market-rate and affordable housing to the community's housing stock;

3. Provide for greater occupational, household type, and income-level diversity within neighborhoods;
4. Make more efficient use of existing infrastructure;
5. Provide for the creation of accessory dwelling units and junior accessory dwelling units in a manner that is consistent with requirements set forth in California Government Code Section 65852.2-65852.22, as amended from time to time.

B. Consistency with adopted plans.

Accessory dwelling units and junior accessory dwelling units designed in accordance with this chapter are a residential use that is consistent with the existing general plan and zoning designation for the lot, in accordance with the following findings:

1. Accessory dwelling units designed in accordance with this chapter are consistent with the General Plan.
2. Accessory dwelling units designed in accordance with this chapter require no discretionary approval.
3. Accessory dwelling units designed in accordance with this chapter will be found to have no adverse effect either individually or cumulatively on environmental resources.
4. Accessory dwelling units located above the intersection of Longview Avenue and Stratford Street in the Pismo Heights planning area may increase the number of families that are in danger in emergency situations, because of the lack of secondary access in this area.

C. Definitions.

For the purposes of this chapter, terms shall be defined as follows:

1. "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 provides permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary unit, in compliance with Government Code Section 65852.2. An Accessory Dwelling unit includes an efficiency unit, and a manufactured home as defined in Health and Safety Code Section 18007. Accessory Dwelling Unit does not include "Junior Accessory Dwelling Unit."
2. "Attached ADU" means an accessory dwelling unit that:
 - a. Shares at least one common wall with the primary unit; and

- b. Is not fully contained within the existing space of the primary unit.
- 3. "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
- 4. "Conversion ADU" means the conversion of any portion of a legal accessory structure, or any portion of a single-family dwelling, or any garage, for the purpose of creating an ADU. Conversion ADUs can include additions of no more than one hundred fifty (150) square feet. Any conversion that exceeds these limits shall be considered a new construction ADU for the purposes of this chapter.

If applying to convert an existing accessory structure, applicant shall demonstrate that the structure was erected with all required permits, or that the structure is legal nonconforming. Structures that were built without benefit of permits are not eligible for conversion under this chapter and must be processed as a new construction ADU.

- 5. "Detached accessory dwelling unit" means an accessory dwelling unit that does not share a common wall with the primary unit and is not a junior accessory dwelling unit.
- 6. "Director" means the director of the Community Development Department or designee.
- 7. "Director's action" means the required submittal of an administrative approval application and review by the Community Development Director.
- 8. "Efficiency unit" has the same meaning as defined in Health and Safety Code Section 17958.1.
- 9. "Efficiency kitchen" means limited kitchen facilities including a sink, a refrigerator, small electric kitchen appliances that do not require electrical service greater than 120 volts, an appropriately sized food preparation counter, and storage cabinets. Full-sized electric, gas, or propane cooking appliances are not allowed in an Efficiency Kitchen.
- 10. "Junior accessory dwelling unit" or "JADU" means an accessory dwelling unit no more than five hundred (500) square feet in size and contained entirely within a single-family residence. JADUs shall include independent provisions for living, sleeping, eating, and cooking (area meeting the definition of efficiency kitchen but not a standard kitchen), and separate sanitation facilities, or shared sanitation facilities with the primary unit.

11. "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.
12. "New construction ADU" means any ADU that does not meet the definition of a conversion ADU.
13. "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.
14. "Passageway" means a pathway that is unobstructed, clear to the sky, and extends from a street to one entrance of the ADU. Passageways are not required for detached ADUs.
15. "Primary unit" means the existing or proposed single-family or multifamily residential structure on the site that is not the accessory dwelling unit or junior accessory dwelling unit.
16. "Public transit" 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.
17. "Single-family dwelling" means a building designed for and/or occupied exclusively by one family, or one or more persons occupying premises and living as a single housekeeping unit, which is not attached to or located on a lot with commercial uses. Single-family dwellings contain one dwelling on one lot. Single-family dwellings may also include approved accessory dwelling units and/or junior accessory dwelling unit. Single-family dwelling also includes factory-built, modular housing units, constructed in compliance with the Uniform Building Code (UBC), and mobile homes/manufactured housing units that comply with the National Manufactured Housing Construction and Safety Standards Act of 1974, placed on permanent foundations.
18. "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up one behind the other.

D. Applicability.

1. Application. Where this chapter does not contain a particular standard or procedure, conventional zoning standards and procedures shall apply.
2. Areas Where ADUs are Allowed. ADUs and JADUs are permitted on lots zoned to allow single-family or multifamily dwelling residential uses, with the exceptions noted in subsection D, on lots or parcels where there is only one

existing or planned single-family residence, and where the required development standards are met.

3. Unit Types Allowed.

- a. Single-family dwellings. On lots with existing or proposed detached or semi-detached single-family dwellings, the following are allowed:
 - i. Up to one (1) ADU and one (1) JADU per single-family dwelling.
- b. Multifamily dwellings. On lots with existing or proposed attached multifamily developments such as apartments, condominiums, and townhomes, the following are allowed:
 - i. Up to two detached ADUs; and
 - ii. Conversion ADUs associated with up to 25% of the number of multifamily units. Conversion ADUs in multifamily developments must be converted from areas not previously used as living space including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

4. Exceptions.

- a. ADUs and JADUs shall not be established in any mobile home subdivision, mobilehome park, or recreational vehicle park.
- b. Due to traffic flow and public safety issues, ADUs and JADUs are not permitted in the R-1 zone above the intersection of Longview Avenue and Stratford Street, in the Pismo Heights planning area.
- c. Projects on Hillsides. Development of an ADU on a slope that exceeds twenty percent (20%) is prohibited.
- d. No Subdivision of Property. No subdivision of property shall be allowed where an ADU or JADU has been established unless the subdivision meets all requirements of zoning and subdivision regulations. Additionally, while an ADU or JADU may be rented separate from the primary residence, said dwelling unit may not be sold or otherwise conveyed separate from the primary unit.

E. Permit requirements.

Accessory dwelling units and junior accessory dwelling units are permitted with approval of either a zoning clearance, consistent with Section 17.42.020, or a coastal development permit, consistent with Section 17.03.020 and as otherwise provided in this section.

1. Projects outside Coastal Zone. A zoning clearance and building permit is required. Pursuant to Government Code Section 65852.2, applications for accessory dwelling units and junior accessory dwelling units shall be approved or denied ministerially, and no public notice or hearing shall be required.
2. Ministerial Review Time. Pursuant to Government Code Sections 65852.2 and 65852.22, applications that are subject to ministerial review must be approved, or a notice of deficiency sent, within sixty (60) days of receipt of a completed permit application, which includes all items required for either a zoning clearance or coastal development permit and for a building permit. Applications not including all required items will be not be accepted for processing. Such applications resubmitted in response to a notice of deficiency must be approved or a notice of deficiency sent, within sixty (60) days.
3. Fees. Prior to issuance of a building permit for an accessory dwelling unit or junior accessory dwelling unit, the applicant shall pay all applicable fees.
 - a. No impact fees shall be imposed on an accessory dwelling unit or junior accessory dwelling unit less than seven hundred fifty (750) square feet in size.
 - b. Impact fees charged for accessory dwelling units greater than or equal to 750 square-feet shall be charged proportionately in relation to the square footage of the primary unit.
 - c. For the purposes of this section, "impact fee" includes "fees" as defined in California Government Code Section 66000(b) and fees specified in California Government Code Section 66477. Impact fees do not include utility connection fees or capacity charges.

F. Density.

For purposes of calculating the density on a lot, an accessory dwelling unit and/or junior accessory dwelling unit shall not be counted toward overall density for the lot. Only one primary and one accessory dwelling unit and/or junior accessory dwelling unit are permitted per legal lot or parcel on applicable parcels identified in Section 17.38.155.D.

G. Parking.

1. All Areas. The following parking provisions apply to all accessory dwelling units in all areas in the city. No additional parking is required for JADUs.
 - a. Required Parking in Addition to Primary Residence. Parking spaces required for an accessory dwelling unit are in addition to parking required for the primary unit.
 - b. Tandem Spaces. Required off-street parking may be provided as tandem parking on an existing driveway.
 - c. Within Setback Areas. Required off-street parking may be located within minimum required setback areas unless findings are made that parking in setback areas is not feasible based upon specific site conditions or regional topographical or fire and life safety conditions. Additionally, the following standards must be met:
 - i. Each space shall have minimum dimensions of ten (10) feet by twenty (20) feet.
 - ii. All parking spaces shall be located behind existing or future sidewalk, or other public right-of-way.
 - iii. Parking spaces shall be located on an all-weather surface as approved by the City Engineer (e.g., hardscape, gravel) and accessed by a driveway apron or curb cut.
2. Outside the Coastal Zone. In addition to the requirements of section A above, for ADUs outside the Coastal Zone, one (1) parking space per accessory dwelling unit is required.
3. Exceptions. Additional parking for ADUs shall not be required for units meeting any of the following standards:
 - a. The ADU is located within one-half mile walking distance of public transit.
 - b. The ADU is located within an architecturally and historically significant historic district.
 - c. The ADU is part of the proposed or existing primary residence or 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.

H. Development standards.

1. Development Standards for New Construction Accessory Dwelling Units.

- a. Occupancy. The following occupancy standards shall be applied to every ADU and JADU in the city:
 - i. Short-Term Rental Use Prohibited. In no case shall a short-term rental use of less than thirty (30) days be permitted in JADUs or ADUs and these units shall be occupied for terms longer than thirty (30) days.
 - ii. Sale. ADUs and JADUS shall not be sold separately from the primary unit.
 - (a) Exception. An ADU can be sold or conveyed separately from the primary residence to a qualified buyer if the property was built or developed by a qualified nonprofit corporation and all provisions of California Government Code Section 65852.26 are met.
 - iii. Owner Residency. The following requirements apply to all JADUs. Additionally, the following requirements apply to all ADUs except those permitted between January 1, 2020 and January 1, 2025.
 - (a) Unless owned by a government agency, land trust, or public or nonprofit housing organization, the property owner shall permanently reside, as evidenced by a homeowner's property tax exemption, on the parcel in either the primary unit, ADU, or JADU.
 - (b) A deed restriction shall be recorded against the title of the property that contains the ADU or JADU, prior to issuance of a building permit. Such deed restriction shall stipulate the owner residency requirement and that the ADU or JADU cannot be sold separately.
- b. Minimum Parcel Size. No minimum parcel size shall be required to establish an ADU or JADU.

c. Unit Size.

- i. Minimum unit size, JADU or ADU: One hundred fifty (150) square feet ("efficiency unit" per California Health and Safety Code section 17958.1).
- ii. Maximum unit size, JADU: Five hundred (500) square feet.
- iii. Maximum unit size, ADU:
 - (a) Conversion ADU: Fifty percent (50%) of primary unit size.
 - (b) New Construction ADU: Eight hundred fifty (850) square feet (studio or 1 bedroom), 1,000 square feet (2 bedrooms), or 50% of the primary unit, whichever is smaller.
 - (c) Regardless of subsections i-ii of this section and other site standards such as private open space or vegetation, an ADU must be allowed to be at least 800 square feet.

d. Setbacks.

- i. JADUs and Conversion ADUs. Setbacks shall be sufficient for fire safety in conformance with the Building Code and Fire Code. Additions up to one hundred fifty (150) square feet shall meet setback requirements for new construction ADUs.
- ii. New Construction ADUs. ADUs shall comply with front and street side setbacks for the applicable zoning district. Minimum side and rear setbacks shall be four (4) feet or the setback for the applicable zoning district, whichever is less, with the following exceptions:
 - (a) No setback shall be required for an existing living area or accessory structure, or 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.

- e. Height.
 - i. JADUs and Conversion ADUs. Additions of up to one hundred fifty (150) square feet shall meet height requirements for new construction ADUs.
 - ii. New Construction ADUs. Height shall be no greater than permitted in the applicable zoning district height standards, dependent upon ADU configuration, but not less than sixteen (16) feet.
- f. Lot Coverage and Maximum Building Area.
 - i. JADUs and Conversion ADUs: Additions of up to one hundred fifty (150) square feet shall meet lot coverage and maximum building area requirements for new construction ADUs.
 - ii. New Construction ADUs: Lot coverage and maximum building area shall comply with the standard for the applicable zoning district, except that an ADU of up to eight hundred (800) square feet shall be allowed, regardless of lot coverage and maximum building area.
- g. Design. The design, materials, and color of a new construction ADU shall be compatible with that of the primary unit.
- h. Number of Bedrooms. There is no maximum number of bedrooms for an ADU or JADU.
- i. Utility Services. The primary unit, ADU, and JADU may be served from the same gas, electricity, and water lines, at the discretion of the property owner. No development shall be approved that would exceed the capacity of the municipal utility systems. Specifically, all applications received for ADUs and JADUs shall be accompanied by evidence provided by the municipal utility provider that there are adequate services/capacities to serve the proposed development.
- j. Water Conservation. All plumbing fixtures in the primary unit, an ADU, and a JADU must meet current Title 24 requirements for water conservation.
- k. Consistency with Codes. New development shall comply with all local, state, or federal regulations that apply to the property, including the applicable requirements of the general plan/local coastal plan and certified zoning ordinance.

I. Fire sprinkler requirements.

ADUs and JADUs shall not be required to include fire sprinklers if they are not required for the primary unit.

J. Illegal accessory dwelling unit.

The establishment of an ADU or JADU without a zoning clearance or coastal development permit is declared to be unlawful and shall constitute a misdemeanor and a public nuisance.

SECTION 2.

Subsection 17.09.020.B. of the Pismo Beach Municipal Code is hereby revised in its entirety as follows:

Section 17.09.020 Definitions.

- B. "Homestay" shall mean an owner-occupied, detached single-family residence where bedrooms are rented for compensation for less than thirty consecutive days.

SECTION 3.

Subsection 5.22.100.B. of the Pismo Beach Municipal Code is hereby revised in its entirety as follows:

Section 5.22.100 Definitions.

- B. "Homestay" shall mean an owner-occupied, detached single-family residence where bedrooms are rented for compensation for less than thirty consecutive days.

SECTION 4.

Subsection 5.22.120.A. of the Pismo Beach Municipal Code is hereby revised as follows:

Section 5.22.120 Application process.

- A. A property owner wishing to use a detached single-family residence as a short-term rental or homestay shall do all of the following:

SECTION 5.

Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h) exempt the adoption of an ordinance regarding second units in a single family or multifamily zone by a city or county to implement provisions of Section 65852.1 and

65852.2 of the Government Code relating to "granny" housing and "second unit ordinances" from the requirements of CEQA.

SECTION 6.

This ordinance shall not be interpreted in any manner to conflict with controlling provisions of state or federal law, including, without limitation, the Constitution of the State of California. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. If this ordinance, or any section, subsection or clause of this ordinance shall be deemed unconstitutional or invalid as applied to a particular appeal, the validity of this ordinance and its sections, subsections, and clauses in regard to other contracts shall not be affected.

SECTION 7.

This ordinance shall become effective on the thirtieth (30th) day following passage and adoption hereof.

SECTION 8.

The City Clerk shall certify to the passage and adoption of this Ordinance, shall enter the same in the book of original ordinances of the City and shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted.

Before the expiration of fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause the same to be posted in three public places within the City of Pismo Beach, to wit: 1) City Hall, 760 Mattie Road, Pismo Beach, 2) U.S. Post Office, Shell Beach Road, Pismo Beach, 3) U.S. Post Office, Crest Drive, Pismo Beach.

INTRODUCED at a regular meeting of the City Council held this 6th day of October, 2020, on motion of Council Member Reiss, seconded by Mayor Pro Tem Howell, and on the following roll call vote, to wit:

AYES:	4	Reiss, Howell, Blake, Waage
NOES:	1	Guthrie
ABSENT:	0	
ABSTAIN:	0	
RECUSED:	0	

Approved:


Ed Waage, Mayor

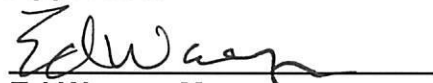
Attest:


Erica Anderlied, City Clerk


ADOPTED at a regular meeting of the City Council held this 20th day of October, 2020, on motion of Mayor Pro Tem Howell, seconded by Council Member Reiss, and on the following vote:

AYES:	4	Howell, Reiss, Blake, Waage
NOES:	1	Guthrie
ABSENT:	0	
ABSTAIN:	0	
RECUSED:	0	

Approved:


Ed Waage, Mayor

Attest:


Erica Inderlied, City Clerk

APPROVED AS TO FORM:


David M. Fleishman, City Attorney

CERTIFICATION OF ORDINANCE POSTING
Government Code §40806



STATE OF CALIFORNIA }
 } ss.
COUNTY OF SAN LUIS OBISPO }

I, Erica Inderlied, the City Clerk of the City of Pismo Beach, California, hereby certify in accordance with California Government Code Section 40806 that the foregoing document is a true and correct copy of **Ordinance No. O-2020-007**, titled **AMENDING SECTION 17.38.155 OF TITLE 17 (1998 NON-COASTAL ZONING CODE) OF THE PISMO BEACH MUNICIPAL CODE TO IMPLEMENT STATE LAW REQUIREMENTS RELATING TO ACCESSORY DWELLING UNITS**, and that I caused the same to be duly posted in three public places within the City within fifteen (15) days of adoption thereof, pursuant to the requirements of California Government Code Section 36933.

Dated this 22nd day of October, 2020. Witness my hand and official seal.


Erica Inderlied, City Clerk