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# CITY OF POMONA

## COUNCIL REPORT

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December 15, 2025

To: Honorable Mayor and Members of the City Council

From: Anita D. Scott, City Manager

Submitted By: Betty Donovanik, Director of Development Services

**SUBJECT: ADOPTION OF URGENCY ORDINANCE NO. 4362 AMENDING CITY OF POMONA ZONING AND DEVELOPMENT CODE SECTION 830.A (ACCESSORY DWELLING UNITS) PERTAINING TO ACCESSORY DWELLING UNIT AND JUNIOR ACCESSORY DWELLING UNIT REGULATIONS IN COMPLIANCE WITH STATE LAW**

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### RECOMMENDATION:

It is recommended that the City Council introduce, waive further and give reading to the following ordinance:

**URGENCY ORDINANCE NO. 4362 - AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, PURSUANT TO SECTION 510 OF THE CITY CHARTER, AMENDING POMONA ZONING AND DEVELOPMENT CODE SECTION 830.A (ACCESSORY DWELLING UNITS) PERTAINING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS REGULATIONS IN COMPLIANCE WITH STATE LAW AND DETERMINING THE URGENCY ORDINANCE TO BE EXEMPT FROM CEQA UNDER PUBLIC RESOURCES CODE § 21080.17**

### EXECUTIVE SUMMARY:

The proposed Urgency Ordinance (Attachment No. 1) will amend the City of Pomona Zoning and Development Code (PZDC) for the purpose of regulating Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Unit (JADUs) in accordance with new State Law effective January 1, 2026. If approved, this request will amend Section 830.A of the PZDC pertaining to ADU and JADU regulations. In accordance with Section 510(c) of the Pomona City Charter, an affirmative vote of five-sevenths (5/7) of the City Council is required for this urgency ordinance to be adopted.

**SB1439/GOVERNMENT CODE §84308 APPLICABILITY:**

☐ When this box is checked, it indicates the agenda item is subject to the Levine Act SB1439 requirements. Councilmembers are reminded to check their campaign contributions and determine whether they have received a campaign contribution of \$500 or more that would require disclosure and/or recusal from discussing or acting on this agenda item. Campaign contributions of \$500 or more made 1) by any person or entity who is identified in the agenda report as the applicant or proposer or 2) on behalf of the applicant or participant, including a parent, subsidiary or otherwise related business entity, or 3) by any person who has a financial interest in the agenda item requires a councilmember to comply with SB1439.

**FISCAL IMPACT:**

No fiscal impact at this time.

**PUBLIC NOTICING REQUIREMENTS:**

Public noticing is not required in accordance with State law.

**PREVIOUS RELATED ACTION:**

None.

**ENVIRONMENTAL IMPACT:**

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 Chapter 13 of Division 1 of Title 7 of the California Government Code, which is California's ADU law. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements state ADU law.

**DISCUSSION:**

**History of State Law Regulating ADUs**

The State legislature first adopted regulations for second units in 1982. The State legislature adopted subsequent amendments to the original law in 1986, 1990, and 1994. Under these earlier regulations, municipalities could require a conditional use permit for second units. In 2003, the State legislature approved Assembly Bill (AB) 1866, which prohibited municipalities from requiring a conditional use permit for second units. In response to AB 1866, the City adopted an ordinance in 2003 to regulate second units in accordance with State law, including allowing ministerial approval of second units.

In September 2016, California State Senate Bill (SB) 1069, AB 2299 and AB 2406 were signed into law. The combined bills took effect on January 1, 2017, making significant modifications to California Government Code sections that collectively govern ADUs and JADUs, as well as permanently changing the name of second units to ADUs.

Since the passage of SB 1069, AB 2299, and AB 2406, the State has continued to adopt new legislation modifying ADU law on an annual basis. The passage of the most recent legislation, AB 462, AB 1154, SB 9, and SB 543 (Attachment Nos. 2, 3, 4, and 5), is the latest set of changes to ADU law that the City must implement.

### **Summary of Recently Passed State Law**

#### **AB 462 – Coastal Development Permits; Disaster-Affected Areas**

AB 462 modifies several permitting requirements associated with processing Coastal Development Permits for ADUs located in the Coastal Zone (not applicable to Pomona) or Disaster-Affected Areas.

AB 462 modifies the rules governing the issuance of a certificate of occupancy (CofO) for an ADU located in Disaster-Affected Areas. State law prohibits a local agency from issuing a CofO for an ADU before one is issued for the primary dwelling (i.e., the primary dwelling must have a CofO before the ADU can receive one). AB 462 creates a narrow exception to this prohibition for detached ADUs in Disaster-Affected Areas when all of the following conditions are satisfied: (1) the Governor has declared a state of emergency for the county on or after February 1, 2025; (2) the primary dwelling was substantially damaged or destroyed by an event referenced in the state of emergency proclamation; and (3) the ADU has been issued construction permits and passed all required inspections. (Gov. Code, § 66328(b).) If these conditions are satisfied, the detached ADU can receive a CofO before the primary dwelling. In all other scenarios, the primary dwelling still needs a CofO before one can be issued for an ADU.

#### **AB 1154 – JADU Owner-Occupancy; Short-Term Rental**

When a JADU is developed, existing state law requires a property owner to reside in the JADU or remaining portion of the single-family dwelling. AB 1154 narrows this requirement to now only apply when a JADU shares sanitation facilities (bathroom) with the single-family dwelling. If the JADU has its own bathroom, then the property owner does not have to reside on the property at all. (See amended Gov. Code, § 66333(b).)

AB 1154 also expressly prohibits JADUs from being used as short-term rentals (i.e., rented for a term shorter than 30 days). (See amended Gov. Code, § 66333(g).) Most ADU ordinances already included this prohibition (as well as prohibiting ADUs from being used as short-term rentals). But now it's required by state law for JADUs as well.

#### **SB 9; SB 543 – ADU Ordinance Submittal to HCD; Approval**

Under existing law, local agencies are required to submit a copy of their ADU ordinance to the California Department of Housing and Community Development (HCD) within 60 days of adoption.

This year's SB 9 and SB 543 create a penalty for failing to do so by rendering null and void any local ordinance that is not submitted to HCD within 60 days of adoption. (See amended Gov. Code,

§ 66326(d); new Gov. Code, § 66333.5(d).) The bills further specifies that a local ADU ordinance is null and void if HCD issues findings that the ordinance does not comply with state law and the local agency fails to respond to HCD within 30 days. (Id.)

#### SB 543 – ADU Size; Number of ADUs; Impact Fees; Application Timeline

SB 543 makes numerous changes and clarifications to state ADU law, the most notable of which are summarized below.

##### *ADU & JADU Size*

Existing law limits the maximum size of a JADU to 500 square feet and prohibits local ADU ordinances from imposing certain development standards that would prevent an ADU created under Government Code Section 66314 through 66322 from being at least 800 square feet.

SB 543 clarifies the definition of what is calculation as “interior livable space” and amends state ADU law to specify that allowable square footage of an ADU or JADU refers to square footage of “interior livable space.” (See amended Gov. Code, § 66313(d), 66321(b)(2).)

##### *Impact Fees*

Existing law exempts ADUs that are 750 square feet or smaller from development impacts fees (DIFs).

SB 543 clarifies that DIFs may not be imposed on an ADU that has 750 or fewer square feet of interior livable space or on a JADU with 500 or fewer square feet of interior livable space.

The bill also exempts an ADU or JADU with fewer than 500 square feet of interior livable space from school impact fees. (See amended Gov. Code, § 66311.5.) This change does not affect Pomona as currently only ADUs greater than 750 square feet pay school impact fees.

##### *Quantity of ADUs Created Under Government Code Section 66323*

Existing state law creates four categories of ADUs that must be approved if they comply with the limited standards provided in Government Code Section 66323(a)(1) to (4). These are:

1. A converted ADU and JADU created on a lot with a proposed or existing single-family dwelling (Gov. Code, § 66323(a)(1));
2. A detached ADU created on a lot with a proposed or existing single-family dwelling (Gov. Code, § 66323(a)(2));
3. Converted ADUs created in an existing multifamily dwelling (Gov. Code, § 66323(a)(3)); and
4. Detached ADUs created on a lot with a proposed or existing multifamily dwelling.

For some time, there has been uncertainty as to whether ADUs created under Government Code Section 66323 could be combined. Some practitioners interpreted the statute to not require local agencies to allow combinations. Initially, HCD took the same position in its 2020 ADU Handbook. But for the last few years, HCD has taken the opposite position: that yes, combinations are permitted. (See HCD January 2025 ADU Handbook, at p. 19 “[P]ursuant to Government Code Section 66323, subdivision (a), local governments must allow units created pursuant to subparagraphs (1) and (2) together or (3) and (4) together”].)

SB 543 codifies HCD's most recent interpretation by amending Government Code Section 66323 to specifically allow combinations. Thus, a lot with a multifamily dwelling can now have a converted ADU or ADUs created under Section 66323(a)(3) and detached ADUs created under Section 66323(a)(4). Furthermore, a lot with a single family dwelling can now have a converted ADU and a JADU created under Section 66323(a)(1) and a detached ADU created under Section 66323(a)(2), if the size of the property allows for such.

#### *ADU Permitting Process*

Existing law has long required local agencies to approve or deny an ADU application within 60 days of receiving a complete application. However, state law was silent with respect to incompleteness determinations, subsequent resubmittals, and appealing local decisions on ADU applications.

SB 543 requires local agencies to now:

1. Determine whether an ADU application is complete within 15 business days of submittal;
2. If the application is incomplete, within the same 15 days provide the applicant with a list of incomplete items and how to address them;
3. Review a resubmitted application for completeness within 15 business days;
4. Provide the applicant with a written appeal process for any incompleteness determination or denial (to the Planning Commission or City Council, or both); and
5. Provide a final written determination on the appeal within 60 business days of receiving the appeal). (See amended Gov. Code, §§ 66317 [ADUs], 66335 [JADUs].)

#### **Next Steps and Recommendations**

AB 462 took effect immediately when signed, but technically it does not require any change to a local ordinance; the City just needs to follow the new rules for CDP processing and issuance of a CofO, if applicable. The remaining bills take effect on January 1, 2026; therefore, for the City's ADU ordinance to remain valid and enforceable, it must comply with requirements of these bills by January 1, 2026, or the City's entire existing ADU ordinance becomes null and void as a matter of law, and the City will have to allow ADUs with no regulation except for the few requirements imposed in the state ADU law itself. The approval of ADUs and JADUs based solely on these default statutory standards, without local regulations governing height, setback, landscape, and architectural review, among other things, would threaten the character of existing neighborhoods and negatively impact property values, personal privacy, and fire safety.

Therefore, the proposed urgency ordinance is an urgency measure, which means it will take immediate effect upon adoption. Typically, an ordinance affecting planning and zoning is approved by the Council after a Planning Commission recommendation, followed by a first reading and introduction before the Council and then a second reading at a regular Council meeting — with the ordinance taking effect 30 days following adoption. But here it is necessary for the City Council to adopt this urgency ordinance as an urgency measure because the new ADU laws will take effect on January 1, 2026, before a non-urgency adoption would take effect. The urgency ordinance will be followed at the earliest possible time by a non-urgency ordinance subject to all normal procedures. Staff is presenting the non-urgency ordinance to the Planning Commission on December 16, 2025 and anticipates presenting the non-urgency ordinance to the City Council in

January 2026. This urgency ordinance will allow the City to have State law compliant ADU/JADU regulations in place until the non-urgency ordinance is adopted.

### **URGENCY ORDINANCE:**

As an urgent ordinance, the proposed Urgency Ordinance requires five (5) affirmative votes of the City Council pursuant to Section 510 of the City Charter. The Council declares an ordinance necessary for the immediate preservation of public peace, health, or safety, containing a declaration of the facts constituting the urgency, and passes it by a five-seventh (5/7) vote of those present.

Should the Council adopt the Urgency Ordinance, the ordinance will become effective immediately pursuant to Pomona City Charter Section 510 and will remain in effect until rescinded to provide the City with a means to protect the public health, safety and welfare. There is a current and immediate threat to the public health, safety, or welfare based on the passage of bills updating state ADU law because if the City's ordinance does not comply with this legislation by January 1, 2026 — and the City's ADU ordinance becomes null and void in its entirety — the City would be required to approve ADUs and JADUs in accordance with the few default standards that are imposed by Chapter 13 of Division 1 of Title 7 of the California Government Code, which is the state ADU law.

The approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, landscape, and architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety. These threats to public safety, health, and welfare justify adoption of this Ordinance as an urgency ordinance, to be effective immediately upon adoption by a five-sevenths (5/7) vote of the City Council.

### **COUNCIL PRIORITIES & GOALS:**

This item supports the following 2021-2022 City Council priorities and goals:

Priority 2: Economic Development – Goal J: Encourage the development and maintenance of quality housing opportunities for all.

Prepared by:



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Vinny Tam  
Supervising Planner

**ATTACHMENTS:**

- Attachment No. 1 – Urgency Ordinance No. 4362
- Attachment No. 2 – Assembly Bill 462
- Attachment No. 3 – Assembly Bill 1154
- Attachment No. 4 – Senate Bill 9
- Attachment No. 5 – Senate Bill 543