

DRAFT RESOLUTION NO. 24-028

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA RECOMMENDING CITY COUNCIL APPROVAL OF CODE AMENDMENT (CODE-001662-2024) AMENDING SECTION 830.A OF THE CITY OF POMONA ZONING AND DEVELOPMENT CODE PERTAINING TO ACCESSORY DWELLING UNIT AND JUNIOR ACCESSORY DWELLING UNIT REGULATIONS IN COMPLIANCE WITH STATE LAW AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM CEQA

WHEREAS, in September of 2024, the California Legislature approved, and the Governor signed into law, Assembly Bill 2533 (“AB 2533”); and

WHEREAS, among other things, AB 2533 updates existing regulations to: 1) limit how a local agency may deny a permit to legalize an unpermitted ADU or JADU; 2) mandate public-notification requirements about limits on local regulation, substandard-building criteria, and pre-application inspection by a private contractor; and (3) address the scope of city inspections and limits on remedial action; and

WHEREAS, in September of 2024, the California Legislature approved, and the Governor signed into law, Senate Bill 1211 (“SB 1211”); and

WHEREAS, among other things, SB 1211 updates existing regulations to: 1) prohibit local agencies from requiring replacement parking when an uncovered parking space is demolished for or replaced with an ADU; 2) add a definition for the term “livable space”; and 3) increase the quantity of detached ADUs that lots with an existing multifamily dwelling can have; and

WHEREAS, on December 19, 2022, the City of Pomona adopted Urgency Ordinance No. 4324 amending Section .5809-26 of the City of Pomona Zoning Ordinance pertaining to ADU and JADU regulations and determining the ordinance to be exempt from the California Environmental Quality Act; and

WHEREAS, on October 29, 2024, the California Department of Housing and Community Development issued a letter to the City of Pomona identifying portions of Ordinance No. 4324 that they consider to be in conflict with State law; and

WHEREAS, the City desires to maintain full compliance with State law; and

WHEREAS, the City of Pomona has duly initiated Code Amendment (CODE-001662-2024); and

WHEREAS, the Planning Commission of the City of Pomona, after giving notices thereof

as required by law, held a public hearing on December 11, 2024 concerning Code Amendment (CODE-001662-2024) and carefully considered all pertinent testimony and the staff report offered in the case as present.

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

SECTION 1. The Planning Commission hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Resolution.

SECTION 2. The Planning Commission, exercising independent judgment, finds and determines that this ordinance is statutorily exempt from the provisions of the California Environmental Quality Act ("CEQA"). 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 65852.1 or Article 2 (commencing with Section 66314) of Chapter 13 of Division 1 of Title 7 of the Government Code, which is California's Accessory Dwelling Unit and Junior Accessory Dwelling Unit law. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State's Accessory Dwelling Unit law.

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 Planning Commission 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 66319.

SECTION 4. For the reasons set forth above, the Planning Commission of the City of Pomona hereby recommends that the City Council approve Code Amendment (CODE-001662-2024), attached hereto as Exhibit A.

SECTION 5. The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

APPROVED AND ADOPTED THIS 11TH DAY OF DECEMBER, 2024

ALFREDO CAMACHO
PLANNING COMMISSION CHAIRPERSON

ATTEST:

ATA KHAN
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:

MARCO A. MARTINEZ
DEPUTY CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF POMONA)

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

Pursuant to Resolution No. 76-258 of the City of Pomona, the time in which judicial review of this action must be sought is governed by California Code of Civil Procedure Section 1094.6.

EXHIBIT A

830.A. Accessory Dwelling Units

1. Purpose and Intent

The purpose of this section is to regulate Accessory Dwelling Units in accordance with the California Government Code while:

- a. Providing affordable housing to meet the needs of the citizens of Pomona;
- b. Ensuring that the development of ADUs is compatible with existing development;
- c. Preserving the City of Pomona's cultural, historical, and architectural heritage; and
- d. Implementing and promoting the goals and policies of the General Plan

2. Effect of Conforming

An ADU or JADU that conforms to the standards in this section must not be:

- a. Deemed to be inconsistent with general plan and zoning designation for the lot on which the ADU or JADU is located.
- b. Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
- c. Considered in the application of any local ordinance, policy, or program to limit residential growth.
- d. Required to correct a nonconforming zoning condition, as defined in Sec. 830.A.3. Definitions, below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with the California Health and Safety Code (Sec. 17980.12.).

3. Definitions

The following definitions apply to 830.A. Accessory Dwelling Units:

- a. Accessory Dwelling Unit. 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:
 - 1. An efficiency unit, as defined the California Health and Safety Code (Sec. 17958.1); and
 - 2. A manufactured home, as defined the California Health and Safety Code (Sec. 18007).

- b. Accessory Dwelling Unit, Attached. An ADU that is newly constructed and attached to the primary dwelling. An Attached ADU may be located, in part, within the existing floor area of the primary dwelling.
- c. Accessory Dwelling Unit, Detached. An ADU that is newly constructed and not attached to the primary dwelling. A Detached ADU may be attached to an Accessory Structure (e.g. garage).
- d. Accessory Dwelling Unit, Interior. An ADU that is located entirely within the existing space of a primary dwelling or Accessory Structure.
- e. Accessory Structure. A structure that is accessory to and incidental to that of the primary dwelling and that is located on the same lot.
- f. Crawl Space. An underfloor space that is not a basement as defined in the Code. Any crawl space taller than 36 inches must be included in the calculation of the total floor area for an ADU.
- g. Efficiency Kitchen. A kitchen that includes all of the following:
 - 1. A cooking facility with appliances.
 - 2. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.
- h. Junior Accessory Dwelling Unit. A residential unit that satisfies all of the following:
 - 1. It is no more than 500 square feet in size.
 - 2. It is contained entirely within an existing or proposed single-family structure. An enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure.
 - 3. It includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure.
 - 4. If the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family structure in addition to an exterior entrance that is separate from the main entrance to the primary dwelling.
 - 5. It includes an efficiency kitchen.
- i. Livable Space. A space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.
- j. Multi-unit Dwelling. Any structure with two or more attached primary dwellings (e.g., apartments, attached townhomes, row houses). A Multi-unit Dwelling may also be referred to as a “primary dwelling.”
- k. Nonconforming Zoning Condition. A physical improvement on a property that does not conform with the current zoning standards.
- l. Passageway. A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU as defined in the California Government Code (Sec. 66310-66342).
- m. Proposed Dwelling. A dwelling that is the subject of a permit application and that meets the requirements for permitting.
- n. Public Transportation. 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.

- o. Tandem Parking. Two or more automobiles parked on a driveway or in any other location on a lot, lined up behind one another as defined in the California Government Code (Sec. 66313(i).)

4. Ministerial Approvals

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

- a. Type 1 – Building Permit Only. If an ADU or JADU complies with each of the general requirements in Sec. 830.A.5. General ADU and JADU Requirements, below, it is allowed with only a building permit in the following scenarios:
 - 1. Interior ADU on a Single-Unit Lot
 - i. One Interior ADU and one JADU on a lot with a proposed or existing single-unit dwelling on it, where the ADU or JADU:
 - ii. Is either within the space of a proposed primary dwelling;
 - iii. Within the existing space of a primary dwelling; or
 - iv. In the case of an ADU only, 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.
 - a) An existing, Accessory Structure of any size may be converted to an Interior ADU.
 - b) Any proposed expansions greater than the 150 additional square feet limited to accommodating ingress and egress are not permitted.
 - v. Has exterior access that is independent of that for the primary dwelling.
 - vi. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
 - vii. In the case of a JADU, it must comply with the requirements of the California Government Code (Sec. 66310-66342).
 - 2. Limited Detached ADU on Single-Unit Lot. One detached, new construction ADU on a lot with a proposed or existing primary dwelling (in addition to any JADU that might otherwise be established on the lot under Sec. 830.A.4.a.1. Interior ADU on a Single-Unit Lot, above, if the Detached ADU satisfies the following limitations:
 - i. The side- and rear-yard setbacks are at least 4 feet.
 - ii. The total floor area is 800 square feet or smaller.
 - iii. The peak height above grade does not exceed the applicable height limit in Sec. 830.A.5.b. Height, below.
 - 3. Interior ADU on Multi-unit Lot. One or more ADUs within portions of an existing Multi-unit Dwelling structure 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, up to a quantity equal to 25 percent of the existing multi-unit dwelling units.

4.Limited Detached ADU on Multi-unit Lot.

- i. No more than eight Detached ADUs or a quantity equal to the number of existing multi-unit dwelling units in the structure, whichever is less, on a lot that has an existing Multi-unit Dwelling.
 - ii. No more two Detached ADUs with a proposed Multi-unit Dwelling.
 - iii. Each Detached ADU under this paragraph must satisfy the following limitations:
 - a) The side- and rear-yard setbacks are at least 4 feet. If the existing Multi-unit Dwelling has a rear or side yard setback of less than 4 feet, the City will not require any modification to the Multi-unit Dwelling as a condition of approving the ADU.
 - b) The peak height above grade does not exceed the applicable height limit in Sec. 830.A.5.b. (Height).
- b. Type 2 - Building Permit Only. Except as allowed under Sec. 830.A.4.a. Type 1 – Building Permit Only, above, no ADU may be created without a building permit in compliance with the standards set forth in Sec. 830.A.5. General ADU and JADU Requirements and Sec. 830.A.6. Specific ADU Requirements, below.
- c. Process and Timing
- 1.An application to create an ADU or JADU under this section will be considered and approved ministerially, without discretionary review or a hearing.
 - 2.The City must approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a completed application. If the City does not approve or deny the completed application within 60 days, the application is deemed approved 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. When the application to create an ADU or JADU is submitted with a permit application to create a new single-family or multi-family dwelling on the lot, the City may delay acting on the permit application for the ADU or JADU until the City approves or denies the permit application to create the new single-family or multi-family dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.
 - 3.If the City denies an application for an ADU or JADU, the City must provide the applicant with a full set of written comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by Sec. 830.A.4.c. Process and Timing.
 - 4.Demolition of Detached Garages. In instances where a detached garage is to be demolished and replaced by an ADU, the application for the demolition of the

garage will be reviewed with the application for the ADU and the permit for the garage demolition and ADU will be issued at the same time.

5. General ADU and JADU Requirements

The following requirements apply to all ADUs and JADUs that are approved under Sec. 830.A.4.a. Type 1 – Building Permit Only or Sec. 830.A.4.b. Type 2 - Building Permit Only:

- a. Zoning
 - 1. An ADU or JADU subject only to a building permit under Sec. 830.A.4.a. Type 1 – Building Permit Only, may be created on a lot in a residential or mixed-use zone.
 - 2. An ADU or JADU subject to a building permit under Sec. 830.A.4.b. Type 2 - Building Permit Only, may be created on a lot that is zoned to allow single unit dwelling residential use or multi-unit dwelling residential use.
- b. Height
 - 1. Except as otherwise provided by Sec. 830.A.5.b.2. and Sec. 830.A.5.b.3. General ADU and JADU Requirements, below, a detached ADU created on a lot with an existing or proposed primary dwelling or Multi-unit Dwelling may not exceed 16 feet in height.
 - 2. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed primary dwelling or Multi-unit Dwelling that is located within one-half mile walking distance of a major transit stop or a high quality transit corridor, as those terms are defined in the California Public Resources Code (Section 21155), and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.
 - 3. A detached ADU created on a lot with an existing or proposed multistory Multi-unit Dwelling may not exceed 18 feet in height.
 - 4. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs must not exceed two stories.
 - 5. For purposes of this Sec. 830.A.5.b., Height is the vertical distance measured from the adjoining curb level to the highest point of the structure, exclusive of chimneys and ventilators.
- c. Fire Sprinklers
 - 1. Fire sprinklers are only required in an ADU if sprinklers are required in the primary residence. For purposes of this paragraph, in the case of Multi-unit Dwelling, the entire residential structure will be considered the primary residence.
 - 2. The construction of an ADU will not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling or existing multi-unit dwelling.

- d. Rental Term. No ADU may be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU was created.
- e. No Separate Conveyance. Except as otherwise provided in the California Government Code (Sec. 66310-66342), an ADU 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).
- f. Septic System. If the ADU or JADU will connect to an on-site 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.
- g. Owner-Occupancy. As required by state law, all JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person’s legal domicile and permanent residence. 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.
- h. Building and Safety
 - 1. Must Comply with the Building Code Subject to Sec. 830.A.5.i.2. No Change of Occupancy, below, all ADUs and JADUs must comply with all local building code requirements.
 - 2. No Change of Occupancy. Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in the California Building Code (Sec. 310), unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in Sec. 830.A.5.i.2. No Change of Occupancy prevents the City from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

6. Specific ADU Requirements

The following requirements apply only to ADUs that require a building permit under Sec. 830.A.4.b. Type 2 - Building Permit Only, above.

- a. Primary dwelling requirement
 - 1. There must be a primary dwelling located on the same lot as an ADU.
 - 2. Where a primary dwelling does not exist on a lot but is proposed, an ADU may be constructed concurrently with the construction of the primary dwelling.
- b. Unit Size
 - 1. Lots less than 7,200 Square Feet in Area. The maximum size of a detached or attached ADU may not exceed 850 square feet for a studio or one bedroom unit or 1,000 square feet for a unit with two or more bedrooms.

- 2. Lots 7,200 Square Feet in Area or Greater. The maximum size of a detached or attached ADU may not exceed 1,200 square feet.
- 3. Relationship to Other Development Standards. Application of other development standards in Sec. 830.A.6. Specific ADU Requirements, such as lot coverage, might further limit the size of the ADU, but no application of front yard, lot coverage, or open-space requirements may require the ADU to be less than 800 square feet.
- c. Coverage. The maximum coverage of the lot by all structures must not exceed the percentage established by the underlying zoning district.
- d. Yards
 - 1. Front Yard. The minimum front yard for an ADU must be established by the underlying zoning district, subject to Sec. 830.A.6.b.3. Relationship to Other Development Standards), above.
 - 2. Side Yard. The minimum side yard for an ADU must be established by the underlying zoning district or 4 feet, whichever is less.
 - 3. Rear Yard. The minimum rear yard for an ADU must be established by the underlying zoning district or 4 feet, whichever is less.
 - 4. No yard must 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.
- e. Landscaping. The minimum landscaping required must be established by the underlying zoning district.
- f. Parking
 - 1. No parking is required for any ADU.
 - 2. If provided, parking spaces must be located on an approved surface only.
 - 3. If provided, parking spaces must have a minimum dimension of 9 feet by 18 feet.
 - 4. Tandem Parking
 - i. If provided, tandem parking spaces must have a minimum dimension of 9 feet by 33 feet.
 - ii. If provided, parking may be provided in yard areas or as Tandem Parking, as defined in Sec. 830.A.3. Definitions.
 - 5. When a garage, carport, covered parking structure, or uncovered parking space is demolished in conjunction with the construction of an accessory dwelling unit or, converted to an accessory dwelling unit, those off-street parking spaces are not required to be replaced.
- g. Architecture. The materials and colors of the exterior, including but not limited to walls, roof, window trim, doors, foundation, exposed rafters, knee braces, and decorative tile, must match the appearance and architectural design of those of the primary dwelling.

- h. Manufactured or Prefabricated Structures. Nothing in this section prohibits the installation of manufactured or prefabricated structures that comply with Sec. 830.A.6.g. Architecture, above.
- i. Exterior access. All ADUs must provide independent access to the exterior of the unit.
- j. Passageways. No Passageway is required in conjunction with the construction of an ADU.
- k. Certificate of Occupancy
 - 1. In no case will an ADU be issued a certificate of occupancy prior to the issuance of a certificate of occupancy for the primary dwelling.
 - 2. A certificate of occupancy may be issued concurrently for both the primary dwelling and the ADU.

7. Fees

- a. Impact Fees
 - 1. No impact fee is required for an ADU that is less than or equal to 749 square feet in area.
 - 2. 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.
- b. Utility Fees and Connections
 - 1. If an ADU is constructed with a new single-family home, a separate utility connection directly between the ADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.
 - 2. With exception to Sec. 830.A.7.b.1. Utility Fees and Connections, above, converted ADUs on a single-family lot that are created under Sec. 830.A.4.a.1. Interior ADU on a Single-Unit Lot are not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required.
 - 3. With exception to Sec. 830.A.7.b.1. Utility Fees and Connections, all ADUs that are not covered by Sec. 830.A.7.b.2. Utility Fees and Connections require a new, separate utility connection directly between the ADU and the utility.
 - i. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU based on either the floor area or the number of drainage- fixture units values, as defined by the Uniform Plumbing Code, upon the water or sewer system.
 - ii. The portion of the fee or charge that is charged by the City may not exceed the reasonable cost of providing this service.

8. Nonconforming Code Conditions, Violations, and Permitted Structures

- a. General. The City will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.
- b. Unpermitted ADUs or JADUs constructed before 2020
 - 1. Permit to Legalize. As required by state law, the City may not deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if denial is based on either of the following grounds:
 - i. The ADU or JADU violates applicable building standards; or
 - ii. The ADU or JADU does not comply with the California Government Code (Sec. 66310-66342) or Sec. 830.A. Accessory Dwelling Units.
 - 2. Exceptions
 - i. Notwithstanding Sec. 830.A.8.b.1. Permit to Legalize, above, the City may deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if the City makes a finding that correcting a violation is necessary to comply with the standards specified in Section 17920.3 of the Health and Safety Code.
 - ii. Sec. 830.A.8.b.1. Permit to Legalize, above, does not apply to a building that is deemed to be substandard in accordance with the California Health and Safety Code (Sec. 17920.3.).

9. Discretionary Review

The following provisions only apply to ADUs that do not qualify for ministerial approval under Sec.830.A.1. Purpose and Intent through Sec. 830.A.8. Nonconforming Code Conditions, Violations, and Permitted Structures, above:

- a. Major Certificate of Appropriateness, A Major Certificate of Appropriateness must be required for an ADU that is located on real property that is listed in the California Register of Historical Resources or real property designated as a local historic landmark or within a designated historic district in the following instances in Sec. 830.A.9.a.1. Type 1 – Building Permit Only through Sec. 830.A.9.a.2. Type 2 - Building Permit Only, below. Review under the Major Certificate of Appropriateness must be limited to architecture only.
 - 1.Type 1 - Building Permit Only
 - i. The construction of a new Interior ADU on single-unit lot whose architectural design would have adverse impacts on any real property that is listed in the California Register of Historical Resources or real property designated as a local historic landmark or within a designated historic district.
 - ii. The construction of any new Limited Detached ADU on single-unit lot.
 - iii. The construction of any new Interior ADU on multi-unit lot whose architectural design would have adverse impacts on any real property that is listed in the California Register of Historical Resources.

- iv. The construction of any new Limited Detached ADU on Multi-unit Lot.
- 2.Type 2 - Building Permit Only
- i. The construction of any new Interior ADU with an expansion of any size.
 - ii. The construction of any new Attached ADU.
 - iii. The construction of any new Detached ADU.