

DRAFT

ACCESSORY DWELLING UNIT ORDINANCE

(To be considered August 14<sup>th</sup> at the City Council Meeting)

Section 11.4.05.115 (Accessory Dwelling Units) of Chapter 11.4.05 (Standards for Specific Uses) of Part IV (Regulations Applying in Some or All Districts) of Title 11 (Zoning) of the Seal Beach Municipal Code is hereby amended in its entirety to read as follows:

**“Sec. 11.4.05.115. - Accessory dwelling units.**

- A. *Purpose and applicability.* The purpose of this chapter is to implement the requirements of Government Code Sections 65852.2 and 65852.22 to allow accessory dwelling units and junior accessory dwelling units in a manner that encourages their development but simultaneously minimizes impacts on traffic, parking, density, and other areas where the City is still permitted to exercise local control.
- B. *Definitions.* For the purposes of this section, the following definitions apply. Terms and phrases not defined in this section shall have the meaning ascribed to them in Section 11.6.05.010. In the event of any conflict or inconsistency between these definitions and the definitions contained in Section 11.6.05.010 or any other provisions of this code, the following definitions shall take precedence.
  - 1) “Accessory dwelling unit” or “ADU” means an attached or a detached residential dwelling unit which provides complete independent living facilities for one (1) or more persons. It shall include permanent provisions for living, sleeping, eating, cooking (including a kitchen as defined herein), and sanitation on the same parcel as the primary dwelling is situated. An accessory dwelling unit also includes efficiency units, as defined in Section 17958.1 of Health and Safety Code, and manufactured homes, as defined in Section 18007 of the Health and Safety Code.
  - 2) “Attached accessory dwelling unit” or “attached ADU” means an ADU that is constructed within or attached to an existing or proposed Primary Dwelling and shares a common wall with the Primary Dwelling.
  - 3) “Detached accessory dwelling unit” or “detached ADU” means an ADU that is constructed as a separate structure from an existing or proposed Primary Dwelling, which does not share any walls with the Primary Dwelling.
  - 4) “Existing structure” means an existing single-family dwelling, multifamily dwelling, or accessory structure that can be safely converted into habitable space under the California Building Standards Code, as amended by the City, and other applicable law.

- 5) “High Quality Transit Corridor” means a “high-quality transit corridor” as defined in Section 21155 of the Public Resources Code as the same may be amended from time to time.
  - 6) “Junior Accessory Dwelling Unit” or “JADU” has the same meaning ascribed in Government Code Section 65852.22, as the same may be amended from time to time.
  - 7) “Major Transit Stop” means a “major transit stop” as defined in Section 21155 of the Public Resources Code as the same may be amended from time to time.
  - 8) “Mixed use,” for the purposes of this section only, means property within a mixed use zone identified within Chapter 11.2.10 of the Municipal Code where residential uses are permitted by-right or by conditional use.
  - 9) “Multifamily Dwelling,” for purposes of this section only, means a property containing two (2) or more attached dwelling units. Multiple separate single-family residential structures on the same lot do not qualify as a multifamily dwelling. Single-family dwellings with an ADU, JADU, or both do not qualify as a multifamily dwelling.
  - 10) “Nonconforming zoning condition,” for purposes of this section only, means a physical improvement on a property that does not conform with current zoning standards.
  - 11) “Primary Dwelling,” for purposes of this section only, means the existing or proposed single-family dwelling or multifamily dwelling on the lot where an ADU would be located.
  - 12) “Public transit,” has the meaning ascribed in Government Code Section 65852.2(j), as the same may be amended from time to time.
  - 13) “SB 9” or “Senate Bill 9” means Government Code Section 65852.21(b) and 66411.7(c), as adopted by Senate Bill 9, Chapter 162, Stat. 2021, as the same may be amended from time to time.
  - 14) “Statewide Exemption ADU” means an ADU allowed by right pursuant to Government Code Section 65852.2(e).
- C. *Permits Required.* In addition to other requirements of this section, all accessory dwelling units and junior accessory dwelling units shall be subject to the following ministerial requirements.
- 1) **Zoning Conformance Review.** Accessory dwelling units and junior accessory dwelling units consistent with the requirements of this section are allowed by-right on a lot that is zoned to allow single family use or multifamily residential use. A JADU shall only be allowed within an existing or proposed single family dwelling. An application for zoning conformance review shall be submitted to the Community Development Department on the City-approved form concurrently with the building permit application, for confirmation of single-family or multifamily zoning by the Director or designee.

- 2) Building Permit. A building permit application is required to be filed with the Building and Safety Division. Approval of a building permit is required for construction of an ADU, and all accessory dwelling units and junior accessory dwelling units shall comply with all applicable Building Code requirements.
- 3) Nonconforming Zoning Code Conditions, Building Code Violations and Unpermitted Structures.
  - a) Except as otherwise required by this Section, all construction, structural alterations or additions made to create an ADU or JADU shall comply with current development standards and building, electrical, fire, plumbing and mechanical codes.
  - b) An ADU or JADU application shall not be denied due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit.
  - c) Unpermitted ADUs constructed before 2018.
    - i. As required by State law, the City may not deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if denial is based on either of the following grounds:
      - (A) The ADU violates applicable building standards, or
      - (B) The ADU does not comply with the state ADU law (Government Code section 65852.2) or this Section.
    - ii. Exceptions:
      - (A) Notwithstanding subsection (c)(i) above, the City may deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if the City makes a finding that correcting a violation is necessary to protect the health and safety of the public or of occupants of the structure.
      - (B) Subsection (c)(i) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code Section 17920.
  - d) Notwithstanding any other provision of this Section, Subsections (a) through (c) shall not operate to legalize any nonconforming conditions, Building Code violations or unpermitted structures, and shall not prevent the City from requiring compliance with all applicable Code provisions when reviewing an application related to a primary dwelling unit or other accessory structure that does not include an ADU or JADU.

#### D. Statewide Exemption ADUs.

- 1) Pursuant to Government Code Section 65852.2(e), upon Zoning Conformance Review, the City shall ministerially approve an application for a building permit within a residential or mixed use zone, to create any of the following:
  - a) *ADU and JADU within Single-Family Dwelling and ADUs within Existing Accessory Structures.* One ADU and one JADU per lot with a proposed or existing single-family dwelling if all of the following apply:
    - i. The JADU is within the proposed space of a single-family dwelling or existing space of a single-family dwelling (including any attached garage).
    - ii. The ADU is within the proposed space of a single-family dwelling or existing space of a single-family dwelling (including any attached garage) or accessory structure, and may include an expansion of not more than 150 square feet beyond the same physical dimensions of the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress. ADUs constructed within the footprint of a proposed space of a single-family dwelling, existing space of a single-family dwelling (including any attached garage) or existing space of an accessory structure shall not be subject to a maximum square-footage of living area.
    - iii. The ADU has an exterior access from the proposed or existing single-family dwelling.
    - iv. The side and rear setbacks are sufficient for fire and safety.
    - v. The JADU complies with the requirements of Government Code Section 65852.22 and with the requirements set forth in subsection (F) of this section.
  - b) *Detached new construction ADU for Single-Family Dwelling.* One detached, new construction ADU for a lot with a proposed or existing single-family dwelling if all of the following apply. The ADU may be combined with a JADU described in subsection (D)(1)(a) of this section.
    - i. The ADU shall be no more than 800 square feet in size.
    - ii. The ADU shall not exceed a height limit of 16 feet, or a height of 18 feet for an ADU within one-half mile walking distance of a “major transit stop” or “high-quality transit corridor.”

- iii. The ADU shall be setback a minimum of four feet from side and rear lot lines. However, in districts which allow lesser side setbacks, the lesser shall apply.
- c) *ADUs on Parcel with Existing Multifamily Dwelling.* A property owner may be allowed to develop ADUs on a lot in accordance with only one of the following two categories (i or ii):
- i. *ADU within Non-Livable Space in Existing Multifamily Dwelling.* One ADU within the portions of existing multifamily 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 unit complies with state building standards for dwellings. If requested, multiple ADUs shall be allowed, within non-livable space, but the total number of ADUs allowed shall not exceed 25 percent of the existing multifamily dwelling units in the structure; or
  - ii. *Detached New Construction ADUs for Existing Multifamily Dwelling.* Not more than two detached ADUs located on a lot that has an existing multifamily dwelling, subject to a height limit of 16 feet and minimum four-foot rear yard and side setbacks. However, in districts which allow lesser side setbacks, the lesser shall apply. For lots that are within one-half mile walking distance of a “major transit stop” or a “high-quality transit corridor”, or for lots that have a multifamily dwelling that is also multistory, the detached ADU is subject to a height limit of 18 feet. Multiple separate single-family structures on the same lot do not qualify as a multi-family dwelling.
- 2) Lot Split Pursuant to Senate Bill 9. In the event that a property owner in a single-family zone obtains approval of a lot split pursuant to Senate Bill 9, any existing or proposed ADU or JADU shall count toward the maximum two units allowed on each lot resulting from the lot split.
- E. ADUs not subject to Statewide Exemption.
- 1) Pursuant to Government Code Sections 65852.2(a) through (d), for an (D), approval of Zoning Conformance Review and a building permit shall be required in accordance with this subsection.
  - 2) All ADUs shall satisfy the requirements of Title 8, Building and Construction, of the Seal Beach Municipal Code. A building permit application is required to be filed with the Building Division and approved by the Building Official or designee. If demolition of a detached garage is proposed as part of the construction of an ADU, a demolition permit application shall be filed concurrently with the Building Division and approved by the Building Official or designee at the same time as the building permit.

- 3) In accordance with State law, ADUs are an accessory use or an accessory structure to the Primary Dwelling on the lot. ADUs shall not be considered to exceed the allowable density for the lot.
  - 4) The Community Development Director shall ministerially review and approve an application for Zoning Conformance Review of a proposed ADU, provided that the submitted application is complete and demonstrates that the ADU complies with the requirements contained in this chapter and any other applicable law. A public hearing is not required.
  - 5) Accessory dwelling unit applications for Zoning Conformance Review and building permit review subject to ministerial approval shall be processed within the timelines established by California Government Code Section 65852.2. The City shall act upon the Zoning Conformance Review and building permit within 60 days of receiving the application, or as the deadline required by Government Code Section 65852.2, as the same may be amended from time to time. Any required demolition permit shall be processed within the same 60-day period. Notice of decision on the application shall be mailed to the applicant. The decision of the Community Development Director on Zoning Conformance Review shall be final. The building permit application and any required demolition permit application shall be reviewed in accordance with the Building Code.
  - 6) Where an accessory dwelling unit application for an ADU is submitted with an application for a Primary Dwelling that is subject to discretionary review under Title 9 of the Seal Beach Municipal Code, the accessory dwelling unit application shall be processed in accordance with this section, separately without discretionary review or a public hearing, following action on the portion of the project subject to discretionary review.
  - 7) Lot Split under SB 9. In the event that a property owner in a single-family zone obtains approval of a lot split pursuant to Senate Bill 9, any existing or proposed ADU or JADU shall count toward the maximum two units allowed on each lot resulting from the lot split.
- F. *Standards for ADUs.* Except those ADUs approved pursuant to subsection(D)(2) of this section (Statewide Exemption ADUs), ADUs shall comply with the following development standards:
- 1) *Location Restrictions:* One ADU shall be allowed on a lot with a proposed or existing Primary Dwelling that is zoned to allow single family or multi-family residential use.
  - 2) *Development Standards:*
    - a) *Size restrictions.*
      - i. Attached ADU (Existing Primary Dwelling): ADU shall not exceed the lesser of: 1) fifty percent (50%) of the gross floor area for the Primary Dwelling or 2) 850 square feet in gross floor area if it contains one or fewer

bedrooms or 1,000 square feet in gross floor area if it contains more than one bedroom. Notwithstanding the above, an ADU with a gross floor area between 1,001 and 1,200 square feet is allowed provided a minimum of one parking space is provided for the ADU.

- ii. Attached ADU (New Primary Dwelling): ADU shall not exceed 850 square feet in gross floor area if it contains one or fewer bedrooms or 1,000 square feet in gross floor area if more than one bedroom. Notwithstanding the above, an ADU with a gross floor area between 1,001 and 1,200 square feet is allowed provided a minimum of one parking space is provided for the ADU.
  - iii. Detached ADU: ADU shall not exceed 850 square feet in gross floor area if it contains one or fewer bedrooms or 1,000 square feet in gross floor area if more than one bedroom, whichever is less. Notwithstanding the above, an ADU with a gross floor area between 1,001 and 1,200 square feet is allowed provided a minimum of one parking space is provided for the ADU.
  - iv. In no case shall the gross floor area of an ADU be less than that of an “efficiency unit” as defined in Health and Safety Code Section 17958.1.
- b) *Height restrictions.* A newly constructed ADU shall not exceed sixteen (16) feet in height, except as provided in subparagraphs (i) through (iv).
- i. A newly constructed detached ADU shall not exceed eighteen (18) feet in height when the lot is located within one-half mile walking distance of a “major transit stop” or “high-quality transit corridor”, as those terms are defined by State law; and two additional feet shall be allowed if necessary to accommodate a roof pitch in the ADU that is aligned with the roof pitch of the primary dwelling unit.
  - ii. A newly constructed detached ADU shall not exceed eighteen (18) feet in height on a lot with an existing or proposed multistory multifamily dwelling.
  - iii. A newly constructed attached ADU shall not exceed twenty-five (25) feet or the height limit applicable to the primary dwelling, whichever is lower. This clause shall not require the City to allow an accessory dwelling unit to exceed two stories.
  - iv. A detached ADU may be constructed above an existing detached accessory structure including a detached garage, subject to the height limits of the underlying zone and the size restrictions in subsection (F)(2)(a)(iii), subject to recordation of a declaration of restrictions, in a form approved by the City Attorney, agreeing to maintain the existing garage as functionally available for parking.
- c) *Setbacks.*

- i. No setback shall be required for an ADU that is within a legally Existing Structure or new ADU that is constructed in the same location and with the same dimensions as a legally Existing Structure. For all other ADUs, the required minimum setback from side and rear lot lines shall be four feet, except in districts which allow lesser side setbacks, in which case the lesser shall apply.
  - ii. An ADU shall comply with all required front yard setbacks otherwise required by the Seal Beach Municipal Code, except where the application of the front setback regulations would not permit construction of an 800 square foot ADU with four-foot side and rear yard setbacks, except in districts that allow lesser side setbacks, in which case the lesser shall apply. In this exception, the ADU may encroach into the front setback only to the extent needed to construct a maximum sized unit of 800 square feet. In the RLD-15 zone, where a second-floor step-back in the front is required given the small lots and reduced setbacks of that zone, in order to maintain the required second-floor step-back and a consistent development pattern in that neighborhood, when an ADU is proposed on the second floor, the ADU shall be developed above the rear portion of the primary structure and the wall of the ADU closest to the rear property line shall be uniform in placement to the rear wall of the primary structure.
- d) *Minimum Distance* - Detached ADU. In accordance with Table 11.2.05.05 of Section 11.2.05.015 of this title (Minimum Distance Between Buildings on the Same Lot), the minimum distance between a detached ADU and the primary dwelling on the same lot shall not be less than 6 feet. The six-foot distance shall be measured from the nearest point of any portion of the ADU to the primary dwelling. Notwithstanding the foregoing, this provision shall not preclude construction of an ADU that is at least 800-square feet in size.
- e) *Lot coverage*. An accessory dwelling unit that is 800 square feet or less, consistent with the height requirements in section 11.4.05.115 (F)(2)(b), and compliant with a minimum four-foot side and rear setback (or such lesser side or rear setbacks required under the zoning district), shall be considered consistent with all city development standards, irrespective of any other municipal code limitations governing lot coverage, floor area ratio, open space, or front yard setback. For any other accessory dwelling unit, lot coverage, floor area ratio, open space, and front yard setback requirements for the underlying zone shall apply.
- f) *Design*. A newly constructed ADU shall have the same design, colors and materials and architectural details (including windows and roof pitch) of the Primary Dwelling, and shall comply with any objective design standards adopted by the City that are applicable to the zoning district or Specific Plan area where the ADU is located.
- g) *Access*. An ADU shall have a separate exterior access. An ADU above a detached garage may be accessed by an exterior staircase.



- h) *Fire sprinklers.* ADUs are required to provide fire sprinklers if required for the Primary Dwelling.
- i) *Historic resources.* An ADU that has the potential to adversely impact any historical resource listed on the California Register of Historic Resources, shall be designed and constructed in accordance with the “Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings” found at 36 CFR 68.3, as the same may be amended from time to time. An ADU shall also comply with all local historic register requirements, as well as all objective local requirements, ordinances, or Specific Plans that pertain to historic resources.

3) *Parking Requirements:*

- a) Except as otherwise provided in subparagraph (b) and (c) of this Subsection (F)(3), in addition to the off-street parking space(s) required for the Primary Dwelling, one off-street parking space shall be provided for each ADU.
- b) Exception. If an ADU does not exceed the lesser of either 850 square feet in gross floor area if it contains one or fewer bedrooms or 1,000 square feet in gross floor area if more than one bedroom, an additional off-street parking space is not required for such ADU if any of the following provisions are met:
  - i. The ADU is located within one-half mile walking distance of Public Transit; or
  - ii. The ADU is located within an architecturally and historically significant historic district; or
  - iii. The ADU is an attached ADU proposed with a new single-family development, or a proposed conversion of an existing Primary Dwelling or accessory structure; or
  - iv. The ADU is located in an area where on-street parking permits are required but not offered to an ADU occupant; or
  - v. The ADU is located within one block of a city-approved and dedicated parking space for a car share vehicle.
- c) When the ADU is created by converting or demolishing a garage, carport or covered parking structure, replacement of parking space(s) eliminated by the construction of the ADU shall not be required as long as the ADU remains in use as a legal ADU.

4) *Other provisions:*

- a) Recreational trailers are not permitted to be used as ADUs. This includes, but is not limited, to recreational vehicles, campers, camping trailers and mobile/motor homes.

G. *Standards for JADUs.* In accordance with the standards set forth in Government Code Section 65852.22, JADUs shall comply with the following requirements, unless State law is amended to set forth different standards in which case State law standards will govern:

- 1) A JADU shall be a minimum of 150 square feet and a maximum of 500 square feet of gross floor area. The gross floor area of a shared sanitation facility (bathroom) shall not be included in the maximum gross floor area of a JADU.
- 2) A JADU must be contained entirely within the walls of the existing or proposed single-family dwelling. For purposes of this subsection, an attached garage is considered to be within the walls of the existing or proposed single-family dwelling.
- 3) A separate exterior entry from the main entrance to the single-family dwelling shall be provided to serve a JADU.
- 4) A JADU may include a separate sanitation facility (bathroom), or may share sanitation facilities (bathroom(s)) with the existing single-family dwelling. If a JADU does not include a separate bathroom, the JADU shall include a separate entrance from the main entrance to the structure, with an interior entry to the main living area shared with the primary unit.
- 5) A JADU shall include an efficiency kitchen which shall meet the requirements of Government Code Section 65852.22.
- 6) No additional parking is required for a JADU.

H. *Covenant required.* Prior to the issuance of a Certificate of Occupancy for the ADU or JADU, the property owner shall record a declaration of restrictions, in a form approved by the City Attorney, placing the following restrictions on the property, the property owner, and all successors in interest:

- 1) Except as otherwise required by Government Code Section 65852.26, the ADU or JADU shall not be sold, transferred, or assigned separately from the Primary Dwelling, but may be rented.
- 2) The ADU shall not be used for short-term rentals for less than 30 consecutive days.
- 3) If there is a JADU on the property, either the JADU or Primary Dwelling shall be occupied by the owner of record.
- 4) For any ADU permitted on or after January 1, 2025, either the ADU or Primary Dwelling shall be occupied by the owner of record.

I. *Fees and utility connections.*

- 1) ADUs and JADUs shall have adequate water and sewer services. These services may be provided from the water and sewer points of connection for the Primary Dwelling and not be a separate set of services, unless the local water and sewer service provider requires a new or separate utility. For an ADU that is not a conversion of an existing space, a separate utility connection directly between the accessory dwelling unit and the utility may be required. Consistent with Government Code Section 65852.2(f), the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit.
  - 2) The owner of an ADU or JADU shall be subject to the payment of all sewer, water and other applicable fees, including impact fees set forth in Government Code Section 66000 et seq., except as follows:
    - a) ADUs that are less than 750 square feet shall not be subject to impact fees.
    - b) ADUs that are 750 square feet or more shall be charged impact fees that are proportional in relation to the square footage of the Primary Dwelling unit.
- J. *Fire safety requirements.* The construction of all new accessory dwelling units shall meet minimum standards for fire safety as defined in the Building Code of the City of Seal Beach and the Fire Code of the City of Seal Beach, as the same may be amended by the City from time to time. All applications for accessory dwelling units in areas designated as high or very high fire hazard zones shall be reviewed by the Building Official and Fire Marshal to ensure the standards for fire safety as defined in the Building Code of the City of Seal Beach and the Fire Code of the City of Seal Beach will be met. Fuel modification treatments (clearing requirements) will be greater for those properties in high and very high fire hazard severity zones, which may be characterized by steeper terrain, larger and denser fuels, fuels that are highly volatile, and subject to frequent fires. Clearing requirements shall meet the State's "General Guidelines for Creating Defensible Space."