



PLANNING COMMISSION STAFF REPORT

DATE: November 9, 2022

TO: Members of the Planning Commission

FROM: Brian Halvorson, Planning Manager
Brian Wright-Bushman, Assistant City Attorney

RE: Accessory Dwelling Unit Amendments (TA 22-02)

AGENDA ITEM NO. 5

Planning Commission consideration of amendments to Lompoc Municipal Code Sections 17.208.030.A (Residential Zones Allowed Uses), 17.308.040.A (Parking Requirements), 17.324.020 (Applicability), 17.404.020 (Accessory Dwelling Units), 17.512.020 (Applicability), 17.704.020.A (Terms), and 17.708.020.D (Residential Use Types) to update local zoning regulations for compliance with State Law pertaining to Accessory Dwelling Units and Junior Accessory Dwelling Units. This action is exempt from California Environmental Quality Act (CEQA) review pursuant to Public Resources Code Section 21080.17.

Scope of Review

The Planning Commission is being asked to consider:

- If the amendments are compliant with State law;
- If the amendments are consistent with the 2030 General Plan and internally consistent with the Zoning Code; and
- If the required Findings in the Resolution can be made

Staff Recommendation

1. Adopt Resolution No. 977 (22) recommending that the City Council approve amendments to regulations pertaining to Accessory Dwelling Units and Junior Accessory Dwelling Units (TA 22-02); or
2. Provide other direction.

Background

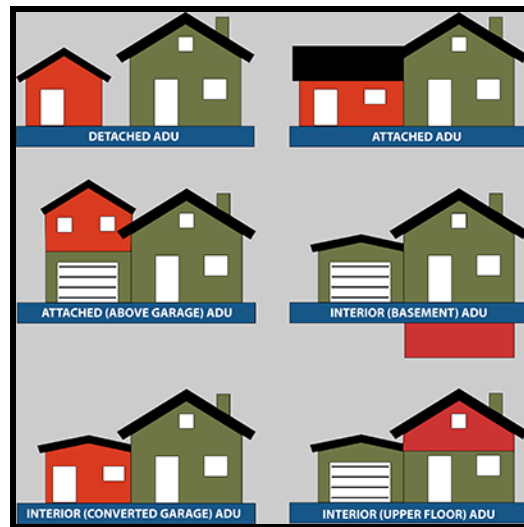
In 2016, California passed statewide legislation allowing Accessory Dwelling Units (ADU's). New legislation continues to be added to the original regulations and as recently as this year additional legislation was adopted which will be effective January 2023. A summary of recent changes to ADU Laws is shown as Attachment 2 (this summary does not include laws that were passed in 2022). In short, an ADU is accessory to a primary residence and has complete independent living facilities for one or more persons and has a few variations as follows:

Detached: The unit is separated from the primary structure.

Attached: The unit is attached to the primary structure.

Converted Existing Space: Space (e.g., master bedroom, attached garage, storage area, or similar use, or an accessory structure) on the lot of the primary residence that is converted into an independent living unit.

JADU: A specific type of accessory unit that is contained entirely within an existing or proposed single-family residence, is limited to 500 square feet, and does not have to include a separate bathroom.



Types of ADU's

To assist staff, the general public, designers, and builders, the California Department of Housing and Community Development (HCD) has published a recent handbook (July/2022) that is available on the HCD website at:

<https://www.hcd.ca.gov/sites/default/files/2022-07/ADUHandbookUpdate.pdf>

On December 17, 2019, the City Council approved a comprehensive update to the Zoning code (Title 17) which addresses regulations for ADU's. As part of this update, the City's ordinance (Lompoc Municipal Code Section 17.404.020) pertaining to Accessory Dwelling Units (ADU) was compliant with State Housing Laws.

Subsequently, new State Legislation regulating ADU's and JADU's were approved and became effective following the adoption of amendments to the Lompoc zoning code.

Amendments to State Law further addressed barriers to the development of ADU's and JADU's and essentially made the City's ordinance non-compliant. Therefore, staff has referred to State regulations when reviewing proposed applications for ADU's and JADU's.

Discussion

State Housing Laws relating to ADU's and JADU's continue to become more and more flexible due to the extreme shortage of housing in the State of California. ADU's and JADU's can be an innovative and effective option for adding much needed housing in California. In addition, as part of the Regional Housing Needs Allocation (RHNA) mandated by State Housing Laws, the Department of Housing and Community Development (HCD) allows the City to project the number of ADU's and JADU's based on the number of recently permitted ADU's (approximately 8 per year) in the City and count them towards meeting the City's RHNA requirement (estimated at approximately 66 units in the moderate income level) which in turn will assist the City as it is currently updating its Housing Element. Furthermore, it is necessary and important for the City to provide an updated ordinance that can promote a variety of housing options for its existing and future residents.

The proposed ordinance amendments will bring the City up to date on all past and current legislation (including laws that will take effect in January 2023) so that compliance with State Housing Laws is maintained. In summary, the following list includes the most significant changes to the City's ordinance:

- Allows JADU's in the RA and R-1 zones
- Permits ADU's on properties with an existing or proposed multifamily dwelling
- Updates tables and definitions
- Increases the number of allowed ADU's
(From one to two on a parcel that has one or more proposed or existing multifamily dwellings)
- Reduces required side and rear setbacks (from 5 feet to 4 feet)
- Increases allowable building height for ADU's
(Height limit is the same as height limit for the primary dwelling)
- Allows concurrent construction of a primary dwelling and an ADU/JADU
- Revisions to Development Standards (minimum and maximum size, and height limit for 2nd story ADU's)
- Prevents denial of an application based on non-conforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety
- Deed restriction for JADU's (but not ADU's)
- Allows ADU's to be sold separately from the lot's primary dwelling if specified conditions are met
- Updates relating to separate utility connections

- No Development Impact Fees (for an ADU of 750 square feet or less but ADU's greater than 750 square feet shall be charged proportionately in relation to the square footage of the primary dwelling)
- Limits on enforcing standards (e.g., an attached or detached ADU can be located within the front yard setback if enforcing the front yard setback standard would limit the size of the ADU to less than 800 square feet)
- Reduces parking requirements but also requires a paved parking space (if a parking space is required but a driveway is not available)
- Streamlined permit review (from 120 days to 60 days)

The most recent legislation passed this year (AB 2221 and SB 897) which takes effect January 1, 2023, allows ADU's to be taller and potentially closer to the front property line. Under these new laws, ADU's can be located in the front yard setback is that is the only way to enable an ADU that is at least 800 square feet. As mentioned above, another change is that local agencies cannot deny an application to create an ADU solely because corrections are needed to address nonconforming zoning conditions, building code violations, or unpermitted structures elsewhere on the lot that do not present a threat to public health and safety and are not affected by the construction of the ADU. This is only a limit on holding up an ADU to require compliance elsewhere on the property; it does not insulate the property owner from having to come into compliance separately from the ADU. Lastly, the City can only impose objective standards that involves "no personal or subjective judgement by a public official" and that is "uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal."

Review by HCD

Although cities and counties are mandated to permit ADUs and JADUs, they are not required to adopt ADU and JADU ordinances. However, any city/county that does adopt an ADU ordinance must submit the ordinance to HCD for review within 60 days after the ordinance is adopted. Therefore, if the City Council adopts the ordinance, staff will submit the ordinance to HCD as required.

Environmental Determination

The proposed amendments are exempt from California Environmental Quality Act (CEQA) review pursuant to Public Resources Code Section 21080.17 (Application of Division to Ordinances Implementing Law Relating to Construction of Dwelling Units and Second Units).

Noticing

On October 26, 2022, a public hearing notice was published in the Lompoc Record and a hearing notice was posted at City Hall on November 4, 2022.

Appeal Rights

Any person has the right to appeal the Planning Commission's action to the City Council within ten days of the action. Contact a Planning Division staff member for the required appeal form and fee of \$257.80.

Attachments

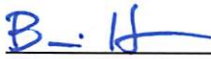
1. Resolution No. 977 (22)
2. Recent Changes to ADU Laws

Respectfully submitted,



Brian Halvorson
Planning Manager

APPROVED FOR SUBMITTAL TO THE PLANNING COMMISSION:



FOR _____
Christie Alarcon
Community Development Director

RESOLUTION NO. 977 (22)

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOMPOC
RECOMMENDING THE CITY COUNCIL ADOPT PROPOSED AMENDMENTS TO
REGULATIONS OF ACCESSORY DWELLING UNITS (TA 22-02)**

WHEREAS, Section 17.040.020 of the Lompoc Municipal Code establishes regulations of Accessory Dwelling Units (ADU); and

WHEREAS, updates to the City's regulations of ADU's and Junior Accessory Dwelling Units (JADU) are needed in order to make these regulations compliant with State Law; and

WHEREAS, the proposed amendments were considered by the Planning Commission at a duly-noticed public hearing on November 9, 2022.

NOW, THEREFORE, THE LOMPOC PLANNING COMMISSION RESOLVES AS FOLLOWS:

SECTION 1. Findings. The Planning Commission makes the following findings:

- A. The proposed amendments are consistent with provisions of the 2030 General Plan.
- B. The proposed amendments are internally consistent with the provisions of Title 17 and other applicable provisions of the Lompoc Municipal Code.
- C. The proposed amendments serve the public necessity, convenience, and general welfare.
- D. The proposed amendments are in compliance with the requirements of the California Environmental Quality Act.

SECTION 2. The Planning Commission recommends that the City Council adopt the draft Ordinance, attached to this Resolution, which amends regulations pertaining to ADU's and JADU's.

SECTION 3. This Resolution shall be forwarded to the City Council pursuant to Section 17.604.040 of the Lompoc Municipal Code.

The forgoing Resolution was adopted on motion by Commissioner _____, seconded by Commissioner _____, at the Planning Commission meeting of November 9, 2022 by the following vote:

AYES:

NOES:

Brian Halvorson, Secretary

Federico Cioni, Chair

Attachment

Exhibit A: Draft Council Ordinance

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOMPOC
ADOPTING AMENDMENTS TO REGULATIONS OF ACCESSORY
DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS**

WHEREAS, Section 17.404.020 of the Lompoc Municipal Code establishes regulations of accessory dwelling units; and

WHEREAS, updates to the City’s regulations of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) are needed in order to make these regulations compliant with state law, including but not limited to new state laws that will go into effect on January 1, 2023; and

WHEREAS, the Planning Commission considered this ordinance at the Planning Commission meeting on _____, 2022.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LOMPOC DOES
HEREBY ORDAIN AS FOLLOWS:**

SECTION 1. Findings. The City Council makes the following findings regarding the amendments to the Zoning Code stated in this ordinance:

- A. The amendments are consistent with the General Plan and are internally consistent with the Zoning Code.
- B. The amendments serve the public convenience, necessity, and welfare.
- C. The amendments are in compliance with the requirements of the California Environmental Quality Act.

SECTION 2. CEQA. The City Council finds and determines that the adoption of an ordinance to implement the provisions of Government Code Sections 65852.2 and 65852.22 is not subject to CEQA review pursuant to Public Resources Code Section 21080.17. Therefore, this ordinance does not require any environmental review under CEQA.

SECTION 3. Table 17.208.030.A (Residential Zones Allowed Uses) is hereby revised as follows with the remainder of the Table remaining unchanged (additions in underline):

Use	Requirement by Zone					Specific Use Regulations
	RA	R-1	R-2	R-3	MH	
Residential Use Types						
Accessory Dwelling Unit	P	P	P	P	-	17.404.020
<u>Accessory Dwelling Unit, Junior</u>	<u>P</u>	<u>P</u>	-	-	-	<u>17.404.020</u>

SECTION 4. Table 17.224.020.A (Overlay Zones Allowed Uses) is hereby revised to remove the footnote as shown below (deletions in ~~striketrough~~):

Use	Requirement by Zone						Specific Use Regulations
	AO	CRO	SO	PD	SEO	HSO	
Residential Use Types							
Accessory Dwelling Unit	-	Refer to base zone				P ⁺	17.404.020

SECTION 5. Table 17.308.040.A (Parking Requirements) is hereby revised as follows with the remainder of the Table remaining unchanged (additions in underline):

Use	Parking Requirements ¹
Residential Use Types	
Accessory Dwelling Unit	See 17.404.020
<u>Accessory Dwelling Unit, Junior</u>	<u>See 17.404.020</u>

SECTION 6. Section 17.404.020 of the Lompoc Municipal Code (Accessory Dwelling Units) is hereby repealed and replaced in its entirety with the following:

17.404.020 Accessory Dwelling Units

A. **Purpose.** This Section is intended to implement the provisions of Sections 65852.2 and 65852.22 of the Government Code and, in case of ambiguity, shall be interpreted to be consistent with such provisions.

B. **Definitions.** For the purpose of this Section, the following terms shall be defined as follows:

1. **ADU and JADU.** Accessory dwelling unit is abbreviated as ADU and junior accessory dwelling unit is abbreviated as JADU in this Section.
2. **Multifamily Dwelling.** A structure containing two or more attached primary dwelling units. Multiple detached single-family dwellings on the same lot are not a multifamily dwelling.
3. **Primary Dwelling or Primary Dwelling Unit.** A dwelling unit other than an ADU or JADU.
4. **Single-Family Dwelling.** A structure containing no more than one primary dwelling unit.

C. **Review Process; Certificate Of Occupancy.**

1. Applications for ADUs and JADUs shall be approved or denied ministerially, without discretionary review or a hearing, through the building permit process, within sixty (60) days from the date the City receives a complete application if there is an existing single-family or multifamily dwelling on the lot. If the application to create an ADU or JADU is submitted with an application to create a new single-family or multifamily dwelling on the lot, the City may delay approving or denying the application for the ADU or the JADU until the City approves or denies the application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.
2. If the City denies an application for an ADU or JADU, the City will provide to the applicant in writing a full set of comments with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant. These comments will be provided to the applicant within the same timeframe for approval or denial of the application stated in subsection C.1.
3. A demolition permit for a detached garage that is to be replaced with an ADU shall be reviewed with the application for the ADU and issued within the same timeframe for approval or denial of the ADU application stated in subsection C.1.
4. If there is no existing primary dwelling on the property, a certificate of occupancy for an ADU shall not be issued before the City issues a certificate of occupancy for a primary dwelling.

5. Notwithstanding any other provision of this code, the City shall not deny an application for a permit to create an ADU or JADU due to the existence of nonconforming zoning conditions, building code violations, or unpermitted structures on the parcel that do not present a threat to public health and safety, as determined by the director, and are not affected by the construction of the ADU or JADU. “Nonconforming zoning conditions” means physical improvements on the property that do not conform with current zoning standards.

D. Consistency With Density Requirements, Zoning, And General Plan.

For purposes of determining whether a proposed development is consistent with the zoning code and general plan, ADUs and JADUs shall be deemed to comply with all applicable density requirements for parcels on which they are otherwise permitted under this code.

E. Requirements for ADUs.

1. **Permitted Properties.** ADUs may only be located on a property with an existing or proposed single-family dwelling or multifamily dwelling.

2. **Location on Property.** ADUs may either be attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure, or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

3. **Amount Permitted.**

a. **Parcel with Single-Family Dwelling(s).** If the parcel has one or more existing or proposed single-family dwellings, then a total of one ADU is allowed on the parcel.

b. **Parcel with Multifamily Dwelling(s).**

(i) If the parcel has one or more proposed or existing multifamily dwellings, then up to two detached ADUs are allowed on the parcel, provided that the ADUs shall be detached from each other and from all primary dwellings.

(ii) If the parcel has one or more existing multifamily dwellings, then one of the following options is allowed on the parcel:

(I) One ADU attached to an existing multifamily dwelling; or

(II) One ADU created through the conversion of space within an existing multifamily dwelling for every four existing multifamily units, provided that at least one ADU is allowed regardless of the number of units. For example, one ADU is allowed in an existing multifamily dwelling structure with seven or fewer units; two ADUs are allowed in an existing multifamily dwelling structure with eight to eleven units; and three ADUs are allowed in an existing multifamily dwelling structure with twelve units; etc.

(iii) Subsections (i) and (ii) may not be combined.

c. **Parcel with Both Single-Family and Multifamily Dwelling(s).** If a parcel has one or more existing or proposed single-family dwellings and one or more existing or proposed multifamily dwellings, then the owner may elect to proceed under either subsection (a) or subsection (b), but not both.

4. **Development Standards.** ADUs shall comply with all development standards applicable to the primary dwelling on the same parcel, with the following exceptions:

a. **Size.**

(i) **Attached to Existing Primary Dwelling.** The total floor area of an ADU attached to an existing primary dwelling shall not exceed 50% of the floor area of the existing primary dwelling, or 1,200 square feet, whichever is less, except that the attached ADU shall not be required to be smaller than 800 square feet.

(ii) **Detached.** The total floor area for a new-construction detached ADU shall not exceed 1,200 square feet.

(iii) **Conversion of Existing Space.** There is no limit on the size of an ADU that is created through the conversion of space within an existing primary dwelling structure or existing detached accessory structure.

(iv) **ADU Within Proposed Primary Dwelling.** There is no limit on the size of an ADU that is proposed within the space of a proposed primary dwelling, provided that the primary dwelling structure, including the space occupied by the ADU, shall meet all development standards applicable to the primary dwelling.

(v) **Partial Conversion of Primary Dwelling and Partial New Construction.** If an ADU is partially created through the conversion of existing space in a primary dwelling but also includes the expansion of the existing space beyond the existing boundaries of the primary dwelling, then the ADU shall be considered attached and will be subject to the size limits in subsection (i).

(vi) **Partial Conversion of Accessory Structure and Partial New Construction.** An ADU created through the conversion of an existing detached accessory structure may expand the dimensions of the structure by up to 150 square feet solely for the purpose of accommodating ingress and egress. However, if the dimensions of the structure are increased by more than 150 square feet or are increased by up to 150 square feet but for a purpose other than accommodating ingress and egress, then the ADU will be considered a new-construction detached ADU and will be subject to the size limits in subsection (ii).

b. Height; Second-Story ADUs.

(i) ADUs shall not exceed the height limit required for primary dwelling units in the zone in which the ADU is located, provided that the height limit for a detached ADU shall not be less than the minimum height limits required in subsection (ii).

(ii) Notwithstanding subsection (i), the minimum height of a detached ADU shall not be required to be less than the following:

(I) 16 feet.

(II) 18 feet for a detached ADU on a lot that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code, plus an additional two feet in height for the purpose of accommodating a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

(III) 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.

(iii) ADUs may be up to two stories tall from ground level.

(iv) ADUs may be built above existing or proposed one-story accessory structures, including but not limited to detached garages, and may be built above an existing or proposed one-story primary dwelling unit, provided that the resulting structure may be no more than two stories.

c. **Setbacks.**

(i) The side and rear setbacks for an ADU shall be four feet. The front setback for an ADU shall be the same as the front setback required for primary dwelling units in the zone in which the ADU is located.

(ii) A detached ADU shall not be located closer to the front property line than any primary dwelling unit.

(iii) Notwithstanding (i) and (ii), no setback is required for the conversion of an existing structure or for a new structure constructed in the same location as an existing structure if the existing structure is permitted and the converted structure or new structure will have the same dimensions as the existing structure.

d. **Limit on Enforcing Standards.** Lot coverage, floor area ratio, open space, front setbacks, and minimum lot size requirements shall not be enforced to the extent that they would prevent an attached or detached ADU from being at least eight hundred (800) square feet. However, all other development standards, including side and rear setbacks, shall be enforced even if they would limit the ADU to less than eight hundred (800) square feet, except as provided in subsection L.

5. **Parking; Replacement Parking Spaces.**

a. One paved parking space shall be provided for each ADU, except as otherwise provided in subsection (b). The parking space(s) shall be located on the same parcel where the ADU is located and shall not be on the street. The new parking space(s) may be provided as tandem parking on a driveway or in setback areas in locations determined by the director, unless the director makes a specific finding that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

b. Notwithstanding subsection (a), no additional parking is required for ADUs in the following circumstances:

(i) The ADU is located within one-half mile walking distance of public transit. "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.

(ii) The ADU is located within an architecturally and historically significant historic district.

(iii) The ADU is located entirely within the proposed or existing primary dwelling or an accessory structure.

(iv) When on-street parking permits are required but not offered to the occupant of the ADU.

(v) When there is a car share vehicle located within one block of the ADU.

c. Off-street parking spaces do not need to be replaced when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or is converted to an ADU.

d. Except as otherwise provided in this subsection (5), the parking standards in Chapter 17.308 shall apply.

6. **Required Facilities.** ADUs shall include complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, including a kitchen and bathroom.

7. **Separate Entrances.** ADUs located within or attached to a primary dwelling shall include an entrance that is separate from the main entrance to the primary dwelling. The separate entrance shall be located on the side or in the rear of the primary dwelling.

8. **Fire Sprinklers.** ADUs shall not be required to provide fire sprinklers if they are not required for the primary dwelling. The construction of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

9. **Building Code Requirements.** ADUs shall comply with all local Building Code requirements, except as provided in Government Code Section 65852.2(a)(1)(D)(viii), as may be amended or renumbered.

F. **Requirements for JADUs.**

1. **Permitted Properties.**

(a) JADUs are only permitted on a property with one existing or proposed single-family dwelling. Properties with more than one

existing or proposed single-family dwelling or with any number of existing or proposed multifamily dwellings are not permitted to have a JADU.

(b) If a second primary unit is constructed on a property with an existing JADU, then, notwithstanding any other provision of this Section, no new ADUs shall be permitted on the property unless the JADU is demolished.

2. **Location on Property.** JADUs shall be located entirely within a proposed or existing single-family dwelling structure, including an attached garage, but not including a detached garage.

3. **Amount Permitted.** No more than one JADU is permitted per parcel.

4. **Size.** A JADU shall be no larger than 500 square feet.

5. **Separate Entrance.** A JADU shall have a separate entrance from the main entrance to the proposed or existing single-family dwelling. The separate entrance shall be located on the side or in the rear of the primary dwelling.

6. **Building Code Requirements.** JADUs shall comply with all local Building Code requirements.

7. **Required Facilities.** A JADU shall include living facilities for one or more persons, including permanent provisions for living, sleeping, eating, and cooking, including an efficiency kitchen. An efficiency kitchen shall include a cooking facility with appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU. A JADU may include separate sanitation facilities or may share sanitation facilities with the primary dwelling. If the JADU does not include a separate bathroom, the JADU shall include an interior entry to the main living area of the primary residence.

8. **Parking; Replacement Parking Spaces.**

a. No additional parking spaces are required for a JADU.

b. Off-street parking spaces shall be replaced when a garage, carport, or covered parking structure is demolished in conjunction with the construction of a JADU or is converted to a JADU.

9. **Owner Occupancy.** The property owner must reside in a single-family residence that includes a JADU. The owner may reside in either the JADU or the remaining portion of the structure. However, owner-occupancy is not required if the owner is a government agency, land trust, or housing organization.

10. **Deed Restriction.** The approval of a JADU shall be conditioned on the recordation of a deed restriction, which shall run with the land. The deed restriction shall be approved by the city attorney and the director or designee. The property owner shall bear the cost of recording the deed restriction. The deed restriction shall include the following:

a. A prohibition on the sale of the JADU separate from the sale of the primary dwelling, including a statement that the deed restriction may be enforced against future purchasers.

b. A restriction on the size and attributes of the JADU that conforms to Government Code Section 65852.22.

G. **Design Standards.** Any new construction required to create an ADU or JADU shall comply with the City's architectural and design guidelines.

H. **ADUs and JADUs on a Lot Created by an Urban Lot Split.** Notwithstanding any other provision in this Section, only two total dwelling units, including ADUs and JADUs, are permitted on a lot that was created through an urban lot split pursuant to Government Code Section 66411.7.

I. **Utilities.**

1. **Connection Fees and Capacity Charges.** An ADU will not be considered a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the ADU was constructed with a new single-family dwelling.

2. **Separate Utility Connections.**

a. Neither a new or separate utility connection directly between the unit and the utility, nor any related connection fee or capacity charge, will be required for the following units unless they are constructed with a new single-family dwelling:

(i) A JADU.

(ii) An ADU located entirely within a single-family dwelling.

(iii) An ADU located entirely within the space of an existing accessory structure, plus an expansion of up to 150 square feet solely for the purpose of accommodating ingress and egress.

b. A new or separate utility connection directly between the unit and the utility, and related connection fees and capacity charges, will be required for the following:

(i) ADUs other than those in (a)(ii) and (a)(iii).

(ii) ADUs listed in (a)(ii) and (a)(iii) that are constructed with a new single-family dwelling.

J. Sale and Rental of Units.

1. Except as provided in Government Code Section 65852.26, ADUs and JADUs may not be sold or otherwise conveyed separate from the primary dwelling.

2. An ADU or JADU may be rented separate from the primary dwelling but ADUs may not be rented for a term of less than 31 consecutive days.

K. Development Impact Fees. No impact fee shall be imposed for a JADU or an ADU that is less than 750 square feet. Any impact fees charged for an ADU of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit. For purposes of this subsection, “impact fee” has the meaning given in Government Code Section 65852.2(f)(3)(b).

L. State Exemption ADUs and JADUs. Notwithstanding any other provision in this Section except for subsections (F)(1)(b) and (H), the City shall ministerially approve an application for a JADU and/or one or more ADUs if the proposed unit or units meets the requirements of subsection (e)(1)(A), (e)(1)(B), (e)(1)(C), or (e)(1)(D) of Government Code Section 65852.2, provided that only one such subsection may be used per parcel.

SECTION 7. Section 17.324.020 of the Lompoc Municipal Code is hereby revised as follows (additions in underline):

17.324.020 Applicability

A. Inclusionary housing shall be required in the following residential developments:

1. Residential Developments Outside the Old Town Redevelopment Project, Amendment No. 2 Area. Residential developments of 10 units or more that are not exempt pursuant to Subsection B, and that are outside of the Old Town Redevelopment Project, Amendment No. 2 Area, shall be required to comply with inclusionary housing requirements in compliance with Section 17.324.030.A unless an alternative method of compliance, per Section 17.324.040 (Alternative Methods of Compliance), is approved by the review authority.

2. Residential Developments Within the Old Town Redevelopment Project, Amendment No. 2 Area. Within the Old Town Redevelopment Project, Amendment No. 2 Area, residential developments shall be required to comply with inclusionary housing requirements in compliance with Section 17.324.030.B, unless an alternative method of compliance, per

Section 17.324.040 (Alternative Methods of Compliance), is approved by the review authority.

B. Exemptions. The following developments are exempt from the inclusionary housing requirement of this Chapter:

1. Live/work units.
2. Accessory dwelling units and junior accessory dwelling units.
3. Mobile homes.
4. Emergency shelters and any development operated by a non-profit or social services organization to provide food storage, meal service, and/or temporary shelter to the homeless.
5. Residential care homes.
6. Transitional housing.
7. Supportive housing.

SECTION 8. Section 17.512.020 of the Lompoc Municipal Code is hereby revised as follows (additions in underline):

17.512.020 Applicability

Architectural Design and Site Development Review shall be required for all new buildings or structures and additions and alterations to existing structures with the following exceptions:

- A. Single-family homes in R-1 zones, and development projects with six or fewer residential units in the R-2, R-3, and MU zones, that are not part of a subdivision map;
- B. Accessory dwelling units and junior accessory dwelling units;
- C. Additions of floor area within the existing building envelope;
- D. Additions and alterations to existing buildings and structures that will not increase the gross floor area of the building by more than 2,500 square feet and will not involve exterior alterations along any street-facing façade on Ocean Avenue, H Street north of Cypress Avenue, or Central Avenue; and
- E. Alterations and improvements required to meet Federal or State requirements to accommodate persons with disabilities.

SECTION 9. A definition of “Accessory dwelling unit, junior” is hereby added to Section 17.704.020.A of the Lompoc Municipal Code and shall be added in alphabetical order and read as follows:

Accessory dwelling unit, junior. A residential dwelling unit that is no more than 500 feet in size and is contained within a single-family residence. This definition shall be interpreted as consistent with the definition for “junior accessory dwelling unit” in Government Code Section 65852.22.

SECTION 10. The definition of “Accessory Dwelling Unit” in Section 17.708.020.D of the Lompoc Municipal Code is hereby replaced in its entirety with the following:

Accessory Dwelling Unit. See “Accessory dwelling unit” in Section 17.704.020.A.

SECTION 11. A definition of “Accessory Dwelling Unit, Junior” is hereby added to Section 17.708.020.D of the Lompoc Municipal Code and shall be added in alphabetical order and read as follows:

Accessory Dwelling Unit, Junior. See “Accessory dwelling unit, junior” in Section 17.704.020.A.

SECTION 12. Severability. If any provision(s) of this Ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end the provisions of this ordinance are declared to be severable. The City Council hereby declares that they would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

SECTION 13. Posting. The City Clerk shall certify to the passage and adoption of this Ordinance by the City Council and shall cause this ordinance to be published or posted in accordance with Government Code Section 36933 as required by law.

SECTION 14. Submission to Department of Housing and Community Development. Pursuant to Government Code section 65852.2(h), a copy of this ordinance shall be submitted to the Department of Housing and Community Development within 60 days after adoption.

SECTION 15. Effective Date. This Ordinance shall be effective on the thirty-first day after its adoption.

This Ordinance was introduced on _____, 2022, and adopted by the City Council of the City of Lompoc at its duly noticed regular meeting on _____, 2022, by the following electronic vote:

PASSED AND ADOPTED this ___ day of _____, 2022, by the following electronic vote:

AYES: Council Member(s):
NOES: Council Member(s):
ABSENT: Council Member(s):

Jenelle Osborne, Mayor
City of Lompoc

Attest:

Stacey Haddon, City Clerk
City of Lompoc

Summary of Recent Changes to ADU Laws



In Government Code Section 65852.150, the California Legislature found and declared that, among other things, allowing ADUs in zones that allow single-family and multifamily uses provides additional rental housing and is an essential component in addressing California's housing needs. Over the years, State ADU Law has been revised to improve its effectiveness at creating more housing units. Changes to State ADU Law effective January 1, 2021, further reduce barriers, streamline approval processes, and expand capacity to accommodate the development of ADUs and JADUs. Within this context, the California Department of Housing and Community Development (HCD) developed –

and continues to update – this handbook to assist local governments, homeowners, architects, and the general public in encouraging the development of ADUs. Below is a summary of recent legislation that amended State ADU Law. Please see Attachment 1 for the complete statutory changes.

AB 345 (Chapter 343, Statutes of 2021)

AB 345 (Chapter 343, Statutes of 2021) builds upon recent changes to State ADU Law, particularly Government Code sections 65852.2 and 65852.26, to require the allowance of the separate conveyance of ADUs from the primary dwelling in certain circumstances, provided they meet certain conditions, including those listed below, found in Government Code section 65852.26, subdivisions (a)(1-5):

- The ADU or primary dwelling was built or developed by a qualified nonprofit. (Gov. Code, § 65852.26, subd. (a).)
- There is an enforceable restriction on the use of the property between the low-income buyer and nonprofit that satisfies the requirements of Section 402.1 of the Revenue and Taxation Code. (Gov. Code, § 65852.26, subd. (a)(2).)
- The entire property is subject to the affordability restrictions to assure that the ADU and primary dwelling are preserved for owner-occupied, low-income housing for 45 years and are sold or resold only to a qualified buyer. (Gov. Code, § 65852.26, subd. (a)(3)(D).)
- The property is held in a recorded tenancy in common agreement that meets certain requirements. (Gov. Code, § 65852.26, subd. (a)(3).)

AB 345 does not apply to JADUs, and local ordinances must continue to prohibit JADUs from being sold separately from the primary residence.

AB 3182 (Chapter 198, Statutes of 2020)

AB 3182 (Chapter 198, Statutes of 2020) builds upon recent changes to State ADU Law, specifically Government Code section 65852.2 and Civil Code Sections 4740 and 4741, to further address barriers to the development and use of ADUs and JADUs.

This legislation, among other changes, addresses the following:

- States that an application for the creation of an ADU or JADU shall be *deemed approved* (not just subject to ministerial approval) if the local agency has not acted on the completed application within 60 days. (Gov. Code, § 65852.2, subd. (a)(3).)
- Requires ministerial approval of an application for a building permit within a residential or mixed-use zone to create one ADU *and* one JADU per lot (not one or the other), within the proposed or existing single-family dwelling, if certain conditions are met. (Gov. Code, § 65852.2, subd. (e)(1)(A).)
- Provides for the rental or leasing of a separate interest ADU or JADU in a common interest development, notwithstanding governing documents that otherwise appear to prohibit renting or leasing of a unit, and without regard to the date of the governing documents. (Civ. Code, § 4740, subd. (a), and Civ. Code, § 4741, subd. (a).)
- Provides that not less than 25 percent of the separate interest units within a common interest development be allowed as rental or leasable units. (Civ. Code, § 4740, subd. (b).)

AB 68 (Chapter 655, Statutes of 2019), AB 881 (Chapter 659, Statutes of 2019), and SB 13 (Chapter 653, Statutes of 2019)

AB 68 (Chapter 655, Statutes of 2019), AB 881 (Chapter 659, Statutes of 2019), and SB 13 (Chapter 653, Statutes of 2019) build upon recent changes to ADU and JADU Law, specifically Government Code sections 65852.2 and 65852.22, and further address barriers to the development of ADUs and JADUs.

This legislation, among other changes, addresses the following:

- Prohibits local agencies from including in development standards for ADUs requirements on minimum lotsize. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i).)
- Clarifies that areas designated by local agencies for ADUs may be based on the adequacy of water and sewer services, as well as on impacts on traffic flow and public safety. (Gov. Code, § 65852.2, subd. (a)(1)(A).)
- Eliminates all owner-occupancy requirements by local agencies for ADUs approved between January 1, 2020, and January 1, 2025. (Gov. Code, § 65852.2, subd. (a)(6).)
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1,000 square feet if the ADU contains more than one bedroom and

requires approval of a permit to build an ADU of up to 800 square feet. (Gov. Code, § 65852.2, subs. (c)(2)(B) and (C).)

- Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement of off-street parking spaces cannot be required by the local agency. (Gov. Code, § 65852.2, subd. (a)(1)(D)(xi).)
- Reduces the maximum ADU and JADU application review time from 120 days to 60 days. (Gov. Code, § 65852.2, subd. (a)(3) and (b).)
- Clarifies that “public transit” includes various means of transportation that charge set fees, run on fixed routes, and are available to the public. (Gov. Code, § 65852.2, subd. (j)(9).)
- Establishes impact fee exemptions and limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees, and ADUs that are 750 square feet or larger may be charged impact fees but only such fees that are proportional in size (by square foot) to those for the primary dwelling unit. (Gov. Code, § 65852.2, subd. (f)(3).)
- Defines an “accessory structure” to mean a structure that is accessory and incidental to a dwelling on the same lot. (Gov. Code, § 65852.2, subd. (j)(2).)
- Authorizes HCD to notify the local agency if HCD finds that the local ADU ordinance is not in compliance with state law. (Gov. Code, § 65852.2, subd. (h)(2).)
- Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy its Regional Housing Needs Allocation (RHNA). (Gov. Code, §§ 65583.1, subd. (a), and 65852.2, subd. (m).)
- Permits JADUs even where a local agency has not adopted an ordinance expressly authorizing them. (Gov. Code, § 65852.2, subs. (b) and (e).)
- Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom and an interior entry into the single-family residence. (Gov. Code, § 65852.22, subd. (a)(4-5).)
- Requires, upon application and approval, a local agency to delay enforcement against a qualifying substandard ADU for five years to allow the owner to correct the violation, so long as the violation is not a health and safety issue, as determined by the enforcement agency. (Gov. Code, § 65852.2, subd. (n); Health & Safety Code, § 17980.12).)

[AB 587](#) (Chapter 657, Statutes of 2019), [AB 670](#) (Chapter 178, Statutes of 2019), and [AB 671](#) (Chapter 658, Statutes of 2019)

In addition to the legislation listed above, AB 587 (Chapter 657, Statutes of 2019), AB 670 (Chapter 178, Statutes of 2019), and AB 671 (Chapter 658, Statutes of 2019) also have an

impact on State ADU Law, particularly through Health and Safety Code Section 17980.12. These pieces of legislation, among other changes, address the following:

- AB 587 creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separately from the primary dwelling by allowing deed-restricted sales to occur if the local agency adopts an ordinance. To qualify, the primary dwelling and the ADU are to be built by a qualified nonprofit corporation whose mission is to provide units to low-income households. (Gov. Code, § 65852.26.)
- AB 670 provides that covenants, conditions and restrictions that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable. (Civ. Code, § 4751.)
- AB 671 requires local agencies' housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low-, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction, and operation of affordable ADUs. (Gov. Code, § 65583; Health & Safety Code, § 50504.5.)