



CITY OF LOMITA CITY COUNCIL REPORT

TO: City Council **Item No. {{section.number}}a**

FROM: Andrew Vialpando, City Manager

PREPARED BY: Adrian Fernandez, Community and Economic Development Director

MEETING DATE: December 3, 2024

SUBJECT: Zoning Text Amendment No. 2024-06 – An update to the Lomita Municipal Code Regarding Accessory Dwelling Units and Junior Accessory Dwelling Units to Comply with Recent Changes in State Law

RECOMMENDATION

Open the public hearing, receive public testimony, close the public hearing, and by motion:

1. Find that the adoption of the proposed urgency ordinance is statutorily exempt from review under the California Environmental Quality Act (CEQA) under Public Resources Code section 21080.17.
2. Waive full reading and adopt by title only Urgency Ordinance No. 865: “AN URGENCY ORDINANCE AMENDING SECTION 11-1.30.06 OF LOMITA MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND FINDING THE ACTION TO BE STATUTORILY EXEMPT FROM CEQA UNDER PUBLIC RESOURCES CODE § 21080.17”
3. Introduce on first reading, by title only, Ordinance No. 866: “AN ORDINANCE AMENDING SECTION 11-1.30.06 OF LOMITA MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND FINDING THE ACTION TO BE STATUTORILY EXEMPT FROM CEQA UNDER PUBLIC RESOURCES CODE § 21080.17”

BACKGROUND

In recent years, the California Legislature has approved, and the Governor has signed into law, numerous bills that impose limits on local authority to regulate Accessory

Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs). In 2024, the California Legislature approved, and the Governor signed into law, two new bills — Assembly Bill (AB) 2533 and Senate Bill (SB) 1211 — that further amend State ADU law as summarized below.

AB 2533 – Unpermitted ADUs and JADUs

Subject to limited exceptions, existing state law prohibits a city from denying a permit to legalize an unpermitted ADU that was constructed before January 1, 2018, if the denial is based on the ADU not complying with applicable building, state or local ADU standards. One exception allows a city to deny a permit to legalize if the city makes a written finding that correcting the violation is necessary to protect the health and safety of the public or the occupants of the structure.

AB 2533 changes this by: (1) expanding the above prohibition to also include JADUs; (2) moving the construction-cutoff date from January 1, 2018, to January 1, 2020; and (3) replacing the above exception with a requirement that local agencies find that correcting the violation is necessary to comply with the standards specified in Health and Safety Code section 17920.3 (Substandard Buildings). (See amended Gov. Code, § 66332(a)–(f).)

SB 1211 – Replacement Parking Requirements; Multifamily ADUs

Replacement Parking

Existing State law prohibits a city from requiring off-street parking spaces to be replaced when a garage, carport or covered parking structure is demolished in conjunction with the construction of, or conversion to, an ADU.

SB 1211 amends this prohibition to now also prohibit a city from requiring replacement parking when an uncovered parking space is demolished for or replaced with an ADU. (See amended Gov. Code, § 66314(d)(11).)

Multifamily ADUs

SB 1211 further defines livable space in connection with converted ADUs inside a multifamily dwelling structure. Existing state law requires the City to ministerially approve qualifying building-permit applications for ADUs within “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” The term “livable space” is not defined by existing state ADU law.

SB 1211 changes this by adding a new definition: “‘Livable space’ means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.” (See amended Gov. Code, § 66313(e).)

SB 1211 also increases the number of detached ADUs that lots with an existing multifamily dwelling can have. Existing state law allows a lot with an existing or proposed multifamily dwelling to have up to two detached ADUs.

Under SB 1211, a lot with an existing multifamily dwelling can have up to eight detached ADUs, or as many detached ADUs as there are primary dwelling units on the lot, whichever is less. (See amended Gov. Code, § 66323(a)(4)(A)(ii).) SB 1211 does not alter the number of ADUs that a lot with a proposed multifamily dwelling can have — the limit remains at two. (See amended Gov. Code, § 66323(a)(4).)

Next Steps & Recommendation

Both AB 2533 and SB 1211 take effect January 1, 2025. If the City's ADU ordinance does not comply with requirements of both bills by that date, the City's entire existing ADU ordinance becomes null and void as a matter of law, and the City will have to allow ADUs with no regulation except for the few requirements in the state ADU law itself. The approval of ADUs and JADUs based solely on these default statutory standards, without local regulations governing height, setback, landscape, and architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety.

The proposed Urgency Ordinance No. 865 will take immediate effect upon adoption. Typically, an ordinance affecting planning and zoning is approved by the City Council after a planning-agency recommendation, a first reading and introduction before the City Council and then a second reading at a regular Council meeting — with the ordinance taking effect 30 days following adoption. However staff recommends that the City Council adopt this ordinance as an urgency measure because AB 2533 and SB 1211 will take effect on January 1, 2025, before a non-urgency adoption would take effect. The urgency ordinance will concurrently be adopted with Ordinance No. 866, which will follow the typical ordinance adoption process.

Consequently, it is recommended that the City Council adopt the proposed urgency ordinance (Attachment 1), which will ensure that the City's ADU ordinance remains valid when AB 2533 and SB 1211 take effect on January 1, 2025. At the same time, staff recommends that the City Council adopt the proposed ordinance (Attachment 2) with the typical ordinance adoption process.

ENVIRONMENTAL REVIEW

Under California Public Resources Code section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county implementing the provisions of Article 2 of Chapter 13 of Division 1 of Title 7 of the California Government Code, which is California's ADU law and which also regulates JADUs, as defined by section 66313. Therefore, the adoption of the proposed ordinances is statutorily exempt from CEQA in that it implements state ADU law.

FISCAL IMPACT

There are no financial implications resulting from this recommendation.

OPTIONS

1. Approve the attached ordinance.
2. Do not approve the ordinance.
3. Provide staff with further direction.

ATTACHMENTS

1. Proposed Urgency Ordinance No. 865
2. Proposed Ordinance No. 866

Reviewed by:



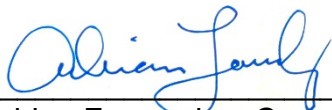
Gary Y. Sugano
Assistant City Manager

Approved by:



Andrew Vialpando
City Manager

Prepared by:



Adrian Fernandez, Community and Economic Development Director