

## **D. Accessory Dwelling Units (ADUs)**

### *Background and Purpose*

#### **ADU Purpose**

Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) are additional independent living facilities, for one or more persons, which are located on the same parcel as a single-unit or multi-unit residential dwelling. The concept of ADUs has existed for decades but has recently come to the forefront of the California housing discussion due to legislation passed starting in 2018. This legislation, discussed in more detail in the following section, makes it easier to develop ADUs by increasing the development zones where ADUs can be built, broadening the definition of an ADU, and removing previous restrictions such as requiring replacement parking.

In areas such as Newport Beach where land values are high and there is a large amount of single-unit detached housing, ADUs present a potentially more naturally affordable housing option for renters. ADUs are often smaller in size than typical apartments or rental housing, ranging from 300 to 600 square feet in size. They are also attractive to property owners who can gain rental income.

The City of Newport Beach (City) believes that ADUs present a viable option as part of the overall strategy to develop housing at all income levels during the 2021-2029 6<sup>th</sup> Cycle Housing Element planning period.

**Appendix D** describes:

- Recent ADU legislation and regional actions;
- Local factors that may increase ADU development over the next eight years; and
- Actions Newport Beach will take through housing programs to incentivizing ADU development.

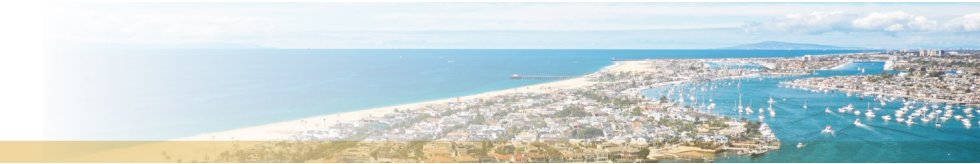
#### **Background on Legislation and Statutory Requirements**

Currently in Newport Beach, ADUs and JADUs are primarily regulated through Section 20.48.200 (Accessory Dwelling Units) of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC). Within the Coastal Zone, ADUs and JADUs are primarily regulated through Section 21.48.200 (Accessory Dwelling Units) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC.

ADU legislation is addressed in Government Code Section 65852.150; it establishes that ADUs are valuable and viable form of housing which can support the varying needs of California residents. In recent years, ADU legislation has been revised to increase opportunity and improved effectiveness in creating more housing in California. Recent changes in law have increased the feasibility and streamlined the ADU process to encourage development; below is a summary of recent legislation that has amended ADU law.

#### **SB 1069**

SB 1069 made legislative changes to address barriers to the development of ADUs and expanded capacity for ADU development. The bill reduces parking requirements per unit, restricts local agencies' ability to require ADU applicants to install new or separate utility connects or impose related fees, and requires local governments to ministerially approve applications for one ADU within single-unit residential so long as it meets specific requirements.



### **AB 2299**

AB 2299 requires local governments to ministerially approve ADUs if the proposed unit meets all parking requirements, maximum allowable size of an attached unit and specific setback requirements. Additionally, the bill states that any existing ADU ordinances do not meet the bill's requirements is null and void and that the jurisdiction must approve accessory dwelling units based on Government Code Section 65852.2 until the jurisdiction adopts a compliant ordinance.

### **AB 2406**

AB 2406 creates more flexibility by authorizing local governments to permit junior accessory dwelling units (JADU) through an ordinance. The bill defines JADUs to be a unit that cannot exceed 500 square feet and must be completely contained within the space of an existing residential structure. In addition, the bill requires specified components for a local JADU ordinance.

### **AB 3182**

AB 1382 further addresses barriers to the development and use of ADUs and JADUs in local jurisdictions. The legislation streamlines approvals of ADU and JADUs using ministerial approval processes, including a requirement that complete applications for a compliant ADU/JADU which have not been acted upon within 60 days are *deemed approved*.

### **AB 68, AB 881, SB 13**

AB 68, 881 and SB 13 prohibits a number development standards and design regulations a local government may impose in ADU/JADUs, decreased the allowable time for an ADU review and permitting process, reduces the allowable associated fees for ADUs and provided additional regulatory clarifications and guidelines pursuant to Government Code Sections 65852.2, 65852.22.

### **AB 587**

AB 587 permits an ADU to be sold or conveyed as a deed restricted affordable unit separately from the primary dwelling residence. Additional, regulations are outlined in Government Code Section 65852.26, including the provision that the primary and accessory unit must be built by a qualified nonprofit.

### **AB 670**

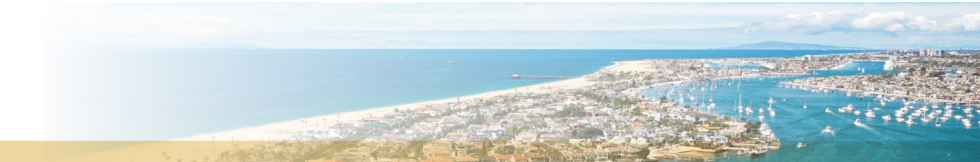
AB 670 states that all covenants or provisions that unreasonably restrict or prohibit the development of ADU/JADUs on a lot zoned for single-unit residential use is void and unenforceable.

### **AB 671**

AB 671 requires jurisdictions to include a plan and programs in the Housing Element which incentivizes and promotes the development of ADUs for very low, low- and moderate-income households.

## **HCD/SCAG Policies and Programs**

In August 2020, the State Department of Housing and Community Development (HCD) and the Southern California Association of Governments (SCAG) completed an analysis of accessory dwelling unit affordability to establish approved assumptions for use in the sites analysis for the 2021-2029 Housing Element Cycle. The analysis surveyed rents for ADUs through different online real estate platforms between April and June 2020 and focused on specific geographic regions to determine differences in



affordability. The final affordability assumptions resulting from SCAG and HCD's analysis for jurisdictions within Orange County are as follows:<sup>1</sup>

- Extremely Low – 15.0%
- Very Low – 10.0%
- Low – 43.0%
- Moderate – 30.0%
- Above Moderate – 2.0%

The City of Newport Beach applied the above approved affordability breakdown to the anticipated ADU development within the 6<sup>th</sup> Cycle planning period.

## *Opportunities for ADUs in Newport Beach*

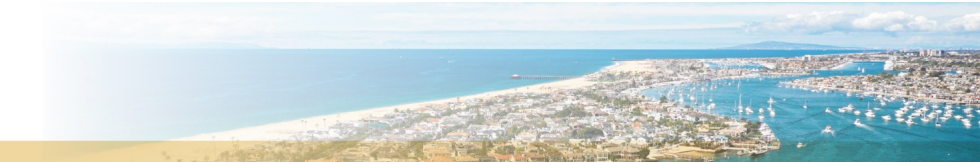
### **Influences Supporting Affordable Housing in Newport Beach**

Opportunities to develop affordable housing on vacant land in the City are extremely limited with only three parcels qualifying based on the SCAG Housing Element Parcel Tool (HELPR) (see **Figure 1**). The City, however, has substantial opportunity to develop affordable housing through ADUs based on the following key factors:

- **High land values in the City incentivize ADU development** - Because of the high land values in Newport Beach and the propensity to have viable, financially performing properties, infill opportunities on existing residential sites via ADU development represents the greatest opportunity for affordable housing construction and to integrate such development within established neighborhoods. According to SCAG's HELPR, there are numerous parcels that could qualify for by-right detached ADUs, with little to no restrictions. In addition, every single-unit in the City has the potential to convert existing space, including garage area, into an ADU or JADU by-right, resulting in approximately 19,000 eligible properties (see **Figure D-2**). Therefore, the City contends this provides the most significant opportunity to generate affordable housing in the community.
- **Site availability for ADUs are significant** - Almost 8,000 existing parcels have the physical space to accommodate detached ADUs and provide for ample opportunity to add to the housing stock. Whereas the City may lose economic potential, jobs and tax base with infill redevelopment of existing commercial uses, encouraging ADU development on existing residential properties does not deteriorate economic, job and tax base considerations. Rather, it will likely enhance availability of diverse housing opportunities, promote economic stability and further the City's tax base.
- **Positive Historical Trends in ADU Development** - The City's history of ADU/JADU development within multifamily developments demonstrates opportunity to develop attached ADUs as an affordable component of larger housing projects. These positive trends are directly correlated with the City's current efforts to provide supportive policies, outreach and information dissemination to its residents. The City has experienced year over year increase in ADU activity

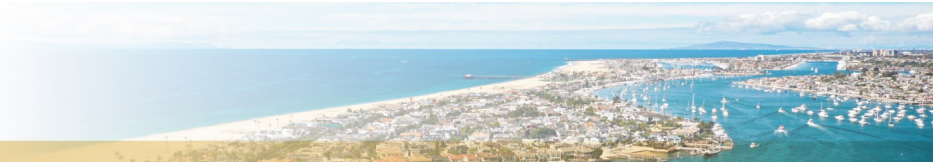
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<sup>1</sup> SCAG Regional Accessory Dwelling Unit Affordability Analysis, 2020

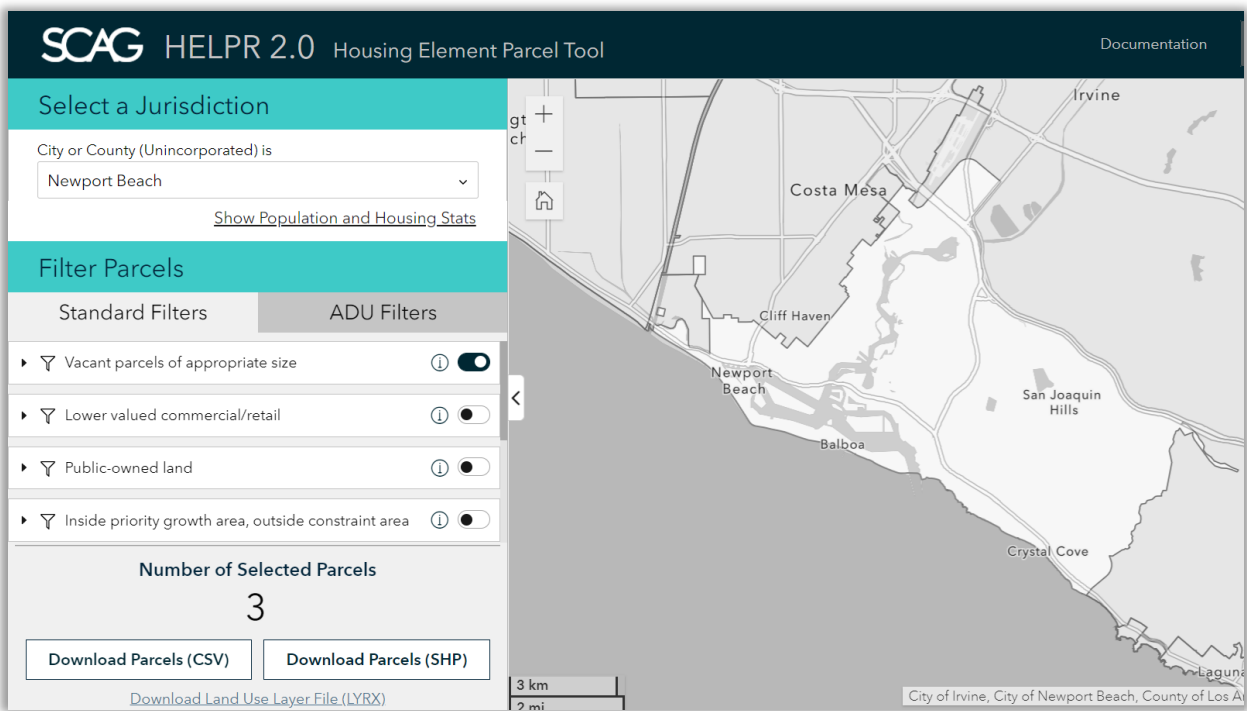


in the City and will continue to see these trends increase and exponentially expand throughout the 2021-2029 planning period through intensified public outreach and development incentives.

- **Demonstrated Commitment to ADU Development through Policies/Programs** – The City Council has recently adopted policies that support ADU development and has developed an ADU Ordinance that strongly encourages ADU development. In addition, that City will adopt additional ADU policies the further support ADU development citywide. Providing strong support through policies, community outreach and monitoring of ADU construction.
- **Council Policy K-4 (Reducing the Barriers to the Creation of Housing)** – On March 9, 2021, the City Council adopted Council Policy K-4, which includes a stated goal of increasing the production of ADUs and JADUs. The policy recognizes that further encouraging development of ADUs beyond State law minimums is an important strategy to accommodate future growth. To further encourage and incentive the development of ADUs, the policy set forth the following directives:
  1. Interpret ambiguities in code provisions regulating ADUs in a manner that accommodates and maximizes production.
  2. Direct staff and the Planning Commission to review and recommend code changes that reduce regulatory barriers, streamline the approval process, and expand potential capacity of ADUs beyond minimum State law requirements
  3. Publicize incentives for construction of ADUs with a systematic approach utilizing all forms of media and outreach.
  4. Prepare and maintain a user-friendly website committed to information related to codes, processes, and incentives pertaining to the development of ADUs and JADUs in the City.
  5. Develop and administer a program that includes waiving all permit and City fees for property owners of unpermitted units when they agree to bring units into compliance with current building and fire codes to ensure the safety of occupants and structures.
  6. Develop permit-ready standard plans to permit new ADU construction to minimize design costs, expedite permit processing, and provide development certainty for property owners.
- **Temporary 2-Year Fee Waiver Program for ADU and JADU Development** – On April 27, 2021, the City Council adopted Resolution No. 2021-37 waiving City building plan check, building construction permit, and other related City fees required for plan check, permits, inspections, re-inspections and other related activities, for the design and construction of ADUs and JADUs on existing residential developments and the legalization of exiting unpermitted ADUs and JADUs.

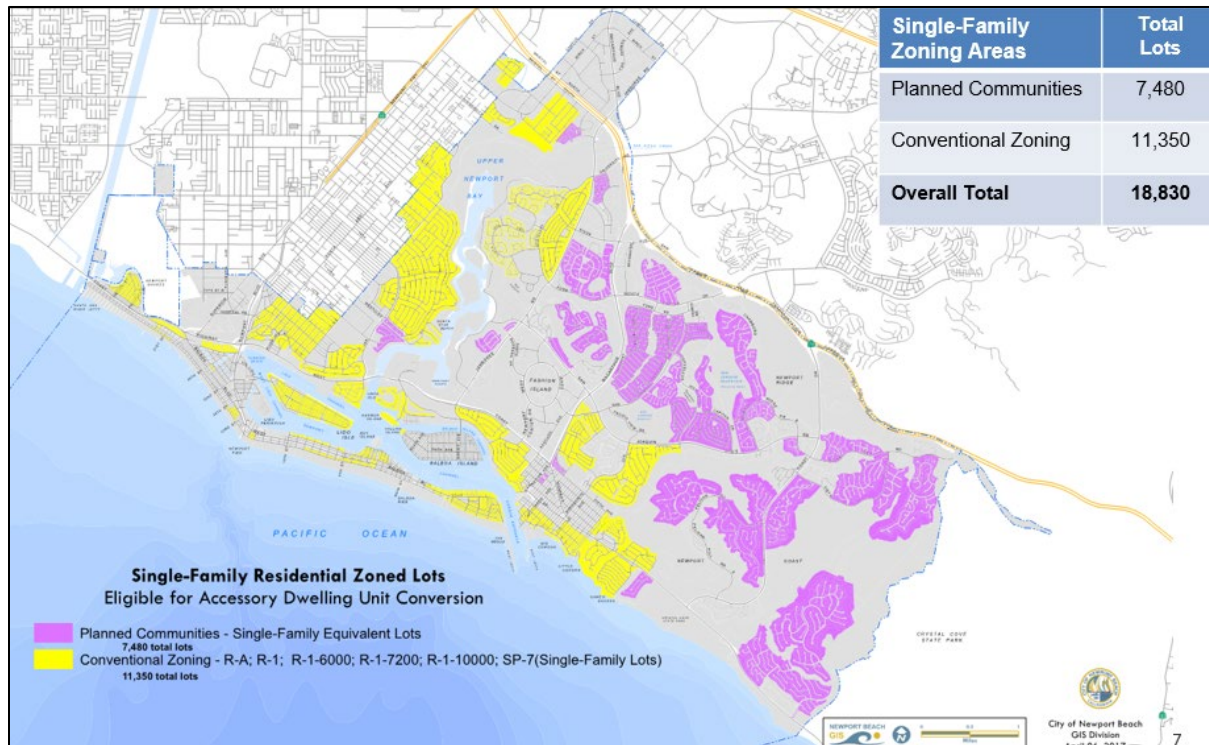


**Figure D-1: Vacant Land Availability**

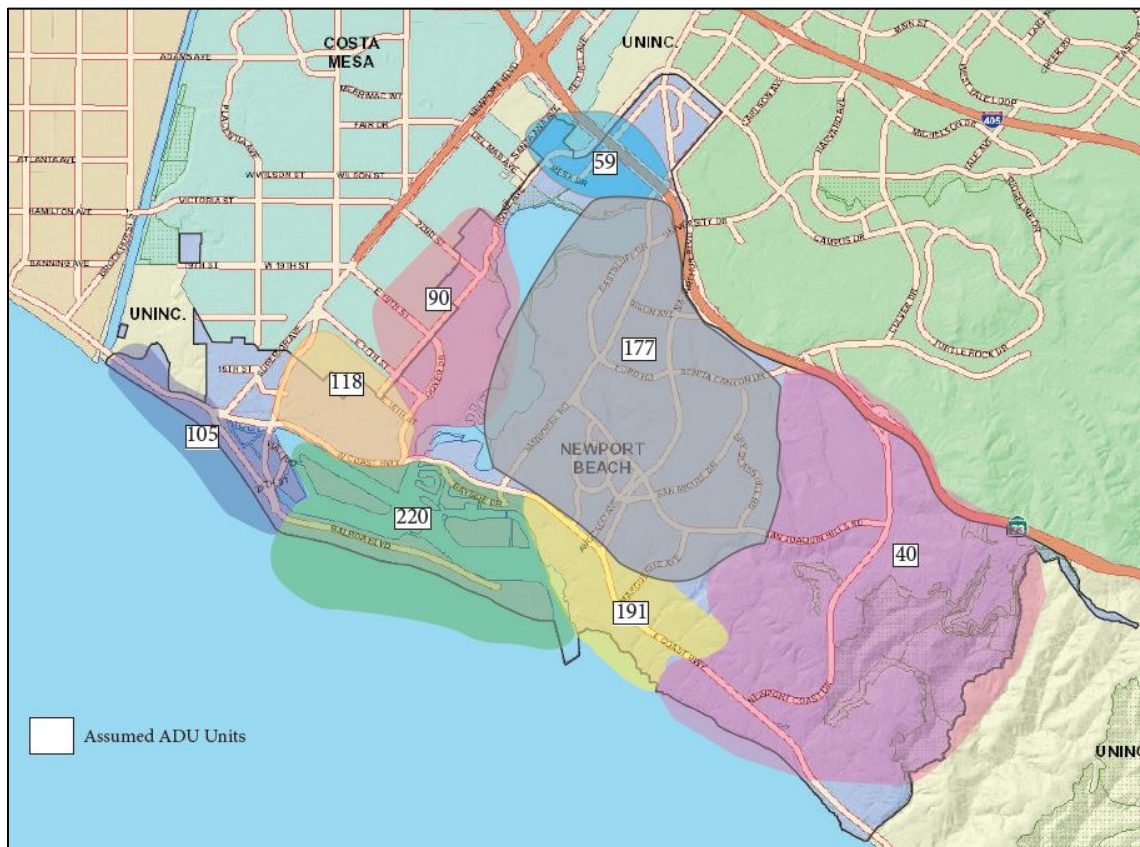


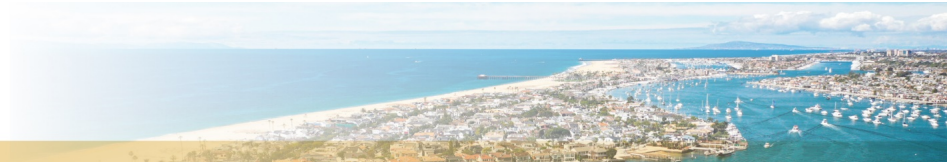


**Figure D-2: ADU Eligible Lots**



**Figure D-4 – ADU Opportunity Areas Map**





### *Local ADU Trends and 2021-2029 Projections*

There are several indicators of growth in ADU development since 2018 within Newport Beach. **Table D-1** shows the City's total ADU development since 2018, considering applications, permits, and finalized ADU units. The City of Newport Beach saw a twofold increase from 3 units with some level of ADU development to 6 in 2019. The largest increase came in 2020 when the City received 45 ADU applications (between traditional applications and zone change applications which do not require a plan check). It is anticipated that the majority of these units will be permitted and finalized in 2021. In addition to the 45 applications received, the City permitted 4 ADUs and finalized an additional 3 units. This represents almost 10-fold growth from 2019 to 2020, due in large part to increased education of property owners, City Council support of ADU development, and additional local policies promoting the development of ADUs. These are described in more detail in the following sections.

**Table D-1: Newport Beach ADU Development (2018-2020)**

ADU STATUS	2018	2019	2020	Total
<b>Finalized</b>	1	1	3	5
<b>Permitted</b>	1	4	4	12
<b>Applied</b>	1	1	40	42
<b>ZC Applied (No Plan Check)</b>			5	5
<b>Total</b>	<b>3</b>	<b>6</b>	<b>55</b>	<b>64</b>

### **Newport Beach 2021-2029 ADU Projections**

Based on the data in **Table D-1**, the citywide availability of land for ADU development and the existing and future policy supporting ADU development, Newport Beach is reasonably and justifiably projecting future growth beyond the safe harbor methodology provide in HCD's published guidance. The City believes the 2018-2020 ADU growth patterns, extensive local policy emphasis on ADU development, and proposed housing programs described in **Section 4** of the Housing Element strongly support continued year over year growth of ADU development.

Figure D-2 – Accessory Dwelling Unit Ordinance Summary (Part 1)



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### ACCESSORY DWELLING UNIT ORDINANCE SUMMARY

Revised 05/25/21

Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) are regulated by Newport Beach Municipal Code

Sections [20.48.200](#) and [21.48.200](#). Ministerial review of all ADUs and JADUs will occur through a Zoning Clearance within 60-days of receiving a complete application. A Coastal Development Permit may also be required for properties within the Coastal Zone. Please consult with a planner prior to submitting an ADU/JADU project.








	JADU	SINGLE UNIT – ADU				MULTI-UNIT – ADU	
ADU Type	 <b>CONVERSION<sup>1</sup></b> Conversion of an interior portion of an existing or proposed single-unit dwelling	 <b>CONVERSION<sup>1</sup></b> Conversion of an interior portion of an existing or proposed single-unit dwelling or an existing detached accessory building	 <b>ATTACHED<sup>1</sup></b> Construction of a new ADU attached to an existing or proposed single-unit dwelling	 <b>DETACHED</b> Construction of a new ADU as a detached accessory building	 <b>ABOVE DETACHED GARAGE</b> Construction of a new ADU above a detached garage	 <b>CONVERSION</b> Conversion of an existing non-habitable portion of a multi-unit development	 <b>DETACHED</b> Construction of a new ADU as a detached accessory building
Zoning	Allowed on all residential and mixed zoned properties that are improved with a single-unit dwelling					Allowed on all residential and mixed zoned properties that are improved with multi-unit dwellings	
Number of Units	One					At least one and no more than 25% of the existing unit count in the multi-unit development	Two
Allowed with Other ADU	May also provide detached single-unit ADU	No		May also provide JADU		No	
Additional Floor Area	No	Maximum 150 square feet to accommodate ingress/egress <sup>2</sup>	Yes			No	Yes
Minimum Lot Size	None						
Minimum Size	Must meet minimum efficiency unit requirements, as set forth in the Building Code						
Maximum Size (Square Feet)	500	No limit	Studio/One-Bedroom = 850 Two Bedroom = 1,000 Can be no more than 50% of existing primary dwelling	Studio and One-Bedroom = 850 Two Bedroom = 1,000			
Maximum Size Exception	None	None	Application of floor area limit or site coverage shall not reduce ADU below 800 square feet			None	Application of floor area limit or site coverage shall not reduce ADU below 800 square feet
Maximum Height	Per base zone	Per base zone	Per base zone	16 feet	Per base zone	N/A	16 feet
Front Setback <sup>3</sup>	Per base zone						
Side Setback <sup>3</sup>	Per base zone	Per base zone	4 feet or base zone, whichever is less		Per base zone	Per Base Zone	4 feet or base zone, whichever is less










Figure D-2 – Accessory Dwelling Unit Ordinance Summary (Part 2)



CITY OF  
NEWPORT BEACH

### ACCESSORY DWELLING UNIT ORDINANCE SUMMARY

Revised 05/25/21

	JADU	SINGLE UNIT – ADU				MULTI-UNIT – ADU	
ADU Type	 <b>CONVERSION<sup>1</sup></b> Conversion of an interior portion of an existing or proposed single-unit dwelling	 <b>CONVERSION<sup>1</sup></b> Conversion of an interior portion of an existing or proposed single-unit dwelling or an existing detached accessory building	 <b>ATTACHED<sup>1</sup></b> Construction of a new ADU attached to an existing or proposed single-unit dwelling	 <b>DETACHED</b> Construction of a new ADU as a detached accessory building	 <b>ABOVE DETACHED GARAGE</b> Construction of a new ADU above a detached garage	 <b>CONVERSION</b> Conversion of an existing non-habitable portion of a multi-unit development	 <b>DETACHED</b> Construction of a new ADU as a detached accessory building
Rear Setback <sup>3</sup>	Per base zone	Per base zone	4 feet (not abutting alley) or base zone, whichever is less		Per base zone	Per Base Zone	4 feet (not abutting alley) or base zone, whichever is less
Access	Exterior entrance required in all cases. JADUs may provide internal connection.						
Bathroom	May share with primary dwelling unit	Bathroom is required					
Kitchen	Efficiency <sup>4</sup>	Full kitchen, including fixed cooking appliance with outside exhaust.					
Parking	None		One		One plus the primary dwelling must comply with parking	None	One per unit
Parking Exception	N/A	Parking waived for the ADU if the property is: 1) within ½ mile walking distance to transit (including ferry); 2) within an architecturally or historically significant district; 3) on-street parking permits are required and not provided to the occupant of the ADU; or 4) within one block of a car-share vehicle pick-up/drop-off location					
Garage Conversion	Allowed; Replacement parking required citywide	Allowed; Replacement parking required in the Coastal Zone	N/A			Allowed; Replacement parking required in the Coastal Zone	N/A
Deed Restriction	Prior to issuance of building permit, owner must record deed restriction (prepared by the City) noting the size of the unit, description of unit, prohibition on short term rentals, prohibiting the sale of the ADU/JADU, and specifying owner-occupancy requirement.						
Owner-Occupancy	Owner shall live in either unit	Owner-occupancy is not required for units built between January 1, 2020 and January 1, 2025					
Short-Term Lodging	Short-term lodging is prohibited.						
Utility Connection	A separate utility connection is not required <sup>5</sup>		The City may require a separate utility connection				
Fire Sprinklers	Only required if fire sprinklers required and provided on primary unit						
Separate Conveyance	ADUs and JADUs may not be sold separately						
Design	Shall have a similar style to the principal dwelling, including architectural style, roof pitch, color, and materials						

<sup>1</sup> Conversion is either: 1) conversion of existing floor area within the envelope of an existing single-unit dwelling (including garage); or 2) development of an ADU within the footprint of a proposed single-unit dwelling (excluding garage) that complies with all applicable development standards. Construction of a new ADU that extends beyond the envelope of an existing single-unit dwelling or beyond the footprint of a proposed single-unit dwelling shall comply with the standards applicable to Attached ADUs.

<sup>2</sup> Applicable to conversions of existing accessory structures only. Conversions within principal structure not entitled to 150 sf addition.

<sup>3</sup> For conversion of existing enclosed floor area, garage, or carport, no additional setback required. For replacement of an existing enclosed structure, garage, or carport, no additional setback is required beyond the existing setback.

<sup>4</sup> An efficiency kitchen may include a basic plug-in cooking appliance such as hot plate or microwave. A sink, food preparation counter and storage cabinets of reasonable size required.

<sup>5</sup> A separate utility connection may be required when the JADU or ADU is constructed as part of a new single-unit dwelling.

Newport Beach's commitment to ADU development through verifiable implementation of a specific programs that demonstrate a positive impact on ADU trends within the City.

**Table D-2: 2021-2029 ADU Capacity Assumptions**

Year	Aggressive Approach
<b>Planning Period Total</b>	<b>1,000</b>
2029	341
2028	231
2027	155
2026	104
2025	70
2024	47
2023	31
2022	21
<b>2018 - 2020 Average</b>	<b>21.3</b>

**Table D-2** shows the City's ADU assumptions as described in **Appendix B** of the Housing Element. As noted, the City anticipates that growth in ADU development will continue to occur year over year with the potential for 1,000 accessory dwelling units to be constructed during the eight-year planning period. While seemingly a large number of units, 1,000 ADUs represents approximately 4.6 percent of the total existing single-family detached houses within Newport Beach. This does not factor in that ADUs can be developed on parcels with multi-unit developments or that single-unit uses may develop an ADU and a JADU, for a total of two additional units on one single-unit lot.

The City of Newport Beach is well positioned, both from an availability of potential development areas within existing single-unit neighborhoods and from a political will standpoint, to realize a large increase in ADU development during the 2021-2029 planning period.

### *Housing Element Policy Framework*

The City of Newport Beach has identified programs to maintain and encourage ADUs during the 2021-2029 planning period. The matrix below identified existing policies contain in **Section 4** of this document as well as policies the City will review for feasibility to implement in order to increase affordable housing.

**Table D-3: ADU/JADU Policies and Policy Considerations**

ADU Policy Type/Name	Description	Consideration
<b>Housing Element Policies</b>		
<b>Policy Action 1H: Accessory Dwelling Unit Construction</b>	Support and encourage the development of ADUs in Newport Beach	Explore feasibility of incentives for ADUs, including developing educational campaigns and minimizing development costs through permit ready plans.
<b>Policy Action 1I: Accessory Dwelling Units Monitoring Program</b>	ADU development Tracking Program	To identify progress and make appropriate program adjustments, the City will monitor ADU applications and approval.
<b>Policy Action 1J: Accessory Dwelling Units Amnesty Program</b>	Legalizing unpermitted ADUs	Providing incentives and avenues to bring unpermitted ADUs up to code and regulation.

ADU Policy Type/Name	Description	Consideration
<b>ADU Policies for Consideration</b>		
<b>ADU Development Streamlining</b>	Permit Ready Program	Developing and offering of pre-approved ADU building plans to help to reduce cost burden on applicant side.
<b>JADU Incentive Production</b>	Junior ADU Program	Evaluate additional incentives for JADU production above those currently offered.
<b>Public Outreach and ADU Education Program</b>	ADU Outreach Program	Formal development of public outreach and dissemination of materials for ADU and JADU (both electronically and in print).
<b>ADU/JADU Subsidy Program</b>	Subsidy Incentives to Construct ADUs	Provide grants or low interest loans to interested property owners in exchange for deed restricted ADU/JADUs.
<b>On/Off-Site Development Subsidized</b>	Subsidy Incentives to Construct ADU	Providing a subsidy program to help pay for offsites such as water, sewer.
<b>Production/Incentives</b>	Incentives to create long term affordability of ADU/JADU	Granting square footage bonuses in exchange for affordability covenants.
<b>ADU and JADU Incentive Programs</b>	Various Development Standards and Entitlement Streamlining Actions	<ul style="list-style-type: none"> <li>• Fee Waiver/Deferral</li> <li>• Over the Counter Approvals</li> <li>• ADU One Stop Permit</li> <li>• Subsidies for Affordability</li> <li>• Square Footage Bonuses</li> </ul>

### Summary of Newport Beach ADU Approach

#### Anticipated ADU Growth (Planning Period 2021-2029)

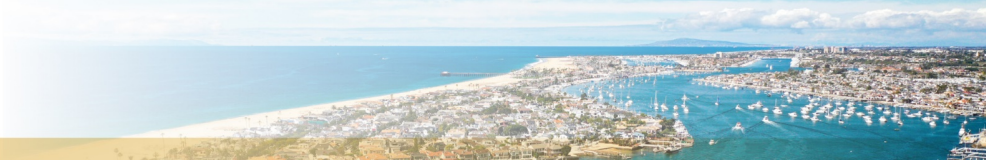
Newport Beach anticipates that the city will continue to see year after year growth in ADU development which matches or exceeds the growth in ADU activity shown from 2019 to 2020. The City has over 21,000 single-unit dwelling units, all of which are eligible to develop one ADU and one JADU. Additionally, multi-unit apartment complexes can also develop ADUs if the requirements of State law and the City's local ordinances are met.

The City is anticipating 1,000 ADUs to be developed within the 2021-2029 planning period. This is based on increased production of ADUs year over year as demonstrated in **Table D-2**.

In accordance with HCD/SCAG guidance on affordability assumptions within the Housing Element Update process, the City anticipates that 680 of these units will be affordable to residents within the very low and low-income categories, 300 will be affordable to residents within the moderate income category, and 20 will be affordable to residents within the above moderate-income category.

#### Supportive Policies and Programs

Newport Beach has proposed programs within the 2021-2029 Housing Element to take meaningful steps towards promoting and incentivizing ADU growth during the planning period. The City will explore



incentives beyond what has been established to date, including the potential for permit-ready plans or a streamlined process if certain requirements are met. **Table D-3** outlines a list of further ADU incentives that the City may explore during implementation of **Policy Action 1H**. The City also plans to continue its ADU amnesty program to bring existing non-conforming accessory units up to code so that the City can realize RHNA credit for these existing housing units within the community.

### **Monitoring Requirements**

The City of Newport Beach is required to report all development within the City, including ADU development, to the State Department of Housing and Community Development (HCD) annually through their Annual Progress Reports (APRs). As part of this reporting, the City must show adequate progress in meeting their identified ADU growth assumptions as described above.

To address HCD's ADU monitoring and reporting requirements, the City has included **Program 1I** within the Housing Plan (Section 4). This states that the City will conduct an assessment of ADU growth within two years of adoption of the Housing Element. If ADU assumptions are not keeping pace with the assumptions made within the Housing Element, the City will implement fall back actions to accommodate the shortfall, if necessary.