



NOTICE OF AVAILABILITY OF DRAFT LOCAL COASTAL PROGRAM AMENDMENT RELATED TO ACCESSORY DWELLING UNITS

NOTICE IS HEREBY GIVEN that in accordance with applicable provisions of the Coastal Act and California Code of Regulations (CCR) §13515, a draft of the proposed amendment is available for public review and inspection at the Planning Division and at all branches of the Newport Beach Public Library for the following amendment to the Implementation Plan (IP) of certified Local Coastal Program (LCP):

Accessory Dwelling Unit Ordinance 2023 Update (LC2021-003) – Amendments to Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code revising the City’s regulations pertaining to Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) to conform with revisions to Government Code Sections 65852.2 and 65852.22 that will go into effect on January 1, 2023. The amendments also include revisions recommended by the Planning Commission Ad-Hoc Committee to incentivize ADU production (PA2021-113).

The Planning Commission of the City of Newport Beach is scheduled to consider this item and make a recommendation to the City Council at a regular meeting to be held at 6:30 p.m. on Thursday, December 8, 2022, at the City of Newport Beach Council Chambers, 100 Civic Center Drive, Newport Beach, CA 92660. The date and time of the Planning Commission meeting has been noticed in accordance with City of Newport Beach notification requirements.

Furthermore, the City Council of the City of Newport Beach is tentatively scheduled to consider this item at a regular meeting to be held on Tuesday, January 24, 2023, at the City of Newport Beach Council Chambers, 100 Civic Center Drive, Newport Beach, CA 92660. The date and time of the City Council meeting will be noticed in accordance with City of Newport Beach notification requirements.

For questions regarding this Amendment, please contact Jaime Murillo, AICP, Principal Planner, at 949-644-3209 or jmurillo@newportbeachca.gov.

Proposed Local Coastal Program Amendment

Proposed Local Coastal Program Amendment No. LC2021-003 Related to Accessory Dwelling Units (PA2021-113)

Section 1: Newport Beach Municipal Code (NBMC) Chapter 21.32 is proposed to be amended as follows:

21.48.200 Accessory Dwelling Units.

A. Purpose. The purpose of this section is to establish the procedures for the creation of accessory dwelling units and junior accessory dwelling units, as defined in Part 7 (Definitions) of this title and in California Government Code Sections 65852.2 and 65852.22, or any successor statute, in areas designated for residential use, including as part of a planned community development plan or specific plan, and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.

B. Effect of Conforming. An accessory dwelling unit or junior accessory dwelling unit that conforms to the requirements in this section shall not be:

1. Deemed to be inconsistent with the Coastal Land Use Plan and coastal zoning district designation for the lot on which the accessory dwelling unit or junior accessory dwelling unit is located;
2. Deemed to exceed the allowable density for the lot on which the accessory dwelling unit or junior accessory dwelling unit is located;
3. Considered in the application of any ordinance, policy, or program to limit residential growth; or
4. Required to correct a legally established 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 or junior accessory dwelling unit. This does not prevent the City from enforcing compliance with applicable building standards in accordance with California Health and Safety Code Section 17980.12.

C. Review Authority. Accessory dwelling units and junior accessory dwelling units shall be approved in any residential or mixed-use zoning district, subject to a zoning clearance building permit provided by the Director and the following conditions:

1. There is an existing or proposed dwelling unit on the lot;
2. The dwelling conforms to the development standards and requirements for accessory dwelling units and/or junior accessory dwelling units as provided in this section;
3. The dwelling conforms to the coastal resource protection development regulations of Section 21.28.040 (Bluff (B) Overlay District), Section 21.28.050 (Canyon (C) Overlay District), Section 21.30.100 (Scenic and Visual Quality Protection), or Chapter 21.30B (Habitat Protection); and

4. ~~Zoning clearance~~ Building permit shall be considered and approved ministerially, without discretionary review or a hearing, within sixty (60) days from the date that the City determines an application to be complete, unless either:

- a. The applicant requests a delay, in which case the sixty (60) day time period is tolled for the period of the requested delay, or
- b. In the case of an application for an accessory dwelling unit and/or junior accessory dwelling unit submitted with an application to create a new single-unit dwelling on the lot, the City may delay acting on the accessory dwelling unit and/or junior accessory dwelling application until the City renders a decision on the new single-unit dwelling application.

D. Coastal Development Permits.

1. Application. The applicant shall obtain a coastal development permit, pursuant to Chapter 21.52 (Coastal Development Review Procedures), unless otherwise exempt or excluded from the coastal development permit process pursuant to Section 21.52.035 (Projects Exempt from Coastal Development Permit Requirements) or Section 21.52.045 (Categorical Exclusions).

2. Hearing Exemption. All of the provisions of Chapter 21.52 (Coastal Development Review Procedures) regarding the review and approval of coastal development permits in relation to accessory dwelling units are applicable, except that a public hearing as required by Chapter 21.62 (Public Hearings) shall not be required. Public notice shall be provided as required in Section 21.62.020, except the requirements of Section 21.62.020(A) shall be replaced with a statement that no local public hearing will be held and that written comments on the proposed development may be submitted. Written comments received shall be reviewed by the review authority.

3. Appeal Exemption. Notwithstanding the local appeal provisions of Chapter 21.64 (Appeals and Calls for Review), coastal development permits for accessory dwelling units that are defined as “appealable development” pursuant to Section 21.64.035(A) may be directly appealed to the Coastal Commission in accordance with the provisions of Section 21.64.035 without a discretionary hearing by the Planning Commission or City Council.

E. Maximum Number of Accessory Dwelling Units Allowed. The following is the maximum number of accessory dwelling units ~~and/or junior accessory dwelling units~~ allowed on any residential lot. For the purposes of this section, “multi-unit dwelling” means a structure or development containing two or more dwelling units. ~~Unless otherwise specified below, o~~Only one of the categories described below in this subsection may be used per lot.

1. Internal to a Single-Unit or Multi-Unit Dwelling Category. Only one accessory dwelling unit ~~or one junior accessory dwelling unit~~ may be permitted on a lot with a proposed or existing single-unit or multi-unit dwelling, subject to the following:

- a. The accessory dwelling unit is proposed:
 - i. Within the space of a proposed single-unit or multi-unit dwelling; or
 - ii. Within the existing space of an existing single-unit or multi-unit dwelling; or
 - iii. Within the existing space of an existing accessory structure, plus an addition

beyond the physical dimensions of the existing structure of up to one hundred fifty (150) square feet if the expansion is limited to accommodating ingress and egress.

~~b. The junior accessory dwelling unit is proposed:~~

~~i. Within the space of a proposed single-unit dwelling; or~~

~~ii. Within the existing space of an existing single-unit dwelling.~~

~~eb.~~ The accessory dwelling unit ~~or junior accessory dwelling unit will~~ shall have independent exterior access from the single-unit dwelling.

~~ec.~~ Side and rear setbacks comply with Title 9 (Fire Code) and Title 15 (Buildings and Construction).

~~2. Detached/Attached on Lot with Single-Unit or Multi-Unit Dwelling Category. One detached or one attached, new construction accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit or multi-unit dwelling. A detached, new-construction accessory dwelling unit may also be permitted in addition to any junior accessory dwelling unit that might otherwise be established on the lot under subsection (E)(1)(b) of this section.~~

~~2. Attached on Lot with Single-Unit or Multi-Unit Dwelling Category. One attached, new-construction accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit or multi-unit dwelling.~~

~~3. Detached on Lot with Single-Unit or Multi-Unit Dwelling Category. One detached new-construction accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit dwelling. Up to two detached new-construction accessory dwelling units may be constructed on a lot that has an existing or proposed multi-unit dwelling. For the purposes of this section, multi-unit developments approved and built as a single complex shall be considered one lot, regardless of the number of parcels.~~

~~3~~ 4. Conversion of Multi-Unit Dwelling Category. Multiple accessory dwelling units may be permitted on lots with existing multi-unit dwellings subject to the following:

a. The number of accessory dwelling units shall not exceed twenty-five (25) percent of the existing multi-unit dwellings on the lot. For the purpose of calculating the number of allowable accessory dwelling units, the following shall apply:

i. Previously approved accessory dwelling units shall not count towards the number of existing multi-unit dwellings;

ii. Fractions shall be rounded down to the next lower number of dwelling units, except that at least one accessory dwelling unit shall be allowed; and

iii. For the purposes of this section, multi-unit developments approved and built as a single complex shall be considered one lot, regardless of the number of parcels.

b. The portion of the existing multi-unit dwelling that is to be converted to an accessory dwelling unit is not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages.

~~4. Detached on Multi-Unit Lot Category. Up to two detached accessory dwelling units may~~

~~be constructed on a lot that has an existing multi-unit dwelling. For the purposes of this section, multi-unit developments approved and built as a single complex shall be considered one lot, regardless of the number of parcels.~~

E. Maximum Number of Junior Accessory Dwelling Units Allowed. One (1) junior accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit dwelling, subject to the following:

1. The junior accessory dwelling unit is proposed to be attached to, or within the space of, a proposed or existing single-unit dwelling.
2. The junior accessory dwelling unit shall have independent exterior access from the single-unit dwelling and may provide interior access to the single-unit dwelling.
3. Side and rear setbacks comply with Title 9 (Fire Code) and Title 15 (Buildings and Construction).
4. The junior accessory dwelling unit may be constructed in addition to an accessory dwelling unit established on the lot with a proposed or existing single-unit dwelling. A junior accessory dwelling unit shall not be allowed on the lot with a proposed or existing multi-unit dwelling.

EE. Development Standards. Except as modified by this subsection, an accessory dwelling unit and/or junior accessory dwelling unit shall conform to all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan), including but not limited to height, setback, site coverage, floor area limit, and residential development standards and design criteria.

1. Minimum Lot Area. There shall be no minimum lot area required in order to establish an accessory dwelling unit and/or junior accessory dwelling unit.
2. Setback Requirements. Accessory dwelling units and junior accessory dwelling units shall comply with the setback requirements applicable to the zoning district, except as noted below:
 - a. For conversion of existing enclosed floor area, garage, or carport, no additional setback is required, beyond the existing provided setback, unless a greater setback is needed to comply with subsection (C)(3) of this section.
 - b. For replacement of an existing enclosed structure, garage, or carport, no existing setback is required, beyond the existing setback provided, unless a greater setback is needed to comply with subsection (C)(3) of this section. This provision shall only apply to accessory dwelling units and junior accessory dwelling units that are replacing existing structures within the same footprint and do not exceed the existing structure's size and/or height. For an accessory dwelling unit that will replace a detached garage, the building and demolition permits shall be reviewed and issued concurrently.
 - c. Attached and detached accessory dwelling units may provide a minimum setback of four feet from all side property lines and rear property lines not abutting an alley.
3. Building Height. Detached accessory dwelling units shall not exceed ~~one story and a height of sixteen (16) feet~~ eighteen (18) feet for structures with flat roofs and twenty (20)

feet for structures with sloped roofs (minimum 3/12 pitch). Notwithstanding the foregoing, an accessory dwelling unit constructed above a detached garage shall not exceed two stories and the maximum allowable height of the underlying zoning district, provided all the following criteria are met:

- a. The accessory dwelling unit meets the minimum setbacks, as required by underlying zoning district; and
- b. The principal dwelling unit complies with parking standards set forth in Section 21.40.040.

4. Unit Size.

- a. The maximum size of a detached or attached accessory dwelling unit is eight hundred fifty (850) square feet for a studio or one-bedroom unit and one thousand (1,000) square feet for a two or more bedroom unit.

~~b.—An attached accessory dwelling unit that is created on a lot with an existing single-unit dwelling is further limited to fifty (50) percent of the floor area of the existing dwelling.~~

b. Application of the size limitations set forth in subsections (F)(4)(a) ~~and (F)(4)(b)~~ of this section shall not apply to accessory dwelling units that are converted as part of a proposed or existing space of a principal residence or existing accessory structure.

cd. Application of ~~size limitations set forth in subsection (F)(4)(b) of this section, or other~~ development standards, such as floor area limit or site coverage, may further limit the size of the accessory dwelling unit, but in no case shall the front setbacks, floor area limit, open space, or site coverage requirement reduce the accessory dwelling unit to less than eight hundred (800) square feet where there is no other alternative to comply and only to the extent necessary ~~and the accessory dwelling unit shall not exceed a height of sixteen (16) feet measured from the finished grade as determined by the Director.~~

de. The maximum size of a junior accessory dwelling unit shall be five hundred (500) square feet.

ef. The minimum size of an accessory dwelling unit or junior accessory dwelling unit shall be at least that of an efficiency unit.

~~5.—Design. An accessory dwelling unit and/or junior accessory dwelling unit shall be similar to the principal dwelling with respect to architectural style, roof pitch, color, and materials.~~

5. Walkout Basement Floor Area Limit Exception. The gross floor area of an accessory dwelling unit or junior accessory dwelling shall be excluded from the allowable floor area limit when located below grade within a basement. Daylighting of the basement shall only be permitted where excavation is necessary to provide exterior access to the main surface level and in compliance with the following:
 - a. The access passageway, inclusive of any necessary shoring, may encroach into a side setback area;
 - b. The passageway shall be free of obstructions from the ground level to a height of eight feet; and

- c. The access passageway measure a minimum of thirty-six (36) inches clear in width, measure no longer than 60 feet in length, and shall not be located within a yard fronting a public right-of-way.

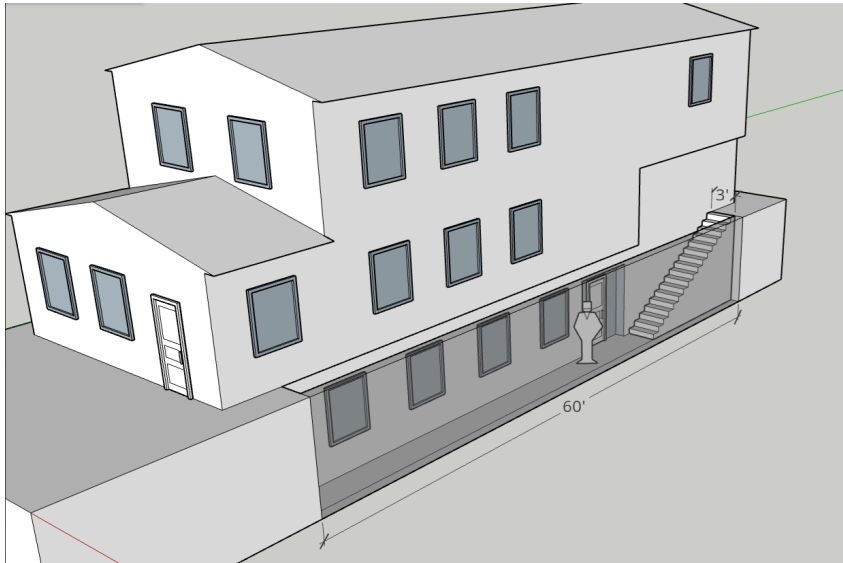


Figure 7-?

Walkout Basement Floor Area Limit Exception

6. Fire Sprinklers. An accessory dwelling unit and/or junior accessory dwelling unit shall not require fire sprinklers so long as fire sprinklers are not required for the principal residence; ~~however, fire sprinklers are encouraged, nor shall the construction of an accessory dwelling unit and/or junior accessory dwelling unit trigger a requirement for fire sprinklers to be installed in the existing single-unit or multi-unit dwelling.~~
7. Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit and/or junior accessory dwelling unit. For the purposes of this section, "passageway" means a pathway that is unobstructed clear to the sky and extends from the street to one entrance of the accessory dwelling unit.
8. Parking. Parking shall comply with requirements of Chapter 21.40 (Off-Street Parking) except as modified below:
- No additional parking shall be required for junior accessory dwelling units.
 - A maximum of one parking space shall be required for each accessory dwelling unit.
 - When additional parking is required, the parking may be provided as tandem parking and/or located on an existing driveway; however, in no case shall parking be allowed in a rear setback abutting an alley or within the front setback, unless the driveway in the front setback has a minimum depth of twenty (20) feet.
 - No parking shall be required for:
 - Accessory dwelling units internal to a proposed principal residence or converted from existing space of principal residence or existing accessory structure;

- ii. Accessory dwelling units located within one-half mile walking distance of public transit. For the purposes of this section “public transit” shall include a bus stop where the public may access buses that charge set fares, run on fixed routes, and are available to the public;
 - iii. Accessory dwelling units located within an architecturally and historically significant historic district;
 - iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or
 - v. When there is a car-share vehicle located within one block of the accessory dwelling unit. For the purposes of this section, “car-share vehicle” shall mean part of an established program intended to remain in effect at a fixed location for at least ten (10) years and available to the public.
- ~~e. If an accessory dwelling unit replaces an existing garage, replacement spaces shall be provided. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, any required replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.~~
- e. Replacement Parking Necessary. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit at the same location or converted to an accessory dwelling unit, replacement parking shall be provided. Replacement parking may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. Accessory dwelling units shall not displace required uncovered parking spaces.

9. Waterfront Development and Flood Hazard Areas.

- a. The minimum top of slab elevation for new interior living areas, including areas converted from nonliving areas, shall comply with the flood hazard and sea level rise protection standards of Section 21.30.015(D).
- b. Any development in shoreline hazardous areas shall comply with Section 21.30.015(E)(2).

GF. Utility Connection.

- 1. Connection Required. All accessory dwelling units and junior accessory dwelling units shall connect to public utilities (or their equivalent), including water, electric, and sewer services.
- 2. Except as provided in subsection (GF)(3) of this section, the City may require the installation of a new or separate utility connection between the accessory dwelling unit, junior accessory dwelling unit and the utilities.
- 3. Conversion. No separate connection between the accessory dwelling unit and the utility

shall be required for units created within a single-unit or multi-unit dwelling(s), unless the accessory dwelling unit is being constructed in connection with a new single-unit dwelling or multi-unit dwellings.

4. **Septic Systems.** If the principal dwelling unit is currently connected to an on-site wastewater treatment system and is unable to connect to a sewer system, accessory dwelling units and junior accessory dwelling units may connect to the on-site wastewater treatment system. However, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last ten (10) years.

HG. Additional Requirements for All Accessory Dwelling Units and Junior Accessory Dwelling Units.

1. **No Separate Conveyance.** An accessory dwelling unit or junior accessory dwelling unit may be rented, but no accessory dwelling unit or junior accessory dwelling unit may be sold or otherwise conveyed separately from the lot and the principal dwelling (in the case of a single-unit dwelling) or from the lot and all of the dwellings (in the case of a multi-unit dwelling).

2. **Short-Term Lodging.** The accessory dwelling unit and/or junior accessory dwelling unit shall not be rented for periods of thirty (30) days or less.

3. **Owner-Occupancy for Junior Accessory Dwelling Units.**

~~a.—Accessory Dwelling Units. A natural person with legal or equitable title to the lot must reside in either the principal dwelling unit or the accessory dwelling unit as the person's legal domicile and permanent residence. However, this owner-occupancy requirement shall not apply to any accessory dwelling unit that is permitted in accordance with this section between January 1, 2020, and January 1, 2025.~~

~~b.—Junior Accessory Dwelling Units. A natural person with legal or equitable title to the lot must reside in either the principal single-unit dwelling unit or the junior accessory dwelling unit as the person's legal domicile and permanent residence. However, this owner-occupancy requirement shall not apply to any junior accessory dwelling unit owned by a governmental agency, land trust, or housing organization.~~

IH. Deed Restriction and Recordation Required.

1. Prior to the issuance of a building and/or grading permit for an accessory dwelling unit and/or junior accessory dwelling unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the owner-occupancy requirements, prohibition on the separate conveyance, the approved size and attributes of the unit, and restrictions on short-term rentals. This deed restriction shall remain in effect so long as the accessory dwelling unit and/or junior accessory dwelling unit exists on the lot.

2. For properties in flood hazard areas, deed restriction shall also include notice to future owners that the unit is located within an area that may be subject to flooding or future flooding.

3. For properties located in low lying shoreline areas that may be subject to future sea level rise, the property owner shall also record a waiver of future protection in compliance

with Section 21.30.015(E)(5).

- J. Historic Resources. Accessory dwelling units and/or junior accessory dwelling units proposed on residential or mixed-use properties that are determined to be historic shall be approved ministerially, in conformance with California Government Code Sections 65852.2 and 65852.22. However, any accessory dwelling unit or junior accessory dwelling unit that is listed on the California Register of Historic Resources shall meet all Secretary of the Interior standards, as applicable.