



DATE: April 9, 2020
TO: Planning Commission
FROM: Chris Borchert, Principal Planner
BY: Ryan Leonard, Senior Planner
SUBJECT: Development Code Amendment DCA20-00001; Applicant: City of Hesperia; Area affected: City-wide

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2020-02 recommending that the City Council introduce and place on first reading an ordinance approving DCA20-00001, modifying development standards associated with Accessory Dwelling Units (ADUs).

BACKGROUND

On October 9, 2019, Governor Newsom signed three bills into law, which are designed to facilitate the construction of ADUs in California (SB 13, AB 68, and AB 881). These bills went into effect on January 1, 2020. The bills invalidate a local agency's existing ADU ordinance if it does not comply with the requirements of the newly adopted state standards. The purpose of this Ordinance is to update the City's Municipal Code to reflect these new State laws.

Once the City Council adopts the new standards, the revised ordinance must be forwarded to the State Department of Housing and Community Development within 60 days for review and approval.

ISSUES/ANALYSIS

The proposed Development Code Amendment will revise the City's existing Ordinance to comply with the newly amended State Law and allow the City to retain authority to continue to enforce the City's Ordinance. As proposed, the development standards that were previously adopted will remain when not in conflict with the new legislation.

One key component of the new ADU laws is that the City is now required to allow Junior ADUs, whereas the City had previously prohibited them. There are some key differences between ADUs and Junior ADUs. Both provide independent living units with an exterior entrance into the unit; however, Junior ADUs may not exceed 500 square feet in size and must be contained entirely within a single family residence. Junior ADU's must include an efficiency kitchen, can have an internal access to the primary dwelling unit, and can share sanitary facilities (such as a restroom) with the primary unit. Conversely, ADUs can be up to 1,200 square feet, shall be fully self-contained (including sanitation) and do not share internal access with the primary dwelling unit.

The State has also included several provisions that regulate unit size of ADUs and Junior ADUs. The City is required to allow ADUs and Junior ADUs as small as 150 square feet. Additionally, the City cannot apply floor area limits or site coverage requirements if it prevents a minimum 800 square foot ADU. Under State law, the maximum unit size for a detached ADU is 1,200 square feet, and for an attached ADU it is 50 percent of the primary dwelling. The size of Junior ADUs cannot exceed 500 square feet.

Table 1 below provides a comparison of the key changes between the existing regulations and the proposed regulations.

Table 1-ADU Ordinance Changes

Item	Prior Regulation	New Regulations that align with California State Laws
Location	ADUs are allowed within an agricultural or single-family residential zoning designation on which there is already a built, owner-occupied, single family detached residence.	ADUs are allowed on lots that are zoned for agricultural, single family, multi-family, or mixed use, and that contain an existing or proposed single family or multi-family dwelling.
Junior ADUs	Not allowed.	Allowed <ul style="list-style-type: none"> - A Junior ADU shall not exceed 500 sq. ft. in size and shall be contained entirely within a single family residence.
Number of units allowed	One ADU only.	<ul style="list-style-type: none"> - On properties zoned for single-family residential, one ADU and one Junior ADU may be permitted. - On properties zoned for multi-family, up to 1 unit may be converted from existing non-habitable space. In addition, up to two detached accessory dwelling units may be permitted.
Minimum lot size	Lots not connected to sewer shall be a minimum of 1-acre in size.	<p>Lots not connected to sewer shall be a minimum of 1-acre in size.</p> <p>Junior ADUs may be located on any size lot and are not considered a new unit for the purposes of calculating sewer requirements.</p>

Maximum unit size	<ul style="list-style-type: none"> - A detached ADU shall not exceed seventy-five (75) percent of the area of the principal dwelling unit, up to a maximum of 3,00 sq. ft. - An attached ADU may be up to fifty (50) percent of the area of the area of the principal unit, up to a maximum of 1,000 sq. ft. 	<ul style="list-style-type: none"> - A detached ADU shall not exceed 1,200 sq. ft. - An attached ADU may be up to fifty (50) percent of the area of the area of the principal unit, up to a maximum of 1,000 sq. ft. - A Junior ADU shall not exceed 500 sq. ft.
Setbacks	Setbacks are per the zoning code requirement for the underlying zoning designation.	A minimum 4-foot side yard and rear yard setback is allowed. The front yard and street side yard standards of the underlying zoning designation shall apply.
Owner requirement occupancy	The property owner shall live in either the primary residence or the ADU.	<p>For single family lots, owner occupancy requirement is suspended until January 1, 2025.</p> <p>For a Junior ADU, owner occupancy is required.</p>

Environmental: Approval of the Development Code Amendment is exempt from the requirements of the California Environmental Quality Act per Section 15061(b)(3), where it can be seen with certainty that there is no significant effect on the environment. The proposed Development Code Amendment is also exempt from the requirements of the California Environmental Quality Act by Section 16.12.415(B)(10) of the City's CEQA Guidelines, as a Development Code Amendment is exempt if it does not propose to increase the density or intensity allowed in the General Plan. According to Government Code 65852.2, ADUs do not count towards the allowable density, and are a residential use consistent with the existing General Plan and zoning designation.

Conclusion: The Ordinance is consistent the goals, policies and objectives of the General Plan and will bring the City's Accessory Dwelling Unit regulations into compliance with State law.

FISCAL IMPACT

None.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Resolution No. PC-2020-02, with Exhibit "A"

ATTACHMENT 1

RESOLUTION NO. PC-2020-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT A DEVELOPMENT CODE AMENDMENT MODIFYING DEVELOPMENT STANDARDS ASSOCIATED WITH ACCESSORY DWELLING UNITS (ADUS) (DCA20-00001)

WHEREAS, on January 5, 1998, the City Council of the City of Hesperia adopted Ordinance No. 250, thereby adopting the Hesperia Municipal Code; and

WHEREAS, the City proposes to amend Chapter 16.12.360 of the City of Hesperia Development Code regulations, which pertain to second dwelling units; and

WHEREAS, the City finds that it is necessary to amend the City's existing Accessory Dwelling Unit Ordinance in order to comply with Senate Bill 13 and Assembly Bills 68 and 881, which were signed into law on October 9, 2019, and which became effective January 1, 2020; and

WHEREAS, the proposed Development Code Amendment is exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3), where it can be seen with certainty that there is no significant effect on the environment. The proposed Amendment is also exempt from the requirements of the California Environmental Quality Act by Section 16.12.415(B)(10) of the City's CEQA Guidelines, as the Amendment is exempt if it does not propose to increase the density or intensity allowed in the General Plan; and

WHEREAS, on April 9, 2020, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Amendments and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF HESPERIA PLANNING COMMISSION AS FOLLOWS:

Section 1. The Planning Commission hereby specifically finds that all of the facts set forth in this Resolution are true and correct.

Section 2. Based upon substantial evidence presented to the Commission, including written and oral staff reports, the Commission specifically finds that the proposed Ordinance is consistent with the goals and objectives of the adopted General Plan.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends adoption of Development Code Amendment DCA20-00001, amending the Accessory Dwelling Unit regulations as shown on Exhibit "A."

Section 4. That the Secretary shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED on this 9th day of April 2020.

Cody Leis, Chair, Planning Commission

ATTEST:

Amanda Malone, Secretary, Planning Commission

EXHIBIT “A”

The following are modifications to Article X of Chapter 16.12 (additions are in underlined red text and deletions are shown with ~~red and strikethrough~~):

16.12.360 - Accessory dwelling units.

- A. Purpose. The purpose of these provisions is to establish procedures for permitting an accessory dwelling unit (ADU); to implement state law requiring consideration for such uses.

B. Accessory Dwelling Unit Defined Definitions.

- a. "Accessory dwelling unit" or “(ADU)” means an additional detached or attached dwelling unit which provides complete independent living facilities for one or more persons and is located on a lot with an existing or proposed primary residence. The unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary unit is situated. An accessory dwelling unit also includes the following:
- i. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
 - ii. A manufactured home, as defined in Section 18007 of the Health and Safety Code.
- b. “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.
- ~~B-c.~~ “Junior accessory dwelling unit” means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
- C. Application Procedure—Accessory Dwelling Units. Application for a permit to construct an accessory dwellingADU unit shall be made by applying for an accessory dwelling unit application, pursuant to the provisions and limitations of this article. The review procedure shall be administrative review without notice (ministerial), pursuant to the provisions of Section 16.12.005(A)(3). ~~Permits Approval of a permit to construct an accessory dwelling unit application shall be for accessory dwelling units will be issued for a for a period not to exceed thirty-six (36) months. Applications for renewal may be filed for additional twelve (12) month periods. Said renewal application must be filed prior to expiration of the accessory dwelling unit permit.~~
- D. Requirements for Approval.
1. An accessory dwelling unit may only be permitted on lots ~~within that are zoned for agricultural, single family, multi-family, or mixed uses an agricultural or single family residential designation and that contain an existing or proposed single-family or multi-family dwelling. on which there is already built one owner occupied single-family detached dwelling unit (primary unit). The primary unit may be considered the accessory dwelling unit only if the lot can accommodate the existing and proposed structure in accordance with the provisions specified herein.~~

2. Accessory dwelling units are exempt from the density limitations of the General Plan and subject to the following:

- a. Lots with an existing or proposed single-family residence may be permitted one (1) accessory dwelling, and one (1) junior accessory dwelling unit (see Section 16.12.360 F for additional regulations pertaining to junior accessory dwelling units).
- b. Lots with existing multifamily units may convert non-habitable space within, ~~or detached from, an existing multifamily structure~~ into accessory dwelling units. The number of these types of units shall be limited to ~~one (1) accessory dwelling or up to 25 percent of the existing multifamily dwelling units, whichever is greater.~~ In addition, ~~However, no more than two (2) detached accessory dwelling units may be permitted.~~ A detached accessory dwelling may be converted from non-habitable space, or newly constructed.

3. An accessory dwelling unit shall be located on the same lot as the proposed or existing primary dwelling.

4. The correction of a nonconforming zoning condition that would result in a physical improvement on the property shall not be a condition of approval for an accessory dwelling unit.

~~2.5. On single family lots~~lots with an existing or proposed single family residence, ~~One the primary dwelling unit or accessory dwelling unit, on the property shall be owner-occupied. (This provision is suspended for all permits issued between 1/1/2020 and until 1 January 1, 2025, unless otherwise amended by California Government Code 65852.2).~~

~~3. Only one accessory dwelling unit shall be permitted on any one lot.~~

~~4.6.~~ The accessory dwelling unit shall provide complete and independent living facilities.

~~5.7.~~ The accessory dwelling unit shall not be sold separately and may be rented for periods of not less than 30 days.

~~6.8.~~ The accessory dwelling unit shall have adequate water supply pursuant to specifications of the Uniform Plumbing Code.

9. In compliance with the State of California Lahontan Regional Water Quality Control Board, ~~lots that are~~ not connected to sewer facilities shall be a minimum of one gross acre in size.

E. ~~Design and Development Standards—Accessory Dwelling Units.~~

7.—

1. The accessory dwelling unit may be either ~~an attached to~~ or detached from an existing or proposed single-family residence, or converted from an existing accessory building, garage, storage area, or other similar non-habitable area. ~~unit.~~ An accessory dwelling may be converted from non-habitable space within, or detached from, an existing multi-family structure.

2. ~~A detached accessory unit shall not exceed seventy-five (75) percent of the area of the principal dwelling unit up to a maximum gross floor area of three thousand (3,000) 1,200 square feet per structure on any parcel. [BJH1] Accessory dwelling units attached to the principal unit may be up to fifty (50) percent of the area of the principal unit, up to a maximum of one thousand (1,000) square feet, except that if the principal unit has a floor area of 1,600 square feet or less, an attached accessory dwelling unit shall conform to the provisions of Section 16.20.360(E)(6), [BJH2] below. The area of an accessory dwelling unit is in addition to and shall not be considered as part of the allowable accessory building area authorized under Article X of Chapter 16.20. No accessory dwelling unit shall be less than four onetwo hundred and twentyfifty (400220150 [BJH3]) square feet in area. Further, a single-wide mobile home or [BJH4] recreational vehicle, does not qualify for use as an accessory dwelling unit-SDU. [BJH5]~~

8.3. ~~The entrance to an attached accessory dwelling unit shall be separate from the entrance to the primary unit and shall be installed in a manner as to eliminate an obvious indication of two units in the same structure.~~

~~F. Property Development Standards—Accessory Dwelling Units.~~

1. ~~The lot upon which the accessory dwelling unit is to be established shall conform to all standards of the land use district in which it is located.~~

4. ~~The yard standards for accessory buildings shall apply to a detached unit. For new attached or detached accessory dwelling units, a minimum four-foot side yard and four-foot rear yard setback shall be required is allowed. The front yard and street side yard standards for the primary unit shall apply to the accessory dwelling unit. In addition, detached accessory dwelling units shall be located to the rear of the primary dwelling unit.~~

2.5. ~~No setback shall be required for the conversion of existing living area, conversion of an existing accessory structure, or for a new structure that is constructed in the same location and to the same dimensions as an existing structure.~~

3. ~~The yard standards for the primary unit shall apply to an attached unit. Detached accessory dwelling units shall be located to the rear of the primary dwelling unit.~~

4. ~~The accessory dwelling unit shall be constructed in accordance with minimum standards for single-family residential uses on individual lots as specified in Section 16.20.160, unless otherwise specified herein.~~

5. ~~Provision for emergency vehicle access to the accessory dwelling unit shall be addressed in the following manner:~~

a. ~~Access roads shall be within one hundred fifty (150) feet of any portion of an exterior wall of the first story of the accessory dwelling unit and shall be measured in an approved route around the exterior of the structure.~~

b. ~~Turning radius for emergency vehicles shall be a minimum of thirty four (34) feet inside radius.~~

c. ~~Emergency vehicle access roads in excess of one hundred fifty (150) feet in length shall be provided with a turnaround.~~

d. ~~Maximum grade for the access road shall be twelve (12) percent for asphalt surfaces and fifteen (15) percent for concrete surfaces.~~

e. ~~Emergency vehicle access roads shall have an unobstructed width of at least twelve (12) feet and an unobstructed vertical clearance of at least thirteen (13) feet six inches.~~

- ~~f. Addresses shall be posted with numbers measuring a minimum of four inches in height and shall be visible from the public right-of-way. In addition, during the hours of darkness the numbers shall be internally illuminated.~~

~~In cases where the accessory dwelling unit is located more than one hundred (100) feet from the public right-of-way, additional non-illuminated contrasting numbers measuring a minimum of six inches in height shall be displayed at the property entrance.~~

- ~~6. The entrance to an attached accessory dwelling unit shall be separate from entrance to the primary unit and shall be installed in a manner as to eliminate an obvious indication of two units in the same structure.~~

- ~~7.6. The maximum lot coverage provisions of the land use district shall apply. No provisions within this Section, including lot coverage or legal nonconformity, shall preclude either an attached or detached 800 square foot accessory dwelling unit that is at least sixteen (16) feet in height with four-foot side yard and rear yard setbacks, and that is constructed in compliance with all other development standards.~~

- ~~7. At least one covered or uncovered parking space for the accessory dwelling unit shall be provided by a minimum interior size of nine feet in width and nineteen (19) feet in depth. Parking can be tandem on an existing driveway. The City shall not impose parking standards for an accessory dwelling unit if the accessory dwelling unit is located within one-half mile of public transit, or when the accessory dwelling unit is part of the proposed or existing primary residence or an existing accessory structure, when on-street parking permits are required but not offered to the occupant of the accessory dwelling unit, or when there is a care share vehicle located within one block of the accessory dwelling unit. ^[BJH6] No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than ~~five~~ four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.~~

- ~~8. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, those off-street parking spaces do not need to be replaced.~~

- ~~9. The accessory dwelling unit shall be compatible with the design of the primary unit and the surrounding neighborhood in terms of landscaping, scale, height, length, width, bulk, lot coverage, and exterior treatment, and shall not cause excessive noise, traffic, or other disturbances to the existing neighborhood or result in significantly adverse impacts on public services and resources.~~

- ~~10. The construction of an accessory dwelling unit shall not be considered when calculating minimum distance requirements for animal uses on the subject lot or on adjacent lots. The accessory dwelling unit shall require a minimum twenty (20) foot setback for the rear and side yards, except as noted in Section 16.12.360(F)(8).~~

F. Junior Accessory Dwelling Units

- ~~1. Purpose-This section provides standards for the establishment of junior accessory dwelling units, an alternative to the standard accessory dwelling unit. Junior accessory dwelling units will typically be smaller than an accessory dwelling unit, will be constructed within the walls of an existing single family residence, and requires owner occupancy of the single family residence where the unit is located.~~
- ~~2. Development Standards- Junior accessory dwelling units shall comply with the following standards:~~

- a) Lots with an existing or proposed single family residence may be permitted one (1) accessory dwelling unit and one (1) junior accessory dwelling unit.
- b) A junior accessory dwelling unit shall not exceed 500 square feet in size and shall be contained entirely within a single family residence. However, an additional 150 square foot expansion beyond the physical dimensions of the existing structure is permitted strictly to accommodate ingress and egress to the junior accessory dwelling unit.
- c) The junior accessory dwelling unit shall include a separate entrance from the main entrance to the proposed or existing single family residence.
- d) The junior accessory dwelling unit must include an efficiency kitchen that includes a cooking facility with appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
- e) The junior accessory dwelling unit may have a bathroom or share with the proposed or existing single family residence.
- f) Additional parking shall not be required.
- g) A deed restriction, in a form to be approved and provided by the City, is required must be recorded filed with the City^[BJH7], and must include the following stipulations: i) prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single family residence; ii) restriction on the size and attributes of the junior accessory dwelling unit; iii) if the unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days; and iv) owner occupancy of one of the units on-site is required, unless the owner is a governmental agency, land trust, or housing organization. These restrictions shall run with the land.
- h) For the purposes of providing service for water, sewer or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

10. —

(Ord. 2003-05 § 4 (part), 2003; Ord. 299 § 4 (Exh. A § 3 (part)), 2000; Ord. 250 (part), 1997; Ord. 192 Exh. A (§ 83.10.020), 1994)

(Ord. No. 2009-08, § 3(Exh. A), 10-20-09; Ord. No. 2012-14, § 3(Exh. A), 8-7-12; [Ord. No. 2017-12](#), § 3(Exh. A), 6-20-17)