



MEMORANDUM

TO: City Council

FROM: Brian Pedrotti, Director of Community Development

BY: Andrew Perez, Planning Manager

SUBJECT: Amendments to Title 16 of the Arroyo Grande Municipal Code Regarding Accessory Dwelling Units

DATE: November 12, 2024

RECOMMENDATION:

1) Introduce the Ordinance amending Title 16 of the Arroyo Grande Municipal Code (AGMC) relating to Accessory Dwelling Units and Junior Accessory Dwelling Units; and
2) Find that the proposed Ordinance is statutorily exempt from review under the California Environmental Quality Act (“CEQA”) under Public Resources Code section 21080.17

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

There are no financial impacts identified.

BACKGROUND:

In recent years, the California Legislature has approved a number of bills that, among other things, amended various sections of the Government Code to impose new limits on local authority to regulate Accessory Dwelling Units (ADUs) and Junior ADUs (JADUs). In 2024, the Legislature approved two new bills — AB 2533 and SB 1211 — that further amend state ADU law. These bills become effective on January 1, 2025. State law states that if any aspect of an agency’s ADU ordinance is not compliant with State law, the entire ordinance becomes null and void. Therefore, to avoid a period of time in which the City’s ADU regulations are noncompliant, this update is being processed to incorporate changes to State law. Added language to incorporate these new bills is indicated in the proposed Ordinance by underlined text in Attachment 1 Exhibit A-1.

City Council
Amendments to Title 16 of the Arroyo Grande Municipal Code Regarding
Accessory Dwelling Units
November 12, 2024
Page 2

Planning Commission Review

The Ordinance was presented to the Planning Commission at its meeting on [October 29, 2024](#)¹. The Planning Commission was supportive of the amendments as proposed and adopted a Resolution recommending the City Council adopt the proposed Ordinance.

ANALYSIS OF ISSUES:

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 regarding substandard buildings.

SB 1211 – Replacement Parking Requirements; Multifamily ADUs

Existing state law prohibits the 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.

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.”

The component of SB 1211 that is likely to be most impactful locally will increase the number of detached ADUs that lots with an existing multifamily dwelling can add. 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

¹ <https://pub-arroyogrande.escribemeetings.com/Meeting.aspx?Id=9863b843-2905-4188-ad17-e0a0fe6daf74&lang=English&Agenda=Agenda&Item=17&Tab=attachments>

City Council
Amendments to Title 16 of the Arroyo Grande Municipal Code Regarding
Accessory Dwelling Units
November 12, 2024
Page 3

to eight detached ADUs, or as many detached ADUs as there are primary dwelling units on the lot, whichever is less. SB 1211 does not alter the number of ADUs that a lot with a *proposed* multifamily dwelling can have — the limit remains at two, which mirrors what state law permits.

Height Restrictions

Regulations pertaining to height have also been amended in the draft ordinance. During the previous update of the ADU ordinance, the adopted regulations inadvertently prohibited the construction of ADUs above detached garages. The current ordinance limits the height of detached ADUs to 18 feet and ADUs that are attached to a primary dwelling to 25 feet. With an 18-foot height limit, there is no possibility to construct an ADU above a detached garage. Most single-family zoned properties with detached garages generally have less area available to construct a detached ADU, so amending the height regulations will provide more opportunities for the construction of ADUs. Any new opportunities for ADU development aligns with the intent of State laws and the City's housing element due to its reliance on ADUs to meet the regional housing needs allocation.

Next Steps

Both AB 2533 and SB 1211 take effect January 1, 2025. To remain valid, the City's ADU Ordinance must comply with requirements imposed by AB 2533 and SB 1211. Introducing the Ordinance on November 12, 2024, will allow for adoption to occur on November 26, 2024. The Ordinance would be effective 30 days after adoption, on December 26, 2024, prior to the effective date of AB 2533 and SB 1211.

ALTERNATIVES:

The following alternatives are provided for the Council's consideration:

1. Introduce the Ordinance amending regulations for ADUs;
2. Modify as appropriate and introduce the modified Ordinance;
3. Do not Introduce the Ordinance and provide direction to staff on specific revisions;
or
4. Provide other direction to staff.

ADVANTAGES:

Adopting the Ordinance amendments will keep the City's ADU Ordinance in compliance with State law and avoid it becoming deemed null and void for a period of time.

DISADVANTAGES:

None identified.

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

Item 10.a.

**City Council
Amendments to Title 16 of the Arroyo Grande Municipal Code Regarding
Accessory Dwelling Units
November 12, 2024
Page 4**

Chapter 13 of Division 1 of Title 7 of the Government Code, which is California’s ADU law and which also regulates JADUs, as defined by section 66313. Therefore, the adoption of the proposed Ordinance is statutorily exempt from CEQA in that it implements state ADU law.

PUBLIC NOTIFICATION AND COMMENTS:

The Agenda was posted at City Hall and on the City’s website in accordance with Government Code Section 54954.2. A public hearing notice was published in the New Times on October 31, 2024.

ATTACHMENTS:

1. Proposed Ordinance