



# County of San Mateo

## Inter-Departmental Correspondence

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**Department:** PLANNING AND BUILDING

**File #:** 20-834

Board Meeting Date: 11/10/2020

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**Special Notice / Hearing:** None  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** Steve Monowitz, Community Development Director

**Subject:** Ordinance amending the County's Accessory Dwelling Unit Regulations applicable to the County's Coastal Zone, Chapter 22.5.1 of the County Zoning Regulations, and amending Section 3.22 of the County's Local Coastal Program, to comply with recent changes to State law and resolution directing staff  
County File Number: PLN 2020-00144

**RECOMMENDATION:**

Recommendation to:

- A) Adopt an ordinance amending the County Ordinance Code, Division Vi, Part One (Zoning Regulations) Chapter 22.5.1 (Accessory Dwelling Units - Coastside) and amending Section 3.22 of the County's Local Coastal Program, previously introduced at the September 23, 2020 Planning Commission meeting, and waive the reading of the ordinance in its entirety; and
- B) Adopt a resolution directing submittal of the updated Accessory Dwelling Unit Regulations, Chapter 22.5.1 of the County Zoning Regulations, and amendments to the County's Local Coastal Program, to the California Coastal Commission for review and certification.

**BACKGROUND:**

On September 15, 2020, the Board of Supervisors adopted various updates to the County's Second Unit Regulations (Chapter 22.5 of the Zoning Regulations, now re-titled "Accessory Dwelling Unit" regulations). These updates were intended to bring the County's regulations for accessory dwelling units outside the County's Coastal zone into compliance with State law, and, consistent with the State's mandate, to facilitate production of second units in unincorporated San Mateo County.

Those updates divided the County's regulations regarding ADUs into two chapters of the Zoning Regulations: Chapter 22.5, applicable to ADUs outside the Coastal Zone, and Chapter 22.5.1, applicable to ADUs inside the Coastal Zone. Chapter 22.5 was comprehensively updated to comply with State law. The currently proposed updates to Chapter 22.5.1 similarly update the regulations relevant to ADUs in the County's Coastal Zone to bring those regulations into compliance with State law, and also involve changes to the text of the County's Local Coastal Program (LCP); both sets of

amendments, if adopted, will require California Coastal Commission review and certification. The intent of the amendments is to carry out new state law promoting second units in a manner that also complies with Coastal Act and LCP Policy requirements.

## **DISCUSSION:**

### **A. PROPOSED AMENDMENTS**

The proposed amendments largely mirror the amendments to Chapter 22.5 previously considered by the Planning Commission, with only a few exceptions. The most significant changes, which apply only within residentially designated areas, include:

- ADUs are no longer subject to minimum lot size requirements and can be constructed on substandard lots.
- No development standard can be applied that precludes the creation of an 800 square foot ADU, 16 feet or less in height, with 4-foot side and rear setbacks.
- A detached ADU may now be combined with a Junior Accessory Dwelling Unit (JADU), resulting in one internal and one external ADU on the same parcel.
- Multiple internal and multiple external ADUs are permitted on lots with existing multifamily housing.
- ADUs are allowed in combination with a primary single-family residence in any zoning district in which residential uses are the primary use. In the Coastal Zone, this includes R-1, R-2, and R-3 zones.
- All references to “Second Units” in the County’s Local Coastal Program are replaced with “Accessory Dwelling Units.”
- The specific standards applicable to ADUs incorporated in the County’s Local Coastal Program, Section 3.22 are removed, with the exception of the maximum amount of accessory dwelling units in the Coastal Zone (no more than 466 ADUs), and the requirement that accessory dwelling units meet all applicable policies and procedures of the LCP.

The amendments to Chapter 22.5.1, by section, are as follows:

1. 6439.2.2 The definition of Accessory Dwelling Units now includes “efficiency units,” as defined in State law.
2. 6439.2.3. The regulations now clarify that ADUs built within or as an addition to detached accessory structures are considered “detached” accessory dwelling units.
3. 6439.2.5. The regulations now specifically define a “Junior Accessory Dwelling Unit,” (JADU) which is an accessory dwelling unit of no more than 500 sq. ft., created entirely within a primary structure.

4. 6439.2.6. The regulations also define an “efficiency kitchen” which, per State law, is a kitchen allowed in a JADU that contains at least a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
5. 6439.2.8. The regulations now define “owner occupancy” as the requirement that the owner of a parcel on which a JADU is constructed live in one of the units on the property in perpetuity. The County regulations do not require owner occupancy for most accessory dwelling units, but State law requires owner occupancy as a condition of creating a JADU.
7. 6439.2.9. The regulations now define a “stepback” as a setback of the building envelope from the property line which, in contrast to a typical setback, is located above the ground floor.
8. 6439.3. The regulations now allow ADUs to be created in the R-1, R-2, and R-3 zoning districts in the Coastal Zone.
9. The regulations now organize the ADU standards in four sections: Section 6439.5 describes standards applicable to all units; 6439.6, standards specific to detached units; 6439.7, standards specific to attached units; and 6439.8 describes standards specific to junior accessory dwelling units.
10. 6439.5.2. Per State law, ADUs are now exempt from minimum lot size requirements.
11. 6439.5.4.b. Consistent with State law, ADUs are now subject only to 4-foot side and rear setbacks.
12. 6439.5.4.c. ADUs greater than 16 feet in height must have a side stepback of 5 feet, and a rear stepback of 10 feet, at a point no higher than 16 feet on the structure, in addition to the required setbacks.
13. 6439.5.5. Per State law, no floor area limitation may be imposed that precludes an 800 square foot attached or detached ADU.
14. 6439.5.21. Accessory dwelling units may not be used for short-term rental (rental of less than 30 days in duration).
15. 6439.5.22. Per State law, ADUs of less than 750 sq. ft. are exempt from all impact fees, and those larger than 750 sq. ft. can only be charged impact fees in proportion to the size of the unit.
16. 6439.6.2. Consistent with new floor area requirements in State law, the new regulations modify the square footage allowance for detached ADUs from the prior 750 sq. ft. or 35 percent of the primary residence to 800 sq. ft. or 35 percent of the primary residence.
17. 6439.6.2.b(1) expresses the State’s prohibition on any regulation that precludes an 800 square foot detached ADU that meets setback requirements.

18. 6439.6.3 describes the newly allowed combination of one detached ADU and one JADU, as long as both units meet the required development standards.
19. 6439.7.1. Consistent with State law, the allowed square footage of attached ADUs is modified from 750 sq. ft. or 50 percent of the primary residence, to 800 sq. ft. or 50 percent of the primary residence.
20. 6439.7.1.b(1). Expresses the State's prohibition on any regulations that preclude an 800 square foot attached ADU.
21. 6439.7.1.b(2). Per State law, attached ADUs built entirely within the primary residence are now allowed an additional 150 sq. ft. of floor area, beyond that otherwise allowed, for purposes of creating ingress/egress.
22. 6439.7.2. The prior regulation requiring a conditional use permit for any connecting doorways between an attached ADU and the primary residence has been modified to require only the Community Development Director's approval for such a doorway.
23. Section 6439.8 describes the standards for junior accessory dwelling units, which are drawn directly from California Government Code Section 65852.22 and were not previously included in the County's regulations. JADUs must be entirely within the walls of the primary residence, no larger than 500 sq. ft., must have basic facilities, must have external, independent ingress and egress, and can only be created if the owner of the property occupies a unit on the property.
24. Section 6439.9 describes the standards for creation of multiple ADUs on properties with multi-family structures. This section is also drawn directly from State law, and these standards were not included in the County's prior ordinance. The regulations allow multiple attached ADUs to be converted from up to 25 percent of the non-habitable space within a multi-family structure and allows two detached ADUs to be created on a parcel with a multi-family dwelling.

The proposed amendments to the County's Local Coastal Program are as follows:

1. All references to "Second Units" are replaced by "Accessory Dwelling Units."
2. Section 3.22 is proposed to be amended to read as follows:

"3.22. Accessory Dwelling Units in the Coastal Zone

Permit accessory dwelling units subject to the standards incorporated in the County's Zoning Regulations Chapter 22.5.1 (Accessory Dwelling Units - Coastal Zone), subject to the following restrictions:

- a. Limit the total number of approved accessory dwelling units to 466 in the Coastal Zone.
- b. ~~Limit the size of the units to 700 sq. ft. or 35% of the floor area of the existing principal residence, whichever is greater.~~

- ~~e. Comply with all applicable policies and procedures as required by the LCP.~~
- ~~e.~~
- b. Comply with all applicable policies and procedures as required by the LCP.
- d. ~~Second dwelling units shall not be permitted on non-conforming parcels less than 5,000 sq.-ft.~~

**B. COASTAL COMMISSION CERTIFICATION, AND CONSISTENCY WITH THE COUNTY'S LOCAL COASTAL PROGRAM AND THE CALIFORNIA COASTAL ACT**

As an ordinance regulating development within the County's Coastal Zone, the proposed changes to the County's Accessory Dwelling Unit regulations constitute an amendment to the Implementation Plan of the County's Local Coastal Program, and must be consistent with the County's Local Coastal Program. Amendments to the LCP itself must also be consistent with the California Coastal Act, and both sets of changes are subject to review and certification by the California Coastal Commission prior to taking effect.

For the most part, the proposed updates do not alter the provisions of the County's LCP, which has already been certified as consistent with the California Coastal Act. The primary changes are:

- Expansion of allowed zoning districts to include not only R-1, but also R-3 zoning districts
- Allowance of ADUs on lots under 5,000 square feet in size
- Elimination of the distinct size standards incorporated in the LCP, so that the regulations on ADU size are consistent across the County, as well as adoption of the State-mandated allowance of a minimum 800 square foot ADU regardless of other standards
- Allowance of an ADU and Junior ADU on the same parcel

The changes do not allow development of ADUs in non-residential areas, and ADUs remain subject to all other policies of the LCP, including limits on total building permits, limits on the number of ADUs, and the various policies that govern location of development and protect coastal resources.

Development in the Coastal Zone, including development of ADUs, remains subject to the constraints on pace and intensity that are incorporated in the LCP, which are linked to assessments of available infrastructure, and to policies intended to locate residential development primarily in specifically-designated areas that can support such development without negatively impacting coastal resources. ADUs are not exempt from the policies of any part of the LCP, and remain subject to applicable coastal permitting requirements.

The California Coastal Act states that residential development should be "located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it" or in other areas where development will not have significant adverse effects on coastal resources.

(Pub. Res. Code § 30250). As ADUs are allowed only on residentially-zoned parcels, which in the County's Coastal Zone meet these criteria, as certified by the California Coastal Commission, the proposed updates are consistent with these provisions.

The California Coastal Commission has also advised local governments to update their LCPs to conform as closely as possible to the State's updated ADU law. The proposed updates follow this guidance.

C. PLANNING COMMISSION ACTION

The San Mateo County Planning Commission reviewed the proposed ordinance at its regularly scheduled hearing on September 23, 2020 and recommended that the Board of Supervisor adopt the ordinance amending the County's Accessory Dwelling Unit regulations. The Planning Commission's consideration and recommendation constituted a first reading of the proposed ordinance.

C. ENVIRONMENTAL REVIEW

Per CEQA Section 21080.17 and CEQA Guidelines Section 15282(h), adoption of ordinances relating to accessory dwelling units to implement specific Government Code sections (Sections 65852.1 and 65852.2) is exempt from CEQA. In addition, the Coastal Commission process of reviewing LCP Amendments has been certified by the Secretary of Resources as being functionally equivalent to a CEQA review, thereby exempting LCP Amendments from CEQA review by local governments.

The ordinance has been reviewed and approved by County Counsel as to form.

**FISCAL IMPACT:**

There is no fiscal impact to the County from adoption of the proposed amendments to the County's Accessory Dwelling Unit (Second Unit) Regulations.

**ATTACHMENTS:**

- A. Ordinance amending the County's Accessory Dwelling Unit (Second Unit) Regulations and Local Coastal Program.