

RESOLUTION NO. 2024-002

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HAWAIIAN GARDENS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING SECTION 18.90.080 OF THE HAWAIIAN MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS IN THE CITY, AND FINDING THE ACTION TO BE STATUTORILY EXEMPT FROM CEQA UNDER PUBLIC RESOURCES CODE § 21080.17

WHEREAS, the Planning and Zoning Law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”); and

WHEREAS, in recent years, the California Legislature has approved, and the Governor has signed into law, a number of bills that, among other things, amend various sections of the Government Code to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, the City’s regulations governing the creation of ADUs and JADUs are provided in section 18.90.080 of the Hawaiian Gardens Municipal Code (“HGMC”). The City most recently updated this section in January 2023 to comply with then recent changes in state law; and

WHEREAS, in May 2024, the City received correspondence from the California Department of Housing and Community Development (“HCD”) identifying select provisions of HGMC section 18.90.080 that HCD maintained should be revised to comply with state law. Staff responded to HCD in June 2024, and agreed to incorporate HCD’s requested revisions into a future ADU ordinance update; and

WHEREAS, in 2024, the California Legislature approved, and the Governor signed into law, Assembly Bill 2533 (“AB 2533”) and Senate Bill 1211 (“SB 1211”), which further amend state ADU law;

WHEREAS, AB 2533 and SB 1211 take effect on January 1, 2025, and for the City’s ADU ordinance to remain valid, it must be amended to reflect the requirements of AB 2533 and SB 1211; and

WHEREAS, the City desires to amend HGMC section 18.90.080 to incorporate: AB 2533's and SB 1211's changes to state law, revisions requested by HCD, and other minor modifications aimed at augmenting clarity for the benefit of staff and the general public; and

WHEREAS, on October 16, 2024, the Planning Commission held a duly-noticed public hearing to consider the attached Ordinance; and

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

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF HAWAIIAN GARDENS DOES RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1. Incorporation. The recitals above are true and correct and are each incorporated by reference and adopted as findings by the Planning Commission.

SECTION 2. CEQA. The Planning Commission recommends that the City Council find that, under California Public Resources Code section 21080.17, the California Environmental Quality Act ("CEQA") does not apply to the adoption of an ordinance by a city or county implementing the provisions of Article 2 of Chapter 13 of Division 1 of Title 7 of the California Government Code, which is California's ADU law and which also regulates JADUs, as defined by section 66313. Therefore, adoption of the proposed ordinance is statutorily exempt from CEQA in that it implements state ADU law.

SECTION 3. General Plan. The Planning Commission hereby finds that the adoption of the Ordinance is consistent with the General Plan as a matter of law under Government Code section 66314(c).

SECTION 4. Recommendation. Given the foregoing, and based on the entire record before the Planning Commission, the Planning Commission hereby recommends that the City Council adopt the ordinance attached hereto as Exhibit "A."

SECTION 5. Effective Date. This Resolution takes effect immediately upon adoption.


Section 6. Certification; Records. The Secretary shall attest as to the adoption of this Resolution and cause the same to be maintained in the permanent records of the City.

APPROVED AND ADOPTED THIS 16TH DAY OF OCTOBER, 2024, BY THE HAWAIIAN GARDENS PLANNING COMMISSION.

By:


AXZEL ROMAN, CHAIR

ATTEST:


PABLO RUBIO, SECRETARY

**CITY OF HAWAIIAN GARDENS
CITY CLERK'S OFFICE
CERTIFICATION**

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF HAWAIIAN GARDENS)

I, Pablo Rubio, Planning Secretary to the City of Hawaiian Gardens Planning Commission, do hereby certify that Resolution No. 2024-002 was duly and regularly passed and adopted by the Planning Commission of the City of Hawaiian Gardens on the **16th day of October 2024**, by the following roll call vote as the same appears on file and of record in Office of the Community Development Department.

AYES:	Alvarez, Gonzalez, Winford, Hernandez, Roman
NOES:	None
ABSENT:	None
ABSTAIN:	None



Pablo Rubio
City Clerk

Exhibit “A”

Proposed Ordinance

ORDINANCE NO. 2024-618

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS AMENDING SECTION 18.90.080 OF THE CITY OF HAWAIIAN GARDENS MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND FINDING THE ACTION TO BE STATUTORILY EXEMPT FROM CEQA UNDER PUBLIC RESOURCES CODE § 21080.17

WHEREAS, the City of Hawaiian Gardens California (“City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, state law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”); and

WHEREAS, in recent years, the California Legislature has approved, and the Governor has signed into law, numerous bills that, among other things, amend various sections of the Government Code to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, the City’s regulations governing the creation of ADUs and JADUs are provided in section 18.90.080 of the Hawaiian Gardens Municipal Code (“HGMC”). The City most recently updated this section in January 2023 to comply with then recent changes in state law; and

WHEREAS, in May 2024, the City received correspondence from the California Department of Housing and Community Development (“HCD”) identifying select provisions of HGMC section 18.90.080 that HCD maintained should be revised to comply with state law. Staff responded to HCD in June 2024, and agreed to incorporate HCD’s requested revisions into a future ADU ordinance update; and

WHEREAS, in 2024, the California Legislature approved, and the Governor signed into law, Assembly Bill 2533 (“AB 2533”) and Senate Bill 1211 (“SB 1211”), which further amend state ADU law; and

WHEREAS, AB 2533 and SB 1211 take effect on January 1, 2025, and for the City’s ADU ordinance to remain valid, it must be amended to reflect the requirements of AB 2533 and SB 1211; and

WHEREAS, the City desires to amend HGMC section 18.90.080 to incorporate: AB 2533’s and SB 1211’s changes to state law, revisions requested by HCD that the City agreed to make, and other modifications aimed at augmenting clarity for the benefit of staff and the general public; and

WHEREAS, on October 16, 2024, the Planning Commission held a duly-noticed public hearing and considered the staff report, recommendations by staff, and public

testimony concerning this proposed Ordinance. Following the public hearing, the Planning Commission voted to forward the Ordinance to the City Council with a recommendation in favor of its adoption; and

WHEREAS, on **[INSERT]**, the City Council held a duly-noticed public hearing to consider the Ordinance, including: (1) the public testimony and agenda reports prepared in connection with the Ordinance, (2) the policy considerations discussed therein, and (3) the consideration and recommendation by the City's Planning Commission; and

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

NOW, THEREFORE, the City Council of the City of Hawaiian Gardens does ordain as follows:

SECTION 1. Incorporation. The recitals above are each incorporated by reference and adopted as findings by the City Council.

SECTION 2. CEQA. Under California Public Resources Code section 21080.17, the California Environmental Quality Act ("CEQA") does not apply to the adoption of an ordinance by a city or county implementing the provisions of Article 2 of Chapter 13 of Division 1 of Title 7 of the California Government Code, which is California's ADU law and which also regulates JADUs, as defined by section 66313. Therefore, adoption of the Ordinance is statutorily exempt from CEQA in that it implements state ADU law.

SECTION 3. General Plan. The City Council hereby finds that the adoption of the Ordinance is consistent with the General Plan as a matter of law under Government Code section 66314(c).

SECTION 4. Code Amendment. Section 18.90.080 of the Hawaiian Gardens Municipal Code is hereby amended and restated to read in its entirety as provided in Exhibit "A-1," attached hereto and incorporated herein by reference.

SECTION 5. Effective Date. This Ordinance takes effect 30 days after its adoption.

SECTION 6. HCD Submittal. In accordance with Government Code section 66326, the City Clerk is directed to submit a copy of this Ordinance to the California Department of Housing and Community Development within 60 days after adoption.

SECTION 7. Publication. The City Clerk is directed to certify to the adoption of this Ordinance and post or publish this Ordinance as required by law.

SECTION 8. Custodian of Records. The custodian of records for this Ordinance is the City Clerk and the records comprising the administrative record are located at 21815 Pioneer Boulevard, Hawaiian Gardens, CA 90716.

SECTION 9. Severability. If any provision of this Ordinance or its application to any person or circumstance is held to be invalid by a court of competent jurisdiction, such invalidity has no effect on the other provisions or applications of the Ordinance that can

be given effect without the invalid provision or application, and to this extent, the provisions of this Ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any portion thereof.

PASSED, APPROVED AND ADOPTED by the City Council of the Hawaiian Gardens, California, at a regular meeting of the City Council held on the ____ day of _____, 202__ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

City Attorney

EXHIBIT A-1
Amended ADU Regulations

18.90.080 Accessory dwelling units and junior accessory dwelling units.

A. General.

1. *Purpose.* The purpose of this section is to allow for the creation, through a ministerial process, of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in accordance with Chapter 13 of Division 1 of Title 7 of the California Government Code. Facilitating the development of ADUs and JADUs will increase the housing options for family members, seniors, low-wage workers, persons with disabilities, students, and others in the community.
2. *Applicability.* Any construction, establishment, alteration, enlargement, or modification of an ADU or JADU approved under this section shall comply with the requirements of this section and the City's Building Code.
3. *Effect of conforming.* An ADU or JADU that conforms to the standards in this section will not be:
 - a. Deemed to be inconsistent with the City's general plan and zoning designation for the lot on which the ADU or JADU is located.
 - b. Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
 - c. Considered in the application of any local ordinance, policy, or program to limit residential growth.
 - d. Required to correct a nonconforming zoning condition, as defined in subsection B below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.

B. Definitions. For purposes of this section:

Accessory dwelling unit or ADU means attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes an efficiency unit as defined in Section 17958.1 of the Health and Safety Code and a manufactured home as defined in Section 18007 of the Health and Safety Code.

Accessory structure means a structure that is accessory and incidental to a dwelling located on the same lot.

Complete independent living facilities means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.

Efficiency kitchen means a kitchen that includes all of the following:

1. A cooking facility with appliances.
2. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.

Junior accessory dwelling unit or *JADU* means a residential unit that meets all of the following requirements: (i) it is no more than 500 square feet in size; (ii) it is contained entirely within an existing or proposed single-family structure (an enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure); (iii) it includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure; (iv) if the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family structure in addition to an exterior entrance that is separate from the main entrance to the primary dwelling; and; (v) it includes an efficiency kitchen, as defined above.

Livable space means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

Living area means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

Nonconforming zoning condition means a physical improvement on a property that does not conform with current zoning standards.

Passageway means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.

Proposed dwelling means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

Public transit means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

Tandem parking means that two or more vehicles are parked on a driveway or in any other location on a lot, lined up behind one another.

C. *Approvals.* The following approvals apply to ADUs and JADUs under this section:

1. *Building permit only.* If an ADU or JADU complies with each of the general requirements in subsection D below, it is allowed with only a building permit in the following scenarios:

- a. *Converted on single-family lot.* One ADU as described in this subsection and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
 - i. Is either within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and
 - ii. Has exterior access that is independent of that for the single-family dwelling; and
 - iii. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
 - iv. The JADU complies with the requirements of Government Code sections 66333 through 66339.
- b. *Limited detached on single-family lot.* One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection C.1.a above), if the detached ADU satisfies each of the following limitations:
 - i. The side- and rear-yard setbacks are at least four-feet.
 - ii. The total floor area is 800 square feet or smaller.
 - iii. The peak height above grade does not exceed the applicable height limit in subsection D.2 below.
- c. *Converted on multifamily lot.* One or more 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, if each converted ADU complies with state building standards for dwellings. Under this subsection C.1.c, at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.
- d. *Limited detached on multifamily lot.* No more than two detached ADUs on a lot with a proposed multifamily dwelling, or up to eight detached ADUs on a lot with an existing multifamily dwelling, if each detached ADU satisfies all of the following limitations:
 - i. The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the City will not require any modification to the multifamily dwelling as a condition of approving the ADU.

- ii. The peak height above grade does not exceed the applicable height limit provided in subsection D.2 below.
- iii. If the lot has an existing multifamily dwelling, the quantity of detached ADUs does not exceed the number of primary dwelling units on the lot.

2. *ADU permit.*

- a. Except as allowed under subsection C.1 above, no ADU may be created without a building permit and an ADU permit in compliance with the standards set forth in subsections D and E below.
- b. The City may charge a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the City's ADU ordinance. The ADU permit processing fee is determined by the Community Development Director and approved by the City Council by resolution.

3. *Process and timing.*

- a. An ADU permit is considered and approved ministerially, without discretionary review or a hearing.
- b. The City must either approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a completed application. If the City has not approved or denied the completed application within 60 days, the application is deemed approved unless either:
 - i. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or
 - ii. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the City may delay acting on the permit application for the ADU or JADU until the City acts on the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.
- c. If the City denies an application to create an ADU or JADU, the City must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection C.3.b above.
- d. A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

D. *Standards applicable to all ADUs and JADUs.* The following requirements apply to all ADUs and JADUs that are approved under subsections C.1 or C.2 above:

1. *Zoning.*

- a. An ADU subject only to a building permit under subsection C.1 above may be created on a lot in a residential or mixed-use zone.
- b. An ADU subject to an ADU permit under subsection C.2 above may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.
- c. In accordance with Government Code section 66333(a), a JADU may only be created on a lot that is zoned to allow single-family residences.

2. *Height.*

- a. Except as otherwise provided by subsections D.2.b and D.2.c below, a detached ADU created on a lot with an existing or proposed single family or multifamily dwelling unit may not exceed 16 feet in height.
 - b. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop or a high quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.
 - c. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.
 - d. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection D.2.d may not exceed two stories.
 - e. For purposes of this subsection D.2, height is measured above existing legal grade to the peak of the structure.
3. *Fire sprinklers.* Fire sprinklers are required in an ADU if sprinklers are required in the primary residence. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
4. *Rental term.* No ADU may be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU was created.
5. *No separate conveyance.* An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section 66341, no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot).

6. *JADU Owner occupancy.* As required by state law, all JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence. Notwithstanding the foregoing, this owner-occupancy requirement does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.
7. *Deed restriction.* A deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Community Development Department. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that, among other things:
 - a. Except as otherwise provided in Government Code Section 66341, the ADU or JADU may not be sold separately from the primary dwelling.
 - b. The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
 - c. The ADU cannot be rented out for a term less than 30 days.
 - d. The deed restriction runs with the land and may be enforced against future property owners.
 - e. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Community Development Director, providing evidence that the ADU or JADU has in fact been eliminated. The Community Development Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal(s) may be taken from the Director's determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.
 - f. The deed restriction is enforceable by the Community Development Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restriction(s) or abatement of the illegal unit.
8. *Building and safety.*
 - a. Subject to subsection D.8.b below, all ADUs and JADUs must comply with all local building code requirements.

- b. Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection D.8.b prevents the City from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

E. *Specific ADU requirements.* The following requirements apply only to ADUs that require an ADU permit under subsection C.2 above.

1. *Maximum size.*

- a. The maximum size of a detached or attached ADU subject to this subsection E is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two or more bedrooms.
- b. An attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling.
- c. Application of other development standards in this subsection E., such as FAR or lot coverage, might further limit the size of the ADU, but no application of the percent-based size limit in subsection E.1.b above or of an FAR, front setback, lot coverage limit or open-space requirement may require the ADU to be less than 800 square feet.

2. *Floor area ratio.* No ADU subject to this subsection E may cause the total FAR of the lot to exceed 45 percent, subject to subsection E.1.c above.

3. *Setbacks.*

- a. An ADU that is subject to this subsection E must conform to a 20 foot front-yard setback, subject to subsection E.1.c above (i.e., no application of the front-yard setback requirement may require the ADU to be less than 800 square feet).
- b. An ADU that is subject to this subsection E must conform to four-foot side- and rear-yard setbacks.
- c. No setback is required for an ADU that is subject to this subsection E if the ADU is constructed in the same location and to the same dimensions as an existing structure.
- d. If new construction is an addition to an existing structure, only the addition must comply with the four-foot side or rear setback.

4. *Lot coverage.* No ADU subject to this subsection E may cause the total lot coverage of the lot to exceed 50 percent, subject to subsection E.1.c above.

5. *Minimum open space.* No ADU subject to this subsection E may cause the total percentage of open space of the lot to fall below 50 percent, subject to subsection E.1.c above.
6. *Passageway.* No passageway, as defined above, is required for an ADU.
7. *Parking.*
 - a. *Generally.* One off-street parking space is required for each ADU. The parking space may be provided in setback areas or as tandem parking, as defined above.
 - b. *Exceptions.* No parking under subsection E.7.a is required in the following situations:
 - i. The ADU is located within one-half mile walking distance of public transit, as defined above.
 - ii. The ADU is located within an architecturally and historically significant historic district.
 - iii. The ADU is part of the proposed or existing primary residence or an accessory structure under subsection C.1.a above.
 - iv. When on-street parking permits are required but not offered to the occupant of the ADU.
 - v. When there is an established car share vehicle stop located within one block of the ADU.
 - vi. When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed in subsections E.7.b.i through v. above.
 - c. *No replacement.* When a garage, carport, covered parking structure, or uncovered parking space is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.
9. *Architectural requirements.*
 - a. The materials and colors of the exterior walls, roof, windows and doors must be the same as those of the primary dwelling.
 - b. The roof slope must match that of the dominant roof slope of the primary dwelling. The dominant roof slope is the slope shared by the largest portion of the roof.
 - c. The exterior lighting must be limited to down-lights or as otherwise required by the building or fire code.

- d. The ADU must have an independent exterior entrance, apart from that of the primary dwelling.
 - e. The interior horizontal dimensions of an ADU must be at least ten feet wide in every direction, with a minimum interior wall height of seven feet.
 - f. No window or door of the ADU may have a direct line of sight to an adjoining residential property. Each window and door must either be located where there is no direct line of sight or screened using fencing, landscaping, or privacy glass to prevent a direct line of sight.
 - g. All windows and doors in an ADU that are less than 30 feet from a property line that is not a public right-of-way line must either be (for windows) clerestory with the bottom of the glass at least six feet above the finished floor, or (for windows and for doors) utilize frosted or obscure glass.
10. *Historical protections.* An ADU that is within 600 feet of real property that is listed in the California Register of Historic Resources must be located so as to not be visible from any public right-of-way.
- F. *Fees.* The following requirements apply to all ADUs that are approved under subsections C.1 or C.2 above.
- 1. *Impact fees.*
 - a. No impact fee is required for an ADU that is less than 750 square feet in size. For purposes of this subsection F.1, "impact fee" means a "fee" under the Mitigation Fee Act (Gov. Code § 66000(b)) and a fee under the Quimby Act (Gov. Code § 66477). "Impact fee" here does not include any connection fee or capacity charge for water or sewer service.
 - b. Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit. (E.g., the floor area of the ADU, divided by the floor area of the primary dwelling, times the typical fee amount charged for a new dwelling.)
 - 2. *Utility fees.*
 - a. If an ADU is constructed with a new single-family home, a separate utility connection directly between the ADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.
 - b. Except as described in subsection F.2.a, converted ADUs on a single-family lot that are created under subsection C.1.a above are not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required.

c. Except as described in subsection F.2.a, all ADUs that are not covered by subsection F.2.b require a new, separate utility connection directly between the ADU and the utility.

- i. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU based on either the floor area or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system.
- ii. The portion of the fee or charge that is charged by the City may not exceed the reasonable cost of providing this service.

G. *Nonconforming Zoning Code conditions, Building Code violations, and unpermitted structures.*

1. *Generally.* The City will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.

2. *Unpermitted ADUs constructed before 2020.*

a. *Permit to Legalize.* As required by state law, the City may not deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if denial is based on either of the following grounds:

- i. The ADU or JADU violates applicable building standards, or
- ii. The ADU or JADU does not comply with state ADU law or this Section 18.90.080.

b. *Exceptions.*

- i. Notwithstanding subsection G.2.a above, the City may deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if the City makes a finding that correcting a violation is necessary to comply with the standards specified in California Health and Safety Code section 17920.3.
- ii. Subsection G.2.a above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
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(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



May 17, 2024

Elise McCaleb, Community Development Director
Community Development
City of Hawaiian Gardens
21815 Pioneer Blvd
Hawaiian Gardens, CA 90716

Dear Elise McCaleb:

RE: Review of Hawaiian Gardens Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, §§ 66310 – 66342)

Please Note: As of March 25, 2024, with the Chaptering of Senate Bill (SB) 477 (Chapter 7, Statutes of 2024), the sections of Government Code relevant to State Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Law have been re-numbered (Enclosure 1).

Thank you for submitting the City of Hawaiian Gardens (City) ADU Ordinance No. 2022-607 (Ordinance), adopted January 10, 2023, to the California Department of Housing and Community Development (HCD). HCD has reviewed the Ordinance and submits these written findings pursuant to Government Code section 66326, subdivision (a). HCD finds that the Ordinance does not comply with State ADU and JADU Laws in the manner noted below. Under section 66326, subdivision (b)(1), the City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these findings no later than June 17, 2024.

The Ordinance addresses many statutory requirements; however, HCD finds that the Ordinance does not comply with State ADU Law in the following respects:

1. Section 18.90.080 C.3.b – *Approvals* – The Ordinance states that the City “must act on an application within 60 days...” However, Government Code section 66317, subdivision (a) requires that local jurisdictions “**shall either approve or deny** the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days...” Therefore, the City must change the language from “must act” to “shall approve or deny” to comply with State ADU Law.
2. Section 18.90.080 D.1 – *JADUs and Zoning* – The Ordinance states, “(a) An ADU or JADU subject only to a building permit under subsection (C)(1) above may be created on a lot in a residential or mixed-use zone. (b) An ADU or JADU subject to an ADU permit under subsection (C)(2) above may be created

on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.” However, Government Code section 66333, allows JADUs “in single-family residential zones”. Therefore, allowing JADUs in multifamily zones is inconsistent with State ADU Law. The City must amend the Ordinance accordingly.

3. Section 18.90.080 D.3 – *JADU Terms* – The Ordinance states, “No ADU or JADU may be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.” However, Government Code section 66315 states, “Section 66314 establishes the maximum standards that a local agency shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in Section 66314, shall be used or imposed...” Section 66314 does not address rental term limits for JADUs. The requirement of a rental term 30 days or longer is not required in Government Code section 66333 et seq. Therefore, the City must remove the requirement and amend the Ordinance to comply with State JADU Law.
4. Section 18.90.080 D.5 – *Owner Occupancy* – The Ordinance states, “(a) An ADU that is permitted after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement. (b) Unless applicable law requires otherwise, all ADUs that are permitted on or after January 1, 2025 are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person’s legal domicile and permanent residence.” However, Government Code section 66315 states, “Section 66314 establishes the maximum standards that a local agency shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in Section 66314, shall be used or imposed, including an owner-occupant requirement...” Therefore, the City must remove this section from the Ordinance.
5. Section 18.90.080 D.6 – *Deed Restriction* – The Ordinance states, “Prior to the issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder’s office and a copy filed with the Community Development Department to the City’s satisfaction.” However, Government Code section 66315 states, “Section 66314 establishes the maximum standards that a local agency shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in Section 66314, shall be used or imposed, including an owner-occupant requirement, except that a local agency may require that the property may be used for rentals of terms 30 days or longer.” The City may not require a deed restriction and noncompliance as the basis of delay or denial of an ADU application and the issuance of a building permit.

Additionally, JADU deed restrictions are limited only to the conditions listed In Government Code section 66333, subdivision (c), namely: “A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers... A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.” Therefore, the City must amend the Ordinance to comply with State ADU Law.

6. Section 18.90.080 E.3.a – *Front Setback* – The Ordinance states that “An ADU that is subject to this subsection must conform to a 20 foot front-yard setback, subject to subsection (E)(1)(c) above.” However, subsection (E)(1)(c) governs size maximums and does not address placement of a unit on a lot. Government Code section 66323, subdivision (b)(3) prohibits development standards, and specifically front setbacks, from precluding a unit up to 800 square feet. Therefore, the City should note that front setbacks may not preclude any ADU 800 square feet or smaller.

In response to the findings in this letter, and pursuant to Government Code section 66326, subdivision (b)(2), the City must either amend the Ordinance to comply with State ADU Law or adopt the Ordinance without changes. Should the City choose to adopt the Ordinance without the changes specified by HCD, the City must include findings in its resolution that explain the reasons the City finds that the Ordinance complies with State ADU Law despite the findings made by HCD. Accordingly, the City’s response should provide a plan and timeline to bring the Ordinance into compliance.

Please note that, pursuant to Government Code section 66326, subdivision (c)(1), if the City fails to take either course of action and bring the Ordinance into compliance with State ADU Law, HCD may notify the City and the California Office of the Attorney General that the City is in violation of State ADU Law.

HCD appreciates the City’s efforts in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the City in fully complying with State ADU Law. Please contact Mike Van Gorder, of our staff, at (916) 776-7541 or at mike.vangorder@hcd.ca.gov if you have any questions or would like HCD’s technical assistance in these matters.

Sincerely,



Jamie Candelaria
Senior Housing Accountability Manager
Housing Policy Development Division



"Our Youth – Our Future"

CITY OF HAWAIIAN GARDENS

June 17, 2024

VIA EMAIL

Department of Housing and Community Development
Housing Policy Development Division
Jamie Candelaria, Senior Housing Accountability Manager
Email: Jamie.Candelaria@hcd.ca.gov

Re: City of Hawaiian Gardens Responses to HCD's Review of Hawaiian Gardens Accessory Dwelling Unit ("ADU") Ordinance Under State ADU Law (Gov. Code sections 66310-66342)

Dear Jamie Candelaria,

This correspondence is in response to the Department of Housing and Community Development's ("HCD") comments to the City of Hawaiian Gardens' ("City") ADU Ordinance, dated May 17, 2024. The City submitted the Ordinance to HCD for review back in January 2023. The City submits this response in compliance with Government Code section 66326. The City provides responses as follows:

1. In response to HCD's Comment #1, the City will update HGMC section 18.90.080 C.3 to conform to Government Code section 66317(a).
2. In response to HCD's Comment #2, the City will amend HGMC section 18.90.080 D.1 to clarify that a JADU may only be created on a lot zoned for single-family residences.
3. In response to HCD's Comment #3, the City will amend HGMC section 18.90.080 D.3 to remove the JADU short-term rental prohibition.
4. In response to HCD's Comment #4, the City will amend HGMC section 18.90.080 D.5 to conform to Government Code section 66315.
5. In response to HCD's Comment #5, the City will amend HGMC section 18.90.080 D.6 to clarify that the deed restriction requirement will not be a basis

to delay or deny an ADU application or issue a building permit. The City will also amend this section to conform with Gov. Code section 66333(c) (JADUs).

6. In response to HCD's Comment #6, the City will amend HGMC section 18.90.080 E.1.c and E.3.a to conform to Gov. Code section 66321(b)(3).

Thank you for your attention to this matter. If you have any questions, please contact Elise McCaleb at cddirector@HGCity.org or 562-420-2641 ext. 244.

Sincerely,



for Elise McCaleb

Elise McCaleb
Community Development Director
City of Hawaiian Gardens

18.90.080 Accessory dwelling units and junior accessory dwelling units.

A. General.

1. *Purpose.* The purpose of this section is to allow for the creation, through a ministerial process, of accessory dwelling units ([ADUs](#)) and junior accessory dwelling units ([JADUs](#)) in accordance with [Chapter 13 of Division 1 of Title 7 of the California Government Code sections 65852.2 and 65852.22](#). Facilitating the development of ~~accessory dwelling units and junior accessory dwelling units~~ [ADUs and JADUs](#) will increase the housing options for family members, seniors, low-wage workers, persons with disabilities, students, and others in the community. ~~This section prescribes standards to minimize adverse impacts on the public health, safety, and general welfare associated with the establishment of accessory dwelling units and junior accessory dwelling units.~~

~~2. Applicability.~~

- ~~2.~~ [a. *Applicability.*](#) Any construction, establishment, alteration, enlargement, or modification of an ~~accessory dwelling unit and junior accessory dwelling unit~~ [ADU or JADU](#) approved under this section shall comply with the requirements of this section and ~~of~~ the City's Building Code.

~~b. An existing residential unit may be designated as an accessory dwelling unit, but not as a junior accessory dwelling unit, at the time that a new primary dwelling is proposed for construction, provided the existing residential unit conforms to all the standards under this section. A junior accessory dwelling unit may be designated as part of the construction of and within a new primary dwelling.~~

~~3. *Ministerial action.* Approval or denial of an accessory dwelling unit or junior accessory dwelling unit under this section is a ministerial action not subject to discretionary review. Such action shall be taken within 60 days of the City receiving a complete application for an accessory dwelling unit permit, as provided on forms established by the Community Development Director and subject to a fee as authorized by City Council resolution.~~

~~4. *Deemed consistent with density, general plan, and zoning.* An accessory dwelling unit or junior accessory dwelling unit that conforms to the requirements of this section shall not be considered to exceed the allowable density for the lot upon which it is located and shall be deemed to be a residential use consistent with the City of Hawaiian Gardens General Plan and zoning designation for the lot.~~

- ~~3.~~ [5. *Effect of conforming.*](#) An ADU or JADU that conforms to the standards in this section will not be:
 - a. Deemed to be inconsistent with the City's general plan and zoning designation for the lot on which the ADU or JADU is located.

- b. Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
- c. Considered in the application of any local ordinance, policy, or program to limit residential growth.
- d. Required to correct a nonconforming zoning condition, as defined in subsection B below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.

B. *Definitions.* For purposes of this section:

Accessory dwelling unit or *ADU* means attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes an efficiency unit as defined in Section 17958.1 of the Health and Safety Code and a manufactured home as defined in Section 18007 of the Health and Safety Code. ~~Also includes multiple accessory dwelling units within portions of existing multifamily structures that are not used as livable space, including, but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with building standards for dwellings.~~

Accessory structure means a structure that is accessory and incidental to a dwelling located on the same lot.

Complete independent living facilities means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.

Efficiency kitchen means a kitchen that includes all of the following:

1. A cooking facility with appliances.
2. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.

Junior accessory dwelling unit or *JADU* means a residential unit that ~~satisfies~~meets all of the following requirements: (i) it is no more than 500 square feet in size; (ii) it is contained entirely within an existing or proposed single-family structure (an enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure); (iii) it includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure; (iv) if the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family structure in addition to an exterior entrance that is separate from the main entrance to the primary dwelling; and (v) it includes an efficiency kitchen, as defined above.

Livable space means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

Living area means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

Nonconforming zoning condition means a physical improvement on a property that does not conform with current zoning standards.

Passageway means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.

Proposed dwelling means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

Public transit means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

Tandem parking means that two or more ~~automobiles~~[vehicles](#) are parked on a driveway or in any other location on a lot, lined up behind one another.

C. *Approvals*. The following approvals apply to ADUs and ~~JADUs~~[JADUs](#) under this section:

1. *Building permit only*. If an ADU or JADU complies with each of the general requirements in subsection D- below, it is allowed with only a building permit in the following scenarios:
 - a. *Converted on single-family lot*. One ADU as described in this subsection and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
 - i. Is either within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and
 - ii. Has exterior access that is independent of that for the single-family dwelling; and
 - iii. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
 - iv. The JADU complies with the requirements of Government Code ~~Section 65852.22~~[sections 66333 through 66339](#).
 - b. *Limited detached on single-family lot*. One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection C.1.a above), if the detached ADU satisfies each of the following limitations:
 - i. The side- and rear-yard setbacks are at least four-feet.

- ii. The total floor area is 800 square feet or smaller.
 - iii. The peak height above grade does not exceed the applicable height limit in subsection D.2 below.
- c. *Converted on multifamily lot.* One or more 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, if each converted ADU complies with state building standards for dwellings. Under this subsection C.1.c, at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.
- d. *Limited detached on multifamily lot.* No more than two detached ADUs on a lot ~~that has~~with a proposed multifamily dwelling, or up to eight detached ADUs on a lot with an existing multifamily dwelling, if each detached ADU satisfies ~~both~~all of the following limitations:
- i. The side- and rear-yard setbacks are at least four feet~~-if~~. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the City will not require any modification to the multifamily dwelling as a condition of approving the ADU.
 - ii. The peak height above grade does not exceed the applicable height limit provided in subsection D.2 below.
 - iii. If the lot has an existing multifamily dwelling, the quantity of detached ADUs does not exceed the number of primary dwelling units on the lot.

2. *ADU permit.*

- a. Except as allowed under subsection C.1 above, no ADU may be created without a building permit and an ADU permit in compliance with the standards set forth in subsections D and E below.
- b. The City may charge a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the City's ADU ordinance. The ~~ADU-permit~~ADU permit processing fee is determined by the Community Development Director and approved by the City Council by resolution.

3. *Process and timing.*

- a. An ADU permit is considered and approved ministerially, without discretionary review or a hearing.
- b. The City must ~~act on~~either approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a completed application. If the City ~~does~~has not ~~act upon~~approved or denied the completed application within 60 days, the application is deemed approved unless either:

- i. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or
 - ii. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the City may delay acting on the permit application for the ADU or JADU until the City acts on the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.
 - c. If the City denies an application to create an ADU or JADU, the City must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection C.3.b above.
 - d. A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.
- D. *Standards applicable to all ~~accessory dwelling units and junior accessory dwelling units~~ ADUs and JADUs.* The following requirements apply to all ADUs and JADUs that are approved under subsections C.1 or C.2 above:
- 1. *Zoning.*
 - a. An ADU ~~or JADU~~ subject only to a building permit under subsection C.1 above may be created on a lot in a residential or mixed-use zone.
 - b. An ADU ~~or JADU~~ subject to an ADU permit under subsection ~~C.2~~C.2 above may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.
 - c. In accordance with Government Code section 66333(a), a JADU may only be created on a lot that is zoned to allow single-family residences.
 - 2. *Height.*
 - a. Except as otherwise provided by subsections D.2.b and D.2.c below, a detached ADU created on a lot with an existing or proposed single family or multifamily dwelling unit may not exceed 16 feet in height.
 - b. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop or a high quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

- c. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.
 - d. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection D.2.d may not exceed two stories.
 - e. For purposes of this subsection D.2, height is measured above existing legal grade to the peak of the structure.
3. ~~2.~~ *Fire sprinklers.* Fire sprinklers are required in an ADU if sprinklers are required in the primary residence. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
4. ~~3.~~ *Rental term.* No ADU ~~or JADU~~ may be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU ~~or JADU~~ was created.
5. ~~4.~~ *No separate conveyance.* An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section ~~65852.26~~66341, no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot).

~~5.~~ JADU *Owner occupancy.*

- ~~a. An ADU that is permitted after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement.~~
 - ~~b. Unless applicable law requires otherwise, all ADUs that are permitted on or after January 1, 2025 are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.~~
 - ~~c. As required by state law, all JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence. However, the owner-occupancy~~Notwithstanding the foregoing, this owner-occupancy requirement ~~in this subsection D.0~~ does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.
6. ~~6.~~ *Deed restriction.* ~~Prior to the issuance of a building permit for an ADU or JADU, a~~A deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Community Development Department ~~to the City's satisfaction.~~ The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that, among other things:

- a. Except as otherwise provided in Government Code Section ~~65852.26~~[66341](#), the ADU or JADU may not be sold separately from the primary dwelling.
- b. The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
- c. The ADU ~~or JADU~~ cannot be rented out for a term less than 30 days.
- d. The deed restriction runs with the land and may be enforced against future property owners.
- e. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Community Development Director, providing evidence that the ADU or JADU has in fact been eliminated. The Community Development Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal(s) may be taken from the Director's determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.
- f. The deed restriction is enforceable by the Community Development Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restriction(s) or abatement of the illegal unit.

~~7. *Income reporting.* In order to facilitate the City's obligation to identify adequate sites for housing in accordance with Government Code sections 65583.1 and 65852.2, the following requirements must be satisfied:~~

~~a. With the building permit application, the applicant must provide the City with an estimate of the projected annualized rent that will be charged for the ADU or JADU.~~

~~b. Within 90 days after each yearly anniversary of the issuance of the building permit, the owner must report the actual rent charged for the ADU or JADU during the prior year. If the City does not receive the report within the 90-day period, the owner is in violation of this Code, and the City may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner fails to submit the report within the 30-day period, the City may enforce this provision in accordance with applicable law.~~

~~8. *Notice of construction.*~~

~~a. At least ten business days before starting any construction of an ADU or JADU, the property owner must give written notice to all the owners of record of each of the adjacent residential parcels, which notice must include the following information:~~

- ~~i. Notice that construction has been authorized;~~
- ~~ii. The anticipated start and end dates for construction;~~
- ~~iii. The hours of construction;~~
- ~~iv. Contact information for the project manager (for construction-related complaints); and~~
- ~~v. Contact information for the Building and Safety Department.~~

~~b. This notice requirement does not confer a right on the noticed persons or on anyone else to comment on the project before permits are issued. Approval is ministerial. Under state law, the City has no discretion in approving or denying a particular ADU project under this section. This notice requirement is purely to promote neighborhood awareness and expectation.~~

7. ~~9.~~ *Building and safety.*

- a. ~~All~~ Subject to subsection D.7.b below, all ADUs and JADUs must comply with all local building code requirements.
- b. Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection ~~D.7.b~~ 7.b prevents the City from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

E. *Specific ADU requirements.* The following requirements apply only to ADUs that require an ADU permit under subsection C.2 above.

1. *Maximum size.*

- a. The maximum size of a detached or attached ADU subject to this subsection ~~E.~~ is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two or more bedrooms.
- b. An attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling.

- c. Application of other development standards in this subsection E., such as FAR or lot coverage, might further limit the size of the ADU, but no application of the percent-based size limit in subsection E.1.b above or of an FAR ~~or~~ front setback, lot coverage limit or open-space requirement may require the ADU to be less than 800 square feet.
2. *Floor area ratio.* No ADU subject to this subsection E ~~or~~ may cause the total FAR of the lot to exceed 45 percent, subject to subsection E.1.c above.
3. *Setbacks.*
 - a. An ADU that is subject to this subsection E must conform to a 20 foot front-yard setback, subject to subsection E.1.c above (i.e., no application of the front-yard setback requirement may require the ADU to be less than 800 square feet).
 - b. An ADU that is subject to this subsection E must conform to four-foot side- and rear-yard setbacks.
 - c. No setback is required for an ADU that is subject to this subsection E if the ADU is constructed in the same location and to the same dimensions as an existing structure.
 - d. If new construction is an addition to an existing structure, only the addition must comply with the four-foot side or rear setback.
4. *Lot coverage.* No ADU subject to this subsection E may cause the total lot coverage of the lot to exceed 50 percent, subject to subsection E.1.c above.
5. *Minimum open space.* No ADU subject to this subsection E may cause the total percentage of open space of the lot to fall below 50 percent, subject to subsection E.1.c above.
6. *Passageway.* No passageway, as defined above, is required for an ADU.
7. *Parking.*
 - a. *Generally.* One off-street parking space is required for each ADU. The parking space may be provided in setback areas or as tandem parking, as defined above.
 - b. *Exceptions.* No parking under subsection E.7.a is required in the following situations:
 - i. The ADU is located within one-half mile walking distance of public transit, as defined above.
 - ii. The ADU is located within an architecturally and historically significant historic district.
 - iii. The ADU is part of the proposed or existing primary residence or an accessory structure under subsection C.1.a above.
 - iv. When on-street parking permits are required but not offered to the occupant of the ADU.

- v. When there is an established car share vehicle stop located within one block of the ADU.
- vi. When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed in subsections E.7.b.i through v. above.
- c. *No replacement.* When a garage, carport, ~~or~~ covered parking structure, or uncovered parking space is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.

9. *Architectural requirements.*

- a. The materials and colors of the exterior walls, roof, ~~and~~ windows and doors must ~~match the appearance and architectural design of~~ be the same as those of the primary dwelling.
- b. The roof slope must match that of the dominant roof slope of the primary dwelling. The dominant roof slope is the slope shared by the largest portion of the roof.
- c. The exterior lighting must be limited to down-lights or as otherwise required by the building or fire code.
- d. The ADU must have an independent exterior entrance, apart from that of the primary dwelling.
- e. The interior horizontal dimensions of an ADU must be at least ten feet wide in every direction, with a minimum interior wall height of seven feet.
- f. ~~Windows and doors~~ No window or door of the ADU may ~~not~~ have a direct line of sight to an adjoining residential property. ~~Fencing~~ Each window and door must either be located where there is no direct line of sight or screened using fencing, landscaping, or privacy glass ~~may be used to provide screening and to~~ prevent a direct line of sight.
- g. All windows and doors in an ADU that are less than 30 feet from a property line that is not a public right-of-way line must either be (for windows) clerestory with the bottom of the glass at least six feet above the finished floor, or (for windows and for doors) utilize frosted or obscure glass.

~~10.~~ *Historical protections.* An ADU that is within 600 feet of real property that is listed in the California Register of Historic Resources must ~~do both of the following:~~

- ~~a. be Comply with the Secretary of the Interior's objective Standards for Preservation, Rehabilitation, Restoration, or Reconstruction for the Treatment of Historic Properties, as applicable.~~
- ~~b. Be~~ located so as to not be visible from any public right-of-way.

F. *Fees.* The following requirements apply to all ADUs that are approved under subsections C.1 or C.2 above.

1. *Impact fees.*

- a. No impact fee is required for an ADU that is less than 750 square feet in size. For purposes of this subsection F.1, "impact fee" means a "fee" under the Mitigation Fee Act (Gov. Code § 66000(b)) and a fee under the Quimby Act (Gov. Code § 66477). "Impact fee" here does not include any connection fee or capacity charge for water or sewer service.
- b. Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit. (E.g., the floor area of the ADU, divided by the floor area of the primary dwelling, times the typical fee amount charged for a new dwelling.)

2. *Utility fees.*

- a. If an ADU is constructed with a new single-family home, a separate utility connection directly between the ADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.
- b. Except as described in subsection F.2.a, converted ADUs on a single-family lot that are created under subsection C.1.a above are not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required.
- c. Except as described in subsection F.2.a, all ADUs that are not covered by subsection F.2.b require a new, separate utility connection directly between the ADU and the utility.
 - i. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU based on either the floor area or the number of drainage-fixtured units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system.
 - ii. The portion of the fee or charge that is charged by the City may not exceed the reasonable cost of providing this service.

G. *Nonconforming Zoning Code conditions, Building Code violations, and unpermitted structures.*

1. Generally. The City will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.
2. *Unpermitted ADUs constructed before ~~2018~~2020.*

- a. Permit to Legalize. As required by ~~State~~state law, the City may not deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, ~~2018~~2020, if denial is based on either of the following grounds:

- i. The ADU ~~violate~~or JADU violates applicable building standards, or
- ii. The ADU or JADU does not comply with ~~the State~~state ADU law (~~Government Code section 65852.2~~) or this Section 18.90.080.

b. *Exceptions.*

- i. Notwithstanding subsection G.2.a above, the City may deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, ~~2018~~2020, if the City makes a finding that correcting a violation is necessary to ~~protect the health and safety of the public or of occupants of the structure~~comply with the standards specified in California Health and Safety Code section 17920.3.
- ii. Subsection G.2.a above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.

~~ii. Notwithstanding subsection G.2.a above, the City may deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if the City makes a finding that correcting a violation is necessary to protect the health and safety of the public or of occupants of the structure.~~

~~H. Nonconforming ADUs and discretionary approval. Any proposed ADU or JADU that does not conform to the objective standards set forth in subsections A. through G. of this section may be allowed by the City with a conditional use permit, in accordance with the other provisions of this Title.~~



**CITY OF HAWAIIAN GARDENS
PLANNING COMMISSION
STAFF REPORT**

Agenda Item #A1

DATE: October 16, 2024
TO: Planning Commission
FROM: Elise McCaleb, Community Development Director
BY: Megan Garibaldi, City Attorney

RECOMMENDATIONS:

Open the public hearing, receive public testimony, close the public hearing, and by motion:

1. Find that the adoption of the proposed ordinance is statutorily exempt from review under the California Environmental Quality Act ("CEQA") under Public Resources Code section 21080.17.
2. Adopt a resolution (Attachment 1) recommending that the City Council adopt the proposed ordinance that is attached thereto as Exhibit "A."

SUMMARY

The proposed Ordinance will amend Section 18.90.080 of the Hawaiian Gardens Municipal Code ("HGMC") to: (1) comply with recent changes to state law that impose new limits on local authority to regulate Accessory Dwelling Units ("ADUs") and Junior Accessory Dwelling Units ("JADUs"); (2) make minor revisions requested by the California Department of Housing and Community Development ("HCD"); and (3) augment clarity for the benefit of staff and the general public. The Planning Commission's action serves as a recommendation to the City Council.

BACKGROUND AND ANALYSIS:

In recent years, the California Legislature has approved, and the Governor has signed into law, a number of bills that, among other things, amended various sections of the Government Code to impose new limits on local authority to regulate ADUs and JADUs. The City's regulations governing the creation of ADUs

and JADUs are provided in HGMC section 18.90.080. The City most recently updated this section in January 2023 to comply with then recent changes in state law.

In May 2024, the City received correspondence from HCD identifying select provisions of HGMC section 18.90.080 that HCD maintained should be revised to comply with state law. Staff responded in June 2024 and agreed to incorporate HCD's requested revisions into a future ADU ordinance update (HCD's letter and the City's response are provided in Attachment 2). In September 2024, the California Legislature approved, and the Governor signed into law, two new bills — AB 2533 and SB 1211 — that further amend state ADU law as summarized below.

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 (Substandard Buildings). (See amended Gov. Code, § 66332(a)–(f).)

SB 1211 – Replacement Parking Requirements; Multifamily ADUs

Replacement Parking

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. (See amended Gov. Code, § 66314(d)(11).)

Multifamily ADUs

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.” (See amended Gov. Code, § 66313(e).)

SB 1211 also increases the number of detached ADUs that lots with an existing multifamily dwelling can have. 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 to eight detached ADUs, or as many detached ADUs as there are primary dwelling units on the lot, whichever is less. (See amended Gov. Code, § 66323(a)(4)(A)(ii).) SB 1211 does not alter the number of ADUs that a lot with a *proposed* multifamily dwelling can have — the limit remains at two. (See amended Gov. Code, § 66323(a)(4).)

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 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.

Next Steps & Recommendation

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. Adopting the proposed ordinance (Exhibit A to Attachment 1) will amend HGMC section 18.90.080 to: (1) ensure that the City’s ADU ordinance will be valid under AB 2533 and SB 1211; (2) align the City’s ADU ordinance with changes requested by HCD; and (3) incorporate other minor staff-generated revisions aimed at augmenting clarity for the benefit of staff and the general public. For these reasons, staff is recommending that the Planning Commission adopt the attached resolution (Attachment 1), to recommend that the City Council adopt the proposed ordinance.

For reference purposes only, a redline showing the proposed ordinance's revisions to HGMC section 18.90.080 is attached as Attachment 3.

FISCAL IMPACT

None.

SUGGESTED ACTION

Approve Recommendation.

ATTACHMENTS

ATTACHMENTS:

1. Planning Commission Resolution, with the proposed ordinance attached as Exhibit "A"
2. HCD's May 2024 Correspondence and the City's Response
3. HGMC Section 18.90.080 Redline