

CITY OF PALM DESERT STAFF REPORT

MEETING DATE: November 14, 2024

PREPARED BY: Carlos Flores, AICP, Principal Planner

SUBJECT: INTRODUCTION OF AN ORDINANCE TO AMEND SECTION 25.34.030
ACCESSORY DWELLING UNITS OF THE PALM DESERT MUNICIPAL
AND MAKING A FINDING OF EXEMPTION UNDER CEQA

RECOMMENDATION:

Introduce an Ordinance entitled, “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM DESERT, CALIFORNIA, AMENDING SECTION 25.34.030 RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND MAKING A FINDING OF EXEMPTION UNDER CEQA”

BACKGROUND/ANALYSIS:

In recent years, the California Legislature has approved, and the Governor has signed into law several bills that, among other things, amended various sections of the Government Code to impose new limits on local authority to regulate ADUs and JADUs. In 2024, the California Legislature approved, and the Governor signed into law two new bills, AB 2533 and SB 1211, that further amended 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 to 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

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)(iii).)

Streamlining/Clean Up

City staff is also recommending revisions to the Zoning Ordinance section to streamline the process for staff and applicants to construct ADUs and clean up code references. Streamlining changes include the removal of a deed restriction requirement for ADUs (State law only requires this for JADUs) and removal of a separate ADU permit. Clean up items include correcting references to the PDMC and Government Code and clearer definitions.

Summary

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) ensures that the City’s ADU ordinance aligns with the amendments made to AB 2533 and SB 1211. Therefore, staff is recommending the Planning Commission adopt Resolution No. 2885 (Attachment 1), recommending the City Council adopt the proposed amended ordinance. Adoption of the ordinance may require changes to other sections of the PDMC at a future date to ensure consistency.

Public Input:

Public noticing was provided for the November 14, 2024, City Council meeting per the requirements of PDMC Section 25.60.060 and Government Code Sections 65090 to 65094. A public hearing notice was published a minimum of 10 days before the hearing date on Friday, November 1, 2024, in *The Desert Sun* newspaper.

Environmental Review:

Under California Public Resources Code (PRC) 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.

Appointed Body Recommendation:

On October 29, 2024, the City of Palm Desert’s Planning Commission adopted Planning Commission Resolution No. 2885 to recommend City Council approval of ZOA2024-0003 as presented.

LEGAL REVIEW:

This report has been reviewed by the City Attorney’s Office.

FINANCIAL IMPACT:

There is no direct financial impact with this action.

ATTACHMENTS:

1. Draft City Council Ordinance
 - a. Draft Exhibit A – Zoning Ordinance Amendment
2. Public Hearing Notice