

EXHIBIT A - ZONING ORDINANCE AMENDMENT

Amendment to Palm Desert Municipal Code. Palm Desert Municipal Code Section 25.34.030 is hereby amended as follows:

Section 25.34.030 Accessory Dwelling Units

A. **Purpose.** The purpose of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code.

B. **Effect of conforming.** An ADU or JADU that conforms to the standards in this section will not be:

1. Deemed to be inconsistent with the City's General Plan and zoning designation for the lot on which the ADU or JADU is located.
2. Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
3. Considered in the application of any local ordinance, policy, or program to limit residential growth.
4. Required to correct a nonconforming zoning condition, as defined in subsection (C)(8) below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.

C. **Definitions.** As used in this section, terms are defined as follows:

1. "Accessory dwelling unit" or "ADU" means an 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 the following:
 - a. An efficiency unit, as defined by section 17958.1 of the California Health and Safety Code; and
 - b. A manufactured home, as defined by section 18007 of the California Health and Safety Code.
2. "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

3. "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.
4. "Efficiency kitchen" means a kitchen that includes all of the following:
 - a. A cooking facility with appliances.
 - b. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.
5. "Junior accessory dwelling unit" or "JADU" means a residential unit that satisfies all of the following:
 - a. It is no more than 500 square feet in size.
 - b. 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.
 - c. It includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure.
 - d. 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.
 - e. It includes an efficiency kitchen, as defined in subsection (C)(4) above.
6. "Livable space" means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.
7. "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.
8. "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.
9. "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
10. "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

11. "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.

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

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

1. **Building-Permit.** An ADU or JADU must comply with each of the general requirements in subsection (E) below and is allowed with a building-permit in the following scenarios:

- a. **Converted on Single-family Lot:** One ADU as described in this subsection (D)(1)(a) and 1 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 (in the case of an ADU only) 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 (D)(1)(a) above, if the detached ADU satisfies each of the following limitations:
 - i. The side- and rear-yard setbacks are at least 4 feet.
 - ii. The peak height above grade does not exceed the applicable height limit in subsection (E)(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 (D)(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 2 detached ADUs on a lot with a proposed multifamily dwelling, or up to 8 detached ADUs on a lot with an existing multifamily dwelling, subject to the following:
 - i. The side- and rear-yard setbacks are at least 4 feet. If the existing multifamily dwelling has a rear or side yard setback of less than 4 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 (E)(2) below.
 - iii. If the lot has existing multifamily dwelling units, the quantity of detached ADUs does not exceed the number of primary dwelling units on the lot.

2. Process and Timing.

- a. A building-permit for an ADU or JADU is considered and approved ministerially, without discretionary review or a hearing; provided, however, this section does not preclude or modify any requirement for discretionary review or a hearing under another provision of the Municipal Code consistent with the requirements of state law.
- b. The City may charge a fee to reimburse it for costs incurred in processing building permits, including the costs of adopting or amending the City's ADU ordinance. The building permit processing fee is determined by the Director of Development Services and approved by the City Council by resolution.
- c. The City must 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.

- d. 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 (D)(2)(c) above.
- e. 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.

E. General ADU and JADU Requirements. The following requirements apply to all ADUs and JADUs that are approved under subsection (D):

1. Zoning.

- a. An ADU subject to a building permit under subsection (D)(1) above may be created on a lot in a residential or mixed-use zone.
- b. In accordance with Government Code section 66333(a), a JADU may only be created within the following zoning designations: R-1, R-E, R-2, R-3, and PR. A JADU is prohibited in all other zoning designations, including R-1M and HPR.

2. Height.

- a. Except as otherwise provided by subsections (E)(2)(b) and (E)(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 high quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to 2 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 1 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 (E)(2)(d) may not exceed 2 stories.
- e. For purposes of this subsection (E)(2), height is measured from existing legal grade or the level of the lowest floor, whichever is lower, to the peak of the structure.

3. **Fire Sprinklers.**

- a. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
- b. 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 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. **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. **Septic System.** If the ADU or JADU will connect to an onsite wastewater-treatment system, the owner must include with the application a percolation test completed within the last 5 years or, if the percolation test has been recertified, within the last 10 years.

7. **Owner Occupancy.**

- a. ADUs created under this section on or after January 1, 2020, are not subject to an owner-occupancy requirement.
- b. 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 requirement in this

subsection (E)(7)(b) does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

8. **Deed Restriction.** Prior to issuance of a building permit for a 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 Director of Development Services. 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:
 - a. Except as otherwise provided in Government Code section 66341, the JADU may not be sold separately from the primary dwelling.
 - b. The JADU is restricted to the approved size and to other attributes allowed by this section.
 - c. The deed restriction runs with the land and may be enforced against future property owners.
 - d. The deed restriction may be removed if the owner eliminates the JADU. To remove the deed restriction, an owner may make a written request of the Director, providing evidence that the JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of this Code. If the JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of a JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.
 - e. The deed restriction is enforceable by the Director of Development Services 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 JADU in violation of the recorded restrictions or abatement of the illegal unit.
9. **Certificate of Occupancy.** A certificate of occupancy may not be issued for an ADU or JADU until a certificate of occupancy has been issued for the primary dwelling.
10. **Building & Safety.**
 - a. **Must comply with building code.** Subject to subsection (E)(10)(b) below, all ADUs and JADUs must comply with all local building code requirements.

- b. **No change of occupancy.** 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 or Code Enforcement Division officer 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 (E)(10)(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.

F. **Specific ADU Requirements.** The following requirements apply to all ADUs and JADUs permitted under subsection (D) above.

1. **Maximum Size.**

- a. The maximum size of a detached or attached ADU subject to this subsection (F) is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with 2 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 (F), 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 (F)(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 (FAR).** No ADU subject to this subsection (F) may cause the total FAR of the lot to exceed 45 percent, subject to subsection (F)(1)(c) above.

3. **Setbacks.**

- a. ADUs must conform to 4-foot side and rear setbacks. ADUs must conform to 25-foot front yard setbacks, unless a lesser setback is allowed by the underlying zoning designation, specific plan, planned development standard and/or overlay district that applies to the primary dwelling, subject to subsection (F)(1)(c) above.
- b. No setback is required for an ADU if the ADU is constructed in the same location and to the same dimensions as an existing structure.

- c. An ADU that is subject to this subsection (F) must be at least 5 feet from any other existing and/or proposed dwelling and/or accessory structure.
- 4. **Lot Coverage.** No ADU subject to this subsection (F) may cause the total lot coverage of the lot to exceed 75 percent, subject to subsection (F)(1)(c).
- 5. **Minimum Open Space.** No ADU subject to this subsection (F) may cause the total percentage of open space of the lot to fall below 25 percent, subject to subsection (F)(1)(c) above.
- 6. **Passageway.** No passageway, as defined by subsection (C)(9) 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 by subsection (C)(12) above.
 - b. Exceptions. No parking under subsection (F)(7)(a) is required in the following situations:
 - i. The ADU is located within one-half mile walking distance of public transit, as defined in subsection (C)(11) 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 (D)(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 (F)(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.

8. **Architectural Requirements.**

- a. The materials and colors of the exterior walls, roof, and windows and doors must match the appearance and architectural design of 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. All roof and ground-mounted equipment must be fully screened from the adjacent public right-of-way and adjacent properties. Masonry walls, landscaping, or architectural features may be used to provide screening and prevent a direct line of sight.
- d. The exterior lighting must be limited to down-lights or as otherwise required by the building or fire code.
- e. The ADU must have an independent exterior entrance, apart from that of the primary dwelling.
- f. The interior horizontal dimensions of an ADU must be at least 10 feet wide in every direction, with a minimum interior wall height of 7 feet.
- g. 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.
- h. All windows and doors in an ADU 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 6 feet above the finished floor, or (for windows and for doors) utilize frosted or obscure glass.

9. **Historical Protections.** An ADU that is on or 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.

10. **Allowed Stories.** No ADU subject to this subsection F may have more than one story, except that an ADU that is attached to the primary dwelling may have the stories allowed under subparagraph (E.2.d) of this section.

G. **Fees.** The following requirements apply to all ADUs that are approved under subsection (D).

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 (G)(1), “impact fee” means a “fee” under the Mitigation Fee Act (Government Code section 66000(b)) and a fee under the Quimby Act (Government Code section 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 (G)(2)(a), converted ADUs on a single-family lot that are created under subsection (D)(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 (G)(2)(a), all ADUs that are not covered by subsection (G)(2)(b) require a new, separate utility connection directly between the ADU and the utility for any utility that is provided by the City. All utilities that are not provided by the City are subject to the connection and fee requirements of the utility provider.
 - 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.

H. 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 and JADUs 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 the state ADU or JADU law or this ADU ordinance (section 25.34.030).
- b. **Exceptions:**
 - i. Notwithstanding subsection (H)(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 (H)(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.

I. Nonconforming ADUs and discretionary approval.

- (1) Any proposed ADU or JADU that does not qualify for ministerial approval under the objective standards set forth in subsections (A) through (H) of this section may be allowed by the City with a conditional use permit, in accordance with the other provisions of this title.
- (2) A proposed ADU or JADU that does not qualify for ministerial approval under the objective standards set forth in subsections (A) through (H) of this section and that is on real property that is listed in the California Register of Historic Resources or is a Landmark, as defined by Chapter 29.20 of the Palm Desert Municipal Code is also subject to the following requirements:
 - a. All additions and modifications that affect the exterior of the primary dwelling require a Certificate of Appropriateness in accordance with Title 29 of the Palm Desert Municipal Code.
 - b. All additions and exterior modifications must preserve the architectural character, and retain any distinctive stylistic features of the existing research and be subject to design standards identified under Section 29.60.080 of the Palm Desert Municipal Code.

