

ORDINANCE NO. 2023-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA MESA ADOPTING AMENDMENTS TO TITLE 24 (ZONING) OF THE LA MESA MUNICIPAL CODE FOR THE DEVELOPMENT OF JUNIOR ACCESSORY DWELLING UNITS (JADUs) IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTIONS 65852.2 AND 65852.22 AND HEALTH AND SAFETY CODE SECTION 17980.12

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WHEREAS, housing in California is becoming increasingly unaffordable, and the availability of housing is a substantial concern for individuals of all demographics, ages, and income groups in communities throughout the City of La Mesa (City);

WHEREAS, the State is falling far short of meeting current and future housing demand and the housing affordability crisis threatens the public health, safety, and/or welfare of our citizenry;

WHEREAS, junior accessory dwelling units are additional living quarters that are independent of the primary dwelling unit that may be either attached or detached and provide complete independent living facilities, including facilities for living, sleeping, eating, cooking, and sanitation;

WHEREAS, alternative housing models such as junior accessory dwelling units contribute to addressing housing supply and affordability;

WHEREAS, Section 65852.150(a) of the California Government Code provides that accessory dwelling units are a valuable form of housing; that they may provide housing for family members, students, the elderly, in-home healthcare providers, the disabled, and others at below market prices within existing neighborhoods; that they may add income and an increased sense of security to homeowners; that they will provide additional rental housing stock; that they offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character; and that they are an essential component of California's housing supply;

WHEREAS, Section 65852.150(b) of the California Government Code provides that the Legislature's intent is that local agencies adopt an ordinance relating to matters including unit size, parking, fees, and other requirements, that are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance;

WHEREAS, the State of California has pursued and enacted various legislation since 2017 regarding the development of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs), intended to further address barriers to accessory dwelling unit construction, which the Legislature has determined is a common-sense, cost effective approach to accommodate future growth and to encourage infill development in developed neighborhoods;

WHEREAS, in September 2022, the State of California enacted Assembly Bill 2221 and Senate Bill 897 ("AB 2221" and "SB 897," respectively), which collectively imposed further restrictions on local authority to regulate ADUs and JADUs, including, among others, JADU configurations;

WHEREAS, the City Council seeks to implement the State legislation through adoption of local regulations for the development of junior accessory dwelling units, as provided by California Government Code Section 65852.22(a), to provide increased affordable housing options and to further the public health, safety, and welfare;

WHEREAS, the City desires to clearly communicate to the residents and citizens and business community how the City intends to implement Section 65852.22 of the California Government Code;

WHEREAS, the Planning Commission conducted a public hearing on December 21, 2022, regarding the herein proposed amendments to Title 24 (Zoning) of the La Mesa Municipal Code (Project 2022-2565), considered all evidence, including testimony and the evaluation and recommendation by staff, presented at said hearing;

WHEREAS, the Planning Commission adopted Resolution No. PC-2022-12 recommending that the City Council adopt an ordinance amending Title 24 (Zoning) of the La Mesa Municipal Code for the development of accessory dwelling units and junior accessory dwelling units;

WHEREAS, the City Council conducted a public hearing on February 28, 2023, regarding the herein proposed amendments to Title 24 (Zoning) of the La Mesa Municipal Code, considered all evidence, including testimony and the evaluation and recommendation by staff, presented at said hearing;

WHEREAS, notices of all said public hearings were made at the time and in the manner required by law;

WHEREAS, this Ordinance is enacted pursuant to the powers vested in the City pursuant to Article XI, Sections 5 and 7, of the California Constitution; and

WHEREAS, the California Environmental Quality Act (CEQA) does not apply to the City's adoption of an ordinance to implement Government Code Section 65852.22 regarding junior accessory dwelling units pursuant to Public Resources Code Section 21080.17.

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED by the Council of the City of La Mesa, California as follows:

SECTION 1: The City Council finds and determines the following:

A. That the foregoing recitals are true and correct and an integral part of the City Council's decision, and hereby adopts such recitals as findings.

B. That the regulations proposed herein are consistent with California Government Code Section 65852.22.

C. That this action is exempt from CEQA pursuant to Public Resources Code Section 21080.17.

SECTION 2: Title 24 (Zoning) Section 24.05.020D9 of the La Mesa Municipal Code (LMMC) is hereby amended as follows, additions are shown as underline and deletions are shown

as ~~strikethrough~~:

9. Junior accessory dwelling units.
  - a. One junior accessory dwelling unit may be permitted in conjunction with an existing or proposed single-family residence on lots zoned for single-family or multifamily residential use.
  - b. A junior accessory dwelling unit may be permitted on the same lot as one ~~an~~ accessory dwelling unit.
  - c. A junior accessory dwelling unit shall not be sold separately from the primary residence.
  - d. A junior accessory dwelling unit may be rented, but only with a rental agreement with terms greater than thirty days.
  - e. The owner of a lot with a junior accessory dwelling unit shall occupy as a principal residence either the primary dwelling or the junior accessory dwelling unit, except where the primary dwelling and junior accessory dwelling are held by an agency such as a land trust or housing organization in an effort to create affordable housing.
  - f. Junior accessory dwelling unit development standards:
    - (i) A junior accessory dwelling unit shall not exceed five hundred square feet in total floor area.
    - (ii) A junior accessory dwelling unit shall be contained entirely within an existing or proposed single-family residence. Attached, enclosed uses, including garages, are considered a part of the proposed or existing single-family residence. For purposes of this subsection, "attached" shall mean that the enclosed use shares a common wall with interior, habitable living space of the primary dwelling unit.
    - (iii) A junior accessory dwelling unit shall be provided with a separate exterior entry.
    - (iv) A junior accessory dwelling unit shall include an efficiency kitchen, with the following components:
      - (1) A cooking facility with appliances.
      - (2) A food preparation counter and storage cabinets that are reasonable to the size of the unit.
    - (v) No additional parking shall be required for a junior accessory dwelling unit other than that required when the existing primary residence was constructed.
    - (vi) A junior accessory dwelling unit may share bathroom/sanitation facilities with the primary residence or may provide separate facilities. If the junior accessory dwelling unit shares sanitation facilities with the primary residence, an interior entry connection to the primary residence's main living area shall be maintained to provide access to the sanitation facilities.
  - g. Except as provided herein, a junior accessory dwelling unit shall comply with all local building and fire code requirements, as appropriate.

- h. The correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the junior accessory dwelling unit shall not be required for approval of a building permit for a junior accessory dwelling unit.
- i. Junior accessory dwelling units shall not be required to provide fire sprinklers or fire attenuation specifications if they are not required for the primary residence. An inspection to confirm that the junior accessory dwelling unit complies with development standards may be assessed.
- j. No sewer or water connection fees shall be required for the development of a junior accessory dwelling unit. An inspection to confirm that the junior accessory dwelling unit complies with development standards may be assessed.
- k. Prior to issuance of a building permit for a junior accessory dwelling unit, a covenant shall be recorded between the owner and the city of La Mesa agreeing to the terms stipulated in this chapter. The covenant shall specifically mention that:
- (i) The junior accessory dwelling unit shall not be sold separately from the primary dwelling unit.
  - (ii) The junior accessory dwelling unit may be rented, but only with a rental agreement with terms greater than thirty days.
  - (iii) The junior accessory unit is limited to the size and attributes set forth by this section.
  - (iv) The owner of record of the property shall occupy the primary dwelling unit or the junior accessory dwelling unit, except where the primary dwelling and junior accessory dwelling are held by an agency such as a land trust or housing organization in an effort to create affordable housing.
  - (v) The covenant shall be binding upon any successors in interest or ownership of the property and lack of compliance with the provisions thereof may result in legal action against the property owner, including revocation of the right to maintain a junior accessory dwelling unit on the property.
- l. Applications for junior accessory dwelling units conforming to the requirements of this section shall be considered ministerially without discretionary review or a hearing, and the city shall approve or deny such applications within sixty calendar days after receiving the application if there is an existing single-family dwelling on the lot. If a permit application for a junior accessory dwelling unit is submitted with an application for a new single-family dwelling on the same lot, the approval or denial of action on the junior accessory dwelling unit shall be delayed until the City approves or denies acts on the permit application for the single-family residence. If the applicant requests a delay, the sixty-day time period shall be extended for the period of the delay.
- m. Projects solely proposing a junior accessory dwelling unit shall be exempt from the requirements for public right-of-way dedication and improvement.

**SECTION 3:** This ordinance shall be effective 30 days after its adoption and the City Clerk shall certify to the adoption of this Ordinance and cause the same to be published at least once within 15 days of its adoption.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of La Mesa, California, held on the 28<sup>th</sup> day of February, 2023, and thereafter PASSED AND ADOPTED at a regular meeting of said City Council held the \_\_\_ day of \_\_\_\_\_, 2023, by the following vote, to wit:

AYES:

NOES:

ABSENT:

APPROVED:

\_\_\_\_\_  
Mark Arapostathis, Mayor

ATTEST:

\_\_\_\_\_  
MEGAN WIEGELMAN, CMC, City Clerk

CERTIFICATE OF CITY CLERK

I, MEGAN WIEGELMAN, City Clerk of the City of La Mesa, California, do hereby certify the foregoing to be a true and correct copy of Ordinance No. 2023-\_\_\_\_\_, duly passed and adopted by the City Council of said City on the date and by the vote therein recited and that the same has been duly published according to law.

MEGAN WIEGELMAN, CMC, City Clerk

(SEAL OF CITY)