

**ZONING CODE  
AMENDMENT  
REGARDING ADU AND  
JADU**

City Council Presentation

June 17, 2024

# ORDINANCE NO. 24-1006

- Ordinance No. 24-1006 updates the Montclair Municipal Code to be consistent with State legislation regarding Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) within the City.
- The proposed ordinance would comply with Government Code Sections 65852.2 and 6585.22 as amended by recent legislation (SB 897).
- Ordinance 24-1006 would amend Chapter 11 of the Montclair Municipal Code by repealing Chapter 11.23 in its entirety and replacing it with the text contained in Exhibit A of the Ordinance.

# NOTABLE CHANGES

- Allows for an increase in the height limits for some ADUs. Specifically, an increased maximum height limit for ADUs that are within half a mile of a major transit stop or high-quality transit corridor from 16 feet to 18 feet. It also increases the height limit to 25 feet for an ADU attached to the primary dwelling, so long as it is not an ADU that is taller than two stories.
- ADUs built in this manner must still comply with all other local development standards. Four-foot rear and side yard setbacks continue to apply.
- Clarifies that installation of fire sprinklers in an ADU will not be required if fire sprinklers are not required for the primary dwelling unit, and further clarifies that construction of an ADU, by itself, will not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

## NOTABLE CHANGES – 2

- The bill specifies that parking requirements may not be required for ADUs in the following instances:
  - ▣ If on-street parking permits are required but not offered to the occupant of the ADU, and:
  - ▣ If there is a car share vehicle located within one block of the ADU.
  - ▣ If within a half-mile walking distance of public transit, an architecturally or historically significant historic district is part of a proposed or existing primary residence.

## NOTABLE CHANGES – 3

- Prohibits a local agency from requiring modifications to an existing multifamily dwelling to satisfy the requirements above.
- Prohibits local agencies from imposing any parking standards on an ADU that is included in an application to create a new single-family or multifamily dwelling unit on the same lot.
- The approval of ADUs and JADUs is to be based solely on default statutory standards, without local regulations governing height, setback, landscape, and architectural review, or on perceived threats to the character of existing neighborhoods, negative impacts to property values, personal privacy, or fire safety.

## NOTABLE CHANGES – 4

- Specifies that enclosed uses within a proposed or existing single-family residence, such as attached garages, are considered part of the primary single-family residence.
- Prohibits a local agency from denying a permit for an ADU due to nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety. Moreover, a local agency is prohibited from denying a permit for an unpermitted ADU that was constructed before January 1, 2018, due to a violation of building standards unless the local agency makes a finding that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure.

## NOTABLE CHANGES – 5

- Requires the City to approve or deny an application for an ADU or JADU within 60 days of receiving the application.
- Requires the City to justify with a full set of detailed comments describing the deficiencies in the application and explaining how to remedy them.
- The proposed ordinance amends the City's local regulatory scheme for the construction of ADUs and JADUs to comply with recently amended provisions of Government Code sections 65852.2 and 65852.22. Failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) renders the City's ADU ordinance null and void, thereby limiting the City to the application of the few default state standards provided in Government Code sections 65852.2

## WHAT CONTINUES TO BE INCLUDED?

- Local agencies may ONLY impose **objective** zoning standards and **objective** design standards on qualifying ADU or JADU projects.
- ▣ However, these objective standards could not have the practical effect of precluding the construction of two units of at least 800 square feet.



# OBJECTIVE STANDARDS – Examples

The following Objective Design Standards are included in the proposed local ordinance:

- ADU shall match the architectural style of the existing primary dwelling, including roof pitch, exterior building materials, colors, and finishes.
- Separate exterior entry(ies) for the ADU/JADU apart from that of the primary dwelling.
- Walls and window placement to maximize privacy.
- Prohibits rooftop decks.
- Requires exterior lights to be shielded and to direct light downward.
- Landscaping.

# Notable Changes -6

- An ADU or JADU may be rented, but not for a term shorter than 30 days. Further, an ADU or JADU cannot be sold or otherwise conveyed separately.
- Owner occupancy is not required for an ADU created on or after January 20, 2020. However, the owner occupancy requirement applies to all JADUs.

# RECOMMENDATION

- Staff recommends the City Council take the following actions:
  - A. Find this project statutorily exempt from the California Environmental Quality Act (CEQA) under Public Resources Code Section 21080.17 from the requirements of CEQA; and
  - B. Adopt Zoning Code Amendment ZCA 2024-21 under Ordinance 24-1006 to repeal and replace Chapter 11.23 of the Montclair Municipal Code relating to the construction of Accessory Dwelling Units and Junior Accessory Dwelling Units in the City of Montclair.