



*City of Arts & Innovation*

# City Council Memorandum

**TO: HONORABLE MAYOR AND CITY COUNCIL** **DATE: JULY 7, 2020**

**FROM: COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT** **WARDS: ALL**

**SUBJECT: PLANNING CASE P20-0068 (ZONING CODE AMENDMENT) – AN AMENDMENT OF THE ZONING CODE TO UPDATE THE ACCESSORY DWELLING UNIT AND FAMILY DAY CARE HOMES PROVISIONS TO COMPLY WITH STATE LEGISLATION AND TINY HOMES PROVISIONS TO FACILITATE HOUSING DEVELOPMENT**

## **ISSUE:**

Approve a Title 19 - Zoning Code Amendment, including Chapter 19.080 – Nonconformities; Chapter 19.100 – Residential Zones (RA-5, RC, RR, RE, R-1-½ ACRE, R-1-13000, R-1-10500, R-1-8500, R-1-7000, R-3-4000, R-3-3000, R-3-2500, R-3-2000, R-3-1500, R-4); Chapter 19.150 – Base Zones Permitted Land Uses; Chapter 19.210 – Mobile Home Park Overlay Zone (MH); Chapter 19.340 – Manufactured Dwellings; Chapters 19.240, 19.350 and 19.406 – Specific Use Provisions; Chapter 19.440 – Accessory Buildings and Structures; Chapter 19.470 Day Care Homes – Family; Chapter 19.442 – Accessory Dwelling Units and Junior Accessory Dwelling Units; Chapter 19.580 – Parking and Loading; Chapter 19.640 - General Permit Provisions; Chapter 19.650 – Approving and Appeal Authority; Chapter 19.710 – Design Review; Chapter 19.780 – Planned Residential Development Permit; Chapter 19.860 – Day Care Permit – Large Family; and Chapter 19.910 – Definitions, to update the Accessory Dwelling Unit and Family Day Care Homes provisions to comply with State legislation and Tiny Home provisions to facilitate housing in the City of Riverside.

## **RECOMMENDATIONS:**

That the City Council:

1. Determine that Planning Case P20-0068 is statutorily exempt from the provisions of the California Environmental Quality Act pursuant to Guidelines Section 15282(h) as an action to implement Sections 65852.1 and 65852.2 of the California Government Code, and further that Planning Case P20-0068 is exempt per Guidelines Section 15061(b)(3), as it can be seen with certainty that the code amendment does not have the potential to cause a significant effect on the environment (General Rule);
2. Approve Planning Case P20-0068 based on the findings of the Planning Commission staff report; and
3. Introduce and subsequently adopt the attached Ordinance amending the Accessory Dwelling Unit, Family Day Care Homes and Tiny Home provisions of Title 19 - Zoning Code of the Riverside Municipal Code.

## **PLANNING COMMISSION RECOMMENDATION:**

On March 5, 2020, the City Planning Commission recommended partial approval of Planning Case P20-0068 for the Tiny Home amendments by a vote of 7 ayes and 0 noes. The Accessory Dwelling Unit (ADU) amendments failed by a vote of 2 ayes and 5 noes. The Family Day Care Homes failed by a vote of 0 ayes and 7 noes. (Attachment 2 and Attachment 3).

Reasons given by the Planning Commission for declining to recommend approval of the ADU amendments included concerns over impacts to utility infrastructure due to increased residential density, and reduced street parking availability due to the removal of on-site parking requirements for ADUs and JADUs. The Planning Commission declined to recommend approval of the Family Day Care Home amendments due to fire and life safety concerns and increased traffic congestion related to increased day care capacity. The Commission also registered general concerns with perceived interference from the State Legislature in local planning matters.

## **BACKGROUND:**

### **Accessory Dwelling Units and Junior Accessory Dwelling Units**

On December 12, 2017, the City Council approved the Housing Element Implementation Program. The Program amended the Accessory Dwelling Unit (ADU) provisions of the Zoning Code to comply with State legislation enacted in 2016 (AB 2299 and SB 1069). The ADU amendments were necessary to meet State Housing Element requirements. In late 2017, the State adopted new legislation related to ADUs and Junior Accessory Dwelling Units (JADU). On February 19, 2019, City Council approved amendments to the ADU regulations to comply with the new State law. At that time, Title 19 did not include JADU regulations and followed State law related to them.

In October 2019, the State amended laws (AB 881 and AB68) to further eliminate barriers to constructing ADUs and JADUs. Key elements of the 2019 legislation include: eliminating the requirement to bring physical zoning non-conformities into compliance; eliminating owner occupancy requirements for ADUs; requiring owner occupancy for a JADU; allowing both an ADU and a JADU on a lot with a primary dwelling; allowing ADUs on lots with multi-family homes (up to 25% in existing structures or 2 detached); eliminating the replacement parking requirement if a garage, carport or covered parking is converted to an ADU; and eliminating impact fees for ADUs under 750 square feet.

### **Family Day Care Homes**

SB 234, signed by the Governor in September 2019, updates the Health and Safety Code to require that family daycare homes with 14 or fewer children be treated as a residential use for purposes of all local ordinances. A family daycare home is considered a residential use by right for the purposes of all local ordinances, including, but not limited to, zoning ordinances and regulations on heights, setback, or lot dimensions and regulations for these uses must mirror those of residential uses in the same zoning designation.

### **Tiny Homes and Tiny Home Communities**

As part of the Housing Element Implementation Program approved by City Council in 2017, Title 19 – Zoning defined tiny homes as smaller homes constructed on a chassis. They are allowed in

Tiny Home Communities as accessory uses to an Assemblies of People—Non-Entertainment Use, such as a place of worship or fraternal organization. The proposed amendments are necessary to clarify regulations for Tiny Homes and Tiny Home Communities in Riverside as part of the Invest Health Grant received by the City.

### Riverside County Airport Land Use Commission

On May 14, 2020, the Riverside County Airport Land Use Commission (ALUC) heard the proposed amendments and considered ALUC Staff's recommendation to determine that the proposed amendments were consistent with the applicable Airport Land Use Compatibility Plans. The Commission continued the item to June 11, 2020 with instructions that ALUC Staff work with City Staff to explore limiting residential density in Compatibility Zones A, B1, B2, C, C1 and C2. Based on discussions between City and ALUC staff clarifying that the State legislation does allow density considerations for ADUs, and that density is based on number of units on a lot and not the number of people in a house, on June 11, 2020, ALUC made a determination of consistency.

### **DISCUSSION:**

The proposed amendments to the City's Zoning Code will bring the ADU and Family Day Care Homes into compliance with State requirements. They would also update the tiny home provisions so that tiny homes on foundations would be regulated as any other single-family dwelling and tiny homes on a chassis would be regulated as any other mobile home in Riverside. The following summarizes the proposed amendments to Title 19 - Zoning Code:

#### PART A: ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

1. Section 19.080.070 (Nonconformities) clarifies the required findings that the number of dwelling units permitted (nonconformities) cannot increase with the exception of those allowed by Chapter 19.442 (Accessory Dwelling Units and Junior Accessory Dwelling Units).
2. In Chapter 19.150, ADUs would be allowed in all residential zones and mixed-use zones, whether in an existing or proposed structure, for lots with single- or multi-family units. JADUs would also be allowed within the walls of an existing or proposed primary dwelling. The Incidental Use Table (19.150.020B) is updated to reflect this change.
3. Section 19.440.030 is amended to clarify that ADUs and JADUs are not subject to the five-foot minimum side and rear yard setback requirement for accessory structures over five feet in height.
4. Chapter 19.442 has been reorganized to include the following sections: General, Location, Setbacks, Unit Size, Number of Units, Owner Occupancy, Height, Parking, Utilities and Impact Fees. The following provides a summary:
  - A) General
    - i) Requiring rental terms of ADUs or JADUs for over 30 days.
    - ii) Eliminating any requirements to correct zoning non-conformities related to physical characteristics of the existing or proposed structure.
    - iii) Restricting sales of ADUs, with the exception of those developed by a qualified non-profit organization.
    - iv) Excluding ADUs and JADUs from the calculation of total lot coverage.
    - v) Eliminating minimum lot size requirements.
    - vi) Exempting ADUs and JADUs from the requirements of the RP – Residential Protection Overlay Zone.

B) Location

- i) ADUs may be detached from a primary single-family residence, attached to a single-family residence, or contained wholly within a single-family residence.
- ii) JADUs must be contained within the walls of the proposed or existing primary dwelling.

C) Setbacks

- i) No setback requirements for existing structures.
- ii) 4-foot side and rear yard setbacks for new ADU construction.

D) Unit Size

- i) If there is an existing primary dwelling on the lot, the total floor space of an attached ADU shall not exceed 50 percent of the existing primary dwelling living area.
- ii) The total floor space of any detached ADU shall not exceed 1,200 square feet.
- iii) JADUs shall not exceed 500 square feet.

E) Number of Units

- i) The number of dwellings permitted on a single lot in any single-family residential zone shall be limited to the primary dwelling, one ADU and one JADU.
- ii) For existing Multi-family structures:
  - (a) ADUs can include conversion of storage rooms, boiler rooms, passageways, attics, basements or garages provided it complies with building standards for dwellings.
  - (b) At least one (1) ADU, but no more than 25% of the existing number of multi-family dwellings on the same lot.
  - (c) For new Multi-family structures, no more than two new detached (2) ADUs on the same lot.

F) Owner Occupancy

- i) A primary dwelling and ADU are allowed on a single lot – neither of which has to be owner occupied.
- ii) On a single lot, one JADU is allowed if the primary dwelling or JADU is owner-occupied.

G) Height

- i) No changes proposed.
- ii) Must comply with the underlying zone.

H) Parking

- i) No parking is required for an ADU or JADU.
- ii) No replacement parking is required if a garage, carport or covered parking is converted to an ADU.

I) Utilities – Clean up changes clarify the location of ADUs and compliance with County Health if private sewage system is used.

J) Impact Fees - No impact fees shall be applied to ADUs under 750 square feet.

- 5. No replacement parking is required when a garage, carport or covered parking is demolished. No parking would be required for the ADU or JADU. Chapter 19.580, Table 19.580.060 is updated to reflect these changes.
- 6. In Chapter 19.910, the definition for “Dwelling Unit, Accessory” reflects the definition in State Law. A definition for “Dwelling Unit, Junior Accessory” is also added.

**PART B: FAMILY DAY CARE HOMES**

- 1. In Section 19.100.030, small and large day care homes are removed as permitted uses in the RA-5 and RC Zones as they are permitted by right under the new State law.

2. The Permitted Use Table (19.150.020A), Incidental Use Table (19.150.020B) and Temporary Uses Table (19.150.020C), and all associated footnotes, are updated to remove small and large day care homes. Family day care homes are permitted by right in all zones that allow residential uses.
3. Chapters 19.240, 19.350 and 19.405 are updated to clarify that day care homes are now referred to as family day care homes (Chapter 19.240 – Adult-Oriented Businesses, Chapter 19.350 – Parole/Probationer Home and Chapter 19.405 – Tattoo and Body Piercing Parlors)
4. Chapter 19.470 (Day Care Homes – Family) has been removed in its entirety as the City can no longer regulate this use.
5. Chapter 19.580, Table 19.580.060 is updated to clarify that Day Care Facilities do not include family day care homes when determining parking requirements. Family Day Care Homes are removed from the Table and are regulated as residential uses.
6. Under Section 19.640.040 – Discretionary permits and actions, Day Care Permit – Large Family is removed.
7. In Table 19.650.020, Day Care Large Family Home – Use is removed from the table as no approvals are needed.
8. Chapter 19.860 is removed in its entirety. No application is required for the use which is allowed by right.
9. In Chapter 19.910.050, “D” definitions, “Day care home, family;” “Day care home, large family;” and “Day care home, small family” are removed in their entirety. In “F” Definitions, a new definition for Family Day Care home is added to reflect the State regulation.

#### PART C: TINY HOMES AND TINY HOME COMMUNITIES

1. In Section 19.100.010, in Multiple-Family Residential zones, multiple family residences would be allowed in individual detached buildings, and tiny homes (foundations) would be allowed in tiny home communities. The distance between buildings in a tiny home community (foundation) is set at 5 feet. Typographical errors are cleaned up.
2. In Section 19.100.070, the minimum unit size for multiple family residences is eliminated and unit size references the standards of the California Building Code.
3. The Permitted Use Table (19.150.020A) is updated to permit manufactured dwellings in the R-3 and R-4 zones. A new use, Tiny Home Community (foundation), is added as a permitted use in the R-3 and R-4 zones. The Incidental Use Table (19.150.020B) additional standards for tiny home communities references the additional regulations for R-3 and R-4 zones which are also subject to the applicable standards, if developed as an accessory use to Assemblies of People—Non-Entertainment uses.
4. Section 19.210.020 is amended to allow the Mobile Home Park Overlay Zone as permitted in the Permitted Use Table (19.150.020A) to eliminate potential conflicts. In Table 19.210.040, the density for tiny home communities (chassis) is set at 20 units/acre with the minimum required site area determined by the underlying zone. A maximum size of 400 square feet per unit is established for Tiny Home (chassis) Communities. In Section 19.210.050, fencing and wall requirements for tiny home communities (chassis) are modified.
5. Chapter 19.340 is amended to clarify that manufactured dwellings are allowed in the R-1, R-3 and R-4. Tiny homes (foundation) are also allowed.
6. Section 19.340.040 is amended to enable the Community & Economic Development Director or his or her designee to administratively approve manufactured dwelling designs.
7. Table 19.580.060, Required Spaces, is amended to assign a minimum parking requirement of one space per unit for tiny home communities on a foundation.
8. Section 19.710.020, Applicability, is amended to remove construction or placement of a

manufactured dwelling from the activities requiring Design Review approval.

9. Section 19.780.040, Permitted Uses, is amended to allow tiny homes on foundations within a tiny home community in Planned Residential Developments, except in the RC – Residential Conservation Zone.
10. In Chapter 19.910.010, “D” definitions, “Dwelling unit, manufactured” is amended to limit the term to apply only to manufactured or prefabricated living structures, not including mobile homes, which are defined separately in 19.910.140, “M” definitions.
11. In Chapter 19.910.210, “T” definitions, the definition of “Tiny Home Community” is amended to clarify that Tiny Home Communities may be comprised of tiny homes on a chassis or tiny homes constructed on foundations. Definitions for Tiny Homes are separated into “Tiny Home (Chassis)” and “Tiny Home (Foundation).” For the definition for “Tiny Home (Chassis),” a reference to the definition for “Mobile Home” is added. The definition for “Tiny Home (Foundation)” is as follows:

The proposed amendments to Title 19 – Zoning Code will bring the City’s Code in line with State law and increase housing opportunities in the City of Riverside.

### **FISCAL IMPACT:**

There is no fiscal impact associated with the adoption of the new ADU amendments as all costs for development will be the responsibility of the applicant.

ADUs will create some additional demand on water and sewer infrastructure in Riverside. Both the Public Works Department and Riverside Public Utilities have confirmed that the existing sewer and water infrastructure in existing single-family neighborhoods is adequate to support the addition of ADUs. Under California Government Code Section 65852.2(D)(xi)(f)(2), ADUs shall not be considered to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service. Consistent with State law, the City’s Public Utility does not require new utility connections for new ADUs.

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availability of funds: Edward Enriquez, Chief Financial Officer/City Treasurer  
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Approved as to form: Gary G. Geuss, City Attorney

### **Attachments:**

1. Proposed Ordinance
2. City Planning Commission Report – March 5, 2020
3. Planning Commission Minutes
4. ADU Frequently Asked Questions
5. Presentation