

**CITY OF SOLVANG  
PLANNING COMMISSION**

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**MEETING AGENDA**

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**Monday, March 2, 2020 – 6:00 P.M.**  
Council Chambers – Solvang Municipal Center – 1644 Oak Street

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**Members:** David Brents, Scott Gold, Aaron Petersen, Justin Rodriguez, Jack Williams

**Staff:** Laurie Tamura, Planning Consultant  
Brynda Messer, Assistant Planner  
Xenia Bradford, City Manager  
Chip Wullbrandt, City Attorney

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PLEDGE TO THE FLAG

**1. PRELIMINARY MATTERS:**

- A. Public Comment: Requests from the public to speak to the Commission on matters not on the agenda
- B. Requests for Continuance, Withdrawals, or Addition of Ex-Agenda items
- C. Conflicts and/or Ex-Parte Communications
- D. Approval of Minutes from February 3, 2020 meeting

**2. PUBLIC HEARING ITEM**

- A. Discussion and recommendations of proposed Ordinance Amendments to Title 11, Zoning Regulations, Chapter 12, Section 11-12-4: Second Residential Units.**

**3. DISCUSSION ITEMS**

**4. PLANNING COMMISSIONER’S COMMENTS**

**5. PLANNING STAFF COMMENTS**  
(Oral reports only/no written materials provided in packet)

**6. ADJOURNMENT**

*In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in a meeting, you should contact the Office of Administrative Services at 688-5575 or the California Relay Service. Notification 48 hours prior to the meeting would enable the City to make reasonable arrangements to ensure accessibility to this meeting.*

CITY OF SOLVANG  
**PLANNING COMMISSION**

**DRAFT**  
**MEETING MINUTES**

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Monday, February 3, 2020 6:00 P.M.  
Regular Hearing of the Planning Commission  
Council Chambers – Solvang Municipal Center – 1644 Oak Street

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**Commissioners Present:** David Brents, Scott Gold, Aaron Petersen, Justin Rodriguez, Jack Williams

**Staff Present:** Xenia Bradford, Acting City Manager  
Brynda Messer, Assistant Planner  
Chip Wullbrandt, City Attorney

CALL TO ORDER: Chair Williams called the meeting to order.

PLEDGE TO THE FLAG

**1. PRELIMINARY MATTERS:**

**A. Public Comment:** Requests from the public to speak to the Commission on matters not on the agenda

None.

**B. Requests for Continuance, Withdrawals, or Addition of Ex-Agenda items**

None.

**C. Conflicts and/or Ex-Parte Communications**

None.

**D. Approval of the December 2,, 2019 meeting minutes**

*Motion made by Commissioner Gold to approve the minutes as presented and seconded by Commissioner Rodriguez. Vote is 4-0-1, with Commissioner Petersen tardy.*

## **E. Brown Act Training**

*City Attorney Wullbrandt asked if the item could be continued as he did not realize it was on the agenda for this meeting. All commissioners agreed to continue the training until the next meeting.*

## **2. PUBLIC HEARING ITEM**

### **A. Discussion and recommendations of proposed Ordinance Amendments to Title 11, Zoning Regulations, Chapter 12, Section 11-12-4: Second Residential Units.**

Brynda Messer, Assistant Planner, and Chip Wullbrandt, City Attorney, presented staff report and power point presentation regarding Accessory Dwelling Units and new legislation passed by the State. They explained that the City of Solvang currently does not have an ordinance in regard to ADUs, and that since Jan. 1, 2017, the ordinance section regarding second residential units is null and void. They further explained that this discussion item had been to Planning Commission and Council, and a draft ordinance had been written and sent to the state for review. The draft version was returned with several errors and redlines, as certain areas were not compliant with state law. Since that time, new legislation has passed and went into effect Jan. 1, 2020, which is what was being presented at this meeting.

Mr. Wullbrandt stated that the City can pass an urgency ordinance while we develop our formal ordinance. He suggested that is what we do for the time being while developing our ordinance. He also stated the City of Goleta was in the process of amending their ordinance to comply with State law. He followed stating their ordinance is very clear and we can model our ordinance after theirs.

Commissioner Brents asked staff if every house in the City is allowed to have an ADU. Staff responded stating yes that is allowed, and legal non-conforming homes in non-residential zones are allowed to have an ADU. Mr. Wullbrandt followed stating that state law now allows ADUs in multi-family dwellings as well. Commissioner Brents asked staff why the ADU laws have been passed, and staff responded, that they were not sure why the law for ADUs, except to help with the housing crisis with the state.

Chair Williams asked staff with the change in review time from 120 to 60 days, what happens if Fire has not responded within the time frame. Staff responded that we would have to approve the application without their review. Staff also stated they have spoken with Fire about timeframes and hopes to work with them to be more efficient.

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Commissioner Petersen requested clarification on the following:

- ½ mile to public transit and if that is walking distance
- Is short term rental considered less than 30 days
- If ADUs must meet building code
- Is there a process for appeals
- Can ADUs be a mobile home
- Why did the state have different requirements for 750 square feet vs 800 square feet

He also asked if we can have our ordinance 750 square feet for the mandatory ADUs (not 800), but Mr. Wullbrandt answered we cannot make our code more strict than the mandatory requirements per the state.

Commissioner Rodriguez asked if we can wait to use the State's draft ordinance before creating ours, and Mr. Wullbrandt suggested we develop an ordinance sooner, as the city can apply certain standards. If we don't, ADUs must be approved per the state and they standards are less stringent.

Commissioner Gold asked how many ADUs have been processed since 2017 and how many in 2019. Staff provided the approximate numbers.

Discussion followed regarding parking and where on-site parking can be allowed, and how square footage is measured for ADUs.

Chair Williams asked about the requirement for owner/occupancy. Mr. Wullbrandt responded saying that state law removed the requirement for owner/occupancy until January 1, 2025. After that date, the requirement can be added again.

Public Comment:

Nancy Emerson speaking for We Watch:

- Stated We Watch was in support since 2018
- Knows the City is in a difficult situation, being that this is a state mandate
- Glad there is a prohibition on vacation rentals
- Public Works can make findings on whether or not there is water and sewer capacity for ADUs
- Perhaps people can use Amnesty program for ADUs
- Agrees with the proposed regulations
- Perhaps adding a "good neighbor clause" into our ordinance would be appropriate

Commissioner Gold asked if we can consider adding a longer time frame when referencing vacation rentals and having rentals a minimum of 90 days versus 30 days minimum.

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Commissioner Petersen was in favor of adding a good neighbor policy to our ordinance.

Discussion followed regarding sewer and water capacities. Xenia Bradford, Acting City Manager stated that several studies will be conducted in the future to examine these two items more comprehensively, and Mr. Wullbrandt added that if the City limits construction of ADUs, then the City will have to limit all construction, not just ADUs.

Mr. Wullbrandt suggested that Staff moves forward with developing an urgency ordinance for ADUs, while creating our formal ordinance then return to Planning Commission for consideration for Council. The Commissioners agreed.

Chair Williams adjourned the meeting at 7:06.

*\*\*As there was no motion passed, PC Reso 20-01 and the CEQA Exemption is not necessary. \*\**

*Motion made by Commissioner Rodriguez to adopt PC Resolution 19-09, recommend approval to Council of the General Plan Amendment and Rezone, approve the Development Plan and adopt the Mitigated Negative Declaration, and seconded by Commissioner Brents. Vote is 4-0-1, with Commissioners Petersen absent.*

**1. DISCUSSION ITEMS**

Chair Williams asked staff what the status was on the Sign Ordinance updates. Xenia Bradford, Acting City Manager, answered stating that it will be reviewed in the future, but it is not an advanced calendar. Chip Wullbrandt, City Attorney, added that the final review will be by Planning Commission unless Council sends it back.

**2. PLANNING COMMISSIONER'S COMMENTS**

None.

**3. PLANNING/COMMUNITY DEVELOPMENT DIRECTOR'S COMMENTS**

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None.

Chair Williams adjourned the meeting at 6:25 P.M.



**PLANNING COMMISSION  
STAFF REPORT**

**CITY OF SOLVANG MUNICIPAL CODE, TITLE 11  
ZONING ORDINANCE AMENDMENTS**

**TO:** PLANNING COMMISSION

**FROM:** Brynda Messer, Assistant Planner

**MEETING DATE:** March 2, 2020

**SUBJECT:** Amendment to the Zoning Ordinance Section 11-12-4, Second Residential Units/Accessory Dwelling Units

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**I. RECOMMENDATION:**

- A. That the Planning Commission discuss newly passed legislation in regard to Accessory Dwelling Units; and
- B. Recommend amendments to Title 11, Zoning Regulations, Section 11-12-4, Second Dwelling Units; or
- C. Defer entirely on State statute in regard to Accessory Dwelling Units; or
- D. Provide direction and refer back to Staff for appropriate action.

**II. BACKGROUND:**

In late 2016, the California State legislature passed several bills that went into effect January 1, 2017, making it easier for property owners to develop Accessory Dwelling Units

## **Ordinance Amendment – Accessory Dwelling Units**

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(ADUs). In May 2018 and December 2018, staff brought discussion items to the Planning Commission to discuss possible revisions to the Zoning Ordinance pertaining to ADUs.

Various changes in City staff and workload has prevented this topic from coming back to the Planning Commission for discussion.

An Accessory Dwelling Unit (ADU) is defined as an attached or a detached residential unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single residential unit is situated. An Accessory Dwelling Unit also includes the following: An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code; and a manufactured home, as defined in Section 18007 of the Health and Safety Code.

A Junior Accessory Dwelling Unit (JADU) is defined as a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

Recommendations from the previous Planning Commission included modeling the new ordinance to be as close as possible to the City's previous ordinance for Secondary Dwelling Units and/or modeling after San Luis Obispo's ordinance.

Staff has been deferring to the State ordinance requirements for all ADU applications and will continue to do so until our ordinance is adopted.

### **III. DISCUSSION:**

Zoning Ordinance Section 11-12-4: Second Residential Units, is now null and void. The text amendments will remove the reference to Second Residential Units and include language for Accessory Dwelling Units (ADUs). The City of Solvang does not have to adopt our own ordinance in regard to ADUs, and we can defer to the State's regulations. Beginning January 1, 2020, a number of bills went into effect, which further reduces regulations on ADUs. These bills include Assembly Bills 670, 68, 671, 881, and 587, and Senate Bill 13. Below is a brief description of the changes in law:

- Provides maximum setbacks for ADUs at four (4) feet
- An ADU created in an existing structure (garage), no replacement parking is required
- No maximum or minimum size for ADU based on the percentage of the primary dwelling
- Local permitting agency must act within 60 days

## Ordinance Amendment – Accessory Dwelling Units

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- Owner/Occupancy requirements are no longer allowed – both primary dwelling and ADU may be rented
- Clarifies “public transit” to mean bus stops and bus routes within ½ mile
- Any deed or covenant prohibiting ADUs are null and void and unenforceable on a single family lot
- An HOA, CC&Rs, or a neighborhood group cannot prevent ADUs
- Agencies cannot impose impact fees on ADUs under 750 square feet
- The applicant on the application to build the ADU does not have to be “owner-applicant” of either primary residence or the ADU
- An ADU, JADU, and primary dwelling can be allowed on lots where certain criteria are met including access, setbacks, and other criteria – could allow three units on one property in a single family zone

Mandatory approvals are now required with passing of the legislation. These approvals include the following:

1. ADU on Single Family Lots
  - One ADU or JADU shall be allowed within the existing Single Family Residence
  - Shall have own exterior access
  - Setbacks must be sufficient with Fire, Life and Safety
  - No parking is required
  - Must have own address
2. One detached ADU
  - 800 square feet or less
  - 16’ high
  - 4’ rear and side setbacks
  - Can also have a JADU within existing SFR and ADU
3. Multi Family Lots
  - Must approve conversion of space that was not originally livable
  - Must allow 25% of existing units to be ADUs. Example: A building with 200 units with an enclosed garage with 300 parking space, shall be allowed 50 ADU units in the garage.

Additional limitations have been included in ADU law including:

1. City may not require correction of nonconforming zoning conditions.
2. Fire sprinklers are not required for ADUs if the primary dwelling does not have sprinklers.
3. ADUs less than 750 square feet shall not collect any impact fees.
4. ADUs over 750 square feet shall only collect proportional capacity and connection fees, i.e., 50% of what would be charged for a new Single Family Dwelling.
5. ADUs and JADUs that are developed in an existing Single Family Residence shall not be charged any capacity or connection fees.
6. Local agencies may charge a recovery fee to reimburse costs incurred to adopt the new ordinance.

#### **IV. ISSUES**

Potential issues that can occur with submittals of ADUs include lot sizes, parking, and setbacks.

For example, the City's current Zoning Ordinance provides that residential lots must have a 25 foot rear setback. This requirement is not consistent with ADU law.

With allowances to waive parking if certain findings are met, on street parking could become a potential issue with ADUs. If an ADU is within ½ mile from a public transit stop, on-site parking requirements are waived, which has the potential of impacting on-street parking. However, if parking is required for the ADU, it is allowed in the front and/or side setback and can be tandem.

City Council had previously asked staff to research water and sewer capacity in regard to ADUs. Planning staff met with Public Works staff to discuss the issue. It was determined by Public Works that there is enough capacity for some ADUs, but not enough to allow all ADUs. Those results were discussed with a representative from Housing and Community Development. He stated we can limit and/or prohibit ADUs on that basis, but we would have to limit *all* development that would impact water and sewer capacity (residential and commercial).

Since design review is not required for ADUs, staff recommends that the architecture of new ADUs match the architecture of the primary residence. However, there are instances where the design of the ADU may look like a detached barn, but functions as an ADU. Staff would encourage the property owner to try to match architecture, paint colors, and materials as much as possible to minimize visual impacts.

Other things to consider when implementing the ordinance:

1. Limitations of ADUs and JADUs can be based on traffic, sewer, water, and public safety. The state has not defined exactly what the limitations of those parameters include, but if ADUs were limited for those reasons, any construction could be limited for those same parameters.
2. Short term rentals shall not be allowed for ADUs and JADUs.
3. Parking requirements can be removed for ADUs when the property is within ½ mile of a public transit stop.
4. The requirement for owner/occupancy can be added January 1, 2025. (The requirement for owner/occupancy sunsets on Jan. 1, 2025).

Standards that can be applied include:

1. Objective design review and landscaping
2. Useable open space
3. Lot coverage (only applies for ADUs without mandatory approvals). Current zoning does not have a requirement for lot coverage in single family zones.

**Ordinance Amendment – Accessory Dwelling Units**

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4. Daylight/Shadow, i.e., projects that cast certain shadows on neighboring properties. (Solvang does not have requirements for providing shadow analysis in the Zoning Ordinance).
5. Historic preservation standards

**V. ADUs and HOUSING NEEDS**

Local governments may report ADUs as progress toward Regional Housing Need Allocation (RHNA). The state identifies total housing needs for each Metropolitan Planning Organization throughout the state on an eight year period. The current cycle is 2015-2023, and the City has already met the very low income requirement with the construction of the Solvang Senior Apartments. Solvang has requested that several ADUs be counted this year as progress towards meeting the RHNA allocation for lower and middle income ranges.

**VI. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

HCD is currently updating the state ordinance and are will provide a summary of changes to Planning Directors throughout the state. An updated FAQ sheet and handbook will also be available once the updates have been made. HCD will also review and provide comments to jurisdictions once they have submitted their ordinance, to make sure it complies with the state.

**VII. ATTACHMENTS**

- A. PC-Resolution 20-\_\_
- B. Notice of Exemption
- C. Draft Ordinance 20-\_\_

PC RESOLUTION NO. 20-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SOLVANG, RECOMMENDING THAT THE CITY COUNCIL ADOPT RECEIVE RECOMMENDATIONS FROM THE PLANNING COMMISSION TO AMEND TITLE 11, ZONING REGULATIONS, CHAPTER 12, SUPPLEMENTAL REGULATIONS, 11-12-4: SECOND RESIDENTIAL UNITS; AND TO ACCEPT THE EXEMPTION, PURSUANT TO §15061 OF THE GUIDELINES FOR IMPLEMENTATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**THE PLANNING COMMISSION OF THE CITY OF SOLVANG HEREBY RESOLVES AS FOLLOWS:**

**WHEREAS**, the Planning Commission has discussed and reviewed information provided by staff in regard to Accessory Dwelling Units, and have recommended changes to the aforementioned Section of the City’s Municipal Code, Title 11, Chapter 12, Supplemental Regulations and,

**WHEREAS**, the Planning Commission has held a duly noticed Public Hearing on the proposed amendments to the Municipal Code, Title 11, on March 2, 2020, at which time all interested persons were given the opportunity to be heard; and

**WHEREAS**, the Planning Commission has reviewed the amendments in compliance with the California Environmental Quality Act (CEQA) and has determined that the project is Exempt under the General Rule, Section 15061 of the Guidelines for the Implementation of California Environmental Quality Act, and directs staff to prepare and file a Notice of Exemption;

**WHEREAS**, the Planning Commission, after due research and deliberation makes the following findings in regards to the proposed amendments to Title 11:

1. The potential environmental impacts are insignificant;
2. The proposed amendments are in the interest of the general community welfare;
3. The proposed amendments are consistent with the General Plan, the requirements of State Planning & Zoning Laws, and the Solvang Municipal Code; and
4. The proposed amendments are consistent with good zoning and planning practices.

**NOW, THEREFORE BE IT RESOLVED** that the Planning Commission of the City of Solvang hereby recommends that the City Council approve the amendments to the aforementioned Sections of Title 11 of the Solvang Municipal Code, and accept the Exemption from the California Environmental Quality Act (CEQA).

On motion by Commissioner\_\_\_\_\_and seconded by Commissioner\_\_\_\_\_, the foregoing Resolution is hereby adopted by the following vote:

AYES:  
NOES:  
ABSENT:

**PC Resolution 20-  
Title 11 Ordinance Amendment Recommendation  
Chapter 12, Supplemental Regulations (ADUs)  
Adopted: March 2, 2020  
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DATE: March 2, 2020

APPROVED:

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Jack Williams  
Planning Commission Chair

APPROVED AS TO CONTENT:

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Xenia Bradford  
Acting Planning & Economic Development Director

**NOTICE OF EXEMPTION**

TO: County Clerk  
County of Santa Barbara  
105 East Anapamu Street, Room 407  
Santa Barbara, CA 93101

FROM: City of Solvang, Planning Department, 411 Second Street, Solvang, CA 93463

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

APN: N/A

**Specific Location:** CITYWIDE

**Project Title:** Zoning Ordinance for Junior Accessory Dwelling Units and Accessory Dwelling Units per State Law

**Project Description:** Consideration and recommendation of the changes to the Zoning Ordinance Title 11, Chapter 12, Supplemental Regulations.

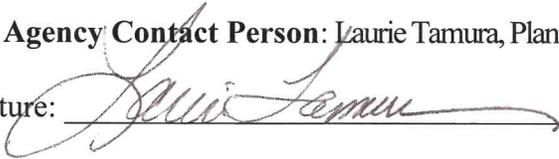
**Name of Public Agency Approving Project:** City of Solvang

**Exempt Status:** (Check one)

- Ministerial
- Statutory
- XX Categorical Exemption
- Emergency Project
- No Possibility of Significant Effect [§15303]

**Cite specific CEQA Guideline Section:** 15061. Review for Exemption.

**Lead Agency Contact Person:** Laurie Tamura, Planning Consultant, City of Solvang

Signature:  \_\_\_\_\_

Telephone: 805-688-4414

Date of Approval: 2/27/2020

**DRAFT ORDINANCE NO 20-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOLVANG, CALIFORNIA RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

**WHEREAS** the Planning and Zoning Law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs); and

**WHEREAS** in 2019 the California Legislature approved, and the Governor signed into law a number of bills (New ADU Laws) that, among other things, amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

**WHEREAS** failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) as of January 1, 2020 thereby limiting the City to the application of the few default standards provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADUs; and

**WHEREAS** the approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, design, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety; and

**WHEREAS** the City Council has reviewed and considered the public testimony and staff report prepared in connection with this Ordinance, including the policy considerations discussed therein, and the consideration and recommendation by the City's Planning Commission; and

**WHEREAS** in accordance with the California Environmental Quality Act (Pub. Resources Code Section 21000 et seq.) ("CEQA") and the State CEQA Guidelines (Cal. Code Regs. Tit. 14 Section 15000 et seq.), the City has determined that the Ordinance is exempt from environmental review;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOLVANG DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals**

The City Council hereby finds and determines that the foregoing recitals, which are incorporated herein by reference, are true and correct.

**SECTION 2. Required Findings for an Ordinance Amendment**

Pursuant to Zoning Ordinance Section 11-17-3E., the City Council makes the following findings:

- A. This Ordinance is in the interest of the general community welfare since it implements State Law, specifically California Government Code Sections 65852.2 and 65852.22, which is intended to protect and promote the general welfare of homeowners and surrounding communities; and
- B. This Ordinance is consistent with the Solvang General Plan and, specifically, Housing Element Policy 2.2, Housing Production, Goal 2 and Housing Element Policy 2.9, Encourage Accessory (Second) Residential Units. Additionally, the Ordinance complies in all respect with the State Law and all local law, including, but not limited to the Government Code, Health and Safety Code, Public Resources Code, and the Solvang Municipal Code. Because this Ordinance allows ADUs and JADUs in accordance with Government Code sections 65852.2 and 65852.22, this Ordinance

is “consistent with the existing general plan and zoning” as a matter of law (Gov. Code Section 65852.2(a)(8)); and

- C. The Ordinance is consistent with good zoning and planning practices since it implements the 2015-2023 Housing Element, State Law, and other applicable law in a manner designed to encourage construction of affordable housing.

### **SECTION 3. Environmental Assessment**

Under California Public Resources Code section 21080.17, the California Environmental Quality Act (CEQA) does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is California’s ADU law, which also regulates JADUs, as defined by section 65852.22, and by CEQA Section 1582(h) that exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State’s ADU law.

In addition to being statutorily exempt from CEQA, the proposed ordinance is also categorically exempt from CEQA under the Class 3 exemption set forth in State CEQA Guidelines section 15303. The Class 3 exemption categorically exempts from CEQA, among other things, the construction and location of new, small structures and the conversion of existing small structures from one use to another. Section 15303 specifically lists the construction of appurtenant accessory structures and garages as examples of activity that expressly falls within this exemption. Here, the ordinance is categorically exempt under the Class 3 exemption because the ordinance regulates the conversion of existing structures into, and the new construction of, ADUs and JADUs, which are, by definition, structures that are accessory to the primary dwelling on the lot.

### **SECTION 4. ADU and JADU Regulations**

- A. Purpose. The purpose of this Ordinance is to allow and regulate Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) in compliance with California Government Code Sections 65852.2 and 65852.22.
- B. Effect of Conforming. An ADU or JADU that conforms to the standards in this Ordinance will not be:
  - 1. Deemed to be inconsistent with the City’s General Plan land use designation and zone district for the lot on which the ADU or JADU is located.
  - 2. Deemed to exceed the allowable dwelling unit density for the lot on which the ADU or JADU is located.
  - 3. Considered in the application of any City ordinance, policy, or program to limit residential growth.
  - 4. Require to correct a Nonconforming Zoning Condition, as defined in subsection C.7 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 Ordinance, terms are defined as follows:
  - 1. Accessory Dwelling Unit (ADU). An attached or a detached residential dwelling unit that provides Complete Independent Living Facilities for one or more persons. An ADU means a residential unit that:

- a. Is no more than 850 square feet for a studio or one-bedroom
  - b. Is no more than 1,200 square feet for two bedrooms
  - c. Has no more than two bedrooms
  - d. If attached to the primary residential dwelling unit or accessory structure, the ADU is further limited to 50% of the floor area of the existing building
  - e. Has a minimum floor area of 200 square feet
  - f. An efficiency unit to be a minimum of 150 square feet, as defined by Section 17958.1 of California Health and Safety Code; and
  - g. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.
2. Accessory Structure. A structure that is accessory and incidental to a dwelling located on the same lot.
  3. Complete Independent Living Facilities. Permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the Single-Unit or Multi-Family Dwelling is or will be situated.
  4. Efficiency Kitchen. A kitchen that includes each of the following:
    - a. A cooking facility with appliances.
    - b. A food preparation counter or counters that total at least 15 square feet in area.
    - c. Food storage cabinets that total at least 30 square feet of shelf space.
  5. Junior Accessory Dwelling Unit (JADU). A residential unit that:
    - a. Is no more than 500 square feet.
    - b. Is contained entirely within an existing or proposed Single-Unit Dwelling Structure.
    - c. Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed Single-Unit Dwelling structure; and
    - d. Includes an Efficiency Kitchen.
  6. Multifamily Dwelling. Any structure designed for human habitation that has been divided into two or more legally created independent living quarters.
  7. Nonconforming Zoning Condition. A physical improvement on a property that does not conform with current zoning standards.
  8. Passageway. A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
  9. Single-Unit Dwelling. Any structure designed for human habitation that has been legally created for a single independent living quarters.
- D. Process. The following permit process apply to ADUs and JADUs under this ordinance:
1. Permit Required. No ADU or JADU may be constructed or legalized without a building permit and Land Use Permit in compliance with the standards set forth in subsections (E) and (F) below.
    - a. Ministerial review, approval, and issuance of a Land Use Permit by the Director or their Designee, is required for construction of an ADU as well as the legalization of any existing unpermitted ADUU.
  2. Required Findings. The required findings for a Land Use Permit under this Ordinance are limited to the following findings:
    - a. There are adequate water and sewer services to support the ADU.

- b. The proposed ADU conforms to the applicable regulations of this Ordinance and State Law.
- 3. If an ADU or JADU complies with each of the general requirements in subsection (E) and (F) below, the ADU and/or JADU is permitted under this Ordinance in the following scenarios:
  - A. Within a Single-Unit Dwelling or Accessory Structure: only one ADU or JADU is allowed.
  - B. Where the ADU or JADU is:
    - (i) Is either:
      - a. Within the space of a proposed Single-Unit Dwelling; or
      - b. Within the existing space of an existing Single-Unit Dwelling; or
      - c. 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.
    - (ii) Has exterior access that is independent of that for the Single-Unit Dwelling.
    - (iii) Meets the setback requirements.
    - (iv) Meets the height requirements in Section F.
  - C. Detached on Single-Unit Lot: One detached, new construction ADU on a lot with a proposed or existing Single-Unit Dwelling (in addition to any JADU that might otherwise be established on the lot) if the detached ADU satisfies the following limitations:
    - (i) The side and rear setbacks are at least four feet.
    - (ii) The floor area is 800 square feet or smaller per the ADU definition.
    - (iii) The height is 16 feet or less per section F.
  - D. Multi-Family Dwelling Lot:
    - (i) Multiple ADUs within portions of existing Multi-family Dwelling structures that are not used as habitable 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.
    - (ii) At least one converted ADU is allowed within an existing Multi-Family Dwelling, and up to 25% of the existing Multi-Family Dwelling units may each have a converted ADU under this subsection.
  - E. Detached on Multi-Family Dwelling Lot: No more than two detached ADUs on a lot that has an existing Multi-Family Dwelling if each detached ADU satisfies the following limitations:
    - (i) The side and rear setbacks are at least four feet.
    - (ii) The total floor area is 800 square feet.
  - F. Processing Time. The City must act on an application to create an ADU or JADU within 60 days from the date that the City receives a completed application, 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) In the case of a JADU and the application to create a JADU is submitted with a permit application to create a new Single-Unit Dwelling on the lot, the City may delay acting on the permit application for the JADU until the City acts on the permit application to create the new Single-Unit Dwelling, but the application to create the JADU will still be processed without discretionary review or a hearing.

- E. Development Standards for ADUs and JADUs. The following requirements apply to all ADUs and JADUs that are approved under section D above:
1. Fire Sprinklers. Fire sprinklers are required in an ADU if sprinklers are required for the primary residence. If the primary residential unit does not have fire sprinklers, the ADU/JADU will not be required to have sprinklers.  
Unique Address: Each ADU and JADU must have a unique address assigned and issued by the Santa Barbara County Fire Department.  
Access: Fire access will be verified with by Santa Barbara County Fire Department.
  2. Septic System. ADUs or JADUs shall not use an on-site water-treatment system.
  3. Rental Term. No ADU or JADU may be rented for a term that is shorter than 30 days.
  4. No Separate Conveyance. AN ADU or JADU may be rented, but no ADU or JADU may be sold or otherwise conveyed separately from the lot and the principal dwelling (in the case of a Single-Unit Dwelling lot) or from the lot and all of the dwellings (in the case of a Multi-Family Dwelling lot). Affordable housing units may qualify for individual sales of an ADU per state law.
  5. Owner-Occupancy:
    - a. An ADU that is permitted before January 1, 2025, is not subject to any owner-occupancy requirement.
    - b. All ADUs that are permitted on or after January 1, 2025 are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.
    - c. 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 principal dwelling or the JADU, as the person's legal domicile and permanent residence. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.
  6. Deed Restriction. Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the Santa Barbara County Recorder's office and a copy filed with the Director. 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. The ADU or JADU may not be sold separately from the principal dwelling.
    - b. The ADU or JADU is restricted to the approved size and to other attributes allowed by this Ordinance.
    - 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 ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of City zoning regulations. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed,

the remaining structure and improvements must otherwise comply with applicable provisions of the City's zoning regulations.

- e. The deed restriction is enforceable by the Director or 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 ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.
- F. Supplemental Development Standards for ADUs. The following requirements apply only to ADUs that require a zoning permit under subsection (D)(2) above.
1. Height
    - a. Attached ADUs.
      - (i) The height of an attached ADU located above a garage or above a portion of the principal dwelling may not exceed the height of the principal dwelling.
      - (ii) An attached ADU that is not situated atop another structure may only contain one story (an interior loft is not considered a second story) and may not exceed the following heights:
        - a. 12 feet if located within 25 feet of a rear setback line; or
        - b. 12 feet if located within 10% of lot width with a minimum of four feet and a maximum of ten feet from an interior setback line; or
        - c. 16 feet if located completely outside of all setbacks outlined above.
    - b. Detached ADUs.
      - (i) A detached ADU not located atop an existing detached garage may only contain one story (an interior loft is not considered a second story) and may not exceed 16 feet in height.
      - (ii) A detached ADU located atop a legally permitted existing detached garage may not exceed the height of the principal dwelling unit.
  2. Setbacks. New construction ADUs must observe the following setback requirements:
    - a. Interior Side Setback: Four feet.
    - b. Rear Setback: Four feet.
    - c. Front Setback: 20 feet.
    - d. Secondary Front Setback on Corner Lots: Ten feet.
    - e. Fire Department review the side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
  3. Separation. The minimum separation between the principal dwelling unit and detached ADU must be at least five feet for new construction.
  4. Passageway. No passageway, as defined by subsection (C)(8) above, is required for an ADU.
  5. Parking.
    - a. Parking spaces are not required for ADUs for the City of Solvang per the exemptions provided under state law.
    - b. No replacement. When a garage, carport, or covered parking structure 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.

6. Design Requirements. If the property owner wishes to receive advice and informal guidance on the ADU design from the *Design Review Board*, the applicant will not need to pay any fees associated with such one-time voluntary presentation of the ADU design to the *Design Review Board*. This review should be completed prior to application submittal. The following standards should be considered by the *Design Review Board* of ADUs.
  - a. The exterior appearance, design style and character of an attached ADU must have the same exterior appearance and architectural style of the principal dwelling and use the same exterior materials, colors, and design (e.g., siding, trim, windows, and other exterior features, etc.).
    - (i) A manufactured or modular (HUD-Certified) home proposed to be used as a detached ADU can be different in architecture style from that of the principal dwelling on the lot.
    - (ii) Samples and/or photos of existing and proposed colors, materials, roofing, and features must be provided as part of a complete ADU application.
  - b. Roof pitch and roof materials for a newly constructed ADU can be different from that of the principal dwelling on the lot only if accommodating installation of solar energy systems at the same time as construction of the ADU.
    - (i) An ADU with a roof with a 4:12 pitch or more for solar energy systems can increase the maximum height allowance of the ADU by three feet, as specified in the development standards in subsection (F)(3).
  - c. Landscaping is required to enhance the appearance of the ADU as follows:
    - (i) At least one 15-gallon size plant shall be provided for every five linear feet of exterior wall. Alternatively, at least one 24-inch box size plant shall be provided for every ten linear feet of exterior wall.
    - (ii) New landscaping must use water-efficient species only.
  - d. Windows and doors of the ADU may not have a direct line of sight to an adjoining residential property. Fencing, landscaping, or privacy glass may be used to provide screening and prevent a direct line of sight. Samples of proposed vegetative screening and planting locations must be provided as part of a complete ADU application. Exceptions to this design standard apply only to conversion of legally permitted structures that do not include installation of new exterior windows facing an adjacent property line or when only clerestory windows are used and do not provide views into neighboring lots.
- G. Development Impact Fees.
  1. No Development Impact Fees are required for an ADU that is less than 750 square feet in floor area.
  2. Any Development Impact Fee that is required for an ADU that is 750 square feet or larger in floor area must be charged proportionately in relation to the square footage of the principal dwelling unit. "Development Impact Fees" here does not include any connection fee or capacity charge for water or sewer service.
- H. Utility Fees. Converted ADUs and JADUs on a single-unit dwelling lot, created under subsection (D)(1)(a) above, are not required to have a new or separate utility connection directly between the ADU or JADU and the utility. Nor is a connection fee or capacity charge required unless the ADU or JADU is construction with a new Single-Unit Dwelling.

- I. Discretionary Approval. Any proposed ADU or JADU that does not conform to all of the objective standards set forth in this Ordinance may be allowed through other applicable City discretionary zoning provisions to the Planning Commission.
- J. Appeals. An action of the Director to approve, conditionally approve, or deny an application for an ADU is final unless the applicant or opposing party appeals the decision within ten calendar days of the decision. For an Appeal to be accepted by the Director, it must identify how the decision is inconsistent with applicable development standards of subsection (E) and (F). The grounds for an Appeal of an approved, conditionally approved, or denied Land Use Permit is limited to whether the decision on the project is inconsistent with one or more of the applicable Development Standards. The City will not accept an Appeal of the decision on the requested ADU if the applicant or opposing party fails to identify the specific Development Standard inconsistency. The Review Authority of an accepted Appeal shall be the Planning Commission.

**SECTION 5. Effect of Repeals**

To the extent any provision of this Ordinance repeals or supersedes any previous approvals, such repeal or replacement will not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Ordinance’s effective date. Any such repealed or superseded part of previous approvals will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

**SECTION 6. Severability.**

If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 7. Certification of City Clerk.**

The City Clerk shall certify to the adoption of this ordinance and, within 15 days after its adoption, shall cause it to be published in accord with California Law.

**SECTION 8. Effective Date.**

This Ordinance shall take effect on the 31<sup>st</sup> day following adoption by the City Council.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

\_\_\_\_\_  
Ryan Toussaint  
Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Daryl Betancur  
CITY CLERK

\_\_\_\_\_  
Chip Wullbrandt  
CITY ATTORNEY

STATE OF CALIFORNIA

COUNTY OF SANTA BARBARA

CITY OF SOLVANG

I, Daryl Betancur, City Clerk of the City of Solvang, California, do hereby certify that the foregoing Ordinance No. 20-\_\_ was introduced on\_\_\_\_\_, and adopted at a regular meeting of the City Council of the City of Solvang, California, held on the \_\_\_\_\_, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

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Daryl Betancur  
City Clerk