

**ANNOTATED**

**AGENDA**

**CITY OF ANTIOCH PLANNING COMMISSION  
ANTIOCH COMMUNITY CENTER  
4703 LONE TREE WAY, COMMUNITY HALL A**

**WEDNESDAY, FEBRUARY 5, 2020**

**6:30 P.M.**

**NO PUBLIC HEARINGS WILL BEGIN AFTER 10:00 P.M.  
UNLESS THERE IS A VOTE OF THE PLANNING COMMISSION  
TO HEAR THE MATTER**

**APPEAL**

All items that can be appealed under 9-5.2509 of the Antioch Municipal Code must be appealed within five (5) working days of the date of the decision. The final appeal date of decisions made at this meeting is 5:00 p.m. on **THURSDAY, FEBRUARY 13, 2020.**

If you wish to speak, either during “public comments” or during an agenda item, fill out a Speaker Request Form and place in the Speaker Card Tray. This will enable us to call upon you to speak. Each speaker is limited to not more than 3 minutes. During public hearings, each side is entitled to one “main presenter” who may have not more than 10 minutes. These time limits may be modified depending on the number of speakers, number of items on the agenda or circumstances. No one may speak more than once on an agenda item or during “public comments”. Groups who are here regarding an item may identify themselves by raising their hands at the appropriate time to show support for one of their speakers.

**ROLL CALL**

**6:32 P.M.**

Commissioners	Turnage, Chair
	Schneiderman, Vice Chair
	Motts
	Martin
	Parsons
	Soliz (arrived at 6:38 pm)

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENTS**

**CONSENT CALENDAR**

All matters listed under Consent Calendar are considered routine and are recommended for approval by the staff. There will be one motion approving the items listed. There will be no separate discussion of these items unless members of the Commission, staff or the public request specific items to be removed from the Consent Calendar for separate action.

**1. APPROVAL OF MINUTES: None**

\* \* \* END OF CONSENT CALENDAR \* \* \*

**NEW PUBLIC HEARING**

- 2. Z-19-07 – ZONING ORDINANCE AMENDMENTS FOR ACCESSORY DWELLING UNIT REGULATIONS** – The City of Antioch requests to amend chapter 5 of title 9 of the Antioch Municipal Code. The proposed ordinance would impose new limits on local authority to regulate Accessory Dwelling Units in compliance with the provisions of Government Code sections 65852.2 and 65852.22 as amended by recently approved legislation that took effect on January 1, 2020. The amendment would apply city-wide. The amendment is not considered a project under the California Environmental Quality Act (CEQA), and is therefore, not subject to CEQA.

***RESOLUTION NO. 2020-01***

**NEW ITEM**

- 3. ZONING ADMINISTRATOR RESOLUTION** – Resolution designating a Zoning Administrator and an alternate Zoning Administrator.

***RESOLUTION NO. 2020-02***

**ORAL COMMUNICATIONS**

**WRITTEN COMMUNICATIONS**

**COMMITTEE REPORTS**

**ADJOURNMENT (7:11 PM)**

**Notice of Availability of Reports**

This agenda is a summary of the discussion items and actions proposed to be taken by the Planning Commission. For almost every agenda item, materials have been prepared by the City staff for the Planning Commission’s consideration. These materials include staff reports which explain in detail the item before the Commission and the reason for the recommendation. The materials may also include resolutions or ordinances which are proposed to be adopted. Other materials, such as maps and diagrams, may also be included. All of these materials are available at the Community Development Department located on the 2<sup>nd</sup> floor of City Hall, 200 “H” Street, Antioch, California, 94509, between the

hours of 8:00 a.m. and 5:00 p.m. Monday through Friday for inspection and copying (for a fee) or on our website at:

<https://www.antiochca.gov/fc/community-development/planning/Project-Pipeline.pdf>

Copies are also made available at the Antioch Public Library for inspection. Questions on these materials may be directed to the staff member who prepared them, or to the Community Development Department, who will refer you to the appropriate person.

### **Notice of Opportunity to Address the Planning Commission**

The public has the opportunity to address the Planning Commission on each agenda item. You may be requested to complete a yellow Speaker Request form. Comments regarding matters not on this Agenda may be addressed during the “Public Comment” section on the agenda.

### **Accessibility**

In accordance with the Americans with Disabilities Act and California law, the City of Antioch offers its public programs, services and meetings in a manner that is readily accessible to everyone, including individuals with disabilities. If you are a person with a disability and require information or materials in an appropriate alternative format; or if you require any other accommodation, please contact the ADA Coordinator at the number or email address below at least 72 hours prior to the meeting or when you desire to receive services. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility. The City’s ADA Coordinator can be reached @ Phone: (925) 779-6950 and e-mail: [publicworks@ci.antioch.ca.us](mailto:publicworks@ci.antioch.ca.us).

CITY OF  
**ANTIOCH**  
CALIFORNIA

**STAFF REPORT TO THE PLANNING COMMISSION**

**DATE:** Regular Meeting of February 5, 2020  
**SUBMITTED BY:** Zoe Merideth, Associate Planner *ZM*  
**APPROVED BY:** Alexis Morris, Planning Manager *AM*  
**SUBJECT:** Z-19-07 Accessory Dwelling Unit Ordinance

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**RECOMMENDED ACTION**

It is recommended that the Planning Commission approve the attached resolution recommending that the City Council adopt the ordinance (Exhibit 1 to the resolution) repealing and replacing Section 9-5.3805 - *Accessory Dwelling Units* of the Zoning Ordinance to comply with new state laws relating to Accessory Dwelling Units.

**DISCUSSION**

Request

The proposed ordinance repeals and replaces Chapter 5 of Title 9 of the Antioch Municipal Code to impose new limits on local authority to regulate Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) in compliance with the provisions of Government Code sections 65852.2 and 65852.22 as amended by recently approved legislation that took effect on January 1, 2020.

Environmental

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 and which also regulates JADUs, as defined by section 65852.22. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State's ADU law.

Background

The City of Antioch last updated its ADU ordinance in 2018 in order to comply with 2017 legislative changes to then existing ADU law (see Attachment B for current ordinance). In 2019, the California Legislature approved, and Governor Newsom signed into law AB 68,

AB 881, and SB 13 (“new ADU laws”), that amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs. An ADU is 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. A JADU is a residential unit that is more than 500 square feet in size, is contained entirely within an existing or proposed single-family structure, includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and includes an efficiency kitchen. The new laws took effect on January 1, 2020.

### Overview of Changes

The new ADU laws mandate that cities with ADU ordinances that are inconsistent with the new ADU laws apply the State standards for ADU and JADU approval. While the new ADU laws leave little room for cities to adopt local standards, it is recommended that the City adopt the proposed new ADU ordinance that accommodates the new State standards and adopts local standards where allowed by State law.

The below list describes the more substantive changes in the new ADU laws and the proposed ordinance (A summary table of the new ADU ordinance is provided as Attachment C):

- The new ADU laws remove the owner-occupancy requirement for ADUs until January 1, 2025. All ADUs created before January 1, 2020 are still subject to the owner-occupancy requirements that were in place at the time the ADU was created. Owner-occupancy is still required for all JADUs.
- Cities must allow the creation of multiple 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. At least one converted ADU is allowed within an existing multifamily dwelling, and up to 25 percent of the existing multifamily dwelling units may each have a converted ADU.
- In addition to the creation of multiple ADUs within portions of existing multifamily dwellings, cities must allow the creation of no more than two detached ADUs on a lot with an existing multifamily dwelling.
- The new ADU laws prohibit a city from adopting standards, such as lot coverage, that would prohibit the creation of a new, detached ADU that is up to 800 square feet in size, up to 16 feet in height, and has four-foot side and rear setbacks.
- Cities must allow the creation of both a JADU and a new detached ADU up to 800 square feet on a property with a single-family home. The JADU owner-occupancy requirements would still apply in this scenario.

- The new ADU laws prohibit a city from requiring replacement parking when a garage or carport is converted to an ADU or demolished for the creation of an ADU. Previously, the conversion of a garage into an ADU required replacement parking be provided, but a driveway counted towards the replacement.
- The review of all ADU permits must be ministerial and not require any discretionary review. Previously, cities had up to 120 days after the receipt of a complete application to approve an ADU. Under the new ADU laws, this timeframe has been shortened to 60 days.
- Cities are prohibited from allowing short term rentals of ADUs.
- As allowed in limited circumstance under the new ADU laws, such as the construction of a new detached ADU over 800 square feet in size, Antioch is proposing the ADU adhere to specific architectural standards. The proposed standards include: requiring the exterior materials of the ADU to match the appearance and design of the primary dwelling; and requiring fencing, landscaping, or privacy glass in the windows be used to provide screening between the ADU and the adjoining residential property.

## **ATTACHMENTS**

- A. Resolution
- B. Current ADU Ordinance
- C. ADU Ordinance Summary

# ATTACHMENT “A”

ATTACHMENT A

RESOLUTION NO. 2020-\*\*

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH  
RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE  
REPEALING AND REPLACING ZONING REGULATIONS FOR  
ACCESSORY DWELLING UNITS**

**WHEREAS**, the Planning Commission of the City of Antioch did receive an application from the City of Antioch requesting to repeal and replace Section 9-5.3805-*Accessory Dwelling Units* of the Zoning Ordinance to comply with new state laws relating to Accessory Dwelling Units (Z-19-07);

**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;

**WHEREAS**, the New ADU Laws took effect January 1, 2020, and if the City’s ADU ordinance did not comply with the New ADU Laws, the City’s ordinance became null and void on that date as a matter of law;

**WHEREAS**, the City desires to amend its local regulatory scheme for the construction of ADUs and JADUs to comply with the amended provisions of Government Code sections 65852.2 and 65852.22;

**WHEREAS**, failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) as of January 1, 2020 renders the City’s ordinance regulating ADUs and JADUs null and void, 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;

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

**WHEREAS**, Pursuant to Public Resources Code Section 21080.17, the adoption of an ordinance to implement the provisions of Government Code Section 65852.1 and Section 65852.2 is exempt from the California Environmental Quality Act (CEQA);

**WHEREAS**, the Planning Commission duly gave notice of public hearing as required by law;

**WHEREAS**, on February 5, 2020, the Planning Commission duly held a public hearing on the matter, and received and considered evidence, both oral and documentary.



**NOW, THEREFORE BE IT RESOLVED** that the Planning Commission, after reviewing the staff report and considering testimony offered, does hereby recommend that the City Council **ADOPT** the attached ordinance (Exhibit 1) repealing and replacing regulations for Accessory Dwelling Units (Z-19-07).

\* \* \* \* \*

**I HEREBY CERTIFY** the foregoing resolution was duly adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 5th day of February, 2020.

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

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**Forrest Ebbs**  
**Secretary to the Planning Commission**

**EXHIBIT 1**

**ORDINANCE NO.-\*\***

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH REPEALING  
AND REPLACING SECTION 9-5.3805 OF THE CITY OF ANTIOCH MUNICIPAL  
CODE RELATING TO ACCESSORY DWELLING UNITS  
AND JUNIOR ACCESSORY DWELLING UNITS (Z-19-07)**

**WHEREAS**, the City of Antioch, California (“City”) is a municipal corporation, duly organized under the constitution and laws of the State of California;

**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”);

**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;

**WHEREAS**, the New ADU Laws took effect January 1, 2020, and if the City’s ADU ordinance did not comply with the New ADU Laws, the City’s ordinance became null and void on that date as a matter of law;

**WHEREAS**, the City desires to amend its local regulatory scheme for the construction of ADUs and JADUs to comply with the amended provisions of Government Code sections 65852.2 and 65852.22;

**WHEREAS**, failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) as of January 1, 2020 renders the City’s ordinance regulating ADUs and JADUs null and void, 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;

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

**WHEREAS**, The Planning Commission conducted a duly noticed public hearing on February 5, 2020 at which time a resolution was approved to initiate and recommend to the City Council that this ordinance be adopted. The City Council held a duly noticed public hearing on \_\_\_\_\_ at which time all interested persons were allowed to address the Council regarding adoption of this ordinance;

**WHEREAS**, the City Council has reviewed and considered the public testimony and agenda reports 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**, Pursuant to Public Resources Code Section 21080.17, the adoption of an ordinance to implement the provisions of Government Code Section 65852.1 and Section 65852.2 is exempt from the California Environmental Quality Act (CEQA);

**NOW, THEREFORE**, the City Council of the City of Antioch does ordain as follows:

**SECTION 1. Findings.** The recitals above are each incorporated by reference and adopted as findings by the City Council.

**SECTION 2.** Section 9-5.3805 of the Antioch Municipal Code is hereby amended and restated as provided in Exhibit “A”, attached hereto and incorporated herein by reference.

**SECTION 3. CEQA.** 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 and which also regulates JADUs, as defined by section 65852.22. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State’s ADU law.

**SECTION 4. Publication; Effective Date.** This Ordinance shall take effect and be enforced thirty (30) days from and after the date of its adoption by the City Council at a second reading and shall be posted and published in accordance with the California Government Code.

**SECTION 5. Severability.** Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable. The City Council declares that it would have adopted this resolution irrespective of the invalidity of any portion thereof.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Antioch held on the \_\_\_ day of \_\_\_ and passed and introduced at a regular meeting thereof, held on the \_\_\_ day of \_\_\_\_\_, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

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**Sean Wright, Mayor of the City of Antioch**

**ATTEST:**

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**Arne Simonsen, CMC**  
**City Clerk of the City of Antioch**

## EXHIBIT A

### § 9-5.3805 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 California Government Code sections 65852.2 and 65852.22.
- (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)(7) below.
- (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 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” or “JADU” means a residential unit that
    - (a) is no more than 500 square feet in size,
    - (b) is contained entirely within an existing or proposed single-family structure,
    - (c) includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and
    - (d) includes an efficiency kitchen, as defined in subsection (C)(4) above
  - (6) “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.
  - (7) “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.
  - (8) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
  - (9) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
  - (10) “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.
  - (11) “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 Only.** If an ADU or JADU complies with each of the general requirements in subsection (E) below, it is allowed with only a building permit in the following scenarios:
    - (a) **Converted on Single-family Lot:** Only one ADU or JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
      - 1. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or 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.

2. Has exterior access that is independent of that for the single-family dwelling.
3. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
4. The total floor area is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two bedrooms.

(b) **Small 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 the following limitations:

1. The side- and rear-yard setbacks are at least four-feet.
2. The total floor area is 800 square feet or smaller.
3. The maximum height above grade is 16 feet.

(c) **Converted on Multifamily Lot:** Multiple 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. At least one converted ADU is allowed within an existing multifamily dwelling, and up to 25 percent of the existing multifamily dwelling units may each have a converted ADU under this paragraph. The ADU shall satisfy the following limitation:

1. The total floor area is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two bedrooms.

(d) **Detached on Multifamily Lot:** No more than two detached ADUs on a lot that has an existing multifamily dwelling if each detached ADU satisfies the following limitations:

1. The side- and rear-yard setbacks are at least four-feet.
2. The total floor area is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two bedrooms.
3. The maximum height above grade is 16 feet.

(2) **ADU Permit.**

- (a) Except as allowed under subsection (1) above, no ADU, including a new-construction, detached ADU over 800 square feet, may be created without a building permit and an ADU permit in compliance with the standards set forth in subsections (E) and (F) below.
- (b) The ADU permit processing fee is determined by the Community Development Director and approved by the City Council by resolution.

(3) **Process and Timing.**

- (a) An ADU permit is considered and approved ministerially, without discretionary review or a hearing.
- (b) 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:
  - 1. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or
  - 2. In the case of an ADU or JADU and the application to create an ADU or JADU is submitted with a permit application to create a new single-family 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 dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.

(E) **General ADU and JADU Requirements.** The following requirements apply to all ADUs and JADUs that are approved under subsections (D)(1) or (D)(2) above:

(1) **Zoning.**

- (a) An ADU or JADU subject only to a building permit under subsection (D)(1) above may be created on a lot in a residential or mixed-use zone.
- (b) An ADU or JADU subject to an ADU permit under subsection (D)(2) above may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.

(2) **Fire Sprinklers.** Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

(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 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).
- (5) **Owner Occupancy.**
- (a) All ADUs created before January 1, 2020 are subject to the owner-occupancy requirement that was in place when the ADU was created.
  - (b) An ADU that is created after that date but before January 1, 2025, is not subject to any owner-occupancy requirement.
  - (c) All ADUs that are created 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.
  - (d) 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 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 County Recorder's office and a copy filed with the Community Development 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 primary dwelling.
  - (b) The ADU or 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) 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 of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

- (e) 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 this Code. 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 this Code.
  - (f) The deed restriction is enforceable by the Director 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 ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.
- (7) **Parking.** No parking is required for an ADU or JADU unless an ADU permit is required under subsection (D)(2) above and the ADU requires parking as described in subsection (F)(6) below.
- (F) **Specific ADU Requirements for ADU Permits.** The following requirements apply only to ADUs that require an ADU permit under subsection (D)(2) 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 two bedrooms. No more than two bedrooms are allowed.
    - (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 lot coverage, might further limit the size of the ADU, but no application of lot coverage may require the ADU to be less than 800 square feet.
  - (2) **Lot Coverage.** No ADU subject to this subsection (F) may cause the total lot coverage of the lot to exceed 60 percent, subject to subsection (F)(1)(c) above.
  - (3) **Setbacks.**

The ADU must be at least four feet from rear and side property lines, at least 30 feet from the front property line, and at least 20 feet from a street-facing property line, if different from the front property line.

- (4) **Height.** No ADU subject to this subsection (F) may exceed 16 feet in height above grade.
- (5) **Passageway.** No passageway, as defined by subsection (C)(8) above, is required for an ADU.
- (6) **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)(11) above.
  - (b) Exceptions. No parking under subsection (F)(6)(a) is required in the following situations:
    - 1. The ADU is located within one-half mile walking distance of public transit, as defined in subsection (C)(10) above.
    - 2. The ADU is located within an architecturally and historically significant historic district.
    - 3. The ADU is part of the proposed or existing primary residence or an accessory structure under subsection (D)(1)(a) above.
    - 4. When on-street parking permits are required but not offered to the occupant of the ADU.
    - 5. When there is an established car share vehicle stop located within one block of the ADU.
  - (c) 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.
  - (d) Each unenclosed parking space shall be at least eight and a half feet wide and 18 feet long.
  - (e) Each parking space that is provided in an enclosed garage shall be at least 10 feet wide and 20 feet long and have at least seven and a half feet vertical clearance.
- (7) **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 exterior lighting must be limited to down-lights or as otherwise required by the building or fire code.
  - (c) Fencing, landscaping, or privacy glass in the windows shall be used to provide screening between the ADU and an adjoining residential property.
- (G) **Fees.** The following requirements apply to all ADUs and JADUs that are approved under subsections (D)(1) or (D)(2) above.
  - (1) **Impact Fees.**
    - (a) No impact fee is required for an ADU or JADU that is less than 750 square feet in size.
    - (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 primary dwelling, divided by the floor area of the ADU, times the typical fee amount charged for a new dwelling.) “Impact fee” here does not include any connection fee or capacity charge for water or sewer service.
  - (2) **Utility Fees.**
    - (a) Converted ADUs and JADUs on a single-family 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 constructed with a new single-family home.
- (H) **Nonconforming ADUs and Discretionary Approval.** Any proposed ADU or JADU that does not conform to the objective standards set forth in subsections (A) through (G)(2) of this section may be allowed by the City with a conditional use permit, in accordance with the other provisions of this title.

# ATTACHMENT “B”

ATTACHMENT B

CURRENT ADU ORDINANCE

**9-5.3805 ACCESSORY DWELLING UNITS.**

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ACCESSORY DWELLING UNIT.** An attached or a detached residential dwelling 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-family dwelling is situated. An **ACCESSORY DWELLING UNIT** also includes the following: an efficiency unit, as defined in Cal. Health and Safety Code § 17958.1; and a manufactured home, as defined in Cal. Health and Safety Code § 18007.

**ADMINISTRATIVE USE PERMIT.** A land use permit defined in § 9-5.2701(E) of this code, and issued by the Zoning Administrator or his or her designee without notice or public hearing.

**JUNIOR ACCESSORY DWELLING UNIT.** An accessory dwelling unit that is no more than 500 square feet in size and is contained entirely within an existing single-family structure. A **JUNIOR ACCESSORY DWELLING UNIT** may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

**LIVING AREA.** The interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

**MAIN UNIT.** The existing single-family or multiple-family dwelling unit currently on the lot.

**TANDEM PARKING.** Parking configuration where two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(B) *General requirements.* An accessory dwelling unit may be allowed by administrative use permit in areas zoned to allow single-family or multiple-family use. No building permit shall be issued for an accessory dwelling unit until an administrative use permit has been approved by the Zoning Administrator. A building permit shall be issued within 120 days of receipt of an application if all of the following development standards are met:

- (1) The lot is zoned to allow single-family or multi-family residential use and includes a proposed or existing single-family dwelling unit;
- (2) There shall be no more than one accessory dwelling unit per legal parcel;
- (3) The lot on which the accessory dwelling unit is to be placed shall not be subdivided and neither unit can be sold independently of the other. The city shall require recordation of a deed restriction setting forth this subdivision limitation;

(4) The lot on which an accessory dwelling unit is to be placed must be able to provide adequate sewer and water services for both the existing primary dwelling unit and the accessory dwelling unit as determined by the City Engineer. Approval by the Contra Costa County Health Department shall be required if a private sewage disposal system or well system is being used;

(5) The accessory dwelling unit is architecturally compatible with the main unit, and the development of the accessory dwelling unit will maintain the appearance of a single-family residence (if located in a single-family neighborhood or zoning district);

(6) The total combined maximum lot coverage ratio for the main dwelling unit and the accessory dwelling unit and all accessory buildings located on the lot shall not exceed 60%;

(7) The accessory dwelling unit may either be attached to the proposed or existing main unit, located within the living area of the proposed or existing main unit, or be detached from the proposed or existing main unit;

(8) The floor area of an attached accessory dwelling unit may not exceed 50% of the floor area of the proposed or existing main unit living area, with a maximum increase in floor area of 1,200 square feet;

(9) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet;

(10) Height, setback, uniform building codes, architectural review, site plan review, and other similar land use requirements of this code pertaining to main units shall apply to accessory dwelling units;

(11) A setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage. No setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of the accessory dwelling unit;

(12) The rear yard setback for accessory dwelling units may be reduced to ten feet. Either the accessory dwelling unit or the main unit may be permitted to face the rear of the other structure, and the accessory dwelling unit shall maintain ten feet separation from the main unit, but may be permitted closer than ten feet from the main unit where it can be shown that the site design will be improved;

(13) No passageway shall be required in conjunction with construction of an accessory dwelling unit;

(14) Accessory dwelling units are not required to provide fire sprinklers if they are not required for the primary residence;

(15) The main unit shall comply with applicable Building Code requirements for detached dwellings;

(16) The accessory dwelling unit shall have a permanent foundation;

(17) *Junior accessory dwelling units.*

(a) Junior accessory dwelling units are limited to one per residential lot within a zone for single-family use with a single-family residence already built on the lot;

(b) Junior accessory dwelling units must be constructed within the existing walls of the structure and must include an existing bedroom;

(c) Junior accessory dwelling units must include a separate entrance from the main entrance to the structure, with an interior entry to the main living area;

(d) Junior accessory dwelling units may include separate sanitation facilities, or may share sanitation facilities with the existing structure;

(e) No additional off-street parking spaces are required to be provided;

(f) The floor area of a junior accessory dwelling unit may not exceed 500 square feet;

(g) Junior accessory dwelling units must include an efficiency kitchen, which shall include:

1. A sink with a maximum waste line diameter of one and one-half inches;

2. A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural gas or propane;

3. A food preparation counter and storage cabinets that are of reasonable size in relation to junior accessory dwelling unit.

(18) *Parking.*

(a) One additional standard off street parking space shall be provided per unit or per bedroom, whichever is less. The additional space may be in tandem on a driveway;

(b) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, and the number of off-street parking spaces are required to be replaced per the requirements of § 9-5.1703.1, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, tandem spaces, or by the use of mechanical automobile parking lifts;

(c) The requirement for off-street parking may be waived for an accessory dwelling unit in any of the following instances: lots developed prior to January, 1964, that have a minimum parcel size of less than 6,000 square feet, provided that compliance with the parking requirements of this section could not be accomplished;

(d) Parking standards shall not be imposed in the following instances:

1. The accessory dwelling unit is either located in an accessory structure or is an attached accessory dwelling unit;

2. The accessory dwelling unit is located within one-half mile of public transit;



3. There is a car share vehicle located within one block of the accessory dwelling unit;

4. The accessory dwelling unit is located within an architecturally and historically significant historic district;

5. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(C) *Residential allocation exemption.* The issuance of administrative use permits for accessory dwelling units shall be exempt from the provisions of Article 40 of this chapter, and such permits are exempt from any other growth control limits. This provision is a requirement of state law (Chapter 1062 of the 2002 Statutes). If such requirement is rescinded, this exemption may be eliminated by the Council.

(D) *Occupancy.* The owner of the parcel upon which the accessory dwelling unit or junior accessory dwelling unit is located must occupy either the main unit or the accessory dwelling unit or junior accessory dwelling unit, as applicable. Accessory dwelling units may be used for rentals of terms longer than 30 days. Owner occupancy of a junior accessory dwelling unit shall not be required if the owner is another governmental agency, land trust, or housing organization.

(E) *Deed restrictions.* Before obtaining a building permit for an accessory dwelling unit, the applicant shall do the following:

(1) Enter into an agreement of restrictions with the city that refers to the deed under which the property was acquired by the applicant and provides the following:

(a) The second unit shall not be sold separately;

(b) The second unit is restricted to the maximum size allowed under division (C) above; and

(c) The restrictions are binding upon any successor in ownership of the property and lack of compliance may result in legal action by the county against the property owner.

(2) Record the agreement with the County Recorder; and

(3) Prepare a disclosure statement that shall be included in any future offer or sale documents. The statement shall read as follows: "You are purchasing a property with a permit for a second residential unit. This permit carries with it certain restrictions that must be met by the owner of the property. You are prohibited from selling the second unit separately. The second unit is restricted to the maximum size allowed under City of Antioch Zoning Ordinance Code Section § 9-5.3805(C). The permit is available from the current owner or from the City of Antioch Community Development Department."

(F) This section is adopted consistent with, and as required by, state law.

# ATTACHMENT “C”

ACCESSORY DWELLING UNIT ORDINANCE SUMMARY

ADU Type	JADU <sup>1</sup>		Single Family ADU		Multifamily ADU	
	Conversion JADU (interior conversion meeting all JADU requirements)	Conversion ADU <sup>2</sup> (interior conversion of existing space within a single family dwelling, or conversion of a legally built detached accessory structure)	Small Detached ADU and Attached ADU (new construction and under 800 square feet)	Large Detached and Attached ADU (generally, new construction and over 800 square feet)	Conversion ADU (interior conversion of existing non-habitable area of multifamily building such as storage space or boiler room)	Detached ADU (new construction)
Zoning	Allowed in all zones that allow residential uses					
Number of Accessory Units	1	1	1; a small detached ADU may be combined with 1 JADU	1	At least 1 and no more than 25% of the existing unit count in the multifamily building	2
Maximum Size (Square Feet)	500	850 for studio and 1 bedroom 1,000 for 2 bedrooms	850 for studio and 1 bedroom	850 for studio and 1 bedroom 1,000 for 2 bedrooms and if attached, no more than 50% of the floor area of an existing or proposed primary dwelling unit	850 for studio and 1 bedroom 1,000 for 2 bedrooms	850 for studio and 1 bedroom 1,000 for 2 bedrooms
Maximum Height (Feet)	N/A	N/A	16	16	N/A	16
Side Setbacks (Feet)	N/A	N/A	4	4	N/A	4
Rear Setbacks (Feet)	N/A	N/A	4	4	N/A	4
Front and street-facing Setbacks (Feet)	N/A	N/A	N/A	Front: 30 Street-facing property line other than front: 20	N/A	N/A
Lot coverage	N/A	N/A	None	60%	N/A	N/A
Entrance(s)	Exterior entrance required	Exterior entrance required	Exterior entrance required.			
Kitchen	Efficiency kitchen required <sup>4</sup>	Efficiency kitchen required <sup>4</sup>	Full kitchen required			
Parking	None	None	None for detached or conversion, one spot for attached <sup>5</sup>	Generally, one spot is required <sup>5</sup>	None	None
Deed Restrictions	The property owner must record a deed restriction stating that owner-occupancy is required along with all the conditions required of an ADU	The property owner must record a deed restriction stating: the ADU or JADU may not be sold separately from the primary dwelling; the ADU or JADU is restricted to the approved size and to other attributes allowed by the code; the deed restriction runs with the land and may be enforced against future property owners; the deed restriction may be removed if the owner eliminates the ADU or JADU; the deed restriction is enforceable by the Director or his or her designee for the benefit of the City				
Short Term Rentals	Prohibited					
Impact Fees	None	ADUs equal to or greater than 750 square feet – Impact fees collected must be proportional to square footage of existing dwelling unit	ADUs less than 750 SF – None			

<sup>1</sup> A Junior ADU (JADU) is a small dwelling unit created from some portion of a single-family dwelling. These units can have their own bathrooms of share with the single family dwelling. An efficiency kitchen is required.  
<sup>2</sup> Conversions do not allow modifications to the building footprint/dimensions of legally built accessory structures or buildings, except where sufficient ingress and egress may be accommodated. The structure may expand up to 150 square feet to accommodate the ingress and egress.  
<sup>3</sup> An exterior entrance is not required, but an independent entrance (off a hallway or common space, for example) is required.  
<sup>4</sup> An efficiency kitchen means a kitchen that includes each of the following: a cooking facility with appliances, a food preparation counter or counters that total at least 15 square feet in area, food storage cabinets that total at least 30 square feet of shelf space.  
<sup>5</sup> No parking is required in the following situations: the ADU is located within one-half mile walking distance of public transit; the ADU is located within an architecturally and historically significant historic district, when on-street parking permits are required but not offered to the occupant of the ADU, or when there is an established car share vehicle stop located within one block of the ADU.



## STAFF REPORT TO THE PLANNING COMMISSION

**DATE:** Regular Meeting of February 5, 2020

**SUBMITTED BY:** Alexis Morris, Planning Manager

**SUBJECT:** Resolution Designating a Zoning Administrator

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### **RECOMMENDED ACTION**

It is recommended that the Planning Commission approve the attached resolution designating the Community Development Director or his or her designee as the Zoning Administrator.

### **DISCUSSION**

#### Request

Section 9-5.2508 of the Municipal Code gives the Planning Commission the authority to designate a Zoning Administrator (ZA) to approve certain types of applications including: use permits for planned developments; minor variances; use permits to occupy existing buildings; and, extensions of applications approved by the Zoning Administrator and/or the Planning Commission provided the extension would be in compliance with the prior approval. The current Zoning Administrator is the Community Development Director. However, in the current ordinance, the Zoning Administrator does not have explicit authority to further delegate those responsibilities. There have been several occasions where the Zoning Administrator was unexpectedly unable to attend a hearing and the meeting had to be canceled or rescheduled as a result. Staff recommends that the Planning Commission adopt the attached resolution (Attachment "A") to update the designation of the ZA to give the ZA the ability to designate a City employee, such as the Planning Manager or the City Manager, to act in the capacity of ZA if necessary. Staff believes that it would rarely be necessary for the ZA to designate another staff member, but in the event it is necessary, this designation would allow staff to continue with City business and continue to process applications in an efficient manner.

#### Environmental

Pursuant to California Environmental Quality Act ("CEQA") Guidelines § 15378 and California Public Resources Code § 21065, the proposed resolution is not a "project" because the adoption is not an activity that has the potential for a direct physical change

or reasonably foreseeable indirect physical change in the environment. Accordingly, this resolution is not subject to CEQA.

Even if the resolution qualified as a “project” subject to CEQA, pursuant to CEQA Guidelines § 15061(b)(3) (or the so-called “common sense exemption”), there is no possibility that this project would have a significant impact on the physical environment. The resolution does not directly or indirectly authorize or approve any actual changes in the physical environment. Accordingly, the resolution would be exempt from CEQA under the common-sense exemption.

## **ATTACHMENT**

### A. Resolution

# ATTACHMENT "A"

ATTACHMENT A

RESOLUTION NO. 2020-\*\*

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH  
DESIGNATING THE COMMUNITY DEVELOPMENT DIRECTOR OR HIS/HER  
DESIGNEE AS THE ZONING ADMINISTRATOR**

**WHEREAS**, the Planning Commission of the City of Antioch did receive an application from the City of Antioch requesting that the Commission designate the Community Development Director or his or her designee as the Zoning Administrator pursuant to the requirements of AMC § 9-5.2508;

**WHEREAS**, pursuant to California Environmental Quality Act (“CEQA”) Guidelines § 15378 and California Public Resources Code § 21065, the adoption of this Resolution is not a “project” because its adoption is not an activity that has the potential for a direct physical change or reasonably foreseeable indirect physical change in the environment. Accordingly, this Resolution is not subject to CEQA. Even if this Resolution qualified as a “project” subject to CEQA, pursuant to CEQA Guidelines § 15061(b)(3), (the so called “common sense exemption”) there is no possibility that this project will have a significant impact on the physical environment. This Resolution merely provides direction to staff and does not directly or indirectly authorize or approve any actual changes in the physical environment;

**WHEREAS**, on February 5, 2020, the Planning Commission duly held a public hearing on the matter, and received and considered evidence, both oral and documentary.

**NOW, THEREFORE BE IT RESOLVED** that the Planning Commission, after reviewing the staff report and considering testimony offered, does hereby **ADOPT** the attached resolution appointing the Community Development Director or his or her designee as the Zoning Administrator.

\* \* \* \* \*

**I HEREBY CERTIFY** the foregoing resolution was duly adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 5th day of February, 2020.

- AYES:**
- NOES:**
- ABSTAIN:**
- ABSENT:**

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**Forrest Ebbs**  
**Secretary to the Planning Commission**