

ORDINANCE NO. 995

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROSEMEAD, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, FOR THE APPROVAL OF MCA 20-01, AMENDING TITLE 17 (ZONING) OF THE ROSEMEAD MUNICIPAL CODE TO COMPLY WITH NEW STATE PROVISIONS FOR ACCESSORY DWELLING UNITS (ADUs)

WHEREAS, on October 9, 2019, Governor Gavin Newsom signed State laws (Assembly Bill 68, Assembly Bill 881, and Senate Bill 13), which amended Government Code Sections 65852.2 and 65852.22 pertaining to local regulations for ADUs;

WHEREAS, local ordinances that are not compliant with the new state provisions are null and void as of January 1, 2020, after which time such jurisdiction must apply the standards in Government Code Sections 65852.2 and 65852.22 until a compliant local ordinance is adopted;

WHEREAS, the City of Rosemead's current Municipal Code conflicts with the standards and language in Government Code Sections 65852.2 and 65852.22;

WHEREAS amendments to Title 17 (Zoning), specifically RMC Sections 17.04.050 (Definitions) and 17.30.190 (Accessory Dwelling Units) are necessary to update requirements for the establishment of ADUs in conformance with Government Code Sections 65852.2 and 65852.22;

WHEREAS, Section 17.152.060 of the Rosemead Municipal Code provides the criteria for a Zoning Code Amendment;

WHEREAS, Sections 65854 and 65855 of the California Government Code and Section 17.152.040 of the Rosemead Municipal Code authorizes the Planning Commission to review and make recommendations to the City Council regarding amendments to the City's Zoning Code;

WHEREAS, Section 17.152.050 of the Rosemead Municipal Code authorizes the City Council to approve amendments to the City's Zoning Code;

WHEREAS, adoption of Ordinance No. 995 for the approval of Municipal Code Amendment 20-01, amends Title 17 (Zoning) of the Rosemead Municipal Code to comply with new State provisions for accessory dwelling units;

WHEREAS, on June 15, 2020, the Planning Commission held a duly noticed public hearing and recommended approval of Municipal Code Amendment 20-01 to the City Council;

WHEREAS, on July 2, 2020, a notice was published in the Rosemead Reader and notices were posted in six public locations, specifying the availability of the proposal, and the date, time, and location of the public hearing for Municipal Code Amendment 20-01; and

WHEREAS, on July 14, 2020, the City Council held a duly noticed and advertised public hearing to receive oral and written testimony relative to Municipal Code Amendment 20-01; and

WHEREAS, the City Council has sufficiently considered all testimony presented to them in order to make the following determination;

THE CITY COUNCIL OF THE CITY OF ROSEMEAD HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Compliance with California Environmental Quality Act. 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, MCA 20-01 is statutorily exempt from CEQA in that the proposed ordinance implements the State's ADU law.

SECTION 2. Findings. The City Council HEREBY FINDS AND DETERMINES that facts do exist to justify approving Municipal Code Amendment 20-01, in accordance with Section 17.152.060 of the Rosemead Municipal Code as follows:

A. The proposed amendment is consistent with the General Plan and any applicable specific plan;

FINDING: The proposed amendment is consistent with the General Plan and Garvey Avenue Specific Plan, as Government Code Section 65852.2(a)(8), provides that an accessory dwelling unit that conforms to [the applicable] subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot.

B. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and

FINDING: The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City, as ADUs are currently permitted in the Zoning Code. The State legislature has identified that the California housing shortage is a significant statewide issue. The State believes that increasing the development of ADUs and JADUs is one approach to address the housing crisis. To comply with State law, the proposed revisions would bring the ADU Ordinance into full compliance with State law.

C. The proposed amendment is internally consistent with other applicable provisions of [the] Zoning Code.

FINDING: The City of Rosemead's current ADU Ordinance does not comply with the new State provisions for ADUs, and is therefore, deemed null and void. MCA 20-01 is intended to bring Title 17 (Zoning) of the Rosemead Municipal Code up to compliance with State legislation regarding the development and conversion of ADUs in the City. The proposed amendment would adopt new standards for ADUs, in accordance with the provisions of Government Code Sections 65852.2 and 65852.22. The amendment would also provide clarity and consistency for the regulation of ADUs throughout Title 17 (Zoning) of the Rosemead Municipal Code.

SECTION 3. Code Amendment. The code amendment will only modify the definition of an accessory dwelling unit and add a definition for junior accessory dwelling unit in Rosemead Municipal Code Section 17.04.050 (Definitions). Section 17.04.050 (Definitions) of Title 17 is HEREBY AMENDED as follows:

17.04.050 Definitions – General.

For use in this Title certain terms are hereby defined. Words used in the present tense shall include the past and future tense and vice versa. Words in the singular form shall include the plural form and vice versa. The words “shall” and “will” are mandatory and the words “should” and “may” are permissive.

Words and phrases used in the Zoning Code and not specifically defined shall be construed according to the context and common usage of the language and as ultimately determined by the Community Development Director.

For the purpose of carrying out the intent of this title, certain terms, words, and phrases are defined and shall be deemed to have the meaning ascribed to them as follows:

"Dwelling" means a structure or portion thereof designed exclusively for permanent residential purposes, but not including hotels, motels, emergency shelters, or extended stay locations.

"Accessory Dwelling Unit" 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. It shall include 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. An accessory dwelling unit also includes the following:

1. An efficiency unit as defined in Section 17958.1 of the Health and Safety Code.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

"Dwelling Unit" means any structure or portion thereof designed for living and sleeping purposes that contains independent cooking and sanitation facilities.

"Junior Accessory Dwelling Unit" means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

"Multi-Family Dwelling Unit" means a structure or portion thereof containing three or more dwelling units designed for the independent occupancy of three or more households.

"Primary Dwelling Unit" means an existing single-unit residential structure on a single lot with provisions for living, sleeping, eating, a single kitchen for cooking, and sanitation facilities, and occupied by one household.

"Single-Family Dwelling Unit" means a detached structure containing no more than one dwelling unit which, regardless of form of ownership, is designed and/or used to house not more than one household, including all domestic employees for such household.

"Two-Family Dwelling (Duplex) Unit" means a building containing two complete dwelling units designed for the independent occupancy of two households.

See also **"Manufactured Housing"** and **"Mobile Housing Unit"**.

SECTION 4. Code Amendment. Section 17.30.190 (Accessory Dwelling Units) of Title 17 is HEREBY AMENDED as follows:

17.30.190 Accessory Dwelling Units (ADUs).

Sections:

- A. Purpose.**
- B. Applicability.**
- C. ADUs.**
- D. Junior Accessory Dwelling Units (JADUs).**
- E. Revocation.**
- F. Existing ADUs.**

A. Purpose.

The purpose of this section is to implement Government Code Section 65852.2, which allows the City to adopt an ADU ordinance in lieu of being subjected to the State requirements for such units. Notwithstanding any other provision of this Zoning Code to the contrary, the provisions in this section shall govern the development of ADUs in the City of Rosemead.

B. Applicability.

The provisions in this section shall apply to ADUs, as defined in Article 1, Section 17.04.050 (Definitions), and where allowed in compliance with Article 2 (Zoning Districts, Allowable Land Uses and Zone-Specific Standards) and the following City standards.

C. ADUs.

The following provisions shall apply to ADUs:

1. In the R-1, R-2, R-3 zone or all other areas zoned to allow single-family or multifamily dwelling residential use, an attached or detached ADU shall be permitted by the Community Development Director or the Community Development Director's designee, subject to an administrative site plan and design review approval, if the application satisfies all of the provisions set forth in this section. Except as provided for in this section, all other applicable regulations of the underlying zone shall apply.
2. An ADU shall be deemed an accessory use. ADUs do not exceed the allowable density for the lot upon which they are located.

3. On a lot with a proposed or existing single-family dwelling, the number of permitted ADUs are:
 - a. One attached ADU within the existing or proposed single-family dwelling or within an existing accessory structure; or
 - b. One detached new construction ADU and one JADU.
4. On a lot with existing detached single-family dwellings, the number of permitted ADUs are:
 - a. ADUs shall conform to the standards in Table 17.30.190.1.
 - b. One proposed ADU within an existing accessory structure.
5. On a lot with an existing multifamily dwelling unit or two-family dwelling (duplex) unit, the number of permitted ADUs are:
 - a. Not more than two detached ADU on a lot with one existing multifamily dwelling unit or two family- dwelling (attached duplex) unit.
 - b. At least one attached ADU is permitted within the existing multifamily dwelling unit or existing two-family (duplex) unit and up to 25 percent of the existing dwelling units are permitted within the portions of the existing structure that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
6. The ADU(s) must be served by the same driveway access to the street as the existing primary dwelling unit, unless the ADU(s) have access from a public alley contiguous to the lot.
7. No ADUs shall be used as a short-term rental.
8. To the extent possible, the creation of an ADU shall not alter the primary dwelling appearance of the lot. The following shall apply:
 - a. For the construction of a new ADU, the ADU shall match or complement the primary residence in architectural design, color, and materials.
 - b. For the conversion of an existing accessory structure into an ADU, the ADU shall be permitted to remain as is. However, if an existing garage use is being converted into an ADU, all garage doors shall be removed.
 - c. An ADU shall have independent exterior access, and shall not have interior access from the primary residence.
9. The ADU may not be sold separate from the primary residence.
10. An owner-occupancy requirement for an ADU permitted between January 1, 2020 to January 1, 2025 shall not be required. However, the City may impose an owner-occupancy requirement after January 1, 2025.
11. The ADU shall comply with all Building Code and Fire Code requirements.
12. New ADUs or modifications of existing ADUs shall conform to the standards in Table 17.30.190.1 (ADU Development Standards).

Table 17.30.190.1: ADU Development Standards

| | Attached ADU | Detached ADU | Notes and Exceptions |
|------------------------------------|--|--|---|
| Maximum Height | Limited to number of stories and height of existing primary residence* | Two-Story - 30 feet One-Story - 17 feet** | *If the height of the existing primary residence is less than 16 feet, the proposed ADU shall be allowed a maximum height of 16 feet **The height shall be measured from the habitable surface of the ADU |
| Minimum Setbacks | Side Yard Setback: 4 feet Rear Yard Setback: 4 feet | Side Yard Setback: 4 feet Rear Yard Setback: 4 feet | Conversion of an existing permitted structure to an ADU shall not be required to satisfy the minimum setback standards if the side and rear setbacks are sufficient for fire safety The setback of the second floor shall not be less than the setback of the first floor |
| Minimum Distance Between Dwellings | Provisions of the applicable underlying zoning designation of the subject property shall apply | 10 feet* | *If the minimum distance between dwellings cannot be met, an 800 square feet ADU that is at least 16 feet in height with four-foot side and rear yard setbacks shall be permitted provided that it is constructed in compliance with all other local development standards The distance between dwellings of the second floor shall not be less than the distance between dwellings of the first floor |
| Minimum Landscape Area | 20% of lot area* | 20% of lot area* | *If the minimum landscape area requirement cannot be met, an 800 square feet ADU that is at least 16 feet in height with four-foot side and rear yard setbacks shall be permitted provided that it is constructed in compliance |

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| | | | with all other local development standards. |
| Minimum Floor-Area | 150 square feet | 150 square feet | |
| Maximum Floor-Area | <p>Up to 50% of existing living area of primary residence</p> <p>If the primary residence is less than 1,600 square feet, an 800 square feet ADU will be permitted.</p> | <p>If floor-area ratio permits:*</p> <ul style="list-style-type: none"> • 150-850 square feet for a studio or one bedroom • 1,200 square feet detached, freestanding (not attached to any accessory use) ADU that provides more than one bedroom <p>An ADU built within an existing accessory structure may include an expansion of up to 150 square feet beyond the physical dimensions of the existing accessory structure to accommodate ingress and egress.</p> <p>Where both a JADU and a detached ADU are constructed, the ADU shall be no more than 800 square feet.</p> | <p>*If the creation of an ADU results in a floor-area ratio that is greater than what is permitted in the zone, an 800 square feet ADU that is at least 16 feet in height with four-foot side and rear yard setbacks shall be permitted provided that it is constructed in compliance with all other local development standards.</p> |
| Maximum Number of Bedrooms | Bedrooms shall conform to standard Building Code requirements. | Bedrooms shall conform to standard Building Code requirements. | |
| Minimum Off-Street Parking | <p>One parking space per bedroom or ADU, whichever is less</p> <p>These spaces may be provided as tandem</p> | <p>One parking space per bedroom or ADU, whichever is less</p> <p>These spaces may be provided as tandem</p> | <p>*Off-street parking standards shall not be required for an ADU in any of the following instances:</p> |

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| | <p>parking on a driveway. “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</p> <p>New uncovered off-street parking spaces shall have a minimum dimension of nine feet in width by eighteen (18) feet in depth*</p> | <p>parking on a driveway. “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</p> <p>New uncovered off-street parking spaces shall have a minimum dimension of nine feet in width by eighteen (18) feet in depth*</p> | <p>(1) The ADU is located within one-half mile of public transit.</p> <p>(2) The ADU is located within an architecturally and historically significant historic district.</p> <p>(3) The ADU is part of the proposed or existing primary residence or an accessory structure.</p> <p>(4) When on-street parking permits are required but not offered to the occupant of the ADU.</p> <p>(5) When there is a car share vehicle located within one block of the ADU.</p> <p>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 be replaced.</p> |
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D. JADUs.

The following provisions shall apply to JADUs:

- a. The JADU shall comply with the requirements of Government Code Section 65852.22.
- b. A maximum of one JADU shall be permitted on a residential lot zoned for single-family residences with a single-family dwelling built, or proposed to be built, on the lot. If an ADU is proposed in addition with a JADU, then the ADU shall be limited to a maximum of 800 square feet.
- c. The maximum size for a JADU is 500 square feet.
- d. The legal property owner shall occupy, on a full-time basis, either the primary dwelling unit, JADU, or ADU (if applicable) as permanent residency. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
- e. An Owner-Occupancy Covenant shall be recorded, and a copy shall be submitted to the Planning Division prior to issuance of any building permit for the JADU. The said Owner-

Occupancy Covenant shall remain in perpetuity and shall not be released. The Owner-Occupancy Covenant shall include the following language:

- i. A prohibition on the sale of the JADU unit separate from the sale of the single-family dwelling, including a statement that the deed restriction may be enforced against future purchasers.
 - ii. A restriction on the size and attributes of the JADU that conforms with Government Code Section 65852.22.
- f. The permitted JADU shall be constructed within the walls of the proposed or existing single-family residence.
- g. The permitted JADU shall include a separate entrance from the main entrance to the proposed or existing single-family residence.
- h. The permitted JADU shall include an efficiency kitchen, which shall include all of the following:
- i. A cooking facility with appliances.
 - ii. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.

E. Revocation.

The Community Development Director shall have the authority to revoke an ADU and/or a JADU permit if one or more of the requirements of this chapter are no longer met. The decision of either the Community Development Director may be appealed to the Planning Commission in accordance with the procedures set forth in this code.

- F. Existing ADUs.** ADUs which have been previously approved shall be allowed to remain in existence as a legally established nonconforming use. This section shall in no way validate any existing illegal ADUs.

SECTION 5. Construction. This Ordinance must be broadly constructed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 6. Enforceability. Repeal of any provision of the RMC does 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 part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

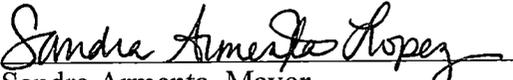
SECTION 7. Severability. The City Council hereby declares that, should any provision, section, subsection, paragraph, sentence, clause, phrase, or word of this Ordinance or any part thereof, be rendered or declared invalid or unconstitutional by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, such decision or action shall not affect the validity of the remaining section or portions of the Ordinance or part thereof. The City Council hereby declares that it would have independently adopted the remaining provisions, sections, subsections, paragraphs, sentences, clauses, phrases, or words of this Ordinance

irrespective of the fact that any one or more provisions, sections, subsections, paragraphs, sentences, clauses, phrases, or words may be declared invalid or unconstitutional.

SECTION 8. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 9. Publication. The City Clerk shall certify to the adoption of this Ordinance and shall publish a summary of this Ordinance and post a certified copy of the full Ordinance in the office of the City Clerk at least five days prior to the adoption and within 15 days after adoption of the Ordinance, the City Clerk shall publish a summary of the Ordinance with the names of the Council Members voting for and against the Ordinance. This Ordinance shall take effect thirty (30) days after the date of its adoption.

PASSED, APPROVED, AND ADOPTED this 8th day of September 2020.

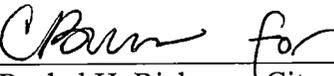

Sandra Armenta, Mayor

ATTEST:

APPROVED AS TO FORM:



Ericka Hernandez, City Clerk



Rachel H. Richman, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF ROSEMEAD)

I, Ericka Hernandez, City Clerk of the City of Rosemead, County of Los Angeles, State of California, hereby attest to the above signature and certify that Ordinance No. 995 was first introduced at the regular meeting of August 25, 2020 by first reading. Said Ordinance was approved and adopted by the City Council of the City of Rosemead at a regular meeting held on the 8th day of September 2020, by the following vote:

AYES: ARMENTA, CLARK, DANG, LOW, LY

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE



Ericka Hernandez, City Clerk