



COMMUNITY DEVELOPMENT AGENCY

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SUBJECT: Introduce and adopt an Urgency Ordinance amending Marin County's regulations governing Accessory Dwelling Units (ADUs) and Junior ADUs (JADUs)

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Dear Supervisors,

RECOMMENDATION: Adopt an Urgency Ordinance making specified changes in Chapters 22.06, 22.32, 22.10, 22.32, 22.52, 22.54, and 22.56 of Marin County Code (MCC) Title 22, Development Code.

SUMMARY: The Board is being asked to consider the adoption of an Urgency Ordinance (Attachment 2) to modify the County's regulations to immediately comply with the requirements of the State law. The Urgency Ordinance will take effect immediately upon adoption pursuant to California Government Code Section 65858 and will expire forty-five days following its adoption unless otherwise extended in compliance with California Government Code Section 65858.

BACKGROUND: On January 14, 2020, your Board received a presentation (Attachment No. 1) summarizing various State laws relating to ADUs and JADUs that were enacted during the last legislative session and became effective as of January 1, 2020. As amended, State law renders local ADU ordinances that do not meet the requirements of the new State ADU law null and void until the local agency adopts a new ordinance complying with State law. In the absence of a valid local ordinance, new State law instead provides a set of default standards governing local agencies' regulation and approval of ADUs and JADUs. Therefore, in order to maintain local regulation of ADUs and JADUs in the unincorporated County, staff is recommending that the Board adopt an urgency ordinance to regulate permitting, placement and construction of ADUs and JADUs. The Urgency Ordinance is necessary to maintain orderly growth and compatible = design, and to preserve the public peace, health, and safety.

DISCUSSION: The Urgency Ordinance will modify Marin County's ADU standards and application review procedures to align with State law. As shown in attachment 2, the proposed Urgency Ordinance will make the following amendments to the current regulations:

1. **Ministerial Review Process.** Local jurisdictions cannot prohibit and must instead ministerially approve any new detached ADU that is no more than 800 square feet in size, maintains side and rear yard setbacks of at least four feet, and that does not exceed 16 feet in height.

The amended permit application and review process is found within sub-section 22.06.050.F of the proposed amendments.

2. **ADUs in Existing Multi-family Dwelling Structures.** For any property located within a multi-family residential or mixed-use zone, the County cannot prohibit and must instead ministerially approve any application for a building permit which seeks to create:
 - a. One or multiple ADU(s) within the portions of existing multi-family dwelling structures that are not already used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided that each unit complies with state building standards for dwellings; or,
 - b. Not more than two accessory dwelling units on any lot that has one or more existing multifamily dwelling structures, but where the ADUs would be detached from the existing structure(s), and are no more than 800 square feet in size, maintains side and rear yard setbacks of at least four feet, and that does not exceed 16 feet in height.

The amended permit application and review process is found within sub-section 22.06.050.F.3 of the proposed amendments.

3. **Prohibitions on Certain Size Limitations.** Any minimum or maximum size limit, percentage size limit tied to the size of the existing or proposed primary dwelling unit, lot coverage standard, floor area ratio standard, open space minimum, and lot size rule imposed by a county must allow for an ADU of at least 800 square feet and 16 feet in height with four-foot side and rear yard setbacks. As drafted in the urgency ordinance, an exceeding 1,000 square feet will be required to provide at least two bedrooms.

These amended standards are found in sub-section 22.06.050.F.3 and 22.32.120.D. The requirements for inclusion of bedrooms related to ADU size is not mandated by the State law. It is a proposal aimed to encourage development of ADUs to accommodate families.

4. **Limits on Setbacks.** Local jurisdictions are now prohibited from requiring a setback for an existing structure (previously, just a garage) that is converted to an ADU or to a portion of an ADU. Local jurisdictions are also prohibited from requiring a setback for a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an ADU or to a portion of an ADU, even if the existing structure is demolished. This latter

provision protects existing building footprints for potential reuse as as ADU conversion sites.

The amended permit application and review process is found within sub-section 22.32.120.F of the draft urgency ordinance.

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, town 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.

The Urgency Ordinance will take effect immediately upon adoption pursuant to California Government Code Section 65858 and will expire forty-five days following its adoption unless otherwise extended in compliance with California Government Code Section 65858. After notice pursuant to Section 65090 and public hearing, the County Board of Supervisors may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption.

Staff may request an extension in order to allow sufficient time to review the effectiveness of the urgency ordinance and draft a final ADU ordinance for consideration by the Planning Commission and the Board. A Planning Commission hearing to review these amendments, among others, is tentiatively scheduled for February 24, 2020.

FISCAL/STAFFING IMPACT:

Adoption of the proposed Interim Urgency Ordinance would not result in any direct financial impacts to the County.

REVIEWED BY:

<input type="checkbox"/> Department of Finance	<input checked="" type="checkbox"/> N/A
<input checked="" type="checkbox"/> County Counsel	<input type="checkbox"/> N/A
<input type="checkbox"/> Human Resources	<input checked="" type="checkbox"/> N/A

SIGNATURE:



Immanuel Bereket
Senior Planner

Attachments:

1. Board Letter, dated January 14, 2020
2. Draft Urgency Ordinance
3. Proposed Amendments with redline