



Planning and Transportation Commission STAFF REPORT

MEETING DATE: May 15, 2023
SUBJECT: Study Session on Proposed Accessory Dwelling Unit (ADU)
Ordinance Amendments

SUMMARY

The Planning and Transportation Commission is holding a study session on proposed amendments to the City's Accessory Dwelling Unit (ADU) Ordinance. The purpose of this study session is to familiarize the Planning and Transportation Commission with the proposed amendments, and to identify any topics that need further discussion or refinement.

The 2030 General Plan Housing Element includes Goal HOU-3, which states "Assist in the Development of New Housing that is Affordable at All Income Levels," and Action HOU-3.3, which states "Facilitate the Legalization and Construction of Accessory Dwelling Units (ADUs)" and JADUs. The Housing Element sets a timeframe to accomplish Action HOU-3.3; the timeframe calls for the ADU Ordinance to be updated by June 2023 to be consistent with State laws modifying ADU requirements.

Staff is proposing amendments to align the City's ADU Ordinance with new State laws, to encourage ADUs and JADUs, and to "clean up" the Ordinance, as described below.

The proposed amendments related to State law include the following:

- Expanding the locations where ADUs and JADUs can be constructed (i.e., ADUs permitted in proposed multifamily buildings)
- Clarifying design requirements;
- Limiting ADU size relative to the main dwelling;
- Requiring interior entries for JADUs which share a bathroom with the main dwelling;
- Waiving ADU parking space requirements for ADUs proposed with a new multi-unit structure; and
- For statewide exemption ADUs, waiving front setbacks, increasing height limits, and decreasing second-story side setbacks

In addition, City staff recommends additional amendments which include the following:

- Clerical edits;
- Expanding the allowable configurations for ADUs/JADUs and detached garages;
- Clarifying refrigerator standards
- Moving the definition of public transit to Chapter 18.41: Terms and Definitions to make it consistent across the Zoning Title;
- Removing redundant building code standards;
- Standardizing ADU height limits; and

- Eliminating the discretionary requirement related to obstructing or raising the sill height of ADU windows on second stories.

These amendments aim to streamline the permitting process, ensure compliance with State laws, provide greater clarity for property owners and developers, and encourage the development of ADUs and JADUs as an affordable housing option while also ensuring that they are built in a safe and sustainable manner.

BACKGROUND

In 2020 and again in 2022, the City Council adopted updates to the ADU and JADU Ordinance to align with new state laws, and to improve processes for reviewing and approving ADU and JADU applications.

2020 Update: The City Council fully replaced the ADU and JADU Ordinance (Section 18.23.210 of the San Carlos Zoning Title, Title 18) with a new Ordinance, and adopted minor amendments to other relevant chapters, in response to comprehensive state law updates for ADU and JADU construction.

2022 Update: Several minor updates to the ADU and JADU Ordinance were recommended by City Staff based on the experiences of both Staff and applicants in the permitting process for ADUs and JADUs, and the City Council adopted these changes in June 2022.

In the fall of 2022, new State laws for ADUs and JADUs were passed and became effective January 1, 2023. Cities that have not updated their Ordinance must follow state laws until a new local Ordinance is adopted. Cities must also provide their Ordinance to HCD within 60 days of adopting these amendments for review of compliance with all relevant state laws.

ANALYSIS

City staff is proposing amendments to Section 18.23.210: Accessory Dwelling Units/Junior Accessory Dwelling Units, and minor amendments to Chapters 18.03 Rules of Measurement, 18.12 Hillside Overlay District, 18.29 Design Review, 18.40 Use Classifications, and 18.41 Terms and Definitions. The following amendments are proposed:

- Set 1: Proposed Policy-Related Amendments
- Set 2: Proposed Amendments to “Clean Up” Ordinance
- Set 3: Proposed Amendments to Address State Laws

These proposals seek to encourage more ADU and JADU construction to help address the housing crisis in California and housing needs within San Carlos.

Impact of Proposed Amendments

These amendments aim to clarify and make the ADU Ordinance consistent, as well as comply with new state laws. While some of these changes may impact overall ADU policies, they are necessary to ensure that the ADU Ordinance is up-to-date and functional.

No financial impact to the City is anticipated. However, the suggested changes will provide greater flexibility to property owners and applicants through promoting time and cost savings in the review process.

These amendments also implement the programs and policies of the San Carlos 2030 General Plan, including Goal HOU-3 of the recently adopted Housing Element. Please see Attachment 2 for the full copy of the proposed Ordinance.

Summaries of Proposed Amendment Sets

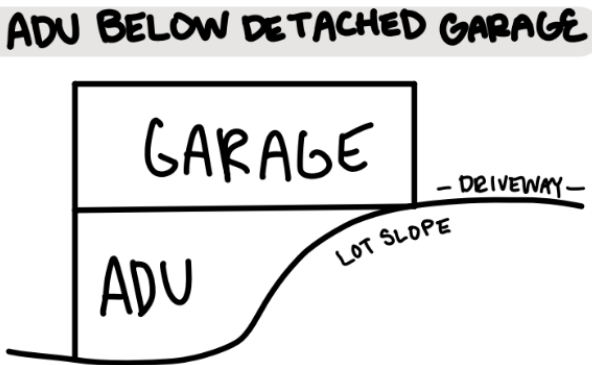
Attachment 1 addresses all recommended amendments to Section 18.23.210 governing construction of ADUs and JADUs. Proposed amendments to other relevant sections of the Municipal Code (Attachment 2) are also proposed for consistency in terminology and implementation. Attachment 3 includes a comprehensive description of all amendments.

Set 1: Proposed Policy-Related Amendments

The amendments summarized in Table 1 are recommended to enable more construction of ADUs and JADUs by clarifying and making the Ordinance consistent, but may impact overall ADU or JADU policies, or their form or function.

Several of these suggested amendments are spurred by new state laws, but go above and beyond what is required by new state laws. In these scenarios, amendments in excess of state requirements are recommended to avoid creating a less functional or more exclusive code that could curtail JADU and ADU construction in some instances.

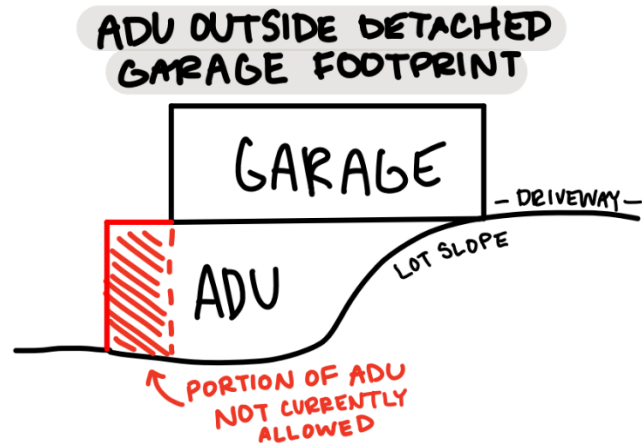
Table 1. Proposed Policy-Related Amendments to ADU Ordinance

Proposed Policy-Related Amendments	
Topic 1: Detached Garages and ADUs	
Recommendation 1.A.: Allow ADUs to be located both above <i>and below</i> detached garages.	
<ul style="list-style-type: none">Current Ordinance: ADUs may only be located <i>above</i> detached garages.Rationale: The current Ordinance does not take into account configurations of detached garages and ADUs on significantly sloped lots, such as those located within the San Carlos Hillside. Allowing ADUs to be located below garages would provide greater flexibility in constructing ADUs on sloped lots.	

Proposed Policy-Related Amendments

Recommendation 1.B.: Allow ADUs to be located outside of the garage footprint.

- Background: A standard detached garage is approximately 400 square feet.
- State law: Local agencies must allow at least an 800 square foot ADU.
- Current Ordinance: Requires that where ADUs are included over a detached garage, the ADU footprint must remain entirely within the garage footprint.
- Rationale: The current Ordinance may prevent unique footprints that better maximize the space on the lot, or may encourage excessive lot coverage or excessively large garages to accommodate a fully detached ADU.



Recommendation 1.C.: When built with a detached garage, allow ADU balconies and decks to face rear and side property lines for minimum ingress and egress.

- Current Ordinance: Balconies and decks for this type of ADU configuration (ADU with detached garage) can only face away from the property lines. From staff's understanding, this requirement intends to promote privacy for neighbors.
- Background: The current Ordinance already allows decks and balconies to face necessary directions for other types of ADUs (detached freestanding or attached to main dwelling) to allow minimum safety requirements for ingress and egress.
- Rationale: This amendment would allow greater flexibility in constructing ADUs and JADUs on narrow lots.

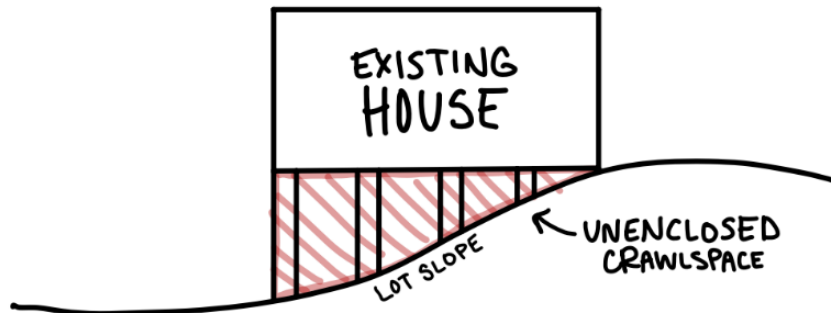
Proposed Policy-Related Amendments

Topic 2: Allowable JADU Locations

Recommendation 2.A.: Explicitly allow unenclosed crawlspaces to be converted to JADUs.

- New State law: Requires that JADUs be allowed in any enclosed space of an existing or proposed single-unit dwelling, including attached garages.
- Current Ordinance: The new State law and current Ordinance do not consider typical house configurations on significantly sloped lots, which often include unenclosed portions of structures that could be converted to usable floor area, and are otherwise not usable, such as crawl spaces or cantilevered covered parking areas.
- Rationale: Allowing unenclosed crawlspaces to be converted to JADUs would provide greater flexibility in creating JADUs from underutilized spaces on lots.

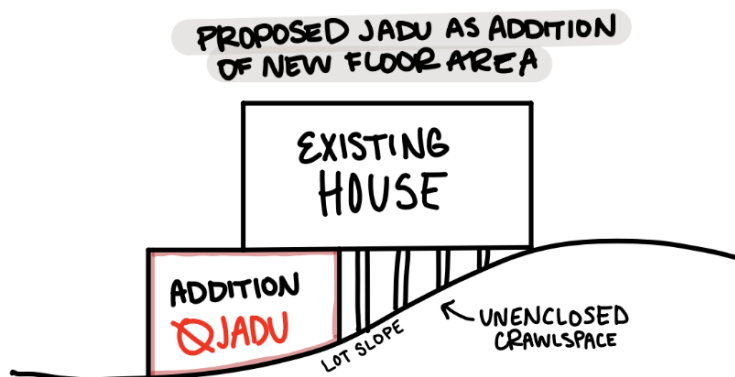
PROPOSING JADUs WITHIN UNENCLOSED CRAWLSPACES



Proposed Policy-Related Amendments

Recommendation 2.B.: Remove the requirement that new additions shall not contain JADUs.

- New State law: Requires that JADUs be allowed in any enclosed space of an existing or proposed single-unit dwelling, including attached garages.
- Current Ordinance: New State law and the current Ordinance do not address unenclosed portions of structures that could be converted to usable floor area, and are otherwise not usable, such as crawl spaces or cantilevered covered parking areas.
- Further, the current requirement that new additions shall not contain JADUs creates an additional burden on applicants because if they would like to create a JADU through proposed floor area, they either need to demolish and rebuild the entire structure, or submit an application for an addition, receive approval of the application, complete construction, and then seek another building permit to “convert” the added-on floor area to JADU.
- Rationale: Removing this requirement would make it easier to create JADUs.

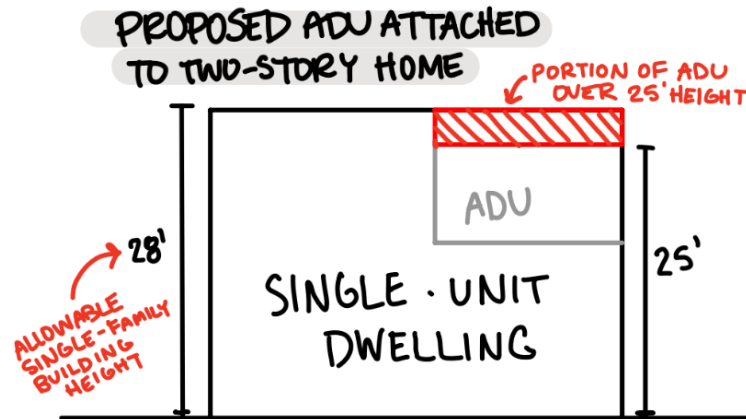


Topic 3: ADUs Above First Stories

Recommendation 3.A.: Allow the height of attached ADUs to be determined by the base zoning district.

- Allowing attached ADUs to be constructed at the same allowable height as the rest of a building will better serve the architectural integrity of building and roof designs, and creates more flexibility in constructing ADUs and JADUs as additions to existing multistory structures.
- New state law requires a minimum allowable height of 25' for attached ADUs.
- Without making an adjustment to account for base zoning regulations, every type of development where an ADU may be proposed will have to limit the location of the ADU below 25', which is lower than what is allowed in all residential zoning districts, and within the Hillside Overlay District. This effectively regulates an ADU more harshly than a regular upper story addition of floor area to the primary building.

Proposed Policy-Related Amendments



Recommendation 3.B.: Strike the requirement for ADU second story windows to “be obscured or have at least 5 foot sills depending on existing and proposed conditions”?

Alternative: Provide policy direction on a requirement that is objective.

- This standard treats ADUs and its occupants differently than other types of dwelling units and their occupants by regulating views, and does so in a subjective manner.
- New state law has crystallized the requirement that ADUs and JADUs must be regulated by objective standards.
- Second story ADU window requirements are currently established by discretion of the director, so this requirement must be struck because it is not considered objective.
- “Depending on existing and proposed conditions” is also not objective and must be struck/revised to be objective.

Topic 4: Additional Amendments

Recommendation 4.A.: Define size for refrigerators in ADUs to be minimum 24” width, 66” height, 29” depth.

- Current Ordinance: The Ordinance requires a “standard refrigerator,” but does not formally define the dimensions. This has proven to be confusing for applicants.
- Rationale: Setting a minimum refrigerator size would provide clarity to applicants.

Set 2: Proposed Amendments to “Clean Up” Ordinance

The proposed amendments, as shown in Table 2, seek to clarify requirements and make the Ordinance internally consistent. The amendments are clerical and are not policy related. Detailed information regarding the content of these amendments can be found in Attachment 3.

Table 2. Proposed Amendments to “Clean Up” the ADU Ordinance

Location of “Clean-Up” Amendments
18.23.210: Accessory and junior accessory dwelling units:
Numbers and Location Subsection
JADU Development Requirements Subsection
ADU Development Requirements Subsection
Other Clarity-Related Amendments:
Chapter 18.03 Rules of Measurement
Chapter 18.12 Hillside Overlay District
Chapter 18.29 Design Review
Chapter 18.40 Use Classifications
Chapter 18.41 Terms and Definitions

Set 3: Proposed Amendments to Address State Laws

The proposed amendments in Table 3 are required by State Senate Bill 897 and Assembly Bill 2221, which were codified into law within California Government Code Sections 65852.2, 65852.22, and 17980.12 (see Attachment 5 for summaries of SB 897 and AB 2221). Staff recommends additional amendments to reflect requirements in existing State law (Table 4).

Table 3. Proposed Amendments Based on New State Laws

New State Laws: Must amend City Ordinance to achieve minimum compliance
<p>Attached Garage Conversion to JADU:</p> <ul style="list-style-type: none"> • New State law: Clarifies that enclosed areas within an existing dwelling can be converted to JADU, including attached garages. • Current City Ordinance and Planning Divisions’ practice already allows attached garages to be converted to JADUs. • Recommendation: Amend the Ordinance to explicitly state that City will allow attached garages to be converted to JADU to clearly comply with State law.
<p>ADUs in Multifamily Structures:</p> <ul style="list-style-type: none"> • New State law: Requires local agencies to allow ADUs in both existing and proposed multifamily structures. • Current Ordinance: Only allows ADUs to be converted from within existing multifamily structures. • Recommendation: Amend the Ordinance so that ADUs are allowed within existing or proposed multifamily structures.

New State Laws: Must amend City Ordinance to achieve minimum compliance

Fire Sprinklers:

- Previous State law: Fire sprinklers cannot be required for ADUs/JADUs if sprinklers were not required for the main unit.
- New State law: Further clarifies that fire sprinklers shall not be required for the main unit due to construction of an ADU/JADU.
- Recommendation: *Either* amending the Ordinance to reflect this requirement, or striking all Building Code requirements from the Zoning Title and instead regulating Building Code requirements within the adopted Building Code. This recommendation is further discussed in the *Staff-Recommended Amendments* below.

Front Setbacks:

- Current Ordinance: Allows the front setback regulation to be waived for a statewide exemption ADU only where it is demonstrated by an applicant that the front setback unduly constrains the creation of the ADU.
- New State law: Front setbacks are now included in the development requirements that must be waived for statewide ADUs. Local agencies cannot establish limits on lot coverage, floor area, open space, minimum lot size, and front setbacks that do not permit construction of at least an 800 square foot ADU.
- Recommendation: Amend statewide exemption for ADU Development Standards to comply with State law.

Height:

- Current Ordinance: Allows 16' maximum for a statewide exemption ADU (or any ADU).
- The height limit has increased for certain statewide exemption ADUs:
- Detached ADU with an existing or proposed single family dwelling unit or single-story multifamily dwelling unit height maximum increased to 18'-20' when located within one-half (1/2) mile of public transit.
- Detached ADU with an existing or proposed multifamily, multi-story dwelling unit height maximum increased to 18' (regardless of proximity to public transit).
- Detached Garage + ADU is allowed a maximum 20' height – no change proposed.
- Attached ADU height minimum increased to 25'.
- Staff recommends amending the Ordinance to reflect these height maximums, and recommends amendments offering additional height flexibility to attached ADUs.

JADU Shared Bathrooms:

- JADUs may include separate sanitation facilities from the main dwelling or may share with the main dwelling.
- Where JADUs share sanitation facilities with the main dwelling, new State law requires that an interior entry from JADU to main dwelling be provided.
- The current Ordinance does not outline a requirement for an interior entry for shared sanitation facilities; however, staff is already requiring this in practice.

New State Laws: Must amend City Ordinance to achieve minimum compliance

- Staff recommends amending the Ordinance to explicitly require an interior entry from JADU to main unit where sanitation facilities are shared.

Review Timeframes:

- New State law requires local agencies to approve or deny ADU applications within 60 days (reduced from 120 days), and if denying the application, must provide a full set of comments in writing specifying all items defective or deficient, and a description of how the application can be remedied.
- Current Ordinance does not specify local application review timeframes.
- Staff recommends amending the Ordinance to explicitly state the review timeframes and allowable outcomes for ADU applications.

Parking Standards:

- Local agencies cannot impose parking standards on an ADU included in an application to create a new single-unit dwelling or a new multifamily dwelling on the same lot.
- Staff recommends amending the Ordinance Parking Standards to include this exception.

Objective Design Standards

State law requires that local agencies may only review ADUs/JADUs using objective standards and must ministerially approve applications for building permits for statewide exemption ADUs. The new State bills add the definition of “objective standards” to the statute: “Objective standards means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.”

Staff is recommending amendments to the Ordinance to eliminate all discretionary and subjective requirements, but at this time, Staff is not outlining new design standards for ADUs because the City is separately working to prepare Objective Design Standards which will comprehensively address design requirements for all residential project types, including ADUs.

Table 4. Proposed Amendments Based on Existing State Laws

Existing State Laws: Suggested amendments to better comply with State law
<p>Allowable ADU and JADU Locations:</p> <ul style="list-style-type: none"> ADUs and JADUs may be constructed on lots with existing or proposed residential uses in any zoning district as well as residential zoning districts. Staff recommends amending the Ordinance to reflect allowable ADU and JADU locations.
<p>Second Story Setbacks:</p> <ul style="list-style-type: none"> Interior side and rear setbacks must be reduced to minimum 4 feet to allow a statewide exemption ADU, or a JADU, as long as the unit complies with maximum height requirements and other relevant dimensional requirements. Staff recommends amending the Ordinance to reflect that statewide exemption ADUs in any configuration are allowed to reduce interior side and rear setbacks to a minimum of 4'.
<p>Percentage of Main Dwelling:</p> <ul style="list-style-type: none"> When building a new attached ADU or converting existing space within a primary dwelling to ADU, State law requires that the ADU may constitute no greater than 50% of the resulting floor area of the main dwelling. No standard currently exists in the Ordinance outlining the maximum percentage of the resulting dwelling an ADU may constitute. While this scenario is uncommon, in at least two conversion ADU scenarios, staff had to reference State law where the local Ordinance was silent. Staff recommends amending the Ordinance to include this limit on ADU sizes relative to the main building.

NEXT STEPS

The next step is for staff to prepare Ordinance text amendments based on feedback received at the study session. The Planning and Transportation Commission would then consider recommending adoption of the amendments to the City Council.

Attachments

1. Exhibit A (Proposed Ordinance Amendment Section 18.23.210)
2. Exhibit B (Proposed Amendments to Other Relevant Code Sections)
3. Descriptions of Proposed Amendments
4. ADU Graphic Illustrations
5. Summary of State Laws Pertaining to ADUs and JADUs
6. Notice - Proof of Publication