



CITY OF ORLAND Staff Report

TO: **City of Orland Planning Commission**
FROM: Scott Friend, AICP – City Planner
MEETING DATE: February 17, 2022; 5:30 p.m., Carnegie Center, 912 Third Street, Orland, CA 95963

SUBJECT: **Municipal Code Amendment:** Proposed amendments include revisions to:

- Revise Title 17 Zoning to include new State requirements for Accessory Dwelling Units and Junior Accessory Dwelling Units

Environmental Review: Staff is recommending that the Planning Commission determine that the project is *Exempt* from further environmental review pursuant to CEQA Guidelines Section 15061(b)(3) as it can be seen with certainty that there is no possibility that the proposed revisions to the City of Orland Municipal Code would have a significant effect on the environment, and therefore the proposed revision is not subject to CEQA.

Summary:

On January 1st, 2021, new legislation adopted by the State of California (Assembly Bill 68 (2019), Assembly Bill 881 (2019), and Senate Bill 13 (2019)) regarding Accessory Dwelling Units (ADUs) came into effect. This new legislation added new language to Government Code Sections 65852.2 and 65852.22, which discusses Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) and the regulations and permitting of these type of dwellings unit.

Additionally, the 2019 California Energy Code (Cal. Code Regs., Title 24, Part 6) has solar photovoltaic (PV) system requirements for all newly constructed low-rise residential buildings, including newly constructed ADUs. However, these requirements do not apply to additions or alterations to existing buildings. For example, an existing unconditioned building (like a garage) that is converted to an ADU is considered an addition and not subject to the PV system requirements. Additionally, JADUs are not subject to PV system requirements as the JADU is required to be constructed within the single family residence. Unconditioned buildings are also not subject to the PV system requirements.

As a result, the City is required to revise the Orland Municipal Code to comply with new state regulations for ADUs/JADUs. The revision to the Municipal Code is included as **Attachment A – Municipal Code Revisions** in a strikethrough/underline version. A “clean” version of the Code revisions is included as **Attachment B – Municipal Code Revisions**. The following is a discussion of the proposed changes.

Discussion:

The new ADU/JADU legislation results in revisions to the Zoning Ordinance to comply with the requirements of SB 13, AB 68 and AB 881 as well as the solar photovoltaic requirements established in the Energy Code.

The staff suggested changes to the Zoning Ordinance, as shown in **Attachments A and B**, includes revisions that will bring the Zoning Ordinance into compliance with State law. The revisions are as follows:

- Title 17 Zoning – Section 147.76.130 has been revised to define the maximum size limits for ADUs and JADUs.
- Title 17 Zoning – Section 147.76.130 has been revised to define the review period timing (60 days) for ADUs and JADUs.
- Title 17 Zoning – Section 147.76.130 has been revised to define the photovoltaic (PV) system requirements for all newly constructed, non-manufactured, ADUs as required by 2019 Energy Code. However, the Energy Code does allow for exceptions to this requirement such as if the new ADUs availability of solar access is limited because of tree or adjacent structure shading.
- Title 17 Zoning – Section 147.76.130 has been revised to further define the requirements for Junior Accessory Dwelling Units to comply with those requirements of the new state laws.

Upon adoption of the new revisions, the City is required to submit the revised ordinance to the California Department of Housing and Community Development (HCD) within 60 days after adoption. However, upon submittal, the ordinance is not subject to a HCD review and findings process.

Environmental determination:

Staff recommends that the Planning Commission determine that the proposed Municipal Code Amendment(s) to be categorically exempt pursuant to CEQA Guidelines Section 15061(b)(3) as it can be seen with certainty that there is no possibility that the proposed revisions to the City of Orland Municipal Code would have a significant effect on the environment, and therefore the proposed revision is not subject to CEQA. A Notice of Exemption was prepared for this project and has been included with this staff report as **Attachment C -Notice of Exemption**.

Recommendation:

Staff requests that the Planning Commission consider the proposed revisions to the Municipal Code and recommend changes, if necessary. If no changes are considered necessary, staff recommends that the Planning Commission recommend for approval to the City Council, the Amendment(s) to the Orland Municipal Code, as contained herein, through adoption of Planning Commission Resolution #2022-XX (**Attachment D**). Staff also recommends that the Planning Commission recommend for approval to the City Council, adoption of the Notice of Exemption (**Attachment C**) prepared for the proposed action.

Staff recommends that the Planning Commission utilize the following process for consideration of this matter:

1. Accept a presentation of the project by staff;
2. Open the public hearing and take public testimony;
3. Close the public hearing and initiate consideration of the project by the Planning Commission; and
4. Motion and vote by the Planning Commission.

If the Planning Commission determines that it intends to recommend for approval the Municipal Code Amendment, staff presents the following motions for consideration:

I move that the Planning Commission adopt Planning Commission Resolution #2022-XX recommending for approval to the City Council, the Municipal Code Amendment as presented herein and approval of the Categorical Exemption as presented.

ATTACHMENTS

- **Attachment A** – Municipal Code Amendment - strikethrough/underline version
 - **Attachment B** – Municipal Code Amendment – clean version
 - **Attachment C** – Notice of Exemption
 - **Attachment D** – Planning Commission Resolution 2022-XX
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CITY OF ORLAND MUNICIPAL CODE AMENDMENTS

Proposed Revisions to Title 17 Zoning

Chapter 17.76 - GENERAL USE AND DESIGN REQUIREMENTS

Sections:

17.76.130 Accessory dwelling units and junior accessory dwelling units.

A. Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) are defined in § 17.08.145.

Applications for ADUs and/or JADUs:

1. In single-family or multi-family residential zones are an allowed use in all single-family and multi-family zoning districts in the city and shall not be subject to a use permit or other discretionary action pursuant to California Government Code §§ 65852.2 and 65852.22 with the following additional requirements: and
2. In industrial zones, ADUs and JADUs are allowed if the property has an existing or proposed single- or multi-family dwelling. The ADU or JADU shall not be subject to a use permit or other discretionary action pursuant to California Government Code §§ 65852.2 and 65852.22 with the following additional requirements:
 - a. The increased floor area of an attached ADU shall not exceed fifty (50) percent of the proposed or existing primary dwelling living area, as long as the size limitation permits an ADU at least eight hundred (800) sq. ft. in size, at least sixteen (16) feet in height with four-foot side and rear yard setbacks, and that can be constructed in compliance with all other local development standards. Maximum allowed increase in floor area for an ADU is one thousand two hundred (1,200) square feet. Maximum allowed increase in floor area for a JADU is five hundred (500) square feet.
 - j. With the acceptance of those requirements discussed in divisions ~~8h~~ and ~~9j~~ above, requirements relating to height, architectural review, site plan review, fees, charges, and other zoning requirements are generally applicable to residential construction in the zone in which the property is located.
 - q. For an ADU that is not described in ~~subsection 15~~ division o above, a new or separate utility connection directly between the ADU and the utility shall be required. The connection is subject to a connection fee or capacity charge which shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.
 - s. Multiple ADUs shall be allowed within the portions of existing multi-family 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 unit complies with state building standards for dwellings.

At least one attached ADU and a maximum of twenty-five (25) percent of the existing multi-family dwelling units shall be allowed in a multi-family structure.

Up to two detached ADUs that are located on a lot that has an existing multi-family dwelling shall be allowed on that multi-family lot. These detached ADUs are subject to a height limit of sixteen (16) feet and four-foot rear yard and side setbacks.

- t. The City shall ministerially review and act on a building permit application for an ADU and JADU within 60 days after receiving the application. An ADU or JADU unit proposed with a permit application for a new primary dwelling unit shall not be approved until the primary dwelling receives approval.
- u. Newly constructed accessory dwelling units are subject to the 2019 California Energy Code (Cal. Code Regs., Title 24, Part 6, Subchapter 8, Section 151.1(14)) requirement, with exceptions, to provide a solar photovoltaic (PV) system if the unit is a newly constructed, non-manufactured, detached accessory dwelling unit. The solar panels can be installed on the ADU or on the primary dwelling unit. ADUs that are constructed within existing space, or as an addition to existing homes, including detached additions where an existing detached building is converted from non-residential to residential space, are not subject to the Energy Code requirement to provide a PV system.
- v. Additional JADU requirements:
 - i. One JADU unit is allowed per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.
 - ii. The creation of a JADU must be within the walls of the proposed or existing single-family residence. JADUs are not allowed in accessory structures. Attached garages are eligible for JADU creation.
 - iii. The JADU is required to include a separate entrance from the main entrance to the proposed or existing single-family residence but may also include shared access between the two units.
 - iv. No passageway shall be required in conjunction with the construction of a JADU. For the purposes of this section, "passageway" means a pathway that is unobstructed clear to the sky and extends from the street to one entrance of the accessory dwelling unit.

17.76.100 - Parking and loading facilities.

K. Garage conversion:

1. Any off-street parking spaces lost through conversion of a garage to a non-garage use in a residential zone shall be replaced with enclosed space meeting the standards for the use as required by the applicable zone district unless the conversion is a ADU or JADU. Parking replacement requirements for these type of uses are identified in Section 17.76.130.

CITY OF ORLAND MUNICIPAL CODE AMENDMENTS

Proposed Revisions to Title 17 Zoning

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A. Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) are defined in § 17.08.145.

Applications for ADUs and/or JADUs:

1. In single-family or multi-family residential zones are an allowed use in all single-family and multi-family zoning districts in the city and shall not be subject to a use permit or other discretionary action pursuant to California Government Code §§ 65852.2 and 65852.22 with the following additional requirements: and
2. In industrial zones, ADUs and JADUs are allowed if the property has an existing or proposed single- or multi-family dwelling. The ADU or JADU shall not be subject to a use permit or other discretionary action pursuant to California Government Code §§ 65852.2 and 65852.22 with the following additional requirements:
 - a. The increased floor area of an attached ADU shall not exceed fifty (50) percent of the proposed or existing primary dwelling living area, as long as the size limitation permits an ADU at least eight hundred (800) sq. ft. in size, at least sixteen (16) feet in height with four-foot side and rear yard setbacks, and that can be constructed in compliance with all other local development standards. Maximum allowed increase in floor area for an ADU is one thousand two hundred (1,200) square feet. Maximum allowed increase in floor area for a JADU is five hundred (500) square feet.
 - b. An ADU or JADU is not intended for sale but may be rented for a period greater than thirty (30) days. Short-term rental (30 days or less) of these units is not allowed. An ADU shall not be sold separately from the primary dwelling unless the existing lot is divided into two or more lots consistent with city lot dimension and lot area standards resulting the primary and accessory residential structures being on individual lots. Full separate utility connections for all habitable structures shall be a requirement of approval of the lot division. Under no circumstances may a JADU be sold separately from the primary dwelling. The prohibition of the sale of a JADU separate from the primary dwelling must be recorded on a deed restriction.
 - c. The lot contains an existing or proposed single- or multi-family dwelling.
 - d. The lot in which the use is proposed is in a zoning district which allows for single- or multi-family use.
 - e. Owner-occupancy of the parcel is not a requirement to apply for the construction of an ADU or JADU. Owner occupancy of an ADU on the property is not required between January 1, 2020 and January 1, 2025, However, owner occupancy of the single-family residence in which a JADU will be permitted is required. The owner may occupy either the remaining area of the primary dwelling or the JADU. The owner occupancy requirement associated with a JADU shall be recorded on the property deed.
 - f. For a project which proposes a new single- or multi-family dwelling and an ADU or JADU, the primary dwelling shall be approved for occupancy prior to occupancy of the ADU/JADU.

- g. ADUs shall be either attached to the proposed or existing dwelling and located within the living area of the proposed or existing dwelling or detached from the proposed or existing dwelling and located on the same lot as the dwelling. JADUs shall be attached to the existing dwelling and located within the living area of the proposed or existing dwelling.
- h. No setback shall be required for an existing living area, garage, or accessory structure that is converted to an ADU or JADU. However, fire protection mechanisms, as determined by the fire marshal, may be required for fire and life safety in those dwelling units not meeting otherwise required setback standards.

A setback of four feet shall be required for an ADU that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

- i. An ADU or JADU shall not be subject to the following requirements: building coverage, surface coverage, minimum lot size, or any floor area ratios or open space requirements.
- j. With the acceptance of those requirements discussed in divisions h and i above, requirements relating to height, architectural review, site plan review, fees, charges, and other zoning requirements are generally applicable to residential construction in the zone in which the property is located.
- k. Parking requirements for ADUs and JADUs shall not exceed one parking space per unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on an existing driveway. However, no parking requirements shall be mandatory for those ADUs and JADUs in any of the following instances:
 - i. The ADU or JADU is located within one-half mile of public transit.
 - ii. The ADU or JADU is located within an architecturally and historically significant historic district.
 - iii. The ADU or JADU is part of the existing primary residence or an existing accessory structure.
 - iv. When on-street parking permits are required but not offered to the occupant of the ADU or JADU.
 - v. When there is a car share vehicle located within one block of the ADU or JADU.
- l. Offstreet parking shall be permitted in setback areas in locations determined by the city or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.
- m. The replacement of parking spaces in an existing attached or detached garage, carport, or covered parking converted to an ADU or an existing attached or detached garage, carport, or covered parking demolished to construct a new ADU shall not be required for the construction and use of the ADU.

The replacement of parking spaces in an existing attached garage, carport or covered parking converted to a JADU or an existing attached garage, carport, or covered parking demolished to construct a new JADU shall not be required for the construction and use of the JADU.
- n. All ADUs and JADUs shall not be required to provide fire sprinklers if they are not required for the primary dwelling. However, other fire protection mechanisms, as determined by the fire marshal, may be required for fire and life safety in those ADUs and JADUs not meeting setbacks.

- o. For those ADUs or JADUs contained within the existing space of a single-family residence or accessory structure, which have an independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety shall not require a new or separate utility connection directly between the ADU or JADU and the utility, no related connection fee or capacity charge shall be imposed for this structure.

For purposes of providing service for water, sewer, or power, including a connection fee, a JADU shall not be considered a separate or new dwelling unit.

- p. Development impact fees for ADUs shall be based on the proportional size of the accessory dwelling unit to the primary dwelling. No development impact fees shall be required for ADUs of seven hundred fifty (750) sq. ft. or less in size.
- q. For an ADU that is not described in division 0 above, a new or separate utility connection directly between the ADU and the utility shall be required. The connection is subject to a connection fee or capacity charge which shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.
- r. A maximum of one ADU and one JADU are allowed per lot occupied by a single-family residential unit if the following is met:
 - i. The ADU or JADU is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than one hundred fifty (150) square feet beyond the same physical dimensions as the existing accessory structure.
 - ii. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
 - iii. The space has exterior access from the proposed or existing single-family dwelling.
 - iv. The side and rear setbacks are sufficient for fire and safety.
 - v. The ADU and JADU complies with the requirements of §§ 17.76.130 and 17.08.145.
- s. Multiple ADUs shall be allowed within the portions of existing multi-family 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 unit complies with state building standards for dwellings.

At least one attached ADU and a maximum of twenty-five (25) percent of the existing multi-family dwelling units shall be allowed in a multi-family structure.

Up to two detached ADUs that are located on a lot that has an existing multi-family dwelling shall be allowed on that multi-family lot. These detached ADUs are subject to a height limit of sixteen (16) feet and four-foot rear yard and side setbacks.

- t. The City shall ministerially review and act on a building permit application for an ADU and JADU within 60 days after receiving the application. An ADU or JADU unit proposed with a permit application for a new primary dwelling unit shall not be approved until the primary dwelling receives approval.
- u. ADUs and JADUs shall comply with all applicable Building Code requirements.
- v. Newly constructed accessory dwelling units are subject to the 2019 California Energy Code (Cal. Code Regs., Title 24, Part 6, Subchapter 8, Section 151.1(14)) requirement, with

exceptions, to provide a solar photovoltaic (PV) system if the unit is a newly constructed, non-manufactured, detached accessory dwelling unit. The solar panels can be installed on the ADU or on the primary dwelling unit. ADUs that are constructed within existing space, or as an addition to existing homes, including detached additions where an existing detached building is converted from non-residential to residential space, are not subject to the Energy Code requirement to provide a PV system.

w. Additional JADU requirements:

- i. One JADU unit is allowed per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.
- ii. The creation of a JADU must be within the walls of the proposed or existing single-family residence. JADUs are not allowed in accessory structures. Attached garages are eligible for JADU creation.
- iii. The JADU is required to include a separate entrance from the main entrance to the proposed or existing single-family residence but may also include shared access between the two units.
- iv. No passageway shall be required in conjunction with the construction of a JADU. For the purposes of this section, "passageway" means a pathway that is unobstructed clear to the sky and extends from the street to one entrance of the accessory dwelling unit.

(Ord. No. 2018-03 , (Exh. A); Ord. No. 2020-06 , (Exh. B))

Editor's note(s)—Ord. No. 2018-03, Exh. A, adopted Aug. 20, 2018, repealed the former § 17.76.130Editor's note(s)—, and enacted a new § 17.76.130Editor's note(s)— as set out herein. The former § 17.76.130Editor's note(s)— pertained to second dwellings and derived from Ord. No. 2007-05, § 3Editor's note(s)— (part); and Ord. No. 2015-01, § 1Editor's note(s)— (Exh. A); Ord. No. 2020-06 Editor's note(s)—, (Exh. B).

NOTICE OF EXEMPTION

CEQA: California Environmental Quality Act

To: ☐ Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

From: City of Orland
815 Fourth St.
Orland, CA 95963

☒ County Clerk
526 West Sycamore Street
Willows, CA 95988

Project Title: **City of Orland Municipal Code Amendment:** Title 17- Zoning - Chapter 17.76- GENERAL USE AND DESIGN REQUIREMENTS, Section § 17.76.130 Accessory Dwelling Units and Junior Accessory Dwelling Units.

Project Location - Specific: City-wide
- **City:** Orland
- **County:** Glenn

Description of Nature, Purpose, and Beneficiaries of Project:
Revision of the City Zoning Ordinance to comply with state law regarding accessory dwelling units.

Name of Public Agency Approving Project: City of Orland

Name of Person or Agency Carrying Out Project: City of Orland

- ☐ Ministerial (Sec. 21080 (b) (1); 15268);
- ☐ Declared Emergency (Sec. 21080 (b) (3); 15269 (a));
- ☐ Emergency Project (Sec. 21080 (b) (4); 15269 (b) (c));
- ☒ Categorical Exemption. Type and Section Number: Section 15061(b)(3).
- ☐ Statutory Exemption. Code Number:

Reasons why project is exempt:

The City of Orland City Council has determined that this project is exempt from CEQA as it can be seen with certainty that there is no possibility that the proposed revisions to the City of Orland Municipal Code would have a significant effect on the environment. Therefore, the project is exempt pursuant to CEQA Guidelines Section 15061(b)(3).

Lead Agency Contact Person: Scott Friend; City Planner

Area Code/Telephone/Extension: (530) 865-1608, Extension 3059.

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ Yes ☐ No

_____		<u>City Planner</u>
Signature:	Date	Title
<input checked="" type="checkbox"/> Signed by Lead Agency	Date Received for Filing At OPR:	

PLANNING COMMISSION RESOLUTION NO. 2022-XX

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ORLAND
RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF ORLAND, APPROVAL
OF THE ORLAND MUNICIPAL CODE AMENDMENT AND ASSOCIATED CEQA
EXEMPTION.**

WHEREAS, On January 1, 2021, the State of California adopted revisions to Government Code Sections 65852.2 and 65852.22 regarding accessory dwelling units and junior accessory dwelling units; and

WHEREAS, adoption of revisions of Government Code Sections 65852.2 and 65852.22 by the State results in necessary revisions to the City's Municipal Code; and

WHEREAS, the Planning Commission of the City of Orland, California held a duly noticed Public Hearing to consider the matter on February 17th, 2022, as provided by law; and

WHEREAS, *Title 17- Zoning - Chapter 17.76- GENERAL USE AND DESIGN REQUIREMENTS § 17.76.130 Accessory Dwelling Units and Junior Accessory Dwelling Units* has been amended to comply with Government Code Sections 65852.2 and 65852.22 as shown in **Exhibit A**; and

WHEREAS, *Title 17- Zoning - Chapter 17.76- GENERAL USE AND DESIGN REQUIREMENTS § 17.76.130 Accessory Dwelling Units and Junior Accessory Dwelling Units* has been amended to comply with the photovoltaic requirements of the 2019 California Energy Code as shown in **Exhibit A**; and

WHEREAS, following the advertisement of the matter in the newspaper of general circulation as required by the Orland Municipal Code and State Government Code, the Planning Commission held a duly noticed public hearing on the proposed amendments to Title 17, *Zoning*, in order to provide the community and interested parties the opportunity to comment on the proposed amendments; and

WHEREAS, The Planning Commission determined that the proposed Municipal Code Amendment is exempt from CEQA under Section 15061(b)(3), known as the "General Rule" or "Common Sense" exemption as the Commission finds that it can be seen with certainty that there is no possibility that the proposed revisions to the City of Orland Municipal Code would have a significant effect on the environment; and

NOW THEREFORE BE IT RESOLVED, that the Planning Commission of the City of Orland does hereby recommend to the City Council of the City of Orland, approval of Ordinance 2022-XX regarding the Orland Municipal Code Amendment and associated CEQA Exemption.

The foregoing resolution was passed and adopted at a regular adjourned meeting of the Orland Planning Commission held on **February 17th, 2022** by the following vote:

AYES: Commissioners

NOES: Commissioners

ABSENT OR NOT VOTING: Commissioners

Scott Friend, City Planner