

**4. Development Code Amendment 24-04
(ADU 2024 Legislative Update)**

Recommendation:

It is recommended that the Mayor and City Council of the City of San Bernardino:

1. Adopt Urgency Ordinance No. MC-1644U of the Mayor and City Council of the City of San Bernardino, California, approving Development Code Amendment 24-04 amending Chapter 19.04 (Residential Zones); Section 19.04.030(2)(P) (Residential Zones Specific Standards - Accessory Dwelling Units) of the City of San Bernardino Development Code (SBMC Title 19) in order to update the development standards for Accessory Dwelling Units in compliance with recent changes in state law; and finding such action statutorily exempt from the California Environmental Quality Act under Public Resources Code Section 21080.17 (Attachment 1 and Attachment 2); and
2. Introduce for first reading, read by title only, and waive further reading of Ordinance No. MC-1645 of the Mayor and City Council of the City of San Bernardino, California, approving Development Code Amendment 24-04 amending Chapter 19.04 (Residential Zones); Section 19.04.030(2)(P) (Residential Zones Specific Standards - Accessory Dwelling Units) of the City of San Bernardino Development Code (SBMC Title 19) in order to update the development standards for Accessory Dwelling Units in compliance with recent changes in state law; and finding such action statutorily exempt from the California Environmental Quality Act under Public Resources Code Section 21080.17 (Attachment 3 and Attachment 4); and
3. Schedule the adoption of Ordinance No. MC-1645 to the regularly scheduled meeting of the Mayor and City Council on January 15th, 2025.



PUBLIC HEARING

City of San Bernardino Request for Council Action

Date: December 18, 2024

To: Honorable Mayor and City Council Members

From: Rochelle Clayton, Acting City Manager;
Gabriel Elliott, Director of Community Development and Housing

Department: Community Development and Housing

Subject: **Development Code Amendment 24-04
(ADU 2024 Legislative Update)**

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3. Schedule the adoption of Ordinance No. MC-1645 to the regularly scheduled meeting of the Mayor and City Council on January 15th, 2025.

Executive Summary

Approval of Development Code Amendment 24-04 will amend Chapter 19.04 (Residential Zones); Section 19.04.030(2)(P) (Residential Zones Specific Standards - Accessory Dwelling Units) of the City of San Bernardino Development Code (SBMC Title 19) in order to update the development standards for Accessory Dwelling Units in compliance with recent changes in state law.

Background

The Development Code (SBMC Title 19) is the primary mechanism by which the City implements the policies, goals, and objectives of both the General Plan and the Housing Element (an element of the General Plan). The Development Code achieves this by guiding development, on a lot-by-lot basis, throughout the city.

On May 5, 2021, the Mayor and City Council adopted Ordinance No. MC-1559, establishing standards for the development of Accessory Dwelling Units.

On December 7, 2022, the Mayor and City Council adopted Urgency Ordinance No. MC-1604, updating standards for the development of Accessory Dwelling Units in compliance with recent changes to state law.

On September 19, 2024 (SB 1211) and September 28, 2024 (AB 2533), the Governor signed Assembly Bill 2533 and Senate Bill 1211 amending Article 2 of Chapter 13 of Division 1 of Title 7 of the Government Code as it pertained to the development of Accessory Dwelling Units. Both AB 2533 and SB 1211 take effect January 1, 2025. To remain valid, the City's Accessory Dwelling Unit ordinance must comply with requirements imposed by AB 2533 and SB 1211 by this date.

Discussion

The proposed ordinance amends the City's local regulatory scheme for the construction of ADUs and JADUs to comply with recently amended provisions of Article 2 of Chapter 13 of Division 1 of Title 7 of the Government Code.

Failure to comply with Article 2 of Chapter 13 of Division 1 of Title 7 of the Government Code (as amended) by January 1, 2025, renders the City's ADU ordinance null and void, thereby limiting the City to the application of the few default state standards provided in the Government Code. The approval of ADUs and JADUs based solely on these default statutory standards, without local regulations governing height, setback, landscape, and architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety.

The attached proposed Urgency Ordinance includes changes to the Chapter 19.04 (Residential Zones); Section 19.04.030(2)(P) (Residential Zones Specific Standards - Accessory Dwelling Units) of the City of San Bernardino Development Code (SBMC Title 19).

Development Code Amendment 24-04 is proposed for adoption by urgency ordinance, in accordance with Government Code section 36937, Subdivision (b), and will be followed immediately by the introduction of a standard ordinance that will be scheduled for final adoption at a subsequent meeting.

AB 2533 – Unpermitted ADUs and JADUs

Subject to limited exceptions, existing state law prohibits a city from denying a permit to legalize an unpermitted ADU that was constructed before January 1, 2018, if the denial is based on the ADU not complying with applicable building, state, or local ADU standards. One exception allows a city to deny a permit to legalize if the city makes a written finding that correcting the violation is necessary to protect the health and safety of the public or the occupants of the structure.

AB 2533 changes this by: (1) expanding the above prohibition to also include JADUs; (2) moving the construction-cutoff date from January 1, 2018, to January 1, 2020; and (3) replacing the above exception with a requirement that local agencies find that correcting the violation is necessary to comply with the standards specified in Health and Safety Code section 17920.3 (Substandard Buildings). (See amended Gov. Code, Section 66332(a)–(f).)

SB 1211 – Replacement Parking Requirements; Multifamily ADUs

Replacement Parking

Existing state law prohibits the City from requiring off-street parking spaces to be replaced when a garage, carport, or covered parking structure is demolished in conjunction with the construction of, or conversion to, an ADU.

SB 1211 amends this prohibition to now also prohibit a city from requiring replacement parking when an uncovered parking space is demolished for or replaced with an ADU. (See amended Gov. Code, Section 66314(d)(11).)

Multifamily ADUs

SB 1211 further defines livable space in connection with converted ADUs inside a multifamily dwelling structure. Existing state law requires the City to ministerially approve qualifying building-permit applications for 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” The term “livable space” is not defined by existing state ADU law.

SB 1211 changes this by adding a new definition: “‘Livable space’ means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.” (See amended Gov. Code, § 66313(e).)

SB 1211 also increases the number of detached ADUs that lots with an existing multifamily dwelling can have. Existing state law allows a lot with an existing or proposed multifamily dwelling to have up to two detached ADUs.

Under SB 1211, a lot with an existing multifamily dwelling can have up to eight detached ADUs, or as many detached ADUs as there are primary dwelling units on the lot, whichever is less. (See amended Gov. Code, Section 66323(a)(4)(A)(ii).) SB 1211 does not alter the number of ADUs that a lot with a proposed multifamily dwelling can have — the limit remains at two. (See amended Gov. Code, Section 66323(a)(4).).

Proposed Amendment

In order to ensure that the City's development standards for Accessory Dwelling Units comply with state law, this amendment will update Section 19.04.030(2)(P) (Accessory Dwelling Units). The attached exhibits (Attachment 2 and Attachment 4) include the specific changes as proposed for adoption into the Development Code.

Implementation

The urgency ordinance for Development Code Amendment 24-04 will take effect immediately upon adoption. Following adoption of the urgency ordinance, a standard ordinance will follow to implement Development Code Amendment 24-04. This ordinance will become effective 30 days following final adoption by the Mayor and City Council.

General Plan Goals and Policies

The City of San Bernardino General Plan includes goals and policies to guide future development, as follow:

- Land Use Goal 2.1: Preserve and enhance San Bernardino's unique Neighborhoods.
- Land Use Element Policy 2.1.1: Actively enforce development standards, design guidelines, and policies to preserve and enhance the character of San Bernardino's neighborhoods.

The adoption and implementation of Development Code Amendment 24-04 is consistent with the City's General Plan by allowing for the development of Accessory Dwelling Units within the single-family residential and multi-family residential zones in a manner that will prevent negative impacts to the existing residential neighborhoods and the community at-large, while maintaining consistency with state law (AB 2533 and SB 1211). Additionally, as regulated by Development Code Amendment 24-04, new Accessory Dwelling Units (ADUs) will serve the City's housing needs in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code.

California Environmental Quality Act

Under California Public Resources Code Section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county implementing the provisions of Article 2 of Chapter 13 of Division 1 of Title 7 of the Government Code, which is California's ADU law

and which also regulates JADUs, as defined by Section 66313. Therefore, the adoption of the proposed ordinance is statutorily exempt from CEQA in that it implements state ADU law.

2021-2025 Strategic Targets and Goals

Development Code Amendment 23-03 aligns with Key Target Goal No. 3: Improved Quality of Life and 4(b): Economic Growth and Development – Update the General Plan and Development Code. Specifically, the amendment will update the Development Code for compliance with state law. The amendment to the Development Code will ensure consistency with state law.

Fiscal Impact

There will be no fiscal impact to the City's General Fund as a result of this action.

Conclusion

It is recommended that the Mayor and City Council of the City of San Bernardino:

1. Adopt Urgency Ordinance No. MC-1644U of the Mayor and City Council of the City of San Bernardino, California, approving Development Code Amendment 24-04 amending Chapter 19.04 (Residential Zones); Section 19.04.030(2)(P) (Residential Zones Specific Standards - Accessory Dwelling Units) of the City of San Bernardino Development Code (SBMC Title 19) in order to update the development standards for Accessory Dwelling Units in compliance with recent changes in state law; and finding such action statutorily exempt from the California Environmental Quality Act under Public Resources Code Section 21080.17 (Attachment 1 and Attachment 2); and
2. Introduce for first reading, read by title only, and waive further reading of Ordinance No. MC-1645 of the Mayor and City Council of the City of San Bernardino, California, approving Development Code Amendment 24-04 amending Chapter 19.04 (Residential Zones); Section 19.04.030(2)(P) (Residential Zones Specific Standards - Accessory Dwelling Units) of the City of San Bernardino Development Code (SBMC Title 19) in order to update the development standards for Accessory Dwelling Units in compliance with recent changes in state law; and finding such action statutorily exempt from the California Environmental Quality Act under Public Resources Code Section 21080.17 (Attachment 3 and Attachment 4); and
3. Schedule the adoption of Ordinance No. MC-1645 to the regularly scheduled meeting of the Mayor and City Council on January 15th, 2025.

Attachments

- | | |
|--------------|---|
| Attachment 1 | Urgency Ordinance No. MC-1644U (Approving Development Code Amendment 24-04) |
| Attachment 2 | Urgency Ordinance No. MC-1644U (Approving Development Code Amendment 24-04) – Exhibit A |

Attachment 3	Ordinance No. MC-1645 (Approving Development Code Amendment 24-04)
Attachment 4	Ordinance No. MC-1645 (Approving Development Code Amendment 24-04) – Exhibit A
Attachment 5	Resolution No. 2024-047 - PC
Attachment 6	Newspaper Publication
Attachment 7	PowerPoint

Ward:

All Wards

Synopsis of Previous Council Actions:

N/A

ORDINANCE NO. MC-1644U

**ORDINANCE OF THE MAYOR AND CITY COUNCIL OF
THE CITY OF SAN BERNARDINO, CALIFORNIA,
APPROVING DEVELOPMENT CODE AMENDMENT 24-04
AMENDING CHAPTER 19.04 (RESIDENTIAL ZONES);
SECTION 19.04.030(2)(P) (ACCESSORY DWELLING
UNITS) OF THE CITY OF SAN BERNARDINO
DEVELOPMENT CODE (SBMC TITLE 19) IN ORDER TO
UPDATE THE DEVELOPMENT STANDARDS FOR
ACCESSORY DWELLING UNITS IN COMPLIANCE WITH
RECENT CHANGES IN STATE LAW; AND FINDING THAT
DEVELOPMENT CODE AMENDMENT 24-04 IS
STATUTORILY EXEMPT UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

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

WHEREAS, the state law authorizes cities to act to provide for the creation and regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”); and

WHEREAS, in recent years, the California Legislature has approved, and the Governor has signed into law, a number of bills that, among other things, amend various sections of the Government Code to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, in 2024, the California Legislature approved, and the Governor signed into law, Assembly Bill 2533 (“AB 2533”) and Senate Bill 1211 (“SB 1211”), which further amend state ADU law; and

WHEREAS, AB 2533 and SB 1211 take effect on January 1, 2025, and for the City’s ADU ordinance to remain valid, it must be amended to reflect the requirements of AB 2533 and SB 1211; and

WHEREAS, the City desires to amend its local regulatory scheme for the construction of ADUs and JADUs to reflect AB 2533’s and SB 1211’s changes to state law; and

WHEREAS, Development Code Amendment 24-04 is a City-initiated amendment to Chapter 19.04 (Residential Zones); Section 19.04.030(2)(P) (Residential Zones Specific Standards - Accessory Dwelling Units) of the City of San Bernardino Development Code (SBMC Title 19) in order to update the development standards for Accessory Dwelling Units in compliance with recent changes in state law; and

WHEREAS, the Planning Division of the Community Development Department of the City of San Bernardino has prepared Development Code Amendment 24-04 in compliance with the California Government Code, consistent with the City of San Bernardino General Plan, and in compliance with the City of San Bernardino Development Code; and

WHEREAS, pursuant to requirements of the California Environmental Quality Act (“CEQA”), the Planning Division of the Community Development and Housing Department evaluated Development Code Amendment 24-04 and determined that it is exempt from CEQA under California Public Resources Code Section 21080.17; and

WHEREAS, on November 12, 2024, pursuant to the requirements of Section 19.52.040 (Hearings and Appeals - Hearing Procedure) of the City of San Bernardino Development Code, the Planning Commission held a duly-noticed public hearing and adopted Resolution No. 2024-047 recommending the adoption of the Development Code Amendment 24-04 to the Mayor and City Council; and

WHEREAS, notice of the December 18, 2024 public hearing for the Mayor and City Council's consideration of Development Code Amendment 24-04 was published in The Sun newspaper on December 7, 2024, in accordance with Development Code Chapter 19.52 (Hearing and Appeals); and

WHEREAS, pursuant to the requirements of Chapters 19.52 (Hearing and Appeals) and Chapter 19.42 (Development Code Amendments) of the City of San Bernardino Development Code, the Mayor and City Council have the authority to take action on Development Code Amendment 24-04; and

WHEREAS, there is a current and immediate threat to the public health, safety, or welfare based on the passage of AB 2533 and SB1211 because if the City’s ordinance does not comply with the amended laws as of January 1, 2025, and the City’s ADU ordinance becomes null and void, the City would thereafter be limited to applying the few default standards that are provided in Article 2 of Chapter 13 of Division 1 of Title 7 of the Government Code for the approval of ADUs and JADUs; and

WHEREAS, the approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, landscape, and architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety. These threats to public safety, health, and welfare justify adoption of this ordinance as an urgency ordinance to be effective immediately upon adoption by a four-fifths vote of the City Council; and

WHEREAS, to protect the public safety, health, and welfare, the City Council may adopt this Ordinance as an urgency measure in accordance with Government Code Section 36937, Subdivision (b).

NOW THEREFORE, THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO, CALIFORNIA, DO ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The above recitals are true and correct and are incorporated herein.

SECTION 2. Compliance with the California Environmental Quality Act. The Mayor and City Council having independently reviewed and analyzed the record before it, including written and oral testimony, and having exercised their independent judgment, Development Code Amendment 24-04 and this Ordinance No. MC-1644U is exempt from the requirements of the California Environmental Quality Act (“CEQA”) under California Public Resources Code Section 21080.17, as the California Environmental Quality Act (“CEQA”) does not apply to the adoption of an ordinance by a city or county implementing the provisions of Article 2 of Chapter 13 of Division 1 of Title 7 of the California Government Code, which is California’s ADU law and which also regulates JADUs, as defined by Section 66313. Therefore, adoption of the proposed ordinance is statutorily exempt from CEQA.

SECTION 3. Finding of Facts – Development Code Amendment 24-04

Finding No. 1: The proposed amendment is consistent with the General Plan.

Finding of Fact: Development Code Amendment 24-04 is consistent with the General Plan, as follows:

Land Use Goal 2.1: Preserve and enhance San Bernardino’s unique Neighborhoods. Land Use

Element Policy 2.1.1: Actively enforce development standards, design guidelines, and policies to preserve and enhance the character of San Bernardino’s neighborhoods.

The implementation of Development Code Amendment 24-04 is consistent with the City’s General Plan by allowing for the development of Accessory Dwelling Units within the single-family residential and multi-family residential zones in a manner that will prevent negative impacts to the existing residential neighborhoods and the community at-large, while maintaining consistency with state law (AB 2533 and SB 1211). Additionally, as regulated by Development Code Amendment 24-04, new Accessory Dwelling Units (ADUs) will serve the City’s housing needs in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code.

Finding No. 2: The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

Finding of Fact: The adoption and implementation of Development Code Amendment 24-04 is necessary and desirable for the development of the community and is in the interests or furtherance of the public health, safety, convenience, and general welfare. In enacting the aforementioned legislation the State Legislature identified Accessory Dwelling Units (ADUs) as an important housing option for renters and homeowners, given the undersupply of housing that exists in the State. Development Code Amendment 24-04 will

bring the City's Development Code into compliance with the aforementioned statute.

SECTION 4. Adoption of Ordinance. Development Code Amendment 24-04 to amend Chapter 19.04 (Residential Zones); Section 19.04.030(2)(P) (Residential Zones Specific Standards - Accessory Dwelling Units) of the City of San Bernardino Development Code (SBMC Title 19) to update the development standards for Accessory Dwelling Units in compliance with state law is hereby amended and restated to read in its entirety as provided in Exhibit A, attached hereto and incorporated herein by this reference.

SECTION 5. Notice of Exemption: The Planning Division of the Community Development and Housing Department is hereby directed to file a Notice of Exemption with the County Clerk of the County of San Bernardino within five (5) working days of final approval certifying the City's compliance with the California Environmental Quality Act in approving Development Code Amendment 24-04.

SECTION 6. Severability: If any section, subsection, subdivision, sentence, or clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 7. Effective Date. This Urgency Ordinance takes effect immediately upon its adoption.

SECTION 8. Notice of Adoption. The City Clerk of the City of San Bernardino shall either: (a) have this ordinance published in a newspaper of general circulation within 15 days after its adoption or (b) have a summary of this ordinance published twice in a newspaper of general circulation, within 15 days after its adoption.

APPROVED and **ADOPTED** by the City Council and signed by the Mayor and attested by the City Clerk this 18th day of December 2024.

Helen Tran, Mayor
City of San Bernardino

Attest:

Genoveva Rocha, CMC, City Clerk

Approved as to form:

Sonia Carvalho, City Attorney

CERTIFICATION

STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO
CITY OF SAN BERNARDINO

I, Genoveva Rocha, CMC, City Clerk, hereby certify that the attached is a true copy of Ordinance No. MC-1644U, adopted by the City Council of the City of San Bernardino, California, at a regular meeting held on the 18th day of December 2024 by the following vote:

<u>Council Members:</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SANCHEZ	_____	_____	_____	_____
IBARRA	_____	_____	_____	_____
FIGUEROA	_____	_____	_____	_____
SHORETT	_____	_____	_____	_____
KNAUS	_____	_____	_____	_____
FLORES	_____	_____	_____	_____
ORTIZ	_____	_____	_____	_____

WITNESS my hand and official seal of the City of San Bernardino this ____ day of _____ 2024.

Genoveva Rocha, CMC, City Clerk

Development Code Section 19.04.030(2)(P)
(Residential Zones Specific Standards - Accessory Dwelling Units)

19.04.030(2)(P) (Residential Zones Specific Standards - Accessory Dwelling Units) shall be amended and restated to read in its entirety as follows:

P. Accessory Dwelling Units

- 1. Purpose.** The purpose of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code.
- 2. Effect of Conforming.** An ADU or JADU that conforms to the standards in this section will not be:
 - a.** Deemed to be inconsistent with the city's general plan and zoning designation for the lot on which the ADU or JADU is located.
 - b.** Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
 - c.** Considered in the application of any local ordinance, policy, or program to limit residential growth.
 - d.** Required to correct a nonconforming zoning condition, as defined in subsection (3)(h) below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.
- 3. Definitions.** As used in this section, terms are defined as follows:
 - a.** "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:
 - i.** An efficiency unit, as defined by section 17958.1 of the California Health and Safety Code; and
 - ii.** A manufactured home, as defined by section 18007 of the California Health and Safety Code.
 - b.** "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
 - c.** "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.
 - d.** "Efficiency kitchen" means a kitchen that includes each of the following:
 - i.** A cooking facility with appliances.

- ii. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.
- e. “Junior accessory dwelling unit” or “JADU” means a residential unit that satisfies all of the following:
 - i. It is no more than 500 square feet in size.
 - ii. It is contained entirely within an existing or proposed single-family structure. An enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure.
 - iii. It includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure.
 - iv. If the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family structure in addition to an exterior entrance that is separate from the main entrance to the primary dwelling.
- f. “Livable space” means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.
- g. “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.
- h. “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.
- i. “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
- j. “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
- k. “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.
- l. “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.

4. Approvals. The following approvals apply to ADUs and JADUs under this section:

- a. **Statutory Criteria.** If an ADU or JADU complies with each of the general requirements in subsection (5) below, it is allowed with only a building permit in the following scenarios:
 - i. **Converted on Single-family Lot:** One ADU as described in this subsection (4)(a)(i) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
 - a) Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) 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; and

- b) Has exterior access that is independent of that for the single-family dwelling; and
 - c) Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
 - d) The JADU complies with the requirements of Government Code Sections 66333 through 66339.
- ii. **Limited 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 (4)(a)(i) above), if the detached ADU satisfies each of the following limitations:
- a) The side- and rear-yard setbacks are at least four-feet.
 - b) The total floor area is 800 square feet or smaller.
 - c) The peak height above grade does not exceed the applicable height limit in subsection (5)(b) below.
- iii. **Converted on Multifamily Lot:** One or more 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. Under this subsection (4)(a)(iii), at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.
- iv. **Limited Detached on Multifamily Lot:** No more than two detached ADUs on a lot with a proposed multifamily dwelling, or up to eight detached ADUs on a lot with an existing multifamily dwelling, if each detached ADU satisfies all of the following:
- a) The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the city will not require any modification to the multifamily dwelling as a condition of approving the ADU.
 - b) The peak height above grade does not exceed the applicable height limit provided in subsection (5)(c) below.
 - c) If the lot has an existing multifamily dwelling, the quantity of detached ADUs does not exceed the number of primary dwelling units on the lot.

b. Additional Criteria.

- i. An ADU that does not qualify under the criteria set forth in subsection (4)(a) above may be created with a building permit if it complies with the standards set forth in subsections (5) and (6) below.

c. Process and Timing.

- i. An ADU application is considered and approved ministerially, without discretionary review or a hearing.
- ii. The City must approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a completed application. If the City does not approve or deny the completed application within 60 days, the application is deemed approved unless either:
 - a) The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or
 - b) When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily 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 or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.
- iii. If the city denies an application to create an ADU or JADU, the city must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection (4)(c)(ii) above.
- iv. A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

5. General ADU and JADU Requirements. The following requirements apply to all ADUs and JADUs that are approved under subsections (4)(a) or (4)(b) above:

a. Zoning.

- i. An ADU or JADU subject to subsection (4)(a) above may be created on a lot in a residential or mixed-use zone.
- ii. An ADU or JADU subject to subsection (4)(b) above may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.
- iii. In accordance with Government Code section 66333(a), a JADU may only be created on a lot zoned for single-family residences.

b. Access. Each ADU and JADU must have direct exterior access that is separate from that of the primary dwelling.

c. Height.

- i. Except as otherwise provided by subsections (5)(c)(ii) and (5)(c)(iii) below, a detached ADU created on a lot with an existing or proposed single family or multifamily dwelling unit may not exceed 16 feet in height.

- ii. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop or a high quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.
 - iii. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.
 - iv. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (5)(c)(iv) may not exceed two stories.
 - v. For purposes of this subsection (5)(c), height is measured above existing legal grade to the peak of the structure.
- d. **Fire Sprinklers.**
 - i. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
 - ii. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
- e. **Rental Term.** No ADU or JADU may be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.
- f. **No Separate Conveyance.** An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section 66341, 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).
- g. **Septic System.** If the ADU or JADU will connect to an onsite wastewater-treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.
- h. **Owner Occupancy.** As required by state law, 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 in this subsection (5)(h) does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.
- i. **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 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:

- i. Except as otherwise provided in Government Code Section 66341, the ADU or JADU may not be sold separately from the primary dwelling.
 - ii. The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
 - iii. The deed restriction runs with the land and may be enforced against future property owners.
 - iv. 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.
 - v. 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.
- 6. Specific ADU Requirements.** The following requirements apply only to ADUs that are approved under subsection (4)(b) above.
- a. Maximum Size.**
 - i. The maximum size of a detached or attached ADU subject to this subsection (6) is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two or more bedrooms.
 - ii. 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.
 - iii. Application of other development standards in this subsection (6), such as setbacks or lot coverage, might further limit the size of the ADU, but no application of the percent-based size limit in subsection (6)(a)(ii) above or of a lot coverage limit or open-space requirement may require the ADU to be less than 800 square feet.
 - b. Setbacks.**
 - i. An ADU that is subject to this subsection (6) must conform to a 25-foot front-yard setback, subject to subsection (6)(a)(iii) above.
 - ii. An ADU that is subject to this subsection (6) must conform to 4-foot side- and rear-yard setbacks.

- iii. No setback is required for an ADU that is subject to this subsection (6) if the ADU is constructed in the same location and to the same dimensions as an existing structure.
 - c. **Lot Coverage.** No ADU subject to this subsection (f) may cause the total lot coverage of the lot to exceed 50 percent, subject to subsection (6)(a)(iii) above.
 - d. **Passageway.** No passageway, as defined by subsection (3)(i) above, is required for an ADU.
 - e. **No Replacement Parking.** When a garage, carport, covered parking structure, or uncovered parking space 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.
 - f. **Architectural Requirements.**
 - i. 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.
 - ii. The roof slope must match that of the dominant roof slope of the primary dwelling. The dominant roof slope is the slope shared by the largest portion of the roof.
 - iii. The exterior lighting must be limited to down-lights or as otherwise required by the building or fire code.
 - iv. The ADU must have an independent exterior entrance, apart from that of the primary dwelling. The ADU entrance must be located on the side or rear building façade, not facing a public-right-of-way.
 - g. **Allowed Stories.** No ADU subject to this subsection (f) may have more than one story, except that an ADU that is attached to the primary dwelling may have the stories allowed under subparagraph (5)(c)(iv) of this section.
7. **Fees.** The following requirements apply to all ADUs and JADUs that are approved under subsections (4)(a) or (4)(b) above.
- a. **Impact Fees.**
 - i. No impact fee is required for an ADU or JADU that is less than 750 square feet in size. For purposes of this subsection (7)(a), “impact fee” means a “fee” under the Mitigation Fee Act (Gov. Code § 66000(b)) and a fee under the Quimby Act (Gov. Code § 66477). “Impact fee” here does not include any connection fee or capacity charge for water or sewer service.
 - ii. 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 ADU, divided by the floor area of the primary dwelling, times the typical fee amount charged for a new dwelling.)
 - b. **Utility Fees.**
 - i. If an ADU or JADU is constructed with a new single-family home, a separate utility connection directly between the ADU or JADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.

- ii. Except as described in subsection (7)(b)(i), converted ADUs and JADUs on a single-family lot that are created under subsection (4)(a)(i) 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.
- iii. Except as described in subsection (7)(b)(i), all ADUs and JADUs that are not covered by subsection (7)(b)(ii) require a new, separate utility connection directly between the ADU or JADU and the utility.
 - a) The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU or JADU, based on either the floor area or the number of drainage-fixtured units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system.
 - b) The portion of the fee or charge that is charged by the City may not exceed the reasonable cost of providing this service.

8. Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures.

- a. **Generally.** The city will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.
- b. **Unpermitted ADUs and JADUs constructed before 2020.**
 - i. **Permit to Legalize.** As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if denial is based on either of the following grounds:
 - a) The ADU or JADU violates applicable building standards, or
 - b) The ADU or JADU does not comply with state ADU or JADU law or this ADU ordinance (Section 19.04.030(2)(P)).
 - ii. **Exceptions:**
 - a) Notwithstanding subsection (8)(b)(i) above, the city may deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if the city makes a finding that correcting a violation is necessary to comply with the standards specified in California Health and Safety Code section 17920.3.
 - b) Subsection (8)(b)(i) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.

ORDINANCE NO. MC-1645

**ORDINANCE OF THE MAYOR AND CITY COUNCIL OF
THE CITY OF SAN BERNARDINO, CALIFORNIA,
APPROVING DEVELOPMENT CODE AMENDMENT 24-04
AMENDING CHAPTER 19.04 (RESIDENTIAL ZONES);
SECTION 19.04.030(2)(P) (ACCESSORY DWELLING
UNITS) OF THE CITY OF SAN BERNARDINO
DEVELOPMENT CODE (SBMC TITLE 19) IN ORDER TO
UPDATE THE DEVELOPMENT STANDARDS FOR
ACCESSORY DWELLING UNITS IN COMPLIANCE WITH
RECENT CHANGES IN STATE LAW; AND FINDING THAT
DEVELOPMENT CODE AMENDMENT 24-04 IS
STATUTORILY EXEMPT UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

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

WHEREAS, the state law authorizes cities to act to provide for the creation and regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”); and

WHEREAS, in recent years, the California Legislature has approved, and the Governor has signed into law, a number of bills that, among other things, amend various sections of the Government Code to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, in 2024, the California Legislature approved, and the Governor signed into law, Assembly Bill 2533 (“AB 2533”) and Senate Bill 1211 (“SB 1211”), which further amend state ADU law; and

WHEREAS, AB 2533 and SB 1211 take effect on January 1, 2025, and for the City’s ADU ordinance to remain valid, it must be amended to reflect the requirements of AB 2533 and SB 1211; and

WHEREAS, the City desires to amend its local regulatory scheme for the construction of ADUs and JADUs to reflect AB 2533’s and SB 1211’s changes to state law; and

WHEREAS, Development Code Amendment 24-04 is a City-initiated amendment to Chapter 19.04 (Residential Zones); Section 19.04.030(2)(P) (Residential Zones Specific Standards - Accessory Dwelling Units) of the City of San Bernardino Development Code (SBMC Title 19) in order to update the development standards for Accessory Dwelling Units in compliance with recent changes in state law; and

WHEREAS, the Planning Division of the Community Development Department of the City of San Bernardino has prepared Development Code Amendment 24-04 in compliance with the California Government Code, consistent with the City of San Bernardino General Plan, and in compliance with the City of San Bernardino Development Code; and

WHEREAS, pursuant to requirements of the California Environmental Quality Act (“CEQA”), the Planning Division of the Community Development and Housing Department evaluated Development Code Amendment 24-04 and determined that it is exempt from CEQA under California Public Resources Code Section 21080.17; and

WHEREAS, on November 12, 2024, pursuant to the requirements of Section 19.52.040 (Hearings and Appeals - Hearing Procedure) of the City of San Bernardino Development Code, the Planning Commission held a duly-noticed public hearing and adopted Resolution No. 2024-047 recommending the adoption of the Development Code Amendment 24-04 to the Mayor and City Council; and

WHEREAS, notice of the December 18, 2024 public hearing for the Mayor and City Council's consideration of Development Code Amendment 24-04 was published in The Sun newspaper on December 7, 2024, in accordance with Development Code Chapter 19.52 (Hearing and Appeals); and

WHEREAS, pursuant to the requirements of Chapters 19.52 (Hearing and Appeals) and Chapter 19.42 (Development Code Amendments) of the City of San Bernardino Development Code, the Mayor and City Council have the authority to take action on Development Code Amendment 24-04; and

NOW THEREFORE, THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO, CALIFORNIA, DO ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The above recitals are true and correct and are incorporated herein.

SECTION 2. Compliance with the California Environmental Quality Act. The Mayor and City Council having independently reviewed and analyzed the record before it, including written and oral testimony, and having exercised their independent judgment, Development Code Amendment 24-04 and this Ordinance No. MC-1645 is exempt from the requirements of the California Environmental Quality Act (“CEQA”) under California Public Resources Code Section 21080.17, as the California Environmental Quality Act (“CEQA”) does not apply to the adoption of an ordinance by a city or county implementing the provisions of Article 2 of Chapter 13 of Division 1 of Title 7 of the California Government Code, which is California’s ADU law and which also regulates JADUs, as defined by Section 66313. Therefore, adoption of the proposed ordinance is statutorily exempt from CEQA.

SECTION 3. Finding of Facts – Development Code Amendment 24-04

Finding No. 1: The proposed amendment is consistent with the General Plan.

Finding of Fact: Development Code Amendment 24-04 is consistent with the General Plan, as follows:

Land Use Goal 2.1: Preserve and enhance San Bernardino's unique Neighborhoods. Land Use

Element Policy 2.1.1: Actively enforce development standards, design guidelines, and policies to preserve and enhance the character of San Bernardino's neighborhoods.

The implementation of Development Code Amendment 24-04 is consistent with the City's General Plan by allowing for the development of Accessory Dwelling Units within the single-family residential and multi-family residential zones in a manner that will prevent negative impacts to the existing residential neighborhoods and the community at-large, while maintaining consistency with state law (AB 2533 and SB 1211). Additionally, as regulated by Development Code Amendment 24-04, new Accessory Dwelling Units (ADUs) will serve the City's housing needs in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code.

Finding No. 2: The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

Finding of Fact: The adoption and implementation of Development Code Amendment 24-04 is necessary and desirable for the development of the community and is in the interests or furtherance of the public health, safety, convenience, and general welfare. In enacting the aforementioned legislation the State Legislature identified Accessory Dwelling Units (ADUs) as an important housing option for renters and homeowners, given the undersupply of housing that exists in the State. Development Code Amendment 24-04 will bring the City's Development Code into compliance with the aforementioned statute.

SECTION 4. Adoption of Ordinance. Development Code Amendment 24-04 to amend Chapter 19.04 (Residential Zones); Section 19.04.030(2)(P) (Residential Zones Specific Standards – Accessory Dwelling Units) of the City of San Bernardino Development Code (SBMC Title 19) to update the development standards for Accessory Dwelling Units in compliance with state law is hereby amended and restated to read in its entirety as provided in Exhibit A, attached hereto and incorporated herein by this reference.

SECTION 5. Notice of Exemption: The Planning Division of the Community Development and Housing Department is hereby directed to file a Notice of Exemption with the County Clerk of the County of San Bernardino within five (5) working days of final approval certifying the City's compliance with the California Environmental Quality Act in approving Development Code Amendment 24-04.

SECTION 6. Severability: If any section, subsection, subdivision, sentence, or clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid

or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 7. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

SECTION 8. Notice of Adoption. The City Clerk of the City of San Bernardino shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under section 36933 of the Government Code of the State of California.

APPROVED and **ADOPTED** by the City Council and signed by the Mayor and attested by the City Clerk this ____ day of _____, 2025.

Helen Tran, Mayor
City of San Bernardino

Attest:

Genoveva Rocha, CMC, City Clerk

Approved as to form:

Sonia Carvalho, City Attorney

CERTIFICATION

STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO
CITY OF SAN BERNARDINO

I, Genoveva Rocha, CMC, City Clerk, hereby certify that the attached is a true copy of Ordinance No. MC-1645, introduced on December 18th, 2024, and adopted by the City Council of the City of San Bernardino, California, at a regular meeting held at the ____ day of _____, 2025 by the following vote:

<u>Council Members:</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SANCHEZ	_____	_____	_____	_____
IBARRA	_____	_____	_____	_____
FIGUEROA	_____	_____	_____	_____
SHORETT	_____	_____	_____	_____
KNAUS	_____	_____	_____	_____
FLORES	_____	_____	_____	_____
ORTIZ	_____	_____	_____	_____

WITNESS my hand and official seal of the City of San Bernardino this ____ day of _____ 2024.

Genoveva Rocha, CMC, City Clerk

Development Code Section 19.04.030(2)(P)
(Residential Zones Specific Standards - Accessory Dwelling Units)

19.04.030(2)(P) (Residential Zones Specific Standards - Accessory Dwelling Units) shall be amended and restated to read in its entirety as follows:

P. Accessory Dwelling Units

- 1. Purpose.** The purpose of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code.
- 2. Effect of Conforming.** An ADU or JADU that conforms to the standards in this section will not be:
 - a.** Deemed to be inconsistent with the city's general plan and zoning designation for the lot on which the ADU or JADU is located.
 - b.** Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
 - c.** Considered in the application of any local ordinance, policy, or program to limit residential growth.
 - d.** Required to correct a nonconforming zoning condition, as defined in subsection (3)(h) below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.
- 3. Definitions.** As used in this section, terms are defined as follows:
 - a.** "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:
 - i.** An efficiency unit, as defined by section 17958.1 of the California Health and Safety Code; and
 - ii.** A manufactured home, as defined by section 18007 of the California Health and Safety Code.
 - b.** "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
 - c.** "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.
 - d.** "Efficiency kitchen" means a kitchen that includes each of the following:
 - i.** A cooking facility with appliances.

- ii. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.
- e. “Junior accessory dwelling unit” or “JADU” means a residential unit that satisfies all of the following:
 - i. It is no more than 500 square feet in size.
 - ii. It is contained entirely within an existing or proposed single-family structure. An enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure.
 - iii. It includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure.
 - iv. If the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family structure in addition to an exterior entrance that is separate from the main entrance to the primary dwelling.
- f. “Livable space” means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.
- g. “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.
- h. “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.
- i. “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
- j. “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
- k. “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.
- l. “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.

4. Approvals. The following approvals apply to ADUs and JADUs under this section:

- a. **Statutory Criteria.** If an ADU or JADU complies with each of the general requirements in subsection (5) below, it is allowed with only a building permit in the following scenarios:
 - i. **Converted on Single-family Lot:** One ADU as described in this subsection (4)(a)(i) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
 - a) Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) 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; and

- b) Has exterior access that is independent of that for the single-family dwelling; and
 - c) Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
 - d) The JADU complies with the requirements of Government Code Sections 66333 through 66339.
- ii. **Limited 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 (4)(a)(i) above), if the detached ADU satisfies each of the following limitations:
- a) The side- and rear-yard setbacks are at least four-feet.
 - b) The total floor area is 800 square feet or smaller.
 - c) The peak height above grade does not exceed the applicable height limit in subsection (5)(b) below.
- iii. **Converted on Multifamily Lot:** One or more 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. Under this subsection (4)(a)(iii), at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.
- iv. **Limited Detached on Multifamily Lot:** No more than two detached ADUs on a lot with a proposed multifamily dwelling, or up to eight detached ADUs on a lot with an existing multifamily dwelling, if each detached ADU satisfies all of the following:
- a) The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the city will not require any modification to the multifamily dwelling as a condition of approving the ADU.
 - b) The peak height above grade does not exceed the applicable height limit provided in subsection (5)(c) below.
 - c) If the lot has an existing multifamily dwelling, the quantity of detached ADUs does not exceed the number of primary dwelling units on the lot.

b. Additional Criteria.

- i. An ADU that does not qualify under the criteria set forth in subsection (4)(a) above may be created with a building permit if it complies with the standards set forth in subsections (5) and (6) below.

c. Process and Timing.

- i.** An ADU application is considered and approved ministerially, without discretionary review or a hearing.
- ii.** The City must approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a completed application. If the City does not approve or deny the completed application within 60 days, the application is deemed approved unless either:
 - a)** The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or
 - b)** When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily 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 or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.
- iii.** If the city denies an application to create an ADU or JADU, the city must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection (4)(c)(ii) above.
- iv.** A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

5. General ADU and JADU Requirements. The following requirements apply to all ADUs and JADUs that are approved under subsections (4)(a) or (4)(b) above:

a. Zoning.

- i.** An ADU or JADU subject to subsection (4)(a) above may be created on a lot in a residential or mixed-use zone.
- ii.** An ADU or JADU subject to subsection (4)(b) above may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.
- iii.** In accordance with Government Code section 66333(a), a JADU may only be created on a lot zoned for single-family residences.

b. Access. Each ADU and JADU must have direct exterior access that is separate from that of the primary dwelling.

c. Height.

- i.** Except as otherwise provided by subsections (5)(c)(ii) and (5)(c)(iii) below, a detached ADU created on a lot with an existing or proposed single family or multifamily dwelling unit may not exceed 16 feet in height.

- ii. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop or a high quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.
 - iii. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.
 - iv. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (5)(c)(iv) may not exceed two stories.
 - v. For purposes of this subsection (5)(c), height is measured above existing legal grade to the peak of the structure.
- d. Fire Sprinklers.**
- i. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
 - ii. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
- e. Rental Term.** No ADU or JADU may be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.
- f. No Separate Conveyance.** An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section 66341, 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).
- g. Septic System.** If the ADU or JADU will connect to an onsite wastewater-treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.
- h. Owner Occupancy.** As required by state law, 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 in this subsection (5)(h) does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.
- i. 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 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:

- i. Except as otherwise provided in Government Code Section 66341, the ADU or JADU may not be sold separately from the primary dwelling.
 - ii. The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
 - iii. The deed restriction runs with the land and may be enforced against future property owners.
 - iv. 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.
 - v. 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.
- 6. Specific ADU Requirements.** The following requirements apply only to ADUs that are approved under subsection (4)(b) above.
- a. Maximum Size.**
 - i. The maximum size of a detached or attached ADU subject to this subsection (6) is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two or more bedrooms.
 - ii. 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.
 - iii. Application of other development standards in this subsection (6), such as setbacks or lot coverage, might further limit the size of the ADU, but no application of the percent-based size limit in subsection (6)(a)(ii) above or of a lot coverage limit or open-space requirement may require the ADU to be less than 800 square feet.
 - b. Setbacks.**
 - i. An ADU that is subject to this subsection (6) must conform to a 25-foot front-yard setback, subject to subsection (6)(a)(iii) above.
 - ii. An ADU that is subject to this subsection (6) must conform to 4-foot side- and rear-yard setbacks.

- iii. No setback is required for an ADU that is subject to this subsection (6) if the ADU is constructed in the same location and to the same dimensions as an existing structure.
 - c. **Lot Coverage.** No ADU subject to this subsection (f) may cause the total lot coverage of the lot to exceed 50 percent, subject to subsection (6)(a)(iii) above.
 - d. **Passageway.** No passageway, as defined by subsection (3)(i) above, is required for an ADU.
 - e. **No Replacement Parking.** When a garage, carport, covered parking structure, or uncovered parking space 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.
 - f. **Architectural Requirements.**
 - i. 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.
 - ii. The roof slope must match that of the dominant roof slope of the primary dwelling. The dominant roof slope is the slope shared by the largest portion of the roof.
 - iii. The exterior lighting must be limited to down-lights or as otherwise required by the building or fire code.
 - iv. The ADU must have an independent exterior entrance, apart from that of the primary dwelling. The ADU entrance must be located on the side or rear building façade, not facing a public-right-of-way.
 - g. **Allowed Stories.** No ADU subject to this subsection (f) may have more than one story, except that an ADU that is attached to the primary dwelling may have the stories allowed under subparagraph (5)(c)(iv) of this section.
7. **Fees.** The following requirements apply to all ADUs and JADUs that are approved under subsections (4)(a) or (4)(b) above.
- a. **Impact Fees.**
 - i. No impact fee is required for an ADU or JADU that is less than 750 square feet in size. For purposes of this subsection (7)(a), “impact fee” means a “fee” under the Mitigation Fee Act (Gov. Code § 66000(b)) and a fee under the Quimby Act (Gov. Code § 66477). “Impact fee” here does not include any connection fee or capacity charge for water or sewer service.
 - ii. 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 ADU, divided by the floor area of the primary dwelling, times the typical fee amount charged for a new dwelling.)
 - b. **Utility Fees.**
 - i. If an ADU or JADU is constructed with a new single-family home, a separate utility connection directly between the ADU or JADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.

- ii. Except as described in subsection (7)(b)(i), converted ADUs and JADUs on a single-family lot that are created under subsection (4)(a)(i) 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.
- iii. Except as described in subsection (7)(b)(i), all ADUs and JADUs that are not covered by subsection (7)(b)(ii) require a new, separate utility connection directly between the ADU or JADU and the utility.
 - a) The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU or JADU, based on either the floor area or the number of drainage-fixtured units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system.
 - b) The portion of the fee or charge that is charged by the City may not exceed the reasonable cost of providing this service.

8. Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures.

- a. **Generally.** The city will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.
- b. **Unpermitted ADUs and JADUs constructed before 2020.**
 - i. **Permit to Legalize.** As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if denial is based on either of the following grounds:
 - a) The ADU or JADU violates applicable building standards, or
 - b) The ADU or JADU does not comply with state ADU or JADU law or this ADU ordinance (Section 19.04.030(2)(P)).
 - ii. **Exceptions:**
 - a) Notwithstanding subsection (8)(b)(i) above, the city may deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if the city makes a finding that correcting a violation is necessary to comply with the standards specified in California Health and Safety Code section 17920.3.
 - b) Subsection (8)(b)(i) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.

RESOLUTION NO. 2024-047 - PC

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN BERNARDINO, CALIFORNIA, FORWARDING A RECOMMENDATION TO THE MAYOR AND CITY COUNCIL RECOMMENDING APPROVAL OF DEVELOPMENT CODE AMENDMENT 24-04 AMENDING SECTION 19.04.030(2)(P) (ACCESSORY DWELLING UNITS) OF THE CITY OF SAN BERNARDINO DEVELOPMENT CODE (SBMC TITLE 19) IN ORDER TO UPDATE THE DEVELOPMENT STANDARDS FOR ACCESSORY DWELLING UNITS IN COMPLIANCE WITH RECENT CHANGES IN STATE LAW; AND FINDING THAT DEVELOPMENT CODE AMENDMENT 24-04 IS EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

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

WHEREAS, the state law authorizes cities to act to provide for the creation and regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”); and

WHEREAS, in recent years, the California Legislature has approved, and the Governor has signed into law, a number of bills that, among other things, amend various sections of the Government Code to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, in 2024, the California Legislature approved, and the Governor signed into law, Assembly Bill 2533 (“AB 2533”) and Senate Bill 1211 (“SB 1211”), which further amend state ADU law; and

WHEREAS, AB 2533 and SB 1211 take effect on January 1, 2025, and for the City’s ADU ordinance to remain valid, it must be amended to reflect the requirements of AB 2533 and SB 1211; and

WHEREAS, the City desires to amend its local regulatory scheme for the construction of ADUs and JADUs to reflect AB 2533’s and SB 1211’s changes to state law; and

WHEREAS, the Planning Division of the Community Development Department of the City of San Bernardino has prepared Development Code Amendment 24-04 in compliance with the California Government Code, consistent with the City of San Bernardino General Plan, and in compliance with the City of San Bernardino Development Code; and

WHEREAS, pursuant to requirements of the California Environmental Quality Act (“CEQA”), the Planning Division of the Community Development and Housing Department evaluated Development Code Amendment 24-04 and determined that it is exempt from CEQA under California Public Resources Code Section 21080.17; and

WHEREAS, on November 2, 2024, pursuant to the requirements of Section 19.52.020 (Hearings and Appeals – Application Processing) of the City of San Bernardino Development Code, the City gave public notice by advertising in the San Bernardino Sun, a newspaper of general circulation within the City of San Bernardino of the holding of a public hearing at which Development Code Amendment 24-04 would be considered; and

WHEREAS, on November 12, 2024, pursuant to the requirements of Section 19.52.040 (Hearings and Appeals – Hearing Procedures) of the City of San Bernardino Development Code, the Planning Commission held the duly noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to Development Code Amendment 24-04 and at which meeting, the Planning Commission considered Development Code Amendment 24-04; and

WHEREAS, pursuant to the requirements of Section 19.42.030 (Development Code Amendments – Commission Action on Amendments) of the City of San Bernardino Development Code, the Planning Commission has the authority to recommend to the Mayor and City Council the approval of Development Code Amendment 24-04.

NOW THEREFORE, the Planning Commission of the City of San Bernardino does hereby resolve, determine, find, and order as follows:

SECTION 1. INCORPORATION OF RECITALS:

The recitals above are true and correct and hereby incorporated by this reference.

SECTION 2. ENVIRONMENTAL DETERMINATION:

As the decision-making body for the project, the Planning Commission has reviewed and considered the information contained in the administrative record for Development Code Amendment 24-04. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the Planning Commission, the Planning Commission hereby recommends to the Mayor and City Council as follows:

(1) The administrative record has been completed in compliance with the California Environmental Quality Act (“CEQA”), the State CEQA Guidelines, and the City’s Local CEQA Guidelines; and

(2) The proposed project is exempt from the requirements of the California Environmental Quality Act (“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 Article 2 of Chapter 13 of Division 1 of Title 7 of the California Government Code, which is California’s ADU law and which also regulates JADUs, as defined by Section 66313. Therefore, adoption of the proposed ordinance is statutorily exempt from CEQA in that it implements state ADU law.; and

(3) The determination of CEQA exemption reflects the independent judgment of the Planning Commission.

SECTION 3. FINDINGS FOR DEVELOPMENT CODE AMENDMENT 24-04:

Section 19.42.050 of the City of San Bernardino Development Code requires that Development Code Amendments meet certain findings prior to approval by the Mayor and City Council. Accordingly, the following findings are provided in support of the recommendation by the Planning Commission for the approval of Development Code Amendment 24-04:

Finding No. 1: The proposed amendment is consistent with the General Plan.

Finding of Fact: Development Code Amendment 24-04 is consistent with the General Plan, as follows:

Land Use Goal 2.1: Preserve and enhance San Bernardino's unique Neighborhoods. Land Use

Element Policy 2.1.1: Actively enforce development standards, design guidelines, and policies to preserve and enhance the character of San Bernardino's neighborhoods.

The implementation of Development Code Amendment 24-04 is consistent with the City's General Plan by allowing for the development of Accessory Dwelling Units within the single-family residential and multi-family residential zones in a manner that will prevent negative impacts to the existing residential neighborhoods and the community at-large, while maintaining consistency with state law (AB 2533 and SB 1211). Additionally, as regulated by Development Code Amendment 24-04, new Accessory Dwelling Units (ADUs) will serve the City's housing needs in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code.

Finding No. 2: The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

Finding of Fact: The adoption and implementation of Development Code Amendment 24-04 is necessary and desirable for the development of the community and is in the interests or furtherance of the public health, safety, convenience, and general welfare. In enacting the aforementioned legislation the State Legislature identified Accessory Dwelling Units (ADUs) as an important housing option for renters and homeowners, given the undersupply of housing that exists in the State. Development Code Amendment 24-04 will bring the City's Development Code into compliance with the aforementioned statute.

SECTION 4. RECOMMENDATION FOR DEVELOPMENT CODE AMENDMENT 24-04:

Pursuant to Section 19.42.030 (Development Code Amendments – Commission Action on Amendments), the Planning Commission forwards the amendments to the Development Code attached hereto as EXHIBIT “A” for approval by the Mayor and City Council.

SECTION 5. PLANNING COMMISSION ACTION:

The Planning Commission hereby takes the following action:

1. Adoption of Planning Commission Resolution No. 2024-047 - PC, forwarding a recommendation that the Mayor and City Council:
 - a. **Find** the Exemption, pursuant to Section 21080.17 of the California Public Resources Code for Development Code Amendment 24-04; and
 - b. **Approve** Development Code Amendment 24-04 based on the Findings of Fact.

SECTION 6. SEVERABILITY:

If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end, the provisions of this Resolution are declared to be severable.

SECTION 7. CUSTODIAN OF RECORDS:

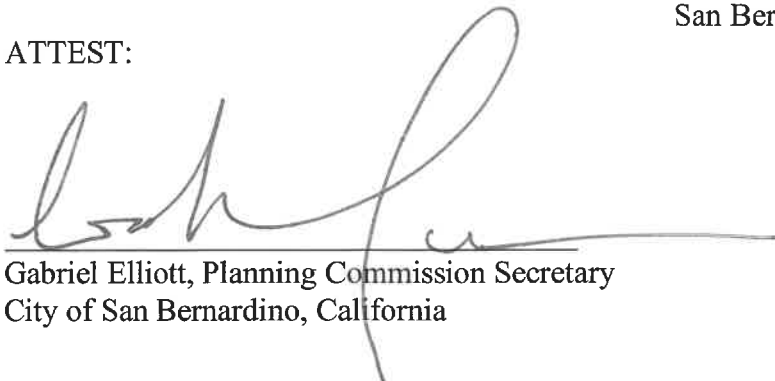
The location and custodian of the documents and any other material, which constitute the record of proceedings upon which the Planning Commission based its decision, is as follows: Genoveva Rocha, City Clerk, 201 North E Street (Building A), 909-384-5002.

PASSED, APPROVED AND ADOPTED this 12th day of November 2024.



Lisa Sherrick, Chairperson
San Bernardino Planning Commission

ATTEST:



Gabriel Elliott, Planning Commission Secretary
City of San Bernardino, California

CERTIFICATION:


I, Alyssa Blancas, Recording Secretary of the Planning Commission of the City of San Bernardino, California, do hereby certify that the foregoing Resolution No. 2024-047 - PC, was duly adopted by the Planning Commission of the City of San Bernardino, California, at a regular meeting thereof held on the 12th day of November 2024, by the following vote, to wit:

AYES: Sherrick, Quiel, Daily, Lopez, I. Garcia, Flores, Armstead, O. Garcia

NOES:

ABSENT: Karaiscos

ABSTAIN:



Alyssa Blancas, Recording Secretary
City of San Bernardino, California

**Development Code Section 19.04.030(2)(P)
(Residential Zones Specific Standards - Accessory Dwelling Units)**

19.04.030(2)(P) (Residential Zones Specific Standards - Accessory Dwelling Units) shall be amended and restated to read in its entirety as follows:

P. Accessory Dwelling Units

- 1. Purpose.** The purpose of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code.
- 2. Effect of Conforming.** An ADU or JADU that conforms to the standards in this section will not be:
 - a. Deemed to be inconsistent with the city's general plan and zoning designation for the lot on which the ADU or JADU is located.
 - b. Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
 - c. Considered in the application of any local ordinance, policy, or program to limit residential growth.
 - d. Required to correct a nonconforming zoning condition, as defined in subsection (3)(h) below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.
- 3. Definitions.** As used in this section, terms are defined as follows:
 - a. "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:
 - i. An efficiency unit, as defined by section 17958.1 of the California Health and Safety Code; and
 - ii. A manufactured home, as defined by section 18007 of the California Health and Safety Code.
 - b. "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
 - c. "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.
 - d. "Efficiency kitchen" means a kitchen that includes each of the following:
 - i. A cooking facility with appliances.

- ii. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.
- e. “Junior accessory dwelling unit” or “JADU” means a residential unit that satisfies all of the following:
 - i. It is no more than 500 square feet in size.
 - ii. It is contained entirely within an existing or proposed single-family structure. An enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure.
 - iii. It includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure.
 - iv. If the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family structure in addition to an exterior entrance that is separate from the main entrance to the primary dwelling.
- f. “Livable space” means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.
- g. “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.
- h. “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.
- i. “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
- j. “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
- k. “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.
- l. “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.

4. Approvals. The following approvals apply to ADUs and JADUs under this section:

- a. **Statutory Criteria.** If an ADU or JADU complies with each of the general requirements in subsection (5) below, it is allowed with only a building permit in the following scenarios:
 - i. **Converted on Single-family Lot:** One ADU as described in this subsection (4)(a)(i) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
 - a) Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) 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; and

- b) Has exterior access that is independent of that for the single-family dwelling; and
 - c) Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
 - d) The JADU complies with the requirements of Government Code Sections 66333 through 66339.
- ii. **Limited 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 (4)(a)(i) above), if the detached ADU satisfies each of the following limitations:
- a) The side- and rear-yard setbacks are at least four-feet.
 - b) The total floor area is 800 square feet or smaller.
 - c) The peak height above grade does not exceed the applicable height limit in subsection (5)(b) below.
- iii. **Converted on Multifamily Lot:** One or more 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. Under this subsection (4)(a)(iii), at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.
- iv. **Limited Detached on Multifamily Lot:** No more than two detached ADUs on a lot with a proposed multifamily dwelling, or up to eight detached ADUs on a lot with an existing multifamily dwelling, if each detached ADU satisfies all of the following:
- a) The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the city will not require any modification to the multifamily dwelling as a condition of approving the ADU.
 - b) The peak height above grade does not exceed the applicable height limit provided in subsection (5)(c) below.
 - c) If the lot has an existing multifamily dwelling, the quantity of detached ADUs does not exceed the number of primary dwelling units on the lot.

b. Additional Criteria.

- i. An ADU that does not qualify under the criteria set forth in subsection (4)(a) above may be created with a building permit if it complies with the standards set forth in subsections (5) and (6) below.

c. Process and Timing.

- i. An ADU application is considered and approved ministerially, without discretionary review or a hearing.
- ii. The City must approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a completed application. If the City does not approve or deny the completed application within 60 days, the application is deemed approved unless either:
 - a) The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or
 - b) When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily 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 or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.
- iii. If the city denies an application to create an ADU or JADU, the city must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection (4)(c)(ii) above.
- iv. A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

5. General ADU and JADU Requirements. The following requirements apply to all ADUs and JADUs that are approved under subsections (4)(a) or (4)(b) above:

a. Zoning.

- i. An ADU or JADU subject to subsection (4)(a) above may be created on a lot in a residential or mixed-use zone.
- ii. An ADU or JADU subject to subsection (4)(b) above may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.
- iii. In accordance with Government Code section 66333(a), a JADU may only be created on a lot zoned for single-family residences.

b. Access. Each ADU and JADU must have direct exterior access that is separate from that of the primary dwelling.

c. Height.

- i. Except as otherwise provided by subsections (5)(c)(ii) and (5)(c)(iii) below, a detached ADU created on a lot with an existing or proposed single family or multifamily dwelling unit may not exceed 16 feet in height.

- ii. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop or a high quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.
 - iii. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.
 - iv. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (5)(c)(iv) may not exceed two stories.
 - v. For purposes of this subsection (5)(c), height is measured above existing legal grade to the peak of the structure.
- d. **Fire Sprinklers.**
 - i. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
 - ii. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
- e. **Rental Term.** No ADU or JADU may be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.
- f. **No Separate Conveyance.** An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section 66341, 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).
- g. **Septic System.** If the ADU or JADU will connect to an onsite wastewater-treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.
- h. **Owner Occupancy.** As required by state law, 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 in this subsection (5)(h) does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.
- i. **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 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:

- i. Except as otherwise provided in Government Code Section 66341, the ADU or JADU may not be sold separately from the primary dwelling.
 - ii. The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
 - iii. The deed restriction runs with the land and may be enforced against future property owners.
 - iv. 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.
 - v. 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.
- 6. Specific ADU Requirements.** The following requirements apply only to ADUs that are approved under subsection (4)(b) above.
- a. Maximum Size.**
 - i. The maximum size of a detached or attached ADU subject to this subsection (6) is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two or more bedrooms.
 - ii. 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.
 - iii. Application of other development standards in this subsection (6), such as setbacks or lot coverage, might further limit the size of the ADU, but no application of the percent-based size limit in subsection (6)(a)(ii) above or of a lot coverage limit or open-space requirement may require the ADU to be less than 800 square feet.
 - b. Setbacks.**
 - i. An ADU that is subject to this subsection (6) must conform to a 25-foot front-yard setback, subject to subsection (6)(a)(iii) above.
 - ii. An ADU that is subject to this subsection (6) must conform to 4-foot side- and rear-yard setbacks.

- iii. No setback is required for an ADU that is subject to this subsection (6) if the ADU is constructed in the same location and to the same dimensions as an existing structure.
 - c. **Lot Coverage.** No ADU subject to this subsection (f) may cause the total lot coverage of the lot to exceed 50 percent, subject to subsection (6)(a)(iii) above.
 - d. **Passageway.** No passageway, as defined by subsection (3)(i) above, is required for an ADU.
 - e. **No Replacement Parking.** When a garage, carport, covered parking structure, or uncovered parking space 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.
 - f. **Architectural Requirements.**
 - i. 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.
 - ii. The roof slope must match that of the dominant roof slope of the primary dwelling. The dominant roof slope is the slope shared by the largest portion of the roof.
 - iii. The exterior lighting must be limited to down-lights or as otherwise required by the building or fire code.
 - iv. The ADU must have an independent exterior entrance, apart from that of the primary dwelling. The ADU entrance must be located on the side or rear building façade, not facing a public-right-of-way.
 - g. **Allowed Stories.** No ADU subject to this subsection (f) may have more than one story, except that an ADU that is attached to the primary dwelling may have the stories allowed under subparagraph (5)(c)(iv) of this section.
7. **Fees.** The following requirements apply to all ADUs and JADUs that are approved under subsections (4)(a) or (4)(b) above.
- a. **Impact Fees.**
 - i. No impact fee is required for an ADU or JADU that is less than 750 square feet in size. For purposes of this subsection (7)(a), “impact fee” means a “fee” under the Mitigation Fee Act (Gov. Code § 66000(b)) and a fee under the Quimby Act (Gov. Code § 66477). “Impact fee” here does not include any connection fee or capacity charge for water or sewer service.
 - ii. 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 ADU, divided by the floor area of the primary dwelling, times the typical fee amount charged for a new dwelling.)
 - b. **Utility Fees.**
 - i. If an ADU or JADU is constructed with a new single-family home, a separate utility connection directly between the ADU or JADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.

- ii. Except as described in subsection (7)(b)(i), converted ADUs and JADUs on a single-family lot that are created under subsection (4)(a)(i) 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.
- iii. Except as described in subsection (7)(b)(i), all ADUs and JADUs that are not covered by subsection (7)(b)(ii) require a new, separate utility connection directly between the ADU or JADU and the utility.
 - a) The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU or JADU, based on either the floor area or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system.
 - b) The portion of the fee or charge that is charged by the City may not exceed the reasonable cost of providing this service.

8. Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures.

- a. **Generally.** The city will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.
- b. **Unpermitted ADUs and JADUs constructed before 2020.**
 - i. **Permit to Legalize.** As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if denial is based on either of the following grounds:
 - a) The ADU or JADU violates applicable building standards, or
 - b) The ADU or JADU does not comply with state ADU or JADU law or this ADU ordinance (Section 19.04.030(2)(P)).
 - ii. **Exceptions:**
 - a) Notwithstanding subsection (8)(b)(i) above, the city may deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if the city makes a finding that correcting a violation is necessary to comply with the standards specified in California Health and Safety Code section 17920.3.
 - b) Subsection (8)(b)(i) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.

NOTICE OF PUBLIC HEARING
CITY COUNCIL OF THE CITY OF SAN BERNARDINO

NOTICE IS HEREBY GIVEN that the City of San Bernardino Mayor and City Council will hold a public meeting on December 18, 2024 at 5:00 PM in the City Council Chambers in the Norman F. Feldheym Central Library at 555 West 6th Street, San Bernardino, California. Visit the City's agenda portal at www.sbcity.org to access more meeting information.

The purpose of the hearing is to consider the following:

DEVELOPMENT CODE AMENDMENT 24-04 – A City-initiated request to amend Chapter 19.04 (Residential Zones); Section 19.04.030(2)(P) (Residential Zones Specific Standards - Accessory Dwelling Units) of the City of San Bernardino Development Code (SBMC Title 19) in order to update the development standards for Accessory Dwelling Units in compliance with state law.

Environmental Determination: Statutorily Exempt from review under the California Environmental Quality Act pursuant to Public Resources Code Section 21080.17.

Applicant: City of San Bernardino – Community Development & Housing Department

Notice is further given that members of the public who wish to comment on the public hearing you may participate in the following ways: 1) comments and contact information can be emailed to publiccomments@sbcity.org by 2:30 P.M. the day of the scheduled meeting; 2) attending the meeting in person and providing your public comment in person, not to exceed three minutes.

If you challenge the matter in court, you may be limited to raising only those issues you or someone else raised at the public meeting described in this notice or written correspondence delivered to the City Clerk at or prior to the public meeting.

The City endeavors to be in total compliance with the Americans with Disabilities Act. If you require assistance or auxiliary aids to participate in the meeting, please contact the City Clerk's Office as far in advance of the meeting as possible.

Additional information concerning the above matter may be obtained from, and written comments should be addressed to, San Bernardino City Clerk, 290 North D Street, San Bernardino, California 92401.

Genoveva Rocha, CMC
City Clerk

DATED: December 3, 2024



Development Code Amendment 24-04 (2024 ADU Legislative Update)

Presented by Travis Martin, Principal Planner
Community Development and Housing Department



Background:

May 2021 – MC-1559 adopted, establishing standards for Accessory Dwelling Units in compliance with Government Code

December 2022 – MC-1604 adopted, updating standards for Accessory Dwelling Units in compliance with SB 897

September 2024 – Governor signed into law AB 2533 and SB 1211 further amending Government Code

Effective January 1, 2025 - Existing local ordinances not in compliance found null and void



Significant Changes:

AB 2533

- Expands the prohibition on requiring replacement parking to include “uncovered” parking spaces demolished for construction of an ADU



Significant Changes:

SB 1211

- Expands prohibition on replacement parking to include removal of uncovered parking spaces
- Establishes definition for “livable space”
- Multi-family lots may now permit development of up to 8 detached ADUs... not to exceed the number of existing units on the property



Recommendation:

The Mayor and City Council:

1. Adopt Urgency Ordinance of the Mayor and City Council of the City of San Bernardino, California, approving Development Code Amendment 24-04; and finding such action statutorily exempt from the California Environmental Quality Act under Public Resources Code Section 21080.17 (Attachment 1 and Attachment 2); and
2. Introduce for first reading, read by title only, and waive further reading of Ordinance of the Mayor and City Council of the City of San Bernardino, California, approving Development Code Amendment 24-04; and finding such action statutorily exempt from the California Environmental Quality Act under Public Resources Code Section 21080.17 (Attachment 3 and Attachment 4); and
3. Schedule the adoption of Ordinance to the regularly scheduled meeting of the Mayor and City Council on January 15th, 2025.