

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on June 27, 2023

RESOLUTION NO. 23-96

CERTIFYING COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, MAKING FINDINGS OF FACT CONCERNING THE LOCAL COASTAL PROGRAM AMENDMENT, REPEALING ORDINANCE 2679, AND ADOPTING ORDINANCE 2717 MODIFIED COASTAL ACCESSORY DWELLING UNIT REGULATIONS BY AMENDING TITLE III, DIVISION 1, CHAPTERS 2 AND 3 OF HUMBOLDT COUNTY CODE.

WHEREAS, California Government Code Section 65850, et seq. authorizes counties to regulate land use, and to adopt and amend general plans and zoning and building ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

WHEREAS, the Board of Supervisors, on July 13, 2021 adopted the Coastal Accessory Dwelling Unit Ordinance No. 2679; and approved the Coastal Plan amendments by Resolution 20-79 (which together make up the “LCP Amendment”); and directed staff to transmit the LCP Amendment to the California Coastal Commission for certification; and

WHEREAS, the Coastal Commission on February 10, 2023 certified amendments to the Local Coastal Plans as transmitted; and

WHEREAS, the Coastal Commission on February 10, 2023 conditionally certified the Coastal Accessory Dwelling Unit Ordinance if modified in accordance with the suggested changes set forth in the Adopted Findings report of that same date, which are incorporated in the revised Ordinance, Attachment 2 to this staff report; and

WHEREAS, the proposed LCP Amendment was developed to achieve consistency with the requirements of Government Code Section 65852.2, to meet the needs of County residents as determined through workshops and comments, and to incorporate recommendations of the California Coastal Commission; and

WHEREAS, the Planning Division prepared and made available to the public the draft text amendments to the Coastal Zoning Ordinance on its website at <https://humboldt.gov/2448/2019-Housing-Element>; and

WHEREAS, on May 19, 2023 the Planning Division caused to be published in the Eureka Times-Standard, a newspaper of general circulation in Humboldt County, a Notice of Public Hearing on the proposed Zoning Text Amendments regarding accessory dwelling units, which also serves as the public notice prior to the County’s final action on the Amendment required for Local Coastal Program amendments pursuant to 14 CCR 13515(d); and

WHEREAS, pursuant to Sections 21080.5 and 21080.9 of the Public Resources Code and Sections 15250, 15251(f) and 15265 of the CEQA Guidelines, CEQA does not apply to the activities of a local government

for the preparation and adoption of a Local Coastal Program. The certification of a Local Coastal Program Amendment by the California Coastal Commission is exempt from the requirement for preparation of EIRs, Negative Declarations, and Initial Studies because their process for environmental review has been certified by the Secretary of Resources as being the functional equivalent of the process required by CEQA; and

WHEREAS, the Humboldt County Planning Commission held a public hearing on the modified Coastal Accessory Dwelling Unit Ordinance on June 1, 2023 to receive a report and any supplements to the report on the draft amendments, as well as evidence and testimony; and

WHEREAS, at the above meeting, the Humboldt County Planning Commission approved a Resolution making all the required findings and recommending that the Board of Supervisors of the County of Humboldt repeal Ordinance 2679 and adopt the Coastal Accessory Dwelling Unit Ordinance as modified by the California Coastal Commission as shown in Attachment 2, amending Section 312 of Chapter 2, and Section 313 of Chapter 3 of Division 1 of Title III of the County Code; and

WHEREAS, on June 27, 2023 the Board of Supervisors held a public hearing on the proposed ordinance, received public comments, and reviewed and considered all public testimony and evidence presented at the hearing,

Now, THEREFORE BE IT RESOLVED, that the Board of Supervisors makes all the following findings:

1. Pursuant to Sections 21080.5 and 21080.9 of the Public Resources Code and Sections 15250, 15251(f) and 15265 of the CEQA Guidelines, CEQA does not apply to the activities of a local government for the preparation and adoption of a Local Coastal Program. The certification of a Local Coastal Program Amendment by the California Coastal Commission is exempt from the requirement for preparation of EIRs, Negative Declarations, and Initial Studies because their process for environmental review has been certified by the Secretary of Resources as being the functional equivalent of the process required by CEQA.
2. The Board makes the Required Findings of Approval for the Local Coastal Program Amendment findings set forth in Exhibit A of this Resolution which is fully incorporated herein by reference.
3. The Board of Supervisors finds the modified amendments to the Coastal Zoning Regulations are in conformity with and appropriately carry out the policies of each of the Humboldt County's six Coastal Plans, that they conform to the policies contained in Chapter 3 of the Coastal Act, and certifies its intent to carry out the Coastal Zoning Regulations in a manner fully consistent with the California Coastal Act.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby:

1. Adopts the Coastal Zoning Code Amendments as shown in Attachment 2.
2. Directs the Clerk of the Board to publish the Post-Adoption Summary of the Ordinance within fifteen (15) days after its passage.

3. Directs Planning Department staff to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research; and
4. Directs the Clerk of the Board to give notice of the decision to any interested party.

The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on June 27, 2023 by the following vote:

Adopted on motion by Supervisor Wilson , seconded by Supervisor Arroyo and the following vote:

AYES: Supervisors: Wilson, Arroyo, Madone, Bohn, Bushnell
NAYS: Supervisors:
ABSENT: Supervisors:
ABSTAIN: Supervisors:

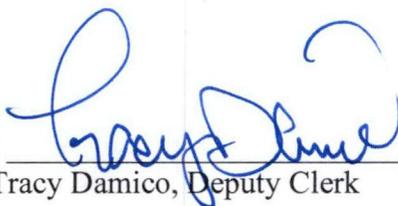


STEVE MADRONE, CHAIRPERSON,
HUMBOLDT COUNTY BOARD OF SUPERVISORS

(SEAL)

ATTEST:

Kathy Hayes, Clerk of the Board of Supervisors
of the County of Humboldt, State of California

By: _____
Tracy Damico, Deputy Clerk

**EXHIBIT A
To Attachment 1**

REQUIRED FINDINGS OF APPROVAL

I. Required Findings of Approval - Local Coastal Program Amendment:

The following table identifies evidence that supports finding that the proposed Local Coastal Program amendment meets the requirements for a Zoning Ordinance Amendment.

CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).		
1.	FINDING:	The proposed zoning amendment is exempt from environmental review.
	EVIDENCE:	a) Public Resources Code Section 21080.5 and 21080.9 and Sections 15250, 15251(f) and 15265 of the CEQA Guidelines identify that CEQA does not apply to the activities of a local government for the preparation and adoption of a Local Coastal Program, and therefore the County adoption of the LCP Amendment is statutorily exempt from environmental review. Approval of the LCP Amendment by the California Coastal Commission is the functional equivalent of the environmental review process required by CEQA.
PUBLIC INTEREST.		
2.	FINDING:	Humboldt County Code Section 312-50.3.2, the Humboldt County General Plan, and state General Plan Law stipulate that amendments to the zoning code must be in the public interest. The proposed amendment is in the public interest.
	EVIDENCE:	a) The purpose of the Coastal Zoning amendments is to incorporate current state ADU law. For consistency, references to Secondary Dwelling Units or Second Units are amended to Accessory Dwelling Units. Eliminating multiple terms for the same object and removing confusing terminology promotes better understanding of the regulations, and is therefore in the public interest.
		b) Amendments to the Coastal Zoning regulations (1) update terminology; (2) clarify ADUs as allowable uses as required by state law; and (3) specify resource protection measures pertaining to ADUs. A Local Coastal Program that is harmonized with state law prevents confusion and carries out Housing Element measures. The public deserves regulations that are current and do not conflict with state law; therefore, this amendment is in the public interest.

CONSISTENCY WITH THE GENERAL PLAN.

3.	FINDING:	Humboldt County Code Section 312-50.3.2 states that amendments to the zoning code must be consistent with the General Plan. The proposed Coastal Accessory Dwelling Unit Ordinance is consistent with the General Plan.
	EVIDENCE:	a) The Coastal Accessory Dwelling Unit Ordinance implements the 2019 Housing Element. The proposed ordinance incorporates the state-mandated changes to ADU regulations, as directed in implementation measure H-IM41. Policy H-P29 directs the county to stimulate the construction of ADUs by relaxing development standards through code modifications to facilitate low-cost housing and to make more efficient use of existing roads. H-P30, H-P31, H-IM38 and H-IM39 call for allowing and encouraging tiny houses and moveable tiny houses as permanent dwellings, and as ADUs, and set forth standards and definitions. Tiny houses and moveable tiny houses are intended to promote diverse, affordable housing. H-P15 supports lower cost housing by adding building codes for Tiny Homes to the building regulations of the Humboldt County Code.
		b) State law limits the ways in which ADUs can be regulated by local jurisdictions. The proposed amendments to the LCP are intended to relax restrictions on ADUs in accordance with these changes while preserving and protecting coastal resources, thus carrying out policies of the General Plan.

CONSISTENCY WITH THE COASTAL ACT.

4.	FINDING:	<p>If the proposed changes to the Zoning Ordinance include an amendment to the Local Coastal Program, Section 312-50.3.3 requires that the amendment is in conformity with the policies of Chapter 3 (commencing with Section 30200) of the Coastal Act. Chapter 3 of the Coastal Act sets forth policies regarding the following issues:</p> <ul style="list-style-type: none"> a) Access (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access) b) Recreation (including protection of water-oriented activities, ocean- front land protection for recreational uses, aquacultural uses, and priority of development purposes) c) Marine Resources (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood control) d) Land Resources (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources) e) Development (including scenic resources, public works facilities, safety, and priority of coastal dependent
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		<p>developments)</p> <p>f) Industrial Development (including location and expansion, use of tanker facilities, oil and gas development and transport (both onshore and off), and power plants)</p> <p>The proposed changes to the zoning code conform to the policies of Chapter 3 (commencing with Section 30200) of the Coastal Act.</p>
	EVIDENCE:	<p>a) Access (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access).</p> <p>The proposed ordinance allows for new development adjacent to or within existing or new approved single family or multifamily residences. Impacts on coastal resource access would be evaluated under the same controls and conditions as the primary residences. ADUs proposed proximate to public coastal access points would be subject to the approval of a Coastal Development Permit by Humboldt County, and access protections set forth in the local coastal plan would apply. The proposed amendment will not affect coastal access.</p>
		<p>b) Recreation (including protection of water-oriented activities, ocean-front land protection for recreational uses, aqua-cultural uses, and priority of development purposes)</p> <p>The proposed ordinance allows for new development adjacent or within existing or otherwise approved single family or multifamily residences. For new construction, impacts on coastal recreation are subject to the same controls and conditions as the proposed primary residence, including conditions of any existing Coastal Development Permit. Where ADUs are converted from or added to existing residences, a coastal development permit is required unless exempt, and recreation impacts are assessed in accordance with the local coastal plan.</p> <p>The ordinance will protect existing lower cost visitor-serving facilities by providing alternate housing for lower income and seasonal workers in the coastal zone. Because ADUs are associated with existing residences, they prevent conversion of potential recreational properties to housing that is affordable to lower income residents. ADU locations are widely dispersed compared with other affordable income types, which prevents overloading of recreational resources.</p> <p>For the above reasons, the proposed amendment will not negatively affect recreation.</p>
		<p>c) Marine Resources (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood control)</p> <p>The proposed changes protect marine biological resources by incorporating standards for ADUs for water accessibility, sewer and</p>

		<p>waste disposal requirements, and the same requirements for compliance with health and safety standards as other residential development. Environmentally sensitive habitats are protected by the buffers specified in local coastal plans. ADUs proposed within special combining zones or in Coastal Commission appeals jurisdictions as indicated in 313-69.05.7 may require a Special Permit and discretionary Coastal Development Permit. ADUs are not permitted on parcels within Coastal Natural Resources areas.</p> <p>Impacts from hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters are not associated with development of ADUs, and would not be a result of the proposed amendment. In summary, marine resources likely to be impacted by residential development are mitigated by provisions incorporated in the ordinance.</p>
		<p>d) Land Resources (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources)</p> <p>The proposed ordinance protects agricultural and timber land by limiting the building envelope to two acres per parcel and in the area of lowest agricultural productivity. ADUs are prohibited on prime agricultural soils. For an ADU proposed outside a Fire Protection District, or where historical or archaeological resources exist as detailed in 313-69.05.6, a Special Permit and discretionary Coastal Development Permit are required.</p> <p>Impacts to cultural and tribal cultural resources will be evaluated on a project basis as part of the Coastal Development Permit. Environmentally sensitive habitats are protected by the buffers specified in local coastal plans. ADUs proposed within special combining zones or in Coastal Commission appeals jurisdictions as indicated in 313-69.05.7 require a Special Permit and discretionary Coastal Development Permit.</p> <p>For the reasons above, land resources likely to be impacted by residential development are prevented or mitigated by provisions incorporated in the code.</p>
		<p>e) Development (including scenic resources, public works facilities, safety, and priority of coastal dependent developments)</p> <p>The proposed ordinance is consistent with development policies of the Coastal Act in that it limits increased impacts by locating ADUs adjacent to or within existing residences. Where built outside urban areas, ADUs are dispersed to the same extent that single family residences are dispersed, and would not create new concentrations of population. With regard to scenic resources, an ADU is subject to the same local coastal plan conditions as the primary unit.</p> <p>As a condition of ministerial review, the ordinance requires adequate available services. Where wastewater treatment is not available,</p>

			<p>ADUs must have a private sanitation and/or water supply system that meets County Health Department requirements. Sanitation facilities, plumbing, and water supply for the ADU, including any septic or waterless toilet systems used, must meet County Health Department requirements.</p> <p>The Special Permit Area described in 69.05.6 minimizes risks to life and property by requiring a Special Permit where fire, landslide, bluff or cliff, flood, or tsunami conditions are present, or near toxic cleanup sites. Locating new housing in rural areas and unincorporated towns responds to public reports of lack of affordable housing in these areas. The ordinance intends to allow residential development near jobs, thereby eliminating commutes from urban centers where housing is more available, and reducing VMTs and associated air pollution. Changes to the zoning code do not disturb the priority given to coastal dependent development.</p> <p>The proposed amendment is designed to limit or prevent the impacts of new residential development by associating it with that already existing. Since housing is an identified state-wide emergency, ADUs may be the best, lowest-impact way to accommodate that need.</p> <p>In conclusion, scenic resources, public works facilities, safety, and priority of coastal dependent developments will not be impacted by residential development resulting from the proposed amendment.</p>
		f)	<p>Industrial Development (including location and expansion, use of tanker facilities, oil and gas development and transport (both onshore and off), and power plants)</p> <p>The proposed ordinance concentrates ADUs where single family and multifamily residential development is principally permitted. By definition, this precludes areas with industrial development. As a result, the ordinance would have no impact on industrial development.</p>
			CONSISTENCY WITH STATE PLANNING LAW.
5.	FINDING:		Humboldt County Code Section 312-50.3.4 requires any proposed amendment must not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law, unless specific findings are made. The proposed amendment does not limit the number of housing units which may be constructed on an annual basis.
	EVIDENCE:	a)	No changes in land use are proposed that would reduce housing opportunities in coastal residential areas. On the contrary, reducing regulatory barriers to ADU development is intended to increase access to housing up to the allowed limits.