

**RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF HUMBOLDT**

**Resolution Number 20-42**

**Accessory Dwelling Unit Ordinance, General Plan Amendment, Changes to Building Code**

**Makes the required findings for certifying compliance with the California Environmental Quality Act; recommends adoption by the Board of Supervisors of the Accessory Dwelling Unit Ordinance, a General Plan Amendment renaming Secondary Dwelling Units as Accessory Dwelling Units, and Amendments to Sections 331 and 331.5, Humboldt County Building Codes.**

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

**WHEREAS**, changes to California Government Code Sections 65852.2 and 65852.22 in 2017 and 2019 superseded the County's Second Unit Ordinance, rendering it null and void; and

**WHEREAS**, under Government Code Section 65852.2 a local agency may, by ordinance, regulate the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use, provided its regulations are no more restrictive than set forth in that section; and

**WHEREAS**, Humboldt County initiated the zoning ordinance and building code changes herein to implement its General Plan Housing Element Update in 2019, which directs the County to develop an Accessory Dwelling Unit Ordinance as set forth in H-P29 and H-IM41; allow tiny houses and moveable tiny houses as residences as set forth in H-P30, H-IM30, H-IM38, and H-IM39; and support alternative owner- built residences as low-cost housing as set forth in H-P15; and

**WHEREAS**, the proposed coastal and inland regulations were 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 in accordance with recommendations of the California Coastal Commission; and

**WHEREAS**, the proposed ordinance and related code amendments may be approved if findings can be made that: (1) the proposed change is in the public interest; and (2) the proposed change is consistent with the General Plan; (3) amendments to the Local Coastal Plans are in conformity with the policies of the Coastal Act and approved Local Coastal Plans; and (4) the proposed changes do 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; and

**WHEREAS**, the Accessory Dwelling Unit Ordinance and building code changes are exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), under Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), adoption of an ordinance regarding second units in areas zoned to allow single-family or multifamily dwelling residential use by a city or county; and

**WHEREAS**, pursuant to 21080.5 and 21080.9 of the Public Resources Code and Sections 15250, 15251(f) and 15265 of the California Environmental Quality Act (CEQA) Guidelines, 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 Coastal Accessory Dwelling Unit

Ordinance is statutorily exempt; and Local Coastal Program Amendments are exempt subject to approval by the California Coastal Commission, a regulatory program certified by the Secretary of Resources as being the functional equivalent of the environmental review process required by CEQA); and

**WHEREAS**, Exhibit A to this resolution includes substantial evidence in support of making all the required findings for approving the proposed amendments to the zoning and building text; and

**WHEREAS**, a series of public hearings was held on the matter before the Humboldt County Planning Commission on May 21<sup>st</sup>, June 4<sup>th</sup>, July 18<sup>th</sup>, July 9<sup>th</sup>, and July 23<sup>rd</sup> of 2020, during which the Planning Commission reviewed, took public comments, and recommended changes to the drafts as enumerated in the draft ordinances attached to this staff report as revised by the Planning Commission at the meeting on July 23, 2020, the Addendum to Staff Report; and

**WHEREAS**, the Planning Commission, in response to public comments and as a result of its review recommends the Board of Supervisors direct the Planning Department to update the Jacoby Creek Community Plan to refine the residential density limitations while also protecting water quality in the area;

**NOW, THEREFORE**, be it resolved, determined, and ordered by the Humboldt County Planning Commission that the following findings are hereby made:

1. The proposed ordinance and amendments to the general plan and building code are in the public interest; and
2. The proposed ordinance and amendments to the general plan and building code are consistent with the General Plan; and
3. The proposed ordinance and amendments to the general plan and building code do 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; and
4. The Planning Commission makes the findings in Exhibit A of this resolution, which is incorporated fully herein, based on the evidence provided.

**BE IT FURTHER RESOLVED** that the Planning Commission recommends that the Board of Supervisors of the County of Humboldt:

1. Hold a public hearing in the manner prescribed by law.
2. Adopt the ordinance amending the Zoning Regulations of the Inland Zoning Ordinance (Section 314 of Title III, Division 1, Chapter 4 of Humboldt County Code) as shown in Attachment 1 of this staff report and summarized as follows:
  - (a) Sets forth standards, in accordance with state law, for creation or conversion of Accessory Dwelling Units (ADUs) on lots zoned to allow single family or multifamily use; and allows a Tiny House or Moveable Tiny House, as defined, to be used as an ADU.
3. Adopt the ordinance amending the Zoning Regulations of the Coastal Zoning Ordinance (Section 313 of Title III, Division 1, Chapter 4 of Humboldt County Code) as shown in Attachment 2 of this staff report and summarized as follows:

(a) Sets forth standards for the Coastal Zone, in accordance with state law, for creation or conversion of Accessory Dwelling Units (ADUs) on lots zoned to allow single family or multifamily use; and allows a Tiny House or Moveable Tiny House, as defined, to be used as an ADU.

4. Adopt the associated General Plan and Coastal Plan Amendments as shown in Attachments 1 and 2 of this staff report.
5. Adopt the ordinances amending Sections 331 and 331.5 of the Building Codes as set forth in Attachments 3 and 4 of this staff report.
6. Direct Planning staff to submit the Coastal Zoning Ordinance and amendments to the Coastal Plans to the Coastal Commission for certification.
7. Direct the Planning Staff to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research.

Adopted after review and consideration of all the evidence on July 23, 2020. The motion was made by Commissioner Newman and second by Commissioner McCavour and the following vote:

AYES: Commissioners Bongio, Newman, McCavour and O'Neill

ABSENT: Commissioners Mitchell, Levy and Pellegrini

DECISION: Motion carries 4/0.

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.



John Ford, Director  
Planning and Building Department

## Exhibit A – Required Findings of Approval

### A. Required Findings for General Plan Amendments

In accordance with State Planning and Zoning Law (Government Code Section 65000 et seq.) and the General Plan of Humboldt County, a general plan amendment may be approved upon making the following findings:

- (1) The amendment is in the public interest, and one or more of the following applies:
  - a. Base information or physical conditions have changed; or
  - b. Community values and assumptions have changed; or
  - c. There is an error in the plan; or
  - d. To maintain established uses otherwise consistent with a comprehensive view of the plan.

### B. Required Findings for Amendments to the Zoning Regulations

State Planning and Zoning Law (Government Code Section 65000 et seq.), and Section 312-50 of the Humboldt County Code (HCC) state the following findings must be made to approve changes in the Zoning Maps and Regulations:

- (2) The proposed amendment is in the public interest;
- (3) The proposed amendment is consistent with the General Plan;
- (4) The proposed amendment does 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.

### C. Required Findings for Consistency with the Coastal Act

Amendments to Local Coastal Plans must conform with the Coastal Act, Title 14, Section 13551 of the Coastal Commission's Administrative Regulations, Public Resources Code, Section 30200.

- (5) Section 312-50.3.3 HCC requires proposed amendments to conform to the policies contained in Chapter 3 of the Coastal Act, which sets forth policies regarding the following issues:

**Access** (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access)

**Recreation** (including protection of water-oriented activities, ocean- front land protection for

recreational uses, aqua- cultural uses, and priority of development purposes)

**Marine Resources** (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood control)

**Land Resources** (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources)

**Development** (including scenic resources, public works facilities, safety, and priority of coastal dependent developments)

**Industrial Development** (including location and expansion, use of tanker facilities, oil and gas development and transport (both onshore and off), and power plants).

**D. California Environmental Quality Act (CEQA)**

The proposed Inland and Coastal Ordinances are exempt from environmental review under in Section 15282 of the California Environmental Quality Act (Ordinances regarding second units), as detailed in the Evidence section below.

**Evidence Supporting the Required Findings**

**A. Findings for General Plan Amendment:**

The following table identifies the evidence which supports finding that the proposed General Plan amendments are in the public interest, and based on changed conditions.

Finding and Section(s)	Summary of Applicable Goal, Policy or Standard
<p><b>1. Public Interest</b> Humboldt County General Plan Section 3.3</p>	<p>The proposed General Plan Amendment is in the public interest.</p>
<p><b>Evidence Supporting Finding 1.</b> The purpose of this project is to ensure consistency of terminology between the General Plan the Zoning Regulations. The proposed project amends the Zoning Regulations to add an Accessory Dwelling Unit Ordinance. Prior versions referred to Accessory Dwelling Units as Secondary Dwelling Units, or Second Units. For the sake of consistency, references in the General Plan 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.</p>	
Finding and Section(s)	Summary of Applicable Goal, Policy or Standard
<p><b>1a. Changed conditions</b> Humboldt County General Plan G-P8. Base information or physical conditions have changed</p>	<p>The proposed General Plan Amendment responds to a change in state law and terminology usage. Conforms to adoption of a corresponding ordinance.</p>
<p><b>Evidence Supporting Finding 1a.</b> Changes to State housing law, Gov. Code Secs. 65852.2 and 65852.22, in 2017 and 2019, regulate Accessory Dwelling Units, formerly designated in Humboldt County Code as "Secondary Dwelling Units". The proposed General Plan Amendment harmonizes language in accordance with that change.</p>	

**B. Findings for Zoning Ordinance Amendment:**

The following table identifies evidence which supports finding that the proposed zoning ordinance is in the public interest, is consistent with the General Plan, and does not reduce the residential density to below the requirements set by the Department of Housing and Community Development.

Finding and Section(s)	Summary of Applicable Goal, Policy or Standard
<p><b>2. Public Interest</b> §312-50 of Humboldt County Code</p>	<p>The proposed Accessory Dwelling Unit Ordinance is in the public interest.</p>
<p><b>Evidence Supporting Finding 2.</b> The proposed ordinance would allow ADUs without discretionary review in all areas zoned to allow single family or multifamily use, and would further relax development standards to facilitate low-cost housing. Given the findings of the legislature that (1) availability of housing is of vital statewide importance; (2) decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order; and (3) providing housing affordable to low- and moderate-income households requires the cooperation of all levels of government; the proposed ordinance advances these goals, and is therefore in the public interest.</p>	
Finding and Section(s)	Summary of Applicable Goal, Policy or Standard
<p><b>3. General Plan Consistency</b> §312-50 of Humboldt County Code</p>	<p>The proposed ordinance must be consistent with the General Plan. Applicable policies and measures of the 2019 Housing Element, Chapter 8 of the General Plan include:</p> <ul style="list-style-type: none"> <li>H-IM41 Comply with state housing law;</li> <li>H-P29 Relax ADU development standards;</li> <li>H-P30, H-P31, H-IM38 and H-IM39 Encourage Tiny Houses and Moveable Tiny Houses as lower income housing; and</li> <li>H-P15 Support Alternative Owner Builder dwellings in rural areas.</li> </ul>
<p><b>Evidence Supporting Finding 3.</b> The 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 rural housing by modifying the Alternative Owner Builder (AOB) Regulations to allow ADUs to be built as AOB units, and by adding building codes for Tiny Homes to the building regulations of the Humboldt County Code.</p>	

Finding and Section(s)	Summary of Applicable Goal, Policy or Standard
<p><b>4. Consistency with Housing Element Densities</b>            §312-50 of Humboldt County Code</p>	<p>That the proposed ordinance will 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 (the midpoint of the density range specified in the plan designation)</p>
<p><b>Evidence Supporting Finding 4.</b> The proposed ordinance involves parcels zoned Residential Single Family or Residential Multifamily that are included in the residential land inventory used by the Department of Housing and Community Development in determining compliance with housing element law. Where applied, the ordinance supports increased residential densities rather than decreased densities. Therefore, it would not reduce the residential density for any parcel below that used by the Department of Housing and Community Development in determining compliance.</p>	

**C. Findings for Consistency with the Coastal Act.**

The following table identifies the evidence which supports finding that the proposed Coastal Accessory Dwelling Unit Ordinance is consistent with the Coastal Act.

Finding and Section(s)	Summary of Applicable Goal, Policy or Standard
<p><b>5. Consistency with the Coastal Act</b>             Title 14, § 13551            and Public            Resources            Code, § 30200            (Coastal Act)</p>	<p>That the proposed zoning ordinance amendments comply with the requirements of the Coastal Act with respect to coastal access, recreation, marine resources, land resources, development, and industrial development.</p>
<p><b>Evidence Supporting Finding 5.</b></p>	
<p><b>Access</b> (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access)</p>	
<p><u>Facts.</u> 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.</p>	
<p><b>Recreation</b> (including protection of water-oriented activities, ocean- front land protection for recreational uses, aqua- cultural uses, and priority of development purposes)</p>	
<p><u>Facts.</u> 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 residences. Where ADUs are converted from or added to existing residences, a coastal development permit is required, and assesses recreation impacts in accordance with the local coastal plan.</p>	
<p>The ordinance will protect existing lower cost visitor-serving facilities by removing the need for their use as 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 affordable to lower income residents. ADU locations are widely disbursed compared with</p>	

Finding and Section(s)	Summary of Applicable Goal, Policy or Standard
<p><b>5. Consistency with the Coastal Act</b></p> <p>Title 14, § 13551 and Public Resources Code, § 30200 (Coastal Act)</p>	<p>That the proposed zoning ordinance amendments comply with the requirements of the Coastal Act with respect to coastal access, recreation, marine resources, land resources, development, and industrial development.</p>
<p><b>Evidence Supporting Finding 5.</b></p>	
<p>other affordable income types, which prevents overloading of recreational resources.</p>	
<p><b>Marine Resources</b> (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood control)</p> <p><i>Facts.</i> The proposed ordinance protects marine biological resources by incorporating standards for ADUs for water accessibility, sewer and waste disposal requirements, and the same requirements for compliance with health and safety standards as other residential development.</p>	
<p><b>Land Resources</b> (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources)</p> <p><i>Facts.</i> The proposed ordinance protects agricultural and timber land by limiting the building envelope to two acres per parcel located, where feasible, in the area of lowest agricultural productivity. ADUs in certain designated areas (mapped Special Permit Areas) would require a Special Permit, where historical or archaeological resources exist, or where adequacy of water and sewer services or the impact on traffic flow and public safety may be issues.</p>	
<p><b>Development</b> (including scenic resources, public works facilities, safety, and priority of coastal dependent developments)</p> <p><i>Facts.</i> The proposed ordinance is consistent with development policies of the Coastal Act because it limits increased impacts by locating ADUs adjacent to or within existing residences. Where built outside urban areas, ADUs are dispersed to the extent single family residences are dispersed, and would not create new concentrations of population. The ordinance requires adequacy of available services. The Special Permit Area described in 69.05.6 minimizes risks to life and property. 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.</p>	
<p><b>Industrial Development</b> (including location and expansion, use of tanker facilities, oil and gas development and transport (both onshore and off), and power plants.</p> <p><i>Facts.</i> The proposed ordinance concentrates ADU development 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 to industrial development.</p>	



**D. Environmental Review.**

The proposed Accessory Dwelling Unit Ordinance is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), under Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), adoption of an ordinance regarding second units in areas zoned to allow single-family or multifamily dwelling residential use by a city or county.

The County's adoption of the Coastal Accessory Dwelling Unit Ordinance is statutorily exempt from CEQA pursuant to 21080.5 and 21080.9 of the Public Resources Code and Sections 15250, 15251 (f) and 15265 of the California Environmental Quality Act (CEQA) Guidelines, because CEQA does not apply to the activities of a local government for the preparation and adoption of a Local Coastal Program. Local Coastal Program Amendments are exempt subject to approval by the California Coastal Commission, a regulatory program certified by the Secretary of Resources as being the functional equivalent of the environmental review process required by CEQA).