



# COUNTY OF HUMBOLDT

## Legislation Text

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File #: 20-1026, Version: 1

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**To:** Board of Supervisors

**From:** Planning and Building Department

**Agenda Section:** Public Hearing

**SUBJECT:**

Public Hearing on the Draft Accessory Dwelling Unit (ADU) Ordinance and Associated Zoning, General Plan and Building Code Amendments. Case No. PLN-15873

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Introduce the Inland ADU Ordinance Amendments by title and waive further reading of Ordinance No. \_\_\_\_\_ [Attachment 3], repealing section 314-87.1, and adding section 314- 69.05; amending section 314-22; section 314-109; section 314-136; section 314-145; section 314-148; section 314-154; section 314-155; section 314-163; and section 314-177 and associated zoning regulation tables in Section A, Part 1, Principal Zoning Districts, of Chapter 4 of Division 1 of Title III of the County Code; and
2. Introduce the Coastal ADU Ordinance Amendments by title and waive further reading of Ordinance No. \_\_\_\_\_ [Attachment 4], repealing section 313-87.1, and adding section 313-69.05; amending section 313-107; section 313-109; section 313-136; section 313-137; section 313-148; section 313-154; section 313-155; section 313-163; section 313-177; amending associated zoning regulation tables in sections 313-6 and 313-7 of Chapter 3 of Division 1 of Title III of the County Code, Coastal Zoning Code; and amending sections 312-6 and 312-9 of Chapter 2 of Division 1 of Title III of the County Code, General Provisions; and
3. Introduce the Alternative Owner-Builder Code Amendments by title and waive the first reading of Ordinance No. \_\_\_\_\_ [Attachment 5], amending Section 331.5-2, 331.5-3, 331.5-5, 331.5-6, 331.5-7, and 331.5-17 of Chapter 1.5, Division 3, Title III of the County Code;
4. Introduce the Tiny Homes Building Code Amendments by title and waive the first reading of Ordinance No. \_\_\_\_\_ [Attachment 6], amending Section 331-11 of Chapter 1, Division 3, Title III of Humboldt County Code (HCC);
5. Receive and consider the staff report, the Planning Commission's recommendations and written comments received [Attachment 8], open the public hearing, and accept public comment; and
6. Close the public hearing; and

7. Deliberate on the proposed ordinances; and
8. Adopt the proposed ordinances and Plan amendments by taking the following actions:
  - a. Adopt Resolution No. \_\_\_\_ [Attachment 1] making findings the Inland ADU Ordinance and Plan Amendments are exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), and making all the required findings for consistency with the General Plan, Zoning Ordinance and state law, and approving the Inland General Plan Amendments associated with the proposed ADU Ordinance; and
  - b. Adopt Resolution No. \_\_\_\_ [Attachment 2] making findings the Coastal ADU Ordinance and Plan Amendments are exempt from environmental review pursuant to CEQA and making all the required findings for consistency with the General Plan, Zoning Ordinance and the Coastal Act, and approving Coastal Plan Amendments associated with the proposed ADU Ordinance, and transmitting them to the California Coastal Commission for their review and certification; and
  - c. Adopt Ordinance No. \_\_\_\_ [Attachment 3], the Inland ADU Ordinance; and
  - d. Adopt Ordinance No. \_\_\_\_ [Attachment 4], the Coastal ADU Ordinance and transmitting it to the California Coastal Commission for their review and certification; and
  - e. Set for adoption the amendments to the Building Code for Alternative Owner Builder Regulations [Attachment 5] and Tiny Houses [Attachment 6] at least one week from this hearing date, which also involves directing the Clerk of the Board to publish a Summary for Publication prior to adoption of the ordinance; and
  - f. Direct the Clerk of the Board to publish Summaries of the Inland and Coastal ADU Ordinances within 15 days after adoption, along with the names of those Supervisors voting for and against each ordinance [Attachments 9 and 10] and to post in the Office of the Clerk of the Board of Supervisors a certified copy of the full text of each adopted ordinance; and
  - g. Direct Planning staff to update the Jacoby Creek Community Plan to refine the residential density limitations while also protecting water quality in the area; and
  - h. Direct Planning Staff to prepare and file a Notice of Exemption for the ADU Ordinances with the County Clerk and Office of Planning and Research.

#### SOURCE OF FUNDING:

The salary funding for preparing this staff report is included in the General Fund contribution to the Long-Range Planning unit, 1100-282. These costs will be largely offset by reimbursement from the SB2 grant awarded to the County earlier this year.

#### DISCUSSION:

The proposed ADU Ordinance and related amendments to the General Plan re-establish local standards for ADU's that were nullified and replaced by state regulations in 2017. The item also brings forward Building Code amendments to allow Alternative Owner-Builder homes, Tiny Houses and Moveable Tiny Houses to be used as ADUs implementing key parts of the 2019 Housing Element. State law allows local ordinances to be more permissive in permitting ADUs than the state's requirements, and

the County received a favorable review of the draft ADU ordinance and associated General Plan and building code changes by the State Department of Housing and Community Development (HCD) when it was referred to them in late 2019.

It is noteworthy that state law identifies a special class of ADU'S - "Junior ADU'S" or "JADU'S" - small areas within existing or proposed new homes or accessory structures that are rented separately from the main residence. These smaller ADUs are given special treatment because they are unlikely to significantly impact surrounding uses. So, for instance, no utility connection fees may be charged for JADU'S, and in some cases JADU'S are allowed alongside ADU'S resulting in a total of three dwelling units on a property zoned for single family use.

### *Planning Commission Review*

The Planning Commission held a series of five public hearings on the draft ordinances and General Plan amendments beginning in May and continuing to July 23, 2020 during which the Planning Commission reviewed, took public comments, and recommended changes as enumerated in the draft ordinances and General Plan amendments attached to this staff report. The Planning Commission addressed the concerns raised by the public such that there appear to be no outstanding issues with the proposed ordinances. Following is a list of decisions made by the Planning Commission:

**Section 69.05.2 Certificate of Occupancy.** The Hearing Draft considered by the Commission included a requirement that when a primary dwelling and ADU are both proposed to be constructed at the same time, the primary dwelling must have been issued a Certificate Occupancy before the new ADU. The Planning Commission struck this requirement because they were not concerned which new home was occupied first - the primary dwelling or the ADU.

**Section 69.05.3.4 Short-term Lodging Prohibited:** The Hearing Draft prohibited rentals of ADU's for periods of less than 30 days. An alternative to strike this requirement was considered by the Commission. The requirement was retained by the Commission to minimize the potential for ADU's to meet visitor serving needs rather than affordable housing needs.

**Section 69.05.3.5.1 Manufactured Homes as ADUs.** The Hearing Draft included a paragraph from another section of the zoning ordinance relating to building standards for mobilehomes. The Planning Commission substituted a reference to the other code section without repeating the entire paragraph to simplify future maintenance of the zoning ordinance.

**Section 69.05.4 Design Standards.** The Commission considered adding design standards for ADU's larger than 800 square feet in size, including criteria for roof pitch, trim, eaves and windows. The Commission elected to not add design criteria for ADU's because they could not agree on appropriate objective standards.

**Section 69.05.4.3.1 Allowing ADU's Larger than 1,200 Square Feet in Size.** The Commission elected to retain language in the hearing draft allowing ADUs to exceed 1200 ft<sup>2</sup> with a Special Permit in response to public comment in support of allowing ADU's up to 1,700 square feet in size.

**Section 69.05.4.7 Frontage Improvements.** The Commission added language clarifying that no frontage improvements would be required for ADUs to help reduce construction costs for ADU's.

**Section 69.05.5.6 Design Standards for Moveable Tiny Homes (MTH's).** The Commission elected to retain Hearing Draft language specifying design standards MTHs to prevent from RV's from being used as ADU's.

**Section 69.05.3.6 Sewer and Water Service.** The Commission added language clarifying wastewater connection requirements.

**Section 69.05.6(g) Jacoby Creek Density Limit.** In response to public testimony, the Commission deleted hearing draft language requiring ADU's in the Jacoby Creek Community Plan (JCCP) area to secure a Special Permit. Deleting this requirement allows ADU's in the JCCP area to exceed the density limits of the JCCP. The rationale of the Commission was largely based on the belief that the County's sewage disposal regulations will be sufficient to protect water quality in the area so no Special Permit is necessary. The Commission sought to resolve the conflict between the proposed ADU Ordinance and the density limits of the JCCP by recommending the Board direct Planning staff to update the JCCP to refine the residential density limitations while also protecting water quality in the area, which is included as Recommendation #7g on page 2 of this staff report.

**Alternative Owner Builder (AOB) Regulations.** The Commission elected to keep the proposed amendments to the AOB regulations based to a large degree on the public support for the AOB ordinance changes expressed in the public workshops held prior to the start of the hearing.

**ADU Regulations for the Coastal Zone.** The coastal zone version of the ADU Ordinance presented to the Planning Commission initially was modified in response to Coastal Commission staff's recommendations that changes were needed to better align with the Coastal Act. The Commission elected to keep the changes recognizing the Coastal Commission has the final say on the acceptable language.

#### *Coastal Commission Review*

The new ADU statutes apply in the coastal zone but do not supersede the California Coastal Act, except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units. (Gov. Code, Sec. 65852.2 (j)). The proposed amendments to the Coastal Zoning regulations implement these requirements. Coastal Commission staff has been consulted on the proposed ADU regulations and have provided some feedback which was incorporated into the Planning Commission's recommendations.

In a recent email exchange, Coastal Commission staff suggested they may have further comments, but would unlikely be able to provide those comments until November due to their workload and staff resources. At this time staff is not aware of any changes necessary to address concerns of Coastal Commission staff, however, future edits to the Coastal ADU ordinance may be necessary should the

Coastal Commission identify suggested modifications.

### *Environmental Review*

The proposed inland Zoning Ordinance and General Plan amendments are exempt from environmental review 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 proposed Building Code amendments are exempt from environmental review under CEQA Guidelines Section 15061(b)(3), the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

The proposed coastal Zoning Ordinance and Coastal Plan amendments are exempt from environmental review pursuant CEQA Guidelines Section 15282(h) and 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.

### FINANCIAL IMPACT:

Staff costs and other expenses related to public review of this item to date total approximately \$12,000. There will be additional future costs of around \$7,500 to codify the new ordinances and General Plan amendments and train staff to implement them. Approximately 60% of these costs are eligible for reimbursement from the state through the non-competitive SB2 funding awarded to the County earlier this year.

### STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by protecting vulnerable populations creating opportunities for improved safety and health; and facilitating public/private partnerships to solve problems.

### OTHER AGENCY INVOLVEMENT:

State Department of Housing and Community Development, California Coastal Commission, Department of Public Works, Department of Health and Human Services - Environmental Health Division and the Office of County Counsel.

### ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose to not adopt local standards, and the County would continue to use the state's rules in reviewing applications for ADUs. No support for this alternative was expressed by anyone during all the public workshops and Planning Commission hearings, so staff does not recommend further consideration of this alternative.

ATTACHMENTS:

- Attachment 1: Resolution No. \_\_\_\_\_ A Resolution of the Board of Supervisors of the County of Humboldt making findings the project is exempt from environmental review pursuant to CEQA and findings pursuant to the General Plan and Humboldt County Code Section 312-50 concerning adoption of General Plan and Zoning Ordinance amendments for areas outside of the coastal zone and approving General Plan Amendments associated with the proposed ADU Ordinance.
- Attachment 2: Resolution No. \_\_\_\_\_, A Resolution of the Board of Supervisors of the County of Humboldt making findings the project is exempt from environmental review pursuant to CEQA and findings pursuant to the General Plan and Humboldt County Code Section 312-50 - concerning adoption of Coastal Plan and Zoning Ordinance amendments within the coastal zone and Title 14 §13551 of the Administrative Code and Public Resources Code, §30200 (Coastal Act), approving Coastal Plan Amendments associated with the proposed ADU Ordinance [Attachment 7B], and transmitting the Coastal Plan and Coastal Zoning Ordinance amendments, including all necessary supporting documentation, to the California Coastal Commission as an amendment to the certified Local Coastal Program for their review and certification in accordance with Public Resources Code Section 30514.
- Attachment 3: Ordinance No. \_\_\_\_\_, (Inland ADU Ordinance) repealing section 314-87.1, and adding section 314- 69.05; amending section 314-22; section 314-109; section 314-136; section 314-145; section 314-148; section 314-154; section 314-155; section 314-163; and section 314-177 and associated zoning regulation tables in Section A, Part 1, Principal Zoning Districts of Chapter 4 relating to Accessory Dwelling Units
- Attachment 4: Ordinance No. \_\_\_\_\_, (Coastal ADU Ordinance) repealing section 313-87.1, and adding section 313-69.05; amending section 313-107; section 313-109; section 313-136; section 313-137; section 313-148; section 313-154; section 313-155; section 313-163; section 313-177; amending associated zoning regulation tables in sections 313-6 and 313-7 of Chapter 3 of Division 1 of Title III of the County Code, Coastal Zoning Code; and amending sections 312-6 and 312-9 of Chapter 2 of Division 1 of Title III of the County Code, General Provisions, relating to Accessory Dwelling Units
- Attachment 5: Ordinance No. \_\_\_\_\_, (AOB Ordinance Amendments) amending Section 331.5-2, 331.5-3, 331.5-5, 331.5-6, 331.5-7, and 331.5-17 of Chapter 1.5, Division 3, Title III of Humboldt County Code (HCC) relating to the Alternative Owner Building Regulations
- Attachment 6: Ordinance No. \_\_\_\_\_, (Tiny House Ordinance Amendments) amending Section 331-11 of Chapter 1, Division 3, Title III of Humboldt County Code (HCC) relating to Tiny Houses
- Attachment 7: Proposed General Plan and Coastal Plan Amendments Related to the ADU Ordinances.
- Attachment 8: Planning Commission Resolution recommending adoption of the ADU Ordinance and Associated Zoning, General Plan and Building Code Amendments; the 7/23/2020 Planning Commission staff report, and public comments received by the Planning Commission.
- Attachment 9: Post-Adoption Summary of Ordinance, amending Chapters 2 and 3 of Division 1

of Title III of the County Code for Areas Within the Coastal Zone  
Attachment 10: Post-Adoption Summary of Ordinance, amending Chapter 4 of Division 1 of Title  
III of the County Code for Areas Outside the Coastal Zone

PREVIOUS ACTION/REFERRAL:

Board Order No.: Click or tap here to enter text.

Meeting of: Click or tap here to enter text.

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