

ORDINANCE NO. 2022-506

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUADALUPE, CALIFORNIA, AMENDING SECTIONS OF CHAPTER 18.53 OF THE CITY OF GUADALUPE MUNICIPAL CODE REGARDING ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

The City Council of the City of Guadalupe, State of California, does ordain as follows:

WHEREAS, the State Planning and Zoning Law authorizes the legislative body of a city or county to regulate, among other things, the intensity of land use, and also authorizes a local agency to provide by ordinance for the creation of accessory dwelling units in single-family and multi-family residential zones, as specified. That law makes findings and declarations with respect to the value of accessory dwelling units to California's housing supply; and

WHEREAS, California faces a severe housing crisis and accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods; and

WHEREAS, accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character; and

WHEREAS, Government Code Section 65852.2 (a)(1)(D)(xi)(4) states that a local agency's ordinance, if not in compliance with the State's provisions shall be deemed null and void; and

WHEREAS, the state recently enacted legislation for Accessory Dwelling Units and Junior Accessory Units primarily through AB 2221 and SB 897, and were signed into law by the Governor in September 2022; and

WHEREAS, the new statutes go into effect on January 1, 2023; and

WHEREAS, public notice pursuant to Government Code section 65090 was given on or before December 13, 2022, and a public hearing on the item was opened at the City Council meeting on December 13, 2022, which hearing was continued to the Council meeting of January 10, 2023, for second reading and adoption.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GUADALUPE DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 18.53.030 of Chapter 18.53 of the Guadalupe Municipal Code is hereby amended to read as follows:

18.53.030 Definitions.

An “accessory dwelling unit, (ADU)” is 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 or multifamily unit. It shall include 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. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.
3. “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.
4. “Complete application” means a set of plans, application and support materials submitted to the local agency, where after review of the materials, the agency determines there is sufficient information to proceed with the analysis and processing of the application.
5. “Existing structure,” for the purposes of defining an allowable space that can be converted to an accessory dwelling unit means, within the 4 walls and roofline of any structure that can be made safely habitable under local building codes at the determination of the Building Official.
6. “High quality transit corridor” means a corridor with fixed route bus service intervals no longer than 15 minutes during peak commute hours.
7. “Junior ADU” means a unit which is no more than 500 square feet, typically developed from a bedroom(s) in a single-family home with an exterior entrance, including cooking facilities with appliances, food prep counter and storage cabinets that are of reasonable size in relation to size of the JADU, and may share bathroom facilities with no additional parking required.
8. “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.
9. “Local agency” means a city, county, or city and county, whether general law or chartered.
10. “Major transit stop” means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
11. “Nonconforming zoning condition” means a physical improvement on a property that does not conform to current zoning standards.
12. “Objective standards” means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.
13. “Passageway” is a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
14. “Permitting agency” means any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.
15. “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
16. “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.

17. "Tandem parking" means that 2 or more vehicles are parked on a driveway or in any other location on a lot, lined up behind one another.

SECTION 2. Section 18.53.040 of Chapter 18.53 of the Guadalupe Municipal Code is hereby amended to read as follows:

18.53.040 Application requirements.

A. Application. Requests for an accessory dwelling unit shall be submitted on an application form provided by the Planning Department and shall contain the following information:

1. Plot Plan (Drawn to Scale). Provide dimensions of the perimeter of parcel on which the accessory dwelling unit will be located. Indicate the location and dimensioned setbacks of all existing and proposed structures on the project site and structures located within 50 feet of the project site. All easements, building envelopes, and special requirements of the subdivision as shown on the final map and improvement plans shall be included.

2. Floor Plans. Each room shall be dimensioned and the resulting floor area calculation included. The use of each room shall be identified. The size and location of all windows and doors shall be clearly depicted.

3. Elevation Views. Provide north, south, east and west elevations which show all openings, exterior finishes, original and finish grades, stepped footing outline, roof pitch, materials and color board for the existing residence and the proposed accessory dwelling unit.

4. Cross Section. Provide building cross sections, including, but not limited to: structural wall elements, roof, foundation, fireplace and any other sections necessary to illustrate earth-to-wood clearances and floor to ceiling heights.

5. Fees. The fee for review shall be as set forth in the currently adopted fee resolution and shall not exceed the fixed processing fee established by the City Council for a new single-family dwelling.

6. Copies. One original and two copies of the application package shall be submitted for each ADU request.

SECTION 3. Section 18.53.050 of Chapter 18.53 of the Guadalupe Municipal Code is hereby amended to read as follows:

18.53.050 Design and development standards.

A. Accessory Dwelling Units within Existing Space. An ADU within an existing structure (e.g., the primary dwelling unit, attached or detached garage or other accessory structure) shall be permitted ministerially with a zoning clearance and building permit if it:

1. Complies with building and safety codes;
2. Provides independent exterior access from the existing residence;
3. Provides sufficient side and rear setbacks for fire safety.

B. Accessory Dwelling Units (Attached and Detached).

1. General.

- a. Sale of Unit. The ADU may not be sold separate from the primary dwelling unit unless specific requirements are met through Government Code Section 65852.26. A JADU may not be sold separately. All conditions of the permit, restrictive covenants, and other contractual agreements with the City apply to the property.

- b. Rental of Unit. Rental of the accessory dwelling unit is allowed for 30 days or longer, and separate

from rental of the primary residence. For an accessory dwelling unit to be rented for a period of less than 30 days, the owner shall be required to comply with the provisions of Chapter 18.55 (Short Term Rentals).

2. Covenant Agreement. A covenant agreement is required prior to issuance of a building permit. The covenant agreement shall state that:

a. The ADU may be conveyed separately from the primary dwelling provided the property is constructed and owned by a qualified 501(c)(3) nonprofit corporation per Government Code Section 65852.26.

i. The existing primary or detached structure is restricted to the approved size and shall not include an expansion of a single-family dwelling or accessory structure by more than 150 square feet, unless for the purpose of ingress and egress.

ii. The use of the accessory dwelling unit shall be in effect only so long as the property is in compliance with the provisions of this chapter. The owner is required to reside on the property if the primary home contains a JADU, but is not required to reside on the property with an attached or detached ADU, per state regulations. The “no owner-occupied” provision for attached and detached ADUs runs from January 1, 2020 through January 1, 2025.

iii. The above declarations are binding upon any successor in ownership of the property; lack of compliance shall be cause for zoning enforcement.

iv. The covenant agreement shall terminate upon removal or conversion of the accessory dwelling unit to another permitted use.

v. The covenant agreement shall be recorded by the County Recorder for the County of Santa Barbara at the expense of the property owner with the original recorded document delivered to the City prior to issuance of the Building Permit.

C. Zoning District. Accessory dwelling units are only allowed on lots that allow single-family homes and multifamily uses where an existing legal single-family dwelling or multifamily use exists or is proposed.

1. Number of Accessory Dwelling Units. Only one ADU and one JADU shall be allowed for each single-family dwelling lot. On property containing multifamily units, up to 2 detached ADUs are permitted, with a minimum 4-foot side and rear yard setback. Additional interior ADUs or JADUs are permitted, up to 25% of the total number of multifamily units.

2. Unit Types. The ADU may be within the living area of the existing dwelling, attached to the existing dwelling, or detached from the existing dwelling and shall be located on the same lot as the existing dwelling. Junior ADUs shall be required to be constructed within a new or existing single-family dwelling. Junior ADUs are not permitted in multifamily units or in detached structures. Garage conversions when attached to the single-family unit may be considered as habitable space for a JADU.

3. ADUs in multifamily buildings. Multiple accessory dwelling units within the 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 unit complies with state building standards for dwellings.

4. Building Codes. Local building code requirements apply to attached and detached ADUs and attached JADUs, as appropriate.

5. Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

6. Fire Sprinklers. Fire sprinklers are not required unless the existing residence is equipped with fire sprinklers, or unless the Fire Marshall determines that due to special circumstances sprinklers are necessary for life and safety. Fire sprinklers may be considered as mitigation for sub-standard Fire Department access or water supply.

7. Utility Meters. An accessory dwelling unit shall not be considered a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling or multifamily use. When constructed at the same time as the primary single-family residence, the new attached and detached accessory dwelling unit's connection fee and/or capacity charge must be proportionate to the burden of the unit on the water or sewer system based on the size or the number of plumbing fixtures.

8. Growth Mitigation Fees: A development or impact fee shall not be imposed upon the development of an ADU less than 750 square feet. Any impact fees charged for an ADU of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

9. Access. Two-story detached accessory dwelling units shall limit the major access to stairs, decks, entry doors, and windows to the interior of the lot or an alley, and comply with all development standards. Only one curb cut shall be permitted per parcel and no additional driveways or access points shall be created to accommodate the accessory or main dwelling unit.

10. Openings. If located outside the standard side and rear yard setbacks for the district, windows which face an adjoining residential property shall be designed to protect the privacy of neighbors; alternatively, fencing or landscaping shall be required to provide screening.

11. Private Open Space. The main dwelling unit and the additional dwelling unit shall each be provided with a minimum of 15 feet by 15 feet of usable private open yard area.

12. JADU access. If a JADU shares a restroom within the single-family home, the resident shall be entitled to bathroom access from the main house as well as secondary access exclusively for the JADU.

13. Home Occupations. Home occupations are permitted within an accessory dwelling unit or primary dwelling unit, or both.

D. Building site.

1. Lot Size. There are no lot size requirements.

2. Unit size.

a. Floor Area. The floor area of an attached accessory dwelling unit shall not exceed 50% of the existing primary dwelling unit's living area.

b. Notwithstanding subsection (D)(2)(a), no ADU shall be larger than 1,200 square feet.

c. Minimum Size. The minimum total square footage of the accessory dwelling unit shall be 110 square feet.

3. Site Planning. Accessory dwelling units should be located behind or above the existing dwelling on the site, whenever possible. Designs that significantly alter the street appearance of the existing residence shall be discouraged.

E. Height. A detached accessory dwelling unit shall not exceed a height of 16 feet, unless the property is within ½ mile walking distance from a major transit stop or high-quality transit corridor whereby the height may increase to 18 feet. In such a case, the City shall also allow an additional two feet in height (to 20 feet) to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit. An attached accessory dwelling unit may occupy any level of the primary dwelling unit if it is designed as an integral part of the primary dwelling unit and a separate ingress and egress is provided. A height of 25 feet or the height limitation in the local zoning ordinance shall apply to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a primary dwelling. Notwithstanding the foregoing, a height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling shall be allowed. This clause shall not require the City to allow an accessory dwelling unit to exceed two stories.

F. Setbacks.

1. Setbacks. No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit, and a setback of no more than 4 feet from the side and rear lot lines shall be required for an ADU that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

a. Detached ADU. The side yard and rear yard setbacks for construction of detached single-story structures containing an accessory dwelling unit shall not be less than 4 feet, and may encroach into the front yard setback in order to develop up to an 800 square foot detached ADU.

b. Attached ADU. Attached accessory dwelling units that increase the square footage of the existing single-family dwelling shall meet the same setbacks as the primary dwelling unit in the zoning district.

2. Space between Buildings. The space required between buildings shall be what is required in the underlying zoning district.

G. Parking.

1. Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

2. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

3. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, the offstreet parking spaces shall not be replaced.

4. Parking requirements for an accessory dwelling unit are in addition to the required parking for the primary dwelling unit except for subsection (G)(3). Covered parking is not required.

5. ADU parking is not required in the following instances:

a. The accessory dwelling unit is located within a one-half mile walking distance of public transit.

b. The accessory dwelling unit is located within any Historic Overlay District that may be in existence at the time a zoning clearance or building permit for an ADU is requested.

c. The accessory dwelling unit is part of the existing single-family residence, or an existing accessory structure (except as provided in subsection (G)(3)).

d. There is a car share vehicle located within one block of the accessory dwelling unit.

5. Covered Parking Design. Any newly constructed optional covered parking shall conform to architectural and aesthetic standards of the underlying zone.

H. Architectural and Aesthetic Standards and Compatibility. The accessory dwelling unit's scale, appearance, and character shall be similar to and compatible in design with the primary dwelling unit (e.g., compatible exterior wall materials, window types, door and window trims, roofing materials and roof pitch). Additionally, it shall be visually subordinate to the primary single-family dwelling or multifamily use on the parcel. The exterior entry to the ADU shall clearly appear as a secondary entry when compared to the entry for the primary single-family dwelling or multifamily use.

I. Outside Stairways. Any stairways leading to a second story ADU shall not be in the front of the primary single-family dwelling, or in an exterior side yard if visible from the public right-of-way. Access to a first story unit or ADA accessible ramp may be permitted in the front of the primary dwelling.

SECTION 4. Section 18.53.060 of Chapter 18.53 of the Guadalupe Municipal Code is hereby amended to read as follows:

18.53.060 Permit requirements.

A. Accessory dwelling units (ADUs) and JADUs shall be permitted ministerially through the zoning clearance and building permit process. The City shall act on the application to create an ADU or a JADU within 60 days from the date the City receives a completed application if there is an existing single-family or multifamily unit on the lot. If the permit application to create an ADU or JADU is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the ADU or JADU until the permitting agency acts on the permit application to create the new single-family dwelling or multifamily unit, but the application to create the ADU or JADU shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay, in compliance with this chapter within 60 days of the filing of a complete application. The applicant shall be informed within 30 days after submission of an application if the application is complete. The Planning Director or designee shall issue zoning clearance to establish an ADU and/or JADU in compliance with this chapter if all applicable requirements in this chapter are met, as appropriate. An application for building permit may be submitted at any time during the processing of the ADU application, but under no circumstances shall it be issued prior to zoning clearance approval. The local agency may charge ADU applicants an additional fee to cover administrative costs of updating Chapter 18.53 from time to time. This fee shall be set by a City Council resolution.

B. Planning Director. Requests for an ADU or JADU shall be reviewed by the Planning Director or designee.

C. If a permitting agency denies an application for an ADU or JADU, the permitting agency shall, within the time period described in Section 18.53.060, return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the applicant can be remedied by the applicant.

D. Other Review Authority. Requests for an ADU or JADU submitted for concurrent review with a discretionary land use application shall continue to be reviewed by the Director or designee and approved subsequent to the discretionary action.

E. Certificate of Occupancy. The City shall not issue a certificate of occupancy for an accessory dwelling unit before the City issues a certificate of occupancy for the primary dwelling.

SECTION 5. Section 18.53.080 of Chapter 18.53 of the Guadalupe Municipal Code is hereby amended to read as follows:

18.53.080 Existing nonconforming

The City shall not require, as a condition for ministerial approval of a permit application for the creation of an ADU or a JADU, the correction of nonconforming zoning conditions, building code violations, or unpermitted structures elsewhere on the lot that do not present a threat to public health and safety and are not affected by the construction of the ADU.

SECTION 6. This Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA), and the CEQA guidelines, and has been found to be exempt pursuant to §15306 of the CEQA Guidelines (Information Collection) because it does not have the potential to create a physical environmental effect.

SECTION 7. The City Council declares that each section, subsection, paragraph, subparagraph, sentence, clause, and phrase of this Ordinance is severable and independent of every other section, subsection, paragraph, subparagraph, sentence, clause, and phrase of this Ordinance. If any section, subsection, paragraph, subparagraph, sentence, clause, or phrase of this Ordinance is held invalid, the City Council declares it would have adopted the remaining provisions of this Ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this Ordinance should remain in effect after the invalid portion has been eliminated.

SECTION 8. The City Clerk is hereby authorized to make minor changes herein to address clerical errors, so long as substantial conformance of the intent of this document is maintained. In doing so, the City Clerk shall consult with the City Administrator and City Attorney concerning any changes deemed necessary.

INTRODUCED at a regular meeting of the City Council on the 13th day of December 2022, by the following roll call vote:

MOTION: EUGENE COSTA JR. / GILBERT ROBLES

AYES: 4 Councilmembers: Hernandez, Julian, Costa Jr. Robles
NOES: 0
ABSENT: 0
ABSTAINED: 0

PASSED AND ADOPTED at a regular meeting of the City Council on the 24th day of January 2023, by the following vote:

MOTION: MEGAN LIZALDE / EUGENE COSTA JR.

AYES: 5 Councilmembers: Costa Jr., Hernandez, Lizalde, Robles, Julian
NOES: 0
ABSENT: 0
ABSTAINED: 0

ATTEST:




Todd Bodem, Deputy City Clerk



Ariston Julian, Mayor

APPROVED AS IS TO FORM:



Philip F. Sinco, City Attorney