

**ORDINANCE NO. 2322**

**BEING AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMPBELL ADOPTING URGENCY REVISIONS TO CAMPBELL ZONING CODE RELATED TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS TO CONFORM WITH RECENT STATE LEGISLATION AND DIRECTIVES FROM THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT. FILE NO.: PLN-2024-144**

**WHEREAS**, on June 30, 2023, the City of Campbell received a letter from the California Department of Housing and Community Development (HCD) providing written findings pursuant to Government Code Section 66326 identifying certain section(s), subsection(s), sentence(s), clause(s), and/or phrase(s) of the City's accessory dwelling unit ordinance that do not comply with State law;

**WHEREAS**, on July 27, 2023, the Community Development Director transmitted a letter in response to HCD's written findings, within the 30-day period provided by the statute, acknowledging a need to amend the City's accessory dwelling unit ordinance, and requesting additional clarification and information;

**WHEREAS**, HCD's written findings determined that the City's local accessory dwelling unit ordinance is no longer consistent with Government Code Sections 66314 and 66333;

**WHEREAS**, following the City's July 27, 2023, letter, no further response was received from HCD, and as a result, the City adopted an interim ordinance (No. 2299) on November 7, 2023, to address HCD's initial feedback, which was extended through Ordinance No. 2300 to remain effective until December 31, 2024;

**WHEREAS**, in Summer 2024, staff contacted HCD to notify the agency of the City's intent to adopt a permanent ordinance to replace the interim ordinance, and on August 7, 2024, HCD provided informal feedback to staff, identifying additional clarifications needed to ensure consistency with State law;

**WHEREAS**, in September 2024, the California Legislature enacted SB 1211 and AB 2533, signed into law by the Governor on September 19 and 28, 2024, respectively, which made significant changes to State law regarding ADUs, including the number of ADUs allowed for multi-family dwellings and the extension of the amnesty period for unpermitted ADUs;

**WHEREAS**, on December 17, 2024, HCD published the January 2025 edition of its "Accessory Dwelling Handbook", which formalized prior HCD interpretations of State ADU law;

**WHEREAS**, the City Council has determined that it is necessary to adopt an interim ordinance to maintain consistency with State ADU law, as interpreted by HCD;

**WHEREAS**, the legislature of the State of California has, in Article XI, Section 7 of the California Constitution and Government Code Section 65800, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry;

**WHEREAS**, pursuant to Section 65858 of the Government Code and Section 21.60.090 of the Campbell Municipal Code, the City Council may take appropriate action to adopt urgency measures as an interim ordinance.

**WHEREAS**, the approval of accessory dwelling units and junior accessory dwelling units based solely on the few default statutory standards of the California Government Code, without local regulations governing height, setback, landscape, and architectural review, among other things, would threaten the character of existing neighborhoods, negatively impact property values, personal privacy, fire safety, and create confusion that would hinder the creation of accessory dwelling units and junior accessory dwelling units within the community;

**WHEREAS**, the proposed amendments are consistent with the goals, policies, and actions of the 2040 General Plan, as well as all applicable development agreements, area plans, neighborhood plans, and specific plans;

**WHEREAS**, no substantial evidence has been presented demonstrating that the project, as currently presented, will have a significant adverse impact on the environment;

**WHEREAS**, the adoption of this interim ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resource Code Section 21080.17;

**WHEREAS**, the City Council finds and determines that the proposed ordinance would not be detrimental to the public interest, health, safety, convenience, or general welfare of the city; and is internally consistent with other applicable provisions of the Campbell Municipal Code; and

**WHEREAS**, in consideration of the recommended adoption of the interim ordinance, the City Council provided due consideration of all evidence presented and included in the entire administrative record.

**WHEREAS**, the proposed revisions are necessary to maintain the status quo pending the investigation and adoption of a permanent ordinance by conforming the City's regulations to the requirements of State Law, while preserving such local regulations are appropriate, lawful and currently in force.

**WHEREAS**, in consideration of the foregoing findings, the City Council further finds that there is a current and immediate threat to the public health, safety, or welfare, justify adoption of this interim ordinance on an urgency basis to be effective immediately upon adoption by a four-fifths vote of the City Council.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CAMPBELL DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1 (PURPOSE AND APPLICABILITY):** This Ordinance implements and enforces the mandatory provisions of the California Government Code related to the creation of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). It also adopts, where permissible, local standards and restrictions. This ordinance applies to the creation of all ADUs and JADUs within the jurisdiction of the City of Campbell.

**SECTION 2 (STATE ADU LAW ADOPTED):** It is the intent of the City Council to hereby implement and enforce all mandatory provisions of Articles 1, 2, and 3 (commencing with Section 66310) of Chapter 13 (Accessory Dwelling Units) of Title 7 (Planning and Land Use) of the California Government Code, hereinafter referred to as the "State ADU Law." In implementing and enforcing the State ADU Law, the City affirmatively accepts all provisions that use mandatory language such as "shall" or "must," which require specific actions or outcomes. However, where the State ADU Law uses discretionary language such as "may," those provisions are not implemented and will not be enforced excepted as explicitly stated in this interim ordinance.

**SECTION 3 (DEFINITIONS):** The terms defined in California Government Code Section 66313 and those terms described in the latest edition of the *Accessory Dwelling Unit Handbook*, published by the California Department of Housing and Community Development, shall take precedence over conflicting definitions in Chapter 21.72 (Definitions) or Section 4 of Interim Ordinance No. 2321.

**SECTION 4 (GENERAL STANDARDS):** The following clarifications of, and additional requirements adopted pursuant to, the subdivisions of California Government Code cited below, pertaining generally to the creation of accessory dwelling units, are hereby adopted:

- A. Section 66314, subd. (a). Accessory dwelling units may be permitted on properties located within residential or mixed-use zoning district as specified by Chapter 21.08 (Residential zoning districts) and Chapter 21.11 (Mixed-used districts), respectively, or in the P-D (Planned Development) Zoning District on a parcel with a General Plan land use designation that directly corresponds to a residential zoning or mixed-use district as specified by Section 21.04.020, Table 2-1.
- B. Section 66314, subd. (b)(1). The objective development standards applicable to the base zoning district, including those adopted by Interim Ordinance No. 2321, shall apply to accessory dwelling units, except as provided below.
  - 1. The maximum allowable height for detached accessory dwelling units shall be twenty (20) feet.
  - 2. Detached accessory dwelling units shall be separated from single-family dwelling or multifamily dwellings by the same distance that main structures must be separated from other main structures located on the same lot.
  - 3. Accessory dwelling units shall be separated from accessory structures by the same distance that main structures must be separated from accessory structures located on the same lot as specified by Section 21.36.020 (Accessory Structures).
- C. Section 66314, subd. (b)(1). The objective design standards adopted in Section 10 of Interim Ordinance No. 2321 shall apply to accessory dwelling units in all zoning districts but are limited to attached and converted accessory dwelling units.
- D. Section 66314, subds. (b)(1), (b)(2). No parking standards for an accessory dwelling unit shall be imposed, including replacement of parking spaces that are removed or demolished in conjunction with the construction or creation of an accessory dwelling

unit. However, parking spaces that are voluntarily provided shall comply with dimensional, design, and access standards of the base zoning district and Chapter 21.28 (Parking and Loading).

- E. Section 66316. The approval process for an accessory dwelling unit created in accordance with California Government Code Section 66314 shall be a ministerial building permit application in compliance with Title 18 (Building Code), subject to the review periods prescribed in California Government Code Section 66317.
- F. Section 66321, subds. (a), (b). The following maximum floor area standards for accessory dwelling units shall apply:
  - 1. Detached accessory dwelling units shall not exceed a total floor area of one thousand two hundred (1,200) square feet, in accordance with California Government Code Section 66314(d)(5).
  - 2. Attached accessory dwelling units shall not exceed fifty percent (50 percent) of the floor area of the existing primary dwelling, in accordance with California Government Code Section 66314(d)(4). However, notwithstanding this maximum, a minimum living area of one thousand (1,000) square feet shall be permitted for units.
- G. Section 66321, subd. (b)(3). None of the following standards shall apply to an accessory dwelling unit no larger than eight hundred (800) square feet with four-foot side and rear yard setbacks: (1) maximum lot coverage, (2) maximum floor area ratio, (3) minimum required private open space; and (4) minimum building separation distance(s).
- H. Section 66321, subd. (b)(3). An accessory dwelling unit no larger than eight hundred (800) square feet with four-foot side and rear yard setbacks may be located partially or wholly within the front yard setback if the Community Development Director determines that no alternative location on the property can physically accommodate the proposed accessory dwelling unit. For the purposes of this provision, the term "physically accommodate" means that there is no alternative unimproved area on the property with dimensions and physical area equal to or larger than the proposed accessory dwelling unit, as designed, accounting for the waiver of the standards identified in subsection G, above.
- I. Section 66323, subd. (b). The tree preservation requirements of Chapter 21.32 (Tree Protection Regulations) shall not apply when the critical root zone of a protected tree is located within the building footprint of an accessory dwelling unit created pursuant to Government Code Section 66323.

**SECTION 5 (MULTI-FAMILY RESIDENTIAL):** The following clarifications of, and additional requirements adopted pursuant to the subdivisions of California Government Code cited below, pertaining to the creation of accessory dwelling units on lots including proposed or existing multifamily dwellings, are hereby adopted.

- A. Section 66323, subd. (a)(3). Carports, garages, and other accessory structures that are detached from an existing multifamily dwelling structure(s) are not considered to

be "within" the existing multifamily dwelling structure(s) and therefore may not be converted to accessory dwelling unit(s), except as provided for in California Government Code Section 66323(a)(4).

- B. Section 66323, subd. (a)(4)(A)(iii). On a lot with a proposed multifamily dwelling, up to eight detached accessory dwelling units may be created, provided that the total does not exceed the proposed number of primary dwelling units.

**SECTION 6 (ADU DEVELOPMENT POLICY):** Pursuant to, and in furtherance of Government Code Sections 66310, the City of Campbell adopts the following development policy as an innovative strategy to encourage the creation of accessory development units in new housing development projects.

- A. A single-family residential subdivision (inclusive of detached single-family homes and/or townhomes) resulting in five or more parcels, exclusive of commonly-held parcels, subject to Chapter 21.07 (Housing development regulations) or Chapter 21.39 (Ministerial Approval), shall be subject to the following requirements:

1. Requirement. Twenty percent (20%) of the parcels shall be developed with a primary dwelling unit that is designed to allow for future creation of an converted accessory dwelling unit. This shall be accomplished through a floor plan configuration that allows for segmentation of an accessory dwelling unit from the existing living area and pre-installation of electrical, domestic water, and sanitation utilities necessary to accommodate a future bathroom and kitchen to serve an accessory dwelling unit.
2. Alternative. In-lieu of the aforementioned requirement, twenty percent (20%) of the parcels may be developed with an accessory dwelling unit, to be constructed concurrently with the primary dwelling units.
3. Implementation. Conditions to carry out the requirement of this section shall be imposed on approval of the tentative map if a land use permit(s) for the creation primary dwelling units is not required. If a land use permit(s) for the creation of primary dwelling units is required in association with a tentative map, the application shall demonstrate compliance as a requirement of the application being accepted as complete pursuant to Section 21.38.040 (Initial application review).

- B. If the requirement of subsection A.1 (Requirement) is determined not to be an "objective standard" as defined by the California Government Code and therefore unenforceable, the alternative identified by subsection A.2 (Alternative), requiring the creation of the accessory dwelling units, shall instead become the requirement applied to the project subject to this section.

**SECTION 7 (INFORMATIONAL BULLETINS):** The Community Development Director may, consistent with the expressed standards, purposes, and intent of State ADU law and this interim ordinance, issue a written informational bulletin(s) to clarify the standards and procedures for the creation of accessory dwellings units. An informational bulletin may also include interpretations of this interim ordinance in accordance with Chapter 21.02 (Interpretations Provisions).

**SECTION 8 (SEVERABILITY):** If at any time the California Department of Housing and Community Development submits to the City written findings pursuant to Government Code 666326 (a) identifying certain section(s), subsection(s), sentence(s), clause(s), and/or phrase(s) of this interim ordinance do not comply with State law, then those specific section(s), subsection(s), sentence(s), clause(s), and/or phrase(s) shall no longer be in effect, such that this Chapter shall maintain its consistency with State ADU Law and not subject to nullification as provided for California Government Code Section 66316. The City Council hereby declares that it would have passed adopted this Chapter and each and every section, subsection, sentence, clause, or phrase not declared to be not in compliance with the California Government Code without regard to whether any portion of this interim ordinance would be subsequently declared non-complaint.

**SECTION 9 (APPLICATIONS IN PROGRESS):** Notwithstanding Section 21.01.050.E (Effect of Zoning Code Changes on Projects in Progress), this interim ordinance shall not apply to any building permit application for an accessory dwelling unit that was filed with the Community Development Department and for which all required fees were paid before the effective date of this ordinance, regardless of whether the application has been deemed complete.

**SECTION 10 (PUBLICATION):** The City Clerk shall cause this interim ordinance or a summary thereof to be published at least once in a newspaper of general circulation within 15 days after its adoption in accordance with Government Code Section 36933.

**SECTION 11 (EFFECTIVENESS):** This interim ordinance shall become effective immediately upon adoption for a period of 45 days, unless extended by the City Council.

**PASSED AND ADOPTED** this 18th day of February, 2025 by the following roll call vote:

AYES: Councilmembers: Bybee, Hines, Scozzola, Furtado, Lopez  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

APPROVED:   
\_\_\_\_\_  
Sergio Lopez, Mayor

ATTEST:

  
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Andrea Sanders, City Clerk