



Community Development Department  
**PLANNING COMMISSION STAFF REPORT**

**REGULAR ACTION (Public Hearing):** *Consideration of City of Burlingame Municipal Code Text Amendments to Title 25 (Zoning) Related to Accessory Dwelling Units Including Amendments to Chapter 25.40 (Parking Regulations), Chapter 25.48 (Standards for Specific Land Uses and Activities), Chapter 25.60 (General Provisions), Chapter 25.88 (Permit Implementation, Extensions, Modifications, and Revocations), Chapter 25.98 (Appeals and Calls for Review), and Chapter 25.100 (Public Hearings and Notice).*

**MEETING DATE:** November 25, 2024  
**AGENDA ITEM:** 9a

**ENVIRONMENTAL STATUS:** The proposed text amendments to the City of Burlingame Municipal Code are Statutorily Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15282 (h) which exempts the adoption of an ordinance regarding accessory dwelling units and junior accessory dwelling units in a single family or multifamily residential zone by a City to implement the provisions of Sections 66310 - 66341 of the Government Code, as set forth in Section 21080.17 of the Public Resources Code.

### **ACTION REQUESTED**

The Planning Commission shall conduct a public hearing regarding the following Ordinance, consider all public testimony (both oral and written) and, following conclusion of the public hearing, consider recommending adoption of the Ordinance by the City Council:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURLINGAME, AMENDING  
TITLE 25 – CHAPTERS 25.40, 25.48, 25.60, 25.88, 25.98 AND 25.100 TO AMEND EXISTING  
ACCESSORY DWELLING UNIT REGULATIONS TO BE CONSISTENT WITH CALIFORNIA  
GOVERNMENT CODE SECTIONS 66310 - 66341

### **BACKGROUND**

In 2017, 2018 and 2020, the City adopted code amendments to Title 25 (Zoning) in response to both California's statewide housing shortages and the Bay Area's regional housing shortages. During that time, the State of California signed into law a number of bills to encourage the construction of accessory dwelling units (ADU) and junior accessory dwelling units (JADU) by reducing the regulatory barriers commonly found in local zoning ordinances. Further refinements to the ADU Ordinance were made with the Zoning Code Update in 2021.

Among notable changes, the bills required cities to allow for JADUs (an accessory unit of up to 500 square feet, located entirely within a single-unit dwelling), exempted ADUs up to 800 square feet in size from lot coverage and floor area regulations, removed parking requirements, and allowed for ADUs with single-unit and multi-unit residential uses. State bills passed in 2019 also established Statewide Exemption ADUs (units up to 800 SF), waiving any Planning provisions that may preclude one from being built, and with different development requirements depending on the location and type of ADU proposed.

Earlier this year, the State Department of Housing and Community Development (HCD) reviewed the City's ADU regulations and found they do not comply with current State law. HCD issued the City of Burlingame a letter requiring the City to update its regulations to comply with State legislation given that it supersedes the City's regulations. In addition, on January 1, 2025 several new State laws will go into effect regarding ADUs which have been incorporated into the proposed amendment.

Staff is bringing forward these text amendments to the Planning Commission for recommendation to the City Council for adoption of the attached Draft Ordinance, which makes changes to Chapter 25.48 (Zoning Regulations) of the Municipal Code and other related Municipal Code sections pertaining to Accessory Dwelling Units. The City Council is scheduled to review the Draft Ordinance at a first reading on December 2<sup>nd</sup>, and a subsequent second reading on December 16<sup>th</sup>.

## **DISCUSSION**

The attached Draft Ordinance sets forth text amendments to the City's existing Accessory Dwelling Unit regulations (Code Section 25.48.030), as well as other sections of the Burlingame Municipal Code, to ensure consistency with State legislation that has been passed since 2021, including State laws passed in 2024 which become effective on January 1, 2025. Staff would note that these text amendments are required in order to be in compliance with State law, otherwise the City's ADU ordinance will become null and void. The following is a list of key changes, including requirements mandated by State legislation and staff recommendations:

1. ADU Permit Requirement: The City's existing ADU regulations require an Applicant to first obtain an ADU Permit (ministerial review) from the Planning Division prior to a building permit application. The regulations would be amended to eliminate the ADU Permit requirement. An applicant would only be required to apply for and obtain a building permit, which would be reviewed by all applicable City divisions, including the Planning Division. This will help (1) remove regulatory barriers by streamlining the ADU review and approval process, (2) reduce Planning staff time reviewing ADUs, and (3) eliminate the ADU Permit fee.
2. Statewide Exemption ADUs: The text amendments would clarify the regulations for Statewide Exemption ADUs based on the specific requirements established by the State, versus other types of ADUs. The City's existing regulations do not include this information. Statewide Exemption ADUs include:
  - JADUs;
  - ADUs in spaces converted from within an existing single-unit or multi-unit dwelling, or existing accessory structure, or within a proposed single-unit dwelling;
  - A new detached ADU with four-foot side and rear setbacks, a maximum size of 800 SF, and within the height limited allowed by State law (see below).

It is important to note that a single-unit residential property can obtain all three of these ADU types on a single property.

3. Side and Rear Setback Requirements: The City's existing ADU regulations exempts detached ADU structures from side and rear setback requirements. The ADU regulations would be amended to require four-foot side and rear setbacks for construction of a new detached ADU or addition to an existing detached structure.

Staff would note that current State law exempts ADUs from side and rear setback requirements if the new detached ADU is built in the same location and to the same dimensions of an existing detached structure that is demolished/replaced with the new ADU.

4. Maximum Height Limits: The City's existing ADU regulations limit the height of a detached ADU to one-story and 16 feet. In compliance with State law, the ADU regulations would be amended to allow the following building heights, including a new detached two-story ADU or an ADU above an existing or proposed detached garage:
- 18 feet if the lot is located within one-half mile walking distance of a major transit stop (train station) or a high-quality transit corridor (El Camino Real); an additional two feet is allowed if needed to match the roof pitch of the primary dwelling unit.
  - 18 feet for a detached ADU on a lot with an existing or proposed multi-unit, multi-story dwelling.

Restrictions on plate height are also being eliminated, since HCD noted that only a restriction on the overall building height can be enforced.

5. Senate Bill 1211 – Replacement Parking Requirements; Multi-unit ADUs: Senate Bill 1211 was adopted in 2024 and goes into effect on January 1, 2025. The new law requires the following:
- Prohibits local agencies from requiring replacement of an uncovered parking space if it is demolished for or replaced with an ADU. Under current ADU regulations, covered parking spaces are not required to be replaced.
  - Existing legislation requires local agencies to ministerially approve building permit applications for ADUs within "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 ....". SB 1211 adds a definition for 'livable space', which means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.
  - Increases the quantity of detached ADUs that lots with existing multi-unit dwellings can have from two detached ADUs to eight detached ADUs, or as many detached ADUs as there are primary dwelling units on the lot, whichever is less.

6. Assembly Bill 2533 - Unpermitted ADUs and JADUs: Assembly Bill 2533 was adopted in 2024 and goes into effect on January 1, 2025. The new law requires the following:

Existing legislation prohibits local agencies from denying a permit to legalize an unpermitted ADU that was constructed before January 1, 2018, if the denial is based on the ADU not complying with applicable building, state or local ADU standards. One exception allows local agencies to deny a permit to legalize if they make a written finding that correcting the violation is necessary to protect the health and safety of the public or the occupants of the structure.

AB 2533 (1) expands its applicability to JADUs, (2) changes the construction cutoff date from January 1, 2018, to January 1, 2020, (3) replaces the above exception with a requirement that local agencies find that correcting the violation is necessary to comply with the standards specified in Health and Safety Code section 17920.3 (Substandard Buildings), and (4) address scope of city inspections and limits on remedial action.

In addition to Chapter 25.48, there are several Municipal Code sections that address ADUs that require updating for consistency with the proposed changes, which are reflected in the text amendments. They include the following Chapters:

- Chapter 25.40 (Parking Regulations)
- Chapter 25.60 (General Provisions)
- Chapter 25.88 (Permit Implementation, Extensions, Modifications, and Revocations)
- Chapter 25.98 (Appeals and Calls for Review)
- Chapter 25.100 (Public Hearings and Notice)

The Draft Ordinance is provided as an attachment to this report. Regulations to be added are underlined and in blue color, and text to be deleted is indicated in strikeout and in red color. Both a redlined version and a clean version of the proposed amendments are provided.

Text amendments to the Chapters are included in the proposed resolution as a recommendation to the City Council. Regulations to be added are underlined, and text to be deleted is indicated in strikeouts.

Prepared by:

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Attachments:

- Revised Chapters - Redlined Version
- Revised Chapters - Clean Version
- Resolution