

ORDINANCE NO. 2022-024

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN BUENAVENTURA, CALIFORNIA, AMENDING, IN PART, DIVISION 24, CHAPTER 24.430 RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND DETERMINING THE ORDINANCE TO BE STATUTORILY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Council of the City of San Buenaventura does ordain as follows:

Section 1. Recitals and Findings

- A. State law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”).
- B. In 2022, the California Legislature approved, and on September 28, 2022 Governor signed into law, a new bill (SB 897) that further amends Government Code sections 65852.2 and 65852.22.
- C. Section 3. SB 897 takes effect January 1, 2023, and if the City’s ADU ordinance does not comply with the requirements imposed by SB 897 by that date, the City’s entire existing ADU ordinance becomes null and void as a matter of law.
- D. The City desires to amend its local regulatory scheme for the construction of ADUs and JADUs to comply with the amended provisions of Government Code sections 65852.2 and 65852.22.
- E. There is a current and immediate threat to the public health, safety, or welfare based on the passage of SB 897¹ because if the City’s ordinance does not comply with the amended laws as of January 1, 2023, and the City’s ADU ordinance becomes null and void, the City would thereafter be limited to applying the few default standards that are provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADU.
- F. The approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, landscape, and architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety. These threats to public safety, health, and welfare

¹ Both AB 2221 and SB 897 were signed into law, but AB 2221 has no effect because it would have amended the same statute that SB 897 amended, and SB 897 was signed into law (chaptered) later. AB 2221 was therefore “chaptered out.” But section 2.5 of SB 897 expressly includes, among others, changes to the ADU law that would have been made by AB 2221. Ultimately, only SB 897 is effective and relevant.

justify adoption of this ordinance as an urgency ordinance to be effective immediately upon adoption by a four-fifths vote of the City Council; and

- G. To protect the public safety, health, and welfare, the City Council may adopt this ordinance as an urgency measure in accordance with Government Code section 36937, subdivision (b).

Section 2. On December 5, 2022, the City Council conducted a duly noticed public hearing to make additional amendments to Division 24, Chapter 24.430 relating to ADU's and JADU's and determining the ordinance to be exempt from CEQA.

Section 3. Under California Public Resources Code section 21080.17, the California Environmental Quality Act ("CEQA") does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is California's ADU law and which also regulates JADUs, as defined by section 65852.22. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State's ADU law.

Section 4. Chapter 24.430 of Division 24 of the San Buenaventura Municipal Code, "Accessory Dwelling Unit Regulations," is hereby amended in its entirety as follows.

"Sec. 24.430.010. Chapter description.

Chapter 24.430 establishes residential accessory dwelling unit ("ADU") regulations in order to provide a mechanism for accommodating ADUs in appropriate residential and mixed-use areas and governs the creation of ADUs within the city. These provisions are intended to stabilize property values and the character of neighborhoods by insuring that ADUs are developed under appropriate conditions, and to further the legislative policies of Government Code Section 65852.2 and 65852.22.

Sec. 24.430.020. Definitions.

Accessory Dwelling Unit or *ADU* means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons and includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as single-family or multi-family residential unit(s).

The term ADU also includes an "Efficiency Unit" as defined in Health and Safety Code Section 17958.1 and a "Manufactured Home" as defined in Health and Safety Code Section 18007. The term "ADU" captures the terms and supersedes the terms "Residential Second Units" and "Carriage Houses" under this Code and any adopted Development Code of a Specific Plan or Community Plan; however, any residential second unit or carriage house which was lawfully permitted prior to January 01, 2017, shall remain

subject to the rules, regulations, and ordinances in effect at the time the residential second unit or carriage house was approved by the City.

Attached Accessory Dwelling Unit or *Attached ADU* is an ADU attached to the primary dwelling unit as an addition to the building. The ADU may be new construction or a conversion of existing space.

Detached Accessory Dwelling Unit or *Detached ADU* is an ADU within an accessory building detached from the primary dwelling unit. The accessory building may be new construction or a conversion of an existing accessory structure.

Efficiency kitchen means a kitchen that includes all of the following:

- a. A cooking facility with appliances.
- b. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.

Junior Accessory Dwelling Unit or *JADU* means a residential unit that satisfies all of the following:

- a. It is no more than 500 square feet in size.
- b. It is contained entirely within an existing or proposed single-family residence. An enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family residence.
- c. It includes its own separate sanitation facilities or share sanitation facilities with the single-family residence.
- d. If the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family structure in addition to an exterior entrance that is separate from the main entrance to the primary dwelling.
- e. It includes an efficiency kitchen, as defined above

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.

Multi-Family Dwelling Unit, for the purposes of this chapter means two or more dwelling units in a single structure on the lot where an ADU would be located.

Nonconforming zoning condition means a physical improvement on a property that does not conform with current zoning standards.

Primary Dwelling Unit, for purposes of this chapter means any single-family residence on the lot where an ADU would be located.

Very High Fire Hazard Severity Zones, for purposes of this Chapter means Very High Fire Hazard Severity Zones as shown on the Fire Hazard Severity Zone Maps prepared by the Fire and Resource Assessment Program / California Department of Forestry and Fire Protection.

Sec. 24.430.025. Effect of Conforming. An ADU or ADU that conforms to the standard in this section will not be:

A. Deemed to be inconsistent with the city's General plan and zoning designation for the lot on which the ADU or JADU is located.

B. Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.

C. Considered in the application of any local ordinance, policy, or program to limit residential growth.

D. Required to correct a nonconforming zoning condition, as defined in Sec. 24.430.020. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.

Sec. 24.430.030. Application and processing procedures.

A. Before constructing an ADU or JADU or converting a legally permitted existing structure to an ADU, an applicant must apply for a building permit. Any ADU that satisfies the requirements of this chapter shall be ministerially approved.

(1) The City shall approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a completed application. If the City does not act upon has not approved or denied the completed application within 60 days, the application is deemed approved unless either:

(i) The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or

(ii) When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the City may delay acting on the permit application for the ADU or JADU until the City acts on the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.

(2) If the City denies an application to create an ADU or JADU, the City must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection 24.430.030(a)(1) above.

(3) A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

B. For properties located in the Coastal Zone, all ADUs and JADUs shall comply with current building codes and shall require either a coastal exemption, coastal exclusion, or Coastal Development Permit, pursuant to Chapter 24.515 of this Code.

When a proposed development only involves the installation of a JADU, a Coastal Development Permit is not required pursuant to Chapter 24.515 of this Code, and the JADU shall be processed ministerially with a building permit application.

Sec. 24.430.040. Locations.

A. Notwithstanding any other provisions of this Code, the development of ADUs and JADUs are permitted on all lots zoned for residential or mixed-use development with the following provisions and exceptions as outlined in this code.

B. An ADU or JADU must be located on a lot developed with or proposed to be developed with one or more residential units and on the same lot as a single-family residence, multi-family structure, or mixed-use building.

C. In order to protect against wildfires and maintain necessary defensible space around existing structures, no ADUs shall be permitted in areas within designated Very High Fire Hazard Severity Zones; however, JADUs are allowed. Within the Very High Fire Hazard Severity Zones, ADU applications submitted on or before May 13, 2022, an ADU shall be permitted upon satisfying all other requirements of this Chapter. If the Very High Fire Hazard Severity Zones are modified after an ADU application is submitted for a property not previously contained in the Very High Fire Hazard Severity Zone, then the ADU may be permitted upon satisfying all other requirements of this Chapter.

D. ADUs or JADUs on any real property listed in the California Register of Historic Places, or designated as a historic landmark or located in a historic district overlay zone under Chapter 24.340, are subject to minor design review pursuant to Section 24.545.030.A.3.a.

Sec. 24.430.050. State required accessory dwelling unit categories.

A. One of the following four categories of ADUs are permitted per each lot within a residential or mixed-use zone. No more than one of these categories may be applied to any given property:

1. *Single-family lots (Conversion)*: One ADU and one JADU are permitted per lot within the existing or proposed space of a single-family residence. This includes a JADU within the walls of the single-family residence, and/or an ADU within an existing accessory structure, that meets specified requirements such as exterior access and setbacks for fire and safety, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress for the ADU.

2. *Single-family lots (Detached)*: One detached new construction ADU that does not exceed four-foot side and rear yard setbacks. This ADU may be combined on the same lot with a JADU and shall be limited to a maximum unit size requirement of 800 square feet and a peak height that does not exceed the applicable height limit in Sec. 24.430.060(E).

3. *Multi-family lots (Conversion)*: One ADU is allowed within an existing multi-family structure or up to 25 percent of the existing multi-family dwelling units within an existing structure, provided the ADU is created within a portion of the structure not already used as livable space.

4. *Multi-family lots (Detached)*: Up to two detached ADUs are permitted on a lot that has existing multi-family residences if each detached ADU satisfies both of the following limitations:

a. The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the city will not require any modification to the multifamily dwelling as a condition of approving the ADU.

b. The peak height above grade does not exceed the applicable height limit provided in Sec. 24.430.060(E).B.

ADUs under this subdivision must meet the current building code and health and safety requirements.

C. An ADU or JADU that complies with the requirements of Government Code Section 65852.2(e), as outlined in subdivision A of this section, shall not be subject to the standards set forth in Sections 24.430.060 and 24.430.070, unless explicitly provided in those sections. An ADU or JADU proposed in the Coastal Zone shall comply with the requirements of subdivision (K) of Section 24.430.060, even if the ADU/JADU meets the requirements of subdivision A of this section.

Sec. 24.430.060. Development standards.

An ADU or JADU shall comply with all of the following development standards:

A. *Number of ADUs.*

1. Single-family lots.

(a) One ADU is permitted per lot of an existing or proposed single-family residence and may be attached or detached.

(b) Attached ADUs are allowed within the existing or proposed living area of a single-family residence, within existing non-habitable space attached to a single-family residence (including attached garages), or within newly constructed space attached to an existing single-family residence.

(c) Detached new construction or repurposed existing accessory structure conversion ADUs on a lot with an existing or proposed single-family residence are allowed.

2. Multi-family lots.

(a) A maximum of one ADU or up to 25 percent of the number of existing multi-family dwelling units on the lot, whichever is greater, are permitted within existing multi-family residential structures. The ADUs must be within the portions of the existing multi-family residential structure 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.

(b) No more than two detached ADUs are permitted on multi-family lots.

B. *Size.*

1. A JADU and/or ADU may not be smaller than the minimum efficiency unit size established in Health and Safety Code Section 17958.1, set at 150 square feet.

2. *Attached ADUs:* The total floor area of an attached ADU shall not exceed the greater of 800 square feet or 50 percent of the primary residence's living area.

3. *Detached ADU:* The total floor area of a detached ADU shall not exceed 850 square feet for a studio or one bedroom ADU or 1,000 square feet for ADUs with more than one bedroom.

C. *Junior Accessory Dwelling Units (JADU).*

1. JADUs are limited to one per lot zoned for single-family residences within the livable area of an existing or proposed single-family residence on a lot. Lots with multiple detached single-family residences are not eligible to have JADUs.

2. The JADU may not exceed 500 square feet, and may not expand beyond the existing single-family residence.

3. The JADU shall include exterior access separate from the main entrance to the single-family residence.

4. Prior to occupancy, the JADU shall have a recorded deed restriction, satisfactory to the City, that prohibits the sale of the JADU separate from the sale of the single-family residence and shall include a statement that the deed restriction may be enforced against future purchasers and shall run with the land.

5. If the unit does not include its own separate bathroom, then it contains an interior entrance to the main living area of the existing or proposed single-family structure in addition to an exterior entrance that is separate from the main entrance to the primary dwelling.

D. *Conversion of Existing Space.*

1. The conversion of garages, sheds, barns, and other existing legally permitted accessory structures, either attached or

detached from the primary residence, into ADUs is permitted. These conversions of accessory structures are not subject to any additional development standard, such as unit size, height, and lot coverage requirements, and shall be from existing space that can be made safe under current building and safety codes. The converted structure must meet standards for health and safety in order to qualify.

2. An ADU created within the existing or proposed space of a single-family residence or accessory structure can be expanded beyond the physical dimensions of the structure. These types of ADUs must comply with all other requirements including, but not limited to: size, height, and setbacks.

3. An ADU created within an existing accessory structure may be expanded up to 150 square feet without application of development standards, but this expansion shall be limited to accommodating ingress and egress. An example of where this expansion could be applicable is for the creation of a staircase to reach a second story ADU. These types of ADUs must comply with all other requirements including, but not limited to: size, height, and setbacks. JADUs are limited to being created within the walls of a primary residence and therefore are not eligible to expand up to 150 square feet.

E. *Height.*

1. *Height determination.* The height of ADUs shall be determined in accordance with Section 24.405.040.

2. *Attached ADUs.* An ADU that is attached to the primary residence shall comply with the height requirements applicable to the primary dwelling unit or shall not exceed 25 feet in height, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection may not exceed two stories.

3. *Detached ADUs.* An ADU that is detached from the primary dwelling unit shall not exceed a height of 16 feet and one story, except as follows: (i) A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop or a high quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code, (ii) the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling

unit, and (iii) A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.

F. *Setbacks.*

1. *Attached ADUs.* An ADU that is attached to the primary residence shall comply with the setback requirements applicable to the primary residence, except that the rear and side setbacks may be a minimum of four feet.

2. *Detached ADUs.* An ADU that is detached from the primary residence shall comply with the setback requirements applicable to the primary residence, except that the side and rear setbacks may be a minimum of four feet.

3. *Exceptions.*

(a) Setbacks must be large enough to account for utility easements or recorded setbacks. In cases where these required utility easements or recorded setbacks exceed four feet, the edge of the required utility easement and/or recorded setback shall be the minimum setback for the ADU.

(b) *Above a Garage:* An ADU that is constructed above a garage shall have setbacks of at least five feet from all property lines. An ADU constructed above an existing nonconforming garage shall be stepped back consistent with required setbacks for the applicable zoning district.

(c) *Garage Conversion:* For an ADU that is converted from an existing garage, the ten-foot separation requirement set forth in paragraph G below does not apply and no additional setbacks beyond the existing garage setback are required beyond those required by the adopted California Building Standards and local ordinance.

G. *Separation.*

1. *Attached ADUs:* An ADU that is attached to the primary dwelling unit shall comply with the separation requirements applicable to the primary residence.

2. *Detached ADUs:* An ADU that is detached from the primary dwelling unit shall provide a minimum ten-foot separation between the ADU and the primary dwelling unit or other accessory building.

H. *Design and Features.*

1. The ADU's color and materials shall match the primary dwelling unit.

2. The ADU shall not have any second-story outdoor balcony, deck, or patio closer than ten feet from any property line, unless that architectural feature already exists and is incorporated into an ADU (or JADU) through conversion of existing space of either the primary dwelling unit or an existing accessory structure.

3. If an automatic fire sprinkler system is required for the primary dwelling unit, the ADU must also provide an automatic fire sprinkler system. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

4. The main entrance to the ADU shall be accessed from the side yard setback, side street setback, or rear yard setback.

5. For any second-story ADU, including any ADU proposed above a garage, all exterior windows that face rear or side yard areas of an adjacent property, are not separated by an alley, and are closer than ten feet from the property line shall be fitted with translucent glazing and be either fixed (i.e., inoperable) or of an awning style with a maximum opening angle of 25 degrees.

6. Newly constructed ADUs are subject to the Energy Code requirement to provide solar panels if the unit(s) is a newly constructed, non-manufactured, detached ADU. Per the California Energy Commission (CEC), the panels can be installed on the ADU or on the primary dwelling unit. ADUs that are constructed within existing space, or as an addition to existing homes, including detached additions where an existing detached building is converted from non-residential to residential space, are not subject to the Energy Code requirement to provide solar panels.

I. *Covenant Required:* The property owner shall record a covenant running with the land establishing the following:

1. Subject to the owner occupancy limitations set forth below, the primary dwelling unit and the ADU and/or JADU may be rented only for terms longer than 30 days.

2. The ADU may not be sold or conveyed separately from the primary residence except as allowable by law under Gov. Code § 65852.26, as may be amended.

3. The ADU and/or JADU and the property shall be maintained in accordance with all applicable ADU requirements and standards.

4. Any violation will be subject to penalties as provided in Chapters 1.050 and 1.150 of this Code.

5. If the property includes a JADU, the property owner must be an occupant of either the primary dwelling unit or the JADU. However, if the property includes an ADU, but no JADU, both the primary dwelling unit and ADU may be renter-occupied. However, the owner-occupancy requirement in this subsection does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization. An exception to the JADU owner-occupant requirement can be granted by the Community Development Director if the property owner is able to establish a bona fide hardship to the restrictions as follows:

(a) The owner is hospitalized or requires daily living assistance that does not allow the owner to physically live on the property; or

(b) The owner is on active military duty which precludes the owner from being able to occupy the property.

J. *Historic Resources:* ADUs on any real property listed in the California Register of Historic Places, or designated as a historic landmark or located in a historic district overlay zone must meet design standards and guidelines meant to prevent adverse impacts on any real property listed in the California Register of Historic Resources. Where this section uses the term “consistent”, that shall mean to be compatible and similar to that of the resource but not precisely the same for the purpose of complying with the Secretary of Interior’s Standards for the Treatment of Historic Properties. Guidelines shall include, without limitation, the following provisions:

1. *Architecture.* The ADU must be consistent with the architectural style of the historic place, landmark, or district.

2. *Height.* The height of new buildings shall be limited to 16 feet. Newly constructed attached ADUs shall not exceed the height of the existing structure.

3. *Materials.* The materials used in the ADU must be consistent with those of the historic place, landmark, or district.

4. *Color.* The ADU shall be consistent with the color of the existing primary residence.

5. *Details.* Use of details such as cornices, lentils and arches shall be consistent with existing designs.

6. *Elements.* Compatible elements such as balconies, porches and chimneys shall be consistent with the architectural style of the historic place, landmark, or district.

7. *Roof.* Roof shapes and materials shall be consistent with the shape, scale and style of the landmarks or points of interest.

8. *Grounds.* Newly constructed ADUs shall be located at the rear of the property, and should not be the main focal point from the street.

9. *Signs.* Any signage shall match the sign program for the area.

K. *Coastal Zone Property:* If an ADU is proposed on a lot located in the Coastal Zone, the ADU shall be sited and designed to avoid adverse impacts to coastal resources, including by conforming with all applicable Local Coastal Program policies and standards, including those that govern wetlands, streams, environmentally sensitive habitat areas, public views, and coastal bluffs.

1. ADUs and/or JADUs shall not be permitted in existing buildings or structures that are nonconforming as to coastal resource protection policies or development standards of the Local Coastal Program.

Sec. 24.430.070. Parking.

A. One off-street parking space is required for the ADU, in addition to the parking required for the primary residence. The parking space for the ADU must satisfy all of the following:

1. Required yards and open space may not be used for parking.

2. The ADU's parking space may be tandem, covered, or uncovered, but must be surfaced in compliance with Section 24.415.090.

3. The dimensions of all parking spaces or driveways shall comply with the requirements set forth in Section 24.415.020.

4. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, or converted to an ADU, there is no requirement that those off-street parking spaces for the primary unit be replaced, unless the lot is located in the coastal zone.

(a) If the lot is located in the Coastal Zone, when an existing garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, or converted into an ADU, the required covered parking spaces that are displaced by the demolition or conversion shall be replaced on the same lot in order to satisfy the parking requirement of the existing primary dwelling unit.

5. Additional off-street parking is not required with the development of a JADU.

B. Notwithstanding subsection A. above, no additional parking space is required for an ADU that satisfies any of the following:

1. The ADU is located within one-half mile walking distance of public transit as defined by the Department of Housing and Community Development;

2. The ADU is located within an architecturally and historically significant historic district;

3. The ADU is part of the proposed or existing primary residence or an existing accessory structure;

4. The ADU is located in an area where on-street parking permits are required but not offered to an ADU occupant; or

5. The ADU is located within one block of a city-approved and dedicated parking space for a car share vehicle.

6. When the permit application to create an ADU is submitted with an application to create a new single-family or new

multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed in 24.430.070 (B) (1) through (5).

Sec. 24.430.080. Fees and utility connections.

A. The property owner shall pay all sewer, water, school district, and other applicable fees, including development impact fees.

B. An ADU is exempt from incurring impact fees from local agencies, special districts, and water corporations if less than 750 square feet. Should an ADU be 750 square feet or larger, impact fees shall be charged proportionately in relation to the square footage of the ADU to the square footage of the primary dwelling unit. For an ADU on a lot with a multi-family residence, the proportionality shall be based on the average square footage of the units within that multi-family dwelling structure.

C. An ADU of 500 square feet or less is exempt from school impact fees.

D. The property owner shall pay all applicable connection fees and capacity charges, except as provided in subsections E. and F. below.

E. An ADU converted from existing space and JADUs shall not be considered a new residential use for purposes of calculating connection fees or capacity charges for utilities, unless constructed with a new single-family residence.

F. An ADU shall be equipped with a water sub-meter, pursuant to Section 22.130.015, but shall not require a separate water or sewer utility connection from the primary dwelling unit.

G. If an ADU will use a private sewage disposal system, the property owner shall obtain approval by the Los Angeles Regional Water Quality Control Board and the City Building Division.

Sec. 24.430.090. Building and safety requirements.

A. *Structural Assessment:* An ADU conversion of existing structures built prior to 1970 will require structural assessment in accordance with ASCE 41-13.

B. *Utility Equipment:* Each ADU must have its own water heater and space heating.

C. *Building Permits*: Each ADU must obtain all required Building permits in compliance with current California Building Standards Codes (California Code of Regulations, Title 24) and local ordinances.

D. No change of occupancy. Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection 24.430.090 (D) prevents the city from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

Sec. 24.430.100. Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures.

A. Generally. The city will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.

B. Unpermitted ADUs constructed before 2018 .

1. Permit to Legalize. As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if denial is based on either of the following grounds:

(a) The ADU violates applicable building standards,
or

(b) The ADU does not comply with the state ADU law (Government Code section 65852.2) or this ADU ordinance (section NN.NNN).

(2) Exceptions:

(a) Notwithstanding Section 24.430.100(B)(1) above, the city may deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if the city makes a finding that correcting a violation is necessary to protect the health and safety of the public or of occupants of the structure.

(b) Section 24.430.100(B)(1) does not apply to a building that is deemed to be substandard in

accordance with California Health and Safety Code section 17920.3.

Sec. 24.430.110. Nonconforming ADUs and Discretionary Approval.

Any proposed ADU or JADU that does not conform to the objective standards set forth in subsections (a) through (h) of this section may be allowed by the city with a conditional use permit, in accordance with the other provisions of this title .”

Section 5. This ordinance shall take effect immediately upon its adoption.

Section 6. The City Clerk shall either: (a) have this ordinance published in a newspaper of general circulation within 15 days after its adoption or (b) have a summary of this ordinance published twice in a newspaper of general circulation, within 15 days after its adoption.

Section 7. The City Clerk shall submit a copy of this ordinance to the Department of Housing and Community Development within 60 days after adoption.

Section 8. Severability.

If any section, subsection, sentence, clause, or phrase of this Article is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Article. The City Council declares that it would have passed this Article and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Article would be subsequently declared invalid or unconstitutional.

The foregoing Ordinance was adopted by the City Council of San Buenaventura on December 5, 2022 and ordered published by posting the following vote:

Ayes: Councilmembers Sanchez-Palacios, Brown, Johnson, Halter, Friedman, Deputy Mayor Schroeder, and Mayor Rubalcava

Noes: None

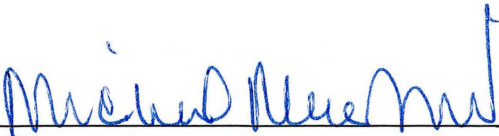
Absent: None



Sofia Rubalcava, Mayor



ATTEST:



Michael MacDonald

CITY CLERK

APPROVED AS TO FORM
Andrew Heglund, City Attorney

By: Miles Hogan 12/21/2022
Miles Hogan Date
Senior Assistant City Attorney

