

INDIAN WELLS CITY COUNCIL

January 15, 2026



To: City Council
From: Community Development Department
Prepared by: Jon Berg, Community Development Director
Subject: **Ordinance Amending Chapter 21.85 of the Indian Wells Municipal Code Relating to Accessory Dwelling Units and Junior Accessory Dwelling Units to Comply with Recent Changes in State Law, and finding the Action to be Statutorily Exempt From CEQA Under Public Resources Code § 21080.17**

RECOMMENDED ACTIONS:

Council **OPENS** the public hearing, receive public testimony, close the public hearing; and

INTRODUCES for first reading by title only an ordinance Amending Chapter 21.85 of the City of Indian Wells Municipal Code relating to Accessory Dwelling Units and Junior Accessory Dwelling Units to comply with recent changes in State Law; and

FINDS that the adoption of the proposed ordinance is statutorily exempt from review under the California Environmental Quality Act (CEQA) under Public Resources Code § 21080.17.

DISCUSSION

In recent years, the California Legislature has approved, and the Governor has signed into law, a number of bills that impose new limits on local authority to regulate Accessory Dwelling Units ("ADU") and Junior Accessory Dwelling Units ("JADU"). In late 2025, four new bills were enacted that further amend state ADU law as summarized below.

The proposed ordinance (Attachment 1) will amend Chapter 21.85 of the Indian Wells Municipal Code to comply with recent changes to state law that impose new limits on local authority to regulate Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs). Except as otherwise noted, these new laws took effect on January 1, 2026. Typically, an ordinance affecting planning and zoning is approved by City Council after the Planning Commission recommendation, a first reading and introduction before the Council and then a second reading at a regular Council meeting — with the ordinance taking effect 30 days following adoption.

Considering the timeline required to formally adopt the ordinance would post date the state's January 1, 2026, deadline, City Council took action at their December 4, 2025 meeting to adopt the proposed ordinance as an urgency ordinance, ensuring the city's ADU regulations would remain in compliance with state law during the processing period of the formal ordinance adoption.

The Planning Commission subsequently considered the proposed ADU ordinance during a Public Hearing on December 18, 2025, and adopted Resolution P.C. No. 2025-09 (Attachment 2) recommending City Council adopt the proposed ordinance, which would formalize the urgency ordinance adopted at City Council's December 4, 2025, meeting.

AB 462 – Coastal Development Permits; Disaster-Affected Areas

AB 462 modifies several permitting requirements associated with processing Coastal Development Permits ("CDP") for ADUs located in the Coastal Zone.

Although the City of Indian Wells is not within a Coastal Zone and not subject to CDP requirements, AB 462 also modifies the rules governing the issuance of a certificate of occupancy (CofO) for an ADU. Historically, state law has prohibited a local agency from issuing a CofO for an ADU before one is issued for the primary dwelling (i.e., the primary dwelling must have a CofO before the ADU can receive one). AB 462 creates a narrow exception to this prohibition for detached ADUs when all of the following conditions are satisfied: (1) the Governor has declared a state of emergency for the county on or after February 1, 2025; (2) the primary dwelling was substantially damaged or destroyed by an event referenced in the state of emergency proclamation; and (3) the ADU has been issued construction permits and passed all required inspections. (Gov. Code, § 66328(b).) If these conditions are satisfied, the detached ADU can receive a CofO before the primary dwelling. In all other scenarios, the primary dwelling still needs a CofO before one can be issued for an ADU.

AB 462 was enacted as an urgency measure that took effect immediately when signed by the Governor (on October 10, 2025).

The following three (3) bills were enacted as non-urgency measures and take effect on January 1, 2026.

AB 1154 – JADU Owner-Occupancy; Short-Term Rental

When a JADU is developed, existing state law requires a property owner to reside in the JADU or remaining portion of the single-family dwelling. AB 1154 narrows this requirement to now only apply when a JADU shares sanitation facilities (bathroom) with the single-family dwelling. If the JADU has its own bathroom, then the property owner does not have to reside on the property at all. (See amended Gov. Code, § 66333(b).)

AB 1154 also expressly prohibits JADUs from being used as short-term rentals (i.e., rented for a term shorter than 30 days). (See amended Gov. Code, § 66333(g).) The City's current ADU ordinance already included this prohibition, but now it's required by state law.

SB 9; SB 543 – ADU Ordinance Submittal to HCD; Approval

Under existing law, local agencies are required to submit a copy of their ADU ordinance to the California Department of Housing and Community Development (HCD) within 60 days of adoption.

This year's SB 9¹ and SB 543 create a penalty for failing to do so by rendering null and void any local ordinance that is not submitted to HCD within 60 days of adoption. (See amended Gov. Code, § 66326(d); new Gov. Code, § 66333.5(d).) The bills further specify that a local ADU ordinance is null and void if HCD issues findings that the ordinance does not comply with state law and the local agency fails to respond to HCD within 30 days. (*Id.*)

SB 543 – ADU Size; Number of ADUs; Impact Fees; Permitting Timeline

SB 543 makes numerous changes and clarifications to state ADU law, the most notable of which are summarized below.

ADU & JADU Size

Existing law limits the maximum size of a JADU to 500 square feet and prohibits local ADU ordinances from imposing certain development standards that would prevent an ADU created under Government Code section 66314 through 66322 from being at least 800 square feet.

SB 543 amends state ADU law to specify that allowable square footage of an ADU or JADU refers to square footage of "interior livable space." (See amended Gov. Code, § 66313(d), 66321(b)(2).)

Impact Fees

Existing law exempts ADUs that are 750 square feet or smaller from development impacts fees (DIFs).

SB 543 clarifies that DIFs may not be imposed on an ADU that has 750 or fewer square feet of *interior* livable space or on a JADU with 500 or fewer square feet of *interior* livable space.

¹ Not to be confused with the SB 9 of 2021 (Stats. 2021, Ch. 162) regarding urban lot splits and second primary dwelling units.

The bill also exempts an ADU or JADU with fewer than 500 square feet of interior livable space from school impact fees. (See amended Gov. Code, § 66311.5.)

Quantity of ADUs Created Under Government Code Section 66323

Existing state law creates four categories of ADUs that must be approved if they comply with the limited standards provided in Government Code section 66323(a)(1)–(4). These are:

- (1) a converted ADU and JADU created on a lot with a proposed or existing single-family dwelling (Gov. Code, § 66323(a)(1));
- (2) a detached ADU created on a lot with a proposed or existing single-family dwelling (Gov. Code, § 66323(a)(2));
- (3) converted ADUs created in an existing multifamily dwelling (Gov. Code, § 66323(a)(3)); and
- (4) detached ADUs created on a lot with a proposed or existing multifamily dwelling.

For some time, there has been uncertainty as to whether ADUs created under Government Code section 66323 could be combined. Some practitioners interpreted the statute to not require local agencies to allow combinations. Initially, HCD took the same position, in its 2020 ADU Handbook. But for the last few years, HCD has taken the opposite position: that yes, combinations are permitted. (See HCD January 2025 ADU Handbook, at p. 19 [“P]ursuant to Government Code section 66323, subdivision (a), local governments must allow units created pursuant to subparagraphs (1) and (2) together or (3) and (4) together”].)

SB 543 codifies HCD’s most recent interpretation by amending Government Code section 66323 to specifically allow combinations. Thus, a lot with a multifamily dwelling can now have a converted ADU or ADUs created under section 66323(a)(3) and detached ADUs created under section 66323(a)(4). And a lot with a single family dwelling can now have a converted ADU and a JADU created under section 66323(a)(1) and a detached ADU created under section 66323(a)(2).

ADU Permitting Process

Existing law has long required local agencies to approve or deny an ADU application within 60 days of receiving a complete application. However, state law was silent with respect to incompleteness determinations, subsequent resubmittals, and appealing local decisions on ADU applications.

SB 543 requires local agencies to now:

- (1) determine whether an ADU application is complete within 15 business days of submittal;

- (2) if the application is incomplete, within the same 15 days provide the applicant with a list of incomplete items and how to address them;
- (3) review a resubmitted application for completeness within 15 business days;
- (4) provide the applicant with a written appeal process for any incompleteness determination or denial (to the Planning Commission or City Council, or both); and
- (5) provide a final written determination on the appeal within 60 business days of receiving the appeal). (See amended Gov. Code, §§ 66317 [ADUs], 66335 [JADUs].)

OPTIONS:

AB 462 took effect immediately when signed, but technically it doesn't require any change to a local ordinance; CDP processing doesn't apply, but the City just needs to follow the new rules for issuance of a CofO, if applicable. The remaining bills take effect on January 1, 2026, and for the City's ADU ordinance to remain valid and enforceable, it must comply with the new changes in state law. Adopting the proposed ordinance ensures that the City's ADU ordinance will remain in compliance with state law, while incorporating objective standards important to the City.

The following options are available for City Council's consideration:

1. Accept Planning Commission's recommendation to adopt the ordinance in compliance with the latest state ADU and JADU regulations, including objective standards important to the City; or
2. Deny the ordinance and regulate ADUs and JADUs per state law only; or
3. Provide alternative direction for staff.

FISCAL IMPACT:

There is no fiscal impact.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

Under California Public Resources Code section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county implementing the provisions of Chapter 13 of Division 1 of Title 7 of the California Government Code, which is California's ADU law. Therefore, the adoption of the proposed Ordinance is statutorily exempt from CEQA in that it implements state ADU law.

ATTACHMENTS:

1. Ordinance
2. P.C. Resolution No. 2025-09