

INDIAN WELLS CITY COUNCIL

February 16, 2023



To: City Council
From: Community Development Department
Prepared by: Jon Berg, Community Development Director
Subject: **Adopt an Ordinance Amending Chapter 21.85 of the Indian Wells Zoning Code Relating to Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU), and Finding the Action to be Exempt from CEQA**

RECOMMENDED ACTION:

Council **OPENS** the Public Hearing, takes any public testimony, **CLOSES** the Public Hearing; and

FINDS that, under California Public Resources Code section 21080.17, adoption of the Ordinance is statutorily exempt from review under the California Environmental Quality Act ("CEQA"), because the ordinance implements the state ADU law (Gov. Code § 65852.2), which also regulates JADUs, as defined by Section 65852.22; and

INTRODUCES Ordinance to be read by title only and further reading waived, amending Chapter 21.85 of the Indian Wells Zoning Code relating to ADU and JADU regulations.

REPORT IN BRIEF:

The Ordinance will amend Chapter 21.85 of the Indian Wells Zoning Code to continue to ensure that the City's ADU and JADU regulations comply with state law and remain valid. New laws passed in late 2022 impose new limits on local authority to regulate Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs). In November, the City Council adopted updated ADU regulations by way of an Urgency Ordinance to ensure compliance with the new laws (Attachment 2). To ensure that the City's ADU regulations remain valid and enforceable, Staff is now recommending re-adoption of the same regulations, with one minor change to the timing of rental-income reporting (Attachment 3). Planning Commission reviewed the draft Ordinance and recommended approval (5-0) to City Council by Resolution at a public hearing January 26, 2023 (Attachment 1).

BACKGROUND AND ANALYSIS:

In recent years, the California Legislature has approved, and the Governor has signed into law, several bills that, among other things, amended Government Code sections 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs. In 2022, the California Legislature approved, and the Governor signed into law, a new bill (SB 897) that further amends Government Code sections 65852.2 and 65852.22 ("New Amendments"). Among other things, the New Amendments:

- require the City to allow certain ADUs to be higher — up to 18 or 25 feet, depending the situation,
- require the City's front setback to yield for certain ADUs,
- require the City to justify a denial with a full set of detailed comments describing the deficiencies in the application and explaining how to remedy them, and
- remove the automatic repeal in 2025 (so now the ADU statute is permanent).

SB 897 took effect January 1, 2023. As a proactive action to maintain the validity of objective local standards, the City Council adopted an Urgency Ordinance at the November 3, 2022, council meeting to ensure that the City's ADU regulations would comply with SB 897 on January 1, 2023.

To ensure that the City's ADU regulations remain consistent with SB 897 and therefore legally valid, staff recommends that the City Council formally adopt the ADU regulations previously adopted under Urgency Ordinance, with one minor change to the timing of rental-income reporting (Attachment 4).

ENVIRONMENTAL REVIEW:

Under California Public Resources Code section 21080.17, adoption of an ordinance 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, is statutorily exempt from review under the California Environmental Quality Act ("CEQA"). Therefore, adoption of this Ordinance is statutorily exempt from CEQA.

ATTACHMENTS:

1. PC Resolution No. 2023-01
2. City Council Urgency Ordinance Redline
3. Ordinance, with Exhibit A (updated code)
4. Updated Code Redline